

## **The Charter**

BELLINGHAM CODE

**Chapter C**

**CHARTER**

**[HISTORY: Adopted 1-10-2025 by Ch. 400, Acts of 2024.<sup>1</sup> Amendments noted where applicable.]**

PREAMBLE: We, the people of the Town of Bellingham, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantage inherent in the home rule amendment to the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter for this Town.

---

**1. Editor's Note: This act supersedes the former Charter, adopted 5-26-2004.**

ARTICLE 1

**TOWN INCORPORATION, FORM OF GOVERNMENT AND POWERS**

**Section 1. Incorporation.**

1-1-1. The inhabitants of the town of Bellingham within the corporate limits as established by law shall continue to be a body corporate and politic with perpetual succession under the name "town of Bellingham".

**Section 2. Short Title.**

1-2-1. This instrument shall be known and may be cited as the Bellingham Home Rule Charter.

**Section 3. Powers of the Town.**

1-3-1. Subject only to express limitations on the exercise of any power or function by a municipality in the Constitution or laws of the commonwealth, it is the intent and the purpose of the voters of the town of Bellingham to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the Constitution and laws of the commonwealth.

**Section 4. Division of Powers.**

1-4-1. All legislative powers of the town shall be exercised by a town meeting open to all voters. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the select board, the town administrator and elected officers and boards.

**Section 5. Construction.**

1-5-1. The powers of the town of Bellingham under this charter are to be construed liberally in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the town of Bellingham as stated in section 1-3-1.

**Section 6. Intergovernmental Relations.**

1-6-1. Consistent with any applicable constitutional or statutory provisions, the town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, with any one or more civil divisions, subdivisions or agencies of any state or the United States government.

**Section 7. Definitions.**

1-7-1. Words and Gender. Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include a singular person or thing; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

1-7-2. Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in this charter shall have the following meanings:

- (a) Charter - The word "charter" shall mean this charter and any amendments to it which may hereafter be adopted.
- (b) Days - The word "days" shall refer to business days, not including Saturdays, Sundays and legal

holidays, when the time set is less than 7 days; when the time set is 7 days or more, every day shall be counted.

- (c) General laws - The words "General Laws" or "law" shall refer to the Massachusetts General Laws.
- (d) Local newspaper - The words "local newspaper" shall mean a newspaper of general circulation in the town of Bellingham.
- (e) Majority vote - The words "majority vote" shall mean a majority of those present and voting, provided there is a quorum of the body present when the vote is taken, unless otherwise required by law.
- (f) Multiple member body — The words "multiple member body" shall mean any town body consisting of 2 or more persons and whether styled board, commission, committee, sub-committee or otherwise and however elected or appointed or otherwise constituted.
- (g) Town - The word "town" shall mean the town of Bellingham.
- (h) Town agency - The words "town agency" shall mean any board, commission, committee, department, division or office of the town government.
- (i) Town officer - The words "town officer" when used without further qualification or description shall mean a person having charge of an office or department of the town who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the town.
- (j) Voters - The word "voters" shall mean registered voters of the town of Bellingham.

ARTICLE 2  
**LEGISLATIVE BRANCH**

**Section 1. Town Meeting.**

2-1-1. The legislative powers of the town shall be vested in a town meeting open to voters of the town.

**Section 2. Presiding Officer.**

2-2-1. The town moderator, elected as provided in section 3-3-1 of this charter, shall preside at all sessions of the town meeting.

2-2-2. In the absence of the town moderator, the town meeting shall, as its first act, elect a temporary moderator by a majority vote. The town clerk shall preside until such election has taken place, in accordance with section 14 of chapter 39 of the General Laws.

**Section 3. Committees.**

2-3-1. Finance Committee. 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 conditions of appointment or service as may be deemed necessary or desirable shall be established by by-law. 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 bodies and not containing appropriations. The finance committee shall report its recommendations on the articles for which it held a public hearing, in writing, not less than 10 days prior to a scheduled town meeting. The finance committee shall have such additional powers and duties as may be provided by the General Laws, by this charter or by by-law.

**Section 4. Time of Meeting.**

2-4-1. The town meeting shall meet in regular session not less than twice in each calendar year.

2-4-2. The first regular meeting, to be known as the spring annual town meeting, shall be held during March, April or May, on a date fixed by by-law, and shall be primarily concerned with: (i) the determination of matters involving the expenditure of town funds including, but not limited to, the adoption of an annual operating budget for all town agencies; (ii) electing officers; and (iii) other matters to be decided by ballot of the voters.

2-4-3. The second such meeting, to be known as the fall annual town meeting, the powers of which shall also be deemed to be those of the annual town meeting, except that it shall not include the election of officers or the determination of other matters to be decided by ballots of voters, shall be held during the last 4 calendar months, on a date fixed by by-law.

**Section 5. Special Meetings.**

2-5-1. Special town meetings shall be held at the call of the select board at such times as it may deem necessary and whenever a special meeting is petitioned by voters in accordance with procedures made available by the General Laws.

**Section 6. Warrants.**

2-6-1. Every town meeting shall be called by a warrant issued by the select board 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.

2-6-2. The publication of the warrant shall be in accordance with town by-laws governing such matters.

### **Section 7. Initiation of Warrant Articles.**

2-7-1. Initiation. The select board shall receive at any time all petitions addressed to it and which request the submission of any matter to the town meeting and which are filed by: (i) any elected town officer; (ii) any multiple member body acting by a majority of its members; (iii) any 10 voters for a regular town meeting; and (iv) any 100 voters for a special town meeting. In accordance with section 10 of chapter 39 of the General Laws, the select board shall insert all petitions as articles on the appropriate town meeting warrant.

2-7-2. Referral. The select board shall immediately upon signing cause a copy of the warrant to be delivered to the chairperson or the designee of the finance committee and shall cause such other distribution to be made of each warrant as may be required by by-law.

2-7-3. Notification. Whenever a special town meeting is to be called, the select board shall give notice of the date, time and place by publication in a location defined in the town's by-laws.

### **Section 8. Availability of Town Officials at Town Meetings.**

2-8-1. Every town officer, chairperson of each multiple member body, head of each department and the head of each division within said department shall attend all sessions of the town meeting for the purpose of providing the town meeting with information and answering questions concerning matters appearing in the warrant.

2-8-2. In the event a town officer, chairperson of a multiple member body, department head or division head is to be absent due to illness or other reasonable cause, such person shall designate a deputy to attend in their place. If any person designated to attend the town meeting under this section is not a voter in the town, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section.

### **Section 9. Clerk of the Meeting.**

2-9-1. The town clerk shall serve as the clerk to the town meeting.

2-9-2. In the event of the absence of the town clerk, the town clerk shall designate a substitute; otherwise, the town moderator shall appoint a clerk pro tempore.

2-9-3. 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 General Laws by charter, by by-law or by other town meeting vote.

### **Section 10. Rules of Procedure.**

2-10-1. The town meeting may, by by-law, establish and from time to time amend, revise or repeal rules to govern the conduct of all town meetings.

ARTICLE 3  
**ELECTED OFFICERS**

**Section 1. General Provisions.**

- 3-1-1. The offices to be filled by ballot of the voters of the entire town shall be a select board, a moderator, a school committee, a town clerk, constables, a planning board, library trustees, 3 members of a housing authority and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise.
- 3-1-2. The regular elections for town office shall be held annually on such date as may from time to time be fixed in the town by-laws.
- 3-1-3. Elected town officials shall receive such compensation for their services as may be appropriated.
- 3-1-4. Notwithstanding their election by voters, the town officers named in this section shall be subject to the call of the select board or of the town administrator, at all reasonable times, for consultation, conference and discussion on any matter relating to their office.
- 3-1-5. Elected multiple member body vacancies. If there is a vacancy in a board consisting of 2 or more members, other than the select board, the remaining members shall forthwith give notice of the existence of any such vacancy to the select board. The select board with the remaining member or members of such board shall fill such vacancy by a joint vote. The select board shall set the date for the joint vote and give 1 week's notice. If such notice is not given within 30 days following the date on which such vacancy occurs, the select board shall, after 1 week's notice, fill such vacancy without participation by the remaining member or members of the multiple member body.

**Section 2. Select Board.**

- 3-2-1. Composition, Term. A select board of 5 members shall be elected at-large for 3 years, each so arranged that the terms of as close to an equal number of members as possible shall expire each year.
- 3-2-2. Vacancies in the office of select board shall be filled by a special election in accordance with the provisions of the General Laws.
- 3-2-3. Executive powers. Except as otherwise provided by this charter, all executive powers of the town shall be vested in the select board which shall have all the powers and duties given to town select boards or boards of selectmen under the Massachusetts Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or town meeting vote.
- 3-2-4. Licensing. The select board shall be a licensing board for the town and shall have the power to issue licenses as authorized by law to make all necessary rules and regulations regarding the issuance of such licenses, to attach conditions and to impose restrictions on any such licenses as it deems to be in the public interest and to enforce all laws, rules, regulations and restrictions relating to all such businesses for which it issues licenses.
- 3-2-5. The select board 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.
- 3-2-6. The select board may investigate or may authorize the town administrator to investigate the affairs of the town and the conduct of any agency of the town.
- 3-2-7. Town administrator. The select board shall appoint a town administrator for a 3-year term. The

appointment of the administrator shall be by the affirmative vote of not less than 3 members of the select board, with reappointment by not less than 3 affirmative votes of the select board. Removal shall require not less than 4 affirmative votes of the select board.

3-2-8. Other appointments. The select board shall have the authority to make appointments as provided by the General Laws, by this charter and by by-law and to make other such appointments as it may deem necessary. A listing of appointments authorized at the time of this charter is provided in section 8-2-3 the town administrative organization.

3-2-9. Unless noted elsewhere in this charter, the terms of office of all appointments made by the select board shall be as currently specified by the General Laws, by this charter, by by-law or town meeting vote.

### **Section 3. Town Moderator.**

3-3-1. Term. There shall be a town moderator elected for a term of 3 years.

3-3-2. Powers and duties. The town moderator shall be the presiding officer of the town meeting, shall regulate its proceedings, decide all questions of order and shall have such other powers and duties as may be provided for that office by the General Laws, by this charter, by by-law and by other vote of the town meeting, including appointing a finance committee.

### **Section 4. School Committee.**

3-4-1. Composition, term of office. There shall be a school committee consisting of 5 members elected for terms of 3 years each so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

3-4-2. Powers and duties. The school committee shall have all the powers and duties which are given to school committees by the General Laws and it shall have such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote. The powers of the school committee shall include, but are not intended to be limited to, the following:

- (i) to appoint a superintendent of the schools and other officers as allowed by the General Laws, to fix their compensation, define their duties, make rules concerning their tenure of office and to discharge them; and
- (ii) to make all reasonable policies consistent with the General Laws or the executive office of education regulations for the administration and management of the public school system and for the conduct of its own business and affairs.

### **Section 5. Town Clerk.**

3-5-1. Term. There shall be a town clerk elected to serve for a term of 3 years.

3-5-2. Powers and duties. The town clerk shall: (i) be the keeper of vital statistics for the town; (ii) be the custodian of the town seal; (iii) administer the oath of office to all persons, elected or appointed to any office; (iv) issue such licenses and permits as are required by law to be issued by town clerks; (v) supervise and manage the conduct of all elections and all other matters relating to elections; and (vi) be the clerk of the town meeting, keep its records and in the absence of the town moderator to preside pending the election of a temporary town moderator. The town clerk shall also have such other powers and duties as are given to town clerks by the General Laws, by this charter, by by-law or by



other vote of the town meeting.

### **Section 6. Planning Board.**

3-6-1. Composition, term. There shall be a planning board consisting of 5 members elected for terms of 3 years each, so arranged that the term of office of has nearly an equal number as is possible shall expiring each year. As authorized by section 9 of chapter 40A of the General Laws, there shall be 1 associate member of the planning board. Such associate shall act on special permit applications when designated to do so by the planning board chair, in case of absence, inability to act or conflict of interest on the part of any member of the board. The associate member shall be appointed for a 3-year term by majority vote of the select board and members of the planning board, in the same manner as for filling a vacancy.

3-6-2.

- (a) Powers and duties. The planning board shall have all of the powers and duties planning boards may have under the Massachusetts Constitution and the General Laws and it shall have such additional powers and duties as may be authorized by the charter or by by-law.
- (b) The planning board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The planning board shall provide for the review of the comprehensive master plan every 10 years, setting forth in graphic and textual form, policies governing the future growth and development of the town's economic, developmental and human service needs.
- (c) The planning board shall regulate the sub-division of land within the town by adoption of rules and regulations governing such development and the administration of such rules and regulations. The planning board shall make recommendations to the town meeting on all matters affecting land use and development, including the zoning by-laws of the town.
- (d) The planning board shall make an annual report, giving information regarding the condition of the town and any plans or proposals for its development and estimates of their costs.

### **Section 7. Board of Library Trustees.**

3-7-1. Composition, term. There shall be a board of library trustees consisting of 5 members elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.

3-7-2. Powers and duties. The board of library trustees shall have the custody and management of the public library and of all property of the town related to the said library. All funds of money and property that the town may receive by gift or bequest for the purpose of library support or maintenance shall be administered by the board in accordance with the provisions of any such gift or bequest. The board shall have all of the other powers and duties which are given to boards of library trustees by the General Laws, by this charter, by by-law or other town meeting vote.

### **Section 8. Constables.**

3-8-1. Composition term of office. There shall be not less than 1 nor more than 4 constables elected for terms of 3 years each, so arranged that the terms of office of each will expire simultaneously.

3-8-2. Powers and duties. Constables may exercise such powers as provided under the Massachusetts

Constitution and the General Laws.

### **Section 9. Bellingham Housing Authority.**

3-9-1. Composition, term of office. There shall be a housing authority which shall consist of 5 members serving for terms of 5 years each, so arranged that the term of 1 member shall expire each year. Three of the members shall be elected by the voters of the town and 2 members shall be elected or appointed in accordance with section 5 of chapter 121B of the General Laws, as it may be amended from time to time.

3-9-2. Powers and duties. The housing authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly and disabled persons of low income. The housing authority shall have such other powers and duties as are assigned to housing authorities by the General Laws.

### **Section 10. Blackstone Valley Regional Vocational District School Committee (Bellingham Representative).**

3-10-1. Composition, term of office. The voters shall elect such members of the Blackstone Valley Regional Vocational School Committee for school committee for such terms as may be provided under the agreement and laws establishing the committee.

3-10-2. Powers and duties. The members of the Blackstone Valley Regional Vocational School Committee shall along with members from other municipalities participating therein, be responsible for the management and supervision of the said school according to the agreement and laws governing the same.

### **Section 11. Recall Provisions.**

3-11-1. Application. Any holder of an elected office in the town with more than 6 months remaining in the term of office may be recalled therefrom by the qualified voters of the town in the manner provided herein.

3-11-2.

- (a) Recall petition. Two hundred or more voters may file with the town clerk an affidavit signed under the penalties of perjury containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The petition shall be addressed to the select board and include the town clerk's signature and official seal, the date, the grounds set forth in the recall affidavit, the name and title of the person whose recall is sought and the names of the first 10 voters signing the affidavit, 1 of whom shall be identified as the "lead petitioner". A copy of the affidavit shall be entered in a record book to be kept in the office of the town clerk and the town clerk shall notify the lead petitioner that such petitions are available at that office. The recall petitions shall be returned and filed with the clerk within 45 days following the date of the filing of the affidavit signed by not less than 10 per cent of the voters and containing their names and addresses; provided, however, that not more than 25 per cent of the total number shall be from any 1 precinct.
- (b) The town clerk shall, within 2 working days of receipt, submit the petition to the registrars of voters who shall forthwith certify thereon the number of signatures that are names of voters.

3-11-3. Recall election. If the petition is certified by the registrars of voters to be sufficient, the town clerk

shall forthwith submit the same with the town clerk's certificate to the select board. Upon receipt of the certificate, the select board shall forthwith give written notice of to the officer whose recall is sought, of such petition and certificate, whether in hand, by certified mail or by email. If said officer does not resign from office within 5 days after delivery of such notice, the select board shall forthwith order an election to be held not less than 64 nor more than 90 days after the date of the town clerk's certification of the petition notice; provided, however, that if any other town election is to occur within 100 days after the date of the certification, the select board shall hold the recall election on the date of such other election and may, at its discretion, place the question of recall on said ballot; and provided further, that if a vacancy occurs in said office after such a recall election has been ordered, the election shall nevertheless proceed as provided in this section and the ballots for candidates shall be counted.

3-11-4. Nomination of candidates. Any officer whose recall is sought may be a candidate in the recall election. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the election shall all be in accordance with the provisions of law relating to elections.

3-11-5. Propositions on ballot. Ballots used in a recall election shall state the following propositions in the order indicated:

FOR THE RECALL OF (name and title of officer)

AGAINST THE RECALL OF (name and title of officer)

Adjacent to each proposition, there shall be a place to vote for either of said propositions. After the propositions shall appear the word "Candidates" and the names of candidates nominated as required by section 42 of chapter 54 of the General Laws. 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. If a majority of the votes on the question is in the negative, the ballots for candidates need not be counted.

3-11-6.

- (a) Office holder. The incumbent shall continue to perform the duties of the office until the recall election. If not recalled in the election, the incumbent shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided herein.
- (b) If recalled in the election, the incumbent shall be deemed removed and the office vacant.

3-11-7. Repeat of recall petition. No recall petition shall be filed against an officer within 3 months after taking office or, in the case of an officer subjected to a recall election and not recalled thereby, until at least 6 months after the recall election.

ARTICLE 4  
**TOWN ADMINISTRATOR**

**Section 1. Appointment; Qualifications; Term.**

- 4-1-1. The town administrator shall be appointed by the select board for a 3-year term; shall be the administrative officer of the town; and shall be responsible to the select board for the administration of all town affairs placed in their charge by or under the charter. The town administrator shall be a person especially fitted by education, training or previous experience to perform the duties of the office. The town administrator shall be a person especially fitted by education, which shall consist of not less than a bachelor's degree from an accredited degree-granting college or university and a minimum of 7 years of professional experience that shall include previous, full-time, compensated service in a managerial capacity in public or business administration.
- 4-1-2. The town administrator shall not need to be a resident of the town.
- 4-1-3. The town administrator shall hold no elected or other appointed town office, except in an ex officio capacity; shall devote full time to the duties of the office; and shall engage in no other business or occupation without the advance written authorization of the select board.
- 4-1-4. The town administrator shall not be eligible for appointment until not less than 12 months after the last date of service in an elected office in the town government.

**Section 2. Powers and Duties.**

- 4-2-1. The town administrator shall appoint and may remove, subject to civil service law or sections 42 to 44, inclusive, of chapter 48 of the General Laws, where applicable, all department heads, all officers and all subordinates and employees of the town except for employees of the school committee and library trustees, appointments made by representatives of the commonwealth and those appointments for which another method of appointment is provided in the General Laws, in this charter or in the town by-laws. Appointments made by the town administrator shall take effect 15 days after notification to the select board unless such board votes prior to such time to reject or approve such appointment.
- 4-2-2. The town administrator shall direct and supervise the administration of all functions under their control.
- 4-2-3. The town administrator shall prepare and submit the annual capital budget and capital outlay program as provided in section 4 of article 6 of this charter.
- 4-2-4. The town administrator shall attend all regular and special meetings of the select board, unless excused at the select board's own request, and shall have a voice, but no vote, in all select board discussions.
- 4-2-5. The town administrator shall attend all sessions of the town meetings and answer all questions directed to the town manager by the voters of the town.
- 4-2-6. The town administrator shall see that all provisions of the General Laws, the charter, by-laws and votes of the town meeting and of the select board that require enforcement by the town administrator or officers subject to the town manager's direction and supervision are faithfully carried out.
- 4-2-7. The town administrator shall administer all provisions of the general and special laws applicable to the town, to the charter, to the by-laws and votes of the town and all rules and regulations made by

the select board that lie within the scope of the powers and duties of the office.

4-2-8. The town administrator shall negotiate all contracts involving any subject within the jurisdiction of the office of town administrator, including contracts with employees involving wages, hours and other terms and conditions of employment contracts with employees, but excluding employees of the school department, the director of the public library and other professional librarians.

4-2-9.

- (a) The town administrator shall have full jurisdiction over the rental and use of all town facilities, except schools, library and properties designated by by-law or other vote of the town. The town administrator shall be responsible for the maintenance and repair of all town property, excluding school buildings and library, unless otherwise agreed to by the town administrator place under their control by the charter, by by-law or otherwise.
- (b) The town administrator shall be responsible for the keeping of full and complete records of the financial and administrative activities of the town and shall render a full report to the select board at the end of each fiscal year and otherwise as said board may require.
- (c) As required by the uniform procurement act in chapter 30B of the General Laws, the town administrator or designee shall be the certified procurement officer responsible for the purchase of all supplies, materials and equipment, except books and other educational materials for schools and books, supplies, materials, equipment and other media materials for the library, and approve the award of all contracts for all town departments with the exception of the school department and public library, subject to the approval of the select board.

4-2-10. The town administrator shall keep full and complete inventory of all property of the town, both real and personal.

4-2-11. The town administrator may at any time inquire into the conduct of office of any officer or employee or department under their jurisdiction.

4-2-12. The town administrator may delegate to others the administrator's powers and duties under this charter, except as may be prohibited by law and, further, any action taken by a designee authorized hereunder shall be deemed to be the actions of the town administrator.

4-2-13. The town administrator shall perform such other duties consistent with the office as may be required by by-law, vote of the town or select board.

### **Section 3. Temporary or Acting Town Administrator.**

4-3-1. Temporary Absence. The town administrator shall designate in writing a qualified town administrative officer or employee to exercise the powers and perform the duties of town administrator during a temporary absence and shall file such designation with the town clerk and select board. The select board may not revoke such designation during the absence of the town administrator until not less than 10 working days have elapsed, whereupon it may appoint another qualified town administrative officer or employee to serve until the town administrator shall return. If the town administrator has not made the filing required by this section, in the event of a temporary absence of the town administrator, the select board shall appoint a town administrative officer or employee of its choosing to serve as the temporary town administrator.

4-3-2. Any vacancy in the office of the town administrator shall be filled as soon as possible by the select board but, pending such regular appointment the select board shall appoint a qualified administrative

officer to perform the duties of the office on an acting basis. Such temporary appointment shall not exceed 3 months, but 1 renewal may be voted by the select board. Compensation for such person shall be set by the select board within the amount appropriated for the town administrator.

4-3-3. Powers and duties. The powers of a temporary or acting town administrator serving under sections 4-3-1 and 4-3-2, respectively, shall be limited to matters which should not be delayed and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations. Notwithstanding the preceding sentence, if the select board concludes at a properly posted open meeting that the best interests of the town require a permanent appointment or designation to be made, it may, at its sole discretion, authorize a temporary or acting town administrator, following consultation with the select board, to make a permanent appointment or designation, or to itself make the permanent appointment or designation.

#### **Section 4. Removal and Suspension.**

4-4-1. The select board may for cause, by the affirmative vote of 4 of its members, terminate and remove or suspend, the town administrator from office in accordance with the procedures outlined in this section.

The select board shall adopt a preliminary resolution of removal by the affirmative vote of 4 members which must state the reason or reasons for removal. This preliminary resolution may suspend the town administrator for a period not to exceed 45 days. A copy of the resolution shall be delivered to the town administrator forthwith.

Within 5 days after receipt of the preliminary resolution the town administrator may request a public hearing by filing a written request for such hearing with the select board. This hearing shall be held at a meeting of the select board not later than 30 days after the request is filed nor earlier than 20 days. The town administrator may file a written statement responding to the reasons stated in the resolution of removal with the select board provided the same is received at its office more than 48 hours in advance of the public hearing.

The select board may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of 4 of its members, not less than 10 nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the town administrator, if the town administrator has not requested a public hearing; or within 10 days following the close of the public hearing if the town administrator has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the town administrator shall at the expiration of said time, forthwith resume the duties of the office.

4-4-2. The action of the select board in suspending or removing the town administrator shall be final and all authority and responsibility for such suspension or removal shall be vested and fixed solely in the select board.

#### **Section 5. Specific Appointments.**

4-5-1. The town administrator shall have the authority to appoint all technical and operational positions of the town, and other such positions as may be created by the General Laws, by this charter, by by-law or by vote of the town. A listing of appointments made by the town administrator shall be set forth in a document on file with the select board and the town clerk, which document shall be updated from time to time as required.

**Section 6. Resolution of Policy Conflicts.**

4-6-1. If a conflict relating to a policy issue arises between the town administrator and a department head, the department head may appeal the town administrator's decision to the select board. The select board shall act as arbitrator between the department head and the town administrator and shall resolve the conflict regarding policy. The select board's decision on policy shall be final and binding on both the town administrator and the department head.

ARTICLE 5  
**ADMINISTRATIVE ORGANIZATION**

**Section 1. Organization of Town Agencies.**

5-1-1. The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this article.

5-1-2. By-Laws. The town meeting may, by by-law, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part; establish new town agencies as it deems necessary or advisable; determine the manner of selection, the term of office and prescribe the functions of all such entities; provided, however, that no function assigned by this charter to a particular town agency shall be discontinued, or unless this charter specifically so provides, assigned to any other.

5-1-3.

- (a) Administrative code. The town administrator, after consultation with the select board, may from time to time prepare and submit to the town meeting plans for organization or reorganization that establish operating divisions for the orderly, efficient or convenient conduct of the business of the town.
- (b) Whenever the town administrator prepares a plan under subsection (b), the select board shall hold at least 1 public hearing on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the date, time and place at which the hearing will be held, not less than 7 nor more than 14 days following said publication. Following such public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the town meeting by an appropriate warrant article.

5-1-4. An organization or reorganization plan shall become effective at the expiration of 60 days following the date of adjournment of the town meeting at which the proposal is submitted unless the town meeting shall, by a majority vote, vote to disapprove the plan. The town meeting may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

5-1-5. The town administrator may, through the administrative code: (i) reorganize, consolidate or abolish any town agency, in whole or in part; (ii) establish such new town agencies as is deemed necessary to the same extent as is provided in section 5-1-2, above, for by-laws; and (iii) for such purpose, transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of 1 town agency to another; provided, however, that no function assigned by this charter to a particular town agency shall be discontinued or, unless this charter so specifically provides, be assigned to any other.

**Section 2. Merit Principle.**

5-2-1. All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability.

**Section 3. Department of Public Works.**

5-3-1. There shall be a department of public works, headed by a director of public works, who shall be either the town administrator or a director of public works appointed by the town administrator. The appointment of a director of public works by the town administrator shall be filled at a regularly



scheduled meeting of the select board and shall become effective upon confirmation by a majority of the select board. The director of public works so appointed shall be a person especially fitted by education, training or previous experience to perform the duties of the office.

5-3-2. The director of public works shall be responsible for the supervision and coordination of all public works operations of the town, which are placed under their control by this charter, by by-law, by vote of the town or otherwise. Public works operations may include, but shall not be limited to, the following operations: refuse collection and disposal, sewer, water supply, treatment, and distribution, stormwater quality management, forestry services, snow and ice control and maintenance, repairs and improvements to town infrastructure, including town parks and cemeteries.

5-3-3. Other offices, the functions of which are related to a department of public works, may from time to time be assigned to the department in accordance with by-laws.

5-3-4. The select board, acting through the town administrator, shall be responsible for the overall policy decisions of the department of public works and for the establishment of priorities to govern the operation of the department; provided, however, that the select board shall not in any way become involved with the day to day operations of said department.

#### **Section 4. Finance Office.**

5-4-1. There shall be a finance office in the town, with a chief financial officer as its head and including an appointed treasurer-collector and an appointed board of assessors that shall, in matters dealing with town finance, but excluding abatements, be responsible to the chief financial officer.

5-4-2. The scope and functions of the finance office shall be to provide the coordination of all financial services and activities and provide assistance to all other town departments in any matter related to finances; and other such functions related to the fiscal management, policy and planning of the town.

5-4-3. The chief financial officer and other officers and employees of the finance office shall operate in matters related to finance under the oversight and direction of the town administrator and shall assist the administrator in providing required and interim reports and preparing materials for the budget process, as specified in section 4 of article 6 of this charter.

#### **Section 5. Treasurer-Collector.**

5-5-1. Term of office. The town administrator shall appoint for a 3-year term a treasurer-collector who shall be assigned to the finance office under section 5-4-1 and shall work under the supervision of the chief financial officer.

5-5-2. Powers and duties. The treasurer-collector shall provide for the administrative, supervisory and technical work involving the receipt, disbursement and investment of town funds, the borrowing of monies and the collection of all taxes and such fees, as determined by by-law or town meeting vote, due to the town. The treasurer-collector shall also have such other powers and duties as are given to treasurers and collectors or either of them by the General Laws, by this charter, by by-law or by other vote of the town meeting.

#### **Section 6. Capital Improvements Committee.**

5-6-1.

(a) There shall be a capital improvements committee, which shall consider the relative need, timing,

cost, completeness of planning, community support, availability of outside funding and other factors said committee members shall deem appropriate to the individual proposed expenditures and the effect each will have on the financial position of the town.

- (b) Membership, terms of office, method of appointment and additional functions of the capital improvements committee shall be determined by town by-law.

### **Section 7. Inspection Department.**

5-7-1. There shall be a department of inspection headed by the inspector of buildings or zoning agent as its director and shall include the following individuals: (i) weights and measures inspector; (ii) wire inspector; (iii) gas and plumbing inspector; (iv) inspector of buildings; and (v) a health agent.

5-7-2. The department of inspection shall provide for consolidation of inspection operations, coordination of functions, centralized planning of work assignment and distribution, timely inspection services, centralized record keeping and management of human resources.

5-7-3. The town administrator shall appoint the inspector of buildings for a 3-year term and inspectors for weights and measures, wires and gas and plumbing for terms of 1 year as currently established by the General Laws, by this charter, by by-law or by town meeting vote. The town administrator may appoint assistants to any of the referenced inspectors in this section as provided by town by-law or town meeting vote.

5-7-4. The board of health shall appoint a health agent for a term of 1 year.

### **Section 8. Tree Warden.**

5-8-1. There shall be a tree warden appointed by the town administrator for a 3-year term. The tree warden shall be responsible for the full care and control of all public shade trees, respond to public safety emergencies related to fallen limbs or trees on public ways and assess and provide for the culling and trimming of public shade trees.

5-8-2. The tree warden shall hold or participate in a public hearing jointly with the planning board related to matters concerning designated scenic roads in accordance with town by-law and the General Laws.

ARTICLE 6  
**FINANCE AND FISCAL PROCEDURES**

**Section 1. Chief Financial Officer Appointment, Qualifications and Term.**

6-1-1. The town administrator shall appoint a chief financial officer who shall provide oversight for the financial operations of the town, including accounting, collections, management of funds, borrowing, property assessments and preparation of documents by the board of assessors related to financial matters of the town.

6-1-2. The chief financial officer shall be a person especially fitted by education, training and previous experience to perform the duties of the office. The minimum qualification shall be a bachelor's degree in accounting or business administration from a duly accredited college or university and 5 years of relevant experience in Massachusetts municipal finance or comparable education and experience as determined by the town administrator.

6-1-3. The term of appointment shall be 3 years.

**Section 2. Chief Financial Officer Power and Duties.**

6-2-1. The chief financial officer shall serve as the town accountant in accordance with sections 55 to 61A, inclusive, of chapter 41 of the General Laws.

6-2-2. The chief financial officer shall oversee the accounting department and coordinate all financial planning, budgeting and any other financial matters as determined by the town administrator.

6-2-3. The chief financial officer shall serve as the head of the finance office, which shall consist of the chief financial officer, the treasurer-collector and the assessors office.

6-2-4. The chief financial officer shall serve ex officio on the finance committee and capital improvement committee.

6-2-5. The chief financial officer shall assist the town administrator in the preparation of the annual operating budget and capital budget of the town.

6-2-6. The town administrator shall delegate to the chief financial officer such duties and powers as are necessary for the administration of the financial matters of the town in accordance with the general and special laws, this charter, town by-laws and regulations established by the select board.

**Section 3. Fiscal Year.**

6-3-1. 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.

**Section 4. Budget Process.**

6-4-1. Annually, prior to the first day of October, the town administrator shall establish and issue a budget schedule which shall set forth the calendar dates relating to the development of the annual operating budget for the ensuing fiscal year.

6-4-2. The schedule shall be in accordance with this charter unless deviation therefrom is recommended by the town administrator and approved by the select board and the finance committee.

- 6-4-3. Annually, prior to the first day of October, the town administrator shall request and receive from the select board, the chief financial officer, treasurer-collector and the board of assessors the estimated revenue for the ensuing fiscal year. Upon receipt of any additional specific fiscal data provided by the commonwealth or any other source the above officials shall within 10 working days revise, update and submit the data forthwith to the town administrator.
- 6-4-4. Annually, prior to the first day of November, the select board, after consultation with the town administrator, shall issue a policy statement that shall establish the general guidelines for the next town budget.
- 6-4-5. All department heads and all multiple member bodies, including the school committee and board of library trustees, shall submit detailed budget requests to the town administrator not less than 150 days before the date of the annual town meeting.
- 6-4-6. Not less than 120 days prior to the scheduled date of the annual town meeting, the town administrator shall submit to the select board a comprehensive draft budget for all town functions for the ensuing fiscal year and an accompanying budget message.
- 6-4-7. The select board budget message shall explain the draft budget in fiscal terms and in terms of what specific projects are contemplated in the year ahead, it shall:
- (i) outline the proposed financial policies of the town for the ensuing fiscal year;
  - (ii) describe the important features of the budget;
  - (iii) indicate any major changes from the current fiscal year in financial policy, expenditures and revenues, together with the reasons for such changes;
  - (iv) summarize the town's debt position; and
  - (v) include such other material as the town administrator may deem appropriate.
- 6-4-8. The draft budget shall provide a complete financial plan for all town funds and activities and shall be in such form as the town administrator, in consultation with the chief financial officer, may establish. The draft budget shall indicate proposed expenditures for current operations and for capital projects during the ensuing year, detailed by each town agency and by specific purposes and projects.
- 6-4-9. The select board shall, within 30 days following the submission of the draft budget by the town administrator, adopt a proposed budget, with or without amendments, and shall submit it to the finance committee.
- 6-4-10. The finance committee shall conduct at least 1 public hearing on the proposed budget, including the school budget, and shall issue printed recommendations and detailed explanations of all financial articles in an annual finance committee report, in accordance with by-law, not less than 10 days prior to the scheduled date of the annual town meeting. In preparing its recommendations, the committee may require the town administrator, any town department, office, board, commission or committee to appear and furnish it with appropriate additional financial reports and budgetary information.
- 6-4-11. The select board shall present its proposed budget to the town meeting.

ARTICLE 7  
**GENERAL PROVISIONS**

**Section 1. Charter Changes.**

7-1-1. This charter may be replaced, revised or amended in accordance with any procedures made available under the Massachusetts Constitution and General Laws enacted to implement its constitutional provisions.

**Section 2. Severability.**

7-2-1. The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

**Section 3. Specific Provisions to Prevail.**

7-3-1. To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

**Section 4. Rules and Regulations.**

7-4-1. A copy of the rules and regulations adopted by a town agency shall be filed in the office of the town clerk and shall become effective immediately upon filing or at such later date as may be specified therein.

**Section 5. Periodic Review, Charter and By-Laws.**

7-5-1. Charter and town by-law review. At least once in every 10 years, in each year ending in a 3, a special committee to consist of 9 members shall be established for the purpose of reviewing this charter and the town by-laws 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 9 members who shall be chosen as follows: the select board, the school committee, the planning board, the town clerk and the board of library trustees shall each designate 1 person; the finance committee shall designate 2 persons; and the town moderator shall appoint 2 persons with preference given to town residents who do not hold an elected position. Persons appointed by said agencies may, but need not, be members of the agency by which they are designated. The committee shall meet to organize forthwith following the final adjournment of the spring town meeting.

7-5-2. By-law Review. The select board shall at 5-year intervals, in each year ending in 4 or 9, cause to be prepared by the special committee appointed for that purpose under section 7-5-1, a proposed revision or recodification of all by-laws of the town which shall be presented to the town meeting for enactment not later than at the fall town meeting in the year following the year in which the said committee is appointed. The committee shall include recommendations for such substantive change in town by-laws as it deems necessary or advisable in its final or its interim report. The review of town by-laws shall be in conjunction with town counsel or by special counsel retained for that purpose. Subsequent to enactment by the town meeting, copies of the revised by-laws shall be forwarded to the attorney general for approval and they shall be otherwise published, all as required by the General Laws. Copies of the revised by-laws shall be made available for distribution to the

public.

### **Section 6. Removals and Suspensions.**

7-6-1. Any appointed officer, member of a multiple member body or employee of the town, not subject to an applicable state law or covered by the terms of a collective bargaining agreement or contract that provides a different method and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for good cause. The term "cause" shall include, but shall not be limited to: (i) incapacity other than temporary illness; (ii) inefficiency; (iii) insubordination; and (iv) conduct unbecoming to the office.

7-6-2. 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. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure stated in section 7-6-3.

7-6-3. The appointing authority when removing any officer, member of a multiple member body or employee of the town shall act in accordance with the following procedures:

- (a) A written notice of the intent to remove and a statement of the cause or causes therefor shall be delivered in hand or by registered mail or certified mail, return receipt requested, to the last known address of the person sought to be removed.
- (b) Within 5 days following deliverance of such notice, the officer, member of a multiple member body or employee of the town may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.
- (c) Between 1 and 10 days after the public hearing is adjourned or if the officer, member of a multiple member body or employee of the town fails to request a public hearing between 6 and 15 days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the officer, member of a multiple member body or employee of the town, or notifying such that the notice is rescinded. Failure of the appointing authority to take any action within the time periods, as stated in this section, shall be deemed to be a rescission of the original notice and the officer, member of a multiple member body or employee shall, forthwith, be reinstated.

7-6-4. 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. Loss of Office, Excessive Absence.**

7-7-1. Member attendance at all appointed board, committee, council and commission meetings is mandatory, unless excused due to illness, family emergencies, etc. If any person appointed as a member of a multiple member body shall fail to attend the lesser of 3 meetings or 50 per cent of the meetings within 1 year, beginning at annual town meeting and ending at annual town meeting the following year, the remaining members of that body may, by majority vote, declare the office vacant; provided, however, that not less than 10 days prior to the date said vote is scheduled to be taken, the body has given in hand or mailed by return receipt requested registered mail to the last known address of such person, the notice of such proposed or pending vacancy.

ARTICLE 8  
**OTHER PROVISIONS**

**Section 1. Continuation of Existing Laws.**

8-1-1. The General Laws, town by-laws, votes of the town meeting, rules and regulations of or pertaining to the town which are in force when the charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

**Section 2. Time of Taking Effect.**

Town administrative organization. Until such time as a different form of organization shall be provided, in accordance with the provisions of article 5 of this charter, the following outline or organization shall be operative:

1. The select board shall appoint the following:

- (a) Town Administrator for a 3-year term;
- (b) Affordable Fair Housing Commission, in the manner set by the General Laws;
- (c) Cultural Council, as provided by the General Laws;
- (d) Board of Assessors to consist of 3 members appointed for terms of 3 years each;
- (e) Board of Health to consist of 5 members appointed for terms of 3 years each;
- (f) Cemetery Commission to consist of 3 members appointed for 3-year terms each;
- (g) Conservation Commission to consist of 7 members appointed for 3-year terms each;
- (h) Council On Aging, as provided by town by-law; provided, however, that to ensure continuity, members shall be appointed in 3-year terms each so arranged that the terms of as nearly an equal number as possible shall expire each year;
- (i) Bellingham Historical Commission, to serve for terms of 3-years each, as provided by town by-law;
- (j) Industrial Development Finance Commission, in the manner provided by the General Laws;
- (k) Capital Improvement Committee, as provided by this charter and by town by-law;
- (l) Insurance Commission, as provided by town by-law;
- (m) Memorial and Veterans Day Committee, as provided by town by-law;
- (n) Parks and Recreation Commission to consist of 3 members appointed for terms of 3 years each;
- (o) Town Counsel appointed for a term of 1 year;
- (p) Veterans' Grave Agent for a 1-year term;
- (q) Zoning Board of Appeals, as provided by the General Laws; and
- (r) Town Common Trustees Committee, as provided by chapter 201 of the acts of 1998.

2. The Town Moderator shall appoint the following:
  - (a) Finance Committee, as provided by town by-law.
3. The Town Administrator shall appoint the following:
  - (a) Police Chief and other police officers to serve for indefinite terms;
  - (b) Fire Chief, who shall be Forest Warden, to serve for an indefinite term;
  - (c) Field Assistant Assessor/Appraiser for a 1-year term and who shall be assigned to serve under the chief financial officer;
  - (d) Treasurer-Collector for a 3-year term and who shall be assigned to the finance officer;
  - (e) Chief Financial Officer for a 3-year term and who shall head the finance office;
  - (f) Director of Public Works for a 3-year term;
  - (g) Animal Control Officers to serve for a 1-year term;
  - (h) Inspector of Buildings (building inspector or zoning agent) to serve for a 3-year term and who shall head the department of inspections;
  - (i) Inspector of Plumbing and Gas to serve for a 1-year term under the director of the department of inspections;
  - (j) Inspector of Wires to serve for a 1-year term under the director of the department of inspections;
  - (k) Sealer of Weights and Measures to serve for a 1-year term under the director of the department of inspections;
  - (l) Veterans' Agent and Director of Veterans' Services to serve for a 1-year term;
  - (m) Workmen's Compensation Agent to serve for a 1-year term;
  - (n) Civil Defense Director to serve for a 1-year term;
  - (o) Civilian Defense Auxiliary or Special Police to serve for 1-year terms;
  - (p) Tree Warden to serve for a 3-year term;
  - (q) Town Planner to serve for a 1-year term; and
  - (r) Conservation Agent to serve a 1-year term.
4. The Board of Health shall appoint the following:
  - (a) Health Agent to serve for a term of 1 year and who shall serve under the director of the department of inspections for purposes of coordination of inspections.
5. The Library Trustees shall appoint the following:
  - (a) Director of the public library and other professional librarians, for terms as determined by the Library Trustees, but not to exceed 3 years.



**The Code**

**Part I: Bylaws**

**Chapter 1**

**GENERAL PROVISIONS**

ARTICLE I  
**Provisions Applicable to Entire Code**

**§ 1-1. How Code designated and cited.**

- A. The provisions contained in this chapter and the chapters following shall constitute and be designated as the Code of Bylaws, Town of Bellingham, Massachusetts, and may be so cited. Such bylaws may also be cited as the Bellingham Town Code.
- B. Titles and subtitles are used in these bylaws for reference only, and are not to be construed as part of the bylaws.

**§ 1-2. Definitions.**

- A. Words and phrases specifying or naming any officer, board, or committee of the Town shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officer, board, or committee.

ANIMAL CONTROL OFFICER — Animal Control Officer, or his/her designee.

BUILDING INSPECTOR — Building Inspector, or his/her designee.

CAPITAL IMPROVEMENT —

- (1) Any purchase of land, or
- (2) Any of the following, if having a cost in excess of \$50,000, under a single article:
  - (a) New building, utility, or road construction, or the planning therefor.
  - (b) Building alteration (but not routine repair or maintenance).
  - (c) Site improvements.
  - (d) Purchase of equipment or vehicles unlikely to be replaced within five years.

CAPITAL OUTLAY — Any purchase which:

- (1) Costs \$15,000 or more; and
- (2) Has a determinable life expectancy of longer than one year.

CHARTER — The Charter approved and accepted by the voters of Bellingham and any amendments thereto, if any.

CHIEF FINANCIAL OFFICER — Chief Financial Officer, or his/her designee.

DEP — Massachusetts Department of Environmental Protection, and/or its successors.

DPW — Department of Public Works, and/or its successors.

DPW DIRECTOR — DPW Director, or his/her designee.

FIRE CHIEF — Fire Chief, or his/her designee.

FISCAL YEAR — The period beginning July 1 of one year and ending June 30 of the following year.

MGL — Massachusetts General Laws.

PERSON — Person, firm, or corporation.

POLICE CHIEF — Police Chief, or his/her designee.

SEALER OF WEIGHTS AND MEASURES — Sealer of Weights and Measures, or his/her designee.

TOWN — Town of Bellingham.

TOWN ADMINISTRATOR — Town Administrator, or his/her designee.

TOWN CLERK — Town Clerk, or his/her designee.

TREASURER-COLLECTOR — Treasurer-Collector, or his/her designee.

B. Other definitions contained in the Charter shall have the same meaning in these bylaws.

**§ 1-3. Repeal of bylaws not to revive repealed bylaws.**

The repeal of a bylaw shall not thereby have the effect of reviving any bylaw theretofore repealed.

**§ 1-4. Severability.**

If any of the provisions of these bylaws or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of the bylaws, or the application of such other provisions which can be given effect without the invalid provision or application thereof, and for this purpose the provisions of these bylaws are severable.

ARTICLE II

**Permits**

**§ 1-5. Permit exhibited upon demand.**

Any person who fails, neglects, or refuses to exhibit his/her permit when the same is demanded of him/her by a Selectman, Commissioner, Inspector, Sealer of Weights and Measures, Treasurer-Collector, Town Clerk, Constable, Police Officer, or Justice of the Peace shall be subject to the same penalty as if he/she had no permit.

**§ 1-6. Conflict with other licenses.**

Nothing in these bylaws shall be construed as conflicting with any license issued under the authority of the commonwealth.

ARTICLE III  
**Violations and Penalties**

**§ 1-7. General penalty for violation of bylaws.**

Whoever violates any of the provisions of these bylaws whereby any act or thing is enjoined or prohibited shall, unless another provision is expressly made, forfeit and pay a fine not exceeding \$300 for each violation, each day representing an independent violation, unless otherwise stated.

**§ 1-8. Noncriminal disposition.**

Any bylaw of the Town, or rule or regulation of its departments, boards, commissions, and committees, the violation of which is subject to a specific penalty, may, at the discretion of the official who is the appropriate enforcing person, be enforced in the method provided in M.G.L. ch. 40, § 21D. Enforcing person, as used in this bylaw, shall mean the designated official referred to as such in the bylaws, or such other official as the Board of Selectmen may from time to time designate. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.



BELLINGHAM CODE

**Chapter 9**

**ALCOHOLIC BEVERAGES**

**GENERAL REFERENCES**

**Drugs — See Ch. 60.**



ARTICLE I  
**Consumption in Public**

**§ 9-1. Violations.**

A violation of this bylaw shall be deemed to be a breach of the peace.

**§ 9-2. Consumption on public ways.**

Whoever shall consume intoxicating beverages on a public way within the Town, whether that public way be a Town way, county highway, state highway, or a private way open to the public, shall be punished by a fine of \$300. This section shall also be construed so as to prohibit the following:

- A. The consumption of intoxicating beverages by any person while such person is standing, sitting, walking, running, or otherwise present within such public way or is within any vehicle, whether parked or moving, which is within the limits of such public way.

**§ 9-3. Consumption on public properties.**

Whoever shall consume any intoxicating beverages in any public building, or on any public property, including parks, cemeteries, schoolhouses, school grounds, and public squares, or in any private way or parking area regulated under the provisions of M.G.L. ch. 90, § 18, shall be punished by a fine of \$300.

**§ 9-4. Exceptions.**

The foregoing §§ 9-2 and 9-3 shall not apply to any activity duly licensed by the Board of Selectmen under the applicable provisions of Massachusetts General Laws.

**§ 9-5. Enforcement.**

It shall be the duty of any police officer of the Town to arrest any person who violates the provisions of this article and to cause such person to be brought before a Justice of the District Court of Milford upon a complaint for violation thereof.



BOARDS, COMMITTEES AND COMMISSIONS

**Chapter 25**

**BOARDS, COMMITTEES AND COMMISSIONS**

ARTICLE I  
**Finance Committee<sup>2</sup>**

**§ 25-1. Membership; appointment; eligibility.**

There shall be a Finance Committee consisting of seven registered voters of the Town, who shall be appointed by the Moderator as hereinafter provided. No elected or appointed officer or employee, other than a member of the Personnel Board or the Capital Improvements Committee, shall be eligible to serve on the Finance Committee.

**§ 25-2. Terms of office.**

The Moderator shall annually appoint members, whose term shall be three years, so as to replace those whose terms have expired. All terms of office shall commence immediately upon qualification and shall expire at the close of the final adjournment of the Annual Town Meeting of the year in which the term expires or until a successor is appointed and qualified.

**§ 25-3. Filling vacancies.**

The Moderator shall fill, for the remainder of the term, any vacancy that may occur in the membership of the Finance Committee.

**§ 25-4. Officers.**

The Finance Committee shall elect its own officers following the Spring Annual Town Meeting.

**§ 25-5. Compensation.**

The members of the Finance Committee shall serve without pay. Finance Committee may appoint one of its members to act as Clerk, with pay. However, Clerk does not have to be a member of the Finance Committee (see § 25-11).

**§ 25-6. Record of proceedings.**

Members of the Finance Committee shall cause a true record of its proceedings to be kept as required by the Open Meeting Law.

**§ 25-7. Consideration of articles on Warrant; public hearing; report to Town Meeting.**

- A. All articles in any Warrant for a Town Meeting shall be referred to the Finance Committee for its consideration. The Board of Selectmen, after drawing any such Warrant, shall transmit immediately a copy thereof to each member of the Finance Committee.
- B. A public hearing shall be held, at least 14 days before such Town Meeting upon all such articles, unless a public hearing by some other tribunal is required by law. The recommendations, if by a tribunal other than the Finance Committee, shall be made to the Finance Committee at least 30 days before such Town Meeting.

---

2. Editor's Note: Former Art. I, Personnel Board, was repealed 10-14-2015 STM, Art. 17. This article also provided for the renumbering of former Arts. II through VI (former §§ 25-6 through 25-33) as Arts. I through V (§§ 25-1 through 25-28), respectively.

- C. The Finance Committee shall, after due consideration of the subject matter of such articles, report its recommendations and those of other tribunals to Town Meeting, in writing.
- D. In an emergency, the Finance Committee may waive the thirty-day requirement.

**§ 25-8. Recommending appropriations.**

It shall be the duty of the Finance Committee annually to consider the expenditures in previous years and the estimated requirements for the ensuing year of the boards, officers, and committees of the Town, as prepared by them in such form and detail as may be prescribed by the Finance Committee. The Finance Committee shall add to such statement of expenditures and estimates another column, giving the amounts which in its opinion should be appropriated for the ensuing year, the method of financing, and shall further add thereto such explanations and suggestions relating to the proposed appropriations as it may deem expedient and report thereon as provided in § 25-7.

**§ 25-9. Access to books, records, accounts; Town officers to furnish information.**

In the discharge of its duty, the Finance Committee shall have free access to all books of records and accounts, bills, and vouchers, excluding those determined to be executive session records, on which money has been received or paid to and from the Town Treasury, and any other public records as defined in M.G.L. ch. 4, § 7(26). Officers, boards, and committees of the Town shall, upon written request, furnish the committee with facts, figures, public records, and any other information within 10 business days of the request.

**§ 25-10. Annual report.**

It shall be the duty of the Finance Committee to make an annual report of its activities, with recommendations relative to financial matters and the conduct of Town business, to be contained in the Annual Town Report.

**§ 25-11. Authority to employ assistants.**

The Finance Committee may employ clerical or other assistance, to be paid from such funds as the Town may appropriate for the use of the Finance Committee.

## ARTICLE II

**Capital Improvements Committee****§ 25-12. Appointment.**

There shall be a Capital Improvement Committee of five members consisting of three Finance Committee members (or designees) appointed by the Finance Committee and two at-large appointed by the Board of Selectmen. Members shall serve a term of three years, those from the Finance Committee will serve a term contemporaneous with their term of the Finance Committee. A member's reappointment to the Finance Committee shall not automatically cause reappointment to the Capital Improvements Committee. Any vacancy on the Capital Improvements Committee shall be filled by appointment of the Board of Selectmen for the remainder of the term.

**§ 25-13. Estimates of funds for capital improvements.**

- A. The Capital Improvements Committee shall study those capital improvements as defined in § 1-2 that are above \$50,000. The Board of Selectmen and all boards, committees, heads of department, or other officers of the Town authorized by law to expend money shall furnish to the Capital Improvements Committee, with their annual budget requests, detailed estimates of the amount necessary for capital improvements for the departments under their jurisdiction for at least the coming five years.
- B. The Capital Improvements Committee shall consider the relative need, timing, cost, completeness of the planning, community support, availability of outside funding, and other factors the Capital Improvements Committee shall deem appropriate to the individual expenditures and the effect each will have on the financial position of the Town.

**§ 25-14. Preparation of annual report and five-year capital program.**

The Capital Improvements Committee shall maintain an ongoing five-year Capital Improvement Budget which shall be published yearly in the Annual Town Report and be on file at all times in the office of Town Clerk. A copy of the Annual Town Report is kept on file in the office of the Town Clerk.

**§ 25-15. Presentation to Town Meeting.**

The Capital Improvements Committee shall schedule capital improvement projects for presentation to the Fall Special Town Meeting and other Town Meetings as deemed appropriate.

**§ 25-16. (Reserved)**

ARTICLE III  
**Council on Aging**

**§ 25-17. Purpose.**

The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of aging in cooperation with programs of the Department of Elder Affairs established under M.G.L. ch. 40, § 8B.

**§ 25-18. Members; terms; compensation.**

The Board of Selectmen shall appoint a Council on Aging consisting of seven members in staggered terms of three years. The members of the Council on Aging shall serve without pay.

**§ 25-19. Filling vacancies.**

Whenever a vacancy shall occur in the membership of the Council on Aging, by reason of death, resignation, inability to act, or for any other reason, the vacancy shall be filled by appointment by the Board of Selectmen for the remainder of the term.

**§ 25-20. Officers.**

The Council on Aging shall annually elect from its membership a Chairman, Vice Chairman, and Secretary/Treasurer. Each officer shall hold office until the next annual election. In the event a vacancy occurs in any of the offices above, the Council on Aging shall elect a replacement at its next regular meeting.

**§ 25-21. Reports.**

The Council on Aging shall prepare and submit an annual report of its activities to the Town and shall send a copy thereof to the Department of Elder Affairs.

ARTICLE IV  
**Commission on Disability**

**§ 25-22. Purpose.**

The purpose of the Commission on Disability is to research local problems of people with disabilities; advise and assist municipal officers and employees in assuring compliance with state and federal laws and regulations that affect people with disabilities; coordinate or carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability; review and make recommendations about policies, procedures, services, activities, and facilities of departments, boards, and agencies of the Town as they affect people with disabilities; provide information, referrals, guidance, and technical assistance to individuals, public agencies, businesses, and organizations in matters pertaining to disability; and to coordinate activities of other local groups for similar purposes.

**§ 25-23. Membership; terms; compensation.**

The Board of Selectmen shall appoint a Commission on Disability consisting of five members in staggered terms of three years. A majority of Commission members shall consist of people with disabilities, one member shall be a member of the immediate family of a person with a disability, and one member shall be either an elected or appointed official of the Town. The members of the Commission shall serve without pay.

**§ 25-24. Filling vacancies.**

Whenever a vacancy shall occur in the membership of the Commission on Disability, by reason of death, resignation, inability to act, or for any other reason, the vacancy shall be filled by appointment by the Board of Selectmen for the remainder of the term.

**§ 25-25. Officers.**

The Commission on Disability, within 30 days after the conclusion of the Annual Town Meeting, shall elect from its membership a Chairperson, and other officers, chosen by a majority vote of the members, who shall hold office until conclusion of the next Annual Town Meeting. In the event a vacancy occurs in any office, the Commission shall hold a special meeting for the purpose of selecting one of its members to fill the vacancy.

**§ 25-26. Annual report; meetings.**

The Commission on Disability shall prepare and submit an annual report of its activities to the Town, which report shall be printed in the Annual Town Report. The Commission shall meet at least 10 times annually.

**§ 25-27. Gifts.**

The Commission on Disability may receive gifts of property, both real and personal, in the name of the Town, subject to the approval of the Board of Selectmen. Such gifts are to be managed and controlled by the Commission for purposes of this bylaw.



ARTICLE V  
**Residency Requirement**

**§ 25-28. Full-time residency required; exceptions.**

- A. All members of any appointed board, committee or commission that receives an appropriation for expenses or salaries at an Annual or Special Town Meeting must be full-time residents of the Town of Bellingham, as may be determined by the Town Clerk, unless a nonresident member is excepted by a vote by the Board of Selectmen.



**BUILDING CONSTRUCTION**

**Chapter 30**

**BUILDING CONSTRUCTION**

**GENERAL REFERENCES**

**Numbering of buildings — See Ch. 35.**

**Zoning — See Ch. 240.**

ARTICLE I  
**Permit Fees**

**§ 30-1. Establishment of fee schedule; revision.**

A schedule of fees for permits as authorized by the State Building Code shall be established and revised from time to time by the Board of Selectmen.

ARTICLE II  
**Inspections**

**§ 30-2. Inspector of Buildings to engage in business.**

A part-time Inspector of Buildings, Building Commissioner, local or alternate inspector may engage in business in Town, provided that another inspector oversees the inspection of the building project in which he/she is involved.



BUILDINGS, NUMBERING OF

**Chapter 35**

BUILDINGS, NUMBERING OF

GENERAL REFERENCES

Building construction — See Ch. 30.

Subdivision regulations — See Ch. 245.

Zoning — See Ch. 240.

---

**§ 35-1. Affixing of numbers required.**

All persons shall affix to or paint on to buildings owned by them and located on or near the line of public or private ways an Arabic street number designated for such buildings by the Town, and only that street number.

**§ 35-2. Visibility of numbers.**

- A. All numbers shall be affixed or painted so that they are not less than three inches high in size, of sufficient contrast, and kept clear of obstruction so that they are plainly visible from the roadway.
- B. Any building, which is not plainly visible from the roadway, shall place a sign or other device bearing the designated street number of the building or buildings at the entrance to the driveway in a location that is visible from the roadway.

**Chapter 49****CONTRACTS AND BIDDING****GENERAL REFERENCES****Financial affairs — See Ch. 71.****Legal affairs — See Ch. 107.**

---

**§ 49-1. Conflicts of interest.**

No officer of the Town shall, in his/her official capacity, make or pass upon or participate in making or passing upon, any sale, contract, agreement, or the terms or amount of any payment in which the Town is interested and in which such officer has any personal financial interest, direct or indirect, other than union or employment contracts.

**§ 49-2. Contracts and purchases.**

All contracts entered into by the Town which are subject to federal or state procurement requirements shall be awarded only after there has been full compliance with such requirements. No contract shall be split, separated or divided for the purpose of reducing the amount thereof in order to avoid the procurement requirements. When federal or state requirements necessitate the solicitation of quotes, the Town officer shall seek said quotes in writing from at least three or more reliable parties, regularly engaged or employed in such work or business. So far as practicable, contracts for less than the applicable state or federal threshold for soliciting quotes shall be made or awarded in such a manner as to secure the benefit of reasonable competition, utilizing sound business practices.

**§ 49-3. Exceptions.**

The provisions of § 49-2 shall not apply:

- A. In cases of special emergency requiring immediate action for the preservation of life or the protection of property.
- B. In the case of work or service of a specialized nature for which fair and reasonable competition cannot be obtained.
- C. In the case of a collective bid as defined by M.G.L. ch. 7, § 22B.

**§ 49-4. Certification of exception.**

If a contract or purchase is made without competitive bids under the exceptions allowed in § 49-3A and B, such contract or purchase shall have attached to it, previous to its audit by the Chief Financial Officer, a certificate by the officer, board, or committee authorizing the same, setting forth the reason why competitive bids were not obtained.

**§ 49-5. Competitive bidding.**

- A. Invitation to bid. Competitive bids shall be invited as follows:



§ 49-5

CONTRACTS AND BIDDING

- (1) All competitive bids shall be invited by advertisement, in accordance with the applicable federal or state procurement requirements.
  - (2) In all cases of competitive bids, by the sending of letters of invitation, all bearing the same date in each instance, to a sufficient number of vendors, contractors, or other qualified persons to insure fair competition.
- B. Contents of invitation to bid. Every invitation for competitive bids shall have the time and place where plans and specifications of proposed work, materials, supplies, or equipment may be obtained, and the time and place at which bids will be opened, and shall reserve to the Town the right to reject any or all such bids.
- C. Bid opening; split bid. All proposals shall be opened in public at the time and place specified therefor. No purchase, and no service or work for which a contract is proposed, shall be split or divided for the purpose of evading the provisions of this section.
- D. Bid documents a public record. All plans and specifications, letters of invitations, bids on which awards have been made, certificates required by § 49-4, and contracts, shall be kept on file and shall be open to public inspection at reasonable times.

**§ 49-6. Requisites for binding contracts in excess of \$500.**

No contract involving an obligation of the Town in excess of \$500 shall be binding upon the Town unless it is in writing and is signed by at least a majority of the board or committee duly authorized or having control of the appropriation against which such obligation is incurred.

**§ 49-7. Contracts not to extend beyond three years; exception.**

No board or officer shall make any contract in behalf of the Town, the execution of which shall necessarily extend beyond three years from the date thereof, except as otherwise provided by law, unless specific authority to do so has been given by vote of Town Meeting.

BELLINGHAM CODE

**Chapter 55**

**DOGS**

ARTICLE I  
**Licensing**

**§ 55-1. License required; annual fee established.**

Any owner or keeper of a dog six months of age or older in the Town shall cause that dog to be licensed as required by M.G.L. ch. 140 commencing on April 1 of each year. The Board of Selectmen shall establish the annual fee for every dog and kennel license. Four dogs are permitted per household. The license for a spayed or neutered dog shall be \$15 annually and \$20 annually of nonspayed or nonneutered dogs.

**§ 55-2. Vaccination certificate required; no fee for specially trained dogs.**

When applying for a license, the applicant must show proof by a valid veterinarian's certificate that the dog has been vaccinated against rabies within the last three years if the dog is six months of age or over. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind or deaf person; provided that the Division of the Blind or Deaf certifies that such dog is so trained and actually in the service of a blind or deaf person.

**§ 55-3. Refund of license fee.**

No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering, other disposal of the dog, or removal from the Town or the commonwealth.

**§ 55-4. Late fees.**

In accordance with MGL Chapter 140, any owner or keeper who fails to license a dog before May 1 of the current year, said owner or keeper will pay a late fee of \$25 per household kennel. Further, if said owner or keeper does not license a dog by June 1 of the current year, the owner will be issued a citation by the Animal Control Officer in the amount of \$50, plus late fee as stated above. If, after 21 business days, the owner or keeper has not yet paid the license fee, late fee and cited fine, the matter will be forwarded to the Magistrate of District Court for adjudication.

**§ 55-5. Collection of fees.**

All fees collected by the Town Clerk shall be accounted for and paid over to the Treasurer-Collector to be incorporated into the General Fund.

ARTICLE II  
**Leashing**

**§ 55-6. On-property control.**

No person shall permit a dog owned or kept by him/her to run freely within the confines of the property of the owner or keeper unless leashed so as to restrain the dog in such a manner that the dog will not go beyond the property of the owner or keeper, or unless the dog is securely confined to the premises of the owner or keeper by fencing or other appropriate barrier.

**§ 55-7. Off-property control.**

No person shall permit a dog owned or kept by him/her beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash, which shall not exceed six feet in length. A \$50 fine shall be charged following a written warning; third and subsequent warnings is a \$100 fine.

**§ 55-8. Dogs on posted property.**

No person owning, harboring or having custody and control of a dog shall allow the dog at any time on the premises of any public property which is posted "No dogs allowed."

ARTICLE III  
**Dangerous Dogs**

**§ 55-9. Description of dangerous dog.**

- A. Any dog which, according to the records of Animal Control, has inflicted injury on a human being without provocation on public or private property; or
- B. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals; or
- C. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; or
- D. Any dog which, unprovoked, chases or approaches a person or domestic animal upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack.

**§ 55-10. Complaints; investigations; exemptions.**

Upon receipt of an Affidavit of Complaint signed by one or more persons made under oath before an Animal Control Officer, setting forth the nature and date of the act, the owner of the animal, the address of the owner and the description of the animal doing such act, the Animal Control Officer shall investigate the complaint to determine if in fact the animal is dangerous. Exemptions: No dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or tort upon the premises occupied. Any dog used in law enforcement shall be exempt. An incident bite fee of \$50 per incident shall be charged to the owner.

**§ 55-11. Restraining or muzzling of dog.**

The Animal Control Officer after investigation may issue an interim order that such dog be restrained or muzzled for a period not to exceed 14 days to enable the Board of Selectmen or their designee to set up a hearing. If the Selectmen or their designee fail to act during the period of the interim order, upon expiration of the period the interim order automatically is vacated.

**§ 55-12. Owner's responsibilities.**

- A. Once a dog has been deemed dangerous as a result of a hearing, some or all of the following actions will be required of the dog owner:
  - (1) Enclosure required. The dog must be securely confined indoors or in a securely enclosed locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and secure top to prevent the dog from escaping over, under or through the structure and shall also provide protection from the elements. Such pen or structure shall be at least six feet in height and made from material so that the dog cannot put its head through the sides and a child cannot put its hand or fingers through the sides. A dangerous dog shall be considered at large, even if on the owner/keeper's property, if not so confined.
  - (2) Muzzle required. When off its owner's property a dog deemed dangerous shall be kept on a secure leash held by an adult that can control the dog and muzzled in such a manner as not to cause injury to the dog or interfere with the dog's vision or respiration but as to prevent it from biting a person or another animal.

- (3) Unprovoked severe or fatal attack would result in the dog being humanely euthanized (severe injury means physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery).
  - (4) Warnings. The owner or keeper shall display a sign on his or her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public highway or thoroughfare. In addition, the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous dog.
- B. Notification. After the hearing the owner or keeper of the dog will receive in writing within seven days the requirements to be met according to the Town. This notice will be served in hand. The owner or keeper of the dog has 10 days to appeal this order at the District Court in accordance with M.G.L. ch. 140.
- C. Inspection. Animal Control will inspect enclosures at least twice a year and make inquiries whenever necessary to ensure compliance with the provisions.
- D. If the owner or keeper of a dog that has been deemed dangerous is unwilling or unable to comply with the above regulations for keeping such an animal then he or she shall have the animal humanely euthanized by a licensed veterinarian.

**§ 55-13. Failure to comply.**

- A. Any dangerous dog shall be immediately confiscated by an Animal Control Officer if the dog:
  - (1) Is not validly registered.
  - (2) Is not maintained in the proper enclosure.
  - (3) Is outside of the dwelling of the owner or outside of the proper enclosure and not under the physical restraint of the owner.
- B. If the dog has bitten while at large it will be held by the Animal Control Department for a ten-day quarantine and thereafter destroyed in an expeditious and humane manner. If the animal does not need to be held for quarantine, it will be euthanized immediately. The dog owner or keeper shall be responsible for payment of all fees, boarding costs and other related expenses incurred by the Town during this period.

ARTICLE IV  
**Enforcement**

**§ 55-14. Penalty for failure to comply with order.**

Any owner or keeper of a dog who shall fail to comply with any order issued by the Dog Office or the Board of Selectmen will immediately turn the dog over to the Town pound. At owner's expense to hold pending appeal to appropriate district court (10 days) and will be held at owner's expense for duration of court case or the Town will seek a warrant to remove the dog for this period.

**§ 55-15. Storage fee for impoundment.**

A storage fee for boarding of impounded animals shall be levied at a rate of \$20 per day and a pickup fee of \$40.

**§ 55-16. Violations and penalties.**

Any owner, keeper or harbinger who fails without good cause to comply with the licensing requirements of this article shall be liable for a fine of \$100. The Bellingham Police Chief and his designee, including the Animal Control Officer, and any Bellingham police officer, shall have the authority to enforce the provisions of this article.





DRUGS

**Chapter 60**

**DRUGS**

ARTICLE I  
**Marijuana and Tetrahydrocannabinol**

**§ 60-1. Prohibition on use.**

- A. Not in a motor vehicle. No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in M.G.L. ch. 94C, § 1) while in or upon any public building, vehicle controlled by the Town, recreational area, playground, park, beach, boat landing or launch, schoolhouse, school grounds, street, sidewalk, public way, passageway, bridge, stairs, parking lot, cemetery, bus stop, or any area or property owned or under the control of the Town, or any area accessible to the public.
- B. In a motor vehicle. The consumption of marijuana or tetrahydrocannabinol is also prohibited in any motor vehicle in or on a public way whether or not the user is operating the vehicle or whether the vehicle is in operation at all.

**§ 60-2. Enforcement.**

Violations of any provision of this bylaw may be processed pursuant to M.G.L. ch. 40, § 21D, of the General Laws of the commonwealth and shall be in amount set forth in § 60-3. Enforcement of this bylaw under the noncriminal disposition process shall be carried out by the Police Chief, and duly sworn police officers who shall have full enforcement powers.

**§ 60-3. Violations and penalties.**

Whoever violates this bylaw shall be punished by a fine of \$300 for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under M.G.L. ch. 94C, § 32L. If a violator fails to pay the fine issued, he or she may be subject to civil contempt proceedings.



**Chapter 71****FINANCIAL AFFAIRS****GENERAL REFERENCES**

Contracts and bidding — See Ch. 49.

Records and reports — See Ch. 146.

Legal affairs — See Ch. 107.

---

**§ 71-1. Annual audit of accounts.**

An audit of the accounts of the Town, including all educational accounts, shall be made annually in accordance with generally accepted accounting principles.

**§ 71-2. Prescribing accounting methods.**

The Chief Financial Officer, in accordance with the standards of the Director of Accounts, shall prescribe the methods of accounting and the forms to be used by all officers, boards, and committees of the Town pertaining to their receipts and disbursements.

**§ 71-3. Moneys received paid to Treasurer-Collector; true returns.**

All officers, whether elected or appointed, shall, except as otherwise provided by law, pay all money belonging to the Town received by them in their respective departments, for the sale of property or from any other source whatsoever, to the Treasurer-Collector within one week, as prescribed by Treasurer/Collector policy, and shall make a true return thereof to the Chief Financial Officer, stating the accounts upon which such amounts were received.

**§ 71-4. Granting or renewing of certain licenses and permits.**

- A. The Treasurer-Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments, and other municipal charges, hereinafter referred to as the "Treasurer-Collector," shall annually furnish to each department, board, commission, department, official, or division, hereinafter referred to as the "licensing authority," that issues, grants or provides, licenses, permits, approvals or endorsements, including, but not limited to, 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, including amounts assessed under M.G.L. ch. 40, § 21D for not less than a twelve (12) month period, and that such party has not filed in good faith a pending application of abatement of such tax or a pending petition before the Appellate Tax Board.
- B. The licensing authority may deny, revoke, or suspend any license, permit, approval or endorsement including, but not limited to, renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Treasurer-Collector; or with respect to any activity, event or other matter which is the subject of such license, permit, approval or endorsement 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 Treasurer-Collector, provided, however, that written notice is given to the party and the Treasurer-Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation, or suspension of said license, permit, approval or endorsement to any party. The Treasurer-Collector shall have the right to intervene in any hearing conducted with respect to such 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 purpose 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, permit, approval, or endorsement denied, suspended, or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Treasurer-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 of the date of issuance of said certificate.

- C. Any party shall be given an opportunity to enter into a payment agreement with Treasurer/Collector, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license, permit approval, or endorsement and the validity of said license, permit, approval or endorsement 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, permit, approval, or endorsement, provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- D. The Board of Selectmen may waive such denial, suspension, or revocation if it finds no direct or indirect business interest by the property owners, its officers or stockholders, if any, or members of his/her immediate family, as defined in M.G.L. ch. 268A, § 1, in the business or activity conducted in or on said property.
- E. This section shall not apply in the following licenses and permits:

License/Permits	MGL Chapter/Section
Open burning permits	48/13
Sales of articles for charitable purposes	101/33
Fishing/hunting/trapping licenses	131/12
Clubs/organizations dispensing food/beverage licenses	140/21E
Dog licenses	140/137
Theatrical events/public exhibitions permits	140/181
Child work permit	149/69
Marriage licenses	207/28

#### § 71-5. Appropriation balances.

Any sum in any account established by appropriation and not otherwise governed by state statute which remains unexpended, or with respect to which the expenditure thereof has not been committed by contract, at the close of the third full fiscal year following its appropriation shall be closed and returned to the General Fund. However, the Board of Selectmen, upon the recommendation of the Chief Financial Officer

and the Town Administrator, may approve an extension in the time within which funds may be expended.

**§ 71-6. Revolving funds.**

- A. Purpose. This bylaw establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by M.G.L. ch. 44, § 53E1/2.
- B. Expenditure limitations. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:
  - (1) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
  - (2) No liability shall be incurred in excess of the available balance of the fund.
  - (3) The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by vote of Town Meeting.
- C. Interest. Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.
- D. Procedures and reports. Except as provided in M.G.L. ch. 44, § 53E1/2, and this bylaw, the laws, charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.
- E. Authorized revolving funds.
  - (1) Each revolving fund authorized for use by a Town department, board, committee, agency or officer.
  - (2) The department or agency head, board, committee or officer authorized to spend from each fund.
  - (3) The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant.
  - (4) The expenses of the program or activity for which each fund may be used.
  - (5) Any restrictions or conditions on expenditures from each fund.
  - (6) Any reporting or other requirements that apply to each fund.
  - (7) The fiscal years each fund shall operate under this bylaw.

<b>Fund Name</b>	<b>Revenue Source</b>	<b>Authority to Spend</b>	<b>Use of Funds</b>
Library Fines	Overdue fines	Library Trustees	Books, videos, library materials, temporary or permanent employees, and independent contractors
Cemetery Grave Openings	Service fees to open cemetery graves	DPW Director	Expenses in support of the Cemetery Department including supplies, materials, equipment, and compensation to employees or contractors
Food Inspections	Inspectional fees and fines	Board of Health	Expenses in support of the Board of Health food inspections program including supplies, materials, equipment, and compensation to employees or contractors
Tobacco Compliance	Inspectional fees and fines	Board of Health	Expenses in support of the tobacco inspections and compliance program including supplies, materials, equipment, and compensation to employees or contractors
Commission on Disability	Fees, fines, gifts, and donations	Commission on Disability	Expenses in support of the Commission on Disability including supplies, materials, equipment, and compensation to employees or contractors
Police Vehicles	3rd party vendor payments	Police Chief	Repair, replacement or purchase of vehicles or equipment
Conservation Wetland Bylaw Fees	Application fees and related revenues	Conservation Commission	Land purchases to supplement the Town's land acquisition trust, or related expenditures
Sealer of Weights & Measures	Sealer of Weights & Measures fees and fines	Board of Selectmen	Expenses in support of the Sealer of Weights & Measures Department including supplies, materials, equipment, and compensation to employees or contractors
Anderson Field Rental	Revenues received from the rental of the Anderson Athletic Field, the purchase of commemorative bricks at said field, the purchase of advertising at said field	School Committee	Maintenance of the grounds at the Anderson Athletic Field

Fund Name	Revenue Source	Authority to Spend	Use of Funds
Inspectional Services	Inspectional fees and fines	Building Commissioner	Expenses in support of the Inspectional Services Department including supplies, materials, equipment, and compensation to employees or contractors
Silver Lake Admission Fee	Parking fees and fines for Silver Lake and Arcand parks	Town Administrator	Expenses in support of the Parks Department including supplies, materials, equipment, and compensation to employees or contractors
Council on Aging Activities	Program, activity, and other related receipts	Council on Aging Director	Expenses in support of the Council on Aging programs and activities including supplies, materials, equipment, and compensation to employees or contractors
Town Beautification	Beautification related receipts, gifts, and donations	Town Administrator	Expenses in support of Town Beautification activities including supplies, materials, equipment, and compensation to employees or contractors



FIREARMS

**Chapter 76**

**FIREARMS**

**§ 76-1. Permission required to discharge firearms and explosives.**

No person shall fire or discharge any firearm or other explosive article within the limits of any park, playground, public way, public building, or other public property except with the consent of the Board of Selectmen.

**§ 76-2. Nonapplicability.**

Section 76-1 shall not apply to the lawful defense of life, property, or to any law enforcement officer acting in the discharge of his/her duties.

BELLINGHAM CODE

**Chapter 87**

**GRAVES AND GRAVESTONES**

**§ 87-1. Gravestone rubbing, making impressions prohibited.**

No person may exercise the art of gravestone rubbing in any municipally owned and/or operated cemetery of the Town except with a written permit from the Cemetery Commission. This also applies to any other method of making impressions from gravestones.

**§ 87-2. Veterans' graves.**

No unauthorized person or persons will be permitted to remove or tamper with the flags and/or markers on the graves of veterans, which are placed there by the Memorial and Veterans Day Committee, Cemetery Commission, or the Veterans Grave Officers.

## ICE CREAM TRUCK VENDORS

### Chapter 92

## ICE CREAM TRUCK VENDORS

#### **§ 92-1. Purpose.**

This bylaw implements the requirements of M.G.L. ch. 270, § 25 and the regulations promulgated thereunder, as may be amended, relative to the permitting of ice cream trucks within the Town of Bellingham.

#### **§ 92-2. Definitions.**

ICE CREAM — Any frozen dairy or frozen water-based food product.

ICE CREAM TRUCK — Any motor vehicle used for selling, displaying or offering to sell ice cream.

ICE CREAM TRUCK VENDING — The selling, displaying or offering to sell ice cream or any other prepackaged food product from an ice cream truck.

PERMITTING AUTHORITY — The Bellingham Chief of Police or a qualified person authorized by him.

#### **§ 92-3. Permit required; violations and penalties.**

No person shall engage in ice cream truck vending in the Town of Bellingham unless he shall have been issued a valid permit to do so by the Permitting Authority. Such permit shall be conspicuously displayed and clearly visible on the windshield of any ice cream truck operated or from which ice cream or any other prepackaged food product is sold. Whoever violates this section shall be assessed a fine of \$500. Each day that such person is in operation in violation of this section may be considered a separate violation.

Permits issued hereunder shall conform to regulations, rules, forms and policies of the Department of Public Safety.

BELLINGHAM CODE

**Chapter 96**

**INSURANCE**

GENERAL REFERENCES

Financial affairs — See Ch. 71.

Compensation of officers and employees — See Ch. 126.

---

**§ 96-1. Group insurance for injured retirees.**

The Treasurer-Collector and the Board of Selectmen are authorized and directed to pay a subsidiary or additional rate of premium, or cost, for employees (past and future) and their dependents, retired from the services of the Town because of an on-the-job injury, which shall be equivalent to the rate of premium or cost currently paid by the Town for active employees, and their dependents, for equal health and group life insurance, with the remaining premium or cost to be paid by the retired employee.

JUNK DEALERS

**Chapter 101**

**JUNK DEALERS**

GENERAL REFERENCES

Peddling and hawking — See Ch. 135.

---

**§ 101-1. Junk or secondhand license required.**

No person shall collect, deal in, or keep a shop for the purchase, sale, or barter of junk, old metals, or secondhand articles within the limits of the Town, unless licensed by the Board of Selectmen.

**Chapter 107****LEGAL AFFAIRS****GENERAL REFERENCES**

Contracts and bidding — See Ch. 49.

Financial affairs — See Ch. 71.

---

**§ 107-1. Board of Selectmen agent of Town for purposes of suit.**

The Board of Selectmen shall be the agent of the Town to institute, prosecute, and defend any and all claims, actions, and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

**§ 107-2. Settlement of suits and claims; payments in excess of \$25,000.**

The Board of Selectmen may, at their discretion, compromise or settle any claim or suit to which the Town is a party, provided that settlements or compromises requiring the Town to pay a sum in excess of \$25,000 may not be made by the settlement unless such payment is: (a) covered by insurance proceeds; or (b) approved by Town Meeting.

**§ 107-3. Annual report of all litigation.**

The Board of Selectmen, in their annual report, shall state what actions have been brought against and on behalf of the Town, what cases have been compromised or settled, and the current standing of all suits at law involving the Town or any of its interests.

**§ 107-4. Appointment of Town Counsel; term; vacancy in office.**

The Board of Selectmen shall, after final adjournment of the Annual Town Meeting, appoint a person or firm who is a member of the Bar in good standing, to serve as Town Counsel for the term of one year beginning July 1 through June 30 of the following year or until his/her successor is appointed and enters upon the performance of his/her duties. They shall likewise fill any vacancy in said office for the unexpired term.

**§ 107-5. Duties of Town Counsel.**

It shall be the duty of Town Counsel:

- A. To conduct the prosecution, defense, or compromise of claims, actions, and proceedings to which the Town is a party, and the prosecution of actions or proceedings by or on behalf of any officer, board, or committee as such.
- B. To conduct the defense of any action or proceedings brought against any officer, board, or committee as such when the Board of Selectmen, having determined that any right or interests of the Town are or may be involved, shall so request.
- C. To conduct proceedings brought by or against the Board of Assessors before the Appellate Tax Board.

§ 107-5

LEGAL AFFAIRS

- D. To assist in the prosecution of complaints for violation of any bylaw of the Town, when requested so to do by the board or officer enforcing the same.
- E. To examine and report upon titles to all land to be acquired by the Town.
- F. To prepare or approve contracts, bonds, deeds, and other legal instruments in which the Town is a party or in which any right or interest of the Town is involved.
- G. To appear at any and all hearings on behalf of the Town whenever his/her services may be required.
- H. To advise and act for the officers, boards, and committees upon and in legal matters touching the duties of their respective offices.

**§ 107-6. Employment of Special Counsel.**

The Board of Selectmen may employ Special Counsel to assist Town Counsel, whenever, in their judgment, necessity therefor arises.

BELLINGHAM CODE

**Chapter 113**

**LITTERING**

GENERAL REFERENCES

Solid waste — See Ch. 178.

Streets and sidewalks — See Ch. 191.

---

**§ 113-1. Littering prohibited.**

No person shall throw into, or upon, any street, court, square, lane, road, public square, public enclosure, pond or body of water, publicly accessible commercial parking lot, shopping plaza, industrial park or vacant lot within the limits of the Town, any dead animal, dirt, sawdust, soot, ashes, cinders, shavings, hair shreds, manure, oyster, clam or lobster shells, wastewater, rubbish or filth of any kind, or any refuse, animal or vegetable whatsoever.



OFFICERS AND EMPLOYEES

**Chapter 126**

**OFFICERS AND EMPLOYEES**

GENERAL REFERENCES

**Boards, committees and commissions — See Ch. 25.**

ARTICLE I  
**Compensation**

**§ 126-1. Officers, employees, agents not to receive extra compensation; exception.**

No officer and no salaried employee of the Town, or any agent of any such officer or employee, shall receive any compensation or commission for work done by him/her for the Town, except his/her official salary and fees allowed by law, without the permission of the Board of Selectmen expressed in a vote which shall appear on their records with the reasons therefor, or by vote of the Town.



BELLINGHAM CODE

**Chapter 135**

**PEDDLING AND HAWKING**

**GENERAL REFERENCES**

**Junk dealers — See Ch. 101.**

**Vehicles and traffic — See Ch. 216.**

**Streets and sidewalks — See Ch. 191.**

ARTICLE I  
**Behavior Standards**

**§ 135-1. Hawkers and peddlers.**

No person hawking, peddling, carrying, or displaying any article for sale shall cry his/her wares to the disturbance of the peace and comfort of the inhabitants of the Town, nor shall he/she carry or convey such articles in any manner that will tend to injure or disturb the public health or comfort, and otherwise than in vehicles and receptacles which are neat, clean, and do not leak.

ARTICLE II  
**Door-to-Door Solicitation<sup>3</sup>**

**§ 135-2. Title.**

This article shall be known as the "Door-to-Door Solicitation and No Solicitation Law" of the Town of Bellingham.

**§ 135-3. Findings and intent.**

This article is intended to regulate door-to-door sales by licensing sales agents; establishing a No Solicitation Registry and setting reasonable time and manner restrictions on door-to-door solicitation, including enforcement of the No Solicitation Registry.

**§ 135-4. Definitions.**

The following words and phrases shall have the following meanings:

**DOOR-TO-DOOR SALES** — The in-person solicitation of sales of goods or services for present or future delivery by entry upon residential property, including multifamily or duplex residential property, or by soliciting persons located on residential property from a street, sidewalk or other adjacent property, without the prior invitation of the person to be solicited.

**DOOR-TO-DOOR SALES PERMIT** — A permit issued to a sales agent to engage in door-to-door sales in accordance with this article.

**NO SOLICITATION REGISTRY** — A registry of residential addresses in the Town, organized alphabetically by street name, indicating those residential properties placed on the registry at the request of the owner or occupant indicating that he or she does not want sales agents to enter his or her property.

**SALES ORGANIZATION** — Any entity engaged in the supervision, recruitment, retention or employment of a salesperson or salespersons, including any person or representative thereof.

**SALESPERSON** — Any person engaged in door-to-door sales of goods or services for present or future delivery.

**SALES SUPERVISOR** — Any person who directs or supervises a salesperson or salespersons engaged in door-to-door sales.

**§ 135-5. Administration.**

The Town of Bellingham door-to-door sales permit process shall be administered by the Bellingham Police Department. The Town of Bellingham No Solicitation Registry shall be administered by the Bellingham Town Clerk.

**§ 135-6. Application requirements.**

- A. Each salesperson must apply individually to the Bellingham Police Department during posted administrative hours by submitting a completed application, which shall require:
- (1) Government-issued photographic identification.
  - (2) Date of birth.

---

3. Editor's Note: This article was adopted as Ch. 114, but was redesignated to maintain the organization of the Code.

- (3) Social security number.
  - (4) Permanent residential address.
  - (5) Home telephone number.
  - (6) Temporary local address.
  - (7) Current cell phone number.
  - (8) Sales organization information.
  - (9) Sales supervisor identity.
  - (10) Make, model, color and registration number of any vehicle(s) used to transport the sales agent, his/her supervisor, or sales materials.
  - (11) Such other verifying information as may be reasonable required.
- B. Failure to submit any of the information listed above may be grounds for denial of the permit.
- C. An application fee to be established and adjusted from time to time by the Board of Selectmen shall accompany each Town of Bellingham door-to-door sales permit application.
- D. Background check. Subject to the provisions of the Massachusetts Criminal Records Offender Information Act, M.G.L. ch. 6, § 167 et seq., and regulations set thereunder, the Bellingham Police Department shall conduct a criminal records check of each applicant for a Town of Bellingham door-to-door sales permit to determine the applicant's fitness and suitability to conduct door-to-door sales. The background check shall be initiated within seven days of receipt of the application. The Bellingham Police Department may deny a permit hereunder if the background check reveals any convictions for felonies or other offenses that, in the judgment of the Department, may imperil the public health, safety or welfare.
- E. A decision on the application shall be issued by the Bellingham Police Department, in writing, within 30 days following receipt of the results of the background check.

**§ 135-7. No Solicitation Registry.**

- A. Residents may submit their property for inclusion on the No Solicitation Registry, without charge, to Bellingham Town Clerk.
- B. Upon approval and issuance of a Town of Bellingham door-to-door sales permit, each salesperson shall be provided with a copy of the No Solicitation Registry.
- C. The only exceptions to the No Solicitation Registry shall be limited to Bellingham youth groups serving children 17 years of age and under, politicians campaigning and religious organizations. Such excepted organizations and entities shall not be required to obtain a permit hereunder.

**§ 135-8. Door-to-door sales regulations.**

- A. No salesperson shall engage in door-to-door sales without first having applied for and received a Town of Bellingham door-to-door sales permit.
- B. No sales organization shall allow any salesperson to engage in door-to-door sales who has not applied

for and received a Town of Bellingham door-to-door sales permit.

- C. No sales supervisor shall direct or supervise, direct, or allow any salesperson to engage in door-to-door sales who has not applied for and received a Town of Bellingham door-to-door sales permit.
- D. No salesperson shall enter within the perimeter of any residential property included on the No Solicitation Registry. In addition to the fine(s) established below, inclusion of a residential property on the No Solicitation Registry except those identified in § 135-8C shall constitute notice prohibiting trespass under M.G.L. ch. 266 § 120.
- E. No salesperson shall solicit sales from a person situated within a residential property included on the No Solicitation Registry from street, sidewalk or other adjacent property except those identified in § 135-8C.
- F. Each salesperson shall carry the Town of Bellingham door-to-door sales permit at all times while engaged in door-to-door sales and shall display said permit upon request by any police officer, Town official or any person present at a residential property where door-to-door sales are solicited.
- G. No salesperson or supervisor shall use any vehicle to transport persons or materials for door-to-door sales unless said vehicle is identified in the Town of Bellingham door-to-door sales permit application.
- H. Door-to-door sales shall not be conducted except during the hours between 9:00 a.m. and 7:00 p.m.

**§ 135-9. Violations and penalties.**

- A. Each violation of any provision of this article shall be punished by a fine not to exceed \$100.
- B. Upon the occurrence of a second violation of this article by any salesperson, the issuing authority may, by seven days' prior written notice, revoke that salesperson's Town of Bellingham door-to-door sales permit.

**§ 135-10. Severability.**

The invalidity of any portion of this article shall not invalidate any other portion.





BELLINGHAM CODE

**Chapter 140**

**PROPERTY MAINTENANCE**

## ARTICLE I

**Registration and Maintenance of Abandoned and/or Foreclosed Properties<sup>4</sup>****§ 140-1. Purpose; enforcement authority.**

- A. It is the purpose and intent of this bylaw to protect and preserve public safety, health, welfare and security, and the quiet enjoyment of occupants, abutters and neighbors, by:
- (1) Requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosed residential properties with the Town of Bellingham; and by
  - (2) Regulating the maintenance and security of abandoned and/or foreclosed residential properties to help prevent blighted and unsecured residences.
- B. The Building Commissioner or another designee of the Board of Selectmen shall have enforcement authority as to this bylaw and is herein authorized to conduct inspections as authorized under this bylaw.

**§ 140-2. Definitions.**

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

**ABANDONED** — A residential property which is not being used or occupied as a residence despite containing a residential building. "Abandoned" does not include a residential building that is unoccupied while undergoing renovations, or while undergoing repairs due to fire or other casualty. "Abandoned" does not apply to accessory buildings or structures on the premises nor does it apply to residential property that is temporarily vacant due to seasonal absences.

**COMMISSIONER** — The Building Commissioner of the Town of Bellingham or a designee authorized to enforce the terms of this bylaw.

**DAYS** — Consecutive calendar days.

**FORECLOSED** — A property, placed as security for a real estate loan, as to which all rights of the mortgagor or his grantee in the property have been terminated as a result of a default of the loan.

**LOCAL** — Within 20 miles of the property in question.

**MORTGAGEE** — The creditor, including but not limited to service companies, lenders, in a mortgage agreement, or any successor in interest of the mortgagee's rights, interests or obligations under the relevant mortgage agreement.

**PROPERTY** — Any real, residential property or portion thereof, located in the Town of Bellingham, including but not limited to buildings and structures situated on such property.

**RESIDENTIAL PROPERTY** — Any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

**TOWN** — The Town of Bellingham.

**§ 140-3. Registration required.**

---

4. Editor's Note: This article was adopted as Ch. 162, but was renumbered to maintain the organization of the Code.

- A. All owners or mortgagees of abandoned and/or foreclosed residential properties shall register such properties with the Commissioner on forms provided by the Commissioner. If the owner is an out-of-state corporation, person, or other entity, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this bylaw.
- (1) Each registration must state the owner's, mortgagee's or agent's name, telephone number and mailing address located within the Commonwealth of Massachusetts, including name of owner, street number, street name, city or town, and zip code; the mailing address shall not be a post office box.
  - (2) Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned, and if abandoned, the condition of the property and the status of maintenance thereof. Each registration must designate a local individual or local property management company responsible for the maintenance and security of this property. This designation must state the individual or company's name, direct telephone number, and local mailing address; the mailing addresses shall not be a post office box.
    - (a) If the owner's inspection determines that the property is abandoned, the registration must be received by the Commissioner within seven days of the owner's inspection.
    - (b) If the owner's inspection determines that the property is not abandoned, but has been foreclosed, the registration must be received by the Commissioner within seven days of the foreclosure.
    - (c) If an inspection by the Commissioner's determines that a property is abandoned and improperly maintained, the Commissioner shall notify the owner, mortgagee or his/her agent accordingly and, subsequently, a registration as an abandoned property must be received by the Commissioner within 14 days of the Commissioner's notice.
- B. All property registrations pursuant to this section are valid for one calendar year from the date when the registration is received by the Commissioner. An annual registration fee of \$100 must accompany the registration form. Subsequent registrations and fees are due within 30 days after the date of the expiration of the previous registration. Subsequent registrations must certify whether the property remains abandoned and/or remains in foreclosure, and shall restate the current condition of such property as required above.
- C. Any owner that has registered a property under this section must report any material change in information contained in the registration within 10 days of the change.
- D. Once the property is no longer abandoned or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

#### **§ 140-4. Maintenance and security.**

- A. Properties subject to this bylaw must be maintained in accordance with the State Building Code and International Maintenance Code, with orders issued by the Commissioner in order to ensure the safety thereof. The local owner or local property management company must inspect and maintain the property on at least a monthly basis for as long as the property is abandoned.
- B. In accordance with state law, including but not limited to MGL c. 143, §§ 6 through 10, and 780 CMR 121.0, property that is abandoned must be safe and must be secured so as not to be accessible to unauthorized persons.

- C. Compliance with this section does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions, requirements of the Commissioner, and/or homeowners' association rules and regulations.

**§ 140-5. Inspections.**

Pursuant to the State Building Code, the Commissioner or his/her designee shall have the authority and the duty to inspect properties subject to this bylaw for compliance with this bylaw and to issue citations for any violations. The Commissioner or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided such determination is reasonably calculated to ensure that this bylaw and the State Building Code are enforced.

**§ 140-6. Violations and penalties.**

In addition to any other means of enforcement available to the Commissioner, the Commissioner or a designee hereunder may enforce this bylaw by means of noncriminal enforcement pursuant to MGL c. 40, § 21D. The following penalties are established for purposes of said noncriminal disposition:

- A. A failure to initially register with the Commissioner pursuant to § 140-3: \$300.
- B. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to § 140-3: \$300 for each violation, and a like penalty for each day's continuation of such violation.
- C. A failure to maintain and/or to secure the property pursuant to § 140-4: \$300 for each week during which the property is not maintained and/or not secured.
- D. The penalties provided in this section shall not be construed to restrict the Town from pursuing other legal remedies available to the Town. Violation of this bylaw shall be subject to a fine not to exceed \$300 for each violation; each day shall be considered a new violation, except as may be otherwise stated herein.

**§ 140-7. Severability.**

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, then such provisions shall be considered separately and apart from this bylaw's remaining provisions, which shall remain in full force and effect, to the extent feasible.



RECORDS AND REPORTS

**Chapter 146**

**RECORDS AND REPORTS**

GENERAL REFERENCES

**Board of Selectmen — See Ch. 159.**

**Town property — See Ch. 210.**

**Town meetings — See Ch. 205.**

## ARTICLE I

**Records of Boards and Committees****§ 146-1. Records kept; location; open for inspection.**

All officers, boards, and committees of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the Town Offices, and shall not be removed therefrom. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under the supervision of the officer, board, or committee having custody thereof.

**§ 146-2. Building Committee working papers.**

Except as the laws of the commonwealth may otherwise require, the Chairman of each Building Committee, or his/her designated representative, shall upon the termination of the existence and work of his/her committee:

- A. Provide the department which is to operate and maintain the building with a complete, corrected final set of plans of the finished structure, and shall relinquish to said department all papers guaranteeing the structure of any feature thereof, material used therein, or work done thereon; and
- B. Relinquish the remaining papers of said committee to the Library Trustees, for the purpose specified in Article III of this chapter, including therewith an inventory indicating what papers, materials, and records were deposited with the department specified. Subject to the approval of the Town Clerk and the requirements of M.G.L. ch. 66, the Library Trustees may destroy so much of the material relinquished to the Public Library as has no substantial value; and the balance of such material shall be deposited in the Public Administration Research Collection.



ARTICLE II  
**Annual Town Reports**

**§ 146-3. Annual expenditure reports required; inclusion in Annual Town Report.**

All officers, boards, standing committees, and special committees of the Town having charge of the expenditure of Town money shall annually report thereon in writing in such manner as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Chief Financial Officer for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Board of Selectmen for inclusion in the Annual Town Report on or before the 10th of January of each year.

**§ 146-4. Required submissions.**

- A. Chief Financial Officer. The Chief Financial Officer shall be responsible for the submission of the following:
- (1) The expenditure reports of officers, boards, and committees.
  - (2) A detailed report of all moneys received into and paid out of the Town Treasury in the previous fiscal year, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements.
  - (3) The report of the collection of taxes, receipts, payments, and abatements.
  - (4) Statements of all funds belonging to the Town or held for the benefit of its inhabitants.
  - (5) A statement of the liabilities of the Town on bonds, notes, certificates of indebtedness, or otherwise, and of any other indebtedness authorized but not incurred, and the purposes thereof.
  - (6) A statement of transfers made to or from any appropriation.
- B. Town Clerk. The Town Clerk shall submit, for inclusion in the Annual Town Report, certified minutes of all Town Meetings held since the publishing of the last Annual Report.
- C. Other matters. Such other matters as said report is required by law to contain, or as may be inserted by the Board of Selectmen under discretion granted them by law.

## ARTICLE III

**Public Administration Research Collection****§ 146-5. Establishment of Collection.**

There is hereby established, and there shall be maintained, a Public Administration Research Collection at the Public Library, the same to be under the supervision of the Library Trustees, for the use of the officers, committees, civic organizations, and individual citizens of the Town engaged in research in matters pertaining to governmental and social problems, particularly as they relate to the Town. To the extent that the Library Department's facilities permit, it shall assist the citizens of the Town in all matters requiring statistical research or fact-finding in connection with studies ordered by Town Meeting.

**§ 146-6. Deposit into Collection or destruction of certain materials.**

The Chairman of each temporary study committee established by Town Meeting shall, upon termination of the existence and the work of his/her committee, deposit with the Library Trustees the working papers and other material gathered or compiled by the committee in the course of its work. Subject to the approval of the Town Clerk and the requirements of M.G.L. ch. 66, the Library Trustees may destroy so much of said working papers and material as has no substantial value; and the balance shall be deposited in the Public Administration Research Collection.

**§ 146-7. Publications and reports filed with Library Trustees.**

The Town Clerk shall furnish the Library Trustees with at least two copies of every publication issued by the Town and distributed through the Town Clerk's office; and any department, board, commission, or committee publishing a report not so distributed shall file at least two copies thereof with the Library Trustees.



## Chapter 154

### SCENIC ROADS

#### GENERAL REFERENCES

Streets and sidewalks — See Ch. 191.

Zoning — See Ch. 240.

Town property — See Ch. 210.

Subdivision regulations — See Ch. 245.

---

#### § 154-1. Purpose and authority.

This chapter is adopted for the purpose of carrying out the authority granted to the Town under M.G.L. ch. 40, § 15C, to protect designated scenic roads.

#### § 154-2. Definitions.

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. ch. 40, § 15C, these terms contained in that statute shall be construed as follows:

**CUTTING OR REMOVAL OF TREES** — The destruction of one or more tree trunks of diameter six inches or more measured four feet from the ground, or of more than one tree trunk of diameter four inches or more measured four feet from the ground, or of more than six limbs or roots of more than four inches in diameter each where cut on a single tree.

**REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK** — Any such work done within the right-of-way by any person or agency, public or private, including the construction or alteration of the portion of private driveways within the right-of-way, but not including utility work in trees not affecting the road itself.

**ROAD** — A vehicular-traveled way plus its necessary appurtenances within the right-of-way, including bridge structures, drainage system, retaining walls, traffic-control devices, and sidewalks, but not intersecting streets or driveways.

**TEARING DOWN OR DESTRUCTION OF STONE WALLS** — The destruction of more than 10 linear feet of stone wall involving more than one cubic foot of wall material above existing road grade per linear foot, but shall not be construed to include temporary removal and replacement at the same location with the same materials.

#### § 154-3. Scenic road designation.

- A. Procedure. Any person or group of persons may appear before the Planning Board, Conservation Commission, or Historical Commission to request that a street be designated as a scenic road. Prior to making such recommendation, the board or commission shall hold a public hearing thereon, duly advertised according to the established procedures of that board or commission, also noting the date, time, and place of a site visit, if one is to be held. Designation is by majority vote of Town Meeting.
- B. Considerations. The following shall be considered in making recommendations:
  - (1) Historic significance of affected trees and walls.

- (2) Exceptional qualities of trees of age, spread, species, or specimen size.
- (3) Bordering land uses, present and prospective, and how they impact the importance of retaining trees and walls.
- (4) Feasibility of accomplishing the intent of the Scenic Roads Act in light of road design and use.

C. Designated roads. The following are designated as scenic roads:

<b>Name of Street</b>	<b>Location</b>
Farm Street	From Hartford Avenue (Caryville) to the I-495 Bridge
High Street	From Maple Street to North Main
Maple Street	From Hartford Avenue to Mechanic Street

#### **§ 154-4. Review procedures.**

- A. Filing. Any person or organization seeking the consent of the Planning Board under M.G.L. ch. 40, § 15C, regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, in connection with repair, maintenance, reconstruction, or paving work on scenic roads shall submit a request to the Planning Board, together with the following:
  - (1) The text of a legal notice identifying the location of the proposed action in terms of enabling readers to reasonably locate it on the ground without need for additional plats or references and describing the proposed changes to trees and stone walls.
  - (2) A list of the owners of land that is both abutting the affected street and located in whole or in part within 300 feet of the affected section.
  - (3) Except in the case of Town agencies, a deposit sufficient for the cost of advertising the notification.
  - (4) A plan and explanatory material describing the proposed action, restoration, any compensatory efforts proposed, and proposed performance security.
- B. Notice. Notice of the public hearing shall be given, as required by statute, by twice advertising in one or more newspapers of general circulation in the Town, the last time at least seven days prior to the hearing. The Planning Board shall also send copies of that notice to the Board of Selectmen, Conservation Commission, Historical Commission, Tree Warden, DPW Director, and the owners of the property identified in Subsection A(2) of this section.
- C. Relationship to other agencies and authorities. Planning Board hearings shall be held in conjunction with any to be held by the Tree Warden acting under M.G.L. ch. 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden under M.G.L. ch. 87, or vice versa, or of the Board of Selectmen in acting on curb cuts and street opening permits.
- D. Timing. The Planning Board shall hold its hearing within 30 days from the date on which notice of submittal is received by the Town Clerk and shall make a decision within 45 days of that receipt, unless a longer time is agreed to by the applicant.

- E. Emergency work. The Board of Selectmen may determine that emergency conditions require that work which otherwise would require Planning Board approval may proceed to the extent necessary to protect public health, property, and safety prior to such approval and shall notify the Planning Board in writing of having done so.

#### **§ 154-5. Project considerations.**

In acting on scenic road alteration proposals, the Planning Board shall take into consideration the following:

- A. Preservation of natural resources.
- B. Environmental and historical values.
- C. Scenic and aesthetic characteristics.
- D. Public safety.
- E. Traffic volume and congestion.
- F. Relationship of road design to the standards of the Planning Board Subdivision Regulations<sup>5</sup> and of the Massachusetts Department of Transportation or its successor agency.
- G. Compensatory actions proposed, such as replacement trees or walls.
- H. Functional urgency of the repair, maintenance, reconstruction, or paving.
- I. Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls.
- J. Evidence contributed by abutters, Town agencies, and other interested parties.
- K. Availability of reasonable and less damaging alternatives to the proposed action.
- L. Other sound planning considerations.

#### **§ 154-6. Compensatory actions.**

The following shall normally be considered adequate compensatory action, unless modified by the Planning Board:

- A. Trees destroyed shall be replaced with nursery grade trees on the following basis (trees measured four feet above ground):

<b>Tree Removed</b>	<b>Suggested Replacement</b>
Up to 12" diameter	1 tree of 4" diameter
12 inches to 24" diameter	3 trees of 4" diameter
Over 24" diameter	4 trees of 4" diameter

- B. Replacement trees shall be planted under the supervision of the Tree Warden and shall be planted as soon as construction activity and the season permit.

---

5. Editor's Note: See Ch. 245, Subdivision Regulations.

- C. Stone walls shall be replaced in kind on a new alignment, connecting with undisturbed walls wherever possible.

**§ 154-7. Noise on scenic roads.**

- A. Noise receiving zones are defined as follows:

- (1) Receiving Zone A: Business and Industrial Zoning Districts.
- (2) Receiving Zone B: locations in any other zoning district, but within 200 feet of a Business or Industrial District.
- (3) Receiving Zone C: all other locations.
- (4) For purposes of this part, any Town owned or managed property that may be used for passive or active recreation shall be treated as Receiving Zone C.

- B. Applicability. No development shall be allowed, or present or prospective activity be allowed to take place on any of the Town's designated scenic roads, if the following standards will be or are exceeded at any location outside the property line of the premises, which location includes any contiguous land committed to be conveyed to the Town as open space. During the period designated as "daytime," the numerical standards of Subsection D of this bylaw shall not be exceeded by more than 20 dB(A) at any time, or by more than 10 dB(A) for more than 10 minutes in an hour, or at all for more than 30 minutes in an hour. During the period designated as "nighttime," the numerical standards of Subsection D of this section shall not be exceeded, except for an allowance of up to one occurrence during a 24-hour period that may exceed the standard by up to 10 dB(A). The duration of the allowance period shall not exceed more than 10 minutes from the time of the first occurrence of the excessive noise. Nothing in this section shall be construed to permit noise in excess of that allowed by any state or federal regulation.

- C. Exceptions. This bylaw shall not apply to the following:

- (1) Any noise produced by equipment used exclusively in the maintenance or repair of buildings or grounds, provided such equipment is rated at not more than 15 horsepower.
- (2) Human or animal noises unless mechanically or electronically amplified.
- (3) Farm equipment.
- (4) Construction equipment in operation at an active construction site, between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and 8:00 a.m. to 4:00 p.m. on Saturdays or at other hours upon determination of reasonable necessity by the Building Inspector. Such determination and authorization shall be valid for not more than any one 24-hour period per determination.
- (5) Snow plowing; emergency repair due to flood, fire or other catastrophe if such work is necessary for the general welfare or to avoid further catastrophe.
- (6) Parades, fairs or outdoor entertainment, provided that a permit for such activity has been granted by the Board of Selectmen and that said permit is for not more than 10 days in any calendar year.
- (7) Activities authorized on written approval by the Board of Selectmen after a public hearing (with seven days' prior published notice), where peculiarities of the location or activity assure that there will be no measurable adverse disturbance to use and enjoyment of premises, areas of

recreation, or significant habitat areas. Further, such authorizations shall only be granted where there exists a compelling public interest, with all other provisions of this section maintained intact to the maximum extent possible with respect to any specific exceptions granted.

- (8) Cultural, athletic, training exercises of Town-operated emergency services, or periodic festive activities that operate under permits, licenses or approvals of the Town of Bellingham.
- D. Standards. The following standards must be met, with the applicable standard being based upon the receiving zone where noise is potentially heard, not the zone where noise is generated. "Daytime" shall be from 7:00 a.m. until 9:00 p.m. on all days except Sundays and legal holidays, when it shall be from 12:00 noon until 9:00 p.m. All sound measurements made pursuant to this section shall be made with a Type 1 A-weighted sound level meter as specified under American National Standards Institute (ANSI) S1.4-1983. Sound level measurements must additionally detect and quantify impulse sound level measurements, with "impulsive sound" being defined as noise from a noise source that is not smooth and continuous. There shall be a 5 dB penalty assessed at each receiving zone for impulsive noise.

**Maximum Allowable Exterior Noise Levels At Any Point Along the  
Receiving Zone Boundary**

<b>Receiving Zone</b>	<b>Daytime</b>	<b>Nighttime</b>
A	65 dB(A)	50 dB(A)
B	55 dB(A)	45 dB(A)
C	50 dB(A)	40 dB(A)



SELECTMEN, BOARD OF

**Chapter 159**

SELECTMEN, BOARD OF

GENERAL REFERENCES

Board of Selectmen — See Charter Art. 3, Sec. 2.

Town meetings — See Ch. 205.

Permits — See Ch. 1, Art. II.

ARTICLE I  
**General Duties**

**§ 159-1. Responsibilities.**

The Board of Selectmen shall have the general direction and management of the property and affairs of the Town.

ARTICLE II  
**Public Hearings**

**§ 159-2. Required hearings; notices; exception.**

The Board of Selectmen shall grant no license or permit for the permanent establishment of any enterprise, commercial, fraternal, or nonprofit, without first conducting a public hearing. Notice shall be given by posting such in a conspicuous place in the Town Hall for at least 10 days before the date of such hearing, and by mailing postage prepaid to the petitioner and to immediate abutters of the established license premises as their names appear on the most recent applicable tax list, which term shall include abutters of land directly opposite on any public or private street or way. The provision of notice of public hearing of this section shall not apply to public hearings pertaining to public utilities installation as per the provisions of M.G.L. ch. 164 and ch. 166.



SEWERS

**Chapter 165**

**SEWERS**

**GENERAL REFERENCES**

**Streets and sidewalks — See Ch. 191.**

**Zoning — See Ch. 240.**

**Water — See Ch. 228.**

**Subdivision regulations — See Ch. 245.**

ARTICLE I  
**Connection to Common Sewer**

**§ 165-1. Required connections.**

All owners or occupants of any buildings upon land abutting on a private or public way to which there is a common sewer stub connection available shall, within 36 months of acceptance of this bylaw or acceptance of the common sewer by the Town, connect the building to the common sewer with a sufficient drain.

**§ 165-2. Variances.**

A variance from this requirement may be granted by the Board of Selectmen on the following condition: that said land, by reason of its grade, level, or any other cause, cannot be drained by gravity into such sewer, and/or provided that a private septic system is installed which meets the requirements of the Board of Health, then said variance to be only for so long as said system continues to meet those requirements as they may be amended or revised.

**§ 165-3. Possible future connections.**

This bylaw will not preclude a property owner from connecting to the sewer system at some future date, subject to available capacity.

ARTICLE II  
**Pumping Stations**

**§ 165-4. Applicability.**

This bylaw shall apply only to sewer pumping stations that are constructed on public property or on property that will become public property upon completion of the project.

**§ 165-5. Condominium association property and responsibilities.**

This bylaw will not apply to pumping stations which service condominium complexes, which must be retained as property of the condominium association. The operations, maintenance, and repair of such are to be solely the responsibility of the condominium association.

**§ 165-6. Gravity flow sewer services; lift stations; gift accounts.**

Every attempt will be made between the applicant for a sewer extension permit and the Town to provide for gravity flow sewer services to all buildings serviced by any extension. However, where gravity sewer lines are not possible, in the judgment of the DPW Director, a lift station that will eventually become the property of the Town may be approved under the following parameter: by depositing in a Town owned and administered special gift account an amount calculated and specified by the DPW Director or the Town Administrator to earn interest sufficient to fund the projected annual cost of service, maintenance, repair, and parts replacement for each individual lift station over the expected lifetime of buildings served by such lift station. The basis of the calculation shall be that the interest generated by such account will fund the cost of servicing, maintaining, repairing, or replacing parts at the lift station. The donation of said gift is to be made prior to the issuance of the first building permit in any new project, and before the acceptance of a sewer extension permit application for any previously developed property.

ARTICLE III  
**Storm Sewer Treatment Facilities**

**§ 165-7. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**STORM SEWER FACILITIES** — Any constructed stormwater treatment basin or underground structure designed to enhance the quality of stormwater that will be discharged to the waters of the United States with the exception of street catch basins.

**§ 165-8. Applicability.**

- A. This bylaw shall apply to storm sewer facilities that are constructed by private parties on public property or on property that will become public property upon completion of a project.
- B. This bylaw will not apply to storm sewer facilities constructed as part of and on land now and in the future to remain part of a condominium complex, which must be retained as property of the condominium association. The operation, maintenance, and repair of such are to be solely the responsibility of the condominium association.

**§ 165-9. Approval requirements.**

- A. Such storm sewer facilities will be approved if the following conditions are met:
  - (1) The Conservation Commission approves the storm sewer facility as part of a signed order of conditions or written letter.
  - (2) The locus of the storm sewer facility is deeded to the Town prior to Town acceptance of a street or project.
- B. And one of the following conditions are met:
  - (1) The project deposits a gift to the Conservation Commission agent into a Town owned and administered special gift account, calculated and specified by the Conservation Commission agent. The amount of said gift to be designed to earn sufficient annual interest earned to fund annual costs of operation, maintenance, and repair of the storm sewer facilities. The special gift account must be established prior to Town acceptance of a street or project.
  - (2) A permanent association of parties owning parcels of land established by the project who will take entire responsibility for the landowners within the project annual costs of operation, maintenance, and repair of the storm sewer facilities.
- C. The Board of Selectmen may waive strict compliance with this bylaw upon receipt of an application for waiver from the proponent and receipt of comments from the DPW, Board of Health, Planning Board, and Conservation Commission.



ARTICLE IV  
**Illicit Connections and Discharges**

**§ 165-10. Purpose.**

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town's water bodies and groundwater, 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.

**§ 165-11. Definitions.**

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

**AUTHORIZED ENFORCEMENT AGENCY** — The Board of Selectmen (hereafter the Board), its employees or agents designated to enforce this bylaw.

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

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

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into any water resource.

**GROUNDWATER** — Water beneath the surface of the ground.

**ILLICIT 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, permitted, or approved before the effective date of this bylaw.

**ILLICIT DISCHARGE** — Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in § 165-17. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to § 165-17 of this bylaw.

**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 rooftops.

**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 Bellingham.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT** — A permit issued by United States Environmental Protection Agency or jointly with the state that authorizes 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.

**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 sewage treatment works or water resource. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and
- K. 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** — Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

**SURFACE WATER DISCHARGE PERMIT** — A permit issued by the Department of Environmental Protection (hereinafter DEP) pursuant to 314 CMR 3.00, that authorizes the discharge of pollutants to a water resource.

**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. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any such substance, defined as toxic or hazardous under M.G.L. ch. 21C and ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**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, by-product 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.

**WATER RESOURCE** — The MS4 and all public and private receiving surface and ground waters, including all waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

#### **§ 165-12. Applicability.**

This bylaw shall apply to flows entering the municipally owned storm drainage system.

#### **§ 165-13. Authority.**

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

#### **§ 165-14. Responsibility for administration.**

The Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board.

#### **§ 165-15. Regulations.**

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

#### **§ 165-16. 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 (hereinafter MS4), into a watercourse, or into a water resource.
- 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. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Board.

#### **§ 165-17. Exemptions.**

- A. Discharge or flow resulting from fire fighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
  - (1) Water line flushing;
  - (2) Flow from potable water sources;
  - (3) Springs;
  - (4) Natural flow from riparian habitats and wetlands;
  - (5) Diverted stream flow;
  - (6) Rising groundwater;
  - (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35 2005(20), or uncontaminated pumped groundwater;
  - (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
  - (9) Discharge from landscape irrigation or lawn watering;
  - (10) Water from individual residential car washing;
  - (11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
  - (12) Discharge from street sweeping;
  - (13) Dye testing, provided verbal notification is given to the Board prior to the time of the test;
  - (14) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
  - (15) Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.

**§ 165-18. Emergency suspension of storm drainage system access.**

The Board 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 authorized enforcement agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**§ 165-19. 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 waters of the commonwealth, 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 Fire Department, Police Department, Board of Health, and Department of Public Works. In the event of a release of nonhazardous material, the reporting person shall notify the authorized enforcement agency no later than the next business day. The reporting person shall provide to the authorized enforcement agency 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.

**§ 165-20. Enforcement.**

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

- A. Civil relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board 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.
- B. Orders.
  - (1) The Board or an authorized agent of the Board 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; and
    - (d) Remediation of contamination in connection therewith.
  - (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 Board 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 of the costs incurred by the Board, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board 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 Board 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 M.G.L. ch. 59, § 57, after the 31st day at which the costs first become due.

- C. Criminal penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder shall be subject to arrest and be punished by a fine as noted in Chapter 1, General Provisions, Article III, § 1-7, General penalty for violation of bylaws.
- D. 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 Board, its agents, 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 Board deems reasonably necessary.
- E. Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.
- F. 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.

#### **§ 165-21. 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.

#### **§ 165-22. Transitional provisions.**

Residential property owners shall have 180 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.

ARTICLE V  
**Adverse Impact to Water Resources**

**§ 165-23. Purpose.**

This bylaw is intended to provide protection for the water resources by insuring proper erosion and sedimentation control during construction and maintenance of stormwater management systems after construction.

**§ 165-24. Applicability.**

Any person that fails to follow the requirements of a Stormwater Management Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan issued under the Planning Board Regulations shall be in violation of the Bellingham Code of Bylaws.

**§ 165-25. Enforcement.**

- A. The Town shall enforce this bylaw, issue violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders. If the Town determines that a person's failure to follow the requirements of a Stormwater Management Permit and the related Erosion and Sedimentation Control Plan, or Operations and Maintenance Plan is creating an adverse impact to a water resource, the Town may issue a written order to the person to remediate the adverse impact.
  - (1) The order shall set forth a deadline by which such remediation must be completed.
  - (2) If remediation of an adverse impact is not completed by specified deadline, the Town may:
    - (a) Proceed with criminal penalties as noted below; and
    - (b) Undertake such work, and the property owner on which the stormwater system is located shall reimburse the Town expenses. If the Town undertakes such work, then within 30 days after completing all necessary abatement or remediation measures the property owner shall be notified of the costs incurred by the Town, including administrative costs. The property owner shall pay the amount due. If the amount due is not received within 30 days following the notification of costs incurred, 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 M.G.L. ch. 59, § 57, after the 31st day at which the costs first become due.
- C. Criminal penalty. Any person who violates any provision of this bylaw may be subject to arrest and be punished by a fine as noted in Chapter 1, General Provisions, Article III, § 1-7, General penalty for violation of bylaws.
- D. Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.
- E. 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.

**§ 165-26. 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.





BELLINGHAM CODE

**Chapter 169**

**SIGNS**

**GENERAL REFERENCES**

**Zoning — See Ch. 240.**

---

**§ 169-1. Removal after notice.**

A sign and its supports which ceases to advertise a bona fide business conducted, or product sold, on any premises shall be removed within 30 days after written notification from the Inspector of Buildings.

**§ 169-2. Enforcement; violations and penalties.**

The Inspector of Buildings shall enforce this chapter. Penalty for violating this chapter shall be a fine of not more than \$25 per day; each day constitutes a separate offense.

SOLID WASTE

**Chapter 178**

**SOLID WASTE**

**GENERAL REFERENCES**

**Littering — See Ch. 113.**

ARTICLE I

**Recycling**

**§ 178-1. Prohibited material.**

No person shall place for municipal solid waste collection materials considered to be yard waste nor any material accepted at the Town's recycling center. Yard waste shall include grass clippings, weeds, hedge clippings, garden waste, and leaves.

**§ 178-2. Violations and penalties; enforcement.**

Any individual in violation of this article shall be penalized as provided in § 1-7 of the bylaws. A person designated by the Board of Selectmen as the enforcing person shall enforce this bylaw.

ARTICLE II  
**Trash Containers**

**§ 178-3. Placement; approved containers.**

Residents utilizing curbside trash pickup may leave their trash out the night prior to their scheduled pickup day. Such trash shall be placed in metal or plastic Bellingham approved containers with appropriate fitted lids or closures. The Town shall provide one trash container and one recycle container per household. Approved bags may be purchased from the Town for overflow trash. Any other container (for example: unapproved plastic bag, paper bag, or cardboard carton) shall be deemed a violation of this bylaw.

ARTICLE III  
**Residential Trash Removal**

**§ 178-4. Restrictions; applicability; violations and penalties.**

No person or entity, other than a qualified trash removal/recycling company, shall be permitted to disturb or remove the trash or recycling, or the containers or receptacles containing the same, that may be placed on the curbside or other designated areas by residents for collection. This prohibition shall apply whether the trash/recycling is placed on private or public property for collection. Violations of this bylaw shall be punishable by a fine of \$100 for a first offense and \$300 for a second offense and may be imposed via noncriminal disposition per M.G.L. ch. 41, § 21D.



BELLINGHAM CODE

**Chapter 191**

**STREETS AND SIDEWALKS**

**GENERAL REFERENCES**

**Peddling and hawking — See Ch. 135.**

**Zoning — See Ch. 240.**

**Scenic roads — See Ch. 154.**

**Subdivision regulations — See Ch. 245.**

**Vehicles and traffic — See Ch. 216.**

**Traffic impact analysis — See Ch. 246.**



ARTICLE I

**Snow on Public Ways**

**§ 191-1. Snow removal operations; liability for violations.**

No resident shall permit or cause snow to be pushed on, pushed over or placed across a public way or sidewalk. The penalty for violating this article is the responsibility of the resident.

ARTICLE II

**Water Discharge on Public Ways**

**§ 191-2. Prohibited activity.**

No person, owner of property, or person controlling property shall discharge or permit to be discharged into or upon any street, court, lane, public roadway, or roadway to which the public has a right to use, any water so as to create a public safety hazard by freezing or flooding of the roadway.

ARTICLE III  
**Temporary Repairs on Private Ways**

**§ 191-3. Petition.**

- A. The Board of Selectmen, under M.G.L. ch. 40, § 6N, shall consider any private way or portion thereof which has been open to public use for five or more years for temporary repairs to be performed by the Town after having been petitioned to do so by at least 75% of the owners of abutting property, based on one vote for each abutting property and not the number of owners of a particular property.
- B. Petitions must contain a statement that: "The undersigned agree to keep said private way or portion thereof open to public use for the period of years which is the life of the temporary repairs made pursuant to this petition."

**§ 191-4. Subdivisions excluded.**

Excluded from the terms of this article are private ways created pursuant to the Subdivision Control Law, M.G.L. ch. 41, §§ 81K through 81GG, and the Town of Bellingham Subdivision Regulations.<sup>6</sup>

**§ 191-5. Criteria.**

Temporary repairs shall be made on a qualifying private way only after the Board of Selectmen have determined that such repairs are required by public convenience and necessity. The Board of Selectmen may, after reviewing a petition, elect to have the Town perform temporary repairs on the entire portion which was petitioned for, or a lesser portion, provided at least 75% of the abutting property owners on the appropriate portion of the way are in favor of such action and costs are assessed as per § 191-7. In making its determination as to the public convenience, necessity, and advisability of making temporary repairs, the Board of Selectmen shall take into consideration the following factors:

- A. The accessibility to emergency vehicles such as police, fire, and rescue vehicles.
- B. The volume of traffic.
- C. The number of years the way has been open to the public (not less than five).
- D. Such other relevant considerations the Board of Selectmen deem appropriate.

**§ 191-6. Temporary repairs defined.**

Temporary repairs may include the surfacing or resurfacing of a way, the installation and repair of drainage, the filling of potholes, depressions, and ruts, temporary patches, and/or grading.

**§ 191-7. Assessment of costs.**

- A. The Town, acting through its Board of Selectmen, is hereby authorized to assess betterments upon the owners of properties that derive particular benefit or advantage from the making of such repairs on any such private way. Such assessments shall be a sum equal, in aggregate, to the total cost of such repairs, and in the case of each such property, assessed in proportion to the frontage thereof on such way, except as otherwise provided. The provisions of M.G.L. ch. 80 relating to public improvements and assessments therefor shall apply to repairs to private ways ordered to be made under this article;

---

6. Editor's Note: See Ch. 245, Subdivision Regulations.

provided that no assessment amounting to less than \$25 shall be apportioned, and no assessment may be apportioned for more than five years.

- B. Where the cost of temporary repairs is less than \$500 per abutting property, the appropriate sum shall be deposited with the Treasurer-Collector prior to the repairs being commenced. Any abutter may, by paying the full amount of his/her share of the assessment, avoid the assessment of betterment on his/her land.

**§ 191-8. Limitations on liability.**

The Town, in making repairs under this article, shall not be liable on account of any damage caused by such repairs. Said repairs shall not be undertaken unless the Board of Selectmen have in their possession agreements executed by all abutting owners of the affected area to release and save the Town harmless on account of any damage whatever caused by such repairs. Such agreements to release and save harmless shall be recorded in the Registry of Deeds, and shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.

**§ 191-9. Town not responsible for private way.**

No term or provision of this article, nor any temporary repairs pursuant thereto, shall be interpreted or construed to constitute acceptance by the Town of any duty, responsibility, or liability for a private way or portion thereof or for the enforcement of any private right of any petitioner or abutting owner.

ARTICLE IV  
**Street Openings**

**§ 191-10. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**PUBLIC WAY** — A way which has been accepted by Town Meeting under the provisions of M.G.L. ch. 82, §§ 17 through 32; or which was created by a subdivision plan approved by the Planning Board under the provisions of M.G.L. ch. 41, §§ 81K through 81GG;<sup>7</sup> or which the Town Clerk certifies is maintained and used as a Public Way.

**§ 191-11. Permits required; specifications; appeals.**

- A. Any trenching, grading, pavement cutting, curb cutting, excavating, stockpiling, or other construction work within a public way, unless done pursuant to a subdivision plan approved by the Planning Board, must be authorized under a street opening permit issued by the DPW.
- B. The Board of Selectmen, acting as the Board of Public Works, shall do the following:
  - (1) Adopt and from time to time amend street opening specifications, fees, and procedures after holding a public hearing and soliciting comments from the public. The hearing may be held during a regular Board of Selectmen's meeting, and shall be advertised in two or more newspapers of general circulation in the Town at least 14 days before the time of the hearing.
  - (2) Act as appeal board for requests and complaints regarding issuance of street opening permits by the DPW.
- C. All wetlands and other permitting applications are the responsibility of the applicant, and approvals must be obtained prior to the application for a street opening permit.
- D. Failure to obtain a street opening permit shall be deemed as trespassing and may be deemed as destroying property.

**§ 191-12. Work within public ways.**

A street opening permit intended to authorize a street extension, driveway access, or utility connection shall be granted only provided that either:

- A. The street meets the standards for a maintainable level of adequate access; or
- B. The applicant for such opening provides security assuring that he/she will improve the street to meet that standard within a period of time agreed to by the DPW Director and specified in the security agreement.

**§ 191-13. Minimum standard for maintainable level of adequate access.**

- A. Minimum width. The minimum width of the traveled way must be equal to 16 feet or, if greater, the following:
  - (1) For streets that are extensions or continuations of existing adequate streets, the average width of

---

7. Editor's Note: See Ch. 245, Subdivision Regulations.

the last 50 feet of the adjacent adequate street.

- (2) For streets that connect two existing adequate streets, the width of the narrower of the connecting streets. That width shall be determined by measuring the average width of the connecting adequate street over a length of 50 feet, the center of the averaging area to be the center line of the proposed traveled way.

B. Roadway surface and subgrade.

- (1) The subbase pavement foundation must be a minimum of a twelve-inch compacted layer of acceptable road gravel.
- (2) The wearing surface must be at least one course of hot mix asphalt pavement with a 3 1/2 inch compacted thickness extending to the edge of the traveled way.

C. Other required improvements.

- (1) The improvement must include a drainage system that is consistent with § 245-13, Stormwater management, in Chapter 245, Subdivision of Land, of the Code of the Town of Bellingham.
- (2) The grade of the improved section of roadway must not exceed 12%.
- (3) If the road improvement does not connect two streets, a paved turnaround must be constructed. The turnaround must have a diameter equal to the entire width of the public right-of-way, or 100 feet, whichever is less. The turnaround must be constructed to the same specifications as the rest of the improvement.

**§ 191-14. Waivers of minimum standards.**

The DPW Director may waive strict compliance with the minimum standard for adequate access requirements in the following cases:

- A. If that is consistent with a waiver granted by the Planning Board for a plan under § 245-6D, Waivers, of Chapter 245, Subdivision of Land, of the Code of the Town of Bellingham; or
- B. For repairs to services or driveways serving existing structures.

**§ 191-14.1. Street opening moratorium.**

- A. Purpose. The purpose of this moratorium is to preserve and protect the integrity of roadway infrastructure and the significant investment of public and Town funds used to complete roadway work.
- B. Moratorium. To accomplish this purpose and notwithstanding the foregoing provisions of this Article IV, no street opening permits shall be issued for a public way that has been resurfaced or reconstructed within a period of five years unless the Select Board, acting as the Board of Public Works, determines that an emergency exists. The Department of Public Works ("DPW") shall maintain and update at least annually the Roadway Moratorium Street List.
- C. Notice of proposed work. Whenever the Select Board, acting as the Board of Public Works, has approved plans to resurface or reconstruct a public way, the DPW Director shall, within 30 days of such action by the Select Board, give notice to Town departments, utilities and the owners of parcels of land that have front on such public way ("Notice Parties"). Upon receipt of such notice, the Notice Parties shall have 60 days within which the Notice Parties may install or lay any pipes, wires or other

facilities under a public way. If an extension of time is needed by any Notice Parties for the installation of such facilities, the Notice Parties shall make a written application within said sixty-day period to the Select Board, acting as the Board of Public Works, explaining fully the reasons for requesting such an extension of time.

- D. Conditions. If a permit is granted, i) the DPW Director may impose such conditions on the permittee as the Town deems reasonably necessary to preserve the structural condition of the pavement and to blend the permanent patch with the existing affected pavement, and ii) the permittee shall guarantee the integrity of the permanent patch and the existing affected pavement through a surety determined by the DPW Director for a period extending one year beyond the end of the moratorium date for that section of the way.
- E. Violations. Violations of any provision of this bylaw, or a permit issued hereunder, shall be enforced in accordance with §§ 1-7 and 1-8 of the General Bylaws. For purposes of noncriminal disposition, the Director DPW shall be the enforcing party. Fines for violations of this bylaw shall be as follows:
- (1) \$100 for the first violation;
  - (2) \$200 for the second violation; and
  - (3) \$300 for the third and any subsequent violation;
- with each day a violation exists representing an individual violation.

ARTICLE V  
**Selling on Sidewalks**

**§ 191-15. Written permission required.**

No person shall place or keep any table, stall, booth, cart, or other structure in any public way, other public place, or upon any sidewalk in the Town for the sale of food, fruit, merchandise or other thing, without written permission first being obtained from the Police Chief.





BELLINGHAM CODE

**Chapter 198**

**TAXICABS**

**GENERAL REFERENCES**

Vehicles and traffic — See Ch. 216.

---

**§ 198-1. License required.**

No person shall set up, use, or drive in the Town any unlicensed taxicab or motor vehicle for the conveyance of passengers for hire from place to place.

**§ 198-2. Issuance of licenses; revocation; license record.**

The Board of Selectmen may license taxicabs or motor vehicles for the conveyance of persons for hire from place to place within the Town. They may revoke such licenses at their discretion. A record of all licenses so granted or revoked shall be kept by the Board of Selectmen.

**§ 198-3. Expiration of licenses; transfer; void licenses.**

Vehicle for hire licenses shall expire annually on the 31st day of December. Licenses shall not be transferred. A license granted shall become void if the applicant neglects or refuses to take out and pay for his/her license within 10 days after notice that it has been granted.

**§ 198-4. Taxicab stand license.**

The Board of Selectmen may grant to the holder of a license under this chapter a license to use a certain portion of a public way as a carriage stand for the solicitation of passengers for hire. No person shall use any portion of any public way for such purpose without such license.

**Chapter 205**

**TOWN MEETINGS**

**GENERAL REFERENCES**

Legislative branch — See Charter Art. 2.

Financial affairs — See Ch. 71.

Elected officers — See Charter Art. 3.

Records and reports — See Ch. 146.

Finance Committee — See Ch. 25, Art. II.

---

**§ 205-1. Town election.**

- A. The Annual Town Meeting for the election of Town officers shall be held on the first Tuesday of May of each year.
- B. Hours polls are open. The polls shall be opened at a time set by the Board of Selectmen in the Warrant for a minimum of four hours, not less than those required by MGL.

**§ 205-2. Dates for Town Meetings.**

- A. All business of the Annual Spring Town Meeting, except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot, shall be considered at a meeting to be held on the fourth Wednesday of May at 7:30 p.m., or on continued dates thereafter.
- B. All business of an obligatory Annual Fall Town Meeting shall be considered at a meeting to be held no later than the fourth Wednesday of November, or on continued dates thereafter.

**§ 205-3. Notice of Town Meeting; petitioner names required.**

- A. Notice of every Town Meeting shall be given in accordance with Section 2-7-3 of the Charter and by posting attested copies of the Warrant therefor at Town Hall and in other municipal buildings throughout Town not less than 60 days before the day fixed for the Annual Town Meeting, and 45 days before the day fixed for the Fall Town Meeting and any other Special Town Meetings. In the event of an emergency, said notice requirements may be waived by majority vote of the Board of Selectmen but never so that notice is less than 14 days before the date set for any Town Meeting.
- B. Every Warrant Article shall include the name and address of the petitioner so that the Finance Committee and other tribunals may contact them to schedule their appearance at the required public hearing.

**§ 205-4. Finance Committee report; availability of reports prior to meeting.**

The Finance Committee will deliver its report as provided in the Charter to the office of the Board of Selectmen by noontime 10 days prior to any Town Meeting. Upon receipt, the Board of Selectmen and Town Clerk shall make available the report and recommendations of the Finance Committee as well as the Annual Town Report at no charge.

**§ 205-5. Availability of Warrant and reports at meeting.**

Copies of the Warrant and of the report and recommendations of the Finance Committee thereon shall be made available to the voters at Town Meeting.

**§ 205-6. Notice of adjourned meeting.**

As soon as practical after the adjournment of Town Meeting, on a vote to adjourn to another day, the Town Clerk shall cause a brief statement of the day and hour to which the adjournment was voted and of the business remaining to come before Town Meeting to be posted at Town Hall and in other municipal buildings throughout Town, and, if the period of adjournment will permit, shall cause a similar notice to appear in one or more newspapers of general circulation in the Town.

**§ 205-7. Conduct of Town Meeting.**

- A. Required quorum. The number of voters necessary to constitute a quorum at any Town Meeting shall be zero.
- B. Appointment and duties of Town Meeting Tellers; Moderator to control stage. The Moderator shall appoint Tellers, who will ensure that only registered voters will have the ability to cast votes, and that non-registered persons are seated in a manner and place approved by the Moderator.
- C. Conduct of Town Meeting. The Moderator shall determine the rules under which the Town Meeting shall be conducted, so long as such rules are generally accepted in Massachusetts for the conduct of such meetings and so long as a copy of such rules are available at each Town Meeting, on file with the Town Clerk at least 14 days prior to Town Meeting, and a copy is provided to Town Counsel at least 14 days prior to Town Meeting.
- D. Order of voting on articles. Articles of the Warrant of the Town Meeting shall be acted upon in the order in which they appear unless otherwise determined by a 2/3rds vote of the Town Meeting or at the discretion of the Moderator.
- E. Motions that are required in writing. All motions shall be presented in writing.
- F. Division of motions. If a motion is susceptible of division, it shall be divided and the question shall be put separately upon each part thereof, if seven voters so request.
- G. Motions received and decided without debate. When a question is before Town Meeting, the following motions shall be received and shall be decided without debate:
  - (1) To adjourn.
  - (2) To lay on the table.
  - (3) For the previous question.
- H. Amending amendments to motions. An amendment to a motion shall not be amended.
- I. Attorneys representing clients to disclose fact before speaking. Any person employed as an attorney on any matter under discussion at Town Meeting shall disclose the fact of that employment before speaking thereon.
- J. In the event that electronic devices are non-functional, matters requiring a 2/3rds vote, the sense of the meeting shall be determined by the voices of the voters and the Moderator shall declare the vote,

§ 205-7

TOWN MEETINGS

or the 2/3rds vote, as it appears to him/her. If the Moderator is unable to decide by the sounds of voices or the show of hands, or if his/her decision is immediately questioned by seven or more voters rising in their places for that purpose, he/she must appoint Tellers to make and return the count.

- K. Effect of votes on amendments involving sums of money. On a proposed amendment involving sums of money, the smaller amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on the larger amount.
- L. Requisites for voting on all articles. No article shall be voted unless and until the subject matter thereof shall have been considered after a public hearing held in accordance with § 25-12 by either the Finance Committee or other tribunal as required by law. The Finance Committee shall publish its recommendations and those of the other tribunals at least 10 days prior to Town Meeting.
- M. Reconsideration of motions. No question shall be reconsidered at an adjourned session of a Town Meeting unless that adjourned session is held on the same evening; no vote may be reconsidered on a motion to adjourn, to lay on the table, or for the previous question.
- N. Dissolution and adjournment of Town Meeting. No motion the effect of which would be to dissolve the Town Meeting shall be in order until every article in the Warrant has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the Town Meeting at a stated time and place.

**§ 205-8. (Reserved)<sup>8</sup>**

**§ 205-9. (Reserved)<sup>9</sup>**

**§ 205-10. Presentation of identification.**

Any and all registered voters shall be required to show some form of identification prior to voting at all Town meetings. Such identification shall preferably contain a photograph but, at the very least, shall be sufficient to verify the full name and address of the voter. Sufficient forms of identification include, but are not limited to, the following: Massachusetts driver's license, Massachusetts state-issued ID, passport, student I.D., utility bill or statement, library card, credit or debit card statement, lease or rental contract, mortgage or other bank statement, property tax bill or statement.

---

8. Editor's Note: Former § 205-8, Notifications by Town Clerk after Town Meeting, was repealed 10-14-2015 STM, Art. 18.

9. Editor's Note: Former § 205-9, Report of committees; discharge of committees, was repealed 10-14-2015 STM, Art. 18.

BELLINGHAM CODE

**Chapter 210**

**TOWN PROPERTY**

**GENERAL REFERENCES**

**Contracts and bidding — See Ch. 49.**

**Financial affairs — See Ch. 71.**

ARTICLE I  
**Sale of Surplus and Obsolete Property**

**§ 210-1. Items valued at less than \$2,500; approval of sale.**

Any board or officer in charge of a department of the Town may, with the approval of the Board of Selectmen, sell any personal property of the Town having a value of less than \$2,500 for any one item, within the possession or control of the department which has become obsolete or is not required for further use by the department, or trade the same in part payment for replacement for which funds have been provided.

**§ 210-2. Items valued at \$2,500 or more; notices of sale.**

In cases of sale of said Town property, the value of which is \$2,500 or more, the Board of Selectmen shall cause notice of said sale to appear in one or more newspapers of general circulation in the Town, once a week for at least three weeks, the final publication to be at least 10 days before the time advertised for said sale.

ARTICLE II

**Inventory**

**§ 210-3. Responsibilities of officers and department heads.**

The Board of Selectmen shall cause each officer and department head having custody of Town property to keep a true inventory thereof on file, and each officer and department head shall deliver a copy of said inventory to the Chief Financial Officer at least annually.





BELLINGHAM CODE

**Chapter 216**

**VEHICLES AND TRAFFIC**

**GENERAL REFERENCES**

**Peddling and hawking — See Ch. 135.**

**Streets and sidewalks — See Ch. 191.**

**Scenic roads — See Ch. 154.**

**Taxicabs — See Ch. 198.**

ARTICLE I

**Removal of Vehicles for Snow Plowing**

**§ 216-1. Removal authorized; liability for cost.**

The DPW Director may, for the purpose of snow removal, plowing snow, or removing ice, from any way, remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle interfering with such work, and impose liability for the cost of such removal, and of the storage charges, if any, resulting therefrom, upon the owner of the vehicle.

ARTICLE II  
**Off-Road Vehicles**

**§ 216-2. Written consent required for operation.**

No person shall use or operate a motorized off-road vehicle, including, but not limited to, mini-bikes, all-terrain vehicles (ATVs), snowmobiles, or similar motorized vehicle which is not registered under M.G.L. ch. 90B or any vehicle as described in M.G.L. ch. 90B, § 20, on any Town-owned property, except public roads and streets, or private property, without prior written consent of the Town authority or landowner having the responsibility for the management of such property. Any such consent shall be temporary in nature, shall specify the period of time during which it is in force, and shall be subject to the prohibitions, restrictions, and requirements of all Massachusetts General Laws, including, without limitation, M.G.L. ch. 90B, § 26.

ARTICLE III  
**Dwelling in Trailer Coach Park**

**§ 216-3. Time limit.**

It shall be unlawful for any person to remain or live in any trailer coach park for more than 90 days in any six-month period, excepting bona fide employees of the trailer coach park.

ARTICLE IV  
**Unregistered Motor Vehicles**

**§ 216-4. Number of unregistered vehicles allowed on premises.**

No person, without a permit or license from the Board of Selectmen, shall store, keep, or allow to remain on his/her premises more than one unregistered motor vehicle, assembled or disassembled, unless the same is stored or kept in a garage or other building, except a person duly licensed under M.G.L. ch. 140, § 59, or those vehicles designated and used for farming, agriculture, or construction purposes.

**§ 216-5. Permit conditions.**

The Board of Selectmen shall not issue such a permit unless it finds that the presence of such a vehicle or vehicles, as the case may be, on such parcel:

- A. Will not nullify or substantially derogate from the intent and purpose of this bylaw.
- B. Will not constitute a nuisance.
- C. Will not adversely affect the neighborhood in which such parcel is located.

**§ 216-6. Permit limitations.**

Each permit required by this article shall:

- A. Specify the maximum number of such vehicles that may be kept, stored, or allowed to remain on such parcel.
- B. Be limited to a reasonable period of time.
- C. Be a personal privilege of the applicant and not a grant attached to and running with the land.

ARTICLE V  
**Handicapped Parking**

**§ 216-7. Prohibited acts.**

It shall be unlawful for the standing or leaving of unattended vehicles unauthorized to occupy parking spaces designated for use by disabled veterans or handicapped persons, or in the "center aisle" or "parking access aisle" areas abutting a handicapped parking space, as may be demarcated by cross-hatched striping; or in such a manner as to obstruct a curb ramp designed for use by a handicapped person as a means of egress to a street or public way.

**§ 216-8. Signage.**

Handicapped parking spaces shall be identified by signs with white lettering against a blue background bearing the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense" and a sign with the words "\$150 Fine," or such other standardized signage that may be recognized as a proper means of clearly identifying handicapped parking spaces and describing the penalties for improper use thereof.

**§ 216-9. Violations and penalties.**

The penalty for § 216-7 shall be \$150 per offense. For each subsequent offense, in addition to a monetary penalty, the vehicle may also be removed. The Police Department may remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle per this section and § 216-7, and impose liability for the cost of such removal, and for the storage charges, if any, resulting therefrom, upon the owner of the vehicle. The fines and penalties hereunder are applicable even if they are not set forth on any signage that identifies a handicapped parking space.

ARTICLE VI  
**Obstruction of Ways**

**§ 216-10. Prohibited operation of vehicles.**

No person shall operate, stop or park a motor vehicle in a manner that obstructs a publicly accessible street or way or the access thereto.

**§ 216-11. Enforcement.**

The Bellingham Police Department shall enforce the requirements of this bylaw and may adopt regulations with respect thereto.



ARTICLE VII  
**Used-Car Licenses**

**§ 216-12. Limitation on used-car licenses.**

No more than 20 Class II used-car licenses, as contemplated and described under M.G.L. ch. 140, §§ 57-59, may be issued by the Selectmen. If at the time of the effective date of this bylaw more than 20 Class II licenses exist, no new licenses may be issued until the number of issued licenses falls below 20. Notwithstanding the foregoing, each license existing as of the effective date of this bylaw may be renewed, if compliant with laws, rules, regulations and standards applicable to renewal.

**§ 216-13. Standards for issuance of used-car licenses.**

In addition to any other applicable provision of law, when determining whether to issue a Class II license or renewal thereof, the Selectmen may take into consideration any concerns regarding health, safety and welfare of the residents of Bellingham, as well as any legitimate planning or environmental concern. The Selectmen may impose conditions on the issuance or renewal of any Class II license.

ARTICLE VIII  
**Commercial Vehicle Parking**

**§ 216-14. Prohibited to cause parking or standing of commercial vehicles.**

- A. Property owners or occupants who own, lease, and/or manage commercial or industrial property shall not cause any light commercial vehicle or heavy commercial vehicle, as defined in § 240-32 of the Zoning Bylaw, to park or stand for more than five minutes while waiting for approval to load or unload goods or passengers for said owners or occupants on any public way within 200 feet of said property. This section shall not apply to:
- (1) Any light commercial vehicle or heavy commercial vehicle engaged in emergency repairs or services; and
  - (2) Any light commercial vehicle or heavy commercial vehicle authorized by the Town of Bellingham or other relevant authorities for specific purposes, such as construction or utility work.
- B. Violations of this section shall be punishable by a fine of \$100 for the first offense and \$300 for each subsequent offense in the same calendar year. Enforcement of this bylaw under the noncriminal disposition process shall be carried out by the Police Chief, and duly sworn police officers who shall have full enforcement powers.



BELLINGHAM CODE

**Chapter 222**

**VENDING MACHINES**

**§ 222-1. Purpose.**

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare by regulating business activities relating to exterior redemption vending machines, as defined herein. This bylaw sets forth requirements for the review of exterior redemption vending machines so that such machines may be permitted without adversely affecting the public health, safety and welfare.

**§ 222-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

EXTERIOR REDEMPTION VENDING MACHINE — Any automated machine that is placed outside of a fully enclosed building and that is designed to allow consumers to insert goods or other objects in exchange for monies. Exterior redemption vending machines shall include machines that allow persons to insert recyclable containers in exchange for monies provided by such machine.

**§ 222-3. License required; considerations and conditions.**

The use and/or placement of all exterior redemption vending machines shall require a license from the Board of Selectmen. Application for such licenses shall be on a form prescribed by the Selectmen, who shall hold a public hearing on such license. In determining whether to issue such a license, the Selectmen may consider issues pertaining to hours of operation, traffic, lighting, noise and such other issues as may affect the public health, safety and welfare. The Selectmen may impose reasonable conditions upon the issuance of any such license.

**§ 222-4. Violations and penalties.**

Any person violating this bylaw shall be liable to the Town in the amount of \$300 per violation. Each day of violation shall be an independent violation which may result in a separate citation.

WATER

**Chapter 228**

**WATER**

**GENERAL REFERENCES**

Sewers — See Ch. 165.

Subdivision regulations — See Ch. 245.

ARTICLE I  
**Water Supply Conservation**

**§ 228-1. Intent.**

This bylaw is intended to regulate the use of water supplied by the Department of Public Works (DPW).

**§ 228-2. Purpose.**

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or 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 (DEP).

**§ 228-3. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

STATE OF WATER SUPPLY CONSERVATION — A State of Water Supply Conservation declared by the Board of Selectmen or DPW Director pursuant to § 228-4.

STATE OF WATER SUPPLY EMERGENCY — A State of Water Supply Emergency declared by the DEP under M.G.L. ch. 21G, §§ 15 through 17.

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

**§ 228-4. Declaration of State of Water Conservation.**

- A. The Board of Selectmen may declare a State of Water Conservation upon an affirmative vote of the majority of the members.
- B. The DPW Director may declare a State of Water Conservation if:
  - (1) The level of water in the Chestnut Street stand pipe falls to 65 feet.
  - (2) The demand for water has exceeded the actual pumping capacity of the system for a period longer than four days.
  - (3) A mechanical failure has occurred removing one or more of the Town's wells from operation.
  - (4) The DEP requires conservation conditions related to the Town's registered or permitted water withdrawals under the Massachusetts Water Management Act.<sup>10</sup>
- C. Public notice of a State of Water Conservation must be given under § 228-6 before it may be enforced.

**§ 228-5. Restricted water use.**

A declaration of a State of Water Conservation issued by the Board of Selectmen or the DPW Director may include one or more of the following restrictions, conditions, or requirements restraining the use of water for nonessential purposes as necessary to protect the water supply, which shall be included in the public

---

<sup>10</sup>. Editor's Note: See M.G.L. ch. 21G.

notice required under § 228-6.

- A. Odd/Even lawn watering. Lawn watering at facilities with odd-numbered addresses is permitted only on odd-numbered days. Lawn watering at facilities with even-numbered addresses is permitted only on even-numbered days.
- B. One weekday outdoor watering. Outdoor watering by water users is allowed on the day which Town trash collection is scheduled for pick up.
- C. One weekend day outdoor watering. Outdoor watering by water users with odd-numbered addresses is restricted to Saturdays. Outdoor watering by water users with even-numbered addresses is restricted to Sundays.
- D. Outdoor watering hours. Outdoor watering is permitted only during off-peak hours, to be specified in the declaration of a State of Water Conservation and public notice.
- E. Hand-held hose watering. Outdoor watering by water users is allowed but only if a hose is continuously attended. No lawn sprinklers or automatic sprinkler systems allowed.
- F. Outdoor watering ban. Lawn watering, and all other forms of nonessential outdoor water use, is prohibited.
- G. Filling swimming pools. Filling of swimming pools is prohibited.
- H. Automatic lawn sprinkler use. The use of automatic lawn and garden sprinkler systems is prohibited.

**§ 228-6. Public notification of State of Water Supply Conservation.**

- A. Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be:
  - (1) Published in a paper of general circulation in the Town;
  - (2) Posted on the local cable television government information scroll;
  - (3) Posted on the Bellingham Department of Public Works and Town Home web page; or
  - (4) Such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation.
- B. Any restriction imposed under § 228-5 shall not be effective until such notification is provided.
- C. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

**§ 228-7. Termination of State of Water Supply Conservation; notice.**

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given by:

- A. Announcement on televised meeting of the Board of Selectmen;
- B. Issuance of a press release to papers of general circulation in the Town;

- C. Removal of posting from the local cable television government information scroll, and posting of termination;
- D. Removal of the notice from the Bellingham Department of Public Works and Town Home web page, and posting of termination; or
- E. Such other means reasonably calculated to reach and inform all users.

**§ 228-8. State of Water 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.

**§ 228-9. Violations and penalties.**

Any person violating this bylaw shall be liable to the Town in the amount of \$50 for the first violation and \$100 for each subsequent violation, which shall inure to the General Fund. Each day of violation represents an independent violation. Fines shall be recovered by complaint before the District Court. Each separate issuance of a citation pursuant to this article shall constitute a separate violation.

**§ 228-10. Severability.**

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.



ARTICLE II  
**Wastewater Treatment and Disposal**

**§ 228-11. Applicability.**

This bylaw shall apply only to wastewater treatment and disposal facilities (WWTDF) that are constructed by private parties on public property or on property that will become public property upon completion of a project.

**§ 228-12. Condominium association responsibility.**

This bylaw will not apply to WWTDF which service condominium complexes, which must be retained as property of the condominium association. The operations, maintenance, and repair of such are to be solely the responsibility of the condominium association.

**§ 228-13. Facility approval; funding of costs; gift account.**

Such WWTDF will be approved under the following conditions:

- A. The WWTDF must be approved and accepted by the DPW Director and its locus must be deeded to the Town prior to any building being connected.
- B. The project must deposit a sum of money into a Town owned and administered special gift account, which is to be calculated and specified by the DPW Director or the Town Administrator. The amount of the gift will be calculated such that the annual interest earned will be sufficient to fund the annual costs of wastewater treatment and disposal that is in excess of the average cost for wastewater treatment paid by the Town prior to adding said WWTDF to the Town system. The special gift account must be established prior to any building being connected.

**§ 228-14. Waiver.**

The Board of Selectmen may waive strict compliance with this bylaw upon receipt of an application for waiver from the proponent and receipt of comments from the DPW, Board of Health, Inspector of Buildings, and Planning Board.



## WETLANDS PROTECTION

### Chapter 235

## WETLANDS PROTECTION

#### GENERAL REFERENCES

Zoning — See Ch. 240.

Wetlands regulations — See Ch. 247.

Subdivision regulations — See Ch. 245.

---

#### **§ 235-1. Requirements for changing resource areas.**

No person shall remove, fill, dredge or alter any resource areas, or land in or under such areas, within 100 feet of any isolated or contiguous freshwater wetland, marsh, wet meadow, floodplain, bog, swamp, lake, river, pond, stream, creek, bank, estuary or vernal pool, without filing a notice of intent under this bylaw and the Massachusetts Wetlands Protection Act<sup>11</sup> and obtaining an order of conditions approving such work.

#### **§ 235-2. Regulations.**

The Conservation Commission may adopt regulations to implement this bylaw.

#### **§ 235-3. Exceptions.**

This Chapter 235 shall not apply to projects located on property owned by or proposed by the Town of Bellingham or the Commonwealth of Massachusetts or on land or easements owned by the Town of Bellingham or the State of Massachusetts.

---

11. Editor's Note: See M.G.L. ch. 131, §§ 40 and 40A.

BELLINGHAM CODE

**Chapter 236**

**BULK STORAGE**

**§ 236-1. Purpose.**

Businesses engaged in the bulk storage of materials, as defined herein, may cause excessive noise, traffic and odor and may otherwise impact the health safety and welfare of Bellingham residents. As a consequence, all existing and proposed bulk storage operations must obtain a bulk storage license from the Board of Selectmen.

**§ 236-2. Definition.**

**BULK STORAGE** — The outdoor storage of materials, such as, but not limited to, sand, mulch, lumber, coal, or other bulk materials not for retail sales on premises whether as a primary or accessory use of the subject property; and the bulk storage of liquids in tanks except underground as an accessory use.

**§ 236-3. Limitations.**

No more than five bulk storage licenses shall be granted and in effect at any one time. Notwithstanding the foregoing, each bulk storage use existing as of the effective date of this bylaw may be entitled to a license and such license may be renewed, provided that said bulk storage use applies for a license within 60 days from the effective date of this bylaw and provided further that such existing use is compliant with all applicable laws, rules, regulations and accepted standards for such use. In the event that there are more than five existing bulk storage uses that obtain licenses, as aforesaid, no new licenses may be granted until the number of such active licenses falls below five.

**§ 236-4. Term.**

Bulk storage licenses must be renewed annually. Each such license shall terminate on December 31. An application for renewal must be received by no later than November 15 of any given year. The Board of Selectmen shall vote to issue such renewals at duly posted meeting.

**§ 236-5. Standards for issuance.**

When determining issuance or renewal of a bulk storage license the Board of Selectmen may take into consideration any concerns regarding health, safety and welfare of the residents of Bellingham, as well as any environmental concerns. The Selectmen may impose conditions on the issuance or renewal of a bulk storage license. The Selectmen may impose reasonable conditions on any bulk storage license.

**§ 236-6. Revocation.**

In the event that any bulk storage licensee is found to be in violation of its license or of any law, regulation, bylaw or other accepted standard, the Selectmen may commence a proceeding for revocation of the license. Such proceeding shall be commenced by written notice to the licensee of a hearing before the Selectmen, not less than seven days following the date of delivery of such notice. The licensee shall be provided with an opportunity to present evidence and testimony at any such hearing. The Selectmen's decision shall be issued, in writing no later than 21 days following the close of such hearing.

## ZONING

### Chapter 240

## ZONING

#### GENERAL REFERENCES

**Building construction** — See Ch. 30.

**Numbering of buildings** — See Ch. 35.

**Scenic roads** — See Ch. 154.

**Sewers** — See Ch. 165.

**Signs** — See Ch. 169.

**Streets and sidewalks** — See Ch. 191.

**Water** — See Ch. 228.

**Wetlands** — See Chs. 235 and 247.

**Subdivision regulations** — See Ch. 245.

ARTICLE I  
**General Provisions**

**§ 240-1. Purpose.**

The purpose of this bylaw is to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water supply, drainage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan, if any, adopted by the Bellingham Planning Board and the Comprehensive Plan, if any, of the Metropolitan Area Planning Council; and to preserve and increase amenities; pursuant to Chapters 40A, 40B, and 41 of the Massachusetts General Laws as amended, and Article 89 of the Amendments to the Constitution.

**§ 240-2. Responsibility for administration.**

This bylaw shall be enforced by the Inspector of Buildings, who shall take such action as may be necessary to enforce full compliance with the provisions of this bylaw and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to the Town Counsel.

**§ 240-3. Compliance certification.**

No "development" shall be undertaken without certification by the Inspector of Buildings that such action is in compliance with then applicable zoning or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or local law. Issuance of a building permit or certificate of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification. "Development" for these purposes shall mean erecting, moving, substantially altering or changing the use of a building, sign, or other structure, or changing the principal use of land.

**§ 240-4. Submittals.**

In addition to any information which may be required under the Massachusetts State Building Code, the Inspector of Buildings shall require of applicants such information as he deems necessary to determine compliance with this Zoning Bylaw. This may include such things as a site plan indicating land and building uses and provisions for vehicular parking and egress, location of floodplain control elevations, and evidence of performance compliance under Article IX, Environmental Controls.

**§ 240-5. Expiration.**

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

**§ 240-6. Violations and penalties.**

Any person violating any of the provisions of this bylaw, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be fined not more than \$100 for each offense. Each day that such violation continues shall constitute a separate offense.

**§ 240-7. Amendments.**

This bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in M.G.L. ch. 40A, § 5, and any amendments therein.

**§ 240-8. Applicability.**

Where the application of this bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this bylaw shall control.

**§ 240-9. Effective date.**

The effective date of any amendment of this Zoning Bylaw shall be the date on which such amendment was voted upon by a Town Meeting, as provided by M.G.L. ch. 40A, § 5.

**§ 240-10. Severability.**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

ARTICLE II  
**Board of Appeals**

**§ 240-11. Establishment.**

The Board of Appeals shall consist of five members and three associate members, who shall be appointed by the Selectmen and shall act in all matters under this bylaw in the manner prescribed by Chapters 40A, 40B, and 41 of the General Laws.

**§ 240-12. Powers.**

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this bylaw. The Board's powers are as follows:

- A. To hear and decide applications for special permits upon which the Board is empowered to act under this bylaw, in accordance with Article IV, Special Permits.
- B. To hear and decide appeals or petitions for variances from the terms of this bylaw, including variances for use, with respect to particular land or structures. Such variance shall be granted only in cases where the Board of Appeals finds all of the following:
  - (1) A literal enforcement of the provisions of this bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
  - (2) The hardship is owing to circumstances relating to the 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.
  - (3) Desirable relief may be granted without either:
    - (a) Substantial detriment to the public good; or
    - (b) Nullifying or substantially derogating from the intent or purpose of this bylaw.
- C. To hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:
  - (1) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. ch. 40A; or by
  - (2) The Metropolitan Area Planning Council; or by
  - (3) Any person including any officer or board of the Town of Bellingham or of any abutting town, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of M.G.L. ch. 40A; or this bylaw.
- D. To issue comprehensive permits. Comprehensive permits for construction may be issued by the Board of Appeals for construction of low- or moderate-income housing by a public agency or limited dividend or nonprofit corporation, upon the Board's determination that such construction would be consistent with local needs, whether or not consistent with local zoning, building, health or subdivision requirements, as authorized by M.G.L. ch. 40B, §§ 20 through 23.
- E. To issue withheld building permits. Building permits withheld by the Inspector of Buildings acting under M.G.L. ch. 41, § 81Y, as a means of enforcing the Subdivision Control Law<sup>12</sup> may be issued



by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.

**§ 240-13. Public hearings.**

The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws on all appeals and petitions brought before it.

**§ 240-14. Repetitive petitions.**

Repetitive petitions for exceptions, appeals and petitions for variances, and applications to the Board of Appeals shall be limited as provided in M.G.L. ch. 40A, § 16.

ARTICLE III  
**Planning Board**

**§ 240-15. Special permits.**

In instances where this bylaw provides for special permits to be acted upon by the Planning Board, those actions shall be based upon the considerations of Article IV, Special Permits, unless specifically designated otherwise.

**§ 240-16. Development plan approval.**

The purpose of development plan approval is to promote public health, safety, and welfare, by encouraging the laying out of parking, circulation, and buildings in a safe and convenient manner; to ensure that new developments are designed to protect and enhance the visual and environmental qualities of the Town; and to provide for an adequate review of development plans which may have significant impacts on traffic, drainage, Town services, environmental quality and community character.

**A. Applicability.**

- (1) Unless proposed for single-family or two-family use, all development proposals are subject to development plan approval by the Planning Board if proposing any of the following:
  - (a) A new building containing 1,000 or more square feet gross floor area;
  - (b) An addition increasing ground coverage of any building by more than 2,500 square feet or, for buildings having ground coverage exceeding 10,000 square feet, an addition increasing that coverage by more than 10%;
  - (c) Substantial alteration to a parking facility having 10 or more spaces; a change to an existing parking area that either results in fewer parking spaces than required by § 240-59; or
  - (d) Removal/Disturbance of existing vegetative ground cover from more than 10,000 square feet of site area, unless done incidental to earth removal authorized by a special permit under § 240-114.
- (2) No building permit for such development shall be granted prior to Planning Board approval, except as provided at Subsection B(4) of this section.

**B. Procedure.**

- (1) Applicants are urged to confer with the Town Planner/Consultant regarding the materials necessary for submittal for development plan review, if applicable.
- (2) Development plan materials shall be submitted to the Planning Board Office, or other party designated by the Planning Board, who shall forthwith make a determination of whether those materials are complete, and if they are not, shall so notify the applicant and the Inspector of Buildings. Prior to filing an application for development plan approval with the Planning Board, the applicant shall distribute the application packages to Town boards/departments pursuant to the Planning Board's Form K.<sup>13</sup> A copy of the fully executed Form K shall be included in the application package submitted to the Planning Board. Those agencies and officials provided

---

**13. Editor's Note: A copy of Form K is included as an attachment to Ch. 245, Subdivision Regulations.**

with copies shall report their comments on compliance to the Planning Board not later than the time of the Planning Board's public hearing. Failure of these agencies and officials to provide a report to the Planning Board for consideration at the public hearing shall constitute their approval of the project. Prior to voting on the development plan, the Planning Board shall hold a public hearing on the submission. The notice, posting, and publication of the public hearing on the development plan shall be in accordance with the provisions of M.G.L. ch. 40A, § 11. Additionally, notice of the project, including a description of the project, date, time and location of the public hearing, shall be posted prominently on the project site by the applicant. "Prominently" shall mean with a sign or signs of at least two feet by two feet in size and easily visible from each roadway on which the property has frontage. The sign shall be yellow with black lettering, with large text at the top indicating "Public Hearing Notice."

- (3) The Planning Board shall determine whether or not the development plan complies with the requirements of § 240-19, Decision standards, within 60 days of the time that complete materials have been received by the Town Planner/Consultant, approving the plan only if it does. Within 15 days of its vote on the development plan, a copy of the development plan decision shall be filed with the Town Clerk and Inspector of Buildings, with a copy being sent or hand delivered to the applicant. Any interested party aggrieved by the development plan decision may file an appeal with the Board of Appeals within 30 days of the date the decision was filed with the Town Clerk, as provided in M.G.L. ch. 40A, §§ 8 and 15. The Inspector of Buildings shall not approve any building permit application subject to these provisions without receipt of Planning Board approval and expiration of a thirty-day appeal period, as certified by the Town Clerk.
- (4) Failure of the Planning Board to vote within 60 days of filing shall constitute constructive approval. In this case, the Inspector of Buildings shall issue a Certificate of Constructive Approval and file such certificate with the Town Clerk within 15 days of the Planning Board's failure to act. Appeals to the Certificate of Constructive Approval may be filed within 30 days of the date the decision was filed with the Town Clerk, as provided in M.G.L. ch. 40A, §§ 8 and 15. Upon expiration of the statutory appeal period without appeal, the Inspector of Buildings may issue a building permit.
- (5) "As-built" information.
  - (a) As-built information shall be provided to the Department of Public Works after installation of all underground utilities (water, sewer, drain, gas, electric, communications, etc.) and site construction (roads, access ways, driveways, parking, landscaping, lighting, etc.) noted on the approved plans or referenced in the decisions of special permits issued by the Planning Board, and prior to issuance of certificate(s) of occupancy.
  - (b) As-built information shall consist of both a certification from a registered land surveyor, professional land surveyor, or professional engineer that all construction has been completed in accordance with the approved development plan, and a stamped as-built plan (record drawing) showing the location of all buildings and structures, all utilities, including septic system, leaching area, underground piping, vent pipes, drainage facilities, water wells, well piping, electric, gas, and telecommunications lines showing that all construction has been completed in accordance with the approved development plan.
- (6) To assure that ongoing construction complies with the approved development plan, the Town shall inspect all waterworks, wastewater, stormwater pipes, pavement grading, and appurtenant construction. At least one week prior to commencement of construction, the DPW Director shall

be notified by certified mail of the intended commencement. The DPW Director shall, upon receipt of notification, appoint an agent and instruct said agent to make continuing inspections of the work to insure compliance with the approved development plans. The wages of said agent are to be determined by the DPW Director and paid to the Town by the applicant. If the agent is an employee of the Town, the cost will be the employee's standard pay scale plus 50% for indirect payroll costs. If the agent is a consultant, the wages will be in accordance with the agreement for services.

**§ 240-17. Submittals.**

- A. Prior to filing an application for development plan approval with the Planning Board, the applicant shall distribute the application packages to Town boards/departments pursuant to the Planning Board's Form K.<sup>14</sup> A copy of the fully executed Form K shall be included in the application package submitted to the Planning Board.
- B. The following materials shall be submitted for development plan approval, except any not germane to the specific case, as determined by the Planning Board and communicated to the applicant in writing prior to submittal. Refer to the Planning Board's Procedural Rules for additional information on submission requirements.
  - (1) A site plan prepared by a land surveyor, registered architect, landscape architect, professional engineer, showing the following:
    - (a) A locus plan at the scale of one inch equals 200 feet.
    - (b) The project name, North arrow, date, scale, name and address of record owner or owners, applicant, engineer, architect and their proper seals of registration. Names of all abutters within 300 feet of the site boundaries as determined from the latest tax records. If the property owner is not the applicant, a statement of consent from the property owner should be included with the application.
    - (c) Use and ownership of adjacent premises, approximate location of buildings within 50 feet of the site, and if the proposal entails on-site sewage disposal, the approximate location of any wells on or off the premises within 300 feet of the leaching field or other discharge location.
    - (d) Location and boundaries of the site and of any lots proposed, frontage, and abutting land, and an indication of abutting land under same ownership. The location of zoning districts, and overlay zoning districts within the locus of the plan.
    - (e) The location and footprint of existing and proposed buildings/structures, total area of buildings in square feet, streets, ways, drives, driveway openings within 300 feet of the site boundaries, walkways, service areas, parking spaces, loading areas, fences and screening, utilities, waste storage and disposal facilities, wells, and drainage facilities.
    - (f) Existing and proposed topography, at a minimum contour interval of two feet, and vegetation, indicating areas of retained vegetation and identifying the location of significant trees, historic features, and unique natural land features.
    - (g) Indication of wetlands and other areas subject to control under the Wetlands Protection

---

14. Editor's Note: A copy of Form K is included as an attachment to Ch. 245, Subdivision Regulations.

Act, and the one-hundred-foot zone surrounding such areas, identified through field survey acceptable to the Conservation Commission; floodplain and floodway boundaries; and erosion control measures.

- (h) The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other disposal methods.
  - (i) Landscape plan showing planting areas, signs, fences, walls, walks and lighting, both existing and proposed. Location, type, and screening details for all abutting properties and waste disposal containers.
  - (j) The location, height, size, materials, and design of all proposed signage.
  - (k) The location, height, intensity, and bulb type of all external lighting fixtures, the direction of illumination, and methods to reduce glare onto adjoining properties.
  - (l) Location and description of proposed open space and recreation areas.
  - (m) A table of information showing how the plan conforms to the Zoning Bylaw.
- (2) Building floor plans and architectural elevations. A registered architect or engineer shall prepare the floor plans and architectural elevations, unless there is no building involved exceeding 35,000 cubic feet. Building elevation plans shall indicate the type and color of materials to be used on all facades.
- (3) A narrative describing the project, including:
- (a) Proposed use(s);
  - (b) Building or addition size proposed, broken down by use, if applicable;
  - (c) Projected number of employees, hours of operation and description of shifts;
  - (d) Projected parking spaces required (show calculation based on building usage/employees);
  - (e) Proposed methods of screening the premises and parking from abutting property and the street;
  - (f) A calculation of existing and proposed lot coverage;
  - (g) Projected Town water and sewer demand, if any;
  - (h) A discussion of the status of all other required local, state and federal permits (copies of all permits issued for the project shall be included in the application package);
  - (i) A discussion of how the project conforms with the Bellingham Master Plan.
- (4) Drainage calculations/analysis.
- (5) A traffic study/analysis, if required (refer to Planning Board's Subdivision Rules and Regulations for detailed requirements).<sup>15</sup>
- (6) Evaluation of impact on water resources. The applicant shall submit such materials on the measures proposed to prevent pollution of surface and ground water, erosion of soil, excessive

---

15. Editor's Note: See Ch. 245, Subdivision Regulations; and Ch. 246, Traffic Impact Analysis.

runoff of precipitation, excessive raising or lowering of the water table, or flooding of other properties. The evaluation shall include the predicted impacts of the development on the aquifer, and if applicable, and compare the environmental impacts to the carrying capacity of the aquifer.

- (7) Evaluation of impact on landscape. The applicant shall submit an explanation, with sketches as needed, of design features intended to integrate the proposed new buildings, structures and plantings into the existing landscape to preserve and enhance existing aesthetic assets of the site, to screen objectionable features from neighbors and public areas.
- (8) Any additional studies or other materials required under this article, under Article IX, Environmental Controls, and elsewhere in this bylaw.
- (9) A development plan filing fee, as required in the Planning Board Rules and Procedures.

#### **§ 240-18. Proposals in two municipalities.**

Where a proposal is located in part in the Town of Bellingham and in part in an adjacent municipality, the provisions of development plan review shall apply as follows.

- A. Applicability of development plan review shall be determined by testing the entire proposal in both communities against the thresholds of § 240-16A.
- B. Submittals for the portion lying in the Town of Bellingham shall be as specified at § 240-17. For portions lying outside the Town, only those items necessary for the determinations of Subsection C of this section need be submitted.
- C. The proposal shall be approved, provided that the portion lying within the Town of Bellingham complies with the requirements of the Zoning Bylaw and provided that outcomes from the entire development for impacts limited by the terms of this bylaw, such as light overspill (§ 240-49B), comply as measured in Bellingham.

#### **§ 240-19. Decision standards.**

The Planning Board shall approve a development plan only upon its determination that:

- A. The performance requirements of this bylaw (e.g., Article IX, Environmental Controls, and Article X, Parking and Loading Requirements) have been met.
- B. For the given location and type and extent of land use, the design of building form, building location, egress points, grading, and other elements of the development could not reasonably be altered to:
  - (1) Improve pedestrian or vehicular safety within the site and egressing from it;
  - (2) Reduce the visual intrusion of parking areas viewed from public ways or abutting premises;
  - (3) Reduce the volume of cut or fill;
  - (4) Reduce the number of removed trees eight inches trunk diameter and larger;
  - (5) Reduce soil erosion;
  - (6) Reduce hazard or inconvenience to pedestrians from stormwater flow and ponding.
- C. Adequate access is provided to each structure for fire and service equipment.

- D. Adequate utility service and drainage is provided, consistent where apt with the performance intent of the Design Standards of the Subdivision Regulations of the Bellingham Planning Board, as in effect at the time of the submission of the development plan.<sup>16</sup>
- E. Adequate capacity is available on impacted streets to accommodate the proposed project, based on a traffic study prepared in accordance with the traffic guidelines/regulations contained in the appendix of the Planning Board's Rules and Regulations for the Subdivision of Land.<sup>17</sup> If a development is projected to cause a decrease in level of service (LOS) over the no-build condition on impacted streets, the Planning Board, at its sole discretion, may require implementation of mitigative measures and/or transportation demand management (TDM) measures to restore the LOS to the no-build condition.
- F. No other zoning violations are observed.

#### **§ 240-20. Duration of approval.**

Development plan approval shall become void two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in M.G.L. ch. 40A, § 15, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion. In such case a request for extension of the date of completion must be submitted to the Planning Board in writing no less than 30 days prior to the date of expiration.

#### **§ 240-21. Performance guarantee.**

As a condition of development plan approval, the Planning Board may require that a performance guarantee, secured by deposit of money or negotiable securities, in the form selected by the Planning Board be posted with the Town to guarantee completion of improvements to be made in compliance with the plans submitted and approved hereunder. The amount of security shall be determined by an estimate from the applicant's engineer which may be confirmed or increased by the Board. The Town may use the secured funds for their stated purpose in the event that the applicant not complete all improvements in a manner satisfactory to the Board within two years from the date of approval, or the final date of the last extension of such approval, if any.

#### **§ 240-22. Site plan review.**

The purpose of the site plan review is to promote public health, safety and welfare by encouraging the laying out of parking, egress and change in uses in a safe and convenient manner for existing structures and/or construction of new development that do not require a development plan review.

- A. Applicability. The following development proposals, unless required to receive development plan approval under § 240-16, require site plan review by the Planning Board prior to approval for a building or occupancy permit by the Inspector of Buildings:
  - (1) Any nonresidential development in a Business 1, Business 2 or Industrial Zone exceeding 10,000 square feet.
  - (2) Any change from a dwelling or residence in a Business 1, Business 2 or Industrial Zone to a business or industrial use, excluding, however, home occupations under § 240-72.

---

16. Editor's Note: See Ch. 245, Subdivision Regulations.

17. Editor's Note: See Ch. 245, Subdivision Regulations.

- B. Procedure. Materials required for site plan review shall be submitted to the Inspector of Buildings with or prior to application for a building or occupancy permit requiring site plan review. The Inspector of Buildings shall forthwith transmit such materials to the Planning Board, along with notification of the date by which action on the permit application is required. The Planning Board shall consider the materials at a meeting, and shall report its findings in writing to the Inspector of Buildings prior to the date on which he must act on the permit application. Failure to do so shall be construed as lack of objection. The Inspector of Buildings shall approve applications subject to site plan review only consistent with Planning Board findings timely received.
- C. Submittals. The applicant shall provide as much of the materials specified at § 240-17 for development plan approval as is reasonably necessary for the Planning Board to determine compliance with § 240-19, Decision standards, and a filing fee as required under a schedule of fees to be established and from time to time amended by the Planning Board, based upon the actual cost of review. Applicants are urged to confer with the Town Planner regarding the materials necessary for submittal for site plan review.
- D. Planning Board Associate Member. As authorized in M.G.L. ch. 40A, § 9, there shall be one Associate Member of the Planning Board. Such associate shall act on special permit applications when designated to do so by the Planning Board Chairman, in case of absence, inability to act, or conflict of interest on the part of any member of the Board, or in the event of a vacancy on the Board. The Associate Member shall be appointed for a three-year term by majority vote of the Selectmen and members of the Planning Board, in the same manner as for filling a vacancy.
- E. Repetitive petitions. Repetitive petitions for appeals, special permits and applications to the Planning Board shall be limited as provided in M.G.L. ch. 40A, § 16.



ARTICLE IV  
**Special Permits**

**§ 240-23. Special permit granting authority.**

Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

**§ 240-24. Public hearings.**

Special permits shall only be issued following public hearings held within 65 days after filing with the special permit granting authority an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

**§ 240-25. Criteria.**

Special permits shall be granted by the special permit granting authority only upon its written determination that the proposed use will not have adverse effects which over-balance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following:

- A. Social, economic or community needs which are served by the proposal;
- B. Traffic flow and safety;
- C. Adequacy of utilities and other public services;
- D. Neighborhood character and social structures;
- E. Qualities of the natural environment;
- F. Potential fiscal impact.

**§ 240-26. Permit recording.**

Special permits shall not take effect until the board which acted on the permit has received documentation from the applicant that a copy of the decision, certified by the Town Clerk, has been recorded in the Norfolk County Registry of Deeds, as required at M.G.L. ch. 40A, § 11.

**§ 240-27. Expiration.**

Special permits shall lapse within 12 months of special permit approval (plus time required to pursue or await the determination of an appeal referred to in M.G.L. ch. 40A, § 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

ARTICLE V  
General Use Regulations

**§ 240-28. Establishment of districts.**

- A. For purposes of this bylaw, the Town of Bellingham is hereby divided into the following types of districts:

Agricultural District	A
Suburban District	S
Residential District	R
Multifamily Dwelling District	M
Business District	B-1, B-2
Industrial District	I

- (1) The boundaries of these districts are defined and bounded on the map entitled "Zoning Map, Bellingham, Massachusetts," on file with the Town Clerk. That map and all explanatory matter thereon is hereby made a part of this bylaw.<sup>18</sup>
  - (2) In addition, there are nine overlay districts: Floodplain District as established § 240-110, Water Resource District as established at § 240-132, Adult Use Districts No. 1 and No. 2 as established at Article XXII of this chapter, the Mill Reuse Overlay District as established at Article XXIII, the Wethersfield Overlay District as established at Article XXVII, The Hartford Avenue Overlay District, established under Article XXVI, the 55+ Active Adult Overlay District, as established at Article XXVIII of this chapter, and the Downtown Residential Development Overlay District, as established at Article XXIX of this chapter.
- B. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines, or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines shall be construed to be actually parallel, perpendicular, or radial thereto; when appearing to follow shoreline shall coincide with the mean low-water line. When not locatable in any other way, boundaries shall be determined by scale from the map.
- C. Where a district boundary line divides any lot existing at the time such boundary line is adopted, the zoning regulations shall apply as follows.
- (1) In the case of a use allowed in both districts, the lot shall be considered as a whole, and the dimensional regulations of the district in which the majority of the lot frontage lies shall apply to the entire lot.
  - (2) Where a lot is transected by a zoning district boundary line, the regulations of these Zoning Bylaws applicable to the lesser restricted district may, at the option of the owner, be deemed to govern in the more restricted district, up to a distance of not more than 30 feet from said district boundary.
- D. When a lot in one ownership is situated in part in the Town of Bellingham and in part in an adjacent

---

18. Editor's Note: A copy of the Zoning Map is included as an attachment to this chapter.

municipality, the provisions of this bylaw shall be applied to that portion of the lot lying in the Town of Bellingham in the same manner as if the entire lot were situated therein.

**§ 240-29. Use regulations.**

- A. No building or structure shall be erected or used and no premises shall be used except as set forth in the Use Regulations Schedule,<sup>19</sup> or as exempted by § 240-30 or by statute.

(1) Symbols employed shall mean the following:

Yes	-	A permitted use
No	-	An excluded or prohibited use

(2) Use authorized under special permit as provided for in Article IV:

BA	-	Acted on by the Board of Appeals
PB	-	Acted on by the Planning Board
BS	-	Acted on by the Board of Selectmen

- B. Where an activity might be classified under more than one of the following uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.
- C. Uses listed nowhere in § 240-31 are prohibited, except that such a use may be allowed on special permit if the Board of Appeals determines that it closely resembles in its neighborhood impacts a use allowed or allowed on special permit in that district.

**§ 240-30. Nonconforming uses and structures.**

Legally preexisting nonconforming structures and uses may be continued, subject to the following:

- A. Change, extension or alteration. As provided in M.G.L. ch. 40A, § 6, a nonconforming single- or two-family dwelling may be altered or extended, provided that doing so does not increase the nonconforming nature of said structure. Other preexisting nonconforming structures or uses may be extended, altered, or changed in use on special permit from the Board of Appeals if the Board of Appeals finds that such extension, alteration, or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.
- B. Restoration. Any legally nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if reconstructed within a period of two years from the date of the catastrophe, or else such reconstruction must comply with this bylaw.
- C. Abandonment. A nonconforming use or structure which has been abandoned, or discontinued for a period of two years, shall not be reestablished; provided, however, that, by special permit granted by

---

19. Editor's Note: The Use Regulations Schedule is included as an attachment to this chapter.

the Zoning Board of Appeals, the use of an abandoned nonconforming residential structure, or any portion thereof, may be reestablished. In all other respects, any future use of the subject premises shall conform with this bylaw.

- D. Replacement. Replacement of mobile homes or commercial vehicles parked in nonconformity with § 240-31 is not permitted, even where such replacement does not increase the extent of nonconformity.

### § 240-31. Use Regulations Schedule.

Activity or Use	DISTRICT				
	A	S, R	M	B-1, B-2	I
<b>AGRICULTURAL USES</b>					
Livestock raising on parcel under five acres <sup>1</sup>	Yes	No	No	No	No
Other farm <sup>1</sup>	Yes	Yes	Yes	Yes	Yes
Greenhouse					
With retail sales <sup>2</sup>	Yes	Yes	Yes	Yes	Yes
Wholesale only	Yes	Yes	Yes	Yes	Yes
Roadside stand <sup>2</sup>		Yes	Yes	Yes	Yes
<b>COMMERCIAL USES</b>					
Animal kennel or hospital	No	No	No	BA	BA
Business or professional offices	No	No	No	Yes	Yes
Medical clinic	No	No	No	Yes	Yes
Funeral home	No	No	No	Yes	Yes
Auto, boat, or farm equip, sales, rental, service	No	No	No	Yes	Yes
Printing shop	No	No	No	Yes	Yes
Bank, financial office	No	No	No	Yes <sup>15</sup>	Yes <sup>15</sup>
Restaurant	No	No	No	Yes <sup>15</sup>	Yes <sup>15</sup>
Retail sales or service	No	No	No	Yes <sup>15</sup>	Yes <sup>15</sup>
Retail sale of gasoline <sup>5</sup>	No	No	No	BS	BS
Wholesaling without storage	No	No	No	Yes	Yes
Major business complex <sup>3</sup>	No	No	No	PB <sup>4</sup>	PB
Marijuana cultivator	No	No	No	No	PB
Marijuana establishments	No	No	No	No	No

Activity or Use	DISTRICT				
	A	S, R	M	B-1, B-2	I
Medical marijuana treatment center	No	No	No	No	No
<b>INDUSTRIAL USES</b>					
Major business complex <sup>3</sup>	No	No	No	PB <sup>4</sup>	PB
Manufacturing for on-site sales <sup>6</sup>	No	No	No	Yes	Yes
Other manufacturing, research	No	No	No	No	Yes
Contractor's yard	No	No	No	No	Yes <sup>19</sup>
Earth removal <sup>7</sup>	BA	BA	BA	BA	BA
Waste processing or disposal:					
Junkyard, secondhand auto parts	No	No	No	No	BS
Hazardous or radioactive	No	No	No	No	No
Other municipal	No	No	No	No	BS
Other private	No	No	No	No	No
Transportation terminal	No	No	No	No	Yes
Warehouse	No	No	No	No	No
Commercial radio transmission	No	No	No	Yes	Yes
Laundry or dry-cleaning plant	No	No	No	Yes	Yes
Electrical generating facility (power plant)	No	No	No	No	Not to exceed 3
Large-scale ground-mounted solar photovoltaic	No	No	No	No	Yes
Installation pursuant to Article 5300					
<b>INSTITUTIONAL USES</b>					
Municipal use	Yes	Yes	Yes	Yes	Yes
Religious use	Yes	Yes	Yes	Yes	Yes
Educational use exempted from zoning prohibition by M.G.L. ch. 40A, § 3	Yes	Yes	Yes	Yes	Yes
Other educational use	BA	BA	BA	BA	BA
Cemetery	Yes	Yes	Yes	Yes	Yes
Hospital	BA	BA	BA	BA	BA

Activity or Use	DISTRICT				
	A	S, R	M	B-1, B-2	I
Nursing, convalescent, or rest home	BA	BA	BA	BA	BA
Philanthropic or charitable institutions	BA	BA	BA	BA	BA
Public utility with service area	No	No	No	No	Yes
Public utility without service area	BA	BA	BA	BA	Yes
Club or lodge	BA <sup>8</sup>	BA <sup>8</sup>	BA <sup>8</sup>	Yes	Yes
<b>RECREATIONAL USES</b>					
Camping, supervised	Yes	BA	BA	Yes	Yes
Camping, commercial	BA	No	No	No	No
Golf course, standard or par three	Yes	Yes	Yes	Yes	Yes
Conference, training, or meeting facilities in conjunction with a standard golf course <sup>18</sup>	PB	PB	PB	PB	PB
Indoor commercial recreation	No	No	No	Yes	Yes
Outdoor commercial recreation	No	No	No	BA	BA
Sportsman's club, game preserve	Yes	No	No	Yes	Yes
Public stables	BA	No	No	BA	BA
Bath houses, commercial beaches	BA	BA	BA	Yes	Yes
Commercial picnic, outing areas	BA	BA	BA	Yes	Yes
<b>RESIDENTIAL USES</b>					
Dwelling					
Single-family	Yes	Yes	Yes	Yes	No <sup>9</sup>
Two-family	Yes	Yes	Yes	Yes	No
Townhouse <sup>12</sup>	PB	PB	PB	PB	No
Other multifamily	No <sup>10</sup>	No <sup>10</sup>	PB <sup>11,12</sup>	No <sup>10</sup>	No <sup>10</sup>
Assisted elderly housing <sup>16</sup>	PB	PB	PB	PB	No
Boarding or rooming	No <sup>10</sup>	No <sup>10</sup>	BA	No <sup>10</sup>	No <sup>10</sup>
Motel, hotel	No	No	No	BA	Yes
Mobile home	No	No	No	No	No
Public housing	Yes	Yes	Yes	Yes	No
Major residential development <sup>17</sup>	PB	PB	PB	PB	No

Activity or Use	DISTRICT				
	A	S, R	M	B-1, B-2	I
<b>OTHER PRINCIPAL USES</b>					
Temporary structures	BA	BA	BA	BA	BA
Airport, heliport	No	No	No	Yes	Yes
<b>ACCESSORY USES</b>					
Parking provisions for:					
Private autos of residents on premises	Yes	Yes	Yes	Yes	Yes
One light commercial vehicle	Yes	Yes	Yes	Yes	Yes
Two or three light commercial vehicles, or one heavy commercial vehicle					
Accessory to residential use	BA	No	No	Yes	Yes
Accessory to nonresidential use	Yes <sup>13</sup>	Yes <sup>13</sup>	Yes <sup>13</sup>	Yes	Yes
Farm vehicles and equipment on active farms	Yes	Yes	Yes	Yes	Yes
Other parking	No	No	No	BA	BA
Home occupation	*	*	*	*	*
Signs (see Article VI)	Yes	Yes	Yes	Yes	Yes
Private stable <sup>14</sup>	Yes	BA	No	Yes	Yes
Animal kennel <sup>14</sup>	BA	BA	No	BA	BA
Livestock raising <sup>14</sup>	Yes	BA	No	No	No
Swimming pool	Yes	Yes	Yes	Yes	Yes
Accessory scientific use in accordance with § 240-66	BA	BA	BA	BA	BA
Family apartment (see § 240-67)	BA	BA	BA	BA	No
Bulk storage	No	No	No	No	PB <sup>19</sup>
Other customary accessory uses	Yes	Yes	Yes	Yes	Yes

## FOOTNOTES:

1. Cattle, horses, sheep, hogs, goats, or similar livestock shall be maintained only on premises having an area of not less than 40,000 square feet plus 15,000 square feet per large animal (25 pounds or heavier at maturity) in excess of one or per 10 smaller animals in excess of the first 10. Such animals and their wastes shall be contained at least 50 feet from any abutting lot line of a residentially used lot, and at least 50 feet from any year-round surface water body.
2. At least 3/4 of the retail sales must be of produce raised on land within the Town of Bellingham in the same ownership as the stand or greenhouse.
3. See Article XVII.
4. No in B-1 Districts.
5. See Article XVIII.
6. More than half the volume sold as retail on the premises.
7. See Article XVI.
8. Except those whose chief activity is one customarily carried on as a business.
9. Except single-family dwelling for personnel required to reside on the premises for the safe operation of a permitted use.
10. Except that an existing dwelling may, on special permit from the Board of Appeals, be altered to house up to four families or for boarding or lodging, provided that the Board of Appeals shall find that the structure could not reasonably be used or altered and used for any permitted purpose.
11. Except that multifamily shall not include public housing.
12. See § 240-95.
13. But none in excess of the number legally parked on the effective date of this amendment.



## FOOTNOTES:

14. Cattle, horses, sheep, hogs, goats, or similar livestock shall be maintained accessory to a dwelling only on a lot having an area of not less than 40,000 square feet plus 15,000 square feet per large animal (25 pounds or heavier at maturity) in excess of one or per 10 smaller animals in excess of the first 10. Such animals and their wastes shall be contained at least 50 feet from any abutting lot line of a residentially used lot, and at least 50 feet from any year-round surface water body.
15. Except "PB" if service is provided to patrons while in their automobiles, special permits to be approved only upon determination by the Planning Board that traffic projected to be generated will be accommodated without reduction in the traffic level of service on any affected off-premises lane, and without either hazard for vehicular traffic or hazard or inconvenience for pedestrians.
16. See § 240-95.
17. See Article XIII.
18. Provided that the sum of the gross floor areas of all buildings on the site equals not more than 1% of the land area on the premises. If in an A, S or R District no building for this use may be less than 200 feet from the nearest property line.
19. Special permit from the Planning Board if applicant demonstrates that bulk storage is accessory to an allowed primary use on the same premises. See General Bylaws for licensure requirements.
- \* See § 240-65.

## ARTICLE VI

**Definitions.****§ 240-32. Terms defined.<sup>20</sup>**

In this bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings. Words used in the present tense include the future, and the plural includes the singular, the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

**ACCESSORY BUILDING** — A building detached from, incidental to, located on the same premises as, and functionally dependent on the principal use of the premises.

**ACCESSORY USE** — An activity incidental to and located on the same premises as a principal use conducted by the same person or his agent. No use shall be considered "accessory" unless functionally dependent on and occupying less land area than the principal use to which it is related and occupying less than one quarter as much habitable floor area as that principal use.

**ADDITION** — An extension or increase in floor area or height of a building or structure that shares at least one wall in common with the existing building or structure.

**ADULT USES** — The uses defined in Article XXII of these bylaws.

**ALTERNATIVE ENERGY AND RENEWABLE ENERGY MANUFACTURING FACILITIES** — Include, but are not limited to, the following: manufacturing of solar panel production, wind turbine or hydro turbine production, and fuel cell production.

**ALTERNATIVE ENERGY AND RENEWABLE ENERGY RESEARCH AND DEVELOPMENT FACILITIES** — Include, but are not limited to, the following: research and development facilities used for research to improve the efficiency of, or reduce pollution from biomass power facilities, research and development intended to enhance geothermal systems, research related to advance battery systems.

**ANIMAL KENNEL OR HOSPITAL** — Premises used for the harboring and/or care of more than three dogs or other domestic non-farm animals three months old or over. Use shall be so classified regardless of the purpose for which the animals are maintained or whether fees are charged or not.

**ARTERIAL STREET** — Any state-numbered highway, any street having a right-of-way width of 60 feet or more, plus the following named streets:

Blackstone Street	Center Street	Cross Street
Depot Street	Elm Street	Hartford Avenue
High Street	Lake Street	Maple Street
Paine Street	Pulaski Boulevard	South Maple Street
Wrentham Road		

**ASSISTED ELDERLY HOUSING** — One or more dwellings, regardless of structural type (single-family, two-family, multifamily), which are structurally configured to serve the elderly, meeting then-current

---

20. Editor's Note: For definitions related to specific regulations in this chapter, see the following: Parking Bylaw, see Art. X, § 240-57; major residential development, see Art. XIV, § 240-81; Water Resource Districts, see Art. XX, § 240-134; wireless communications facilities, see Art. XXI, § 240-142; adults uses, see Art. XXII, § 240-149; Mill Reuse Overlay District, see Art. XXIII, § 240-156; large-scale ground-mounted solar photovoltaic installations, see Art. XXIV, § 240-163; inclusionary housing, see Art. XXV, § 240-173.

physical standards for publicly assisted elderly housing and having no units containing more than two bedrooms; and for which there is publicly enforceable assurance that each resident household will consist entirely of members at least 55 years old; and for which there is contract assurance of support services, such as meals, housekeeping, social services, health services or transportation.

**BEDROOM** — In a dwelling, any habitable room having more than 70 square feet floor area, if not a living room, dining room, kitchen, or bathroom. Any dwelling unit in which no such room exists shall be construed to contain one bedroom.

**BOARDING or ROOMING** — A building, other than a hotel or motel, where rooms (without kitchens) are rented to three or more persons by the week or longer, and meals may (or may not) be regularly served to roomers by pre-arrangement for compensation.

**BUILDING** — A structure enclosing useful space.

**BUILDING HEIGHT** — The vertical distance from the mean finished grade of the ground adjoining the building to the highest point of the roof for flat or shed roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

**BULK STORAGE** — Outdoor storage of materials, such as, but not limited to, sand, mulch, lumber, coal, or other bulk materials not for retail sales on premises accessory to a primary use, and bulk storage of liquids in tanks, except underground, as an accessory use.

**CAMPER** — A vehicle used as a temporary dwelling for travel, recreational and vacation uses.

**CAMPING, COMMERCIAL** — Premises used for campers, tenting, or temporary overnight facilities of any kind, operated seasonally, where a fee is charged.

**CAMPING, SUPERVISED** — Facilities operated on a seasonal basis for a continuing supervised recreational, health, educational, religious, and/or athletic program, with persons enrolled for periods of not less than one week.

**CLUB or LODGE** — Premises or buildings of a nonprofit organization exclusively servicing members and their guests for recreational, athletic, or civic purposes, but not including any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club. Does not include golf clubs or sportsmen's clubs as elsewhere defined, or clubs or organizations whose chief activity is a service customarily carried on as a business.

**CONFERENCE, TRAINING, OR MEETING FACILITIES** — A structure or series of structures providing conference, seminar or meeting facilities and dining but not overnight accommodation.

**CONTINUING CARE RETIREMENT COMMUNITY** — A managed development that provides housing, services and nursing care to persons over 55 years of age; and which includes independent living units, assisted living units, nursing home accommodations, and accessory medical, support services, food services, and recreational uses; and for which there is a legal agreement that assures life care to residents and support services appropriate to each type of housing.

**CONTRACTOR'S YARD** — Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

**DESIGNATED NATURAL OR CULTURAL RESOURCES** — Locations or structures of outstanding natural or cultural importance as documented in inventory materials approved and amended from time to time by either the Bellingham Conservation Commission (such as wetlands, vernal pools, or habitat of endangered species) or the Bellingham Historical Commission (such as historic sites, archeological resources, or other resources listed in the MA Register of Historic Places) following a public hearing thereon with notice as required by M.G.L. ch. 40A, § 11, for a zoning amendment, as certified and filed

with the Town Clerk.

**DETACHED STRUCTURE** — A freestanding structure with no common or party walls, common foundation walls or otherwise physically connected.

**DWELLING, MULTIFAMILY** — A structure containing three or more dwelling units, whether for rental, condominium ownership or other form of tenure, but not including public housing. Porches, walkways, patios or other structures of a like nature between two detached structures do not constitute a multifamily dwelling.

**DWELLING, SINGLE-FAMILY** — A detached residential building containing a single dwelling unit, or a single dwelling unit plus a family apartment as authorized by § 240-74.

**DWELLING, TOWNHOUSE** — A multifamily dwelling containing at least three but not more than eight dwelling units, separated by party walls, each unit having a separate exterior entrance and being held in separate and distinct ownership (such as in a condominium) or being owned by a Massachusetts cooperative and held by separate and distinct shares.

**DWELLING, TWO-FAMILY** — A detached residential building intended and designed to be occupied exclusively by two families.

**DWELLING UNIT** — Living quarters for a single family with cooking, living, sanitary and sleeping facilities independent of any other unit.

**ERECTED** — The word "erected" shall include the words "built," "constructed," "reconstructed," "altered," "enlarged" and "moved."

**FAMILY** — Any number of individuals living and cooking together in a single housekeeping unit.

**FAMILY APARTMENT** — A self-contained housing unit consisting of one or more rooms with separate kitchen and bathroom facilities to be incorporated within an existing single-family dwelling, or as an addition to same, to be utilized by grandparents, parents, children, grandchildren, brothers or sisters or their spouses and children or the property owner or spouse. Family apartments shall not be considered two-family dwellings.

**FARM** — Premises containing at least five acres used for gain in raising of agricultural products, livestock, poultry, and/or dairy products. "Farm" includes necessary farm structures and the storage of equipment used, but excludes public stables, and animal kennels or hospitals.

**FLOOR AREA, LEASABLE** — The sum of the area on the several floors of a building which is or could be leased, including leasable basements.

**FOUNDATION** — The portion of a structure that serves to transfer the weight of the building into the ground itself. Most foundations extend underground.

**GOLF COURSE** — Premises having not fewer than nine holes improved with tees, greens, fairways, and hazards for playing the game of golf, not including driving ranges or miniature golf. A "standard" course averages not less than 240 yards from tee to green. A "par three" course averages less than 240 yards but more than 80 yards from tee to green.

**HAZARDOUS MATERIALS** — Any substance or combination of substances which, because of quantity, concentration, or physical, chemical, or infectious characteristics, pose a significant present or potential hazard to water supplies or to human health if disposed into or on any land or water in this Town. Any substance deemed a "hazardous waste" under M.G.L. ch. 21C shall also be deemed a hazardous material for purposes of this bylaw.

**HOME OCCUPATION** — A business or profession engaged in within a dwelling by a resident thereof as

a use accessory thereto.

**HOTEL or MOTEL** — A structure providing sleeping rooms for resident or transient guests, and where public eating facilities are provided; but not including buildings of charitable, educational or philanthropic institutions.

**IMPERVIOUS** — Impenetrable by surface water.

**JUNKYARD** — The use of any premises, whether licensed or not, where waste or scrap articles or materials are abandoned, stored, sorted, parked, bought, or sold, as a principal use, except where such activities are carried out entirely within an enclosed building and except where more specifically categorized in this bylaw, such as "secondhand auto parts.

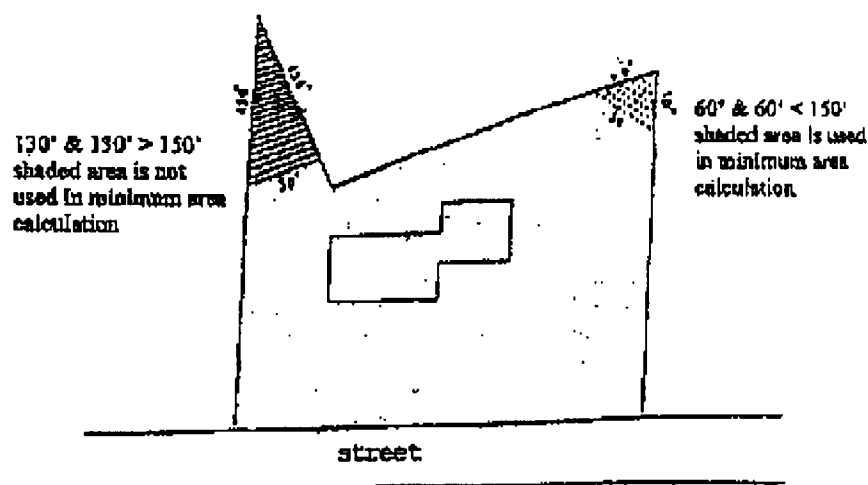
**LANDSCAPED OPEN SPACE** — Space not covered by any structure, and not used for drives, parking, utilities or storage; comprising landscaped areas and outdoor recreational facilities, including those on balconies or over structures if so developed.

**LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) PROJECT CERTIFICATION** — A rating and certification by the U.S. Green Building Council that a building project meets industry standards for high-performance, sustainable design.

**LIVESTOCK RAISING** — The raising or harboring of 10 or more poultry or of more than two cattle, horses, sheep, hogs, goats, minks, rabbits, or similar farm animals six months old or older.

**LOT** — An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose.

**LOT AREA** — The horizontal area of the lot exclusive of any area in a street or way open to public use. At least 90% of the lot area necessary for compliance with minimum lot area requirements shall also be exclusive of areas subject to protection under the Wetlands Protection Act, M.G.L. ch. 131, § 40, for reasons other than being subject to flooding. If the distance between any two points on lot lines is less than 50 feet, as measured in a straight line, the smaller portion of the lot as divided by that line shall not be included in lot area unless the two points are separated by less than 150 feet measured along lot lines.



**LOT, CORNER** — A lot which has an interior angle of less than  $135^\circ$  at the intersection of two street lines. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the point of

intersection of the side lot lines intersect with an interior angle of less than 135°.

**LOT COVERAGE** — Percentage of total lot area covered by structures or roofed.

**LOT FRONTAGE** — The boundary of a lot on land coinciding with a street line if there are both rights of access and potential vehicular access across that boundary to a potential building site, measured continuously along one street line between side lot lines; in the case of corner lots, measured between the side lot line and the mid-point of the corner radius on the street designated as the frontage street by the owner or, failing that, by the Building Inspector.

**MAJOR BUSINESS COMPLEX** — Development of any one or more of the following in aggregate on the same premises:

- A. More than 50,000 square feet of gross floor area devoted to one or more of the uses listed under "Commercial Uses" in § 240-31, Use Regulations Schedule; or
- B. More than 250,000 square feet of gross floor area devoted to one or more of the uses listed under "Industrial Uses" in § 240-31, Use Regulations Schedule; or
- C. Any one or more of the uses listed under "Commercial Uses" or "Industrial Uses" in § 240-31, Use Regulations Schedule, if they would be required under § 240-59 to among them provide 250 or more parking spaces; or
- D. Average daily water demand, regardless of source, exceeding 100,000 gallons per day.

**MAJOR RESIDENTIAL DEVELOPMENT** — A residential development, whether subdivision or not, in which the buildings are arranged in a manner that maximizes available open space, as more particularly described in Article XIV of these Zoning Bylaws.

**MANUFACTURING** — Fabrication, processing, assembly, finishing, or packaging.

**MARIJUANA CULTIVATOR** — An entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments, and/or medical marijuana treatment centers and to transfer marijuana to other marijuana establishments and/or medical marijuana treatment centers, but not to consumers.

**MARIJUANA ESTABLISHMENTS** — A marijuana independent testing laboratory, marijuana product manufacturer, or marijuana retailer, all as defined in MGL c. § 1, but not including marijuana cultivators.

**MEDICAL CLINIC** — An institution or place providing medical, surgical, dental, restorative or mental hygiene services to persons not residing therein, under license as a clinic under M.G.L. ch. 111, § 51.

**MEDICAL MARIJUANA TREATMENT CENTER** — A not-for-profit entity, as defined by Massachusetts law only, registered under Chapter 369 of the Acts of 2012, that acquires, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, but not including marijuana cultivators.

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

**MOTOR VEHICLE SERVICE STATION** — Premises devoted primarily to retail sale of fuels and lubricants and/or washing of motor vehicles, with any repair services or other sales or services of secondary importance.

**MUNICIPAL USE** — Premises used for any operation by the Town government except as elsewhere more specifically defined.

**NONCONFORMING USE OR BUILDING** — A lawfully existing use or building which does not conform to the regulations for the district in which such use or building exists.

**NURSING, CONVALESCENT, OR REST HOME** — Premises for the care of three or more persons, as licensed by the Massachusetts Department of Public Health.

**PARKING SPACE** — Space adequate to park an automobile, plus means of access. Where spaces are not marked, each space shall be assumed to require 350 square feet.

**PARTY WALL** — A wall shared by buildings constructed on either side of it. Such a wall contains no openings, passage or access and extends from its footing below finished grade to the underside of the roof sheathing. Also called "common wall."

**PATIO** — A courtyard open to the sky or a paved area adjoining a house, for outdoor lounging, dining, etc.

**PHILANTHROPIC INSTITUTION** — An endowed or charitably supported nonprofit religious or nonsectarian activity maintained for a public or semi-public use.

**PORCH** — A covered entrance to a building and forming a sort of vestibule within the main wall, or an open or enclosed gallery or room on the outside of the building projecting without or with a separate roof.

**PUBLIC HOUSING** — Housing operated by a public body.

**PUBLIC STABLE** — Premises where two or more horses are kept for remuneration, hire or sale.

**RENEWABLE ENERGY** — Energy generated from natural resources such as sunlight, wind, rain, and geothermal heat, which are naturally replenished. Renewable energy is natural, which does not have a limited supply. Renewable energy can be used again and again, and will never run out. Renewable energy sources include biomass, hydro, geothermal, solar, tidal wave, and wind.

**RESEARCH AND DEVELOPMENT FACILITIES** — Facilities used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses.

**ROADSIDE STAND** — Premises for the sale of agricultural products, the major portion of which were raised on the premises.

**SIGN** — Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one square foot in area and bearing only property numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- B. Flags and insignia of any government except when displayed in connection with commercial promotion;
- C. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
- D. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;

E. Temporary signs erected for any charitable or religious cause.

**SIGN, ACCESSORY** — A sign whose subject matter relates to the premises on which it is located, or to products, accommodations, services, or activities on the premises.

**SIGN, AREA OF** — The entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. One side only of signs with faces at 180° to each other shall be counted. Frames and structural members not bearing advertising matter shall not be included in computation of sign area.

**SIGN, POLITICAL** — A sign whose subject matter relates to a candidate or candidates for elective office or to a question to appear on an election ballot.

**SIGN, TEMPORARY** — Any sign which, by its inherent nature, can be expected to remain in place and be altered for less than six months, such as those made of nondurable materials (e.g., cardboard), those with content of transient usefulness (e.g., announcements) or portable signs.

**STREET** — Either:

- A. A public way or a way which the Town Clerk certifies is maintained and used as a public way; or
- B. A way shown on a plan approved in accordance with the Subdivision Control Law;<sup>21</sup> or
- C. A way in existence when the subdivision control became effective in Bellingham, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

**STREET LINE** — The property line defining the outside of the street right-of-way.

**STRUCTURE** — Anything constructed or erected, the use of which requires location on the ground, including buildings, mobile homes, billboards, swimming pools, tanks, or the like, or part thereof.

**SWIMMING POOL** — Any constructed pool, located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading, or bathing purposes. Pools having a depth of two feet or more and having a capacity of 200 cubic feet or more in volume shall be considered structures.

**TEMPORARY STRUCTURE** — Tent, construction shanty, or similarly portable or demountable structure intended for continuous use for not longer than one year.

**TRAILER** — A towed vehicle for transportation of goods or animals, but not intended for human occupancy.

**TRANSPORTATION TERMINAL** — Premises principally used for the parking, storage, and servicing of trucks or buses, and/or loading or unloading of cargo or passengers into vehicles or storage, but not including such activities if accessory to a principal use.

**VEHICLE, HEAVY COMMERCIAL** — A bus or truck having capacity in excess of the limits for a light commercial vehicle, or motorized construction equipment other than trucks.

**VEHICLE, LIGHT COMMERCIAL** — A taxi; a bus with capacity not exceeding 10 passengers; or a truck with GVW rating not exceeding 14,000 pounds and enclosed cargo area not exceeding 400 cubic feet.

**WALKWAY** — A path set aside for walking.

---

21. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.



**WAREHOUSE** — A building or facility with the primary function is to provide for the commercial storage and/or distribution of a wide variety of merchandise, good and/or other products. This shall include those facilities designed to store products in preparation for shipping and where those products are generally not made available for retail sale at the facility. Warehouses shall include those facilities for short or long term storage, and, in this manner shall also include fulfillment or "last mile" facilities for the short term storage and distribution of items made available through online or other similar sales. The storage or parking of tractor-trailers, trucks or trailers used in moving goods to or from warehouses is also included within this definition. The term "warehouses" shall not include retail self-storage facilities where members of the public can lease portions of a building for storage of household or personal goods or other items not intended for distribution or sale.

**WASTE PROCESSING OR DISPOSAL, HAZARDOUS OR RADIOACTIVE** — The collection, treatment, storage, burial, incineration or disposal of hazardous waste as defined by the Division of Hazardous Waste under M.G.L. ch. 21(c), or of radioactive waste including low-level radioactive waste as defined in Section 11e(2) of the Atomic Energy Act of 1954.

**YARD** — An area open to the sky and free of any storage of materials or manufactured products, located between a street or other property line and any structure or element thereof other than:

- A. A fence, wall, other customary yard accessory, or steps or other projections allowed to encroach on building lines by the State Building Code; or
- B. In side and rear yards only, a tool shed or similar accessory structure having not more than 80 square feet ground coverage.

**YARD, FRONT** — A yard extending between side lot lines across the front of a lot on each street it adjoins, measured perpendicular to a line connecting the foremost points of the side lot lines.

**YARD, REAR** — A yard abutting a rear property line, that is, typically a line or set of lines approximately parallel to the frontage street, and separating lots whose frontage is established on different streets. Yards on irregularly shaped lots where "side" versus "rear" is indeterminate shall be construed as rear yards.

**YARD, SIDE** — A yard abutting a side property line, typically a line or set of lines which intersect a street line, separating lots whose frontage is established on the same street, extending between side and rear yards. Corner lots commonly have two side yards and no rear yard.

**ARTICLE VII**  
**Intensity of Use Regulations**

**§ 240-33. General requirements.**

- A. All buildings hereafter erected in any district shall be located on a lot such that all of the minimum requirements set forth in the table in § 240-40 are conformed with except where specifically exempted by this bylaw or by General Law.
- B. No existing lot shall be changed in size or shape except through a public taking so as to result in violation of the requirements set forth below.
- C. Recording a plan in violation of these requirements, even if endorsed by the Planning Board to the effect that approval under the Subdivision Control Law<sup>22</sup> is not required, constitutes a violation of this bylaw, subject to enforcement actions under §§ 240-3 and 240-6. The Planning Board shall inform both the submitter of such a plan and the Inspector of Buildings of any such potential violations of which the Board becomes aware.

**§ 240-34. Isolated lots and subdivisions.**

- A. Any increase in lot area or frontage requirements of this bylaw shall not apply to erection, extension, alteration, or moving of a structure on a legally created lot not meeting current requirements, provided that either the lot is protected against such increase under the provisions of M.G.L. ch. 40A, § 6, or the applicant documents that:
  - (1) At the time such increased requirement became applicable to it, the lot:
    - (a) For single family development: had at least 5,000 square feet of lot area and 50 feet of frontage on a street. For nonresidential development in the B-1 and Industrial Zoning Districts: had at least 20,000 square feet of lot area and 125 feet of frontage on a street; and
    - (b) Was not held in common ownership with any adjoining land; and
    - (c) Conformed to then-existing dimensional requirements; and
  - (2) The lot is to be used in conformance with the uses allowed for such district;
  - (3) Yards shall be not less than the following, except that Notes (b), (c) and (g) to the table in § 240-40 of this bylaw shall remain in effect for nonresidential development:

<b>Actual Frontage (feet)</b>	<b>Required Yard (feet)</b>		
	<b>Front</b>	<b>Side</b>	<b>Rear</b>
Less than 125	20	8	16
125 to 150	20	10	20
More than 150	30	15	20

- B. Such nonconforming lots may be changed in size or shape or their land area recombined without

---

22. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

losing this exemption, so long as the change does not increase the actual or potential number of buildable lots.

**§ 240-35. Street line assumptions.**

Where no street line has been established or can be readily determined, such line shall be assumed to be 25 feet from the center of the traveled roadway for the purposes of applying these regulations.

**§ 240-36. Public housing.**

Public housing shall be exempt from the minimum requirements of intensity of use as set forth in § 240-40.

**§ 240-37. Number of buildings on lot.**

- A. Not more than one single-family or two-family dwelling shall be erected on a lot.
- B. More than one principal building or use other than a single-family or two-family dwelling may be erected or maintained on a lot, provided that access, drainage, and utilities serving each structure are functionally equivalent to that required for separate lots by the Planning Board Rules and Regulations, as determined by the Zoning Agent following consultation with the Highway Department regarding access and drainage and with the Water Department and Fire Department regarding water; and further provided that lot area and yard requirements are met for each building and use without counting any lot area or yard twice. No increase in lot frontage is required for multiple principal buildings or uses on the same lot. For multifamily construction, the Zoning Agent must also ensure compliance with applicable portions of Article XV of this chapter and all other pertinent sections of the bylaws.

**§ 240-38. Back lot division.**

- A. A parcel with no other contiguous land in common ownership may be divided into two or three lots, one of which has less than the normally required frontage, and a single-family dwelling may be built on the reduced frontage lot, provided that such division is authorized on a special permit granted by the Planning Board. Such divisions shall be authorized if meeting each of the following, but not otherwise:
  - (1) The lot having reduced frontage must have frontage of at least 50 feet.
  - (2) The lot having reduced frontage must contain at least twice the lot area otherwise required, without counting any portion of the lot between the street and the point where lot width equals 100 feet or more.
  - (3) The lot having reduced frontage must be capable of containing a square with sides equal to the normally required lot frontage.
  - (4) All other requirements specified in § 240-40, Intensity of Use Schedule, must be met.
  - (5) Egress from the created lots must create no greater hazard owing to grade and visibility limitations than would be expected for standard land division at that location.
  - (6) Reduction of privacy, damage to the natural environment, and difficulties of utility provision must be no greater than would be expected for standard land division at that location.
  - (7) The proposal must be determined by the Planning Board to not circumvent the intent of the

Subdivision Control Law.<sup>23</sup>

- B. Any reduced frontage lot created under these provisions shall be shown and identified on a plan endorsed by the Planning Board "Lot \_\_\_\_\_ approved for reduced lot frontage."

**§ 240-39. Lot shape factor.**

No lot shall be created so as to be so irregularly shaped or extended that it has a "Shape Factor" in excess of 22. Shape Factor equals the square of the lot perimeter divided by the lot area (before deduction for wetlands, etc.). That portion of the lot in excess of the required lot area may be excluded from the computation of Shape Factor using an imaginary lot line, provided that the entire required frontage is included in the portion used for the calculation.

**§ 240-40. Intensity of Use Schedule.**

		District						
		A	S	R	M	B-1	B-2	I
Minimum lot area (square feet)								
	Two-family dwelling	160,000	80,000	80,000	80,000	80,000	80,000	—
	Other uses	80,000	40,000	40,000	40,000 <sup>c</sup>	40,000	40,000	60,000
Minimum lot frontage (feet)		200	150	150	150	150	150	200
Minimum front yard <sup>a,d</sup> (feet)		30	30	20	30	20	30	20 <sup>c</sup>
Minimum side yard (feet)		15	15	10	15	10 <sup>b</sup>	15 <sup>f</sup>	10 <sup>f</sup>
Minimum rear yard (feet)		20	20	20	20	20	20 <sup>f</sup>	20 <sup>c</sup>
Minimum landscaped open space (square feet/dwelling unit)		—	—	—	2,000	—	—	—
Maximum building height (feet)		35	35	35	35	35	45	45

---

23. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

**FOOTNOTES:**

- (a) No building other than a multifamily dwelling need provide a front yard greater than the average of adjoining front yards. For multifamily dwellings, the front yard is to be not less than twice building height, and to contain no parking. Corner and through lots shall maintain front yard requirements for both frontages.
- (b) Side yard may be reduced to zero, except where abutting a residential use or a Residential, Suburban, or Agricultural District, provided that access to rear areas via drives not less than 15 feet wide is assured.
- (c) Increase to 100 feet for industrial buildings facing or adjoining a Residential, Suburban, or Agricultural District.
- (d) No obstruction to vision between three and eight feet above the plane through the curb grades shall be permitted within the area formed by the lines of intersecting streets and a line joining points 20 feet from the point of intersection of street lines or street lines extended.
- (e) For townhouse dwelling, assisted elderly housing, and other multifamily housing see Article XV, Special Residential Uses.
- (f) For industrial or commercial uses, increase to 30 feet where adjoining an Agricultural, Suburban, Residential, or Multifamily District or residential use.

**§ 240-41. Height limitations.**

No building or portion thereof or other structure of any kind shall exceed the heights permitted buildings under § 240-40, Intensity of Use Schedule, except the following:

- A. Chimneys, towers, spires, cupolas, antennae or other projections of or attachments to a building but not potentially used for human habitation, provided that they do not exceed the height of the building by more than 10 feet or 20% of building height, whichever is the greater; or
- B. A structure or projection not used for human habitation and not permitted by the above, provided that it is authorized for that height by special permit from the Board of Appeals, upon determination by the Board that the proposed height is functionally important for the use, and that the structure or projection and its use will not result in threats to health, safety or visual compatibility with the surroundings and, in the case of antennae for use by a federally licensed amateur radio operator, that any restriction so imposed complies with the provisions of M.G.L. ch. 40A, § 3, dealing with such antennae.

**§ 240-42. Targeted housing.**

- A. On special permit from the Planning Board, dwelling units may be designated as "targeted," provided that:
  - (1) Either the development containing the unit qualifies to seek a comprehensive permit under M.G.L. ch. 40B, or the dwelling unit meets the definition of "assisted elderly housing" in § 240-32 of this bylaw.
  - (2) The Planning Board finds that the housing is consistent with policy guidelines it has approved for Town-wide housing development.
  - (3) The Planning Board finds that the location and design of the housing will not result in hazard, overburdening of public services, or neighborhood or environmental degradation.
- B. The lot area requirements for such targeted units shall equal 1/2 those provided in § 240-40, Intensity of Use Schedule, and frontage requirements shall equal 2/3 of those requirements. All other intensity of use requirements shall be met.

ARTICLE VIII  
**Sign Regulations**

**§ 240-43. General sign prohibitions.**

- A. Signs, any part of which moves or flashes, or signs of the traveling light or animated type, and all beacons and flashing devices whether a part of, attached to, or apart from a sign, are prohibited.
- B. No signs shall be placed within or projecting over a public way or on public property except with a permit from the Board of Selectmen. Signs placed on shade trees are subject to approval by the Tree Warden (M.G.L. ch. 87, § 9).
- C. No nonaccessory sign or billboard shall be erected except as allowed under § 240-45C.
- D. No illumination shall be permitted which casts glare onto any residential premises, or onto any portion of a way so as to create a traffic hazard.
- E. No signs shall be located so as to create an obstruction to vision between three and eight feet above the plane through the curb grades within the area formed by the curblines of intersecting streets (or by street curblines and the sidelines of driveways) and by a line joining points 20 feet from the point of intersecting of those lines or those lines extended.
- F. No sign shall be located within 10 feet of the street line unless allowing essentially clear vision to at least six feet above grade, or unless authorized upon special permit from the Board of Appeals, upon the Board finding that safety of vehicular and pedestrian movement would not be significantly reduced by such sign, despite its obstruction of vision.

**§ 240-44. Permitted temporary signs in all districts.**

- A. Any sign if in accordance with limitations set for permanent signs.
- B. An unlighted sign of up to 20 square feet indicating parties involved in construction on the premises.
- C. An unlighted sign of up to six square feet pertaining to lease or sale of the premises.
- D. A sign of up to 10 square feet pertaining to a subdivision while under development, only with permission of the Planning Board.
- E. Signs inside display windows covering not more than 30% of window area, illuminated by building illumination only.
- F. Political signs may be located subject to the consent of property owners. They may be displayed for Annual or Special Town Elections, state, county and federal elections to include primary elections, for a period of four weeks prior to election day and shall be removed within seven days after election day. In the case of a primary election, the winning candidate may leave signs on display until seven days following the final election. The property owner shall be responsible for removal of all signs within the prescribed seven days after an election. No political sign may be placed on utility poles or other utility devices. No signs may be displayed within 150 feet from the entrance of the polling place on primary or election day. No political sign may have a total area greater than 16 square feet. No sign lot may have more than three signs total. No sign may be placed so as to obstruct any intersecting roads or driveways.
- G. Except as elsewhere more specifically provided, temporary signs shall be erected no earlier than 14

days prior to the event to which they pertain (e.g., the commencement of construction), and shall be removed within seven days after the conclusion of that event, but in any event not to remain in place in excess of six months.

**§ 240-45. Permitted permanent signs in Agricultural, Suburban and Residential Districts.**

- A. One sign for each family residing on the premises indicating the owner or occupant or pertaining to a permitted accessory use, provided that no sign shall exceed one square foot in area.
- B. One sign not over nine square feet in area pertaining to permitted buildings and uses of the premises other than dwellings and their accessory uses.
- C. A non-accessory directional sign, designating the route to an establishment not on a state highway, may be erected and maintained in any district on special permit from the Board of Appeals, subject to their finding that such sign will promote the public interest, will not endanger the public safety, and will be of such size, location and design as will not be detrimental to the neighborhood.

**§ 240-46. Permitted permanent signs in other districts.**

- A. Any signs permitted in Agricultural, Suburban and Residential Districts.
- B. Accessory signs attached to a building, provided that they aggregate not more than 20% of the wall area they are viewed with.
- C. Freestanding accessory signs, provided that they aggregate not more than 100 square feet in area.
- D. The total area of all signs, either attached to a building or freestanding, shall aggregate not more than three square feet per foot of lot frontage on the street towards which they are oriented.



ARTICLE IX  
**Environmental Controls**

**§ 240-47. Permitted activity.**

No activity shall be permitted in any district unless the following requirements are met. Applicants may be required to provide evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to also comply with these requirements.

**§ 240-48. Noise.**

A. Noise receiving zones are defined as follows:

- (1) Receiving Zone A: Business and Industrial Districts.
- (2) Receiving Zone B: locations in any other district, but within 200 feet of a Business or Industrial District, or within 200 feet of an arterial street.
- (3) Receiving Zone C: all other locations.

B. Applicability. No development shall be allowed unless it is demonstrated that the following standards will not be exceeded at any location outside the property line of the premises, which location includes any contiguous land committed to be conveyed to the Town as open space. The numerical standards of Subsection D of this section shall not be exceeded by more than 20 dB(A) at any time, or by more than 10 dB(A) for more than 10 minutes in an hour, or at all for more than 30 minutes in an hour. Nothing in this section shall be construed to permit noise in excess of that allowed by any state or federal regulation.

C. Exceptions. This regulation shall not apply to the following:

- (1) Any noise produced by equipment used exclusively in the maintenance or repair of buildings or grounds, provided such equipment is rated at not more than 15 horsepower.
- (2) Human or animal noises unless mechanically or electronically amplified.
- (3) Farm equipment.
- (4) Construction equipment between the hours of 7:00 a.m. and 9:00 p.m., or at other hours upon determination of reasonable necessity by the Building Inspector. Such determination and authorization shall be valid for not more than any one 24 hours period per determination.
- (5) Snow plowing; emergency repair due to flood, fire or other catastrophe if such work is necessary for the general welfare or to avoid further catastrophe.
- (6) Parades, fairs or outdoor entertainment, provided that a permit for such activity has been granted by the Board of Selectmen and that said permit is for not more than 10 days in any calendar year.
- (7) Activities authorized on special permit under § 240-55, where peculiarities of the location or activity assure that there will be no unreasonable adverse disturbance to use and enjoyment of nearby premises.

- D. Standards. The following standards must be met, with the applicable standard being based upon the Receiving Zone where noise is potentially heard, not the zone where noise is generated. "Daytime" shall be from 7:00 a.m. until 9:00 p.m. on all days except Sundays and legal holidays, when it shall be from 12:00 noon until 9:00 p.m. All sound measurements made pursuant to this section shall be made with a Type 1 A-weighted sound level meter as specified under American National Standards Institute (ANSI) S1.4-1983.

**Maximum Allowable Exterior Noise Level**

<b>Receiving Zone</b>	<b>Daytime</b>	<b>Nighttime</b>
A	65 dB(A)	60 dB(A)
B	55 dB(A)	50 dB(A)
C	50 dB(A)	45 dB(A)

**§ 240-49. Light and glare.**

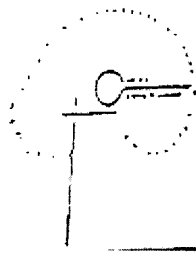
- A. Lighting fixture types are defined as follows:

- (1) Type 1. No light cutoff.
- (2) Type 2. Luminaire shielded such that peak candlepower is at an angle of 75° or less from vertical, and essentially no light is emitted above the horizontal.
- (3) Type 3. Luminaire shielded such that total cutoff is at less than 90° from vertical, and no light source is in direct view of an observer five feet above the ground at any point off the premises.

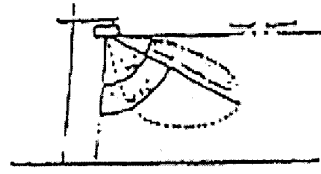
- B. Lighting limitations. The following limitations shall be observed by all uses, unless granted a special permit under § 240-55, upon determination by the special permit granting authority that it is inherently infeasible for that use (e.g., public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light over spill onto residential premises.

**Districts**

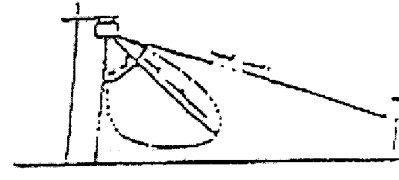
	<b>B-1, B-2, I</b>	<b>Other</b>
Maximum luminaire mounting height (feet)		
Fixture Type 1	20	10
Fixture Type 2	30	15
Fixture Type 3	40	20
Maximum off-site over spill (footcandles)		
Fixture Type 1	0.3	0.2
Fixture Type 2	1.0	0.3
Fixture Type 3	3.0	0.5



**Type 1: No Cutoff  
Luminaire**



**Type 2: 90° Cutoff  
Luminaire**



**Type 3: Luminaire  
with less than 90°  
cutoff**

- C. No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing reflected from the sky.
- D. An exterior lighting plan may be required where compliance with these requirements is not apparent, to include indication of location, mounting height, and orientation of luminaires, and sufficient technical information on the fixtures to determine their type and resulting illumination levels.

#### **§ 240-50. Air quality.**

- A. Any use whose emissions are such as to cause it to be classified as a major new stationary source of air pollution, as defined by the EPA under the Clean Air Act, and any use required to apply to DEQE under 310 CMR 7.00 or to EPA under Section 112 of the Clean Air Act for permission to emit asbestos, benzene, beryllium, mercury, vinyl chloride or radio nuclides shall be permitted only if granted a special permit under § 240-55.
- B. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which involves the creation and/or emission of any odors shall be provided with a secondary safeguard system.

#### **§ 240-51. Hazardous materials.**

Use of premises involving one or more of the following may be permitted only if granted a special permit under § 240-55.

- A. Manufacturing as the principal use of the premises, if the products manufactured are either:
  - (1) When wastes, regulated as hazardous under M.G.L. ch. 21C; or
  - (2) Substances listed on the Massachusetts Substance List contained in 105 CMR 670.000, Appendix A;
- B. Keeping of flammable fluids, solids or gasses in quantities exceeding four times that requiring licensure under 527 CMR 14.00, except for storage of fuel for consumption on the premises or by vehicles operated incidental to the principal use of the premises.
- C. Any use for which licensure is required under 310 CMR 30.800 to transport, use, treat, store or dispose of hazardous waste (but not those excluded under 310 CMR 30.801).

- D. No building, facility or premises or parts thereof shall be constructed or used for the purpose of processing, storing or staging hazardous wastes or infectious wastes as defined by the Department of Environmental Protection of the Commonwealth of Massachusetts as defined in 105 CMR 480.00, Department of Public Health, State Sanitary Code, and includes: blood and blood products; pathological waste; cultures and stocks of infectious agents and associated biologicals; contaminated animal carcasses, body parts and bedding; sharps; and biotechnological bi-product effluents.

#### **§ 240-52. Vibration.**

No use shall be allowed which produces vibration which is discernible to the human sense of feeling (except as sound) at or beyond the boundaries of the premises for three minutes or more in any hour between 7:00 a.m. and 9:00 p.m. or for 30 seconds or more in any one hour between 9:00 p.m. and 7:00 a.m. Vibrations exceeding two-thirds the frequency/amplitude limitations established by the Board of Fire Prevention Regulations at 527 CMR 13.11(18) shall, except for activities exclusively within the jurisdiction of that Board, be deemed to be discernible without instruments.

#### **§ 240-53. Electrical disturbances.**

No electrical disturbance shall be permitted which adversely affects the operation of any equipment other than that of the creator of such disturbance.

#### **§ 240-54. Stormwater management.**

##### **A. Foundation grade.**

- (1) Finished grade shall slope continuously downward for at least 10 feet in all directions from the foundation of any dwelling having a basement or cellar, at a slope of 1% or more on paved surfaces and 2% or more on other surfaces.
- (2) Drainage facilities, including detention basins, shall be designed consistent with the standards of the Rules and Regulations Governing the Subdivision of Land of the Bellingham Planning Board, as most recently amended.<sup>24</sup> Basin fencing materials shall be subject to approval by the Planning Board in conducting development plan review, and shall be selected to prevent accidental entry into the detention area, but still allowing visibility into it.

##### **B. Stormwater management.**

- (1) All development requiring in excess of 10 parking spaces or undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb 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 redevelopment that will ultimately disturb an area equal to or greater than one acre of land, shall conform to the drainage requirements specified in the Rules and Regulations Governing the Subdivision of Land<sup>25</sup> and obtain a stormwater management permit per Section 7.0 with related Stormwater Management Plan and Operation and Maintenance Plan of the Planning Board Procedural Rules. Drainage design (hydrology) shall address, at a minimum, two-, ten-, and one-hundred-year twenty-four-hour rainfall storms, using TR-55 methods. Additionally, the drainage piping system (hydraulics) shall be designed for the twenty-five-year design storm, except that detention facilities shall be

---

24. Editor's Note: See Ch. 245, Subdivision Regulations.

25. Editor's Note: See Ch. 245, Subdivision Regulations.

based on a one-hundred-year storm. Increases to peak rates of runoff shall not be allowed. Any increase in runoff volume shall be analyzed to ensure no increased flooding impacts off site. Pretreatment is required with any recharge facilities unless receiving flows are from rooftop areas only. Drainage calculations by a registered professional engineer shall be submitted to the reviewing body.

- (2) Drainage facilities, including detention basins, shall be designed consistent with the standards of the Rules and Regulations Governing the Subdivision of Land of the Bellingham Planning Board, as most recently amended.<sup>26</sup> Basin fencing materials shall be subject to approval by the Planning Board in conducting development plan review, and shall be selected to prevent accidental entry into the detention area, but still allowing visibility into it.

**§ 240-55. Special permits.**

- A. Special permit granting authority. The special permit granting authority (SPGA) for applications authorized under Article IX of this chapter shall be the Board of Appeals, except that if another agency is designated under other provisions of this bylaw as SPGA for the use being applied for, that agency shall also act as SPGA under this article.
- B. Submittals. Applicants shall submit such material, including technical analyses, as is reasonably necessary for the SPGA to make the determinations under Subsection C below. That may include, as germane, an acoustic analysis, a lighting plan, documentation of air quality modeling, identification of any toxic or hazardous materials involved and substances to be emitted, a description of precautions, handling practices, monitoring, and recovery systems proposed, and, if appropriate, a hazard prevention and contingency response plan.
- C. Decision criteria. Special permits shall be granted if the SPGA finds that the proposed use will not cause harm or adverse disturbance to the environment or to other premises, will not jeopardize health or safety either on- or off-premises, and that either any control or safety systems being relied upon are fail-safe or redundant, or it has been demonstrated that there would be no adverse health or safety consequences beyond the boundaries of the premises in the event of system failure, in light of on-site decay, dilution or dispersion.

---

26. Editor's Note: See Ch. 245, Subdivision Regulations.

ARTICLE X  
**Parking and Loading Requirements**

**§ 240-56. Purpose.**

The purpose of this article is to establish standards ensuring the availability and safe use of parking areas. It is intended that any use of land involving the arrival, departure, long-term or temporary parking of motor vehicles (not for automobile sales), and all structures and uses requiring the delivery or shipment of goods as part of their function, be designed and operated to:

- A. Promote traffic safety by assuring adequate places for parking of motor vehicles off the street and for their orderly access and egress to and from the public way;
- B. Prevent the creation of surplus amounts of parking spaces contributing to unnecessary development and additional generation of vehicle trips, resulting in traffic congestion and traffic service level deterioration;
- C. Reduce unnecessary amounts of impervious surface areas from being created;
- D. Reduce hazards to pedestrians and increase pedestrian connectivity between and within sites;
- E. Promote access and convenience, in compliance with regulations of the Americans with Disabilities Act (ADA) and Massachusetts Architectural Board (AAB), for people with disabilities;
- F. Increase the mobility and safety for bicyclists;
- G. Protect adjoining lots and the general public from nuisances and hazards such as:
  - (1) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles entering, exiting and idling in parking lots;
  - (2) Glare and heat from parking lots; and
  - (3) Lack of visual relief from expanses of paving;
- H. Reduce other negative impacts.

**§ 240-57. Definitions.**

The following definitions shall apply to this Parking Bylaw. Additional terms which have commonly accepted denotations and connotations may also be utilized in this bylaw.

**CASUAL DINING** — Full-service eating establishment with typical turnover rates of approximately one hour or less; moderately priced; occasionally belongs to a restaurant chain; generally serves lunch and dinner; may serve breakfast or be open extended hours; generally does not take reservations; may or may not contain a bar.

**CONVENIENCE STORE** — Convenience markets that sell convenience foods, newspapers, magazines, etc.; may be open 24 hours.

**DISCOUNT STORE/SUPERSTORES** — Stores, such as home improvement, department, clothing, housegoods, toy, sporting goods, and pet supply stores, that offer a variety of customer services, centralized cashiering and a wide range of products advertised at discount prices; long store hours typically seven days a week; some may have a garden center and/or service station; superstores may have a grocery department under the same roof that shares the same entrance and exits with the discount store area.

**ENTERTAINMENT/COMMERCIAL RECREATION** — Indoor or outdoor spaces for leisure activities, including but not limited to golf courses, bowling facilities, movie theaters, sports complexes, fitness or health clubs, and recreational community centers.

**FAST FOOD** — Characterized by large carry-out clientele; long hours of service; high turnover rates for eat-in customers; no table service by wait staff; typically pay at cash register before eating; may or may not have a drive through. Generally considered to be hamburger, sub/sandwich, pizza, (in some circumstances) ethnic (i.e. Thai, Chinese, sushi, middle-eastern), coffee/donut shop, ice cream parlor, etc.

**FINE DINING** — Full-service eating establishment with typical turnover rates of at least one hour or longer; generally do not serve breakfast and sometimes do not serve lunch; all serve dinner; usually requires a reservation and is generally not part of a chain; may have function space.

**FREESTANDING GENERAL RETAIL** — Freestanding, single-use retail structure. Retail uses include, but are not limited to: convenience stores, freestanding discount store/superstores, personal care services, specialty retail, pharmacy and/or drugstore, bank, dry cleaners.

**GASOLINE/SERVICE STATION WITH CONVENIENCE STORE** — The primary business is the fueling of motor vehicles; may have ancillary facilities for servicing and repairing motor vehicles and commonly sold convenience items such as newspapers, coffee or other beverages, and snack items usually consumed in the car or off-location.

**GENERAL LIGHT INDUSTRIAL AND/OR MANUFACTURING** — Freestanding facilities with an emphasis on light industrial and/or manufacturing activities, including printing, material testing, assembly of data processing equipment, and/or the conversion of raw materials or parts into finished products; may also contain warehouse, office, and research functions.

**GROSS FLOOR AREA (GFA)** — The area within the perimeter of the exterior walls of a building as measured from the inside surface of the exterior walls, with no deduction for interior hallways, stairs, closets, thickness of interior partition walls, columns, or other interior features.

**INDUSTRIAL PARK** — A mix of industrial, manufacturing, service and warehouse facilities with a wide variation in the proportion of each type of use from one location to another.

**ksf** — One thousand square feet [ratios are determined as x spaces/1,000 square feet (ksf)].

**MEDICAL CLINIC** — An institution or place providing medical, surgical, dental, restorative, or mental services to persons not residing there.

**MULTI-USE (aka SHARED) PARKING** — Use of parking spaces by vehicles generated by two or more individual land uses that share a parking lot, with or without conflict or encroachment, as a result of variations in the accumulation of vehicles by hours, by day or by season, at the individual land use; and/or relationships among the land uses that result in visiting multiple land uses on the same auto trip. May include, but is not limited to, a mix of uses, including retail, dining/entertainment, office space or industrial, manufacturing, office, wholesale, and warehouse.

**NONDESIGNATED USE** — Any use that is not specified herein.

**OFFICES** — Locations where affairs of business, commercial or industrial organizations or professional persons or firms are conducted; may contain a mixture of tenants or be a single-use tenant; no larger than three stories above grade.

**PERSONAL CARE SERVICES** — Spas, hair salons, nail salons, barbers, etc.

**SHOPPING CENTER** — An integrated group of retail, service or commercial establishments that is planned, developed, owned and managed as a unit. Provides on-site parking facilities sufficient to serve its own parking demands.

**SPECIALTY RETAIL** — Retail uses including, but not limited to, apparel, hard goods and services such as real estate offices, dance or martial arts studios, florists, personal care services.

**SPORTS COMPLEX** — Outdoor parks used for nonprofessionals; may consist of one or more fields and field sizes may vary to accommodate games for different age groups; ancillary facilities may include a fitness trail, activities shelter, aquatic center, picnic grounds, basketball/tennis courts and a playground.

**§ 240-58. Number of spaces.**

**A. Basic requirements.**

- (1) Off-street parking must be provided to service all increases in parking demand resulting from new construction, additions or change of use to one requiring more parking, without counting any existing spaces needed to meet requirements for any retained building or use. The number of spaces indicated in § 240-59 shall be the basis for determining adequacy of provisions. Any existing spaces removed shall be replaced in kind unless they are either in excess of the number required or removed at the request of the Town. Parking spaces also serving as loading areas shall not be credited.
- (2) For the purpose of computing the parking requirements of different uses, the number of spaces required shall be the largest whole number obtained after calculating the required parking, any fractional space should be rounded up to the next whole number.
  - (a) Example #1: A 4,999 interior square foot freestanding retail structure has 4.999 ksf GFA ( $4,999/1,000 = 4.999$ ); at four spaces per ksf GFA, the structure is required to have 19.96 parking spaces, which will then be rounded up to the next whole number. Therefore, the number of parking spaces required is 20.
  - (b) Example #2: A 25,150 interior square foot medical clinic has 25.15 ksf GFA ( $25,150/1,000 = 25.15$ ); at five spaces per ksf GFA, the structure is required to have 127.75 spaces, which will then be rounded up to the next whole number. Therefore, the number of parking spaces required is 128.
  - (c) Example #3: A 1,300 interior square foot freestanding fast-food restaurant has 1.3 ksf GFA ( $1,300/1,000 = 1.3$ ); at 17 spaces per ksf GFA, the structure is required to have 22.1 parking spaces, which will then be rounded up to the next whole number. Therefore, the number of parking spaces required is 23.

**B. Future changes must demonstrate the ability to meet parking standards.**

**§ 240-59. Schedule of requirements.**

**A. Residential.**

- (1) Single or two-family having no boarders or lodgers: two spaces per dwelling unit.
- (2) Multifamily (townhouse/condominiums).
  - (a) Assisted elderly housing: one space per bedroom.
  - (b) Studio: 1.25 spaces per dwelling unit.
  - (c) One bedroom: 1.5 spaces per dwelling unit.



- (d) Two or more bedrooms: two spaces per dwelling unit.
- (3) Family apartment: one space per dwelling unit in addition to the requirement for primary dwelling unit.
- B. Places of public assembly.
  - (1) Religious centers: 0.5 parking space for each person capacity based on the Massachusetts State Building Code.
  - (2) General public assembly: 0.25 per person in permitted capacity.
  - (3) The number of seats in benches, pews, or other continuous seating arrangements shall be calculated at 24 inches per seat.
- C. Hotels, motels, room and board, other commercial accommodations.
  - (1) One parking space for each guest unit, plus one parking space for each eight units or fraction thereof.
- D. Dining.
  - (1) Fine dining: 20 spaces per ksf GFA.
  - (2) Casual dining: 25 spaces per ksf GFA.
  - (3) Fast food with or without a drive through: 17 spaces per ksf GFA.
- E. Entertainment/commercial recreation.
  - (1) Golf course: 12 spaces per hole.
  - (2) Bowling alley: four spaces per ksf GFA.
  - (3) Movie theater (multiplex): 14 spaces per ksf GFA.
  - (4) Sports complex: 50 spaces per field.
  - (5) Health/fitness club: six spaces per ksf GFA.
  - (6) Recreational community center: three spaces per ksf GFA.
- F. Auto service/fuel station.
  - (1) One space per pump, plus four spaces per ksf GFA for all other space, including service areas, convenience store areas, etc.
  - (2) Motor vehicle sales and service: three spaces per ksf GFA of interior sales area, plus two per ksf GFA of interior storage or display area, plus two per service bay.
  - (3) Car washes: one space per ksf GFA.
- G. Retail businesses/other service establishments.
  - (1) Freestanding general retail/other service establishments: four spaces per ksf GFA.
  - (2) Shopping centers.

- (a) For retail-only shopping centers, including specialty retail, use chart below.
- (b) For retail with additional uses, that may include any combination of dining, entertainment, or offices, in which the total additional uses are up to but not greater than 10% of the total GFA of the shopping center, use chart below.
- (c) For retail with additional uses [uses as listed in Subsection G(2)(b) above], in which the total additional uses exceed 10% of the total GFA of the shopping center, the parking spaces may be calculated either:
  - [1] Under this § 240-59 as if each use were separate; or
  - [2] Under § 240-60A, Allowed reductions for multi-use parking.

**Shopping Center Parking Spaces Chart**  
**[for use with § 240-59G(2)(a) and (b)]**

<b>Building GFA</b>	<b>Less than 30,000 GFA</b>	<b>30,000 to 99,999 GFA</b>	<b>100,000 to 399,999 GFA</b>	<b>Greater than 400,000 GFA</b>
<b>Spaces per ksf GFA</b>	4 ksf GFA	4.5 ksf GFA	5 ksf GFA	5.5 ksf GFA

H. Offices and business services.

- (1) Offices: four spaces per ksf GFA.
- (2) General light industrial/wholesale/warehouse: two spaces per ksf GFA.
- (3) General light manufacturing: two spaces per ksf GFA.
- (4) Medical clinic: five spaces per ksf GFA.

I. Convalescent, nursing or rest home, hospital or sanitarium: five spaces per ksf GFA.

J. Other uses.

- (1) Day-care center: six spaces per ksf GFA.
- (2) Animal hospital/veterinary clinic: four spaces per ksf GFA.
- (3) A number of spaces to be determined by the Building Inspector (or the Planning Board in cases referred to it under § 240-16) based upon evidence from similar uses under similar circumstances and best practices.

**§ 240-60. Allowed reductions.**

Parking may be further reduced upon application for and grant of a special permit from the Planning Board, to account for additional factors as listed in Subsections A and B below. The number of spaces may be reduced to less than that stipulated in this bylaw, if the Planning Board determines that a smaller number would be adequate for all parking needs because of such special circumstances as multi-use parking for uses having peak parking demands at different times, unusual age or other characteristics of site users or user-sponsored demand reduction devices such as carpooling, or land use or parking studies from similar establishments show parking requirements are less than what is required in this bylaw; or other reasons that are adequately supported.

## A. Multi-use (aka "shared") parking.

- (1) Determine the number of originally required parking spaces for different uses/facilities sharing the same parking lot.
- (2) Determine the percentages of maximum parking needed for different uses at different days and times determined either by a study of local conditions or the Parking Occupancy Rates Table below.
- (3) Apply the percentages from Step 2 to the numbers from Step 1.
- (4) Add up the totals and select the total with the highest value.

**Parking Occupancy Rates Table**

*This table defines the percent of the basic minimum needed during each time period for shared parking. (M-F = Monday to Friday)*

Uses	M-F	M-F	M-F	Sat. and Sun.	Sat. and Sun.	Sat. and Sun.
	8:00 a.m. — 5:00 p.m.	5:00 p.m. — 12:00 a.m.	12:00 a.m. — 8:00 a.m.	8:00 a.m. — 5:00 p.m.	5:00 p.m. — 12:00 a.m.	12:00 a.m. — 8:00 a.m.
Residential	60%	100%	100%	80%	100%	100%
Office and business	100%	20%	5%	5%	5%	5%
Retail/service	90%	80%	5%	100%	70%	5%
Hotel/motel	70%	100%	100%	70%	100%	100%
Dining	70%	100%	10%	70%	100%	20%
Movie theater	40%	80%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	50%
General public assembly	100%	20%	5%	10%	10%	5%
Religious centers	10%	5%	5%	100%	50%	5%

## B. Flexible parking options.

- (1) Employment density (number of employees per acre): reduce requirements 10% to 15% in areas with 50 or more employees per acre of site.
- (2) Land use mix (range of land uses located within convenient walking distance): reduce requirements 5% to 10% in mixed-use developments.
- (3) Walkability (walking environment quality): reduce requirements 5% to 15% in walkable locations and more if walkability allow more shared and off-site parking.
- (4) Parking and mobility management: reduce requirements 10% to 20% at worksites with effective parking and mobility management programs.
- (5) Other factors that with adequate support may warrant a reduction of parking spaces.

**§ 240-61. Parking area design and location.**

- A. Surfacing. All required parking areas and their access driveways, except those facilities serving single-family residences, shall be paved, unless exempted by the Planning Board in acting under § 240-16, Development plan approval, for cases such as seasonal or periodic use where unpaved surfaces will not cause dust, erosion, hazard or unsightly conditions. Permeable or porous paving is encouraged in low traffic areas such as reserve parking, painted parking lines, parking pullouts, crosswalks, etc.
- B. Setback. No off-street parking area for five or more cars shall be located within 20 feet of a street right-of-way. When shopping cart corrals are proposed, the location of such corrals shall be next to handicap parking spaces.
- C. Backing. Parking areas for five or more cars shall not require backing into a public way.
- D. Proximity. Parking spaces more than 300 feet from the building entrance they serve may not be counted towards fulfillment of parking requirements unless, in acting under § 240-16, the Planning Board determines that circumstances justify a greater separation of parking from use.
- E. Egress spacing. The following shall apply to entrances or exits to all parking areas having 20 or more spaces, except those located in the B-1 District, which are exempted:
  - (1) Entrance or exit center lines shall not fall within 100 feet of an intersection of street sidelines or within 250 feet of the center line of any other parking area entrance or exit on the same side of the street, whether on the same parcel or not, if serving 20 or more parking spaces. Users shall arrange for shared egress if necessary to meet the requirements.
- F. Regulations. The Planning Board may adopt regulations for the administration of these design and location requirements.
- G. Driveways. All required parking spaces shall be provided with unobstructed access to and from a street and shall be properly maintained so as to permit them to be used at all times.
  - (1) A shared driveway shall be considered to provide adequate access to more than two lots or more than four dwelling units only if the Planning Board, in acting on a definitive subdivision plan or development plan, or if the Board of Appeals or other special permit granting authority, in acting on a special permit, determines that such shared access provides some community benefit, such as environmental protection or improvement of egress safety, and does not circumvent the intent of the Subdivision Regulations,<sup>27</sup> as well as meeting the requirements of Subsection G(2).
  - (2) Driveways, whether shared or not, must meet the following standards if more than 200 feet in length or serving five or more parking spaces.
    - (a) The traveled way shall be paved (unless paving is waived by the Planning Board as provided at § 240-58A) at least 10 feet wide, and tree and shrub branches less than 13 feet above driveway grade must be cleared or trimmed to provide 12 feet wide for unobstructed travel.
    - (b) Center line radius shall be at least 80 feet, and grade shall not exceed 8%.
  - (3) Driveways serving corner lots shall gain access from that street designated by the Planning

---

27. Editor's Note: See Ch. 245, Subdivision Regulations.

Board in performing development plan review, if applicable. In cases where development plan review is not required, corner lot driveways shall gain access from that street determined by the Building Inspector to have the lower daily traffic volume, unless, following consultation with the Planning Board and the Police Safety Officer, the Building Inspector determines that allowing egress onto the busier street would be no less safe.

- (4) Driveways/egresses serving 10 or more parking spaces shall provide stopping and intersection sight distances based on the recommendations provided in AASHTO - Geometric Design of Highways and Streets, as most recently amended. Stopping sight distance is defined as the minimum sight distance required for a driver on the major roadway to perceive an obstruction in the roadway and to react by braking and safely stop the vehicle to avoid collision. Intersection sight distance is defined as the minimum sight distance for a driver on the stopped approach to perceive a vehicle approaching and to react by turning onto the major roadway and accelerate to the 85th percentile speed of the major roadway while not requiring the driver on the major roadway to reduce their speed to less than 70% of their initial speed. In the event intersection sight distance cannot be achieved, then the proponent must provide documentation that safe sight distance is achieved. The Planning Board shall consult with the Bellingham Police Department and, if necessary, a traffic consultant, to make a determination as to whether a reduced intersection sight distance is acceptable. Such a reduction of intersection sight distance shall be at the sole discretion of the Planning Board. Stopping sight distance cannot be waived.

#### **§ 240-62. Loading requirements.**

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

#### **§ 240-63. Bicycles.**

One bicycle parking space shall be provided for every 20 off-street automobile spaces required. Racks shall be securely anchored and wherever possible located within view of the building entrances or windows. Bicycle spaces shall be clearly marked as such.

#### **§ 240-64. Alternative dimensional requirements.**

In order to reduce overall impervious surface of larger paved off-street parking, small vehicle and motorcycle parking spaces may have reduced dimensional requirements and still count toward the overall number of spaces required as follows:

- A. In off-street parking facilities with more than 50 parking spaces, a maximum of 10% of the spaces may be dedicated for small car and/or motorcycle use. Small car and/or motorcycle parking shall be grouped in one or more contiguous areas and with appropriate signage.
  - (1) Small car parking space stall dimensions: eight feet wide by 16 feet long; 128 square feet.
  - (2) Motorcycle parking space stall dimensions: four feet wide by eight feet long; 32 square feet or approximately four motorcycle spaces for one small car space.
  - (3) Standard car parking space stall dimensions: nine feet wide by 18 feet long; 162 square feet.

(Also see Article IV, Definitions, for "parking space" for additional information.)

ARTICLE XI  
**Landscaping Requirements**

**§ 240-65. Applicability.**

Street, sideline, parking area and district boundary plantings shall be provided as specified below when any new building, addition or change of use requires a parking increase of 10 or more spaces. The Planning Board in acting under § 240-16 may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils and other site conditions, provided that equivalent screening, shading and articulation are achieved.

**§ 240-66. Plantings.**

- A. Plant materials. Required plantings shall include both trees and shrubs, and may include ones existing on the site. To be credited towards meeting these requirements, trees must be at least 2 1/2 inches caliper four feet above grade, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet. To be credited towards meeting these requirements, shrubs must be at least 24 inches in height at the time of building occupancy, reach an ultimate height of at least 36 inches, and be of a species common in the area.
- B. Number of plants. The number of trees in the planting areas must equal not less than the planting area length in feet divided by 30, and the number of shrubs must equal not less than the planting area length in feet divided by three. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular in the area.

**§ 240-67. Planting areas.**

- A. Street planting area. Street planting is required for premises abutting any street. Required street planting shall be provided within 15 feet of the street property line along the entire street frontage except at drives.
- B. Sideline planting area. Sideline planting is required for premises abutting any arterial street. Required sideline planting shall be provided within five feet of the side lot line between the front lot line and the building setback (as built, not as required).
- C. Parking area plantings. A minimum of 5% of the interior area of parking lots containing 30 or more spaces must be planted, to contain a minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 1,500 square feet of parking lot. Planting areas must each contain not less than 40 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.
- D. District boundary planting area. District boundary planting is required on any premises along the full length of any boundary abutting or extending into a Residential, Suburban or Agricultural District and being developed for a use not allowed in that district, unless abutting property is determined by the Building Inspector to be unbuildable or visually separated by topographic features. Required planting shall be located within 10 feet of the boundary.

**§ 240-68. Additional screening.**

Any outdoor service or storage areas not effectively screened by the above requirements shall be separated

from any abutting street or residentially used or zoned premises by a planting area meeting the requirements for a sideline planting area.

**§ 240-69. Existing vegetation.**

Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of six inches trunk diameter or greater (measured four feet about grade), dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one foot unless dictated by plant health, access safety or identification of the premises.

**§ 240-70. Exceptions.**

Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low-level plantings which will visually define the street edge or property line may be authorized by the Planning Board in acting under § 240-16, provided that proposed buildings are also designed and located to preserve that scenic view.

**§ 240-71. Maintenance.**

All plant materials required by this bylaw shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriated season.



ARTICLE XII  
Accessory Uses

**§ 240-72. Home occupations.**

- A. Home occupations are permitted without need for a special permit only if conforming to each of the following conditions:
- (1) No more than 25% of the habitable floor area of the residence (exclusive of accessory structures) shall be used for the purpose of the home occupation. Accessory structures shall be used only for parking or incidental storage.
  - (2) Not more than one person not a member of the household shall be employed on the premises in the home occupation.
  - (3) There shall be no exterior display, no exterior storage of materials, no outside parking of commercial vehicles, and no other exterior indication of the home occupation or other variation from the residential character of the principal building other than an unlighted sign not to exceed one square foot in area.
  - (4) The environmental requirements of Article IX of this chapter shall be complied with.
  - (5) Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from residential use, considering volume, hours, vehicle types and other traffic characteristics.
  - (6) The parking generated shall be accommodated off-street, other than in a required yard, and shall not occupy more than 35% of lot area.
  - (7) There shall be no retail sale of articles not produced on the premises or incidental to the occupation.
- B. A special permit from the Board of Appeals may authorize any of the following, provided that the Board determines that the activities will not create hazard, disturbance to any abutter or the neighborhood, and will not create unsightliness visible from any public way or abutting property.
- (1) Use of more than 25% of the habitable floor area of the residence, or use of any accessory building for other than parking or incidental storage.
  - (2) On-premises employment of a second or third person not a member of the household.
  - (3) Exterior parking of a commercial vehicle.
  - (4) Traffic determined by the Building Inspector to exceed the limits of Subsection A(5) of this section.
  - (5) Parking within a required yard, provided that it is effectively screened from the street and abutting premises.

**§ 240-73. Scientific uses.**

The Board of Appeals may grant a special permit for a use accessory to a scientific research, scientific development, or related production activity, whether or not on the same parcel as such activity. A special permit shall be granted where the Board of Appeals finds that the proposed accessory use does not

substantially derogate from the public good.

**§ 240-74. Family apartments.**

A special permit authorizing a family apartment may be granted only if consistent with the following.

A. Development requirements.

- (1) Unit must be a single-family dwelling to which the family apartment is being added, and must have been in existence and occupied under a legal occupancy permit at least two years at the time of application.
- (2) Any increase in floor area shall meet the requirements of § 240-40 without variance or special permit.
- (3) The applicant must acquire Board of Health approval that the sewerage disposal will be within the legal requirements.
- (4) Parking shall be as required in Article X of this chapter for a two-family dwelling unit.

B. Occupancy requirements.

- (1) Either the principal or the accessory unit must be owner-occupied.
- (2) The remaining unit must be occupied by a family member of the owner(s).

C. Procedural requirements.

- (1) To approve a special permit for a family apartment, the Board of Appeals must make a determination that all of the above requirements have been met, and also that the particular circumstances of the case make such use appropriate, including consideration of:
  - (a) Whether lot area or other site characteristics assure mitigation of any impacts on the neighborhood;
  - (b) Whether there is enforceable assurance that occupancy of the unit will serve significant community purposes, such as facilitating care for the elderly or handicapped;
  - (c) Whether there is a financial hardship to the family;
  - (d) Whether site and building design are within the character of the neighborhood.
- (2) The special permit and a certificate of occupancy for a family apartment shall be issued for a period no greater than five years from the date of issuance and must be filed at the Norfolk Registry of Deeds prior to the issuance of a building permit.
- (3) A special permit for a family apartment may be extended for additional five-year periods upon application to the Zoning Board of Appeals at least 60 days prior to the expiration of the special permit. An extension shall be given only after inspection and a written report by the Town Inspector that the conditions of the renewal have not changed since the initial application and the Zoning Board's determination that the applicant is in full compliance with § 240-74. Any extension given must be filed at the Norfolk Registry of Deeds within 30 days of issuance. Failure to file within the time period given shall nullify the permit given.
- (4) Sale of the lot or dwelling that is the subject of the special permit shall nullify the permit on the

date of sale.

- (5) Permanent removal from the premises of the individual or individuals for whom the permit has been obtained shall nullify the permit on the date of such removal.

ARTICLE XIII  
**Mobile Homes, Trailers, and Campers**

**§ 240-75. Prohibition.**

No mobile home, trailer, or camper shall be used for permanent residence.

**§ 240-76. Storage; permit required for occupancy.**

A mobile home may be stored, and following issuance of a zoning permit by the Zoning Agent a mobile home, trailer or camper may be occupied for not more than 30 days in any twelve-month period, provided it is so placed on the lot as to meet minimum yard requirements.

**§ 240-77. Storage of trailers or campers.**

A trailer or camper may be regularly stored accessory to a permitted use, provided that it is so located on the lot as to meet minimum yard requirements.

**§ 240-78. Replacement of mobile homes parking in nonconformity prohibited.**

Replacement of mobile homes parking in nonconformity with § 240-31 is not permitted, even where such replacement does not increase the extent of nonconformity.

ARTICLE XIV  
**Major Residential Development**

**§ 240-79. Intent.**

The intent of major residential development (MRD) provisions is to allow greater flexibility and creativity in residential development and to assure a public voice and public authority in consideration of development in order to gain the following:

- A. Location of development on sites best suited for building, and protection of land not suited for development, reflecting such considerations as:
  - (1) Permanent preservation of open space for conservation or recreational use, especially in large contiguous areas within the site or linked to off-site protected areas;
  - (2) Enhancement of agricultural and forestry uses;
  - (3) Protection of water bodies, streams, wetlands, wildlife habitats, and other natural resources;
  - (4) Protection of the character of the community through preserving open space within view from public roads, preservation of stone walls and other historic landscape features, preservation of scenic vistas, and siting of dwellings at low-visibility locations;
  - (5) Preservation of historical and archaeological resources;
  - (6) Protection of street appearance and capacity by avoiding development close to or having egress directly onto existing streets.
- B. To facilitate construction and maintenance of public facilities and services such as streets and utilities in a more economical, environmentally sensitive, and efficient manner.
- C. Promotion of social and economic diversity, including, but not limited to, development of mixed-income housing and housing for persons over 55 years of age.
- D. Privacy for residents of individual lots through sensitive siting of buildings and better overall site planning.
- E. Avoidance of unnecessary development cost and protection of value of real property.
- F. To perpetuate and promote the appearance of the Town's New England character.
- G. To offer an alternative to standard subdivision development.

**§ 240-80. Applicability.**

In accordance with the following provisions, a MRD project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town; provided, however, that an MRD shall contain no less than 10 lots or dwelling units.

**§ 240-81. Definitions.**

The following terms shall have the following definitions for the purposes of this article:

**AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME** — Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and

Community Development earning less than 50% of the median income.

**AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MEDIAN INCOME** — Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 80% but less than 120% of the median income.

**AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MODERATE INCOME** — Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

**CONTIGUOUS OPEN SPACE** — Open space suitable, in the opinion of the Planning Board, for the purposes set forth in §§ 240-93 and 240-94, herein. Such open space may be separated by the road(s) constructed within the MRD. Contiguous open space shall not include required yards.

### **§ 240-82. Procedures.**

An MRD may be authorized upon the issuance of a special permit by the Planning Board. Applicants for major residential development shall file with the Planning Board plans conforming to both requirements of the Subdivision Rules and Regulations<sup>28</sup> and the following:

- A. A development plan conforming to the requirements for a definitive plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
- B. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.
- C. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.
- D. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein, including but not limited to the following:
  - (1) Existing site conditions. Location and boundaries of the site, water bodies, streams and wetlands (delineation to be acceptable to the Conservation Commission in accordance with the Massachusetts Wetlands Protection Act prior to the Planning Board rendering a decision on the MRD application), topography at two-foot intervals, identification of land having slopes in excess of 25%, identification of general cover type (wooded, cropland, etc.), location of designated natural or cultural resources, and existing ways;
  - (2) Context information. Ownership and use of abutting properties, location of existing buildings within 50 feet of the premises, location of any wells within 100 feet of the premises.
  - (3) Proposals. Proposed lot lines, streets and ways, building envelopes, water system, sewage disposal proposals, drainage system, indication of vegetation removal and retention; and proposed vegetation, common open space, and other land for nonresidential use;
  - (4) Landscape plan. Identifying areas of retained vegetation, proposed plantings, proposed restrictions upon vegetation alteration, and other elements of an integrating conceptual landscape design.
  - (5) Documentation of consultation with the Bellingham Historical Commission regarding any

---

28. Editor's Note: See Ch. 245, Subdivision Regulations.

historical and archaeological resources and evidence that all feasible efforts have been made to avoid, minimize, or compensate for any damage to those resources.

- (6) Such other information as the Planning Board may reasonably find necessary for making informed determinations on the proposal.
- E. Floor plans and elevations for any proposed buildings other than detached single-family dwellings and typical accessory structures (e.g., sheds, garages).
- F. Indication of each landowner's interest in the land to be developed, the form of organization proposed to own and maintain any proposed common open space, the substance of covenants and grants of easements to be imposed upon the use of land and structures, and a development schedule, indicating cumulative maximum number of dwelling units proposed to be completed by the end of each year in the schedule and the latest date of completion for any proposed community facilities, which schedule as approved or amended and approved shall be made part of the special permit decision.
- G. Narrative and tabular materials describing the proposal, including the number and size of dwelling units; proposed project phasing; and any provisions being made to target special occupancies, such as for the elderly or for affordable housing.
- H. Prior to the final special permit decision a plan satisfying all requirements for a definitive subdivision plan under the Subdivision Regulations of the Bellingham Planning Board.<sup>29</sup>
- I. Any additional information necessary to make the determinations and assessments cited in § 240-97, Decision basis.
- J. Plans satisfying requirements for stormwater management, as may be governed by local, state and federal authorities.

#### **§ 240-83. Review and decision for major residential development special permit.**

The Planning Board shall solicit comments, reports, memoranda and/or testimony from the DPW, Board of Health, Fire Department, Conservation Commission and other local boards or officials as may be necessary. The Planning Board may request that the applicant meet with such entities prior to the close of any hearing hereunder.

#### **§ 240-84. Design process.**

Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

- A. Understanding the site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
- B. Evaluating site context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
- C. Designating the contiguous open space. The third step is to identify the contiguous open space to be

---

**29. Editor's Note: See Ch. 245, Subdivision Regulations.**

preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.

- D. Location of development areas. The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.
- E. Lot lines. The final step is simply to draw in the lot lines (if applicable).

#### **§ 240-85. Alternative dimensional regulations.**

The Planning Board encourages applicants for an MRD to modify lot size, shape, and other dimensional requirements for lots within an MRD, subject to the following limitations:

- A. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the MRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
- B. At least 50% of the required side and rear yards in the district shall be maintained in the MRD.

#### **§ 240-86. Allowable number of dwelling units.**

The basic maximum number of dwelling units allowed in an MRD shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

#### **§ 240-87. Density bonus.**

The Planning Board may award a density bonus to increase the number of dwelling units beyond the basic maximum number. The density bonus for the MRD shall not, in the aggregate, exceed 20% of the basic maximum number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

- A. For each additional 10% of the site (over and above the required 40%) set aside as contiguous open space, a bonus of 5% of the basic maximum number may be awarded.

#### **§ 240-88. Affordable component.**

- A. As a condition of the grant of any special permit for an MRD, a minimum of 15% of the total number of dwelling units shall be restricted, in perpetuity, in the following manner:
  - (1) Five percent of the units shall be affordable to persons or families qualifying as low income; and
  - (2) Five percent of the units shall be affordable to persons or families qualifying as moderate income; and
  - (3) Five percent of the units shall be affordable to persons or families qualifying as median income.



- B. The Planning Board may waive or partially waive the affordability component for projects of 10 units or less, provided that the applicant can show that including affordable units is an unreasonable financial burden.

**§ 240-89. Other dimensional regulations.**

- A. Existing street protection. There may not be a larger number of lots relying on frontage on a street other than one created by the development involved than would be expected under a conventional plan.
- B. Building envelope. Principal buildings, accessory buildings, and parking, both initially and through subsequent additions and alterations, shall be located within a designated building envelope. Such envelopes shall not exceed 40% of the lot area (exclusive of wetlands) of the lots they are on, and shall be located consistent with the following.
- (1) Building envelopes shall include no land within front, side and rear yards based upon requirements contained in the Intensity of Use Schedule of § 240-40 applied as follows:
    - (a) For yards measured from the boundary line at the perimeter of the MRD, the requirements for the Suburban District shall apply.
    - (b) For yards not measured from the perimeter boundary, the requirements for the Residential (R) District shall apply, except that the Planning Board in acting on the special permit approval may authorize a reduction of up to 50% in those requirements upon its determination that such reduction results in better design, improved protection of natural or cultural resources, and adequate protection of privacy and safety.
  - (2) Building envelopes shall include no land within any wetland, floodplain, or slope in excess of 25%.
  - (3) Building envelopes shall not be located within 100 feet of any designated natural or historic resources unless, in approving the MRD special permit, the Planning Board determines that either such buffering is inappropriate, as in the case of proposing an architecturally compatible building in the vicinity of an historic structure, or that meeting these resource buffers would leave otherwise developable property without economically beneficial use, and that the relief granted is the minimum necessary to allow economic use.
  - (4) Where possible, building envelopes shall avoid damage to areas of visual importance, such as ridgelines, open fields, or dense vegetation buffering development from existing roads.

**§ 240-90. Roads.**

The principal roadway(s) serving the site shall be designed to conform to the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways must be proven to be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the applicant.

**§ 240-91. Parking.**

Each dwelling unit shall be served by at least two off-street parking spaces. Parking spaces in front of garages may count in this computation.

**§ 240-92. Landscaping.**

Elements such as any protected open space areas, street trees, stream buffer areas, other buffers, cul-de-sac planting areas, and outstanding specimen trees or tree groupings shall be used as part of an integrated conceptual design uniting the various elements of the site and preserving and enhancing its natural and scenic resource elements.

- A. Existing trees and indigenous vegetation shall be retained to the extent reasonably feasible, except where the Board concurs that removal is preferable for opening views from public roads, control of invasive growth, or other benefits.
- B. Protected areas and resources shall be linked in continuous patterns to the extent reasonably feasible.
- C. Protection for trees and tree groupings to be retained shall include avoidance of grade change within the drip line, careful marking to avoid accidental damage and location of materials and soil deposits distant from those trees during construction.

**§ 240-93. Contiguous open space.**

A minimum of 40% of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively conservation, agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- A. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in § 240-79 above. In no case shall the percentage of contiguous open space which is wetlands exceed 50% of the tract.
- B. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
- C. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to 10% of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths.
- D. Underground utilities to serve the major residential development site may be located within the contiguous open space, subject to conditions that may be imposed by the Board.

**§ 240-94. Ownership of contiguous open space.**

The contiguous open space shall, at the Planning Board's election, be conveyed to:

- A. The Town or its Conservation Commission;
- B. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- C. A corporation or trust owned jointly or in common by the owners of lots within the major residential

development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide 14 days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

#### **§ 240-95. Buffer areas.**

A buffer area of 100 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least 50 feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

#### **§ 240-96. Drainage.**

Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.<sup>30</sup>

#### **§ 240-97. Decision basis.**

The Planning Board may approve, approve with conditions, or deny an application for a MRD after determining whether the MRD better promotes the purposes of this Major Residential Development Bylaw than would a conventional subdivision development of the same locus.

#### **§ 240-98. Relationship to other requirements.**

The submittals and permits of this article shall be in addition to any other requirements of the Subdivision Control Law<sup>31</sup> or any other provisions of this Zoning Bylaw.

#### **§ 240-99. Long-term compliance.**

Subsequent to approval of a major residential development, no land therein shall be sold and no lot line or structure altered from that shown on the plan so as to increase the extent of nonconformity with the standard dimensional regulations of this bylaw. Prior to sale of any lot within a development, or issuance of a building permit for construction therein, such lots shall be shown on a plan recorded in the Registry of Deeds or registered with the Land Court, which plan shall make reference to the recorded land agreements referred to in §§ 240-93 and 240-94. Unless the Planning Board has specifically approved staged development, such plan shall show all lots to be included in the Development.

---

30. Editor's Note: See Ch. 245, Subdivision Regulations.

31. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

ARTICLE XV  
**Special Residential Uses**

**§ 240-100. Types of special residential uses.**

Special residential uses are townhouses, assisted elderly housing, public housing, and other multifamily housing.

**§ 240-101. Townhouse dwellings.**

As provided in § 240-31, Use Regulations Schedule, townhouse dwellings may be allowed on special permit in all except the Industrial District. Such special permits shall be acted on by the Planning Board, subject to the following:

- A. Minimum lot area shall be 10,000 square feet per bedroom, but in no case shall lot area be less than 20 acres.
- B. Approval of the special permit shall be based upon the criteria of § 240-108, Decision.

**§ 240-102. Assisted elderly housing.**

As provided in § 240-31, Use Regulations Schedule, assisted elderly housing may be allowed on special permit in all except the Industrial District. Such special permits shall be acted on by the Planning Board, subject to the following:

- A. For units designated as "targeted" by the Planning Board under § 240-42, lot area and frontage requirements shall be as specified in that section, rather than § 240-40, Intensity of Use Schedule.
- B. The following information shall be submitted in addition to the submittal requirements of § 240-17:
  - (1) A description of the proposed management of the facility.
  - (2) A description of the services to be provided to the residents and how such services are to be supplied.
  - (3) A description of all common or shared areas.
- C. Approval of the special permit shall be based upon the criteria of § 240-108, Decision.

**§ 240-103. Public housing.**

As provided in § 240-31, Use Regulations Schedule, public housing is a permitted use in all districts except the Industrial District. Public housing is exempt from the minimum requirements of § 240-40, Intensity of Use Schedule.

**§ 240-104. Other multifamily dwellings.**

- A. As provided in § 240-31, Use Regulations Schedule, multifamily dwellings other than townhouse dwellings, assisted multifamily housing, or public housing are allowed only:
  - (1) In the Multifamily District; or
  - (2) Through conversion of an existing dwelling in any other district, upon determination by the Board of Appeals that the structure could not reasonably be used or altered for any other use.

(See § 240-31, Footnote 10.)

- B. New Multifamily Districts (M) shall each be created only by vote of the Town Meeting amending the Zoning Map. Each such district shall not be less than 20 acres in extent, shall front for at least 500 feet on an arterial street, and shall contain not less than 70% vacant or agricultural land.
- C. Minimum lot area for other multifamily dwellings shall be 40,000 square feet for up to four dwelling units, and 3,000 square feet additional lot area for each additional family accommodated.
- D. Approval of the special permit shall be based upon the criteria of § 240-108, Decision.

#### **§ 240-105. Special residential use requirements.**

The following shall apply to all special residential uses (townhouse dwellings, assisted elderly housing, and other multifamily dwellings) except not to Public Housing.

- A. Bedroom limitation. Not more than 10% of the cumulative number of dwelling units on the premises having been granted occupancy permits at any point in time may have three bedrooms (except assisted elderly, which may have none) and none may have more than three bedrooms, unless (except in the case of assisted multifamily) the special permit originally allowing the development explicitly authorizes occupancy permits for more or larger units. Said authorization shall be granted only where lot area will equal at least 10,000 square feet per bedroom.

#### **§ 240-106. Submittals.**

- A. The application for a special permit shall be accompanied by six copies of:
  - (1) A site plan including the items required under § 240-17B(1) (but they may be at a concept rather than final level of detail);
  - (2) A proposed staging plan, if building permits are not to be immediately sought for all units; and
  - (3) A ground floor plan and architectural elevations of all proposed buildings, prepared by a registered architect.
- B. Those materials shall be circulated for review as provided at § 240-16B(2). No special permit shall be decided upon within 35 days of such referral without receipt of advisory reports, from each of those agencies regarding compliance of the proposal to local rules, regulations, and bylaws as well as good practice within their area of concern.

#### **§ 240-107. Special permit lapse.**

The special permit shall lapse upon transfer of ownership or within 12 months of special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. ch. 40A, § 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

#### **§ 240-108. Decision.**

In deciding on a special permit for townhouse, assisted elderly housing, or other multifamily dwellings, the following more detailed criteria shall be used rather than those of § 240-25. Such special permit shall be granted only if the Planning Board determines that the proposal would serve Town interests better than would single-family development of the same area, considering the following:

- A. Municipal costs and revenues.
- B. Effect on the range of available housing choice.
- C. Service to identified housing needs.
- D. Service to current Bellingham residents.
- E. Support for local business activity and jobs.
- F. Impact on the natural environment, especially on ground and surface water quality and level.
- G. Impacts on traffic safety and congestion, adequacy of water service, and need for school facilities.
- H. Impacts on the visual environment through preservation or displacement of visual assets, and consistency with existing development in area.

**§ 240-109. Development rate.**

In authorizing townhouse dwellings and other multifamily dwellings, the Planning Board shall establish an annual limit for the number of such dwelling units to be authorized, taking into consideration the Town-wide building rate experienced over the previous two years and anticipated over the next half-dozen years, the needs which the housing will serve, the ability of the Town to provide services in a timely manner, and the housing cost and feasibility consequences of the limitation.

ARTICLE XVI  
**Special Flood Hazard Area Requirements**

**§ 240-110. District establishment.**

- A. The Floodplain District herein also called "Special Flood Hazard Area" (SFHA) is hereby established as an overlay district to all other districts. All development in the SFHA District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with M.G.L. ch. 131, § 40, and with the following:
- (1) Section of the Massachusetts State Building Code which addresses special flood hazard area and coastal high hazard areas, 780 CMR.
  - (2) Wetlands Protection Regulations, Department of Environmental Protection (DEP), 310 CMR 10.00.
  - (3) Inland Wetland Restriction, DEP, currently 310 CMR 13.00.
  - (4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP, 310 CMR 15, Title 5.
- B. The district also includes all special flood hazard areas within the Town of Bellingham designated as Zone A and AE on the Norfolk County Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Bellingham are panel numbers 25021C0138E, 25021C0139E, 25021C0299E, 25021C0301E, 25021C0302E, 25021C0303E, 25021C0304E, 25021C0311E, 25021C0312E, 25021C0313E and 25021C0314E, dated July 17, 2012. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Norfolk County Insurance Study (FIS) report dated July 17, 2012. The FIRM and the FIS report are incorporated herein by reference and are on file with the Town Clerk and Building Inspector.

**§ 240-111. Development regulations.**

The following requirements apply in Special Flood Hazard Area Districts:

- A. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation of floodproofing requirements, as appropriate, of the State Building Code.
- B. In the floodway designated on the Flood Insurance Rate Map, the following provisions shall apply:
- (1) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development, are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood level during the occurrence of the base flood. The base flood is the flood having a one-percent chance of being equaled or exceeded in any given one year.
  - (2) Any encroachment meeting the above standard shall comply with the floodplain (special flood hazard area) standards of the State Building Code as well as the performance standards in 310 CMR (Wetlands Protection Regulations).

- (3) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within the unnumbered A Zones.
- (4) All subdivision proposals must be designed to assure that:
  - (a) Such proposals minimize flood damage;
  - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (c) Adequate drainage is provided to reduce exposure to flood hazards
- (5) Notification of watercourse alteration. In a riverine situation, the Building Inspector or Board of Selectmen shall require the applicant to notify the following of any alteration or relocation of a watercourse:
  - (a) Adjacent communities.
  - (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

- (6) 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.



ARTICLE XVII  
**Earth Removal Regulations**

**§ 240-112. General.**

The removal from any premises of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel shall be done only in accordance with §§ 240-113 through 240-118.

**§ 240-113. Permitted activities.**

The following activities do not require a special permit and are not subject to §§ 240-113 through 240-118. However, a permit (for which no fee will be charged), specifying proposed time and estimated volume, must be obtained from the Inspector of Buildings prior to initiation of removal. Such no-fee permit may specify conditions regarding trucking hours, routes, and methods; hours of operation; drainage and erosion control; and exposed face height and slope limits. Unbuilt-on areas shall be restored consistent with the standards of § 240-116, Restoration, within a period to be specified in the permit. Performance security as specified at § 240-114B shall be required by the Inspector of Buildings where other means of assuring timely restoration are not available.

- A. Removal of less than 50 cubic yards of materials within any twelve-month period.
- B. Removal of less than 2,500 cubic yards incidental to construction on the premises under a currently valid building permit, as indicated on a site plan approved by the Inspector of Buildings under § 240-17, or as required for cellar excavation, driveways, and parking to grades indicated on a plot plan approved by the Inspector of Buildings. However, topsoil stripped and stockpiled or removed from the premises shall be restored to its original location within 24 months of such stripping unless the construction has been completed or is authorized under a currently valid building permit.
- C. Removal of less than 2,500 cubic yards incidental to road construction within a public right-of-way or a way shown on an approved definitive subdivision plan.
- D. Removal on a parcel for which removal was authorized under a legal permit issued prior to adoption of these provisions until the expiration date of said permit, provided that all bylaws, permits, and conditions applicable prior to the adoption of this article shall be complied with. From that expiration date, full compliance with all the requirements of Article XVII of this chapter must be met.

**§ 240-114. Permit from Board of Appeals.**

Removal shall be allowed only under special permit for an exception issued by the Board of Appeals following written application. The following shall be conditions for such issuance:

- A. The application shall be accompanied by a plan showing all man-made features, property lines, names and addresses of all abutters (from the Assessors), including those across any street or way, and shall be accompanied by topographic information, such as that available on the Town's one inch equals 100 feet topographic maps. Plans for major removal, which are those involving more than 2,500 cubic yards or more than two acres, shall be prepared by a registered land surveyor, and in addition to the above, shall show the following:
  - (1) Existing topography in the area for which material is to be removed and for 100 feet beyond that;
  - (2) Estimates of the evaluation of historical high groundwater as determined from monitoring wells

and historical water table fluctuation data compiled by the USGS;

- (3) Grades below which excavation will not take place;
- (4) Proposed finish grades upon completion of removal and restoration activities;
- (5) Proposed cover vegetation and trees.

Two additional copies of materials submitted in applying for major removal shall be provided by the applicant for forwarding to the Planning Board for its review and recommendation to the Board of Appeals.

- B. A performance bond in the amount determined by the Board of Appeals may be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of the bylaw and such other conditions to the issuance of its permit. Such bond shall have an expiration date not less than six months later than the permit termination date.
- C. Before granting a permit, the Board of Appeals shall give due consideration to the location of the proposed earth removal, to the general character of the neighborhood surrounding such location, to the protection of water supply, and to the general safety of the public on the public ways in the vicinity.

#### **§ 240-115. Removal.**

- A. Finish grade shall not lie below a level that would reasonably be considered a desirable grade for the later development of the area, or below the grades specified on the plan accompanying the permit application. The Board of Appeals may specify a base grade below which excavation shall in no event take place.
- B. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.
- C. A one-hundred-foot buffer strip shall be maintained at all boundaries, and not excavated below boundary grades except at a slope of not greater than three feet horizontal to one foot vertical if such will enhance overall grading.
- D. The visibility, sound, and airborne particulates from processing equipment may be screened from adjacent premises through the design and location of such equipment, and through use of natural vegetation planting, overburden piles, and surge piles as screening.
- E. Dust shall be controlled through oiling or chemical treatment of roads except within Water Resource Districts. Within Water Resource Districts, dust control measures shall employ alternative methods that do not involve the use of hazardous materials as defined in this bylaw.

#### **§ 240-116. Restoration.**

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or upon completion of removal to the extent covered by the performance bond (§ 240-114B), that entire area shall be restored as follows:

- A. All land shall be so graded that no slope exceeds one foot vertical rise in three feet horizontal distance

and shall be so graded as to safely provide for drainage without erosion.

- B. All boulders larger than 1/2 cubic yard and stumps shall be removed.
- C. The entire area, excepting exposed ledge rock, shall be covered with not less than four inches of topsoil, which shall be planted with cover vegetation adequate to prevent soil erosion.
- D. Bond shall not be released until sufficient time has lapsed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

**§ 240-117. Additional conditions.**

The Board of Appeals may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which removal may take place, hours during which vehicles may leave the premises, and trees to be planted.

**§ 240-118. Renewal or renovation of permit.**

No permit shall be issued under the provisions of Article XVII of this chapter for a period of more than two years, but a permit may be renewed upon application without a public hearing; provided that such renewal is approved prior to expiration of the permit being renewed. Prior to renewal, inspection of the premises shall be made by the Zoning Agent to determine that the provisions of this bylaw are being complied with. The Board of Appeals, after hearing any proof of violation of this bylaw, shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with § 240-116.

ARTICLE XVIII  
**Major Business Complexes**

**§ 240-119. Applicability.**

Major Business Complexes shall be granted special permits only in districts where allowed under § 240-31, Use Regulations Schedule, and only in accordance with the following. The applicant shall submit adequate documentation, including plans, calculations and narrative, to allow determination of compliance by the Planning Board without need for extensive further analysis.

**§ 240-120. Eligible locations.**

Major business complexes shall be so located and sized or their development phased so that the following will be met, as determined by the Planning Board.

- A. Traffic. Projected peak hour traffic will not be increased on any servicing road by 25% or more above levels otherwise anticipated at the time of occupancy; provided, however, that a complex increasing traffic by more than that amount may be granted a special permit, provided that the Planning Board determines that traffic mitigation measures assured under the special permit adequately provided for capacity and safety improvements.
- B. Water supply. Servicing the projected water demand for these premises will not result in substantial limitation upon the Town's ability to adequately provide water service to other developed sites in the Town.
- C. Sewage disposal. If proposed to be serviced with public sewerage, providing that service will not result in substantial limitation upon the Town's ability to adequately provide sewage collection and treatment service to other developed sites in the Town.

**§ 240-121. Site design.**

Individual uses must be located within a district allowing that category of use even if it were not within a major business complex. Major business complexes shall be so designed that all banks exceeding 15° in slope resulting from site grading shall be retained with vegetative cover reasonably sufficient to prevent erosion.

**§ 240-122. Traffic mitigation.**

Special permits for major business complexes may be granted subject to conditions requiring the applicant to provide off-site traffic mitigation, including measures to assure safety and adequacy of capacity at points of ingress and egress, and to participate in improvements at other locations in proportion to the development's pro-rated share of the municipal costs for those improvements.

ARTICLE XIX  
**Motor Vehicle Service Stations**

**§ 240-123. Conformance required.**

Motor vehicle service stations shall be granted a special permit only in conformity with the following:

**§ 240-124. Entrances and exits.**

No location shall be approved if a vehicular entrance or exit will be so located as to create an unusual hazard. Lanes of entry shall be separated from lanes of egress by not less than 40 feet, shall be clearly distinguished by directional signs or markers, and shall be clearly channeled through use of curbed planting areas or similar devices. Entrances and exits together shall occupy not more than 40% of the lot frontage.

**§ 240-125. Relation to pedestrian flow.**

No location shall be approved if a vehicular entrance or exit will be so located as to cross a major pedestrian flow, such as on sidewalks servicing churches, schools, recreation areas, or compact retail districts.

**§ 240-126. Visibility.**

No entrance or exit shall be located within 20 feet of a side lot line, or within 50 feet of the intersection of sidelines of intersecting streets. Egressing vehicles shall have at least 400 feet visibility in each travel direction.

**§ 240-127. Off-street spaces.**

There shall be at least two additional waiting spaces per filling position.

**§ 240-128. Service buildings.**

No service building shall be located within 40 feet of a street line, and no pump or other dispensing device, moveable sign or display, nor temporary or permanent storage of merchandise, shall be located within 20 feet of a street line.

**§ 240-129. Fuel storage tanks.**

No fuel storage tank shall be located within 20 feet of any lot line.

**§ 240-130. Self-service stations.**

Self-service gasoline stations shall be allowed by grant of a special permit from the Bellingham Board of Selectmen.

ARTICLE XX  
**Water Resource Districts**

**§ 240-131. Purpose.**

The purpose of this Water Resource District is to:

- A. Promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Bellingham;
- B. Preserve and protect existing and potential sources of drinking water supplies;
- C. Conserve the natural resources of the Town; and
- D. Prevent temporary and permanent contamination of the environment.

**§ 240-132. Scope of authority.**

The Water Resource District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/uses in a portion of one of the underlying zoning districts that fall within the Water Resource District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Water Resource District.

**§ 240-133. State laws and regulations considered incorporated.**

- A. Throughout this bylaw there are references to various Massachusetts General Laws (M.G.L.) and Code of Massachusetts Regulations (CMR). The following is a list of those referenced:
  - (1) 310 CMR 32.30.
  - (2) 310 CMR 32.31.
  - (3) 314 CMR 5.05(3).
  - (4) 314 CMR 5.03(13).
  - (5) 310 CMR 30.
  - (6) 310 CMR 19.006.
  - (7) 310 CMR 15.004(6).
  - (8) 310 CMR 30.136.
  - (9) 310 CMR 30.390.
  - (10) M.G.L. ch. 21C.
  - (11) M.G.L. ch. 21E.
  - (12) M.G.L. ch. 21, § 52A.
- B. All such laws, codes, and regulations as they apply to this bylaw are effective only as they exist at the

date of acceptance of this bylaw and not as they may be subsequently amended. Copies of these laws, codes, and regulations as they apply to this bylaw are on file with the Zoning Inspector.

#### **§ 240-134. Definitions.**

For the purposes of this article, the following terms are defined below:

**AQUIFER** — Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**DEPARTMENT (THE)** — The Massachusetts Department of Environmental Protection.

**HAZARDOUS MATERIAL** — Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Bellingham. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products, heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. chs. 21C and 21E and 310 CMR 30.00.

**IMPERVIOUS SURFACE** — Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**LANDFILL** — A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

**NON-SANITARY WASTEWATER** — Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

**OPEN DUMP** — A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act [42 U.S.C. 4004(a)(b)], or the regulations and criteria for solid waste disposal.

**POTENTIAL DRINKING WATER SOURCES** — Areas which could provide significant potable water in the future.

**SEPTAGE** — The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material, which is a hazardous waste, pursuant to 310 CMR 30.000.

**SLUDGE** — The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

**SPGA** — Special permit granting authority.

**TREATMENT WORKS** — Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**VERY SMALL QUANTITY GENERATOR** — Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**WASTE OIL RETENTION FACILITY** — A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or

discharge of petroleum waste products in accordance with M.G.L. ch. 21, § 52A.

**WATER RESOURCE DISTRICT** — The zoning district defined to overlay other zoning districts in the Town of Bellingham.

**§ 240-135. Establishment and delineation.**

For the purposes of this district, there are hereby established within the Town certain groundwater protection areas, consisting of aquifers which are delineated on a map. This map is entitled "Water Resource District Map, Town of Bellingham." This map is attached to the Town Zoning Bylaw and is further on file in the office of the Town Clerk.<sup>32</sup>

**§ 240-136. Pre-application conference requirement.**

- A. Timing. Any private party intending to submit an application for building construction, land development, or earth moving exceeding 1,500 cubic yards on land, which may be fully or partially within the Water Resource District must meet with the Zoning Inspector, who will determine if the project is subject to this bylaw. If so determined, said private party shall meet with the SPGA at a public meeting to discuss the proposed development in general terms, determine if a special permit under this bylaw is required, and establish the plan filing requirements.
- B. The SPGA shall meet with an applicant within 21 days following a written request submitted to the SPGA and the Town Clerk. If the SPGA fails to meet with an applicant who has requested such a meeting within 21 days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a special permit application without need for a pre-application conference.
- C. Filing requirements. The purpose of the pre-application conference shall be to inform the SPGA as to the preliminary nature of the proposed project, and, as such, no formal filings are required for the conference. However, the applicant is encouraged to meet with the Town Planner to discuss the preparation and submission of sufficient preliminary site design or engineering drawings to inform the SPGA of the scale and overall design of the proposed project.

**§ 240-137. Prohibited uses.**

The following uses are prohibited within the Water Resource District:

- A. Landfills and open dumps as defined in 310 CMR 19.006.
- B. Automobile graveyards and junkyards, as defined in M.G.L. ch. 140B, § 1.
- C. Landfills receiving only wastewater and/or septage residuals, including those approved by the Department.
- D. Facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL ch. 21C and 310 CMR 30.00, except for:
  - (1) Very small quantity generators as defined under 310 CMR 30.000;
  - (2) Household hazardous waste centers and events under 310 CMR 30.390;

---

32. Editor's Note: A copy of the Water Resource District Map is included as an attachment to this chapter.



- (3) Waste oil retention facilities required by M.G.L. ch. 21, § 52A;
- (4) Water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters.
- E. Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- F. Storage of liquid hazardous materials, as defined in MGL c. 21E, and/or liquid petroleum products unless such storage is:
  - (1) Above ground level; and
  - (2) On an impervious surface; and
  - (3) Either:
    - (a) In container(s) or above ground tank(s) within a building; or
    - (b) Outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
- G. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
- H. 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.
- I. Storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- J. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, utility works, or primarily agricultural purposes consistent with M.G.L. ch. 40A, § 3.
- K. Discharge to the ground of non-sanitary wastewater, except:
  - (1) The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - (2) Treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
  - (3) Publicly owned treatment works.
- L. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside of the Water Resource District or Zone II.
- M. Storage of commercial fertilizers, as defined in M.G.L. ch. 128, § 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

- N. Gasoline or diesel fuel vehicle filling stations.
- O. Motor vehicle service and repair.
- P. Motor vehicle washing (car washes), unless equipped with a system by which no wash water is discharged to any form of underground soil absorption system.
- Q. The rendering impervious of greater than 15% or 2,500 square feet of any lot or parcel, whichever is greater, unless a system of stormwater management and artificial recharge of precipitation is developed which is designed to prevent untreated discharges to wetland and surface water; preserve hydrologic conditions that closely resemble pre-development conditions; reduce or prevent flooding by managing peak discharges and volumes of runoff; minimize erosion and sedimentation; not result in significant degradation of groundwater; reduce suspended solids and other pollutants to improve water quality and provide increased protection of sensitive natural resources. These standards may be met using the following or similar best management practices:
  - (1) For lots or parcels occupied, or proposed to be occupied, by single- or two-family residences recharge shall be attained through site design that incorporates natural drainage patterns and vegetation in order to reasonably maintain pre-construction stormwater patterns and water quality to the extent practicable. Stormwater runoff from rooftops, driveways and other impervious surfaces shall be routed over lawn areas via sheet flow for no less than eight feet before discharging to a wetland, surface water, or impervious surface that lead to a street drain system. Dry well leaching pits can be used in lieu of eight feet of lawn for rooftop runoff. The site design must direct only the added impervious surface run off. No site design is needed, if the street drain system has water quality and recharge installed at the outfall.
  - (2) For lots occupied, or proposed to be occupied by other uses, a special permit from the Planning Board to ensure that an adequate system of stormwater management and artificial recharge of precipitation is developed.

**§ 240-138. Uses and activities requiring special permit.**

The following uses and activities are permitted only upon the issuance of a special permit by the special permit granting authority (SPGA) under such conditions as they may require:

- A. Enlargement or alteration of existing uses that do not conform to the Water Resource District;
- B. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under § 240-137). Such activities shall require a special permit to prevent contamination of groundwater.

**§ 240-139. Procedures for issuance of special permit.**

- A. The special permit granting authority (SPGA) under this bylaw shall be the Planning Board. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission, the Board of Selectmen, and Department of Public Works, that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.

- B. Upon receipt of the special permit application, the SPGA shall notify the Board of Health, the Conservation Commission, the Board of Selectmen, and Department of Public Works, for their written recommendations. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The applicant shall furnish the necessary number of copies of the application.
- C. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in § 240-138 of this bylaw, and any regulations or guidelines adopted by the SPGA, including § 240-25 of the bylaw. The proposed use must:
- (1) In no way, during construction or thereafter, adversely affect the existing or potential quality of quantity of water that is available in the Water Resource District; and
  - (2) Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- D. The applicant shall file copies of the special permit application, site plan and attachments as indicated on the Form K.<sup>33</sup> The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. Qualified professionals shall prepare all additional submittals. The site plan and its attachments shall at a minimum include the following information where pertinent:
- (1) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
  - (2) For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
    - (a) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
    - (b) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
    - (c) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection;
    - (d) Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.
- E. The SPGA shall hold a hearing, in conformity with the provision of M.G.L. ch. 40A, § 9, within 65 days after the filing of the application and after the review by the Town boards, departments, and commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in M.G.L. ch. 40A, § 11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit.

---

33. Editor's Note: A copy of Form K is included as an attachment to Chapter 245, Subdivision Regulations.

F. Permit recording and expiration of special permit shall apply as per Article IV of the bylaw.

**§ 240-140. Notice of violation; severability.**

- A. The Zoning Inspector shall give written notice of any violations of this bylaw to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.
- B. A copy of such notice shall be submitted to the Planning Board, Inspector of Buildings, Board of Health, Conservation Commission, and Department of Public Works. The cost of containment, clean up, or other action of compliance shall be borne by the owner and operator of the premises.
- C. A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

ARTICLE XXI  
**Wireless Communication Facilities**

**§ 240-141. Purpose.**

The purposes of this bylaw are as follows:

- A. To minimize adverse impacts of wireless communication facilities on residential neighborhoods and the community;
- B. To encourage the shared use of facilities to reduce the need for new facilities; and
- C. To limit the overall number and height of facilities to what is necessary to serve the public.

**§ 240-142. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**CAMOUFLAGED FACILITY** — A telecommunications facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure that is considered "camouflaged."

**CO-LOCATION** — The use of a single mount on the ground by more than one carrier (vertical collocation), and/or several mounts on an existing structure by more than one carrier.

**GUYED TOWER** — A monopole or lattice tower that is tied to the ground or other surfaces by diagonal cables.

**LATTICE TOWER** — A type of mount that is self-supporting with multiple legs and cross bracing of steel structure.

**MONOPOLE** — A single self-supporting vertical pole with below grade foundations.

**PROVIDER or CARRIER** — An entity, licensed by the FCC, to provide telecommunications services to individuals or institutions.

**TOWER** — A monopole or lattice tower that is designed to support personal wireless communication services transmission, receiving and relaying antennas and equipment.

**WIRELESS COMMUNICATION FACILITIES** — A telecommunications facility consisting of the structures, including towers and antennas mounted on towers and buildings, equipment and equipment shelters, accessory buildings or structures, and site improvements, involved in sending and receiving telecommunications or radio signals to a central switching computer which connects the mobile unit with land-based or other telephone lines.

**§ 240-143. Applicability.**

This article shall apply to reception and transmission facilities for the purpose of personal wireless communication services. This bylaw shall not apply to towers or antennas installed for use by a federally licensed amateur radio operator.

**§ 240-144. General requirements.**

Wireless communication facilities shall only be allowed after the issuance of a special permit in accordance with the provisions of M.G.L. ch. 40A, § 9, this bylaw and any rules and regulations adopted hereunder. The Board of Appeals shall be the special permit granting authority for wireless communication facilities.

- A. Lattice-style towers and similar facilities requiring more than one leg or guy wires for support are prohibited.
- B. All structures associated with wireless communication facilities shall be removed within one year of cessation of use.
- C. The tower height shall not exceed 100 feet measured from the base of the tower to the highest point of the tower including anything on it.
- D. All towers shall be set back from lot lines a minimum of the height of the tower except where the tower abuts the right-of-way of Route I-495 where the setbacks shall be the minimum permitted by the Commonwealth of Massachusetts.
- E. No tower shall be located within two miles of another such tower.
- F. Any utilities servicing a tower shall be located underground.
- G. Lighting of wireless communication facilities shall be limited to low level security lighting installed at or near ground level, except for lighting required by the Federal Aviation Administration (FAA).
- H. Fencing shall be provided to control unauthorized access to the tower.
- I. The facility shall contain one sign no greater than one square foot that provides the telephone number where the operator in charge can be reached on a twenty-four-hour basis.

**§ 240-145. Criteria.**

A special permit for a wireless communication facility shall not be issued unless the special permit granting authority finds the following:

- A. Existing or approved facilities cannot accommodate the applicant's proposal.
- B. The facility has been designed to accommodate the maximum number of providers but in no case less than three.
- C. The applicant has agreed to allow other service providers to co-locate on the tower, now, or at any time in the future.
- D. The tower has been designed, using the best available technology, to blend into the surrounding environment through the use of color, camouflaging techniques, or other architectural treatments.
- E. The facility has been designed to minimize adverse visual impacts on the abutters and the community as demonstrated by illustrations and by a balloon test performed in accordance with any requirements adopted by the Board of Appeals.
- F. The facility is sited in such a manner that it is screened, to the maximum extent possible, from public view.

**§ 240-146. Conditions.**

Before approving any special permit under this article, the special permit granting authority may impose conditions, safeguards and limitations to assure that the proposal is in harmony with the general purpose and intent of this bylaw.

**§ 240-147. Bonding.**

Prior to the issuance of a building permit the special permit granting authority may require a performance guarantee to ensure compliance with the plan and conditions set forth in their decision.

## ARTICLE XXII

**Adult Uses****§ 240-148. Purpose and intent.**

- A. It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that adult entertainment establishments are distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, decreased tax base, and blight resulting from the clustering and concentration of adult entertainment uses. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This bylaw is enacted pursuant to M.G.L. ch. 40A, § 9, and the Home Rule Amendment to the Massachusetts Constitution with the purpose and intent of regulating and limiting the location of adult entertainment establishments (as defined herein) so as to prevent the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Bellingham.
- B. The provisions of this article have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this article to restrict or deny access by adults to adult uses and to sexually oriented matter or materials protected by the Constitutions of the United States of America and of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this article to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

**§ 240-149. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ADULT USES** — An establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock-in-trade, or other matter or materials for sale, rental, distribution or exhibition, which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31, including but not limited to the following:

- A. **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 on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;
- B. **ADULT CLUB** — An establishment having as any of its activities or entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;
- C. **ADULT ENTERTAINMENT ESTABLISHMENT** — An establishment offering activities or goods or providing services where employees, entertainers or patrons are engaging in nudity, sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;
- D. **ADULT MOTION PICTURE THEATER** — An establishment used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;



- E. 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 M.G.L. ch. 272, § 31;
- F. ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade videos, movies or other film materials which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31.

SUBSTANTIAL OR SIGNIFICANT PORTION — As used in this article shall mean any of the following:

- A. Twenty percent or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time;
- B. Twenty percent or more of the annual number of gross sales, rentals or other business transactions; or
- C. Twenty percent or more of the annual gross business revenue.

**§ 240-150. Special permit required; standards and procedures.**

No adult use shall be allowed except by a special permit granted by the Planning Board. The Planning Board shall grant a special permit for an adult use in any district permitting such use only if the use is found by the Planning Board to comply with the following standards and procedures:

- A. Location. An adult use may not be located:
  - (1) Within 500 feet of a boundary line of a residential zoning district or of a property line of a lot containing a residential use;
  - (2) Within 1,000 feet of any structure containing, at the time of special permit application, a church or other religious use, public school, private kindergarten or school, child-care facility, park, playground, any recreational area, public library, cultural facility, museum, elderly housing, assisted living facility, nursing home, or adult day-care facility;
  - (3) Within 1,000 feet of any structure containing, at the time of special permit application, an establishment licensed under the provisions of M.G.L. ch. 138, § 12;
  - (4) Within 1,000 feet of any structure containing any other adult use;
  - (5) Within 200 feet of an interstate highway, arterial street or a street with average daily traffic greater than 2,000 vehicle trips per day.
  - (6) So that the building and/or signage associated with an adult use will be visible from an interstate highway, arterial street or a street with average daily traffic greater than 2,000 vehicle trips per day.
- B. Site development standards.
  - (1) Development plan review. No special permit for any adult use shall be issued without development plan approval first having been obtained from the Planning Board under § 240-16 hereof.
  - (2) Parking and loading. On-site parking and loading shall be provided in accordance with the

requirements set forth in Article X of these bylaws as pertains to service establishments.

- (3) Landscaping. At a minimum, the property on which an adult use is proposed to be located shall contain a landscaped buffer strip along its entire perimeter, except that portion directly abutting a public street. Said buffer strip shall have a twelve-foot minimum depth and contain a curb to prevent parking within the strip, a six-foot-high fence which shall be located a maximum of two feet from the abutting lot lines and contain an evergreen hedge on the adult use side of the fence which is to be at least three feet in height at the time of planting and will provide a year-round dense visual screen and attain a height of at least seven feet within five years of planting.
- (4) Signs. All signs for any adult use must meet the requirements of Article VIII hereof. In addition, no portion of an advertisement, display or other promotional material which contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public way, including but not limited to sidewalks, pedestrian walkways, highways, railways, or airways.

C. Other special permit requirements.

- (1) If the adult use allows for the showing of films or videos within the premises, curtains, doors or screens shall not close off the booths in which the films or videos are viewed. All booths must be able to be clearly seen from the center of the establishment.
- (2) Application requirements. The application for a special permit for an adult use must include the following information:
  - (a) Name and address of the owner of record of the property;
  - (b) Name and address of the legal owner of the proposed adult use establishment;
  - (c) Name and address of all persons having a lawful, equity or security interest in the adult use establishment;
  - (d) A sworn statement must be provided stating that neither the applicant, nor the manager, nor any person having a lawful, equity or security interest in the adult use establishment has been convicted of violating the provisions of M.G.L. ch. 119, § 63, or M.G.L. ch. 272, § 28;
  - (e) Name and address of the manager of the adult use establishment;
  - (f) Proposed provisions for securing the safety of the public within and without the adult use establishment;
  - (g) The number of employees; and
  - (h) The present and proposed physical layout of the interior of the adult use establishment.
- (3) No special permit for an adult use shall be issued to any person convicted of violating M.G.L. ch. 119, § 63, or M.G.L. ch. 272, § 28.
- (4) An adult use special permit shall only be issued following a public hearing held within 65 days after the filing of an application with the Planning Board, a copy of which shall forthwith be given to the Town Clerk by the applicant.
- (5) Any adult use special permit issued under this bylaw shall lapse within one year if substantial use thereof has not sooner commenced except for good cause or in the case of a permit for

construction, if construction has not begun by such date except for good cause; excepting only any time required to pursue or await the determination of an appeal from the grant thereof.

- (6) Any adult use special permit issued under this bylaw shall require that the owner of such adult use shall supply on a continuing basis to the Building Inspector any change in the name of the record owner or address or any change in the name of the current manager; and that failure to comply with this provision shall result in the immediate revocation of such special permit. If anyone so identified is or is found to be convicted of violating M.G.L. ch. 119, § 63, or M.G.L. ch. 272, § 28, such special permit shall immediately be null and void.
- (7) No adult use special permit issued under this bylaw shall become valid or in full force and effect until and unless the owner of the property containing such adult use shall supply to the Building Inspector a notarized statement agreeing to all terms and conditions of said adult use special permit.

**§ 240-151. Nonconformity.**

- A. Adult use in existence prior to the adoption of this article shall apply for a special permit as specified in this article within 90 days following the adoption of this article and shall be required to comply in all respects with all requirements of this article.
- B. Any adult use in existence prior to the adoption of this article which has applied for such special permit but which has not been granted such special permit may be permitted by a unanimous vote of the Planning Board following a public hearing to continue in operation at its present location for a period of time not exceeding six months following the date of the application for such special permit, provided that a written request therefor is made to the Planning Board.
- C. The Planning Board, upon written application made prior to the expiration of any such period of time and following a public hearing, may grant one additional extension period of time not to exceed six months. The adult use owner must demonstrate undue financial hardship if forced to close immediately upon failure to obtain a special permit to the Planning Board in order to obtain any such extension.
- D. The provisions of this article shall only apply to adult uses as defined in this article which are also defined in M.G.L. ch. 40A, § 9A.

**§ 240-152. Invalidity.**

In the event that any provision of this article shall be determined invalid by a court of competent jurisdiction or otherwise, the remaining provisions of this article not manifestly inseparable from the invalid provision(s) shall remain in full force and effect.

ARTICLE XXIII  
**Mill Reuse Overlay District**

**§ 240-153. Purposes and intent.**

The purposes of the Mill Reuse Overlay District are to facilitate the redevelopment and reuse of historic mill buildings in a manner that is appropriate for each site and sensitive to surrounding land uses; to promote housing choices in Bellingham; to provide for regulatory flexibility and intensification of use in existing buildings in order to meet the Town's housing and community development needs; to prevent disinvestment and deterioration of buildings that have become obsolete for their original purposes; and to encourage sustainable mixed-use development.

**§ 240-154. Establishment of district.**

The Mill Reuse District is hereby established as an overlay district. The district is bounded on the map entitled "Mill Reuse Overlay District," dated August 23, 2004 incorporated by reference in the Zoning Bylaw and on file with the Town Clerk and Building Inspector.<sup>34</sup>

**§ 240-155. Relationship to existing zoning.**

In the Mill Reuse Overlay District, all requirements of the underlying district(s) shall remain in effect except where these regulations supersede or provide an alternative to such requirements. If a property is developed consistent with the Mill Reuse Overlay District, the regulations of the Mill Reuse Overlay District shall apply. Where the provisions of the Mill Reuse Overlay District are silent on a zoning regulation, the requirements of the underlying zoning district shall apply.

**§ 240-156. Definitions.**

In addition to Article VI of this bylaw, the following definitions shall apply to development in the Mill Reuse Overlay District:

**AFFORDABLE HOUSING** — A dwelling unit in a Mill Reuse Project, subject to a legally enforceable deed restriction that runs in perpetuity or for the maximum period allowed by law, and meets all of the following criteria:

- A. The unit must be sold or rented to and occupied by a low- or moderate-income household, meaning a household with income at or below 80% of median family income, adjusted for household size, for the metropolitan or non-metropolitan area that includes the Town of Bellingham, as determined by the U.S. Department of Housing and Urban Development (HUD); and which meets the requirements of the Massachusetts Department of Housing and Community Development (DHCD), Local Initiative Program, under 760 CMR 45.00 et seq., for inclusion in the Chapter 40B Subsidized Housing Inventory as low- or moderate-income housing.
- B. Deed restriction. The affordability of low- or moderate-income units shall be protected by a regulatory agreement and, for homeownership units, by a deed rider acceptable to DHCD and approved as to form by Town Counsel. The regulatory agreement and, where applicable, the deed rider, shall be legally enforceable and recorded at the Registry of Deeds.
- C. DHCD certification. All low- or moderate-income units shall be eligible for listing on the Subsidized Housing Inventory, evidenced by an affordable housing restriction as defined under M.G.L. ch. 184,

---

34. Editor's Note: A copy of the Mill Reuse Overlay District Map is included as an attachment to this chapter.

§ 31, and certification signed by the Director of DHCD, both of which must be recorded at the Registry of Deeds.

**EXISTING FLOOR AREA RATIO** — The sum of the gross floor area on all floors of existing mill building(s), including the basement, measured in square feet, divided by the gross area of the existing lot excluding wetlands subject to control under the Wetlands Protection Act, measured in square feet.

**MAXIMUM GROSS DENSITY** — The total number of dwelling units on a parcel of land used for a Mill Reuse Project, divided by the size of the parcel in acres before dedication of any land for roads and other public uses and before the creation of common open space or other common amenities included or to be included as part of the development of the parcel of land.

**MILL REUSE PROJECT** — A predominantly residential development comprised of one or more of the uses authorized under § 240-157 of this bylaw, on a parcel of land with an existing mill building in the Mill Reuse Overlay District.

**PROPOSED FLOOR AREA RATIO** — The sum of the gross floor area on all floors of all proposed buildings in a Mill Reuse Project, including basements, measured in square feet, divided by the gross area of the proposed lot excluding wetlands subject to control under the Wetlands Protection Act, measured in square feet.

#### **§ 240-157. Use regulations.**

##### **A. Permitted uses.**

- (1) In the Mill Reuse Overlay District, a Mill Reuse Project comprised of one or more of the following uses shall be permitted in an existing mill building, except that a permitted Mill Reuse Project may not exceed 100 units of multifamily or assisted elderly housing, including any combination thereof.
  - (a) Multifamily dwelling.
  - (b) Assisted elderly housing.
  - (c) Accessory uses.
    - [1] Adult day care.
    - [2] Other uses customarily incidental to a permitted use.

##### **B. Uses authorized by special permit. In the Mill Reuse Overlay District, a Mill Reuse Project comprised of one or more of the following uses shall be allowed by special permit from the Planning Board:**

- (1) Multifamily or assisted elderly housing in excess of the number of units allowed as a permitted use.
- (2) New construction for uses otherwise permitted under Subsection A of this section.
- (3) Continuing care retirement community.
- (4) Nursing home.
- (5) Medical offices or medical clinic.
- (6) Accessory uses.

- (a) Adult day care accessory to a special permitted use.
  - (b) Retail or service establishment, or restaurant serving food and beverages only in the building or on a patio adjacent to and directly accessible from the building, primarily for residents, outpatients or employees of a permitted or special permitted use.
  - (c) Indoor or outdoor recreation, primarily for residents, outpatients or employees of a permitted or special permitted use.
  - (d) Other accessory uses customarily incidental to a special permitted use.
- C. Exemption from major development and special residential use regulations. A Mill Reuse Project shall not be subject to Article XIV, Major Residential Development, or to Article XV, Special Residential Uses.
- D. Use variances. Use variances shall not be allowed in the Mill Reuse Overlay District.

#### **§ 240-158. Intensity of use regulations.**

The intensity of use regulations for the underlying district(s) as set forth in § 240-40 of this bylaw shall apply to the Mill Reuse Overlay District, except as follows:

- A. Yard setbacks. There shall be no minimum front yard setback requirement.
- B. Gross density. A permitted Mill Reuse Project may not exceed a gross density of nine dwelling units per acre. For a Mill Reuse Project by special permit, the Planning Board may authorize a gross density of up to 12 dwelling units per acre, provided that the project meets the public benefits provisions of § 240-160H of this bylaw, as determined by the Planning Board. For purposes of calculating gross density, areas subject to the Wetlands Protection Act, M.G.L. ch. 131, § 40, for reasons other than being subject to flooding, shall be excluded from the total area of the parcel.

#### **§ 240-159. Procedures for Mill Reuse Projects.**

- A. Subdivision control. Where applicable, development in the Mill Reuse Overlay District shall comply with the Planning Board's Rules and Regulations Governing the Subdivision of Land pursuant to the Subdivision Control Law, M.G.L. ch. 41, §§ 81K through 81GG.<sup>35</sup> Planning Board approval of a development plan under § 240-16 or a special permit for a Mill Reuse Project shall neither oblige the Planning Board to approve any related definitive plan nor substitute for such approval.
- B. Development plan approval. All uses in the Mill Reuse Overlay District require development plan approval by the Planning Board and must comply with § 240-16 of this bylaw and the following additional requirements.
  - (1) Submittals. In addition to the requirements of § 240-17, the submittals for development plan approval for a Mill Reuse Project shall include:
    - (a) Identification of existing trees of more than eight inches caliper, rock outcroppings, wildlife habitats, existing and proposed trails and paths, open space, and proposed conservation and recreation easement areas.
    - (b) Floor plan to scale for each floor of each building, showing the following information as

---

35. Editor's Note: See Ch. 245, Subdivision Regulations.

applicable:

- [1] Number of dwelling units by type.
  - [2] Number of bedrooms per dwelling unit.
  - [3] Proposed use(s) of all floor space not used for dwelling units.
- (c) Table showing the total number of dwelling units and the number of affordable units by type and size on each floor of each building.
  - (d) Where applicable, a plan describing the care, custody and control of all dams and water rights.
  - (e) Where applicable, a plan for any proposed wastewater treatment facility in accordance with the requirements of the Massachusetts Department of Environmental Protection (DEP) and the Bellingham Board of Health.
  - (f) Proposed construction schedule by stage or phase of construction, from the approximate date that construction will begin through the estimated date of construction completion.
  - (g) Narrative description of any organization(s) the applicant proposes to form if the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval by the Planning Board.
  - (h) Copies of all proposed covenants, easements, and other restrictions that the applicant proposes to grant to the Town of Bellingham, the Bellingham Conservation Commission, utility companies, any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval by the Planning Board.
  - (i) Copies of the proposed regulatory agreement for affordable housing units, and where applicable, the proposed deed rider for affordable homeownership units.
  - (j) Narrative analysis prepared and documented by a preservation consultant concerning the mill building, associated structures and context. The narrative will include the following information:
    - [1] Information required for Massachusetts Historical Commission Survey Form B and, where applicable, Form F;
    - [2] Information required for Massachusetts Historical Commission National Register of Historic Places Criteria Statement Form;
    - [3] An analysis of the Mill Reuse Project's consistency with the U.S. Secretary of the Interior's Standards for Rehabilitation.
- (2) Decision standards. In addition to the decision standards under § 240-19 of this bylaw, the Planning Board shall base its decision on the following determinations:
    - (a) The proposed Mill Reuse Project preserves or enhances the historic significance of existing mill buildings and their context and, where applicable, the eligibility of the same for listing on the National Register of Historic Places as an individual property or a contributing property to an area.

- (b) The common open space is usable and functional for the purposes listed in this bylaw and meets all minimum design standards under § 240-160C.
- C. Special permit. The Planning Board shall be the special permit granting authority for uses in the Mill Reuse Overlay District. The Planning Board's actions shall be based upon the considerations in Article IV of this bylaw.

**§ 240-160. Mill Reuse Project development standards.**

- A. Expansion of existing buildings or new construction. Expansion of existing mill buildings or new construction on the same lot may be allowed for a Mill Reuse Project, provided that all of the following conditions are met:
  - (1) The total gross floor area in the proposed project may not result in a proposed floor area ratio that is more than 1.25 times the existing floor area ratio;
  - (2) Any expansion is consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation, as determined by the Bellingham Historical Commission.
  - (3) Recognizing that a purpose of the Mill Reuse Overlay District is to redevelop property that has become obsolete for its original use, the Planning Board may grant a special permit to allow new buildings in a Mill Reuse Project only upon finding that:
    - (a) The new buildings do not detract from the historical significance of existing buildings or reduce the property's potential eligibility for listing on the National Register of Historic Places, as determined by the Bellingham Historical Commission; and
    - (b) The new buildings are necessary for essential services such as space for security personnel or a wastewater treatment facility, or components of a continuing care retirement community that cannot reasonably be accommodated in the existing mill building(s), such as independent living units or a nursing home.
- B. Affordable housing. A Mill Reuse Project shall include affordable housing units, as follows:
  - (1) At least 5% of all dwelling units shall be affordable housing as defined in this bylaw. Any fraction shall be rounded up to the nearest whole number.
  - (2) No building permit shall be issued for a Mill Reuse Project until the applicant has entered into a Local Initiative Program (LIP) Regulatory Agreement with the Town of Bellingham and the Department of Housing and Community Development to assure that all low- or moderate-income housing units meet LIP requirements and qualify for inclusion in the Chapter 40B Subsidized Housing Inventory.
  - (3) Homeownership units shall be subject further to a deed rider that preserves affordability upon resale. The deed rider shall be approved in writing by the Department of Housing and Community Development, approved as to form by Town Counsel, and recorded at the Registry of Deeds. No occupancy permit shall be issued for affordable homeownership units until the Building Inspector receives evidence satisfactory to the Planning Board that the deed restriction or deed rider has been approved by DHCD.
  - (4) The affordable units shall be sold or rented under a marketing plan approved by the Planning Board.



- (5) Failure to record the regulatory agreement and/or any deed rider at the Registry of Deeds shall be deemed a violation of this bylaw and is subject to the enforcement and penalty provisions of §§ 240-2 through 240-6.
  - (6) The Planning Board shall adopt and from time to time may amend regulations necessary to administer the affordable housing requirements of this bylaw.
- C. Common open space. At least 30% of the parcel used for a Mill Reuse Project shall be protected, usable common open space that is functional for the purposes described below. The common open space shall have no structures, parking, private yards, patios, or gardens that are restricted for the exclusive or principal use by residents of individual dwelling units. The following standards apply to the common open space in a Mill Reuse Project:
  - (1) Use, space and location. To the maximum extent feasible, the open space shall be undisturbed and left in its natural condition. It shall be appropriate in size, shape, dimension and location to assure its use as a conservation or recreation area that serves as a visual and natural amenity for the project and the Town.
    - (a) Common open space shall be functional for wildlife habitat, passive recreation, forestry, agriculture, access to open water resources, or preservation of views from the road.
    - (b) To the maximum extent feasible, the common open space shall be linked as a unit, with links at least 60 feet wide.
    - (c) Not more than 50% of the common open space in a Mill Reuse Project may consist of wetlands as defined in M.G.L. ch. 131, § 40.
    - (d) Unless approved by the Planning Board, common open space shall not be considered usable if the slope of the finished grade exceeds 25%.
    - (e) Existing rights-of-way and utility easements may not be counted as common open space.
    - (f) The location(s) of the common open space shall be subject to approval by the Planning Board.
    - (g) Land used for shared wastewater disposal or a package treatment plant may count toward the minimum common open space requirement.
  - (2) Ownership. The common open space shall be conveyed in accordance with the procedures under § 240-94 of this bylaw, except that land used for wastewater disposal shall be conveyed in accordance with requirements of the Board of Health.
- D. Landscaping. For purposes of landscaping requirements, a Mill Reuse Project shall comply with Article XI of this bylaw to the maximum extent practical.
- E. Accessory commercial use limitations. Accessory commercial uses are encouraged in a Mill Reuse Project in order to make ordinary daily activities accessible to residents, particularly to residents who do not drive. At the same time, it is not the intent of this bylaw to promote mill reuse that is predominantly commercial. Accordingly, accessory commercial uses such as retail, personal service or restaurant uses may occupy up to 10%, but in no event more than 20,000 square feet, of the total leasable floor area in a Mill Reuse Project. An individual accessory commercial use may not exceed 5,000 square feet of leasable floor area.
- F. Internal circulation, parking and loading requirements.

- (1) Roadways. The internal roadway(s) serving a Mill Reuse Project shall be adequate for the proposed use as determined by the Planning Board, and shall be maintained by an association of unit owners, the applicant or the entity that owns and manages the development.
- (2) Parking spaces. A Mill Reuse Project shall provide off-street parking spaces for each use in the development in accordance with the following minimum requirements:
  - (a) Assisted elderly units. One space per unit, plus one space per two employees on the largest shift and one space for each three units.
  - (b) Multifamily units. One space per studio or one-bedroom unit, two spaces per unit with two or more bedrooms except for age-restricted multifamily units, in which case there shall be an average of 1.5 spaces per unit; plus one visitor space for each three units.
  - (c) Nursing home. One space per three beds, plus one space per two employees on the largest shift, plus one space per two visiting staff (e.g., attending physician, specialists, etc.).
  - (d) Accessory retail, service or bank establishment. One space per 500 square feet of gross floor area but not fewer than three spaces per separate enterprise.
  - (e) Accessory restaurant. One space per four seats based on the legal seating capacity of the facility, including seasonal outdoor seating, plus one space per two employees on the largest shift.
  - (f) Accessory adult day care. One space per each four persons not residing in the Mill Reuse Project plus one space per two employees.
  - (g) Medical offices or medical clinic. In accordance with § 240-59H.
  - (h) Other uses. In accordance with § 240-59K.
  - (i) Mixed uses. Requirements for each use shall be added, unless the Planning Board determines that a smaller number is adequate.
- (3) Reserve parking. During the development plan approval process under § 240-16, the Planning Board may authorize a decrease in the number of off-street parking spaces required for a Mill Reuse Project, subject to the following conditions:
  - (a) The decrease in number of parking spaces is no more than 30% of the total number of spaces required under Subsection F(2) above. The waived parking spaces shall not be used for building area and shall be labeled as "Reserve Parking" on the site plan.
  - (b) The decrease in number of required spaces will not create undue congestion, traffic hazards, or a substantial detriment to the neighborhood, and does not derogate the intent and purpose of this bylaw.
  - (c) The reserve parking spaces shall be properly designed as an integral part of the overall parking development, and in no case shall any reserve parking spaces be located within areas counted as setbacks or common open space.
  - (d) If, after one year from the date of issuance of a certificate of occupancy, the Building Inspector and/or Planning Board find that all or any of the increased reserve spaces are needed, the Planning Board may require that all or any portion of the spaces identified as increased reserve spaces on the site plan be constructed within a reasonable time period as

specified by the Planning Board. A written notice of such a decision shall be sent to the applicant within seven days before the matter is next discussed at a Planning Board meeting.

- (4) Increase in parking spaces. The Planning Board may require provisions for an increase in the number of parking spaces required under Subsection F(2) above, provided that:
    - (a) The increase in the number of parking spaces is no more than 20% of the total number of parking spaces required under Subsection F(2) above for the use(s) in question.
    - (b) Any such increase in the number of required parking spaces shall be based upon the special nature of a use or building.
    - (c) The increased number of parking space shall be labeled "Increased Reserve Parking" on the site plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within an area counted as yard setback or common open space along the perimeter of the parcel.
    - (d) The applicant shall not be required to construct any of the spaces labeled as "Increased Reserve Parking" for at least one year following the issuance of a certificate of occupancy. Where the increased reserve parking area is required by the Planning Board and the applicant has otherwise provided the number of parking spaces required under Subsection F(2) above, the area of land reserved for the increased number of parking spaces may be deducted from the minimum common open space required under § 240-160C.
  - (5) Parking for commercial vehicles. Commercial vehicles owned or operated by owners or tenants of the Mill Reuse Project, or their agents, employees, licensees, or suppliers shall be parked inside a garage, or in a suitably screened and designated area, except for commercial vehicles in the active service of receiving and delivering goods or services.
  - (6) Parking area design and location. A Mill Reuse Project shall comply with Article X of this bylaw except as follows:
    - (a) All off-street parking areas shall be located to the rear or side of all buildings and shall not be located in front setbacks or common open space, except that the Planning Board may waive these requirements for existing parking lots or existing buildings.
    - (b) Landscaping of parking areas shall conform to § 240-67C of this bylaw to the maximum extent practical.
    - (c) Pedestrian crosswalks shall be provided in appropriate locations and shall be clearly recognizable through the use of raised, textured or color surface treatments in order to aid pedestrians in crossing traffic within a parking area.
  - (7) Paths. Wherever feasible, a Mill Reuse Project should include attractively designed paths that separate vehicular, bicycle and pedestrian traffic, provide access to amenities and facilities in the development, and connect to pathways or sidewalks to adjacent sites.
- G. Emergency systems. A Mill Reuse Project shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and/or other tenants. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Bellingham Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

H. Public benefits. The Planning Board may grant a special permit to increase the maximum gross density of a Mill Reuse Project, up to the limit established under § 240-158B, as follows:

- (1) Eligible public benefits. To be considered eligible for an increase in the maximum gross density under § 240-158B, a Mill Reuse Project shall provide at least one of the following public benefits in furtherance of the purposes of this bylaw and in a manner satisfactory to the Planning Board:
  - (a) Affordable housing. A project in which at least 10% affordable housing units meet the requirements of § 240-160B.
  - (b) Common open space. A project that preserves at least 50% of the parcel as common open space meeting the requirements of § 240-160C.
  - (c) Green building design. A project that is LEED certified by the U.S. Green Building Council.
  - (d) Neighborhood facilities. A project that provides a facility or significant amenity usable by its own residents and residents of the surrounding neighborhood, such as a public park that is landscaped, furnished and accessible to persons with disabilities, or an outdoor recreation area with playing fields and facilities for spectators, or a neighborhood community center.
- (2) Limitations. A Mill Reuse Project that involves expansion of existing buildings or new construction must comply with the maximum floor area ratio under § 240-160A regardless of any increase in gross density authorized by special permit.

**§ 240-161. Severability.**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

## ARTICLE XXIV

**Large-Scale Ground-Mounted Solar Photovoltaic Installations****§ 240-162. Purpose.**

A. The purpose of this article is:

- (1) To provide standards for the placement, design, construction, operation, monitoring, modification and removal of large-scale ground-mounted solar photovoltaic installations;
- (2) To minimize the adverse impacts of large-scale ground-mounted solar photovoltaic installations on adjacent properties and residential neighborhoods;
- (3) To minimize impacts on scenic, natural and historic resources; and
- (4) To provide adequate financial assurance for the eventual decommissioning of such installations.

B. The provisions set forth in this article shall take precedence over all other provisions of this bylaw when considering applications related to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

**§ 240-163. Definitions.**

In addition to Article VI of this bylaw, the following definitions shall apply to large-scale ground-mounted solar photovoltaic installations:

**LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION** — A solar photovoltaic system on a parcel of at least 20 acres that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**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).

**§ 240-164. Applicability.**

This article applies to any large-scale ground-mounted solar photovoltaic installation proposed to be constructed after the effective date of this article. Such installation may proceed as of right as set forth in the Table of Use Regulations<sup>36</sup> without the need for a special permit, variance, site plan approval, zoning amendment, waiver, or other discretionary approval. Any modification of any existing large-scale ground-mounted solar photovoltaic installation that materially alters the type, configuration, or size of such facility or related equipment shall also be subject to the article.

**§ 240-165. General requirements.**

The following requirements are common to all large-scale ground-mounted solar photovoltaic installations.

- A. Compliance with laws, ordinances and regulations. The construction and operation of all such proposed 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,

---

36. Editor's Note: See the Use Regulations Schedule in § 240-31.

construction, environmental, electrical, communications and aviation requirements.

- B. Development plan review, building permit. No large-scale ground-mounted solar photovoltaic installation shall be erected, constructed, installed or modified as provided in this article without first obtaining approval from the Planning Board for development plan approval pursuant to § 240-16 of this bylaw and without first obtaining a building permit and all other applicable permits required by law. In the event development plan review is not completed by the Planning Board one year from the date of application, the application shall be deemed approved.
- C. 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 and all other applicable permits required by law.

**§ 240-166. Submittal to Building Inspector.**

- A. An application for a building permit for a large-scale ground-mounted solar photovoltaic installation shall include the following information. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
  - (1) 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;
  - (2) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and overcurrent devices;
  - (3) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - (4) Name, address, and contact information for proposed system installer;
  - (5) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - (6) The name, contact information and signature of any agents representing the project proponent;
  - (7) Documentation of actual or prospective access and control of the project site;
  - (8) An operation and maintenance plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation;
  - (9) Proof of liability insurance;
  - (10) Evidence that the utility company that operates the electrical grid where the installation is to be located has been informed of the applicant's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- B. Site control. The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed installation. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

- C. Operation and maintenance plan. The applicant shall submit a plan for maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the installation.
- D. Utility notification. No large-scale ground-mounted solar photovoltaic installation facility shall be installed until evidence has been submitted that the utility company that operates the electrical grid where the installation is to be located has been informed of the customer's intent to install such installation. Off-grid systems shall be exempt from this requirement.

**§ 240-167. Design standards.**

The following standards shall apply to any large-scale ground-mounted solar photovoltaic installation.

- A. Lighting. Lighting of large-scale ground-mounted solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall not cast measurable light onto adjacent properties or into the night sky. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- B. Signage. Signs on such installations shall comply with the Town's Sign Bylaw.<sup>37</sup> The following signs shall be required:
  - (1) Those necessary to identify the owner, provide a twenty-four-hour emergency contact phone number, and warn of any danger.
  - (2) Educational signs providing information about the facility and the benefits of renewable energy.
  - (3) Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the facility.
- C. Utility connections. The Building Inspector may require as a condition of site plan approval that all utility connections from the solar photovoltaic installation shall be underground, after considering soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- D. Accessory structures. All accessory 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 accessory structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. To the maximum extent feasible, structures which are visible or directly adjacent to residentially zoned or occupied properties or which are adjacent to a public way shall be screened from view by landscaping or other means and/or joined or clustered to avoid adverse visual impacts.
- E. Dimensional and density requirements; setbacks. For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:
  - (1) Front yard. The front yard depth shall be at least 20 feet; provided, however, that where the lot abuts a Residential District, the front yard shall not be less than 100 feet.

---

37. Editor's Note: See Art. VIII of this chapter, Sign Regulations.

- (2) Side yard. Each side yard shall have a depth at least 10 feet; provided, however, that where the lot abuts a Residential District, the side yard shall not be less than 100 feet.
  - (3) Rear yard. The rear yard depth shall be at least 20 feet; provided, however, that where the lot abuts a Residential District, the rear yard shall not be less than 100 feet.
- F. Land clearing, soil erosion and habitat impacts. Given the nature of the need for no shadowing and maximum exposure of the solar panels to the sun, clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the installation or otherwise prescribed by applicable laws, regulations, and bylaws.

**§ 240-168. Safety and environmental standards.**

The following standards shall apply to any large-scale ground-mounted solar photovoltaic installation.

- A. 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. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- B. Unauthorized access. Installations shall be surrounded by security fencing of at least eight feet or other suitable barrier approved by the Planning Board, including locked gates to prevent unauthorized access. Electrical equipment shall be locked where possible. A Knox box approved by the Fire Chief shall be provided and installed at a location on site approved by the Fire Chief and contain keys and contact information for access to the facility in the event of an emergency.
- C. Monitoring and maintenance. The owner or operator of the large-scale ground-mounted solar photovoltaic installation shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local 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.

**§ 240-169. Accessory roof-mounted solar photovoltaic installations.**

Nothing in this article shall be construed to prevent the installation, pursuant to M.G.L. ch. 40A, § 3, of accessory roof-mounted solar photovoltaic installations in any district.

**§ 240-170. Financial surety for decommissioned installations.**

The applicant for a large-scale ground-mounted solar photovoltaic installation shall provide a form of surety, either through escrow account, bond or otherwise, 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 Planning Board, but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally- or state-owned facilities. The applicant 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.



**§ 240-171. Exemption for municipal land.**

Large-scale ground-mounted solar photovoltaic installations shall be allowed to be constructed upon any municipal property meeting the requirements of this bylaw regardless of the zoning district.

ARTICLE XXV  
**Inclusionary Housing**

**§ 240-172. Intent.**

The purpose of this bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in tandem with on-going Town of Bellingham programs to promote a reasonable percentage of housing that is affordable to moderate-income buyers. It is intended that the affordable housing units that result from special permits issued under this bylaw be included on the Town's Subsidized Housing Inventory, as kept by the Massachusetts Department of Housing and Community Development ("DHCD") or any successor agency. It is intended that this bylaw provide a mechanism to compensate for those decreases in the Town's percentage of affordable housing that are directly caused by prospective increases in the Town's overall housing stock.

**§ 240-173. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**AFFORDABLE HOUSING UNIT** — A dwelling unit that can be purchased at an annual cost that is deemed affordable for a household that is earning no more than 70% of the area median income as reported by the U.S. Department of Housing and Urban Development and/or DHCD, said price to be adjusted commensurate with the maximum income of the proposed purchaser.

**QUALIFIED AFFORDABLE HOUSING UNIT PURCHASER** — An individual or family with a household income that does not exceed 80% of the area median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development and/or DHCD.

**§ 240-174. Applicability.**

- A. Division of land. This bylaw shall apply to the division of land held in single ownership as of October 14, 2010 or anytime thereafter into eight or more lots, whether said eight or more lots are created at one time or are the accumulation of eight or more lots created from said land held in single ownership as of October 14, 2010, and shall require a special permit under Article IV of the Zoning Bylaw and M.G.L. ch. 40A, § 9. A special permit shall be required for "conventional" or "grid" divisions allowed by M.G.L. ch. 41, §§ 81L and 81U, as well as those divisions of land that do not require subdivision approval per M.G.L. ch. 41, § 81P.
- B. Multifamily dwelling units and duplexes. This bylaw shall apply to the construction of eight or more dwelling units in duplexes or multifamily complexes, whether on one or more contiguous parcels in existence as of October 14, 2010, and shall require a special permit under Article IV of the Zoning Bylaw and M.G.L. ch. 40A, § 9.

**§ 240-175. Exemption.**

The provisions of § 240-174 hereof shall not apply to the construction of eight or more single-family dwelling units on individual lots, if said eight or more lots were in existence as of October 14, 2010. This bylaw shall not apply to major residential developments proposed and permitted under Article XIV of the Town's Zoning Bylaw.

**§ 240-176. Administration.**

The Planning Board shall be the special permit granting authority for all special permits under this bylaw.

**§ 240-177. Mandatory provision of affordable units.**

The special permit granting authority shall, as a condition of approval of any development referred to in § 240-178, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this bylaw and more fully described in § 240-178. Any special permit granted hereunder shall contain a condition that no construction of any of the proposed development may commence until the affordable units created thereby are eligible for inclusion on the Town's Subsidized Housing Inventory.

**§ 240-178. Provision of affordable units.**

The special permit granting authority shall deny any application for a special permit for development if the applicant for special permit approval does not comply, at a minimum, with the following requirements for affordable units:

- A. At least 10% of the units in a division of land or units in a multifamily or duplex development subject to this bylaw shall be established as affordable housing units in any one or combination of methods provided for below. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a development proposing eight dwelling units shall require one affordable unit, a development proposing 11 dwelling units shall require two affordable units, and so on.
- B. The affordable unit(s) shall be constructed or rehabilitated on: The locus property; or a locus different from the one subject to the special permit (see § 240-182); or the applicant may offer and the special permit granting authority may accept any combination of the requirements of this section, provided that in no event shall the total number of units or land area provided be less than 10% of the total number of units/lots approved under the permit.

**§ 240-179. Provisions applicable to affordable housing units on- or off-site.**

- A. Siting of affordable units. All affordable units constructed or rehabilitated under this bylaw shall be situated so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
- B. Minimum design and construction standards for affordable units. Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be compatible in external design, appearance, construction and quality of materials with other units.
- C. Timing of construction or provision of affordable units or lots.
  - (1) The special permit granting authority may impose conditions on the special permit requiring construction of affordable housing according to a specified time table, so that affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

<b>Market-Rate Unit %</b>	<b>Affordable Housing Unit %</b>
Up to 30%	None required
30% plus 1 unit	At least 10%

<b>Market-Rate Unit %</b>	<b>Affordable Housing Unit %</b>
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

(2) Any fractions of an affordable unit shall be rounded up to a whole unit.

#### **§ 240-180. Local preference.**

To the extent permitted by law, the special permit granting authority may require the applicant to comply with local reference requirements, if any, as may be established by regulations promulgated hereunder.

#### **§ 240-181. Marketing plan for affordable units.**

Applicants under this bylaw shall submit a marketing plan or other method approved by the special permit granting authority, which describes how the affordable units will be marketed to potential homebuyers. If applicable, this plan shall include a description of the lottery or other process to be used for selecting buyers. The plan shall be in conformance to DHCD rules and regulations, and shall be subject to the prior review and approval of Town Counsel at the applicant's expense.

#### **§ 240-182. Provision of affordable units off-site.**

Subject to the approval of the special permit granting authority, an applicant subject to this bylaw may develop, construct or otherwise provide affordable units equivalent to those required by § 240-178 off-site. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In addition, the location and design of the off-site units to be provided shall be approved by the special permit granting authority as an integral element of the special permit review and approval process.

#### **§ 240-183. Preservation of affordability; restrictions on resale.**

Each affordable unit created in accordance with this bylaw shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The deed restriction must be deemed acceptable to DHCD and Town Counsel prior to the issuance of any building or occupancy permits and shall be recorded at the Norfolk County Registry of Deeds or the Land Court and shall be in force in perpetuity or for the longest period allowed by law, unless the Planning Board determines that a shorter period of affordability will facilitate the development of affordable housing.

- A. The special permit granting authority shall require, as a condition for special permit approval under this bylaw, that the deeds to the affordable housing unit contain a restriction requiring that any subsequent renting or leasing of said affordable housing unit shall not exceed an amount that is deemed affordable for the income level that is designated for the qualified affordable housing unit purchaser.
- B. Special permit granting authority shall require, as a condition for special permit approval under this bylaw, that the applicant comply with the mandatory set-asides and accompanying deed restrictions on affordability.

**§ 240-184. Regulations.**

The special permit granting authority may adopt regulations for the orderly administration of this bylaw.

ARTICLE XXVI  
**Overlay District**

**§ 240-185. Purpose.**

The purpose of the Hartford Avenue Adaptive Use Overlay District (HAAOD) is to promote responsible economic development while providing an aesthetically pleasing transition from the existing commercial zone to the residentially zoned neighborhoods located along the northern side of Hartford Avenue. The specific purpose of the HAAOD are:

- A. To provide options for limited business operations subject to the standards designed to preserve the integrity of the abutting residential neighborhoods.
- B. To encourage the reuse of residential buildings by providing economic uses for buildings that may no longer function as well as single-family residences.
- C. To implement certain goals of the Master Plan, including encouraging economic development, protecting small town character, and updating zoning to maintain consistency.

**§ 240-186. General requirements.**

- A. Location. The HAAOD is hereby established as an overlay district. HAAOD is superimposed on that portion of the Residential District along the north side of Hartford Avenue heading west between Route 495 and Arrowhead Road Location. The HAAOD is located on the northern side of Hartford Avenue heading west between Route 495 and Farm St. The following lots are referenced in the Bellingham MA Online Assessor's GIS Mapping Database, are included in the HAAOD on a plan entitled "Hartford Avenue Adaptive Use Overlay District," dated January 13, 2023, incorporated by reference in the Zoning Bylaw and on file with the Town Clerk and Building Inspector:

- Parcel 24 Lot 3 - 3 Farm Street
- Parcel 24 Lot 4 - 178 Hartford Ave
- Parcel 24 Lot 5 - 182 Hartford Ave
- Parcel 24 Lot 6 - 186 Hartford Ave
- Parcel 24 Lot 7 - 190 Hartford Ave
- Parcel 24 Lot 8 - 194 Hartford Ave
- Parcel 24 Lot 9 - 198 Hartford Ave
- Parcel 24 Lot 9-200 - 202 Hartford Ave
- Parcel 24 Lot 9-100 - 2 Rawson Road
- Parcel 24 Lot 9-2500 - 210 Hartford Ave
- Parcel 18 Lot 81 - 216 Hartford Ave
- Parcel 18 Lot 82 - 2 Deerfield Lane Annual  
Town Meeting - May 24, 2023 Page 22 of 34
- Parcel 18 Lot 97 - 1 Deerfield Lane
- Parcel 18 Lot 98 - 222 Hartford Ave
- Parcel 18 Lot 99 - 224 Hartford Ave

- B. Rules and regulations. The Planning Board may develop Hartford Avenue (HAAOD) Rules and Regulations which shall more fully define the application requirements and design guidelines, identify supporting information needed, and establish reasonable application, review and inspection fees, and construction protocols.

**§ 240-187. Permitted and prohibited uses.**

- A. Uses allowed as of right. All uses allowed as of right in the underlying Residential District shall remain as of right within the HAAOD. Similarly, uses presently allowed by special permit in the underlying Residential District shall continue to be allowed by special permit in the HAAOD.
- B. Uses allowed by special permit in the HAAOD.
- (1) In approving an adaptive use special permit under the provisions of M.G.L. c. 40A, § 9 and these Zoning Bylaws, the Planning Board may provide for the following uses:
    - (a) Offices for business or professional uses, including, but not limited to, accountants, architects, attorneys, counselors, engineers, insurance agents, planners, real estate sales, and similar uses.
    - (b) Medical offices, including, but not limited to, acupuncture, chiropractors, massage therapy, other medical specialists and similar uses.
    - (c) Studios for artists, photographers, interior decorators, and similar design-related uses.
    - (d) Personal care services such as barber shops, beauty parlors and nail salons.
    - (e) Bank freestanding and/or with a drive-through.
  - (2) The adaptive use special permit shall expressly indicate which of the above-allowed uses is specifically permitted and may impose conditions, safeguards and limitations on the permitted use(s). A change is any use allowed by special permit hereunder to another use shall require a new special permit. Uses not listed in Subsection B(1) or (2) are prohibited, except that such a use may be allowed on special permit if the Planning Board determines that it closely resembles in its neighborhood impacts an allowed use or a use allowed by special permit in that district.
- C. Prohibited uses. The following uses shall be prohibited in the HAAOD:
- (1) Motor vehicle sales, repair, or sales of parts; gas stations, multi-port charging stations.
  - (2) Manufacturing or industrial uses of any kind.
  - (3) Food services, including but not limited to bakeries, cafes, coffee shops, delicatessens, dessert shops, pastry shops, sandwich shops, convenience stores, pizza parlors, and other fast food-type restaurants.
  - (4) Drive-through windows of any kind except associated with a bank.
  - (5) Exterior storage of equipment or materials.
  - (6) Non-bank loan or check cashing operations.
  - (7) Repair shops for large equipment, appliances or tools and/or the fabrication or repair of machinery.

- (8) Off street parking.
- (9) Exterior fleet storage.
- (10) Retail sales for liquor and convenient stores.
- (11) Any use not specifically allowed § 240-187A and B above is hereby prohibited.

**§ 240-188. Special permit site development standards.**

The following site development standards shall apply to all HAAOD developments and shall be reviewed during any special permit proceeding:

- A. New construction may be permitted, provided that it is designed to be compatible with the overall residential character of the adjacent neighborhood and the HAAOD.
- B. Each adaptive use project may utilize the existing structures but may include restoration, renovation or improvement of the primary existing building to maintain, restore or enhance its original architectural integrity. Construction of an addition to an existing building on the premises may be permitted, provided that it is designed to be compatible with the overall residential character of the adjacent neighborhood and the HAAOD.
- C. The alteration of, addition to, and/or conversion of an existing building to one residential dwelling unit and one business use listed above may be permitted by special permit, provided that the appearance of the building is characteristic of a single-family dwelling and that the residential unit is occupied by the business owner.
- D. New construction and existing building alterations shall be in accordance with § 240-40 for the underlying Residential Zoning District.
- E. Required parking space calculations shall be in accordance with Article X, Parking and Loading Requirements. No on-street parking shall be allowed. Additionally, no parking spaces or driveways are permitted in the rear or side setbacks. Parking areas shall be screened from the abutting properties by a combination of opaque structures, such as fencing or ornamental walls, and landscaping. Adequate provisions for on-site retention and treatment of stormwater shall be included. This will be the discretion of the Planning Board.
- F. A photometric plan shall be included with the site design submission which ensures adequate site lighting for parking and pedestrian walkways, no glare is produced on abutting parcels or the public way, and all proposed light fixtures are dark sky compliant.
- G. Signage shall include no more than one freestanding sign. Signage signs shall be externally illuminated with no spillover onto adjacent properties. Signage placement shall be reviewed by the Safety Officer so as to maintain adequate visual access for vehicles entering and exiting the property.
- H. Curb cuts on Route 126 are subject to approval of the state. New curb cuts on Hartford Avenue are subject to recommendations of the Safety Officer and will require a Bellingham street opening permit from the DPW. The division of state and local roads is shown on the plan.
- I. All developments shall include a landscape plan, stamped by a Massachusetts Registered Landscape Architect, that maintains or enhances the residential character of the property. The landscape plan shall also provide, at the discretion of the Planning Board, a buffer zone (including a combination of shrubs, trees, grass and fencing) appropriate for the proposed use along any property boundaries with



an adjacent residential use.

- J. The development plans shall include specific areas for snow storage and rubbish. All rubbish areas shall be screened with an opaque fence and be located outside the front yard setback.

**§ 240-189. Procedures for special permit.**

Reference the Special permit section, Article IV and § 240-15.

**§ 240-190. Special permit standards and criteria.**

In considering an application for an adaptive use special permit, the Planning Board shall make the following findings:

- A. The proposed use is contemplated under the provisions of this bylaw.
- B. The site is adequate for the proposed use in terms of size, configuration, and use of abutting properties.
- C. The proposed use will cause minimal adverse impacts to abutting properties and will provide mitigation of any impacts.
- D. Provisions for traffic and parking are adequate for the proposed use.
- E. The proposal promotes the aesthetic appeal and deters detrimental impacts to the abutting residential neighborhood and that the proposed project complies with the goals of the Master Plan.
- F. The provisions for utilities, including sewage disposal, water supply and stormwater management, are adequate.
- G. The proposed project complies with the goals of the Master Plan and the purposes of this article of the Zoning Bylaw.

ARTICLE XXVII  
**Wethersfield Overlay District**

**§ 240-191. Purpose.**

- A. It is the purpose of this section to establish an overlay district at the former Macy School site in order to redevelop the parcel of land to allow for a context-sensitive design that integrates the existing neighborhood character in to redevelopment.
- B. No provision in this bylaw may be construed to supersede or otherwise alter or amend the bylaws pertaining to the use of land in the underlying district. Rather, this bylaw is intended to supply alternative development standards for those who elect to utilize the provisions of this bylaw, in which case the provisions and requirements of this bylaw shall apply, and not the provisions and requirements of the underlying district, except as specifically stated in this bylaw.
- C. Overlay district. The overlay district shall consist of the following properties:
  - (1) 0029-0108-00: 14 acres.
  - (2) 23-22-0: 2.485 acres.

**§ 240-192. Permitted and prohibited uses.**

The following uses are allowed in the overlay district. All uses not expressly permitted shall be prohibited from use of the overlay district.

- A. Single-family dwellings.
- B. Public park.

**§ 240-193. Inclusionary housing.**

This overlay district is exempt from Bellingham Zoning Bylaw, Article XXV, Inclusionary Housing.

**§ 240-194. Design standards.**

The following dimensional standards shall apply to the overlay district. All other underlying zoning remains applicable.

- A. Minimum lot area: 12,000 square feet.
- B. Minimum frontage: 50 feet.
- C. Minimum front yard: 20 feet.
- D. Minimum side yard: 10 feet.
- E. Minimum rear yard: 20 feet.
- F. Maximum building height: 35 feet.

ARTICLE XXVIII  
**55+ Active Adult Overlay District**

**§ 240-195. Purpose.**

- A. It is the purpose of this section to establish a 55+ Active Adult Overlay District (AAOD). The establishment of the AAOD will foster the development of a range of housing types and provide the flexibility to encourage development that will allow for context-sensitive design and creative site planning. The processes adopted hereunder will ensure that development within the AAOD will be balanced with the public health, safety and welfare. All projects proposed under this bylaw shall employ development principles that take into consideration the existing landscape, scenic vistas, passive and active recreational opportunities and conservation of open spaces.
- B. A special permit from the Planning Board shall be required for all projects proposed under the AAOD Bylaw.
- C. No provision in this bylaw may be construed to supersede or otherwise alter or amend the bylaws pertaining to the use of land in the underlying district. Rather, this bylaw is intended to supply an alternative for those who elect to submit a special permit application under the provisions of this AAOD Bylaw, in which case the provisions and requirements of the AAOD Bylaw shall apply, and not the provisions and requirements of the underlying district, except as specifically stated in the AAOD Bylaw.
- D. Overlay district. The AAOD shall consist of the following properties, as identified on the Assessor's Maps maintained by the Town:

0095-0037-01

0096-062A-00

0097-015C-00

0095-0037-00

0097-0019-00

**§ 240-196. Definitions.**

RESIDENTIAL 55+ ACTIVE ADULT COMMUNITY — Housing development that is in compliance with the age restriction requirements of the Federal Fair Housing Act, 42 USC § 3607(b), as amended, the regulations promulgated thereunder, the Federal Housing for Older Persons Act of 1995, as amended, 24 CFR Subtitle B, Chapter 1, Section 100.300 et seq., and M.G.L. ch. 151B, § 4, as they may be amended.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) — The SPGA shall be the Planning Board, and review of special permit applications submitted hereunder shall be based upon the considerations of Article IV, special permits, along with other specifically designated criteria contained in this AAOD Bylaw.

**§ 240-197. Permitted and prohibited uses.**

The following uses and structures are allowed in the AAOD. All other uses not expressly permitted shall be prohibited from use of the overlay district.

- A. Single-family dwellings.

- B. Two-family dwellings.
- C. Townhouse dwellings.
- D. Multifamily dwellings.
- E. Accessory uses and structures that are customarily incidental and accessory to the above described residential uses.
- F. Public golf course and related accessory clubhouse, pro shop, dining and maintenance facilities golf professional shop.

**§ 240-198. Inclusionary housing.**

The AAOD is exempt from Bellingham Zoning Bylaw Article XXV, Inclusionary Housing.

**§ 240-199. Design standards.**

The following standards, which vary from the underlying zoning, shall apply to any development proposed under the AAOD Bylaw. All other applicable design standards, performance requirements and dimensional requirements in the underlying bylaw shall be applicable.

- A. Density. A maximum of eight residential units per acre.
- B. Dimensional requirements. The following dimensional requirements shall apply:
  - (1) Minimum lot area: 160,000 square feet.
  - (2) Minimum frontage: 150 feet.
  - (3) Minimum front yard: 20 feet.
  - (4) Minimum side yard: 15 feet.
  - (5) Minimum rear yard: 20 feet.
  - (6) Maximum building height: 37 feet, except: multifamily dwellings, which may have a maximum height of 60 feet.
  - (7) Minimum separation between buildings shall be 20 feet.
  - (8) Lot shape factor as specified in § 240-39 shall not apply to any development proposed under the AAOD Bylaw.
  - (9) More than one principal and/or accessory structure may be erected or maintained on any lot or lots within the AAOD and is not subject to § 240-37 of the Zoning Bylaw.
- C. Traffic and pedestrian safety:
  - (1) Interior design:
    - (a) The design of the proposed development shall ensure safe interior circulation within its site with adequate ingress and egress as well as separation of pedestrian, bike ways, and vehicular traffic. The principal roadways serving the site shall be designed to conform to standards of the Town, as established by the Town's Subdivision Rules and Regulations,

subject to waiver by the Planning Board, after review and guidance by emergency services and the Department of Public Works, upon a showing of good cause by the applicant.

- (b) In the event that any project proposed hereunder does not seek to obtain subdivision approval, the internal ways providing access and egress for the development shall, nonetheless, be determined to be "roadways" for the purpose of the interpretation of this AAOD Bylaw.
- (2) Off-site traffic impacts: Applicants shall demonstrate to the Planning Board that the proposed project will not result in substantial adverse impacts to the traffic flow and safety on area streets and ways, or that the project will otherwise adequately mitigate any such substantial adverse impacts.
- (3) Emergency access: All applications must demonstrate that, in the opinion of the Bellingham Fire Department, there is adequate accommodations for emergency vehicles throughout any proposed project.
- (4) Sidewalks: All site plans shall include internal sidewalks and other walkways that provide for pedestrian access to the development's housing units, community buildings, open space and other amenities in a manner that is deemed adequate to the Planning Board.

D. Parking.

- (1) Dwellings: a minimum of two spaces per dwelling unit, except for multifamily dwellings which shall provide a minimum of 1.25 spaces per dwelling unit.
- (2) Restaurant: one for every three seats of total seating capacity.
- (3) Other amenities: The Planning Board shall have the ability to review any other uses and to determine the number of required spaces, if any.
- (4) Waiver: The Planning Board may reduce the required number of parking spaces based upon factors which may warrant a reduction in number of parking spaces such as but not limited to walkability, shared spaces, or other recognized standards warranting a reduction in parking.
- (5) No off-street parking area for five or more cars shall be located within 20 feet of a roadway.
- (6) All off-street parking areas for five or more cars shall be at least 20 feet from a project roadway and shall be adequately screened from a public right-of-way. However, the Planning Board may allow off-street parking lots to be located closer than 20 feet to an internal roadway in the development based upon factors which may warrant such a reduction, such as but not limited to buffers, environmental impacts and the proximity of nearby buildings.

E. Open space requirement:

- (1) Any proposal under this AAOD Bylaw is required to reserve and restrict no less than 50% of the entire site that is the subject of the special permit application for open space purposes. Such open space shall be shown on a site plan and may include outdoor recreational (passive or active) activities, including but not limited to golf courses. Such open space will be condition as preserved in perpetuity.
- (2) The above open space requirement may be reduced by the Planning Board pursuant to the criteria as listed in § 240-25 of the bylaw.

- F. Phasing: All applicants shall submit a phasing plan with an application under the AAOD Bylaw.
- G. Infrastructure and utilities: All projects proposed under the AAOD shall establish that there are adequate accommodations for water, sewer, stormwater management and utilities.
- H. Building design: The applicant shall provide building floor plans and architectural elevations of all structures proposed, completed by a registered architect or engineer, and shall indicate type, dimensions, materials and colors of materials to be used.

**§ 240-200. Pre-application review.**

The AAOD is exempt from development plan approval under § 240-16 of the Zoning Bylaw. However, any applicant for a special permit under this AAOD Bylaw is urged to meet with the Planning Board staff prior to the submission of a special permit application under the AAOD Bylaw.

**§ 240-201. Required materials.**

Notwithstanding the lack of formal development plan approval, all applications for a special permit hereunder shall include all plans and materials required under development plan approval as listed in § 240-17 of the bylaw. Additionally, where no subdivision is sought, the applicant shall provide any and all other plans that are required under the Town's Subdivision Rules and Regulations as they apply to roadways, utilities, stormwater facilities and other elements of required utilities and infrastructure.

**§ 240-202. Review by other entities.**

The Planning Board shall solicit comments, reports, memoranda and/or testimony from the Department of Public Works, Board of Health, Fire Department, Conservation Commission and other local boards or officials as may be necessary. The Planning Board may request that the applicant meet with such departmental staff prior to the close of any special permit hearing hereunder.

## ARTICLE XXIX

**Downtown Residential Development Overlay District****§ 240-203. Purpose.**

- A. It is the purpose of this section to establish a Downtown Residential Development Overlay District (DRDOD). Through the application of creative site planning, the establishment of the DRDOD will provide a supportive setting for the development of a mixture of small lot upscale single-family residences and townhomes in a village type setting; one that is in close proximity to the downtown area whose establishments would benefit from the patronage that these new residences would provide. The processes adopted hereunder will ensure that development within the DRDOD will be balanced with the public health, safety and welfare.
- B. A special permit from the Planning Board shall be required for all projects proposed under the DRDOD Bylaw.
- C. Except as otherwise set forth in this Article XXIX, no provision in Article XXIX may be construed to supersede or otherwise alter or amend the bylaws pertaining to the use of land in the underlying district. Rather Article XXIX is intended to supply an alternative for those who elect to submit a special permit application under the provisions of this DRDOD Bylaw, in which case the provisions and requirements of the DRDOD Bylaw shall apply, and not the provisions and requirements of the underlying district, except as specifically stated in the DRDOD Bylaw.
- D. Overlay district. The DRDOD shall consist of the following properties, as identified on the Assessor's Maps maintained by the Town and map attached: Assessor Parcel 0051-0013-00, all but the Industrial Zoned portion of Parcel 0051-0013-00.

**§ 240-204. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**SPECIAL PERMIT GRANTING AUTHORITY (SPGA)** — The SPGA shall be the Planning Board whose review of special permit applications submitted hereunder shall be based upon the considerations of Article IV, Special Permits, along with other specifically designated criteria contained in this DRDOD Bylaw.

**§ 240-205. Permitted and prohibited uses.**

- A. The following uses and structures are allowed in the DRDOD. All other uses not expressly permitted shall be prohibited from use of the overlay district.
  - (1) Single-family dwellings.
  - (2) Townhouse dwellings.
  - (3) Accessory uses and structures that are customarily incidental and accessory to the above described residential uses.
- B. The number of townhouse dwellings in the DRDOD shall not exceed 40% of the total number of units allowed in the DRDOD.

**§ 240-206. Inclusionary housing.**

The DRDOD is exempt from Bellingham Zoning Bylaw Article XXV, Inclusionary Housing.

**§ 240-207. Land disposition.**

Single-family dwellings shall be on individual house lots as is typical of residential subdivisions. Townhouse dwellings shall be on land that is held in common ownership as is typical of condominiums.

**§ 240-208. Standards and other rules and regulations.**

- A. The following standards, rules and regulations, which vary from the underlying zoning, shall apply to any single-family dwelling development proposed under the DRDOD Bylaw.
- (1) Density: A maximum of six residential units per 40,000 square feet of area to be developed as single-family dwellings less area to be set aside as open space.
  - (2) Dimensional requirements: The following dimensional requirements shall apply to single-family dwellings in the DRDOD:
    - (a) Minimum lot area: 5,000 square feet.
    - (b) Minimum frontage: 70 feet.
    - (c) Minimum front yard: 20 feet.
    - (d) Minimum side yard: 10 feet.
    - (e) Minimum rear yard: 20 feet.
    - (f) Maximum building height: 37 feet.
    - (g) Minimum separation between buildings shall be 20 feet.
- B. The following standards, rules and regulations, which vary from the underlying zoning, shall apply to any townhouse dwelling development proposed under the DRDOD Bylaw.
- (1) Density: A maximum of eight residential units per 40,000 square feet of area to be developed as townhouse dwellings less area to be set aside as open space.
  - (2) Dimensional requirements.
    - (a) The following dimensional requirements shall apply to townhouse dwellings in the DRDOD:
    - (b) Minimum front yard: 30 feet.
    - (c) Minimum side yard: 25 feet.
    - (d) Minimum rear yard: 20 feet.
    - (e) Maximum building height: 37 feet.
    - (f) Minimum separation between townhouse buildings shall be 40 feet.
- C. All other applicable standards, rules and regulations, performance requirements and dimensional requirements in the Zoning Bylaw shall be applicable.
- D. Traffic and pedestrian safety:



- (1) Interior design. The design of the proposed development shall ensure safe interior circulation within its site with adequate ingress and egress as well as separation of pedestrian, bike ways, and vehicular traffic. The principal roadways serving the site shall be designed to conform to standards of the Town, as established by the Town's Subdivision Rules and Regulations, subject to waiver by the Planning Board, after review and guidance by emergency services and the Department of Public Works, upon a showing of good cause by the applicant.
- (2) Internal ways providing access and egress for the development shall be determined to be "roadways" for the purpose of the interpretation of this DRDOD Bylaw. This shall include the provision of adequate access for bikeway and pedestrian traffic to the downtown commercial community.
- (3) Emergency access. All applications must demonstrate that, in the opinion of the Bellingham Fire Department, there is adequate accommodation for emergency vehicles throughout any proposed project.

E. Parking.

- (1) Dwellings. A minimum of two spaces per dwelling unit.
- (2) All off-street parking areas for five or more cars shall be at least 20 feet from a project roadway and shall be adequately screened from a public right-of-way. However, the Planning Board may allow off-street parking lots to be located closer than 20 feet of an internal roadway in the development based upon factors which may warrant such a reduction, such as but not limited to buffers, environmental impacts and the proximity of nearby buildings.

F. Open space requirement.

- (1) Any proposal under this DRDOD Bylaw is required to reserve and restrict no less than 40% of the entire site for open space purposes. Such open space shall be shown on a site plan and may include outdoor recreational (passive or active) activities. Such open space will be conditioned as preserved in perpetuity.
- (2) Prior to the submission for a special permit the applicant shall meet with the Conservation Commission so they can evaluate the open space component of this submission. The Conservation Commission shall provide their recommendation to the Planning Board prior to the Planning Board's first hearing on the proposal.

**§ 240-209. Impact contribution.**

Whereas the scope and magnitude of the project will impact the Town in a measurable way the developer through a public services impact study shall provide recommended potential structural and nonstructural improvements that the Town could consider to insure public services properly and adequately accommodate the new development. Such services under review shall include but is not limited to traffic, school, emergency services, water and sewer.

**§ 240-210. Pre-application review.**

The DRDOD is exempt from development plan approval under § 240-16 of the Zoning Bylaw. However, any applicant for a special permit under this DRDOD Bylaw shall meet with the Planning Board staff prior to the submission of a special permit application under the DRDOD Bylaw.

**§ 240-211. Required materials.**

Notwithstanding the lack of formal development plan approval, all applications for a special permit hereunder shall include all plans and materials required under development plan approval as listed in § 240-17 of the bylaw. Additionally, where no subdivision is sought, as in the case of townhouse dwellings, the applicant shall provide any and all other plans that are required under the Town's Subdivision Rules and Regulations as they apply to roadways, utilities, stormwater facilities and other elements of required utilities and infrastructure.

ARTICLE XXX  
**MBTA Communities Overlay District**

**§ 240-212. Purposes.**

- A. The purpose of the MBTA Communities Overlay District (MCOD) is to provide for as-of-right multifamily housing development under MGL c. 40A, § 3A, and the Section 3A Compliance Guidelines of the Executive Office of Housing and Livable Communities (EOHLC), as may be amended from time to time. In addition, the purposes of this district are to:
- (1) Encourage production of housing to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
  - (2) Establish requirements, standards, and guidelines, and ensure predictable, efficient, and thorough development review and permitting;
  - (3) Creation of effective housing options for low- and moderate-income households; and
  - (4) Opportunities to create additional housing on land adjacent to existing high-density multifamily developments.

**§ 240-213. Applicability.**

- A. The MCOD shall be as shown on the map entitled, MBTA Communities Overlay District, dated September 23, 2024, on file with the Town Clerk, which is hereby made part of the Town of Bellingham Zoning Map. The MCOD includes two subdistricts, as follows:
- (1) North Main Street.
  - (2) Mechanic Street.
- B. At the option of the applicant, development of land within the MCOD may be undertaken subject to the requirements of this Article XXX or by complying with all applicable requirements of the underlying district. Developments proceeding under this Article XXX shall be governed solely by the provisions herein and the standards or procedures of the underlying districts shall not apply. Where the MCOD authorizes uses and dimensional controls not otherwise allowed in the underlying district or any applicable overlay district, the provisions of the MCOD shall control. Uses and dimensional controls of the MCOD are not subject to any special permit requirements of the underlying district or applicable overlay districts.
- C. When a building permit is issued for any project approved in accordance with this Article XXX, the provisions of the underlying district(s) shall no longer apply to the land shown on the site plan.
- D. Multifamily development under this Article XXX shall be exempt from the following provisions:
- (1) Article XV, Special Residential Uses.
  - (2) Article XXV, Inclusionary Housing.

**§ 240-214. Definitions.**

As used in this Article XXX, the following definitions shall apply. To the extent that there is any conflict between the definitions set forth herein or Article VI or Article XV, this Article XXX shall control.

**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 MGL c. 184, §§ 31 through 33 or other equivalent state law.

**AFFORDABLE UNIT** — A dwelling unit constructed per the requirements of this Article XXX, restricted for rent or purchase and occupancy by a low- or moderate-income household, and which is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory, as determined by the Executive Office of Housing and Livable Communities (EOLHC).

**LOW OR MODERATE INCOME** — A gross household income that does not exceed 80% of Area Median Income (AMI), as determined by the U.S. Department of Housing and Urban Development (HUD), or any other limit established under MGL c.40B, its regulations or any amendment thereto.

**MARKET-RATE UNIT** — A dwelling unit in a residential or mixed-use development that is not restricted in terms of sale price or rent.

**MULTI-FAMILY HOUSING** — A dwelling with (a) three or more residential units or (b) two or more residential buildings on the same lot, each having two or more residential units.

#### **§ 240-215. Permitted uses.**

The following uses shall be permitted in the MCOD.

- A. Multifamily housing.
- B. Accessory residential uses serving residents of the multifamily housing, including:
  - (1) Outdoor recreation uses, such as but not limited to a swimming pool, tennis court, or other game court.
  - (2) Off-street parking, including surface parking and parking structures.

#### **§ 240-216. Density and dimensional regulations.**

Development in the MCOD shall comply with the following density and dimensional requirements and shall not be subject to Article VII of this bylaw.

<b>Standard</b>	<b>North Main Street</b>	<b>Mechanic Street</b>
Minimum lot area (sq. ft.)	80,000	35,000
Maximum lot coverage	30%	30%
Maximum building height		
Stories (maximum)	3	4
Feet (maximum) (lin. feet)	40	50
Minimum frontage (lin. feet)	100	100
Minimum required setbacks: (lin. feet)		

Standard	North Main Street	Mechanic Street
Front	30	20
Side	15	10
Rear	20	20
Maximum units per acre	20	20

A. Exceptions.

- (1) Vertical projections or roof structures that house elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, or to fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless, radio or television masts, silos, energy generation and conservation apparatus, or similar unoccupied features, may be erected above the height limits in this § 240-216 provided the structures are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.
- (2) The Planning Board may waive the minimum side setback for a project in which multifamily dwellings are divided by a zero-lot line.

B. More than one residential or accessory building or structure shall be allowed on a lot. The minimum separation between buildings on a lot shall comply with the State Building Code and Massachusetts Fire Code.

**§ 240-217. Affordable housing.**

Any residential or mixed-use development in the MCOB shall provide affordable units in accordance with the following.

- A. In any multifamily development 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 units as defined in § 240-214. Fractions shall be rounded down to the next whole number.
- B. Developments shall not be segmented to avoid compliance with this Article XXX. 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 Article XXX.
- C. All the affordable units required in a proposed development shall be located within the development site and shall be comparable to the market-rate units.
  - (1) Design. Affordable units must be dispersed throughout a project and be comparable in construction quality and exterior design to the market-rate units. The affordable units shall have the same access to all on-site amenities and open space as the market-rate units.
  - (2) Timing. All affordable units must be constructed and occupied concurrently with or prior to the construction and occupancy of market-rate units or development.
  - (3) The unit mix (i.e., the number of bedrooms per unit) of the affordable units shall be in the same proportion as the unit mix of the market-rate units.

- D. All affordable units created under this Article XXX 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 under MGL c. 184, §§ 31 through 33 and shall be recorded with the Norfolk County Registry of Deeds or Registry District of the Land Court prior to issuance of a building permit.

**§ 240-218. Development standards.**

- A. Developments in the MCOB shall conform to the standards in this Article XXX and the following:
- (1) § 240-61, Parking area design and location.
  - (2) Article IX, Signs.<sup>38</sup>
  - (3) Article X, Environmental Performance Standards,<sup>39</sup> except that any special permit required under Article X shall not be required in the MCOB and shall, instead, be handled by the Planning Board during MCOB Plan Review under XX.<sup>40</sup>
  - (4) Article XVI, Special Flood Hazard Area Requirements.
- B. Setbacks and buffers. No use other than landscaping, sidewalks, or amenities such as a courtyard, recessed entrance, sidewalk, or permitted signs shall be permitted in the front yard of any lot.
- C. Sidewalks, internal walkways, and landscaping.
- (1) Sidewalks shall be separated from the road or access drive with a three-foot-wide landscaped buffer to protect pedestrians and create a pleasing environment unless pre-existing conditions make it infeasible or where state jurisdiction supersedes local control. The landscaped buffer shall consist of shade trees placed at appropriate intervals and other landscaping, and street design elements such as benches, shrub, or grass. Landscaping shall be organized in clusters of plantings rather than in a rigid line along the front of the lot.
  - (2) All developments shall provide walkways connecting building entrances to building entrances, buildings to streets, and buildings to sidewalks with minimal interruption by driveways. All walkways shall comply with the Massachusetts Architectural Access Board's standards for accessible walkways.
  - (3) To the maximum extent possible, walkways should have some degree of shelter achieved through the use of trees, low hedges, trellised walks, or other means to achieve pedestrian refuge.
  - (4) Parking lot aisles and access and interior driveways shall not count as walkways.
  - (5) Proposed site landscaping shall be designed to accommodate adequate sight distances at all vehicular access and egress points and abutting public or private rights-of-way.
  - (6) A landscape plan, prepared and stamped by a Massachusetts Licensed Landscape Architect, shall be included in the submission to delineate location, type, and size of proposed landscaping.
- D. Shared outdoor space. Multifamily housing shall have common outdoor space that all residents can

---

38. Editor's Note: See Art. VIII, Sign Regulations.

39. Editor's Note: See Art. IX, Environmental Controls.

40. Editor's Note: See § 240-22, Site plan review.

access. The outdoor space may be located in any combination of ground floor, courtyard, rooftop, or terrace.

E. Off-street parking. Development in the MCOD shall comply with Article X except as modified below. Any conflict between this Article XXX and Article X shall be resolved in favor of this Article XXX.

- (1) The minimum number of off-street parking spaces for multifamily dwellings shall be 1.25 spaces per unit.
- (2) Parking shall be located in the rear of the proposed buildings to the greatest extent practicable. No parking areas shall not be located within the front and side setbacks.
- (3) Accessory structured parking shall be located at least 20 feet behind the front building line of the multifamily dwelling on the lot.
- (4) For structured parking that is located partially or entirely under a multifamily or mixed-use building, the vehicular entry to the parking area shall be subordinate in design and placement to the principal pedestrian entry into the building. For example, vehicle parking that is not underneath the building but is covered by it shall be effectively shielded from view from the street and sidewalks by any combination of the following methods: fence, trees, or building wall sufficiently articulated to avoid the appearance of a blank wall at the street level.

F. Bicycle parking. For multifamily developments with 10 or more units, there shall be a minimum of one bicycle storage space per two dwelling units unless waived by the Planning Board.

G. Buildings. To the extent not preempted by the State Building Code, the following shall apply to developments in the MCOD:

- (1) The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building facade(s) (front, side, and rear) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
- (2) Garage doors are not permitted on primary elevations facing the public realm.
- (3) Building(s) adjacent to a principal access drive shall have a pedestrian entry facing that access drive.
- (4) Blank walls adjacent to streets, alleys, or areas open to public view are prohibited.
- (5) Building forms shall be broken down or subdivided visually to reduce the sense of mass. Projecting bays, larger scale articulation of building footprint, variations in building materials, glazing patterns, and similar techniques must be employed to break up the apparent length or vertical scale of larger buildings.

H. Exterior lighting. Throughout the MCOD, the goal of an exterior lighting plan shall be to light sidewalks and walkways, building entrances, and parking areas in a consistent, attractive, safe, and unobtrusive manner that minimizes off-site impacts. To this end, exterior lighting in the MCOD shall be Dark Sky Compliant and conform to the following standards and shall be in accordance with a lighting plan approved by the Planning Board.

(1) Pedestrian lighting.

- (a) Pedestrian lighting shall complement the character, aesthetic appeal, and safety of a

development and promote greater pedestrian activity.

- (b) Pedestrian lighting shall use consistent fixtures, source colors, and illumination levels. Fixtures shall be downcast or full-cutoff fixtures.
- (c) When pedestrian lighting is used in conjunction with street lighting, the illumination provided by the former shall be distinguishable from the illumination provided by the latter to clearly define the pedestrian path of travel.
- (d) Placement of fixtures shall facilitate uniform light levels and work with the placement of sidewalks, landscaping, signage, building entries, and other features to contribute to the continuity of the streetscape. Where possible, the Planning Board prefers the use of a greater number of low fixtures in a well-organized pattern rather than fewer, taller fixtures.

(2) Parking areas.

- (a) Within parking areas, there shall be a unified system that provides attractive lighting throughout the lot.
- (b) Fixtures and locations shall eliminate light spill onto adjacent properties. A proposed Lighting Plan shall document no light spillover along the subject parcel's property boundaries.
- (c) Lighting shall complement the lighting of adjacent streets and properties and shall use consistent fixtures, source colors, and illumination levels. When adjacent to walkways, parking area lighting shall not overpower the quality of pedestrian area lighting.

- I. Waivers. Upon the request of the applicant, the Planning Board may waive by majority vote the requirements of this § 240-218 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 MCOD.

**§ 240-219. MCOD plan approval.**

- A. Development in the MCOD shall be subject to this Article XXX and not to § 240-216 and § 240-217. In no event shall an application for multifamily development in the MCOD require a special permit or result in a denial or unreasonable conditioning of a multifamily development in the MFOD.
- B. The number of copies of the MCOD Plan Approval Application shall be as required in the Planning Board's Form K, Submittal Checklist.
- C. Application for MCOD Plan Approval shall include all of the following:
  - (1) A narrative project description with the following content:
    - (a) Proposed use(s);
    - (b) Total number of buildings and units proposed, and number of affordable units;
    - (c) Projected parking spaces required;
    - (d) Proposed methods of screening premises and parking from abutting property and the street;
    - (e) Zoning compliance table; and



- (f) Any other content the applicant deems necessary to demonstrate compliance with this Article XXX.
- (2) A site plan prepared by a land surveyor, registered architect, landscape architect, professional engineer, conforming to the Planning Board's rules and regulations;
- (3) Building floor plans and architectural elevations;
- (4) Landscaping plan prepared by a Landscape Architect licensed in the Commonwealth of Massachusetts, showing the location, type, and sizes of proposed landscaping;
- (5) Lighting plan;
- (6) Drainage calculations and analysis;
- (7) Traffic impact analysis;
- (8) Proposed infrastructure and utilities serving the site.

D. Procedures.

- (1) The applicant is encouraged but not required to meet with the Director of Planning and Engineering prior to applying for MCOD Plan Approval.
- (2) A complete MCOD Plan Approval application shall be filed with the Town Clerk. To be deemed complete, the filing shall include all required forms and submission requirements, including fees, in the Planning Board's Rules and Regulations. A copy of the application, including the date and time of filing and the required number of copies of the application, shall be filed forthwith by the applicant with the Director of Planning and Engineering and the Planning Board.
- (3) Within seven days of receipt of the application, the Director of Planning and Engineering shall distribute copies of the application to the Building Commissioner, Fire Chief, Police Chief, Health Department, Conservation Commission, and Department of Public Works. Any comments from the reviewing parties shall be submitted to the Board within 35 days of filing of the Application. The Planning Board or its designee shall forward to the applicant copies of all comments and recommendations received to date from other boards, commissions, or departments.
- (4) Public hearing. Within 45 days of receipt of the MCOD Plan Approval application, the Planning Board shall hold a public hearing and review the application in accordance with MGL c. 40A, § 11.
- (5) No later than 90 days from the date the application was received by the Town Clerk, the Board shall approve the plan where it finds that the proposed development, to the maximum extent possible, addresses the purposes and meets the purposes and requirements of this Article XXX, considering:
  - (a) The proposed placement of buildings;
  - (b) Surface and ground water drainage and erosion control;
  - (c) Protection against flooding and inundation;
  - (d) Prevention of water and pollution and environmental damage;

- (e) Provision for adequate utility services;
  - (f) Provisions of off-street parking and loading;
  - (g) Location of intersections of driveways and streets;
  - (h) The effect of additional traffic created by the development on intersections and streets likely to be affected by the proposed development;
  - (i) Provision for pedestrian/bicycle accessways connecting to adjacent open space, neighborhoods, schools, recreation areas or transportation facilities and for alternative transit programs;
  - (j) Provisions for landscaping and adequate screening and buffering; and
  - (k) The submission of a complete MCOD Plan Approval application.
- E. The Board may impose reasonable conditions to ensure compliance with the requirements of Article XXX and other applicable sections of the Zoning Bylaw or to mitigate any extraordinary adverse impacts of the development on nearby properties, provided that the Board's conditions do not unduly restrict opportunities for housing development by adding unreasonable costs or by unreasonably impairing the economic feasibility of a proposed development. The Board shall file its written decision with the Town Clerk within 14 days of the Board's action on the plan. The decision shall be by majority vote. The time limit for public hearings and taking of action by the Board may be extended by written agreement between the applicant and the Planning Board. A copy of the agreement shall be filed with the Town Clerk.
- F. A copy of the decision shall be mailed to the owner and to the applicant, if other than the owner. A notice of the decision shall be sent to the parties in interest and to persons who requested a notice at the public hearing.
- G. MCOD Development Plan Approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within three years after the Board issues the decision, excluding time required to adjudicate any appeal from the Board's decision. The time for commencing construction shall also be extended if the applicant is actively pursuing other required permits for the project, or if there is good cause for the applicant's failure to commence construction, or as may be provided in an approval for a multi-phase development.
- H. The Planning Board may adopt administrative rules and regulations relative to Development Plan Review in the MCOD and 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 MGL c. 44, § 53G. Submission requirements and procedures shall be in accordance with the Planning Board's rules and regulations under this Article XXX.

#### **§ 240-220. Modifications to approved site plans.**

- A. Minor Change. After MCOD site plan has been approved by the Planning Board, 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 5% or less 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 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 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 A above shall be processed by the Planning Board as a new site plan application for Site Plan Approval under this Article XXX.

## **Part II: Rules and Regulations**

SUBDIVISION REGULATIONS

**Chapter 245**

**SUBDIVISION REGULATIONS**

**GENERAL REFERENCES**

**Numbering of buildings — See Ch. 35.**

**Scenic roads — See Ch. 154.**

**Sewers — See Ch. 165.**

**Streets and sidewalks — See Ch. 191.**

**Wetlands — See Chs. 235 and 247.**

**Zoning — See Ch. 240.**

**Traffic impact analysis — See Ch. 246.**

ARTICLE I  
**Statutory Authority**

**§ 245-1. Adoption of rules and regulations; effective date.**

Under the authority vested in the Planning Board of the Town of Bellingham by M.G.L. ch. 41, § 18Q, said Board hereby adopts these revised rules and regulations governing the subdivision of land in the Town of Bellingham. Such rules and regulations shall be effective on and after March 7, 1990.

ARTICLE II  
**General Provisions**

**§ 245-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**BOARD** — The Planning Board of the Town of Bellingham.

**COLLECTOR STREET** — A street which handles traffic equivalent to that generated by 50 homes or more, or which serves nonresidential abutting property.

**CUL-DE-SAC** — A street or way open at only one end with special provisions for turning around at the other end.

**DEAD-END STREET** — A street, extension of a street, or system of streets connected to other streets only at a single point ending in a cul-de-sac or similar configuration.

**FLOODPLAIN DISTRICT** — The Floodplain District as established in the Bellingham Zoning Bylaw.<sup>41</sup>

**LANE** — A street which carries traffic equivalent to that generated by 12 or fewer dwelling units, which has no abutting property either used or zoned for commerce or industry, and which is not capable of extension.

**LOW IMPACT DEVELOPMENT (LID)** — LID is an ecologically friendly approach to site development and stormwater management that aims to mitigate development impacts to land, water, and air. The approach emphasizes the integration of site design and planning techniques that conserve natural systems and hydrologic functions on a site through the preservation of open space and minimal land disturbance; protection of natural systems and processes (drainage ways, vegetation, soils, sensitive areas); reexamination of the use and sizing of traditional site infrastructure (lots, streets, curbs, gutters, sidewalks) and customization of site design to each site; incorporation of natural site elements (wetlands, stream corridors, mature forests) as design elements; and the decentralization and micromanagement of stormwater at its source.

**MINOR STREET** — A street which cannot qualify as a lane but which can be expected to handle less traffic than a collector street.

**NONRESIDENTIAL SUBDIVISION** — A subdivision any part of which lies within a Business or Industrial District established by the Bellingham Zoning Bylaw.<sup>42</sup>

**RESIDENTIAL SUBDIVISION** — A subdivision no part of which lies within a Business or Industrial District established by the Bellingham Zoning Bylaw.<sup>43</sup>

**SUBDIVISION** — The division of a tract of land into two or more lots and shall include resubdivision, and when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the Clerk of the Town of Bellingham certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence on April 13, 1956, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the

---

41. Editor's Note: See Ch. 240, Zoning.

42. Editor's Note: See Ch. 240, Zoning.

43. Editor's Note: See Ch. 240, Zoning.

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. Such frontage shall be of at least such distance as is then required by the Bellingham Zoning Bylaw<sup>44</sup> for erection of a building on such lot. Conveyance or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing on April 13, 1956, into separate lots, on each of which one of such buildings remains standing, shall not constitute a subdivision.

**§ 245-3. Approval or endorsement required.**

- A. Necessity. Only those plans which constitute "subdivisions" as that term is defined in M.G.L. ch. 41, § 81L, require the approval of the Planning Board. However, all plans, whether subdivisions within the meaning of the law or not, must have either approval as a subdivision, or endorsement that they do not require approval, before they will be accepted for recording at the Registry of Deeds or for registering at the Land Court.
- B. Date of submittal.
  - (1) Applicants shall comply with requirements of M.G.L. ch. 41, §§ 81O and 81T, with respect to submittal dates. Alternatively, if a plan is hand delivered, a plan shall be deemed submitted when actually received by the Planning Board staff.
  - (2) No plan for review, whether for approval or for endorsement that approval is not required, shall be accepted as a submittal unless and until all information necessary for such review, as described herein under the applicable provisions of submission requirements, is fully provided, unless waived in writing by the Board. At the time of submission, a determination shall be made by the Town Planner that the submission materials are either complete or incomplete.
  - (3) If the submission has been determined to be incomplete, the applicant shall be so advised forthwith, and requested to withdraw the plan and application, and to resubmit when submittals are complete. A plan shall not be considered submitted and the review period will not begin until submittals are substantially complete.

**§ 245-4. Plans believed not to require approval.**

- A. Applicability. 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 his plan does not require approval under the Subdivision Control Law, may submit his plan to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file with the Planning Board four prints of the plan and an application (Form A), and an application fee of \$100. Said person shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such determination. (Form A<sup>45</sup>).
- B. Contents. In order to be considered by the Board, such plans shall show all of the following:
  - (1) Any existing structures on the land shown on the plan and dimensions of yards relating to such structures.
  - (2) Any existing structures on any remaining adjoining land owned by the applicant and dimensions

---

44. Editor's Note: See Ch. 240, Zoning.

45. Editor's Note: Form A is included as an attachment to this chapter.



of yards relating to such structures, if such structure is within 50 feet of a property line being created.

- (3) Indication of remaining frontage of any adjoining land in the same ownership.
  - (4) Present owner of the land shown on the plan, and all abutting owners.
  - (5) Location of any easement or way, public or private, across the land, with a designation as to the use of the same.
  - (6) Indication of the zoning district or districts involved.
- C. Determination. If the Board determines that the plan does not require approval, it shall forthwith, without a public hearing, endorse on the plan the words "Planning Board approval under Subdivision Control Law not required" and as a Note "Endorsement of this Plan is not a determination of conformance with either the Bellingham Zoning Bylaws or the Bellingham Rules and Regulations for the Subdivision of Land." Said plan shall be returned to the applicant and the Board shall notify the Town Clerk of its action.
- D. Notification. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within 21 days of submission of said plan so inform the applicant and return the plan. The Board shall also notify the Town Clerk of its determination.

#### **§ 245-5. Definitive plan of subdivision to be submitted.**

No person shall make a subdivision of any land within the Town, 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 to and approved by the Planning Board as hereinafter provided.

#### **§ 245-6. Standards of access adequacy.**

- A. General. No plan shall be endorsed as not requiring approval under the Subdivision Control Law and no subdivision plan shall be approved unless each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, M.G.L. ch. 41, §§ 81K through 81GG.
- B. Standards of adequacy.
- (1) Streets within a subdivision. Streets within a subdivision shall be determined to provide adequate access if and only if complying with the standards established in Article IV of this regulation, except as waived by the Board.
  - (2) Ways providing access to a subdivision. Ways providing access to the streets within a subdivision shall be determined to provide adequate access only if there is assurance that, prior to construction on any lots, the following standards will be met by those ways.
    - (a) For ways providing access to not more than 12 dwelling units (whether within or outside of the proposed subdivision) "adequate access" shall be deemed to be provided only by ways that meet the requirements for a street opening permit under Chapter 191, Streets and Sidewalks, Article III, of the Bellingham Code of Bylaws as adopted May 27, 1998.
    - (b) For ways providing access to 13 or more dwelling units or to nonresidential use "adequate access" shall be deemed to be provided only by ways meeting the standards of Article IV

of this regulation and shall include a second full egress not on the same road wherever practicable.

- (3) Existing ways providing frontage outside of subdivisions. An existing private way shall be determined to provide access adequate to constitute lot frontage for lots not within a subdivision only if meeting the standards of Subsection B(2) above unless the Planning Board determines that in a specific case unusual circumstances render lesser provisions adequate to serve the lot with access and utilities. An existing public way shall be determined to provide access adequate to constitute frontage for lots not within a subdivision only if it provides at least "vital access" to those lots, such as for emergency vehicles and, if the access provided is subject to periodic interruption, an alternative means of emergency access is available.
- C. Obligations. The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening access ways to a width as required above, and that he either make physical improvements within such way or compensate the Town for the cost of such improvements in order to meet the standards specified above.
- D. Waivers. The Board may waive strict compliance with these requirements only upon its determination, following consultation with the DPW Superintendent, Police Safety Officer, Fire Chief, and Board of Selectmen, that the way in fact will be sufficient to serve the needs for access and utilities to serve potential needs of land abutting on or served by the way in question. Waivers will be granted at the discretion of the Board only upon evidence that there are no other practicable options.

#### **§ 245-7. Border developments.**

In order to assure consistency of subdivision streets or utilities crossing the Town line, the portion of such facilities within Bellingham shall meet the requirements of the adjacent community, where those requirements are more demanding, unless this requirement is explicitly waived by the Planning Board.

#### **§ 245-8. Ownership of ways and easements.**

- A. Fee to street. The subdivider shall retain title to the fee of each street, path, or easement in or appurtenant to the subdivision until conveyed to the Town or for at least three years after completion of improvements, whichever is the lesser. Notation that this is to be done shall be placed on the definitive plan. This provision may be waived by the Planning Board for subdivisions where the public interest is served by retention of private ways, and means of securing such retention and their maintenance have been agreed upon.
- B. Security. Security in an amount equal to at least 20% of the total cost of all roadway construction work necessary after clearing, grubbing and rough grading shall be retained to ensure construction adequacy against hidden faults and shall not be released until the fee has been conveyed as indicated above or until three years have elapsed since completion of improvements.

ARTICLE III  
**Submission and Approval of Plans**

**§ 245-9. Preliminary plan.**

**A. General.**

- (1) A preliminary plan of a subdivision must be submitted for any proposed nonresidential subdivision, and may be submitted for any proposed residential subdivision. The submission of such a preliminary plan will enable the subdivider, 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. Therefore, it is strongly recommended that a preliminary plan be filed in every case.
- (2) Prior to investing in extensive professional design efforts for subdivision plans and their formal submittal, it will often prove useful to informally review the proposed development of a parcel of land with the Planning Board, in order that general approaches and potential problems can be freely explored. Simple sketches, which need not be professionally prepared, will assist the discussion and might show some but not all of the information shown on a preliminary plan. In some cases, this pre-submission review may eliminate need for a preliminary plan.
- (3) Notice of the preliminary plan shall be sent via first class mail to all abutters to abutters within 300 feet.

**B. Submittals.** Any person who seeks approval of a preliminary plan of a subdivision shall:

- (1) Submit copies of the preliminary plan to the Planning Board, Board of Assessors, Town Clerk, Town Administrator, Disability Commission, Historical Commission, Building Inspector, Conservation Commission, Board of Health, DPW Superintendent, Fire Department, Police Safety Officer and any other departments/personnel as indicated on the Form K<sup>46</sup> or requested by the Town Planner and/or Planning Board.
- (2) Submit to the Planning Board:
  - (a) An application (Form B<sup>47</sup>).
  - (b) A filing fee of \$500 plus \$25 per lot, which shall be credited against the fee for the definitive plan when submitted.
- (3) Submit to the Board of Health a copy of the application (Form B).
- (4) Submit to the Town Clerk (by delivery or certified mail) a copy of the application (Form B).
- (5) In addition to those items required to be submitted, it is requested that the following be furnished:
  - (a) A locus plan of the subdivision, showing its street configuration in relation to the surrounding area and to zoning district boundaries, at a scale of one inch equals 800 feet.
  - (b) In the case of a subdivision covering less than all of the land owned by the subdivider in the area of the subdivision, a plan showing in a general manner the proposed overall

---

46. Editor's Note: Form K is included as an attachment to this chapter.

47. Editor's Note: Form B is included as an attachment to this chapter.

development of all of said land.

- (c) Preliminary findings, in a general way, of the environmental analysis, if expected to be required.

C. Plan contents.

- (1) The preliminary plan shall be clearly drawn at a suitable scale, preferably one inch equals 40 feet. Said preliminary plan shall show sufficient information about the subdivision to form a clear basis for its review and for the preparation of the definitive plan, and shall show:
  - (a) The subdivision name, boundaries, North point, date, scale, legend and title "Preliminary Plan."
  - (b) The name and address of record owner, applicant, registered engineer and registered surveyor.
  - (c) The names of all abutters from the most recent tax list.
  - (d) Existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision in a general manner.
  - (e) The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
  - (f) The approximate boundary lines of proposed lots, with approximate areas and dimensions.
  - (g) The location, names and widths of adjacent streets approaching or near the subdivision.
  - (h) The topography of the land in a general manner.

- D. Field trip. In order to facilitate field inspection and review of the site of the proposed subdivision, it is desirable that there be temporary staking along the center line of all proposed roads in the subdivision, or if that is impractical, some alternative method of enabling on-site review.

- E. Approval. Within 45 days after submission of a preliminary plan, the Board shall notify the applicant and the Town Clerk either that the plan has been approved, or that the plan has been approved with modifications suggested by the Board or agreed upon by the person submitting the plan, or that the plan has been disapproved, and in the case of disapproval, the Board shall state in detail its reasons therefor. Such approval does not constitute approval of a subdivision but does facilitate the procedure in securing final approval of the definitive plan.

**§ 245-10. Definitive plan.**

- A. Submittals. Any person who desires approval of a definitive plan of a subdivision shall consult with the Town Planner prior to any submission.
  - (1) Submit copies of the application package to the Planning Board, Board of Assessors, Town Clerk, Town Administrator, Disability Commission, Historical Commission, Building Inspector, Conservation Commission, Board of Health, DPW Superintendent, Fire Department, Police Safety Officer and any other departments/personnel as indicated on the Form K<sup>48</sup> or requested by the Town Planner and/or Planning Board.

---

48. Editor's Note: Form K is included as an attachment to this chapter.

- (a) The definitive plan, as described at Subsection B. The original definitive plan drawing will only be needed if and when actual signing of the plan takes place.
- (b) Street plans and profiles of every proposed street, as described at Subsection C.
- (c) At the same scale as the definitive plan, a development plan, showing existing and proposed topography at two-foot contour intervals, distinction between upland and wetland, location of tree cover, any individual trees that have been identified by the Board, the Conservation Commission, or the Tree Warden as unusually important to be preserved, existing structures including fences and walls, and proposed streets, drainage facilities, and lot lines. If located within the Floodplain District, the location of the base flood elevation (one-hundred-year flood) shall be indicated. The applicant shall clearly mark the center line of the proposed subdivision roadways.
  - [1] A site meeting shall be scheduled with the Tree Warden and a DPW representative. The applicant shall notify the Planning Board and Conservation Commission of the time of the site meeting. The meeting shall be scheduled and notice sent one month prior to the date of the site visit to allow sufficient time for Board or Commission members to attend.
  - [2] Wetlands delineation shall be based upon field identification and flagging by a botanist or other professional previously approved by the Board as being qualified for wetlands identification under the Wetlands Protection Act, preferably to be done in coordination with the Conservation Commission.
- (d) Drainage plans, calculations, and computer printouts (if any), documenting the adequacy of all proposals, to include water table data to evaluate necessity of underdrains and to determine detention basin bed elevations; soils data to substantiate curve number determinations for SCS Method calculations; inflow/outflow hydrographs for pre- and post-development conditions at all critical locations, including detention basins; pipe size calculations; and description of effects of a one-hundred-year storm.
- (e) Logs for test pits or soil borings located approximately every 300 feet within the proposed roadway layout and one pit per proposed lot within the lots designed to show general patterns of subsurface characteristics. Logs to include: depth to annual high ground water level, depth to bedrock, depth of topsoil, general classification of soil stratification. The location of the test pits or soil borings and the log shall be indicated on the development plan.
- (f) Where connection to the public water system is not proposed, information indicating why such connection is not feasible, description of provisions to be made for water for fire fighting, and information adequate to allow determination of compliance with requirements regarding potable water quality and quantity.
- (g) Where connection to the public sewerage system is not proposed, information indicating why such connection is not feasible.
- (h) An erosion control plan, indicating the erosion control measures to be employed, including description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques, and sediment basins, and narrative description of how erosion from individual lots onto streets and into drainage systems is proposed to be controlled.

- (i) A locus plan of the subdivision, showing its street configuration in relation to surrounding streets and to zoning district boundaries, at one inch equals 800 feet.
  - (j) An environmental analysis as required in Subsection D.
  - (k) Construction details and specifications, and road cross sections for each cross section variant at all critical locations.
  - (l) Traffic analysis (see Bellingham Development Traffic Impact Analysis<sup>49</sup>).
  - (m) Summary of any and all actions to obtain any necessary permits from the Conservation Commission (See Subsection G).
  - (n) Landscape plan showing existing trees and other vegetative growth to be maintained and proposed location of new plantings (See § 245-15C.).
- (2) Submit the following to the Planning Board:
- (a) If requested, traverse notes, evidence of ownership, language of any easements, covenants or deed restrictions applying or proposed to apply to the area being subdivided, and rights and easements obtained for utilities or drainage outside of the subdivision.
  - (b) One copy of properly executed application Form C.<sup>50</sup>
  - (c) A filing fee of \$1,000, plus postage costs for certified notice mailings, plus advertising costs, plus \$50 per lot (minus any fee paid at the preliminary plan stage).
  - (d) A professional engineering and/or traffic consultant(s) review fee, determined by the Town's chosen review consultant(s) prior to the first public hearing, to be utilized as provided at § 245-16I.
  - (e) A list of names and mailing addresses for all abutters as they appear on the most recent local tax list, including property owners on the opposite side of any streets abutting the subdivision, on label sheets.
  - (f) A description of the land and the proposal, suitable for advertising.
  - (g) A copy of Form K indicating having delivered materials to appropriate departments/agencies.<sup>51</sup>
  - (h) Certification by an attorney that submittal of the plan by the applicant has been agreed to by owners of all of the land included in the plan.
  - (i) The developer must submit a signed and notarized document explaining the entity that is the developer. This document must include a list of officers, trustees, managers, financiers, and any other pertinent ownership information.
  - (j) Digitized version of the application and plans in an acceptable electronic media (consult with the Town Planner prior to submission).
- (3) Submit to the Town Clerk by delivery or registered or certified mail:

---

49. Editor's Note: See Ch. 246, Traffic Impact Analysis.

50. Editor's Note: Form C is included as an attachment to this chapter.

51. Editor's Note: Form K is included as an attachment to this chapter.

- (a) A notice stating the date of definitive plan submission to the Planning Board;
- (b) A copy of the completed application Form C.<sup>52</sup>
- (4) File one copy of each of the following with the Board of Health:
  - (a) Definitive plan;
  - (b) Street plans and profiles;
  - (c) The development plan;
  - (d) Environmental analysis, if any.

**B. Definitive plan contents.**

- (1) The definitive plan shall be prepared by an engineer and land surveyor licensed to practice in Massachusetts. The plan shall be at a scale of one inch equals 40 feet, or such other scale as the Board may authorize prior to submittal to show details clearly and adequately. Sheet sizes shall be 24 inches by 36 inches. If multiple sheets are used, they shall show each lot in its entirety on one sheet, and shall be accompanied by an index sheet showing the entire subdivision at a scale of one inch equals 200 feet.
- (2) The definitive plan shall contain the following information:
  - (a) The subdivision name, boundaries, North point, legend, date, scale and indication of zoning districts.
  - (b) The name and address of record owner, subdivider, registered engineer and registered surveyor, their stamps and the names (and stamps, if appropriate) of any other professionals engaged in the design.
  - (c) The names of all abutters as they appear in the most recent certified tax list, including property owners on the opposite side of any streets abutting the subdivision.
  - (d) Sufficient data to determine the location, direction, and length of every street and way line, lot line, easement and boundary line and to establish those lines on the ground.
  - (e) The location of all permanent monuments, properly identified as to whether existing or proposed.
  - (f) Lot numbers enclosed in a circle, and street numbers enclosed in a square.
  - (g) The location, names, and present widths of streets bounding, approaching or within reasonable proximity to the subdivision, and designation whether public or private.
  - (h) On each sheet of the definitive plan, suitable space to record the action of the Board and the signatures of the members of the Board, and the Town Clerk's certification.
  - (i) Certification by the preparers of the plan that the plan and supporting materials were prepared under their direction, and have been designed in compliance with all applicable zoning and subdivision regulations.

---

**52. Editor's Note: Form C is included as an attachment to this chapter.**

- (j) List of all waivers on the cover sheet.

C. Street plans and profiles.

- (1) For each street there shall be a separate plan at one inch equals 40 feet, and profile at one inch equals 40 feet horizontal, one inch equals four feet vertical, showing the following data:
  - (a) Exterior lines of the way, with sufficient data to determine their location, direction, and length.
  - (b) Existing center line profile to be shown as a fine, continuous line. Existing center line profile for intersecting streets to be shown for at least 100 feet each side of the intersection of street center lines. Existing right sideline shall be shown as a light dashed line, left side line as dots. Elevations shall be based on United States Geological Survey datum.
  - (c) Proposed center line profile to be heavy, continuous line, with elevations shown every 50 feet (25 feet on vertical curves).
  - (d) Existing and proposed watercourses, ponds, and wetlands, and one-hundred-foot buffer zone around wetlands subject to the Wetlands Protection Act.
  - (e) Road center line stationing.
  - (f) All sewer and drainage facilities to be shown on the profiles indicating proposed pipe sizes, slopes and rim and invert elevations and on the street plans, showing pipe sizes.
  - (g) Plan location and size of existing and proposed water mains, hydrants and main gate valves.
  - (h) Location of proposed streetlights.
  - (i) Location of existing and proposed street paving, sidewalks and curbs.

D. Environmental analysis.

- (1) A comparative environmental analysis shall be submitted for any and all subdivisions and in other cases where the Board determines it appropriate in light of special circumstances. The scope of such analysis, including development alternatives to be compared and consequences to be studied, shall be as agreed to by the Planning Board but will normally be required to include at least one major alternative to the plan proposed, with as much of the following information as determined by the Planning Board to be necessary for plan evaluation. The analysis shall indicate differences among alternatives regarding:
  - (a) Impact upon ground and surface water quality and level, including estimated phosphate and nitrate loading on groundwater and surface water from sewage disposal systems, lawn fertilizer, and other activities within the development. For subdivisions located in whole or in part within Water Resource Districts established in the Zoning Bylaw, this shall include analysis of open and closed drainage system alternatives, examining effects upon the basin water budget and upon future contaminant levels.
  - (b) Material effects upon important wildlife habitats, outstanding botanical features, and scenic or historic environs.
  - (c) Capability of soils, vegetative cover and proposed erosion control efforts to support



proposed development without danger of erosion, silting or other instability.

- (d) Relationship to the requirements of M.G.L. ch. 131, §§ 40 and 40A (the Wetlands Protection Act) and Bellingham Wetlands Bylaw.<sup>53</sup>
- (e) Impact upon the existing water supply system and well capacity of the Town.
- (f) Ability of streets providing access to the subdivision to safely provide such access, including measurement of sight distances at each intersection with proposed streets, impact of development traffic on the traffic level of service, gap acceptance analysis, and analysis of hazards owing to limited sight distances, alignment or other characteristics of access roads.
- (g) Measures to be taken to assure compliance with the environmental controls of Article IX of the Zoning Bylaw.
- (h) Traffic analysis consistent with the Development Traffic Impact Analysis (separate document).<sup>54</sup>

E. Performance guaranty.

(1) Form of guaranty.

- (a) Before the Planning Board endorses its approval of a definitive plan, the developer shall give his personal guarantee and agree to complete without cost to the Town all improvements required by this regulation, and shall provide security that he will do so, either by covenanting not to sell or build upon any lots until completion of the improvements (which covenant must be referred to on the plan and registered or recorded with it), or by posting bond or other security which the Town can utilize in the event that the improvements are not completed within the time limit defined in the Form D-1 Certificate of Approval,<sup>55</sup> or by some combination of these. Such security shall provide, at the very least, that no structure shall be issued an occupancy permit until streets or ways serving such structures have been surfaced with at least the binder course.

[1] Any and all agreements for subdivision security shall be in writing and shall be subject to the prior approval of the Planning Board, which may consult with Town Council.

[2] The sample forms for subdivision security set forth minimum requirements. The Planning Board may require additional or modified provisions.

- (b) Personal guaranty. In appropriate circumstances, the Planning Board may require that the highest ranking individual in the entity that is the developer must deliver to the Board a signed and notarized document personally guaranteeing that the developer will complete the subdivision and submit it for acceptance to the Town within the time noted in the Form D-1 Certificate of Approval.<sup>56</sup>
- (c) Change of ownership. Should the subdivision be sold or transferred to any other party, or

---

53. Editor's Note: See Ch. 235, Wetlands Protection; and Ch. 247, Wetlands Regulations.

54. Editor's Note: See Ch. 246, Traffic Impact Analysis.

55. Editor's Note: Form D-1 is included as an attachment to this chapter.

56. Editor's Note: Form D-1 is included as an attachment to this chapter.

should the controlling interest in the development entity change, the principals of the new development entity shall appear before the Planning Board to:

- [1] Disclose the new ownership status;
  - [2] Present a new personal guarantee; and
  - [3] Deliver a revised deed of the ways and easements as described in Subsection I(3), Certificate of approval.
- (d) Violation of personal guarantee. On any project for which a personal guarantee is not in place as noted above, or on any project that involves in any way an individual who has broken a personal guarantee on a previous project, the minimum security and contingency established on the Form J Guaranty Price Estimate will be maintained as follows:<sup>57</sup>
- [1] The minimum security percentages in § 245-8B will be increased to a minimum of 30%;
- (2) Security amount. If the developer wishes to secure completion by establishment of a performance bond or security deposit, or amend a performance bond or security deposit, he must submit a written request for security amount determination to the Board with a copy to the DPW Director. The DPW Director will complete a "Guaranty Price Estimate" (Form J<sup>58</sup>), and submit it to the Board, with a cover letter, suggesting the security amount necessary to cover project completion.
- (3) Release of guaranty.
- (a) The Board may grant partial release from such security for partial completion of improvements, if it determines that the completed portion provides a reasonable system for circulation and utilities pending completion of the rest. Prior to acting upon such release, the Board may, on its own initiative, perform or have performed a review of project status to determine the degree of completion. The Board may release the developer from the covenant upon receipt of an agreement executed by the applicant and by the holder of a first mortgage on the premises providing for retention of funds and their availability to the Town upon default (see M.G.L. ch. 41, § 81U, Paragraph 11). Full security shall not be released until the integrity of improvements has been verified or secured (§ 245-17B), record plans (§ 245-16G) have been received, and either the street has been accepted by the Town or three years have elapsed following completion of improvements (§ 245-8B).
  - (b) Nothing herein shall require the Planning Board to grant a request for partial release.
- (4) Construction phasing.
- (a) Prior to the establishment of the initial Form E-1 Performance Bond Secured By Deposit,<sup>59</sup> the developer may submit a written request to construct the subdivision in phases.
  - (b) The request must detail each phase of construction to be proposed and the time frame for construction completion for each phase. Phased construction must be approved by a

---

57. Editor's Note: Form J is included as an attachment to this chapter.

58. Editor's Note: Form J is included as an attachment to this chapter.

59. Editor's Note: Form E-1 is included as an attachment to this chapter.

majority vote of the Board and the approval of said phasing plan shall be recorded at the Norfolk Registry of Deeds as an amended Form D-1,<sup>60</sup> prior to the acceptance of the performance bond or security deposit.

(c) Phased work must:

- [1] Complete a looped water system to all lots in the phase if a loop is part of the accepted plan;
- [2] Complete all sewer facilities necessary to transport wastewater from every lot in the phase to the Town sewer system;
- [3] Complete all stormwater facilities including sedimentation and detention basins; and
- [4] Construct temporary culs-de-sac to provide vehicle turnaround areas, if the phase stops construction in the middle of a road.

- F. Review by Board of Health. The Board of Health shall report to the Planning Board in writing its approval or disapproval of the plan, and in the event of disapproval, shall make specific findings as to which, if any, areas shown on such plan cannot be used for building sites without injury to the public health and include specific findings and the reasons therefor in such report and, where possible, shall make recommendations for the adjustment thereof. Such Health Board or officer shall send a copy of such report, if any, to the person who submitted said plan. Any approval of the plan by the Planning Board shall then only be given on condition that no building or structure shall be built or placed upon the areas designated without written consent of the Board of Health and shall endorse on the plan such condition, specifying the lots or land to which said condition applies.
- G. Review by the Conservation Commission. The applicant shall consult with the Conservation Commission at the same time or prior to consultation with the Planning Board. If the Conservation Commission determines that a Notice of Intent must be filed, the filing and subsequent review by the Conservation Commission should, wherever feasible, occur concurrently with the Planning Board.
- H. Public hearing. Before approval 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 by advertisement 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 day of such hearing. A copy of said notice shall be mailed to the applicant, and via certified mail to all owners of land abutting upon the subdivision, including property owners on the opposite side of any streets abutting the subdivision, as appearing in the most recent tax list.
- I. Decision.
- (1) After the public hearing, the Board in due course will approve, modify and approve, or disapprove the definitive subdivision plan submitted. Criteria for action by the Board shall be the following:
    - (a) Completeness and technical adequacy of all submissions.
    - (b) Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others because of possible natural disasters, traffic hazard or other environmental degradation.

---

60. Editor's Note: Form D-1 is included as an attachment to this chapter.

- (c) Conformity with the requirements of Article IV.
  - (d) Determination, based upon the environmental analysis, that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.
  - (e) Access adequacy as provided at § 245-6.
  - (f) Conformity with all applicable zoning requirements.
  - (g) Consistency with the purposes of the Subdivision Control Law.<sup>61</sup>
- (2) Notice of such action, or of an agreed extension of the time for such action, must be provided by the Planning Board to the Town Clerk within 90 days following the date of submission of the plan if the plan follows action on (or failure to timefully act on) a preliminary plan, or 135 days following the date of submission in cases where no preliminary plan was submitted.
- (3) Certificate of approval. The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. The certificate of approval may contain necessary conditions of approval. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures 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. After the definitive plan has been approved and endorsed, the applicant shall furnish the Board with the number of plans as requested by the Planning Board, a copy of final covenants and restrictions, noting book, page number, and date of recording for both the plan and the covenants, a deed transferring all ways and easements to the Town, said deed to be held in escrow by the Town Clerk. Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.
- J. Rescission. Failure of the developer to record the definitive plan within six months of its endorsement, or to comply with the construction schedule, if any, incorporated into the performance agreement, or to initiate construction of improvements or sell lots in a subdivision or portion thereof within eight years of the approval of the definitive plan, shall constitute sufficient reason for the Planning Board to consider rescission of such approval, in accordance with the requirements of M.G.L. ch. 41, § 81W.

---

61. Editor's Note: See M.G.L. ch. 41, §§ 81K through 81GG

ARTICLE IV  
**Design and Construction Requirements**

**§ 245-11. General guidelines.**

- A. Design guidelines. All subdivisions shall be designed and improvements made by the developer consistent with the requirements of Article IV. Design and construction shall do the following:
- (1) Reduce, to the extent reasonably possible:
    - (a) Volume of cut and fill.
    - (b) Area over which existing vegetation will be disturbed; especially if within 200 feet of a river, pond, or stream, or having a slope of more than 15%.
    - (c) Number of mature trees removed.
    - (d) Extent of waterways altered or relocated.
    - (e) Visual prominence of man-made elements not necessary for safety or orientation.
    - (f) Erosion and siltation.
    - (g) Flood damage.
    - (h) Number of driveways exiting onto new or existing collector streets.
    - (i) Disturbance of important wildlife habitats, outstanding botanical features, and scenic or historic environs.
  - (2) Increase, to the extent reasonably possible:
    - (a) Use curvilinear roadway systems.
    - (b) The share of future dwellings that will front onto lanes or minor streets as opposed to collector streets or arterials.
    - (c) Continuity of access, by providing connections to adjacent land and streets.
    - (d) Visual prominence of natural features of the landscape.
    - (e) Legal and physical protection of views from public ways.
    - (f) Measures to ensure the utilization of low impact development (LID) strategies.
- B. Conformance with Master Plan. The street layout, impacts to natural and cultural resources and utilities in all plans shall conform to the proposals of the Bellingham Master Plan where applicable.
- C. Standards of construction. Standards for materials and work not otherwise specified hereunder shall be in accordance with the latest edition of the Massachusetts Highway Department Standard Specifications for Highways and Bridges ("MHDS").
- D. Typical cross sections. Design and construction shall conform to the typical cross sections appended hereto.<sup>62</sup>

---

62. Editor's Note: See Appendix B, included as an attachment to this chapter.

- E. Low-impact development. The Planning Board may waive, vary or modify any criteria in Article IV in the event that an applicant can demonstrate adherence to applicable LID standards. In order to make determinations under this section, the Planning Board may use the most current methodologies and standards.

### § 245-12. Streets.

The proposed streets shall be considered in their relation to existing and planned streets, topographic and geologic conditions, public convenience and safety, and for safe vehicular travel. Due consideration shall also be given by the developer to the attractiveness of the street layout in order to obtain the maximum amenity of the subdivision and to avoid excessive cut and fills. Long straight roadway sections should be avoided. The maximum length of a straight segment on a residential or secondary street shall be 500 feet. In addition, the proposed streets shall provide for appropriate continuation and connection of existing primary and secondary streets, and the extension of primary and secondary streets onto adjoining land.

#### A. Location.

- (1) All streets in the subdivision shall be designed so that they will provide safe vehicular travel. Due consideration shall also be given to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.
- (2) Streets shall be continuous and in alignment with existing streets as far as is practicable.
- (3) If adjoining property is not subdivided, proper provision for extending streets shall be made.
- (4) Reserve strips prohibiting access to streets or adjoining property will not be permitted except where, in the opinion of the Planning Board, such strips are in the public interest.
- (5) Street intersections shall be at least 400 feet apart on collector streets and at least 150 feet apart on other streets.

#### B. Alignment.

- (1) Streets shall intersect at 90° where possible, and at not less than 60° in other cases.
- (2) The minimum center line radius of any curve shall be 75 feet on a lane, 125 feet on a minor street, and 200 feet on a collector street or where gradient exceeds 5%. The Planning Board may require a greater radius where deemed necessary for the public safety.
- (3) All intersections and approaches to intersections shall be cleared of any obstructions to the motorist's view and maintained clear. Street lines at intersections shall be cut back to provide for pavement radii of not less than 30 feet if involving a collector street, or not less than 20 feet at other intersections.
- (4) Sight distances of at least 200 feet in each direction shall be provided at intersections, except that 400 feet sight distance shall be provided at intersections with state-numbered highways or collector streets or other streets having high-speed traffic. At such intersections, intersection designs shall allow for longer turning radii, and safe acceleration and deceleration, potentially involving increased street width, increased curb radii, and use of traffic islands for channelization. At other locations, minimum sight distance shall be as follows:
  - (a) Lane: 125 feet.
  - (b) Minor street: 175 feet.

- (c) Collector street: 275 feet.

The Police Safety Officer shall be given an opportunity to corroborate sight distances in the field.

- (5) Center-line offsets for intersecting streets shall not be less than 150 feet.

C. Single-access roadways.

- (1) Dead-end streets shall provide access to no more than 12 potential dwelling units, unless, in the opinion of the Board, serving a greater number is necessitated by topography or other local conditions, and shall be no shorter than 100 feet measured from the center of the turnaround to the intersecting street side line.
- (2) Dead-end streets shall be provided at the closed end with a cul-de-sac as determined by the Planning Board, provided that the cul-de-sac provides adequate turnaround for fire apparatus.
- (3) Culs-de-sac.
  - (a) Culs-de-sac shall not have a diameter smaller than 80 feet and property line diameter of 100 feet, or an alternative turnaround designed for a vehicle of thirty-foot length, eight-foot width, and having an outside turning radius of 57 feet.
  - (b) Alternate cul-de-sac designs may include one-way loop streets with naturally vegetated islands and/or "hammerhead" turnarounds.
  - (c) Culs-de-sac may have a landscaped islands to reduce impervious surface and runoff. Landscaping should be either existing natural materials or long-lived perennials. Small dimensional culs-de-sac may have interior pervious materials instead of landscaped islands as determined by the Planning Board.

D. Width.

- (1) Minimum street widths shall be as follows:

Type of Street	Right-of-Way (feet)	Pavement (feet)
Collector street	60	30
Minor street	50	26
Lane	40	22

- (2) The center line of the paved surface shall normally coincide with the right-of-way center line.
- (3) The Planning Board may require slope easements where retention cannot be adequately handled within the required right-of-way.
- (4) The Planning Board may reduce the width of the right-of-way and pavement if the applicant can demonstrate that the road can adequately accommodate traffic, safety and stormwater management to the Planning Board's satisfaction.

## E. Grades.

- (1) Grades of gutter line of all streets shall not be less than 0.5%. Grades of center line of cul-de-sac shall not be less than 1.6% to maintain a gutter line grade of not less than 0.5%.
- (2) The maximum grades for streets shall be as follows:

Type of Street	Maximum Grade (percent)
Collector street	8%
Minor street	8%
Lane	8%

- (3) Grades shall not exceed 4% within 50 feet of an intersecting street.
- (4) All changes in grade exceeding 2% shall be connected by vertical curves of sufficient length to afford a passing sight distance as required at Subsection B(4), unless drainage considerations for sag vertical curves dictate otherwise.
- (5) The street surface shall have a cross slope of 3/8 inch per foot on each side of the center line or such other slope as may be determined adequate to ensure proper drainage by the Board's engineer and/or DPW.
- (6) Center line profiles shall normally be at least three feet above the grade of adjacent wetlands.
- (7) Street grades shall be so designed that the volume of cuts and fills made within the right-of-way approximately balance, except to offset peat, boulders, or other unusable materials to be removed.
- (8) Proposed center line grade shall not be more than seven feet above or below the existing center line grade unless specifically authorized by the Board in unusual circumstances.
- (9) No slopes resulting from grading of streets shall exceed one foot vertical to three feet horizontal in fill, one foot vertical to two feet horizontal in cut, or one foot horizontal to 3/4 foot vertical in ledge. Slope easements or retaining walls shall be used where slopes cannot be contained within street sidelines. Driveway entrances and land between the outside of the layout and the street pavement shall be so graded as to prevent surface water on the street from draining onto private land except at designated ponding areas or at appropriate drainage easements.
  - (a) Low impact development projects shall have a minimum slope of one foot vertical to three feet horizontal, which may at the discretion of the Planning Board be adjusted to better fit existing conditions and/or topography.
  - (b) Outside the right-of-way the slope shall be maintained at three feet vertical to one foot horizontal.
  - (c) Slopes should not create runoff into a roadway.

## F. Construction.

- (1) Surface preparation. Clearing and grubbing shall be performed to remove stumps, brush, roots, boulders and like material from the area of the traveled way, shoulders, sidewalks and utility



trenches, but elsewhere wherever feasible existing vegetation shall be preserved.

(2) Forming the subgrade.

- (a) All topsoil, subsoil, rocks, ledge and other unsuitable material shall be excavated to pervious material (virgin soil). Unless a permit is granted by the Town for the removal of loam and topsoil, said material shall be stockpiled on the premises for final landscaping of roadway shoulders and adjacent house lots. The depth of excavation may be reduced by written authorization of the Planning Board or its agent if the existing base is clean gravel suitable for roadway foundation.
- (b) A greater depth of excavation may be required in any area where the subgrade material will not support the roadway, or drainage conditions require more gravel to establish a firm foundation. Prior to placement of the gravel base course, the entire subgrade surface shall be thoroughly compacted by means of a three-wheel roller weighing not less than 10 tons or equivalent pneumatic tired or vibratory compactors. After compacting, the surface shall show no deviation in excess of two inches from the grades indicated on the drawings. No gravel base course shall be placed in any subgrade area until said area has been inspected and approved by the Planning Board or its agent. Any dust created by crushing, grading or construction activity must be contained within the property boundary.

(3) Placing and compacting base course materials.

- (a) Base course gravel shall be placed in maximum lifts of eight inches compacted depth. Each lift is to be thoroughly compacted with a three-wheel roller weighing not less than 10 tons, or equivalent pneumatic tired or vibrator compactors. The final lift is to be a finer gradation with no stones larger than three inches in diameter. The base course gravel shall be placed not less than two months prior to surfacing. All drainage and utilities are to be installed prior to placing base course gravel. The base course gravel, once approved, is not to be disturbed by digging without written authorization of the Planning Board or its agent.
- (b) Roads shall have 95% compaction and shall be tested by an outside soils engineer or Planning Board agent at subbase and base at two-hundred-foot intervals.

(4) Conditioning of base course prior to surfacing.

- (a) The surface of the base course will be inspected and tested for tolerances by the Department of Public Works or its agent. Any deviations in excess of the required tolerances shall be corrected by the subdivider as directed. Any ruts or soft yielding areas in the base course shall be corrected by removing unsuitable material, adding suitable material, reshaping and recompacting as directed. The base course, immediately before surfacing, shall be fine-graded to a distance below final grade equal to the total depth of hot mix asphalt to be installed. Hot mix asphalt depths are shown on the cross sections and the applicable cross section for each project must appear on the definitive plan, with the grades of the street surface properly marked on grade stakes set no further apart than 50 feet. Grading shall be by means of a self-propelled road grader and such hand labor as may be required. Compaction will be by an approved type roller weighing not less than eight tons. The surface shall show no deviation in excess of 1/4 inch from the grades indicated on the definitive plan.
- (b) Immediately prior to application of the subsequent course of hot mix asphalt, the prior course shall be cleaned of all loose or foreign matter, and coated with bituminous tack coat

applied in accordance with MassDOT application rates.

- (c) Asphalt shall be inspected for thickness and temperature.
- (5) Application of permanent surface.
  - (a) Pavement of Class I bituminous concrete, Type I-1, shall be placed in strict accordance with the MassDOT Highway Division Standard Specifications for Highways and Bridges (MHDS). Said pavement shall be laid in three courses, as shown on the cross section contained in these regulations.<sup>63</sup> If the top course is not installed within 24 hours of the completion of the intermediate base course, an additional layer of machine-applied tack coat shall be placed on top of the leveling course prior to installation of the top course. Material specifications for Class I bituminous concrete, Type I-1, appear in MHDS Material Section M.3.11.04 Mineral Aggregate, M.3.11.05 Mineral Filler, and M.3.11.06 Bituminous Materials; construction specifications appear in Section 460.62; tack coat material specifications for the tack coat appear in MHDS Material Section M.3.03.3; protective seal coat emulsion and construction specifications appear in Section 460 Class I Bituminous Concrete, Type I-1.
  - (b) No permanent surface shall be applied after November 1 unless authorized in writing by the Planning Board or its agent, and no final pavement shall be applied until all trenches within the proposed traveled way have weathered one winter, and all utilities have been tested and accepted.
  - (c) If the top pavement has not been completed in a timely fashion and the base pavement has weathered, cracked or deteriorated, the base pavement shall be repaired by cutting out the unacceptable sections and installing a patch of new hot mix Type I-1 binder pavement. The hot mix pavement patch shall be installed in accordance with MHDS. All joints between patch pavement and the original base pavement shall be sealed with a material meeting MHDS Material Section M.3.03.3 Protective Seal Coat Emulsion. The joint sealing material shall be the same material that will be used as the tack coat noted in Subsection F(5)(a) above.

#### G. Berms.

- (1) Bituminous concrete berms or curbs shall be installed on both sides of all roadways in conformity with the Typical Cross Section appended hereto,<sup>64</sup> except when waived by the Board where open drainage systems are being relied upon, or where use of precast concrete or granite is necessitated by traffic or parking conditions. The berms shall be installed on top of the final course of pavement to ensure that a minimum of four-inch curb reveal exists when work is completed. Bituminous concrete curbs shall be used when sidewalks directly abut the curb. All bituminous concrete berms and curbs must meet the MHDS requirements and shapes.
- (2) Where applicable in low impact development projects, the bituminous concrete berm or curb may, at the discretion of the Planning Board, be omitted and grass shoulders or filters utilized. If curbs are necessary to stabilize the roadway edge, invisible curbs, periodic curb cuts or perforated curbs may be used to allow stormwater to run off the roadway edge.

#### H. Driveways. All driveways extending from the completed road surface to the lot line must have a

---

63. Editor's Note: See Appendix B, included as an attachment to this chapter.

64. Editor's Note: See Appendix B, included as an attachment to this chapter.

topping of at least two inches of bituminous concrete. All driveway slopes must end at the street right-of-way, then continue forward to the completed road surface in the same grade as the sidewalk strip and/or shoulder in order to allow proper drainage of surface water. At a minimum, driveway aprons will be constructed so that the elevation of the driveway apron at the end of the street right-of-way is six inches higher than the elevation of the roadway pavement where the apron connects to the roadway surface.

- I. Permanent private ways for up to three lots. For streets to be maintained as private ways for up to three lots/dwelling units, the following guidelines are applicable:
  - (1) Minimum sight distance: 125 feet.
  - (2) Minimum center line radius of curve: 75 feet.
  - (3) Width.
    - (a) Right-of-way: 40 feet.
    - (b) Pavement: 18 feet.
  - (4) Maximum grade: 8%.
  - (5) Sidewalks: not required.
  - (6) Streetlighting: not required.
- J. Mailboxes. Mailbox stations shall be separated from the road by a pull-off that is paved and can be plowed. The mailbox station must appear in the design for the roadway layout and be within the proposed public right-of-way or within a proposed easement.

### **§ 245-13. Stormwater management.**

#### **A. General approach.**

- (1) Storm drains, culverts, swales, detention basins and related facilities shall be designed to permit the unimpeded flow of all natural watercourses, to ensure adequate drainage at all low points along the streets, to control erosion, and to intercept stormwater run-off along streets at intervals reasonably related to the extent and grade of the areas being drained.
- (2) Peak storm flows and run-off at the boundaries of the development in any storm of one-hundred-year frequency or less shall be no higher following development than prior to development, unless an increase is authorized by the Planning Board, following consultation with the Conservation Commission and consideration of the ability of receiving wetlands or water bodies to absorb the increase and the consequences of providing detention capacity. In the Floodplain District, adequate drainage systems shall be provided to reduce exposure to flood hazards. Drainage systems shall be designed based on a twenty-five-year frequency storm, except that detention facilities shall be based on a one-hundred-year storm, and in a one-hundred-year storm streets shall remain passable and drainage shall not enter buildings.
- (3) Design calculations shall use the soil conservation service method (modified soil cover complex) for runoff, and the rational formula for determining pipe and culvert sizes.
- (4) Stormwater quality and recharge. All drainage systems must meet the Massachusetts Department of Environmental Protection (MDEP) Stormwater Management Regulations

regardless of their proximity to wetlands or other resources that come under the jurisdiction of the Conservation Commission. Provisions necessary to satisfy those regulations shall take precedence in any cases where they may be in conflict with these regulations. The Planning Board shall, where appropriate, seek the assistance of the Conservation Commission in administering the provisions of those regulations.

- (5) Stormwater basins and treatment best management practices should be selected based on their long-term cost effectiveness as well as their effectiveness to comply with (MDEP) Stormwater Management Regulations. Open sedimentation are preferred. Underground (in-line) treatment units, although allowable in the MDEP regulations, are less desirable due to the cost to maintain. Open recharge basins are also preferred over underground infiltration fields or recharge galleries. Underground recharge is less desirable due to the potential and cost and disturbance that would be incurred should reconstruction be necessary if infiltration performance deteriorates over time.

B. Storm drains.

- (1) Except where drainage swales are used, catch basins will generally be required on both sides of the roadway on continuous grades at intervals of not more than 350 feet. Storm drains and culverts shall be no less than 12 inches inside diameter, and shall be of concrete unless, following consultation with the Town Engineer, the Board determines that soil conditions and depth make galvanized steel, or plastic pipe acceptable. All drains shall have a minimum of three-foot cover, except where reinforced concrete pipe is used and there the minimum cover shall be two feet. A catch basin to manhole configuration shall be used, with catch basins at all low points and intersections.
- (2) Proper connections shall be made with any existing drains in adjacent streets or easements where they may exist and prove adequate to accommodate the drainage flow from the subdivision. No piped, channeled, or otherwise altered discharge onto property of others shall be allowed unless documentation is provided demonstrating authorization from the property owners involved.
- (3) Sub-drains or interceptor drains are required where necessary to preclude flowage of groundwater threatening to the integrity of the road surface. See Subsection F below.
- (4) Drainage calculations shall normally assume all tributary area to be developed as zoned. Water velocities shall be between two and 12 feet per second in pipes, and not over five feet per second in swales.

C. Drainage structures. Except where low impact development and/or swales are utilized and approved by the Planning Board, the following are required.

- (1) Catch basins shall be provided with minimum two-foot square grates. The Board will approve the location of catch basins as part of the project drainage plans. All catch basins shall be constructed with a minimum sump depth of four feet, minimum inside diameter of four feet. All catch basins shall be constructed of precast concrete, cement concrete barrel blocks, or if required due to excess depth reinforced concrete. Catch basin outlet pipes will always connect to a drain manhole; catch basin to catch basin connections shall be avoided. All catch basins shall be constructed to allow unobstructed cleaning by clam bucket type catch basin cleaning equipment.
- (2) Hoods shall be installed in all catch basins over the outlet pipes. The hoods must be SNOUT or

approved equal.

- (3) Curb inlets shall be provided at every catch basin. Curb inlets shall be granite. No driveway will be allowed within 10 feet of a catch basin to allow for curb transition to the granite curb inlet. If the drainage design calls for double grate catch basin, curb inlets may be waived.
- (4) Drain manholes shall be provided with two-foot opening covers marked "DRAIN" minimum four-foot inside diameter, precast concrete or cement concrete barrel blocks, or reinforced concrete if required by the depth or number and size of connecting pipes. The Board will approve the location of drain manholes as part of the project drainage plans with a drain manhole placed at every change in direction, size, or pipe type of the drainage pipe. All drain manholes shall have a one-foot sump below the lowest outlet pipe.
- (5) Drainage pipes shall have minimum diameter of 12 inches. The Board will approve the location of all drainage pipes as part of the project drainage plans. Drainage pipes shall be ADS corrugated smooth interior plastic with o-ring rubber joint or reinforced concrete mortar or o-ring rubber joint. Depth of earth cover over ADS pipes must be two feet. If this depth of cover cannot be achieved reinforced concrete or ductile iron pipe must be used. The type of pipe must be the same between structures.

D. Detention basins.

- (1) All storm drains and swales shall discharge into a detention basin or equivalent device prior to discharge into any natural body of water or wetland. Detention and/or retention basin(s) or equivalent devices shall be located on independent lots that do not contain houses or other living/working structures. Appropriate easements shall be provided for all lots containing detention and/or retention facilities or equivalent devices.
- (2) Detention basin design shall comply with the following:
  - (a) Basin depth shall not exceed five feet above bed elevation. The slope of detention basin walls in a cut area shall not exceed one vertical to three horizontal. The slopes of detention basin walls in berm, dike or filled areas shall not exceed one vertical to four horizontal.
  - (b) The base of the detention basin shall be a minimum of two feet above the maximum water table as defined by the Town of Bellingham Board of Health regulations. (Deep tests shall be made between February 15 and May 15.) Groundwater level shall be certified by a registered engineer. The detention basin must be constructed below the existing grade, and may not be constructed on fill material.
  - (c) The top of the basin shall be not less than one foot above the highest water surface projected for the design storm.
  - (d) Inflow pipe invert shall be high enough that there will not be substantial backwater in the pipe with the detention basin at maximum depth. The downstream end of the inflow pipe shall be suitably protected against scour and shall protect the bed and sides of the basin.
  - (e) An outflow drain with trash interceptor shall be provided, with a design assuring that outflow will not exceed existing flows for any event up to the design storm, and that the basin will empty in not more than four days in the design storm. Outflow invert shall be not less than 0.50 foot above bed elevation. An overflow weir protected against erosion shall be provided for accumulations exceeding those of the design storm.

- (f) The basin side slopes and bottom shall be provided with four inches of loam, seeded at the rate of two pounds Red Top, 15 pounds Creeping Red Fescue and 20 pounds Tall Fescue per acre. At no time shall a seed mix consist of more than 10% annual ryes.
  - (g) A six-foot chain-link fence shall be constructed around the basin with an eight-foot-wide gate for access (may be double four-foot leaf), with lock, and a key shall be provided to the Town of Bellingham. However, if the detention facility has slopes not exceeding one on five and a maximum water depth of no more than 2.5 feet, an alternative barrier, such as a hedge, may be allowed. To expedite maintenance, the fence shall be located approximately 10 feet off the toe of the slope in any dike area and 10 feet from the top of any slope. If it is not possible to locate the fence as noted above, the top of the basin shall be constructed with a minimum flat width of 10 feet and the fence installed at the top of the slope.
  - (h) The applicant shall obtain a stormwater management permit per Section 7.0 of the Planning Board Procedural Rules. As a component of the tasks detailed in the operations and maintenance plan that is part of the stormwater management permit, the applicant shall submit sufficient funds to cover expenses associated with the maintenance and repairs reasonably anticipated for 10 years after construction. In order to provide equitable basis for determination of the amount and type of funding that will be required for that, the applicant shall submit a recommended maintenance schedule and estimated annual cost to the Department of Public Works and Planning Board for review and approval.
  - (i) A minimum ten-foot-wide access way shall be provide from the edge of the road right-of-way to the detention basin access gate. This access way shall be constructed to allow vehicles to travel between the right-of-way and detention area on a flat and firm access way at all times of year.
- E. Water Resource Districts. Within Water Resource Districts as established in the Zoning Bylaw,<sup>65</sup> provisions for contaminant removal shall be made employing detention basins with subsurface drains or perforated risers, oil and grit separator catch basins, or other devices where appropriate.
- F. Roadway subdrains. Soil conditions throughout the project must be analyzed to determine depth to groundwater and soil permeability. Groundwater depth tests shall be conducted at least every 500 feet of roadway center line, at every change of soil condition, or at any other location where deemed necessary by the DPW Director or his appointed agent. Groundwater depth test must be observed by a Mass DEP certified soil evaluator. DEP Form 11 - Soil Evaluator Form be completed for all tests.
- (1) A buried subdrain or roadside swale shall be constructed if any of the following conditions exists:
    - (a) The spring high groundwater determined by groundwater depth tests is within four feet of the bottom of the proposed gravel base course (subdrain or swale on both sides of the street); or
    - (b) If the adjacent land slopes to the road at a average grade of greater than 10% (subdrain or swale on the uphill side of the street only); or
    - (c) If the applicant does not perform pre-design groundwater depth, subdrains will be installed on both sides of the road.

---

65. Editor's Note: See Ch. 240, Zoning.

## (2) Buried subdrains:

- (a) Shall be constructed in accordance with MHDS Construction Standard Drawing Number M/E 209.1.0.
- (b) Shall be no less than three inches in diameter.
- (c) Shall be continuously sloping towards an outlet into open air or a catch basin.
- (d) Should discharge to open air if topography allows. Open-air discharge outlets must be constructed with a plastic pipe flared end joint, and a minimum of nine square feet of two-inch stone rip rap.
- (e) If connected to catch basin shall be connected with mortar joints at elevations three inches above the catch basin outlet pipe.
- (f) Shall be placed so that the top of the perforated pipe is at least six inches below the bottom of the proposed gravel base course.
- (g) Shall be equipped with cleanout structures on the up hill end of any run of pipe.
- (h) Shall be located approximately one foot off the edge of the paved surface or back of curb. The gravel base course must extend to the edge of the subdrain trench.
- (i) Can be equipped with area drains to collect surface run off and cellar drain discharge. Area drains must include a grate and minimum twelve-inch sump, and shall be subject to approval of the DPW. Applicants must submit shop drawings to the DPW Director for approval of area drains to be connected to subdrain systems.

## (3) Roadside swales:

- (a) Shall be constructed with slopes graded no steeper than three feet horizontal to one foot vertical.
- (b) Shall constructed with a geotextile placed on shaped soil, six inches of 1/2 inch crushed stone, another layer of geotextile, four inches of sandy loam.
- (c) Shall be seeded with erosion resistant grasses.
- (d) Should discharge to open air.
- (e) If not able to connect to open air, a connection must be made to a drain manhole with a minimum twelve-inch diameter pipe and headwall.
- (f) Must be constructed a distance off the edge of roadway to avoid hazards to vehicles. The gravel base course must extend to the edge of the roadside swale.
- (g) Finished grade must be 12 inches below the bottom of the proposed gravel base course at roadway gutter.

**§ 245-14. Utilities.**

- A. Installation. All sewers, water pipes, telephone, electricity and CATV cable shall be installed, and if underground, shall be installed before roadway base course installation. All utilities shall be placed under the paved section of the right-of-way or immediately adjacent.

## B. Water.

- (1) Whenever feasible, the water supply shall be from a public water supply system. In such cases, the water supply system will be considered adequate only if it is capable of providing gravity service to each proposed fire hydrant with a flow of 500 gallons per minute at 20 pounds per square inch residual pressure for single-family detached residential developments, or meeting Insurance Services Office (ISO) requirements for other developments, and only if capable of providing gravity service to each proposed lot with static pressure of 40 pounds per square inch at street grade.
- (2) If connection to a public water system is proposed but it is determined by the Board that the above standards will not be met in part or all of the subdivision for reasons beyond the reasonable responsibility of the developer, the Board may nevertheless approve the plan subject to a condition that any lot not adequately served shall not be built upon until service has been made adequate.
- (3) Water system design, equipment, materials and construction shall meet the specifications of the Department of Public Works.
- (4) Permanent dead-end water mains shall not be allowed; therefore, the developer must execute one of the following options.

## (a) The developer:

- [1] Establish on the plans a twenty-foot-wide permanent municipal utility easement within the subdivision from the end of the road right-of-way to the limit of the property in the location nearest the existing water main system; and
- [2] Acquire a twenty-foot-wide permanent municipal utility easement across abutting properties and transfers ownership of the easement to the Town with all other roadways and subdivision easements are granted to the Town upon street acceptance; and
- [3] Construct a new water main that connects the end of the developer's new main to the existing Town water main.

OR

## (b) The developer:

- [1] Establish on the plans a twenty-foot-wide permanent municipal utility easement within the subdivision from the end of the road right-of-way to the limit of the property in the location nearest the existing water main system; and
  - [2] Install water pipe to the limit of the project property line nearest existing water main within the easement; and
  - [3] Shall deposit with the Town necessary funds as determined by the DPW to connect the applicant's new main to the existing water main. Payments of such funds is necessary to ensure the function and quality of the public water supply.
- (5) Where connection to an adequate public water system is infeasible, the Planning Board shall approve a subdivision only upon its determination, following consultation with the Fire



Department, that reserved access to a fire pond or other provisions will adequately provide for fire safety, and upon its determination, following consultation with the Board of Health, that wells on each lot are likely to be able to provide a sustained yield of five gallons per minute with water quality meeting DEP's Drinking Water Regulations of Massachusetts, as amended from time to time. One test well may be required of the applicant per 10 potential lots, or the Planning Board's determination may be based upon the written statement of a hydrogeologist following his analysis of well records on nearby premises, subsurface conditions, and the effects of this subdivision and other potential sources of contamination.

- (6) Water mains must be extended to and along the frontage of a development if the water main extension is part of the latest Water Master Plan (on file at the DPW) and the existing end of the water system is within 250 feet of the property proposed for subdivision. All pipe sizes must comply with the latest Water Master Plan. The DPW shall waive water main extension fees for any water main extension that is noted in the latest Water Master Plan.

C. Sewerage.

- (1) Provisions shall be made for Town sewerage to serve all lots which potentially can be so served by gravity connections. Extension of existing sewerage will be required at the developer's expense to meet this requirement unless that would require greater expenditures for facilities outside the subdivision and not abutting it than for those within or abutting the subdivision, including house connections, or would require acquisition of easements across property of others.
- (2) Public sewers shall be at least eight inches diameter, and designed for a minimum flow of two feet per second.
- (3) Manholes shall be located at every change in grade, pipe size, or horizontal alignment, but not more than 300 feet apart.
- (4) Construction materials and methods shall be as required by the Department of Public Works.

D. Cable utilities.

- (1) Wiring. Distribution systems shall be provided for any and all utility services, including electrical, telephone, and cable television services. Poles and any associated overhead structures, of a design approved by the Planning Board, shall be provided for use for police and fire alarm boxes and any similar municipal equipment and for use for streetlighting.
- (2) Streetlighting. Streetlighting shall be installed at each intersection, cul-de-sac, or other road hazard, with light spacing not exceeding 350 feet. The quantity, type, and location of lights within a proposed subdivision shall be subject to Planning Board approval and shown on the Street Plan. Normally fixtures shall be 8,000 lumen mercury vapor, with 9,600 lumen sodium vapor at intersections involving collector streets.

- E. Floodplain District. In the Floodplain District, as established in the Zoning Bylaw,<sup>66</sup> all public utilities and facilities such as gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage.

**§ 245-15. Other improvements.**

---

66. Editor's Note: See Ch. 240, Zoning.

## A. Sidewalks.

## (1) General.

- (a) Sidewalks shall provide connectivity and convenient circulation to other sidewalks and access to schools, playgrounds, shopping, places of public assembly, transportation, parks, conservation areas and/or other facilities. If not within a street right-of-way, such sidewalks shall be constructed within an easement of at least 15 feet wide.
  - (b) Walkways shall be required on the applicant's property along the entire frontage (from sideline to sideline) of all existing public ways which immediately abut the proposed subdivision as well as all proposed public ways for the purpose of assuring safe and adequate pedestrian access to, from and within the subdivision. To facilitate review of the proposed plan by the appropriate authorities, the applicant shall stake the sideline of the proposed walkways along existing roadways at fifty-foot intervals.
- (2) Sidewalks five feet wide shall be provided on both sides of all collector streets, and on one side of all others.
  - (3) All materials shall be removed for the full width of the sidewalk to a subgrade 10 inches below the finished grade as shown on the cross section; and all soft spots and other undesirable material below such subgrade shall be replaced with a good binding material and rolled. This excavated area then shall be filled with eight inches of good quality gravel and rolled with a pitch toward the curb of 3/16 inches to the foot. Two inches of compacted bituminous concrete shall be placed; provided, however, that if a granolithic surface is desired and/or specified by the Board, specifications of the Massachusetts Department of Public Works shall be complied with.
  - (4) Wheelchair ramps shall be provided at all intersections of sidewalks and streets, and elsewhere as appropriate, in accordance with Massachusetts Highway Department standards for wheelchair accessibility.
  - (5) Sidewalks shall be free and clear of any and all obstacles, including lightpoles, mailboxes, etc.
  - (6) Variations in sidewalk locations may be considered by the Planning Board based upon the application of open space, LID and/or Smart Growth standards.

## B. Shoulders. Shoulders shall be at least three feet wide, pitched towards the curb or swale at between 3/8 inch and two inches per foot. The shoulder shall have an eight-inch gravel foundation, and four inches of topsoil (after rolling).

## C. Plantings.

- (1) Unpaved areas within the right-of-way which have been stripped by the construction shall be covered with at least six inches of good quality topsoil (after rolling) and thickly seeded with perennial grasses or other planting materials approved by the Board.
- (2) Trees retained and planted. The applicant and/or agent shall submit a tree and landscaping plan to the Planning Board. This plan shall indicate all arboricultural details, including, but not limited to, trees to be retained with species and diameter; new trees to be planted with species; planting schedule; and maintenance schedule. The Board shall approve said plan, with or without conditions, if said plan conforms to the standards set forth below. Said plan, upon approval, shall be filed with the Planning Board and shall be a condition of approval.

- (a) Suitable existing trees, if larger than four inches caliper, within the right-of-way and no less than 10 feet from the edge of pavement or back of sidewalk, shall be retained and protected during construction. Trees to be retained shall not have grade changed over their root areas more than 12 inches.
  - (b) Suitable existing trees shall be retained and protected during site development in a twenty-foot strip of land starting at the edge of the pavement (or sidewalk) and extending away from the road. Suitable trees may be counted toward the tree plantings only after approval by the Tree Warden and must be indicated on the landscaping plan as indicated above.
  - (c) Whether there are suitable existing trees, shall be analyzed per lot to be developed. The existing retained and protected trees shall be suitable if there is an average of one four inches caliper or larger tree per 30 feet of individual lot frontage as determined by the Tree Warden. Trees to be retained shall be appropriately identified, marked and protected during the construction process.
  - (d) If there are an insufficient quantity of existing suitable trees that can be retained, new trees shall be planted. Trees shall be planted at 40 foot or lesser intervals on both sides of all streets. The applicant shall show the location and species of trees on the subdivision plan at the time of submittal.
  - (e) Restrictions.
    - [1] New trees shall not be planted closer than 10 feet from the edge of any sidewalk or roadway and drip line of overhead wires.
    - [2] In order to achieve the quantity of tree planting and avoid the noted restrictions above trees can be planted outside of the right-of-way.
    - [3] In any subdivision where the proposed layout will minimize the ability to plant trees within the right-of-way due to noted restrictions, a temporary tree planting easement shall be created and shown on the project plans extending 10 feet beyond the edge of the right-of-way. The temporary easement will dissolve one year after the date the street is accepted by the Town.
  - (f) The Bellingham Tree Warden shall be consulted for written opinion, if there is any disagreement regarding whether existing retained trees are suitable.
  - (g) Landscaping plans may be modified during the construction process only on approval of the Planning Board.
- (3) Trees to be planted shall be well branched, nursery grown stock at least 2 1/2 inches trunk diameter at four feet above ground, and shall be free of injury, harmful insects, and diseases. The applicant shall provide varied and long-lived species adapted to the local environment. The Planning Board in consultation with the Tree Warden will determine which species are appropriate for any given location based upon the best available information at the time of the application.
- (4) At the time of initial security bond (Form J<sup>67</sup>) and prior to the release of any lots, the location of each new tree to be planted shall be indicated by a clearly visible marker located in the actual location where the tree is to be planted. Each marker shall note the species of tree and shall

---

67. Editor's Note: A copy of Form J is included as an attachment to this chapter.

remain on site until the tree is planted. A site visit by a representative of the Planning Board shall confirm the location of the markers prior to any lot releases.

- (5) Any alterations to the locations of the trees from the approved plan shall be presented to the Planning Board prior to the planting of any trees.
- (6) Trees that are required must be planted before a certificate of occupancy is granted for each lot in a subdivision.
- (7) All trees shall be guaranteed for one year after the date the street is accepted by the Town. A written copy of the guarantee shall be provided to the Planning Board prior to the street acceptance.
- (8) The Board may retain up to 50% of the project total tree planting estimated cost as noted in the Form J as security to be held until the guarantee period expires.<sup>68</sup>

D. Street signs.

- (1) As soon as a street is paved with the base course of bituminous concrete as noted in § 245-12F(5)(a), the Town shall install a street name sign(s) and "Not Town Way" sign(s) with posts at all entrances to all streets. The "Not Town Way" sign shall contain the following text "Not A Town Way; Pass at Your Own Risk; Emergency Access; Is the Responsibility of the Roadway Owner."
- (2) The "Not Town Way" sign shall be removed by the Town if the street is accepted by the Town.
- (3) Maintenance of the sign is the responsibility of the developer. If the signs or posts are damaged in any way, the Town will not issue any building or occupancy permits until such time as the signs and posts have been properly replaced.
- (4) Signage must meet current visibility requirements.

E. Monuments.

- (1) Monuments shall be installed at all street intersections; at all points of change in direction of curvature of the streets; at each lot corner along the street; as necessary to locate any easements or open space to be deeded to the Town; and at points where, in the opinion of the Planning Board, permanent easements are necessary.
- (2) Monuments must be granite or reinforced concrete and set to a bottom depth of not less than four feet below finished grade and with top flush with finished grade. Two pieces of 1/2 inch diameter steel rod (#4 reinforcing rod) shall be taped to two opposite sides of the granite monument before installation to allow for metal locator detection. The steel rod shall be two inches shorter than the monument. The top of the rod shall be set two inches below the top of the monument. The exact reference points are to be drilled into the top of each monument.
- (3) Monuments shall be set to finished grade and installed only after all construction which would destroy or disturb them has been completed.
- (4) Monuments marking road layout curvature that would be installed within driveways may be omitted. In lieu of these monuments, two monuments must be placed on the edge of the layout outline within five feet of the edge of the driveway.

---

68. Editor's Note: A copy of Form J is included as an attachment to this chapter.

- (5) Each lot line established with the subdivision shall be completely defined in accordance with the corresponding plans recorded or to be recorded at the Registry of Deeds, by placing of permanent monuments at each point of change of direction of that line.
  - (6) All monuments actually set must appear on the as-built plan.
- F. Retaining walls. The following shall apply where a retaining wall exceeding three feet in exposed height is within or abutting a street layout.
- (1) Requirement without a sidewalk. To prevent automobiles from traveling over the wall, a barrier shall be provided through one or the other of the following on any side of the layout where the street grade is three or more feet above the grade outside the retaining wall and there is to be no sidewalk on that side of the layout.
    - (a) The retaining wall shall be constructed to at least 42 inches above the finished grade on the street side of the retaining wall; or
    - (b) The retaining wall shall be extended a minimum of 18 inches above the finished grade on the street side of the wall and a guard rail shall be mounted on the top of the wall. That rail shall be Massachusetts Highway Department Standard Steel Beam Highway Guard Type SS with steel posts with proper terminal construction. A safety equivalent to that rail type may be approved by the Planning Board following consultation with the DPW.
  - (2) Requirements where a sidewalk is present. The following shall apply on any side of the layout where the street grade is three or more feet above the grade outside the retaining wall and there is to be a sidewalk on that side of the layout.
    - (a) To safeguard against pedestrians falling over the wall, a pedestrian guard rail shall be provided above the wall. The rail shall meet the standards of the State Building Code, 780 CMR 1021, and have a height of at least 42 inches above the finished grade on the street side of the wall.
    - (b) To reduce likelihood of autos intruding into the sidewalk area, a Type 2 bituminous concrete curb with six-inch vertical reveal shall be installed in place of the Cape Cod berm required at § 245-12G. Vertical precast concrete or vertical granite may be allowed if proposed by the developer and approved by the Board.
    - (c) To safeguard against autos traveling across the sidewalk area and over the wall, a guard rail shall be located between the street and the sidewalk. That rail shall be Massachusetts Highway Department Standard Steel Beam Highway Guard Type SS with steel posts with proper terminal construction. A safety equivalent to that rail type may be approved by the Planning Board following consultation with the DPW.

**§ 245-16. Additional requirements.**

- A. Parks and recreational spaces. The Planning Board may require the plan to show a potential park or parks suitably located for recreational purposes or for providing light and air. The park or parks shall be reasonable in area in relation to the land being subdivided and to the prospective uses of the land.
- B. Earth removal. Any area within the subdivision used for the extraction of gravel or borrow shall be regarded at no more than a 34° slope, loamed, and surface repaired in accordance with the procedure in § 245-15C(1) of this article.

- C. Maintenance. The entire area within the right-of-way shall be properly maintained by the developer until accepted by the Town. Immediately prior to such acceptance, all catch basins shall be cleaned, streets swept, and the remainder of the right-of-way and any other areas to be deeded to the Town shall be cleared, mowed, or otherwise put in first-class order. Snow removal and sanding of the streets shall be the responsibility of the developer until such acceptance.
- D. Cleaning up.
- (1) All removed trees, stumps, and brush shall be disposed of properly. Before sale of a lot, the subdivider shall clean up any debris thereon caused by construction of public improvements.
  - (2) Permeability of soils that have been compacted by construction vehicles shall be reestablished prior to seeding.
- E. Easements.
- (1) Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least 20 feet wide.
  - (2) Where a subdivision is traversed by a watercourse, drainage way, detention area, channel or stream, there shall be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainage way, detention area, channel or stream and to provide for construction or other necessary purposes (such as maintenance).
  - (3) Drainage easements outside of the area of the subdivision, but occasioned by it, may be required of the subdivider.
  - (4) Slope easements shall be provided where cut or fill slopes cannot be contained within the street right-of-way.
- F. 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.
- G. Record plans. Upon completion of construction, and before release of the performance guarantee, the subdivider shall have prepared and submitted signed record Plans. Such plans shall be provided in an acceptable electronic media as requested by the Town Planner and/or Planning Board. Those plans shall indicate the actual location of all of the following:
- (1) Street lines.
  - (2) Traveled way edges.
  - (3) Sidewalk locations.
  - (4) Permanent monuments.
  - (5) Sewerage facilities, including:
    - (a) Sewer lines and manholes;
    - (b) Service wyes located with a distance from a sewer manhole;
    - (c) Service pipe stubs located with a minimum of two ties to permanent structures such as

buildings, manholes, catch basins, or utility poles.

(6) Water facilities, including:

- (a) Water mains, bends, fittings, gate valves, and service shut off boxes located with a minimum of two ties to permanent structures such as buildings, manholes, catch basins, or utility poles.
- (b) Water main tap locations showing a distance between the tap and the service shut off box.

(7) Locations, slopes and inverts of the required drainage facilities.

(8) Locations of any other underground utilities, such as electricity, telephone lines and streetlighting.

(9) Landscaping elements.

H. Certification. A professional civil engineer retained by the developer shall certify that all construction was executed in conformance with the subdivision regulations and with all requirements agreed upon as a condition to plan approval.

I. Professional studies and inspection.

- (1) The Town Planner shall have authority, upon request of the Planning Board, to authorize for services of professional consultants for plan review, special studies necessary for sound plan decisions, and for development inspection, where those services are not to be performed by Town employees or Planning Board consultants, costs for both of which are reflected in the filing fee. The fee(s) of the professional consultant shall be provided by the applicant and deposited into a separate review escrow account.
- (2) The account shall be closed and remaining uncommitted funds returned to the developer upon final release of security, plan disapproval, or rescission of approval.

**§ 245-17. Industrial subdivisions.**

- A. Design standards. Any street servicing land in an Industrial District as defined by the Bellingham Zoning Bylaw<sup>69</sup> shall be designed as a collector street consistent with all of the foregoing design standards, except that § 245-14A requiring underground wiring and § 245-15A(1) requiring sidewalks shall not apply.
- B. Construction requirements. The requirements of § 245-12F shall be modified as follows. Roadway construction shall provide for 10 inches gravel foundation, base course of four inches Asphalt Institute Type IV mix, and one inch Class I-1 bituminous concrete finish course, except that this requirement may be reduced where an alternative system is demonstrated to be adequate for anticipated traffic, using the methods specified by the Asphalt Institute Manual Series No. 1 (MS-1) "Thickness Design."

**§ 245-18. Extensions.**

Reasonable provisions shall be made for extension of streets and utilities to adjoining properties, including installation of water gates and manholes, if necessary. The developer shall not deny others connection

---

69. Editor's Note: See Ch. 240, Zoning.

to the water system, drainage, or cable utilities, provided that they pay all costs of such connection, and comply with all applicable requirements of the Town of Bellingham.

**§ 245-19. Release of performance guaranty.**

- A. Request for release. Upon completion of the foregoing requirements, security for the performance of which was given by bond, deposit, or covenant, or upon the performance of any covenant with respect to any lot, the applicant may request and agree on terms of release with said Planning Board.
- B. Completion requirements. To assist in determining whether satisfactory completion has been made, the Planning Board shall receive from the applicant a properly completed Form J<sup>70</sup> and written report detailing the inspections completed by the DPW Inspector. The required improvements will not be considered complete until:
  - (1) The applicant has filed with the Planning Board and DPW a record plan as required at § 245-16G.
  - (2) Grassed areas have been mown at least twice; all landscaping and plantings have been through a winter; all other aboveground improvements such as paving and sidewalks have been installed for at least 12 months subsequent to their final inspection; and all underground utilities and appurtenances such as water and sewer lines have been installed for at least 24 months subsequent to their final inspection. Street acceptance by Town Meeting prior to these periods having elapsed shall not be reason for release of the portion of security being held to assure integrity of improvements.

---

70. Editor's Note: A copy of Form J is included as an attachment to this chapter.



ARTICLE V  
**Administration**

**§ 245-20. Construction observation and inspections.**

**A. Inspecting agent.**

- (1) At least one week prior to commencement of street construction, the DPW Director shall be notified by certified mail of the intended commencement. The DPW Director shall, upon receipt of notification, appoint an agent and instruct said agent to make continuing inspections of the work to insure compliance with the Town's specifications and approved subdivision roadway construction plans. The wages of said agent are to be determined by the DPW Director and paid to the Town by the developer. If the agent is an employee of the Town, the wages will be the employee's standard pay scale plus 50% for indirect payroll costs. If the agent is a consultant, the wages will be in accordance with the agreement for services.
- (2) Depending on the complexity of the project, the Board may use multiple inspection agents including, but not limited to, its reviewing engineer.
- (3) The DPW Inspector or Engineer requested by the Planning Board (inspecting agent) shall act as the Board's inspecting agent to ensure that the construction of roadways and all utilities depicted on the definitive subdivision plan are carried out in accordance with these rules and regulations and Town standards. All elements of work are to be at all times subject to inspection. The inspecting agent and/or the Board may order tests and interim as-built plans to be prepared by the developer, at his expense, as may be needed to demonstrate that these rules and regulations and the construction standards contained herein have been met.

**B. Pre-construction meeting.**

- (1) Following endorsement of the approved definitive subdivision plan, the developer shall notify the inspecting agent, Department of Public Works, and Planning Board, in writing, no later than seven days prior to the start of construction, to schedule a pre-construction meeting with the developer and his contractor(s). Any problems contemplated during the construction and the inspection schedule shall be discussed as well as procedures to be followed. At the pre-construction meeting, the developer shall provide a copy of the final stormwater pollution prevention plan (SWPPP) as filed with the Massachusetts Department of Environmental Protection and a detailed construction schedule. The schedule should be for each street along with an overall project time line. The schedule should be updated no less than every two weeks to show actual versus planned progress and submitted to the inspector and Planning Board.
- (2) The developer shall notify the inspector, the Department of Public Works, and the Planning Board at least 48 hours prior to the time at which each one of the required construction observations/inspections should take place.
- (3) The developer shall provide safe and convenient access to all parts of work for observation by the inspecting agent and/or the Board's members or agents. No work shall be approved that has been undertaken and covered before the required inspection/observation.
- (4) To assure compliance, the following procedure must be followed:
  - (a) The developer must notify inspecting agent, Department of Public Works and Fire Department when underground infrastructure, such as but not limited to sewer, perimeter

drain, fire alarm and drainage, are installed to allow for inspection of the installation by the respective department before the excavation is backfilled.

- (b) The subgrade in the roadway and/or right-of-way must be approved by the inspecting agent before the application of the gravel base course.
  - (c) The gravel base course must be approved by inspecting agent before the application of hot mix asphalt (street or sidewalk) pavement, subject to compaction results provided by an independent testing lab, for depth and compaction.
  - (d) Each application of hot mix asphalt on the street and sidewalk and placement of curbing must be approved by inspecting agent for depth and temperature.
  - (e) The developer must keep the inspecting agent informed when materials and other items of work are ready for inspection and approval such as the installation of bounds, loam, and seeding, and general cleanup. No substitutions without approval of the Planning Board and either the inspecting agent or Department of Public Works Director.
- (5) The inspecting agent shall complete Inspection Report (Form I<sup>71</sup>) and shall provide copies to the developer and/or contractor and the Planning Board.
- (6) Failure to comply with the construction observation/inspection procedures shall result in the Board requiring any uninspected work to be exposed in order that the proper inspection may be made. This may necessitate removal of improvements, at the expense of the applicant. The Board may rescind its approval of the definitive subdivision plan in accordance with M.G.L. ch. 41, § 81W, or withhold approval of additional partial releases of covenant.

#### **§ 245-21. Waivers.**

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

#### **§ 245-22. Reference to statutes.**

For matters not covered by these rules and regulations, reference is made to M.G.L. ch. 41, §§ 81K to 81GG, inclusive.

---

71. Editor's Note: A copy of Form I is included as an attachment to this chapter.



BELLINGHAM CODE

**Chapter 246**

**TRAFFIC IMPACT ANALYSIS**

**GENERAL REFERENCES**

**Streets and sidewalks — See Ch. 191.**

**Subdivision regulations — See Ch. 245.**

**Zoning — See Ch. 240.**

ARTICLE I  
**Objective and Purpose**

**§ 246-1. Purpose.**

The purpose of these rules and regulations is to aid the Planning Board in reviewing transportation impacts associated with development and/or redevelopment projects, including residential subdivisions, in the interest of:

- A. Providing for the orderly movement of traffic, reducing accidents, allowing adequate emergency response, and maintaining adequate and safe streets;
- B. Discouraging the use of neighborhood streets as shortcuts by promoting the use of arterial and collector streets;
- C. Encouraging the use of traffic engineering design standards appropriate for a residential suburban community;
- D. Encouraging private sector participation in managing traffic;
- E. Creating and maintaining safe and convenient pedestrian access and bike paths;
- F. Encouraging the use of public transit, carpools and vanpools;
- G. Promoting clean air by reducing exhaust emissions.

**§ 246-2. Objective.**

The objective of these rules and regulations is to define thresholds under which a proposed land development project is required to submit a transportation impact and access study (TIAS), and to provide guidance of the framework and technical data and analysis required in the TIAS. These rules and regulations also provide guidance on potential structural and nonstructural improvements (mitigation measures) that the Applicant should consider to insure the Town's transportation facilities properly and adequately accommodate the new development.

ARTICLE II  
**Applicability/TIAS Thresholds**

**§ 246-3. Applicability.**

- A. These rules and regulations shall apply to every application to the Planning Board for definitive subdivision approval, special permit, development plan approval or site plan review.
- B. The Planning Board reserves the right to waive these regulations and to request additional information for specific and unique circumstances.

**§ 246-4. TIAS thresholds.**

- A. A TIAS shall be required for any project that will generate 25 or more vehicle trips in any single hour of the day. The number of vehicle trips generated by the project shall be determined based on the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation or acceptable trip rates from similar developments in similar settings in Massachusetts.
- B. The Planning Board shall make the final determination of the number of vehicle trips generated by the project in cases of dispute.

## ARTICLE III

**Traffic Impact and Access Study Scope and Determination****§ 246-5. Preparer's qualifications.**

Any firm or individual which prepares a traffic study for the Town of Bellingham, or presents such an assessment or study to the Town of Bellingham, shall do so under the direct supervision of a professional civil or traffic engineer registered in the Commonwealth of Massachusetts having at least 10 years' experience in the field of traffic and/or transportation engineering.

**§ 246-6. Study area roadways scoping letter.**

- A. Each applicant shall prepare a scoping letter for submittal to the Planning Board that specifies assumptions used in the selection of proposed study roadways in the TIAS or similar assessment, including a summary of the project size, location and proposed access, traffic growth rate and specific area developments, trip generation summary, and projected distribution of trips on area roadways.
- B. At a minimum, the study area shall include the first 1,000 feet of roadway including intersections and side streets from the entrance(s) of the development and/or locations that are projected to experience a 10% or more increase in peak hour volume in any lane or lane group. However, the Planning Board may expand the study area at their discretion. A vicinity map that shows the site and the study area boundaries, in relation to the surrounding transportation system, must be included.

**§ 246-7. Scoping meeting.**

Following submittal of the Study Area Roadways Scoping Letter, the applicant is invited to meet with the Town Planner, DPW Director and Town's Traffic Consultant to discuss the proposed development and study area, and to identify specific parameters to be included in the TIAS for the development.

ARTICLE IV  
**Traffic Impact and Access Study Requirements**

**§ 246-8. Project overview.**

The introductory portion of the TIAS must contain the following information.

- A. Site description. A brief overview of the project site locus, size, current zoning and roadways affording access to the site must be identified. To set the regional and local context of the site within the Town of Bellingham, provide a map showing the proposed site in relation to existing roadways for a radius of at least 0.5 mile of the project locus. Provide a zoning map that indicates current zoning of the site and adjacent parcels, and a description of relevant zoning regulations and requirements that pertain to the site. Any proposed changes in zoning should be discussed relative to the initial and/or full development of the site.
- B. Existing and proposed site uses.
  - (1) A description of existing and proposed uses of the site must be identified in terms of the various zoning categories of the Town. The proposed site use(s) must be identified in terms of gross square footage, number of units, projected employment levels and/or other variables to which existing bylaws, rules or regulations apply.
  - (2) Include a site plan showing all land owned by the applicant, the proposed building location(s), access point(s), parking layout, circulation elements, and loading/service facilities for the site. The site plan shall be provided at a standard engineering scale.
  - (3) The site plan and associated development program specified in the TIAS shall serve as the basis for analysis and associated structural/nonstructural mitigation for the project. To the extent the development program is later modified by the applicant in terms of use, size, and/or dimension, the Town may require re-submittal of the TIAS and/or supplemental analyses to reflect the revised development program.
- C. Site access. A description of transportation operations, including vehicular and pedestrian access, key aspects of internal circulation, parking management, and delivery and service vehicle access.

**§ 246-9. Existing conditions.**

- A. Existing roadway and intersections. The TIAS must describe geometric, traffic control, regulatory and jurisdictional aspects of existing roadways and intersections within the study area and include the following:
  - (1) Inventory of land uses within 500 feet of the development and on each impacted street;
  - (2) Identification of all curb cuts and driveways within 500 feet of the development;
  - (3) Physical characteristics, including number of travel lanes, lane designations, width of right-of-way, sidewalks, shoulders, roadway grades, conditions of pavement, edge treatment, and storm drain system;
  - (4) Inventory of traffic control devices, including regulatory parking and warning signs, traffic signal permits, controller units and description of signal phasing;
  - (5) Sight distances and obstructions to sight lines, plotted on a scaled plan;



- (6) Location and type of streetlighting;
- (7) Eighty-fifth percentile travel speeds, posted speed limits and any special speed regulations;
- (8) Number, type and location of motor vehicle crashes by year for the most recent three years available;
- (9) Description of transit system serving the study area, including mode, frequency, schedule, routes, stop location and patronage;
- (10) Peak time and volume of parking for the development;
- (11) Location of pedestrian and bicycle routes;
- (12) Location of churches, schools, parks and similar public or civic uses within the study area.

B. Traffic and pedestrian volumes.

- (1) Existing daily traffic volume data for roadways onto which access is sought shall be quantified based on automatic traffic recorder (ATR) counts conducted over a forty-eight-hour weekday period (excluding Mondays and Fridays) and in the case of retail developments, an additional twenty-four-hour Saturday period. Manual turning movement counts (TMCs) at study intersections shall be conducted for a weekday morning period (7:00 a.m. to 9:00 a.m.), and a weekday evening period (4:00 p.m. to 6:00 p.m.). For retail developments, TMCs shall also be conducted for a Saturday midday period (11:00 a.m. to 2:00 p.m.). The TMC data shall also include pedestrian data, and shall classify vehicle types between passenger and heavy vehicles. All count data presented in the TIAS shall be no more than one year old from the date the TIAS is submitted by the applicant, unless prior approval to use more dated count information is validated and approved by the Planning Board.
- (2) Seasonal variation of traffic volumes shall be described based on available permanent count station data or other available studies and data for roadways within the Town of Bellingham. Seasonal adjustments are to be made to produce daily and hourly traffic volumes that are representative of average seasonal conditions for analysis purposes.
- (3) Graphics depicting existing daily and peak hour traffic and pedestrian data, adjusted to reflect average season conditions, shall be presented in the TIAS.

C. Safety analysis.

- (1) Traffic accident data for study area intersections and roadways shall be tabulated and described. Data shall be obtained from the MassHighway crash database for the latest available three-year period. Comparison of crash rates to MassHighway district and statewide rates shall be tabulated and described. For locations exceeding the average district and/or statewide crash rates, supplemental research of crash data shall be conducted in coordination with the Bellingham Police Department. Collision diagrams shall be prepared and described for these high crash locations in the TIAS.
- (2) Estimates of increased or decreased crash potential shall be evaluated for the development, particularly if the proposed development might affect existing traffic safety problems in the study area as determined by the Planning Board. Safety improvements/countermeasures shall be recommended where necessary.

D. Travel speeds. Documentation of posted speed limits, special speed regulations and roadway grades

in the vicinity of the proposed access points is required. Measurement of ambient travel speeds in the vicinity of the proposed access point(s) for both travel directions, as measured during a "non-peak" period, typically a mid-morning or mid-afternoon weekday period, is required. Measurement protocol shall consist of random sampling of a statistically significant number of passing vehicles, not less than 50 per direction per hour for a one-hour period. Speed observations may be converted to equivalent spot speeds by measuring travel times over a known distance between points, use of radar technology, or use of calibrated automatic traffic recorder (ATR) equipment with capability of measuring travel speeds mechanically. Results of the travel speed survey shall be presented in tabular form to include average (50th percentile), 85th percentile, minimum and maximum speeds.

- E. Vehicle gap analysis. A gap study should be conducted at locations of proposed unsignalized intersections, site driveways and pedestrian crossings which experience excessive delay or are approaching capacity.
- F. Vehicle delay study. A vehicle delay study should be conducted at locations of proposed unsignalized intersections and site driveways which experience excessive delay or are approaching capacity.

#### **§ 246-10. Site trip development.**

##### **A. Trip generation.**

- (1) Provide a summary table and description of trip generation for the proposed land use(s) for peak hour and daily periods. These periods include weekday daily, Saturday daily (for retail developments), weekday a.m. peak hour, weekday p.m. peak hour, and Saturday midday peak hour (for retail developments). Additional periods may be requested by the Planning Board if the land use type justifies, such as industrial uses, school uses, or other uses that are characterized as having peak generating periods beyond those specified above.
  - (2) Trip rates may be based on Institute of Transportation Engineers Trip Generation, latest edition (ITE) or acceptable data from similar developments in similar settings in Massachusetts.
    - (a) If ITE is used, the land use code, number of studies, weighted average trip rate, trip generation equation, standard deviation and coefficient for each land use used shall be provided. Use of the weighted average trip rate or trip generation equation to predict trips for each land use shall be based on the procedures set forth in ITE.
    - (b) If local trip rates are used, the methodology used and the applicability of the data shall be provided.
    - (c) If data is available from ITE and local sources, the applicant shall demonstrate why the ITE data is not accurate and should not be used. The Planning Board shall determine which data source will be used.
- [1] Adjustment of trip generation estimates to account for pass-by traffic, diverted link, and/or internal site trips must be justified in the TIAS based on guidance provided in the latest edition of the ITE Trip Generation Handbook. For analysis purposes, pass-by traffic shall not exceed 25% of total trip generation and 5% of the volume of traffic on the street serving the site unless approved by the Planning Board. Internal trips shall not exceed 10% unless approved by the Planning Board.
- [2] Adjustment of trip generation estimates to account for trips from existing land use(s) that are being replaced by a new or expanded land use may be subtracted if the

facility being replaced was fully operational within the last two years and peak hour traffic counts of the fully operational facility are provided.

B. Trip distribution.

- (1) The estimates of percentage distribution of trips from the proposed development to destinations, both within and outside the Town, must be clearly stated in the report using the north, south, east, and west compass points.
- (2) Market studies, planning data, driveway counts at adjacent uses, U.S. Census journey-to-work data or other information concerning origin of trip attractions to the proposed development may be used to support these assumptions where available.
- (3) A map showing the percentage of site traffic on each street must be provided as part of the TIAS graphic material. Where microcomputer modeling is used, such a map need not be provided, but the model's distribution methodology must be discussed.

C. Trip assignment.

- (1) Assignment of site-generated peak hour vehicle trips to study area roadways and intersections shall be presented in graphical format in the TIAS based on projected trip generation and distribution described above.
- (2) The assumed trip distribution and assignment must represent the most logically traveled route for drivers accessing the proposed development. These routes can be determined by location of proposed access points to the site, building location and parking allocation, observation of travel patterns to existing land uses in the study area, shortest time travel path, and by other defensible means of analysis presented in the TIAS.

**§ 246-11. Future conditions.**

A. No-build. The applicant shall prepare future-year peak hour traffic volume networks for the "no-build" scenario based on a five-year horizon from existing conditions. Methodologies for developing these networks are as follows:

- (1) General background growth. Development of an annual growth rate used in the TIAS must be based on a reasonable compendium of historic traffic count data available through MassHighway, the Town and/or the Regional Planning Authority.
- (2) Specific area development. The TIAS shall present a summary of specific area developments considered in developing background traffic in the no-build scenario, and the source of data used to estimate associated traffic volumes. The Town Planning Office and the Massachusetts Environmental Policy Act (MEPA) office are potential sources of information on other area developments and should be contacted to ascertain this information. In cases where developments are noted but documented trip generation characteristics are not available, the TIAS shall estimate the likely trip generation and distribution data for these developments based on methodologies described in ITE's Trip Generation and provide sufficient documentation in the report.
- (3) Planned roadway improvements within time horizon.
  - (a) Proposed improvements that have been funded by government agencies and other development projects affecting the study area shall also be described. This includes the

nature of the improvement project, its extent, implementation schedule, and the agency or funding source responsible. A map must be provided showing the location of such improvements or facilities.

- (b) A listing of proposed and/or needed roadway and intersection improvements is available from the Bellingham DPW and should be provided in the TIAS.
- B. Build. Build traffic networks comprised of no-build traffic volumes and site-generated traffic volumes are required. The TIAS must certify that the build traffic networks present the highest level of combined traffic volumes for adjacent streets and the site (e.g., "design hour" conditions). If there are additional periods during which higher combined volumes (and therefore impacts) are possible, the TIAS shall provide supplemental traffic networks and analysis for these periods.

#### **§ 246-12. Analysis of impacts.**

- A. Operational impacts. In order to separate the impacts of the proposed project from those of other independent developments, the study should analyze the existing conditions, the future-year no-build conditions and the future-year build conditions.
  - (1) Intersection capacity analysis.
    - (a) A capacity analysis shall be conducted for all roads and intersections in the study area following procedures outlined in the latest edition of the Transportation Research Board Report 209: Highway Capacity Manual (HCM). Computerized models acceptable to the Town of Bellingham for this purpose include the latest available version of the Highway Capacity Software (HCS) and/or SYNCHRO® software. For rotary analysis, the latest available version of aaSIDRA® will be allowed.
    - (b) The weekday AM, weekday PM, and any other peak period specified by the Planning Board shall be included as part of the capacity analysis. Capacity analysis shall be presented for existing, future no-build and build traffic conditions for each analysis period at each study intersection. Level-of-Service, volume-to-capacity and delay values for individual intersection approaches/lane group and the overall intersection must be provided in clear, tabular format and described.
  - (2) Weave, merge, diverge, ramp and roadway segment analysis. Other analyses, including weave, merge, diverge, ramp and roadway segment, should be provided when applicable.
  - (3) Vehicle queuing analysis.
    - (a) Vehicle queue results for each lane or lane grouping at study intersections shall be tabulated based on HCS, SYNCHRO®, aaSIDRA® computerized modeling or based on well-established engineering protocol as approved by the Planning Board. Results shall be presented for existing, future no-build and future build traffic conditions for each analysis period at each study intersection. Comparison of available lane storage capacities is to be provided and described in the TIAS for each analysis period.
    - (b) Development projects that involve drive-through lanes, including but not limited to fast-food restaurants, banks, car washes and pharmacies, shall estimate the length of the average and maximum vehicle queue for the proposed facility. Sufficient stacking space shall be provided to prevent circulation congestion, both on-site and on adjacent public streets.

- B. Parking analysis. If the applicant is proposing fewer parking spaces than allowed by Town requirements, a parking study shall be conducted and incorporated into the TIAS to assist the Planning Board in their decision making. Such a reduction in parking spaces is contingent upon the site having sufficient reserve area to meet the Town's parking requirements.
- C. Pedestrian and bicycle analysis.
- (1) The impacts of the project on pedestrian and bicycle traffic through the study area shall be reviewed and possible improvements addressed. The review shall include but is not limited to on-site pedestrian features that facilitate connections between building entrances and sidewalks/paths and off-site features that connect/extend to existing walkways and bike paths. Improvements that reduce hazards for pedestrians and bicycles, especially at intersections, should be recommended.
  - (2) All sidewalk improvements shall comply with the policies, standard details, and requirements by the federal and state ADA requirements. The possibility of installing a bike lane along the adjacent roadway(s) to the proposed project should also be reviewed. All bicycle improvements shall adhere to the current MassHighway "Manual for Improving Community Bicycling Conditions" specifications.
- D. Sight line evaluation. A sight line evaluation is required for each proposed access point to the development, and shall include the following elements:
- (1) Stopping sight distance. Calculate recommended stopping sight distance (SSD) along each approach to all proposed access points following guidelines in the latest edition of the American Association of State Highway and Transportation Officials' (AASHTO) "A Policy on Geometric Design of Highways and Streets" (the "Green Book"). Calculations shall account for existing road grade and shall be presented for (a) posted speed limits, (b) measured 85th percentile travel speeds, and (c) applicable special speed regulations.
  - (2) Intersection sight distance. Calculate recommended Intersection Sight Distance (ISD) for each proposed egress point following guidelines in the latest edition of the AASHTO Green Book. Calculations shall account for existing road grade and shall be presented for (a) posted speed limits, (b) measured 85th percentile travel speeds, and (c) applicable special speed regulations.
  - (3) Field measurement and sketch plan of available sight distance. Conduct field measurement of available SSD and ISD at each of the proposed egress points. SSD measurements should measure maximum available sight line distance from the center of approaching travel lane 3.5 feet above road grade to a point 2.0 feet above road grade at the edge of travel way at the proposed driveway. ISD measurements should measure maximum available sight line distance from a point at least 14.5 feet from the edge of the traveled way and 3.5 feet above the proposed road grade to the center line of the approaching lane 3.5 feet above road grade. A plan shall be provided which presents the sight triangle for each point of egress and shall identify any obstructions to the sight lines. At the discretion of the Planning Board, the applicant may also be required to provide profile data that graphically demonstrate available SSD and ISD.
  - (4) Comparison for posted and 85th percentile travel speed. A tabular comparison of measured SSD and ISD to calculated minimum standards for posted speed limits, 85th percentile travel speeds and applicable special speed regulations shall be provided and described. In the event that minimum SSD and/or ISD standards are not met, the applicant is required to develop measures to ensure these standards are met or exceeded. In the event intersection sight distance cannot be achieved, then the proponent must provide documentation that safe sight distance is achieved.

The Planning Board shall consult with the Bellingham Police Department and, if necessary, a traffic consultant, to make a determination as to whether a reduced intersection sight distance is acceptable. Such a reduction of intersection sight distance shall be at the sole discretion of the Planning Board. Stopping sight distance is not eligible to be waived.

- E. Delivery/Service vehicle access and circulation. The applicant shall identify the primary route for delivery and service vehicles to the site. A plan shall be provided which graphically presents truck turning maneuvers at the site driveways and the route for circulating through the site.

**§ 246-13. Mitigation measures.**

The applicant shall commit to implementing measures that mitigate impacts from the development.

- A. Identification. The applicant shall identify nonstructural and/or structural improvements that mitigate impacts from the development.

(1) Nonstructural improvements.

- (a) Transportation Systems Management (TSM). These measures may include modification of existing traffic signal(s) to provide operational efficiencies.
- (b) Transportation Demand Management (TDM). These measures are aimed at reducing dependence on single-occupant automobiles and promotion of alternative travel modes and may include (but are not limited to): flextime policies, enhancing connections from the development to area public transportation, employee carpooling/vanpooling programs and incentives, provision of on-site amenities such as food service and other services that reduce employee demand for off-site travel, incentives that promote use of public transportation as an alternative travel mode, on-site showers/lockers and bicycle storage lockers/racks that promote walking/bicycle travel modes, guaranteed ride home program for employees who chose to use public transportation. Incentives or disincentives may be offered to employees for choosing specific travel routes.

- [1] Trip generation may be reduced for those land uses potentially served by transit. The effects of vanpooling would not be considered as a portion of "ride sharing." The use of any transit percentage adjustments must be justified in the text of the report. The current maximum allowable transit use assumption is 5%.
- [2] Transit reductions would only apply to employee-intensive uses and residential uses. Uses not expected to have transit reductions would include hotels, restaurants, retail and financial uses.
- [3] For employee-intensive uses, such as office buildings, trip rates may be reduced to account for the effects of ride sharing. The text of the report shall fully justify the use of any ride sharing percentage adjustments.
- [4] Ride-sharing reductions will not be applied to such uses as hotels, restaurants, retail, financial, or medical related uses.
- [5] Additional peak-hour adjustment factors shall only be considered for employee-intensive projects, which are candidates for improvements through Transportation System Management (TSM) measures as listed in the Massachusetts Intermodal Transportation Policy Plan.

- (c) Development alternatives. Alternative land use types and/or densities in some instances should be evaluated as a means of potential traffic mitigation to the extent that other nonstructural or structural measures do not result in offsetting development impacts to capacity or safety.
- (2) Structural improvements.
  - (a) This section must describe the location, nature, and extent of proposed structural improvements to ensure sufficient roadway capacity and/or safety. These improvements may include, but are not limited to, new roadways, roadway widening, traffic signal installation, sidewalk construction and pedestrian crossings.
  - (b) Traffic signal warrant/alternatives to traffic signals. The applicant shall determine the need for new traffic signals at proposed site access points or impacted intersections based on an evaluation of warrants contained in the current Manual on Uniform Traffic Control Devices (MUTCD), including the Massachusetts Amendments. A warrant describes threshold conditions that suggest the potential benefit of signals based upon average or normal travel conditions. Key warrants to be considered by the Town include the Eight-Hour Vehicular Volume, Four-Hour Vehicular Volume, Peak Hour Volume, Pedestrian Volume, School Crossing, Coordinated Signal Design, and Crash Experience. Alternatives to signal installation such as driveway turn restrictions, police officer control, and safety countermeasures must also be considered in the analysis. Installation of traffic signal(s) on municipal roadways under jurisdiction of the Town of Bellingham must be endorsed by the Planning Board and DPW Director and may be denied in cases where the signal would create a serious disruption to progressive traffic flow or where alternative measures to signalization are available. In determining the location of a new signal, traffic progression is of paramount importance.
  - (c) Conceptual design plan. A scaled plan shall be provided showing the major items of each improvement proposed and the associated limits of work. Existing and proposed property lines, building footprints, intersections, driveways, adjacent land uses and proposed geometric changes and roadway widening shall also be shown.
  - (d) Street opening permit required. All construction within public travel ways within the Town of Bellingham must comply with the Bellingham Street Opening Policies, Procedures and Bylaws.<sup>72</sup>
- (3) Capital improvements. The applicant may contribute cash to the Town for the purposes of funding a Town-sponsored transportation improvement project.
- B. Additional analysis. Capacity, queuing and other analyses which would experience change based on the proposed structural and nonstructural improvements shall be presented in this section and compared to no-build conditions to quantify operational benefits associated with the proposed structural and nonstructural improvements.
- C. Implementation schedule. The TIAS should clearly identify costs associated with proposed mitigation measures, responsible party, and timing of improvements. A mechanism by which these commitments will be executed and their intended duration should be indicated.
- D. Monitoring program. Upon completion of the development and mitigation measure(s), or upon

---

72. Editor's Note: See Ch. 191, Streets and Sidewalks, Art. IV.

completion of specified phases of each, the effectiveness of the mitigation measure(s)/trip reduction programs shall be periodically monitored at the applicant's cost. If the mitigation measure(s)/trip reduction programs are deemed ineffective by the Planning Board, additional measures shall be implemented at the applicant's cost. The procedure for monitoring the effectiveness of the mitigation measure(s)/trip reduction programs shall consist of the following:

- (1) Data collection. Traffic data, including but not limited to hourly and daily vehicle counts, accident data, speed data, vehicle occupancy rate, and parking data shall be collected during typical operating conditions.
- (2) Evaluation. The collected data shall be analyzed and compared to the projections made in the TIAS, previous monitoring reports and/or other project documents to determine the effectiveness of the mitigation measures.
- (3) Mitigation adjustment. If the monitoring shows that the development has greater impact and/or the mitigation measures are insufficient, then adjustments shall be made to the mitigation and/or additional mitigation measures shall be implemented at the applicant's cost.
- (4) Monitoring report. A report shall be submitted to the Planning Board summarizing the findings of the monitoring program and recommendations to adjust/supplement the mitigation, if necessary.

#### **§ 246-14. Appendix data.**

A Technical Appendix shall be provided with the TIAS to provide documentation of the data collection and analytical procedures used in the preparation of the study. The following is a list of typical elements for a Technical Appendix.

- A. Traffic volumes.
  - (1) Automatic traffic recorder summaries.
  - (2) Turning movement count.
  - (3) Adjustment factor calculations (seasonal and growth rate).
- B. Permits, sketches, signal layout plans and related field data.
- C. Crash data, crash rate calculation and collision diagrams.
- D. Speed data and calculations.
- E. Vehicle gap, delay and/or parking analysis worksheets.
- F. Trip generation and trip distribution calculations.
- G. Sight distance calculations.
- H. Traffic signal warrant worksheets.
- I. Capacity and queue analysis worksheets.

#### **§ 246-15. Delivery of support material.**

The applicant shall submit seven copies of the TIAS to the Planning Board, and one copy each to the Town



Administrator, DPW Director, Traffic Safety Officer and Fire Department or any other entity as requested by the Town Planner and/or Planning Board at the time of application. If required, supplemental traffic analyses shall be submitted to the Planning Board a minimum of 10 days prior to the public hearing or meeting at which these documents intend to be considered.

ARTICLE V  
**Planning Board Decision**

**§ 246-16. Level of service decrease.**

Prior to granting approval, the Planning Board shall determine if there will be adequate capacity on all impacted streets for the build condition. If any impacted street does not have adequate capacity for the build condition and/or if adequate capacity is projected on any impacted street for the no-build condition and a development causes a decrease in level of service (LOS) to any vehicle movement at an intersection or an increase in control delay by more than 15 seconds to any vehicle movement at an intersection, the Planning Board may take one of the following measures:

- A. Mitigation. The Planning Board may require the implementation of mitigative measures to achieve adequate capacity and/or restore LOS to the no-build condition.
- B. Deny application. The Planning Board may deny the application.

**§ 246-17. Receptor of excess traffic.**

Prior to granting any approval, the Planning Board shall determine if any impacted street will be the receptor of excessive traffic. If the Planning Board finds that there will be an increase in projected traffic (any peak hour or ADT) between "no build" and "build" condition of the design year greater than that indicated in Figure 1 below, the Planning Board may take one of the following measures:

- A. Mitigation. The Planning Board may require the implementation of mitigative measures to reduce the volume of traffic.
- B. Deny application. The Planning Board may deny the application.

**Figure 1 — Allowable Traffic Increase Limits**

ADT	Allowable Traffic Increase
1 to 2,000	30%
2,001 to 5,000	20%
5,001 to 10,000	15%
10,000 +	10%

**§ 246-18. Conditional approval.**

The Planning Board may condition its approval on:

- A. Completion of mitigation prior to issuing any occupancy permit.
- B. Posting surety to guarantee implementation of mitigation.
- C. Implementing measures to reduce trips generated by a development, including use of:
  - (1) Employer subsidized passes for public transit.
  - (2) Carpools and vanpools.
  - (3) Flex time or staggered work hours.

- (4) Preferential parking for high-occupancy vehicles.
- (5) Incentives and/or disincentives for specific travel routes.
- (6) Restricting access to or egress from off-street parking areas during peak hours.
- (7) Measures to promote pedestrian access.
- (8) Measures to encourage bicycle commuting such as secured bike racks and locker and shower facilities.

The Planning Board may require the submission of periodic reports on the effectiveness of the trip reduction programs as part of the monitoring required under § 246-13D. If the trip reduction programs are deemed ineffective by the Planning Board, additional measures shall be implemented at the applicant's cost.

- D. Reducing of the size or intensity of the project.
- E. Phasing the development of the project.
- F. Obtaining all other permits where applicable.

ARTICLE VI  
**Intermunicipal Coordination**

**§ 246-19. Review of traffic study.**

If a development impacts streets in another municipality, the traffic study shall be submitted to the municipality for review and comment concurrently with the filing. The Planning Board shall not take final action on a SP or SPR until it has received comments from the municipality or until 35 days have elapsed from the transmittal of the traffic study.

**§ 246-20. Consultation with MassHighway and MEPA unit.**

Where a project accesses or impacts a state highway, evidence of consultation with MHD and a determination from MEPA shall be provided.

**§ 246-21. Review of impacted streets.**

The Planning Board may require the study and mitigation of impacted streets in an abutting municipality if the development is not being independently permitted by the abutting municipality. An abutting municipality(s) shall approve any mitigation proposed for any street under its jurisdiction.

ARTICLE VII  
**Miscellaneous**

**§ 246-22. Compliance.**

If the Planning Board determines that its conditions on traffic are not being met, the Planning Board shall require the applicant to bring the development into compliance.

**§ 246-23. Waiver of regulations.**

If the Planning Board finds that any section or provision of these regulations does not apply, it may be waived by vote of the Planning Board.

**§ 246-24. Severability.**

Should any section or provision of these regulations be declared to be invalid, said section or provision shall not invalidate any other section or provision of these regulations.



**Chapter 247****WETLANDS REGULATIONS****GENERAL REFERENCES**

Streets and sidewalks — See Ch. 191.

Zoning — See Ch. 240.

Wetlands protection — See Ch. 235.

Subdivision regulations — See Ch. 245.

---

**§ 247-1. Introduction and purpose.**

- A. Introduction. These regulations are promulgated by the Town of Bellingham Conservation Commission to complement and implement the Town of Bellingham Wetlands Protection Bylaw (hereinafter, the "Bylaw")<sup>73</sup> and shall have the force of law upon their filing with the Bellingham Town Clerk. These regulations also contain helpful guidelines in the Conservation Commission's review of projects proposed under the Massachusetts Wetlands Protection Act.
- B. Purpose. The Bylaw sets forth a public review and decision-making process by which activities affecting areas subject to protection under the Bylaw are to be regulated. The purpose of these regulations is to define and clarify that process by establishing standard definitions and uniform procedures and guidelines by which the Bellingham Conservation Commission shall carry out its responsibilities under the Bylaw.
- C. Interests to be protected under these regulations include the following:
- (1) Public or private water supply.
  - (2) Ground water supply.
  - (3) Flood control.
  - (4) Erosion and sedimentation control.
  - (5) Storm damage prevention.
  - (6) Other water damage prevention.
  - (7) Prevention of pollution.
  - (8) Protection of surrounding land, homes, and businesses.
  - (9) Wildlife protection.
  - (10) Plant or wildlife habitat.
  - (11) Aquatic species and their habitat.
  - (12) Natural character and recreational values.

---

73. Editor's Note: See Ch. 235, Wetlands Protection.

## D. Protection and waiver.

- (1) Activities within the areas subject to protection, as well as activities within the designated buffer zone, which will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter said resource areas and buffer zones fall under the jurisdiction of the Bellingham Conservation Commission ("the Commission"). Said activities require a public hearing for prior review and approval by the Commission to ensure there will be no significant adverse impact to the resource areas and buffer zones thereto.
- (2) Activities undertaken in close proximity to wetlands and other resource areas have a high likelihood of adverse impact upon the 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 but are not limited to, erosion, siltation, loss of groundwater recharge, disruption of hydrologic connections, poor water quality, harm to wildlife habitat, or disruption of wildlife habitat corridors. The Commission may therefore require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the 100-foot area and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the Commission that the area or part of it may be disturbed without harm to the values protected by the law.
- (3) A growing body of research evidence suggests that even "no disturbance" areas reaching 100 feet from wetlands may be insufficient to protect many important wetland resource characteristics and values. Problems of nutrient runoff, water pollution, siltation, erosion, vegetation change, thermal change and habitat destruction are greatly exacerbated by activities within 100 feet of wetlands and resource areas. Thus, in general, work and activity within 100 feet of wetlands and resource areas should be avoided and discouraged and reasonable alternatives pursued. Accordingly, the Conservation Commission shall begin with the presumption that lands within 100 feet of the resource areas identified in the sections below are best left in an undisturbed and natural state.
- (4) Based on accepted methodology as well as systematic field observation in the Town of Bellingham by the Bellingham Conservation Commission, disturbance of vegetation or soils within 25 feet of a resource area may create direct and overt impacts to the resource area, including but not limited to those stated elsewhere in these regulations. In order to avoid adverse impacts, the Commission may require a minimum strip of continuous undisturbed vegetative cover for any and all resource areas of 25 feet from the outermost edge of the resource area in all directions. [For example, a stream will have a minimum 50-foot corridor plus the actual width of the stream based on mean annual high water mark or top of bank, whichever is greater. This 50-foot + corridor should be considered a minimum starting point and not the maximum protection.] The 25-foot buffer would be considered a "no disturb" buffer.
- (5) Based on accepted methodology as well as systematic field observation in the Town of Bellingham by the Bellingham Conservation Commission, any structures less than 50 feet from a resource area may create temporary and/or long-term impacts to the buffer zone or the resource area itself. In order to avoid such adverse impacts, the Commission may require a minimum distance of 50 feet from a new structure to any resource area. This new structure setback will not apply to any structure existing prior to the adoption of these regulations. However structures being removed and replaced may be required to comply with the regulations in effect at the time of the reconstruction. For structures existing within the 50-foot buffer, which are not being removed but for which the footprint is changing, any increase in footprint should take place at the greatest possible distance from the resource area.



- (6) The Commission shall have the power to issue a waiver to an applicant requesting to perform activities as described in § 247-10 of this Town of Bellingham Wetland Regulation, after said applicant files a notice of intent with the Commission and the Commission conducts a public hearing. Such waiver shall be set forth by the issuance of an order of conditions by the Commission. In order for the Commission to issue a waiver with respect to a particular project, the Commission must find, based on clear and convincing evidence set forth by the applicant, that owing to circumstances relating to soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without detriment to the values protected by the Town wetland bylaw and these regulations and without substantially derogating from the extent or purpose of the Town wetland bylaw and these regulations.
- (7) In the event that the Commission imposes a no-disturb buffer, an applicant may be required to demarcate the same with concrete bounds or other Commission-approved methods prior to the start of any work on site.

#### **§ 247-2. Jurisdiction.**

##### **A. Areas subject to protection under the Bylaw:**

- (1) Any marsh, freshwater wetland (bordering or isolated), vernal pool, wet meadow, bog, swamp.
- (2) Any river, stream, creek, pond, reservoir, or lake.
- (3) Any bank of the areas set forth in A(1) or A(2) above.
- (4) Any land under the areas set forth in A(2) above said waters.
- (5) Any land bordering the areas set forth in A(1) or A(2) or A(3) above.
- (6) Any riverfront area as hereinafter defined.
- (7) Any land subject to flooding or inundation.
- (8) Any isolated wetlands
- (9) The 100-foot buffer zone to any of the above noted resources areas, excepting perennial streams/ rivers for which a jurisdictional 200-foot riverfront area shall apply.

##### **B. Activities subject to regulation under the Bylaw:**

- (1) Any activity proposed or undertaken which constitutes removing, filling, dredging, discharging into, building upon, or otherwise altering any area specified in Subsection A of this section is subject to regulation under the Bylaw and requires the filing of an application for permit (i.e., a request for determination of applicability or "RDA", a notice of intent or "NOI", an abbreviated notice of resource area delineation or "ANRAD").
- (2) Any activity proposed or undertaken outside the areas specified in Subsection A above shall not be subject to regulation under the Bylaw unless, in the judgment of the Conservation Commission, said activity may result or has resulted in the removing, filling, dredging, discharging into, building upon, or otherwise altering an area specified in Subsection A above. If anyone wishes to have the Conservation Commission determine whether an activity may be

subject to regulation under the Bylaw, he or she shall submit a request for determination for applicability (RDA) pursuant to § 247-7A of these regulations.

**§ 247-3. Burden of going forward and burden of proof.**

- A. The applicant shall have the burden of going forward with credible evidence from a competent source in support of all matters asserted pursuant to Subsection B below by the applicant in accordance with his or her burden of proof.
- B. The applicant shall have the burden of proving by a preponderance of the credible evidence from a competent source that the work in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by the Bylaw. Failure to meet the burden of proof may be cause for the Conservation Commission to deny the NOI along with any work or activity proposed therein.

**§ 247-4. Definitions.**

- A. Except as otherwise provided in the Bylaw or these regulations, the definitions of terms in the Bylaw shall be as set forth in the Wetlands Protection Act, M.G.L. c. 131, § 40, and its regulations, 310 CMR 10.00.
- B. As used in these regulations, the following terms shall have the meanings indicated:

**ABUTTER** — The owner of any land within 100 feet of the property line of the land where the activity is proposed, as determined by the most recent Assessors' records, including any land located directly across a street, river, stream or pond.

**ACTIVITY** — On or in any area subject to protection by the Bylaw and its regulations: any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of runoff characteristics; the intercepting or diverging of groundwater or surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; the cutting or removal of 20% or more of the growth or limbs of trees or vegetation; and any other changing of the physical characteristics of land or the physical or chemical characteristics of water.

**ALTER** — To change the condition(s) of any area subject to protection by this Bylaw and shall include but not be limited to one or more of the following actions upon the resource areas protected by this Bylaw: fill, removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;

- (1) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood storage retention areas;
- (2) Draining, disturbing or lowering of the water level or water table; the dumping, discharging or filling with any material which could degrade the water quality;
- (3) Driving of pilings, erection of buildings or structures of any kind;
- (4) Placing of any object or obstruction, whether or not it interferes with the flow of water;
- (5) Destruction, extensive trimming (defined as 20% or more of limbs or growth), or removal of plant life, vegetation, or trees;

- (6) Changing of water temperature, biochemical oxygen demand, nutrient concentration or chemical concentration or other natural characteristics of the receiving water;
- (7) Any activities, changes or work which pollutes any stream or body of water, whether located in or out of the Town of Bellingham;
- (8) Application of pesticides and herbicides; or
- (9) Any activity, change or work which adversely affects groundwater or drinking water supply.
- (10) Any incremental activity that has or may have a cumulative adverse effect on the resource area values protected by the Bylaw.

**APPLICANT** — A person filing a request for determination of applicability or notice of intent or other application with the Commission.

**AREA OF CRITICAL ENVIRONMENTAL CONCERN** — An area so designated by the Secretary of Environmental Affairs of the Commonwealth of Massachusetts pursuant to regulations (301 CMR 12.00), said designation being due to the particular environmental factors which impact upon the areas in question and which highlight the importance of each area so designated.

**AREA SUBJECT TO PROTECTION UNDER THE BYLAW** — Any area specified in § 247-2A. It is used synonymously with "resource area," each of which is defined in greater detail in these regulations.

**BANK** — The portion of the land surface which normally abuts and confines a water body, often between the mean annual low flow level and the first observable break in the slope or the mean annual flood level, whichever is lower.

**BEST AVAILABLE MEASURES** — The most up-to-date technology or the best designs, measures or engineering practices that have been developed and that are commercially or readily available.

**BEST MANAGEMENT PRACTICES** — Technologies, designs, measures or engineering practices that are in general use to optimally protect the resource area values of the Bylaw (also referred to as "BMPs").

**BORDERING** — Includes any land within either of the following or the greater thereof:

- (1) One hundred feet horizontally lateral from the edge of any resource area consistent with § 247-2A(1) through (8).
- (2) Within the maximum lateral extent of the water elevation of the statistical 100-year frequency storm.

**BOUNDARY** — The boundary of an area subject to protection under the Bylaw. A description of the boundary of each area is found in the appropriate section of these regulations or in the Bylaw.

**BUFFER ZONE** — The adjacent upland resource area 100 feet horizontally lateral from the boundary of any resource areas identified in § 247-2A(1) through (8).

**BYLAW** — Chapter 235 of the Bylaws of the Town of Bellingham, Massachusetts, entitled "Wetlands Protection."

**CERTIFICATE OF COMPLIANCE** — A written determination by the Conservation Commission as to whether work or a portion thereof has been completed in accordance with the permit issued under the Bylaw governing said work.

**CONDITIONS** — Those requirements set forth in a written permit issued by a Conservation

Commission for the purpose of permitting, regulating or prohibiting any activity that removes, fills, dredges or alters an area subject to protection under the Bylaw.

CONSERVATION COMMISSION — That body in Bellingham comprised of members lawfully appointed pursuant to M.G.L. ch. 40, § 8C.

CREEK — The same as "stream."

CUMULATIVE EFFECT — An effect that is significant when considered in combination with other activities that have occurred, are going on simultaneously, or that are likely to occur, whether such other activities have occurred or are contemplated as a separate phase of the same project, such as the build-out of a subdivision or an industrial park, or unrelated but reasonably foreseeable actions, including other development projects that are currently under construction, under review or that may be expected to come forward.

DATE OF ISSUANCE — The date a permit, order, or determination is mailed, as evidenced by a postmark, or the date it is hand-delivered.

DATE OF RECEIPT — The date of delivery to an office, home or usual place of business by mail or hand delivery.

DETERMINATION —

- (1) DETERMINATION OF APPLICABILITY — A written finding by the Conservation Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of the Bylaw.
- (2) DETERMINATION OF SIGNIFICANCE — A written finding by the Conservation Commission, after a public hearing, that the area on which the proposed work is to be done or which the proposed work will alter is significant to one or more of the interests identified in the Bylaw.
- (3) NOTIFICATION OF NONSIGNIFICANCE — A written finding by the Conservation Commission, after a public hearing, that the area on which proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the Bylaw.

DREDGE — To deepen, widen, grade or excavate, either temporarily or permanently, land below ordinary high water of a water body or waterway.

EXTENSION PERMIT — A written extension of time within which the authorized work shall be completed.

FILL — To deposit any material so as to raise the elevation of land surface or ground, either temporarily or permanently.

FLOOD CONTROL — The prevention or reduction of flooding and flood damage.

GROUNDWATER — All subsurface water contained in natural geologic formations or artificial fill including soil water in the zone of aeration. Activities within resource areas or the buffer zone thereto shall not significantly alter the existing quality or elevation of naturally occurring groundwater.

IN or WITHIN — An area subject to protection under the Bylaw means in, through, under, over, cantilevered over, shading; does not require physical touching of said area subject to protection. With respect to structures, "in" is measured from the drip-line of the roof or foundation or footing, whichever is closer to the resource area.

INTERESTS IDENTIFIED IN THE BYLAW — Those interests specified in § 235-1 of the Bylaw

and § 247-1B of these regulations.

**ISOLATED WETLAND** — A resource area that due to its vegetation, soils, and/or hydrology has at least one of the following characteristics:

- (1) Wetland plant community;
- (2) Holds enough water to provide a breeding habitat for certain water-dependent fauna species;
- (3) Fifty percent or more of the vegetational community is composed of wetland plant species; or
- (4) Otherwise exhibits any of the characteristics of a bordering vegetated wetland, excepting a hydraulic connection to another water body.

**ISSUING AUTHORITY** — The Bellingham Conservation Commission.

**LAKE** — Any open body of fresh water with a surface area of 10 acres or more, and shall include great ponds.

**LAND SUBJECT TO FLOODING OR INUNDATION - BORDERING** — The land within the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100-year frequency storm; said boundary shall be that determined by reference to the most recently available flood profile data prepared for Bellingham within which the work is proposed under the National Flood Insurance Program ("NFIP"). Where NFIP data are unavailable or deemed by the Commission to be outdated or inaccurate or not reflecting current conditions, the boundary of said land shall be based on the maximum lateral extent of flood water which has been observed or recorded, or other evidence presented and considered by the Commission. See further definition in § 247-22.

**LAND SUBJECT TO FLOODING - ISOLATED** — Defined in § 247-22.

**LAND UNDER WATER BODIES AND WATERWAYS** — The bottom of or land under the surface of a creek, river, stream, pond or lake. "Land under water bodies" is further defined in § 247-21.

**MAJORITY** — More than half of the members of the Conservation Commission.

**MARSH, FRESHWATER WETLAND, SWAMP, WET MEADOW, BOG** — Defined in § 247-20.

**MEADOW (or WET MEADOW)** — Defined in § 247-20.

**NOTICE OF INTENT (or "NOI")** — The written notice filed by any person intending to remove, fill, dredge or alter an area subject to protection under the Massachusetts Wetlands Protection Act, M.G.L. ch. 131, § 40, or the Bylaw, or both.

**ORDER** — An order of conditions, superseding order or final order, whichever is applicable, issued pursuant to M.G.L. ch. 131, § 40, or the Bylaw, or both.

**PERMIT** — The document issued by the Conservation Commission pursuant to this Bylaw which allows work in accordance with conditions set by the Commission in the resource areas protected by this Bylaw. A permit may be in the form of an order of conditions or negative determination of applicability, with or without conditions.

**PERMIT DENIAL** — The document issued by the Conservation Commission pursuant to the Bylaw which disallows proposed work.

**PERSON** — Any individual, group of individuals, associations, partnerships, corporations, business organizations, trust, estate, Commonwealth of Massachusetts when subject to Town Bylaws, any public or quasi-public corporation or body when subject to Town Bylaws or any other legal entity,

including the Town of Bellingham or its legal representative, agents or assigns.

**PERSON AGGRIEVED** — Any person who, because of an act of failure to act by the Conservation Commission, may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public and which is within the scope of the interests identified in the Bylaw.

**PLANS** — Such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Conservation Commission to describe the site and/or work to determine the applicability of the Bylaw or to determine the impact of the proposed work upon the interests identified in the Bylaw (See § 247-29).

**POND** — Any open body of fresh water, either naturally occurring or man-made by impoundment or excavation, which is never without standing water due to natural causes, except in periods of extended drought and has a surface area of 5,000 square feet or more. For purposes of this definition, "extended drought" shall mean any period of four or more months during which the average rainfall for each month is 50% or less of the ten-year average for that same month. Basins or lagoons which are part of wastewater treatment plants, swimming pools or other impervious man-made retention basins shall not be considered ponds.

**PRACTICABLE** — See § 247-11.

**PREVENTION OF POLLUTION** — The prevention or reduction of chemicals (e.g., nutrients, hydrocarbons, solvents, metals, vapors) known or suspected of causing harm to humans, plants, or animals via exposure to any media (air, water, soil, sediment).

**PRIVATE WATER SUPPLY** — Any source or volume of surface or groundwater demonstrated to be in any private use or shown to have potential for private use for domestic purposes.

**PROTECTION OF FISHERIES** — Protection of the capacity of an area subject to protection under the Bylaw to prevent or reduce contamination or damage to fish and to serve as their habitat and nutrient source.

**PROTECTION OF WILDLIFE** — The protection of any plant or animal species, including but not limited to those listed as endangered, threatened or special concern, or on the Watch List by the Massachusetts Natural Heritage Program; listed as federally endangered or federally threatened by the U.S. Fish and Wildlife Service; deemed locally threatened, in writing, by the Conservation Commission; and means protection of the ability of any resource area to provide food, breeding habitat, shelter or escape cover and species falling within the definition of wildlife set forth in these regulations.

**PUBLIC WATER SUPPLY** — Any source or volume of surface water or groundwater demonstrated to be in public use or approved for water supply pursuant to M.G.L. ch. 111, § 160 by the Division of Water Supply of the Department of Environmental Protection or shown to have a potential for public use.

**QUORUM** — The minimum number of Commissioners who must be present for a valid meeting.

**REMOVE** — To take away any type of material, thereby changing the elevation of land surface or ground, either temporarily or permanently.

**REQUEST FOR DETERMINATION OF APPLICABILITY or "RDA"** — A written request made by any person to the Conservation Commission for a determination as to whether a site or work thereon is subject to the Bylaw.

**RESOURCE AREA** — Is used synonymously with "area subject to protection under the Bylaw," each one of which is listed in the Bylaw and in § 247-2 of these regulations.

**RIVER** — Any natural flowing body of water that empties to any ocean, lake, pond, reservoir, stream, or other river.

**RIVERFRONT AREA** — The area of land between a river, stream, brook or creek's mean annual high water line or top of bank, whichever is further landward, and a parallel line measured 200 feet horizontally landward of the mean annual high water line. The 200-foot riverfront area shall apply to perennially flowing rivers, streams, brooks, or creeks.

**SIGNIFICANT** — Plays a discernible role; e.g., a resource area is significant to an interest identified in the Act when it plays a role in the provisions or protection, as appropriate, of that interest.

**SMALL PROJECT** — Any project of 200 square feet or less of impervious surface, including but not limited to: decks, structures, pools, patios, or foundation enclosing 200 square feet or less.

**STORM DAMAGE PREVENTION** — The prevention of damage caused by water from storms, including but not limited to erosion and sedimentation, damage to vegetation, property or buildings or damage caused by flooding, waterborne debris or waterborne ice.

**STREAM** — A body of running water, including brooks and creeks, which moves in a definite channel in the ground due to hydraulic gradient, and includes streamlets and rivulets. A portion of a stream may flow through a culvert or beneath a bridge.

**STRUCTURE** — A combination of materials or things arranged or constructed for permanent or temporary occupancy, shelter, or use, such as a building, bridge, trestle, wireless communications facility, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelters, piers, wharves, bin, fence, sign, or the like.

**VEGETATED WETLANDS** — Defined in § 247-20.

**VERNAL POOL** — Defined in § 247-25.

**WILDLIFE** — Any non-domesticated mammal, bird, reptile, amphibian, fish, mollusk, arthropod or other invertebrate, other than a species of the Class insects which has been determined by the Commonwealth of Massachusetts or any agency thereof to be a pest whose protection under the provisions of the Bylaw would be a risk to man.

**WILDLIFE HABITAT** — The area necessary to provide breeding or nesting habitat, shelter, food and water for any animal species.

**WITHIN** — See "in" above.

**WORK** — The same as "activity."

#### **§ 247-5. Time periods.**

All time periods of 10 days or less specified in the Bylaw and these regulations shall be computed using business days only. In the case of a determination or order, such period shall commence on the first day after the date of issuance and shall end at the close of business on the 10th business day thereafter. All other time periods specified in the Bylaw and regulations shall be computed on the basis of calendar days, unless the last day falls on a Saturday, Sunday or legal holiday, in which case the last day shall be the next business day following.

#### **§ 247-6. Actions by Conservation Commission.**

- A. Where the Bylaw requires that a particular action (except receipt of a request or notice) is to be taken by the Conservation Commission that action is to be taken by at least a majority of the Commission.

- B. Where the Bylaw requires that a determination, order, permit, or notification or certificate of compliance shall be signed and issued by the Conservation Commission that action is to be taken by at least a majority of the members of the Commission. The Commission need not convene as a body in order to merely sign said permit or notification, provided that the Commission met pursuant to the Open Meeting Law, M.G.L. ch. 30A, §§ 18 through 25, when voting on the matter.
- C. Where the Bylaw requires that the Conservation Commission is to receive a request or notice, "Conservation Commission" means a member of the Conservation Commission or an individual designated by the Conservation Commission to receive such request or notice.

**§ 247-7. Determination of applicability.**

- A. Requests for determination of applicability (or "RDA").
  - (1) Any person who desires a determination as to whether the Bylaw applies to land, or to work that may affect an area subject to protection under the Bylaw, may submit three copies to the Conservation Commission by certified mail, regular mail, or hand delivery a written RDA and other application materials in accordance with the submittal requirements set forth in the filing guidelines for RDAs provided in these regulations.
  - (2) Said RDA shall include sufficient information to enable the Conservation Commission to find and view the area and determine whether the proposed work will alter an area subject to protection under the Bylaw.
  - (3) An RDA shall include certification that the owner of the area subject to the request, if the person making the request is not the owner, has been notified in writing via certified mail (return-receipt requested), or by certificate of mailing, that a determination is being requested under the Bylaw.
  - (4) An RDA shall be filed with the Commission no less than 10 days prior to the Commission's next meeting. Failure to meet such filing and distribution deadline shall be cause for the Commission to continue or defer discussion of the RDA to the following meeting.
- B. Determination of applicability.
  - (1) Within 21 days after the date of receipt of the RDA, the Conservation Commission shall hold a public meeting. Notice of the time and place of the public meeting at which the determination will be made shall be given by the Conservation Commission at the expense of the person making the request not less than five business days prior to such meeting, by publication in a newspaper of general circulation in the Town of Bellingham, and by mailing a notice to the person making the request, or the property owner if not the applicant. The Commission will forward the notice of this hearing to the appropriate Town boards and departments. Said determination shall be signed and issued by the Conservation Commission, and copies thereof shall be sent by the Conservation Commission to the person making the request and to the owner within 21 days of the close of the public hearing or any continuances thereof. Said determination shall be valid for three years from date of issuance and may not be extended or renewed.
  - (2) The Conservation Commission shall find that the Bylaw applies to the land, or a portion thereof, if the proposed work is in an area subject to protection under the Bylaw as defined in § 247-2A above. The Conservation Commission shall find that the Bylaw applies to the work on the portion thereof, if it is an activity subject to the regulations under the Bylaw as defined in § 247-2B above.



- (3) An NOI shall be filed in the event of a positive determination, and all of the procedures set forth in § 247-8 shall apply.
- (4) If it is determined by the Commission that the activity is minor in nature, i.e., occurs in a previously altered area or enlarges an existing structure, etc., the Commission may issue a negative determination of applicability with special conditions sufficient to protect the interests of the Bylaw and these regulations.

**§ 247-8. Notice of intent; application for permit.**

- A. Any person who proposes to do work or activity that will remove, fill, dredge or otherwise alter any area subject to protection under the Bylaw shall submit a notice of intent, or "NOI", for a permit on forms specified by the Conservation Commission and in conformance with the plan requirements in § 247-29. Simultaneously with filing four copies of the notice of intent and all supporting documentation, the applicant shall provide notification to each abutter by hand delivery or certified mail - return receipt requested, or by certificate of mailing.
- B. Upon receipt of the complete application materials referred to in Subsection A above, the Conservation Commission shall assign a file number. The designation of file number shall not imply that the plans and supporting documents have been accepted or judged adequate for the issuance of a permit. For a notice of intent also filed under the Wetlands Protection Act, the Commission shall issue a file number that corresponds with the file number issued by the DEP. A notice of intent must be filed at least 10 business days prior to the next regularly scheduled public meeting.
- C. If only a portion of a proposed project or activity lies within an area subject to protection under the Bylaw and the remainder of the project or activity lies outside those areas, all aspects of the project must be described in the detail, provided also that, in such circumstances, the notice of intent shall also contain a description and calculation of peak flow and estimated water quality characteristics of discharge from a point source (both closed and open channel), when the point of discharge falls within an area subject to protection under the Bylaw.
- D. A public hearing shall be scheduled by the Conservation Commission within 21 days of receipt of the complete notice of intent. Notice of the time and place of the public hearing shall be given by the Conservation Commission at the expense of the person making the request not less than five business days prior to such meeting, by publication in a newspaper of general circulation in the Town of Bellingham, and by mailing a notice to the person making the request, or the property owner if not the applicant. The applicant shall bear the responsibility and cost for notification to abutters within 100 feet of the property borders consistent with the state NOI form. The Commission will forward the notice of this hearing to the appropriate Town boards and departments.
- E. An abbreviated notice of resource area delineation or "ANRAD" may be filed to confirm the delineated boundary of any area subject to protection under the bylaw on the site. If utilized, an applicant must file an abbreviated notice of resource area delineation prior to filing a notice of intent. The procedures for describing and delineating resource areas under a notice of intent shall be used for an abbreviated notice of resource area delineation. Consistent with § 247-3 of the Bylaw, "applicant's obligation," the applicant shall have the burden of proving by a preponderance of the credible evidence from a competent source that the delineation of area subject to protection under the bylaw is accurate.

**§ 247-9. Project segregation.**

Any project filing in which the project relies upon a subsequent but unfilled project for reasons of access, meeting local bylaw or regulation requirements, or to be economically-viable, shall be considered integral to the project filing and may not be segregated. Project impacts shall not be segregated but considered by the Commission in the aggregate accordingly. For such interdependent projects, the applicant shall meet all submission requirements, and comply with all regulatory thresholds and limits, for the projects in aggregate as required by this bylaw. The Commission shall consider the project in its whole rather than its segregated projects in rendering its decision and may require information, plans, reports, data or peer review for the unfilled project in order to assess the cumulative impacts.

**§ 247-10. Exemptions, hardships and waivers.**

- A. The permit required by this regulation shall not be required for work performed for the normal maintenance or improvement of existing agricultural lands, and normal maintenance of roadways and drainage structures. An RDA may be submitted in order to determine whether such exemption applies.
- B. If possible, applicants shall file a written request for waiver at the same time that an NOI or RDA is filed with the Commission. Such waiver request shall be made in writing and shall be a separate writing from the application or request forms.
- C. At any time subsequent to filing of the waiver request, but in no event less than 10 calendar days prior to the date of commencement of the public hearing at which the waiver request is to be considered, the applicant or his or her or its representative shall submit to the Commission copies of written statements, plans and/or reports in support of the waiver request. Such materials shall include but not be limited to the following items:
  - (1) A brief statement of the relief sought;
  - (2) A description of all reasonably identifiable alternatives to the applicant's proposal that were considered by the applicant and that would avoid or minimize the necessity of the requested relief, along with the reasons why such alternatives were deemed to be inadequate, unworkable or inadvisable; "reasonably identifiable alternatives" includes purchasing at market prices if otherwise practicable, as documented by offers (and any responses). For other land, "reasonably identifiable alternative" means adequate in size to accommodate the project purpose and listed for sale within appropriately zoned areas, at the time of filing a RDA or NOI, within the municipality. Alternatives extend to any sites which can reasonably be obtained within the appropriate area.
  - (3) A statement of all efforts that will be undertaken to minimize impact upon resource areas and buffer zones arising out of the work proposed;
  - (4) Detailed plans for any mitigation measures proposed;
  - (5) Adequate engineering and expert evidence to permit the Commission to evaluate the basis for the applicant's contentions in support of the waiver requested; and
  - (6) Any and all relevant information which the applicant wishes the Commission to consider in deliberating the waiver request.
- D. No special consideration will be given for self-imposed hardships. No special consideration will be given for not being aware of the requirements of the Wetlands Protection Act, 310 CMR 10.00, the

Town of Bellingham Wetland Bylaw, the Town of Bellingham Conservation Commission regulations or policies or any part thereof. No special consideration will be given for those who seek and obtain Planning Board subdivision approval and partially develop parcels, lots or projects of any type prior to delineating and determining resource area boundaries and the buffer zones to same.

- E. The Commission shall have the power to issue a waiver to an applicant requesting to perform activities as described in this Town of Bellingham Wetland Regulation, after said applicant files a notice of intent with the Commission and the Commission conducts a public hearing. Such waiver shall be set forth by the issuance of an Order of Conditions by the Commission. In order for the Commission to issue a waiver with respect to a particular project, the Commission must find, based on clear and convincing evidence set forth by the applicant, that owing to circumstances relating to soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the applicant, that there is no practicable alternative (§ 247-11), and that desirable relief may be granted without detriment to the values protected by the Town wetland bylaw and these regulations and without substantially derogating from the extent or purpose of the Town wetland bylaw and these regulations.
- F. The Commission may impose conditions, safeguards, and limitations in the issuance of a waiver if necessary in order to protect or further the interests protected by the Town Wetland Bylaw and these regulations. It should be understood that waivers [other than for existing, small home lots] are intended to be granted only in rare and unusual cases and are issued at the sole discretion of the Commission.

**§ 247-11. Alternatives analyses for impacts proposed to all resource areas.**

- A. The Commission possesses the discretion to deny any project or activity that will alter an actual resource area or buffer zone. In general, the Commission will allow only certain projects or activities to alter actual resources which maintain an existing legal use or necessary to address emergency conditions deemed so at the Commission's discretion.
- B. Additionally, the Commission may issue an order of conditions without requiring alternatives analysis for activities within a resource area which will improve the natural capacity of a resource area(s) to protect the interests identified. No such project may be permitted which will have any adverse effect on specified wildlife habitat sites of rare vertebrate or invertebrate species. Such projects include, but are not limited to, the removal of aquatic nuisance vegetation to retard pond and lake eutrophication and the thinning or planting of vegetation to improve habitat value.
- C. For any other projects or activities that will alter an actual resource area or buffer zone, the Commission may require alternatives analysis. Applicants are required to demonstrate that there are no practicable alternatives to the proposed project with less adverse impact on the protected resource and interests. A practicable alternative is an available and feasible alternative, which will accomplish the project's general purpose, taking into account costs, logistics, the proposed use, and the most current technology.
- D. The area in consideration must extend to the subdivided lots (this includes approval not required [ANR] lots), any parcel out of which the lots were created, any adjacent parcels held in common ownership or interest, any parcels which are in the process of being obtained, any parcels previously held in common ownership or interest with the subject property and any other land, which can reasonably be obtained, as of the effective date of these regulations.

- E. The effect of the practicable alternatives analysis and the purpose of evaluating alternatives is to determine whether impacts to all resource areas can be avoided.
- F. Definition of practicable. An alternative is practicable and substantially equivalent economically if it is obtainable and capable of being done after taking into consideration costs, existing technology, proposed use, and logistics, in light of overall project purposes. Project purposes shall be defined generally (e.g., single family home, residential subdivision, expansion of a commercial development). The alternatives analysis may involve the reduction in the scale of the activity or the number of lots available for development, consistent with the project purpose and proposed use. Transactions shall not be arranged to circumvent the intent of alternatives analysis review. The four factors to be considered are:
- (1) The cost of an alternative must be reasonable for the project purpose, and cannot be prohibitive. Higher or lower costs taken alone will not determine whether an alternative is practicable. An alternative for proposed work in the resource area must be practicable and substantially equivalently economic. Applicants should not submit, nor should the Commission request, financial information of a confidential nature, such as income tax records or bank statements. The Commission may require documentation of costs, but may also base its determinations on descriptions of alternatives, knowledge of alternative sites, information provided by qualified professionals, comparisons to costs normally associated with similar projects, or other evidence. Any documentation of costs should be limited to that required for a determination of whether the costs are reasonable or prohibitive.
  - (2) Existing technology, which includes best available measures (i.e., the most up-to-date technology or the best designs, measures, or engineering practices that have been developed and are commercially available);
  - (3) The proposed use. This term is related to the concept of project purpose.
  - (4) Logistics. Logistics refers to the presence or absence of physical or legal constraints. Physical characteristics of a site may influence its development. Legal barriers include circumstances where a project cannot meet other applicable requirements to obtain the necessary permits at an alternative site. An alternative site is not practicable if special legislation or changes to municipal zoning would be required to achieve the proposed use or project purpose.
- G. Scope of alternatives. The scope of alternatives under consideration shall be commensurate with the type and size of the project. The issuing authority shall presume that alternatives beyond the scope described below are not practicable and therefore need not be considered. The applicant or the Commission may overcome the presumption by demonstrating the practicability of a wider range of alternatives, based on cost, and whether the cost is reasonable or prohibitive to the owner; existing technology; proposed use; and logistics in light of the overall project purpose.
- (1) The area under consideration for practicable alternatives extends to the original parcel and the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality for adjacent lots, reasonably be obtained, means to purchase at market prices if otherwise practicable, as documented by offers (and any responses). For other land, "reasonably be obtained" means adequate in size to accommodate the project purpose and listed for sale within appropriately zoned areas, at the time of filing a request for determination or notice of intent, within the municipality.
  - (2) Alternatives extend to any sites which can reasonably be obtained within the appropriate area.

- H. Evaluation of alternatives. The applicant shall demonstrate that there are no practicable and substantially equivalent economic alternatives within the scope of alternatives with less adverse effects on the interests identified. The applicant shall submit information to describe sites and the work both for the proposed location and alternative site locations and configurations sufficient for a determination by the Commission. The level of detail of information shall be commensurate with the scope of the project and the practicability of alternatives. Where an applicant identifies an alternative which can be summarily demonstrated to be not practicable, an evaluation is not required.
- (1) The purpose of evaluating project alternatives is to locate activities so that impacts to the resource area are avoided to the extent practicable. Projects within the scope of alternatives must be evaluated to determine whether any are practicable. As much of a project as is practicable shall be sited outside the resource area.
  - (2) The Commission shall not approve alternatives which result in greater or substantially equivalent adverse impacts. If an alternative would result in no identifiable difference in impact, the issuing authority shall eliminate the alternative. If there would be no less adverse effects on the interests identified, the proposed project rather than a practicable alternative shall be allowed, but the criteria for determining no significant adverse impact must still be met. If there is a practicable and substantially equivalent economic alternative with less adverse effects, the proposed work may be denied, or the applicant may either withdraw the notice of intent, or the applicant may receive an order of conditions for the alternative (provided the applicant submitted sufficient information and the application materials on the alternative in the notice of intent). While the determination of no practical alternatives may result in the Commission's approval of work in a resource area or buffer zone, such a determination is not guarantee of approval and the Commission shall retain the power to deny or condition such work.

**§ 247-12. Public hearings.**

- A. A public hearing shall be held by the Conservation Commission within 21 days of receipt of the complete notice of intent, and shall be advertised by the Commission at the applicant's expense (§ 247-5). Abutter notification shall be done by and at the expense of the applicant at the time of filing the request for determination of applicability or notice of intent.
- B. Continued hearings. Public hearings may be continued as follows:
- (1) The applicant shall submit payment for the advertising costs to the Commission prior to opening of the public hearing. Failure to do so may result in the opening and automatic continuations of the public hearing until such time as costs are paid.
  - (2) Without the consent of the applicant to a certain date announced at the hearing should the applicant or the applicant's representative fail to provide the requisite written information or documents (or number of copies thereof) intended for discussion at a meeting/hearing less than 10 days prior to that scheduled meeting/hearing to the Commission office or agent.
  - (3) Without the consent of the applicant to a certain date announced at the hearing either for receipt of additional information offered by the applicant or others or for information required of the applicant deemed necessary by the Conservation Commission at its discretion; or
  - (4) With the consent of the applicant, to a reasonably-agreed-upon date, which shall be announced at the hearing.
  - (5) Without the consent of the applicant, for lack of receipt of the DEP file number, to certain date

announced at the hearing; or

- (6) Without the consent of the applicant, for failure to pay the consultant fees pursuant to § 247-17 of the regulations, to a certain date announced at the hearing.
- (7) Without the consent of the applicant due to inclement weather, impeded access to the facilities, for failure of the facilities mechanical structures (heating system, etc.), or any other extraordinary unforeseen events.

**§ 247-13. Issuance of order of conditions.**

- A. Within 21 days of the close of the public hearing or any continuance thereof, on a notice of intent for an order of conditions, the Conservation Commission shall:
  - (1) Make a determination that the area on which the work is proposed to be done, or on which the proposed work will remove, fill, dredge, discharge into, build upon, degrade or otherwise alter, is not significant to any of the interests identified in the Bylaw and Regulation, and shall issue an order to the applicant, allowing the proposed work; or
  - (2) Make a determination that the area on which the work is proposed to be done, or on which the proposed work will remove, fill, dredge or alter, is significant to one or more of the interests identified in the Bylaw and Regulation, and issue an order allowing the proposed work, with any conditions necessary for the protection of said interests; or
  - (3) Make a determination that the proposed work fails to meet the design specifications, performance standards, or other requirements of the Bylaw, its regulations, or policies of the Commission, or that the project fails to avoid or prevent unacceptable significant or cumulative effects upon the resource area values of the Bylaw and Regulation, or that there are no conditions adequate to protect said values, and issue an order denying the proposed work; or
  - (4) If the Conservation Commission finds that the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Bylaw and Regulation, it may issue an order denying the project. The permit shall specify the information which is lacking and why such information is necessary. If the Commission issues a permit denial, no work may occur until an applicant reapplies and the Commission grants a permit allowing work.
- B. A permit or order allowing the proposed work may include such conditions that, in the judgment of the Conservation Commission, are necessary for the protection of those areas found to be significant to one or more of the interests identified in the Bylaw and Regulation. Said permit shall prohibit any work or any portion thereof that cannot be conditioned to meet said standards.
- C. The permit or order of conditions shall be valid for three years from the date of its issuance.
- D. The permit or order shall be signed and issued by the Conservation Commission and shall be mailed or hand-delivered to the applicant, his or her agent or attorney.
- E. A copy of the plans describing the work and the permit shall be kept on file by the Conservation Commission and shall be available to the public at reasonable hours.
- F. Prior to the commencement of any work permitted or required by the permit, the permit shall be recorded in the Registry of Deeds or the Land Court. In the case of recorded land, the permit shall also be noted in the Registry's Grantor Index under the name of the owner of land upon which the

proposed work is to be done. In the case of registered land, the permit shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. Proof of recording shall be sent to the Conservation Commission within two weeks of recording. If work is undertaken without the applicant first recording the permit, the Conservation Commission may issue an enforcement order.

**§ 247-14. Extension of permit.**

- A. The Conservation Commission may extend a permit for a period of up to an additional three-year period from date of issuance. No permit may be extended for more than three total years after its initial expiration. A permit or order that has expired may not be extended. The request for an extension shall be made to the Conservation Commission at least 30 days prior to the expiration of the permit, and shall be accompanied by a \$50 filing fee. The Commission shall consider the request for extension within 30 days of receipt of said request and receipt of filing fee. Should the Commission's consideration be continued past the date of the expiration of the permit, the expiration date shall then be extended from the original expiration date, if the permit is extended.
- B. The Conservation Commission may deny the request for an extension and require the filing of a new application for permit for the remaining work in the following circumstances:
  - (1) Where no work has begun on the project, except where such failure is due to an unavoidable delay, such as appeals and/or in the obtaining of other necessary permits;
  - (2) Where new information, not available at the time the permit was issued, has become available and indicates that the permit is not adequate to protect the resource area values identified in the Bylaw and Regulations;
  - (3) Where incomplete work is causing damage to the resource area values identified in the Bylaw and Regulations;
  - (4) Where work has been done in violation of the permit or the Bylaw or these regulations; or
  - (5) Where resource area delineations or function has changed in a manner that indicates that adverse impacts may increase.
- C. Extensions for orders of conditions and orders of resource area delineations may be granted with modifications to the original permit in certain circumstances where new information not available at the time of the original filing becomes available or where changes in the resource areas are indicated.
- D. The extension of permit shall be recorded in the Land Court or the Registry of Deeds, whichever is appropriate, within 10 days of issuance. If work is undertaken without the applicant recording the extension of permit, the Conservation Commission may issue an enforcement order.

**§ 247-15. Certificate of compliance.**

- A. Upon written request by completion of applicable forms and submission of as-built plans by the applicant, a certificate of compliance may be issued by the Conservation Commission within 21 days of receipt thereof, and shall certify if it so determines, that the activity or portions thereof described in the application for permit and plans has been completed in compliance with the permit. If approved by the Conservation Commission, the certificate of compliance shall be signed and issued by the Commission.
- B. Prior to the issuance of a certificate of compliance, a site inspection may be made by the Conservation

Commission or its agent, in the presence of the applicant or the applicant's agent if the applicant so desires.

- C. If the Conservation Commission determines, after review and inspection, that the work has not been done in compliance with the permit, it shall refuse to issue a certificate of compliance. Such refusal shall be issued within 21 days of receipt of a request for a certificate of compliance, and the applicant shall be notified of the specific reasons for denial.
- D. If a project has been completed in accordance with plans stamped by a registered professional engineer or a land surveyor, a written statement by such a professional person certifying substantial compliance with the plans and setting forth what deviation, if any, exists from the plans approved in the permit, shall accompany the request for a certificate of compliance. As-built plans shall meet the submittal requirements of § 247-29, and shall be submitted in paper and digital forms. The Commission reserves the right to administer the requirements of this paragraph in its sole discretion commensurate with the nature, scope, type, and cost of the proposed project or activity.
- E. If the permit contains conditions which continue past the completion of the work, such as maintenance or monitoring, the certificate of compliance shall specify which, if any, of such conditions shall continue. The certificate shall also specify to what portion of the work it applies, if it does not apply to all the work regulated by the permit.
- F. The certificate of compliance shall be recorded by the applicant within 10 days in the Land Court or Registry of Deeds, whichever is appropriate. Proof of recording shall be sent to the Conservation Commission on the form specified by the Commission.

**§ 247-16. Enforcement, cease-and-desist orders and violation notices.**

- A. When the Commission determines that an activity is in violation of Bellingham Wetlands Bylaw or Regulations or an order of conditions issued thereunder, the Conservation Commission may issue an enforcement or cease and desist order. Violations include, but are not limited to:
  - (1) Conducting activities regulated by the Town of Bellingham Wetland Bylaw and Regulations within a buffer to a resource area without a permit;
  - (2) Conducting work outside the 100-foot buffer zone or 200-foot riparian zone, which has a direct or indirect adverse impact on a resource area or buffer zone;
  - (3) Failure to comply with an order of conditions, such as failure to observe a particular condition or time period specified in the order;
  - (4) Failure to complete work described in an order of conditions, when such failure causes damage to the interests identified;
  - (5) Failure to obtain a valid order of conditions or extension permit prior to conducting an activity subject to regulation.
- B. An order of conditions may be enforced by the Conservation Commission or a member, or designee authorized by the Commission.
- C. An enforcement order issued by the Commission shall be signed by a majority of the Commission. In a situation requiring immediate action, an enforcement order may be signed by a single member or agent of the Commission. Consultation with other members of the Commission is encouraged. Any emergency enforcement order signed by a single member or agent of the Commission must be ratified



by a majority of the members at the next scheduled meeting of the Commission or will be considered invalid.

- D. Owners of land on which violations occur may, where feasible and practicable, receive a prior written notice of the violation, what measures are to be taken and the day and time on which the owner or the owner's representative is to meet with the Commission. These meetings will usually be held during the next scheduled public meeting. However, in the case of serious impact or threat of immediate serious impact to a resource area, the Commission may schedule the meeting at the earliest possible date, subject to Open Meeting Law requirements. Determination of serious impact will be at the discretion of a majority of the Commission. Failure to attend the meeting scheduled or to notify the Commission and arrange an alternative acceptable time, may result in the issuance of a formal enforcement order which may be recorded. Said enforcement order will not be waived until the property and the violation are completely mitigated and restored. Once the violation is satisfactorily corrected and remediated, the Commission will issue a certificate of compliance.
- E. Penalties for actions or violations of wetland/conservation laws, bylaw or regulations, requiring the Commission to initiate enforcement action are on a per-site basis and will be as follows:

1st violation: notice	Written notice
2nd violation: notice	\$125*
Each subsequent violation, per diem of violation	\$150*

\* Plus recording fees, if applicable.

#### § 247-17. Fees.

- A. The Commission maintains a separate fee schedule for the various applications and actions that are contemplated under the Bylaw and these regulations. These fees pertain to local bylaw review and are in addition to those required under the Wetlands Protection Act. Applications will not be considered complete unless all applicable fees are paid at the time of application submittal. The Conservation Commission shall notify, verbally or in writing, the applicant when the correct filing fee has not been paid to the Town and the filing is therefore incomplete. Said notification shall specify the correct fee amount. The fee will be based on the original project design as proposed in the notice of intent, the request for determination or the request for resource area delineation and be based on any changes or amendments made during the public hearing process which increase the size of the project. Rebates will not be given for projects which decrease in size during the public hearing.
- B. Separate checks must be submitted for state and local wetland Bylaw filing fees as monies are deposited in different accounts and tracked separately.
- C. Regulations for hiring outside consultants under M.G.L. ch. 44, § 53G. As provided by M.G.L. ch. 44, § 53G, the Bellingham Conservation Commission may impose upon and collect from applicants under the Massachusetts Wetlands Protection Act and the Bellingham Wetlands Bylaw and Regulations reasonable fees for the employment of outside consultants, including, but not limited to, scientists, engineers, lawyers, surveyors or consultants of any other kind engaged by the Conservation Commission, for services deemed necessary by the Commission to adequately review an application or request submitted to the Conservation Commission.
- D. Funds received by the Conservation Commission pursuant to these regulations shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this

special account may be made at the direction of the Conservation Commission without further appropriation as provided in M.G.L. ch. 44, § 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

- E. After the applicant has presented his/her project to the Commission at a hearing, the members shall determine whether an outside consultant will be necessary in order for the Commission to make a fully informed decision on the application. The Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such cost or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.
- F. The required fee must be received prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within 10 business days of the request for payment shall be cause for the Commission to continue the hearing or deny the permit application for lack of information.
- G. The applicant may appeal the selection of the outside consultant to the Board of Selectmen who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or related field. Such an appeal must be in writing and received by the Board of Selectmen and a copy received by the Conservation Commission, so as to be received within 10 days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal. Should the Selectmen not act on any such appeal, within 30 days, the Commission's choice shall stand.

#### **§ 247-18. Severability; compliance with court decisions.**

The invalidity of any section or provision of the Bylaw or of these regulations shall not invalidate any other section or provisions thereof.

#### **§ 247-19. Banks.**

##### **A. Findings.**

- (1) Banks are likely to be significant to wildlife, to plant or wildlife habitat, to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to the prevention of pollution, to erosion control and sedimentation control, and to the protection of fisheries. Where banks are composed of concrete, asphalt or other artificial impervious material, said banks are likely to be significant to flood control and storm damage prevention.
- (2) Banks are areas where groundwater discharges to the surface and where, under some circumstances, surface water recharges the groundwater.
- (3) Where banks are partially or totally vegetated, the vegetation serves to maintain their stability, which in turn protects water quality by reducing erosion and siltation. Partially or totally vegetated banks provide habitat for wildlife.

- (4) Banks may also provide shade that moderates water temperatures, as well as providing breeding habitat and escape cover and food, all of which are significant to the protection of fisheries. Banks which drop off quickly or overhang the water's edge often contain numerous undercuts which operate as hiding spots for important species.
- (5) Banks act to confine floodwater during the most frequent storms, preventing the spread of water to adjacent land. Because banks confine water during such storms to an established channel, they maintain water temperatures and depths necessary for the protection of fisheries. The maintenance of cool water temperatures during warm weather is critical to the survival of many species. An alteration of a bank that permits water to frequently and consistently spread over a larger and more shallow area increases the amount of property which is routinely flooded, as well as elevating water temperatures and reducing fish habitat within the main channel, particularly during warm weather.
- (6) Land bordering or within 100 feet of a bank is likely to be significant to the protection and maintenance of the bank, and therefore to the protection of the interests which these resources serve to protect.

B. Definition, critical characteristics and boundary.

- (1) A bank is the portion of the land surface which normally abuts and confines a water body. It occurs between a water body and a vegetated bordering wetland and adjacent floodplain, or, in the absence of these, it occurs between a water body and an upland. A bank may be partially or totally vegetated, or it may be comprised of exposed soil, gravel or stone. Bank can be present in all streams.
- (2) The physical characteristics of a bank, as well as its location, as described in the foregoing Subsection B(1), are critical to the protection of the interests specified in Subsection A.
- (3) The upper boundary of a bank is the first observable break in the slope or the mean annual flood level, whichever is higher in elevation. The lower boundary of a bank is the mean annual low flow level or mean low water level.

C. The Commission may deny activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling, or altering of a bank.

D. Any activity which is allowed under this section on a bank or on land bordering or within 100 feet of a bank shall comply with the following regulations. Any proposed work on a bank or bordering or within 100 feet of a bank shall not impair the following:

- (1) The physical stability of the bank.
- (2) The water-carrying capacity of the existing channel within the bank.
- (3) Groundwater and surface water quality.
- (4) The capacity of the bank to provide breeding habitat, escape cover and food for fisheries.

E. The Commission may deny any work to be performed within 50 feet of an inland bank that abuts an estimated habitat area as designated on the most current map prepared by the Massachusetts Natural Heritage and Endangered Species Program or within 50 feet of a vernal pool.

**§ 247-20. Vegetated wetlands.**

## A. Findings.

- (1) Vegetated wetlands, whether bordering or isolated, are likely to be significant to wildlife, to plant or wildlife habitat, to public or private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, and to the protection of fisheries.
- (2) The plant communities, soils and associated low, often flat topography of vegetated wetlands remove or detain sediments, nutrients (such as nitrogen and phosphorous) and toxic substances (such as heavy metal compounds) that occur in runoff and floodwaters.
- (3) Some nutrients and toxic substances are detained for years in plant root systems or in the soils. Others are held by plants during the growing season and released as the plants decay in the fall and winter. This latter phenomenon delays the impacts of nutrients and toxins until the cold weather period, when such impacts are less likely to reduce water quality.
- (4) Vegetated wetlands are areas where groundwater discharges to the surface and where, under some circumstances, surface water discharges to the groundwater.
- (5) The profusion of vegetation and the low, flat topography of vegetated wetlands slow down and reduce the passage of floodwaters during periods of peak flow by providing temporary floodwater storage, and by facilitating water removal through evaporation and transpiration. This reduces downstream flood crests and resulting damage to private and public property. During dry periods, the water retained in vegetated wetlands is essential to the maintenance of base flow levels in rivers and streams, which in turn is important to the protection of water quality and water supplies.
- (6) Wetland vegetation provides shade that moderates water temperatures important to fish life. Wetlands flooded by adjacent water bodies and waterways provide food, breeding habitat and cover for fish. Fish populations in the larval stage are particularly dependent upon food provided by overbank flooding which occurs during peak flow periods (extreme storms), because most river and stream channels do not provide quantities of the microscopic plant and animal life required.
- (7) Wetland vegetation supports a wide variety of insects, reptiles, amphibians, mammals and birds which are a source of food for important fish. Bluegills (*Lepomis macrochirus*), pumpkinseeds (*Lepomis gibbosus*), yellow perch (*Perca flavescens*), rock bass (*Ambloplites rupestris*) and all trout species feed upon nonaquatic insects. Largemouth bass (*Micropterus salmoides*), chain pickerel (*Esox niger*) and northern pike (*Esox lucius*) feed upon small mammals, snakes, nonaquatic insects, birds and amphibians. These wetlands are also important to the protection of rare and endangered wildlife species.
- (8) Vegetated wetlands, together with land bordering or within 100 feet of a vegetated wetland, serve to moderate and alleviate thermal shock and pollution resulting from runoff from impervious surfaces which may be detrimental to wildlife, and fisheries downstream of the vegetated wetlands.
- (9) Land bordering or within 100 feet of a vegetated wetland is likely to be significant to the protection and maintenance of vegetated wetlands, and therefore to the protection of the interests which these resource areas serve to protect.

## B. Definition, critical characteristics and boundary.

- (1) Vegetated wetlands are freshwater wetlands. The types of freshwater wetlands include wet meadows, marshes, swamps, bogs. They are areas where the topography is low and flat, and where the soils are annually saturated. The ground- and surface water regime and the vegetational community which occur in each type of freshwater wetland are specified in Subsection B(3)(a) through (d) below.
- (2) The physical characteristics of vegetated wetlands, as described in the foregoing Subsection B(1), are critical to the protection of the interests specified in Subsection A above.
- (3) The boundary of vegetated wetlands may be determined by soil analysis indicating inundated conditions for sufficient duration, as determined by current best management practices and/or shall be the line within which 50% or more of the vegetative community consists of recognized wetland plant species including, but not limited to, the wetland plant species identified in Subsection B(3)(a) through (e) below:
  - (a) The term "bogs" as used in this section shall mean areas where standing or slowly running water is near or at the surface during a normal growing season and where a vegetative community has a significant portion of the ground or water surface covered with sphagnum moss (*Sphagnum* spp.) and where the vegetative community is made up of a significant portion of one or more of, but not limited to or necessarily including all of the following plants or groups of plants: aster (*Aster nemoralis*), azaleas (*Rhododendron canadense* and *R. viscosum*), black spruce (*Picea mariana*), bog cotton (*Eriophorum*), cranberry (*Vaccinium macrocarpon*), high-bush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), laurels (*Kalmia augustifolia* and *K. polifolia*), leatherleaf (*Chamaedaphne calyculata*), orchids (*Arethusa*, *Calopogon*, *Pogonia*), pitcher plants (*Sarracenia purpurea*), sedges (*Cyperaceae*), sundews (*Droseraceae*), sweet gale (*Myrica gale*) and white cedar (*Chamaecyparis thyoides*).
  - (b) The term "swamps," as used in this section, shall mean areas where groundwater is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetative community is made up of, but not limited to nor necessarily including all of the following plants or groups of plants: alders (*Alnus*), ashes (*Fraxinus*), azaleas (*Rhododendron canadense* and *R. viscosum*), black alder (*Ilex Verticillata*), black spruce (*Picea mariana*), button bush (*Cephalanthus occidentalis*), American or white elm (*Ulmus americana*), white Hellebore (*Veratrum viride*), hemlock (*Tsuga canadensis*), highbush blueberry (*Vaccinium corymbosum*), larch (*Larix laricina*), cowslip (*Caltha palustris*), poison sumac (*Toxicodendron vernix*), red maple (*Acer rubrum*), skunk cabbage (*Symplocarpus foetidus*), sphagnum mosses (*Sphagnum*), spicebush (*Lindera benzoin*), black gum tupelo (*Nyssa sylvatica*), sweet pepper bush (*Clethra alnifolia*), white cedar (*Chamaecyparis thyoides*) and willow (*Salicaceae*);
  - (c) The term "wet meadow" as used in this section shall mean areas where groundwater is at the surface for a significant part of the growing season and near the surface throughout the year and where a significant part of the vegetative community is composed of various grasses, sedges and rushes, made up of, but not limited to nor necessarily including all of the following plants or groups of plants: blue flag (*Iris*), vervain (*Verbena*), thoroughwort (*Eupatorium*), dock (*Rumex*), false loosestrife (*Ludwigia*), hydrophilic grasses (*Gramineae*), loosestrife (*Lythrum*), marsh fern (*Dryopteris thelypteris*), rushes (*Juncaceae*), sedges (*Cyperaceae*), sensitive fern (*Onoclea sensibilis*) and smartweed (*Polygonum*).

- (d) The term "marshes," as used in this section, shall mean areas where a vegetative community exists in standing or running water during the growing season and where a significant part of the vegetative community is composed of, but not limited to nor necessarily including all of the following plants or groups of plants: arums (Araceae), bladder worts (Utricularia), bur reeds (Sparganiaceae), button rush (Cephalanthus occidentalis), cattails (Typha), duck weeds (Lemnaceae), eelgrass (Vallisneria), frog bits (Hydrocharitaceae), horsetails (Equisetaceae), hydrophilic grasses (Gramineae), leatherleaf (Chamaedaphne calyculata), pickerel weed (Pontederiaceae), pipeworts (Eriocaulon), Phragmites (Phragmites Australis), pond weeds (Potamogeton), rushes (Juncaceae), sedges (Cyperaceae), smartweeds (Polygonum), sweet gale (Myrica gale), water milfoil (Haloragaceae), water lilies (Nymphaeaceae), water starworts (Callitrichaceae) and water willow (Decodon verticillatus).
- C. The Commission may deny any activity, other than the maintenance of an already existing structure, which will result in the building within or upon, removing, filling or altering of a vegetated wetland.
- D. The Commission may deny any activity to be performed within 50 feet of a vegetated wetland that abuts on an estimated habitat area as designated on the most current map prepared by the Massachusetts Natural Heritage and Endangered Species or within 50 feet of a vernal pool.
- E. Timing of delineations and resource verification.
- (1) Timing of submittal of proposed plans shall allow for seasonally appropriate resource area delineations and verification of resource areas such as stream status, vernal pool viability or mean annual high water mark for streams. Failure to submit applications with seasonal verification constraints at appropriate times of the year may result in either:
    - (a) A request by the Commission to continue the public hearing until the appropriate time of year for the project specific review; or
    - (b) In a permit which requires a minimum of a 100-foot protective buffer around the resource in question; or
    - (c) In a denial of the proposed project.
  - (2) In the case of challenges to the presumption of vernal pool habitat, the Conservation Commission may require that the determination be postponed until the appropriate time period consistent with the evidence being presented. The Commission will either require its own site visits as necessary to confirm the evidence or reliance on a neutral, third-party qualified consultant at the applicant's expense.
  - (3) In the case where precise field verification is necessary to confirm a proposed delineation, the Conservation Commission may require that the delineation be postponed until an appropriate time period where weather conditions allow verification of evidence being presented. The Commission will either require its own site visits as necessary to confirm the evidence or reliance on a neutral, third-party qualified consultant at the applicant's expense.
  - (4) In general, the Commission requires that delineations must be conducted between March 15 and November 15 in any one year for any vegetated resource area. The Commission may waive or modify the above time frame when an applicant requests such a waiver or modification and such waiver or modification is warranted due to the condition of the subject resource area.
- F. Wetland replication.

- (1) Introduction. Notwithstanding the provisions of § 247-20, paragraphs A through D, and subject to § 247-11, the Commission in its sole discretion may allow work in vegetated wetland which results in the loss of up to 5,000 square feet of vegetated wetland when such area is replaced or replicated in a manner to ensure that the replacement area will provide a viable and sustainable wetland that replaces the functions and values of the area lost. Detailed project design is required to guarantee that wetland impacts are avoided to the maximum extent possible, to minimize absolutely necessary impacts and lastly, to successfully replicate losses that cannot be avoided. The design of replication areas shall carefully consider and incorporate to the extent practicable, the Massachusetts Inland Wetland Replication Guidelines (DEP, 2002) or any other applicable best management practices. Restoration of a degraded wetland may be accepted by the Commission as satisfying the foregoing replication requirement.
- (2) Required design criteria. Projects involving wetlands replication areas shall meet the requirements of 310 CMR 10.60(3) and 310 CMR 10.55(4) and the following requirements of the Commission:
  - (a) The proposed replication area design must be submitted to the Commission for approval as part of the submittal of the project notice of intent.
  - (b) The replication area must be shown to sufficiently duplicate the functions of the wetland proposed to be altered.
  - (c) The area of the wetland replication shall be at a 2:1 ratio to that area of wetland loss. If space is limited and adherence to a 2:1 ratio would result in hardship as determined by the Commission, this ratio may be reduced to as low as 1.5:1.
  - (d) The type of wetland created shall be similar to that lost in terms of physical characteristics and function (e.g., similar plant species, hydrologic regime, and soils) except where an improvement in physical characteristics and function is proposed.
  - (e) The replication area must have similar groundwater and surface elevation as the lost area.
  - (f) The replication area must have a similar location relative to the bank as the lost area when replicating bordering vegetated wetland.
  - (g) The replication area must have an unrestricted surface hydraulic connection to the same water body or waterway as the lost area when replicating bordering vegetated wetland.
  - (h) The location of the replication areas must be in the same general area as the lost wetland.
  - (i) The replication area shall be constructed prior to alteration of the existing wetland and during the same growing season. When replication involves transplanting plants and materials from existing wetland to the replicated wetland, the replication area shall be constructed, to the extent possible, immediately after alteration of the existing wetland. When transporting, all care shall be taken to prevent the transporting of invasive plants and invasive materials in soils.
  - (j) The replication area shall not receive post-development stormwater, as such may impair the habitat value or negatively impact fauna.
  - (k) The proposed replication area must be clearly flagged for Commission site inspection before the notice of intent filing.

- (l) The proposal for a replication area (submitted with the notice of intent) shall include a detailed plan of the wetland replication showing:
  - [1] Cross-section with indication of groundwater level, soil profile and thickness of organic soil in the existing and proposed wetlands;
  - [2] Plant species detail, including number, type and location of species found in the replication area to be altered, and number, types and locations of species to be introduced into the replacement area;
  - [3] Detail of stabilization plans for replication area of banks;
  - [4] Wildlife habitat diversity plan;
  - [5] Any trees over two inches dbh shall be replaced in accordance with § 247-23 of these regulations, Vegetation removal and replacement.
- (m) If wetlands replication is to occur as part of a project, the applicant shall hire a wetlands scientist, and present this individual to the Commission for approval. This person shall be employed for the duration of the project and will be responsible for assurance that no additional resource area impacts other than those allowed by permit shall occur. The person shall work with the general contractor's staff to review all siltation controls, temporary stormwater management systems, construction impacts in regulated resource areas, construction impacts in or near the buffer zones, and this individual shall bear complete responsibility for adherence to the wetlands replication plan approved in the review process. While site work is ongoing, this person shall submit monthly monitoring reports to the Commission.
- (n) If, after three growing seasons, the Commission determines that the replication area has not satisfactorily developed into a wetland replacing the wetland area lost, the applicant or owner may be required to submit new plans to successfully replicate said lost wetland. No certificate of compliance shall be issued until the Commission has determined that satisfactory replication area has been completed at the end of three growing seasons.

**§ 247-21. Land under water bodies (under any stream, pond or lake).**

**A. Findings.**

- (1) Land under water bodies and waterways is likely to be significant to wildlife, to public and private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution and to the protection of fisheries.
- (2) Where land under water bodies and waterways is composed of pervious material, such land represents a point of exchange between surface water and groundwater.
- (3) The physical nature of land under water bodies and waterways is highly variable, ranging from deep organic soils and fine sedimentary deposits to rocks and bedrock. The organic soils and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients (such as nitrogen and phosphorous) from the surface water above. They also serve as traps for toxic substances (such as heavy metal compounds).
- (4) Land under water bodies and waterways, in conjunction with banks, serves to confine floodwater within definite channel during the most frequent storms. Filling within this channel



blocks flows which in turn causes backwater and overbank flooding during such storms. An alteration of land under water bodies and waterways that causes water to frequently spread out over a larger area at a lower depth increases the amount of property which is routinely flooded. Additionally, such alteration results in an elevation of water temperature and a decrease in habitat in the main channel, both of which are detrimental to fisheries, particularly during periods of warm weather and low flows.

- (5) Land under rivers, streams and creeks as defined in the definition of "vegetated wetlands" in § 247-4B that is composed of gravel allows the circulation of cold, well-oxygenated water necessary for the survival of fish species. River, stream and creek bottoms with a diverse structure composed of gravel, large and small boulders and rock outcrops provide escape cover and resting areas for fish species. Such bottom type also provides areas for the production of aquatic insects essential to fisheries.
- (6) Land under ponds and lakes is vital to a large assortment of warm-water fish during spawning periods. Species such as largemouth bass (*Micropterus salmoides*), smallmouth bass (*Micropterus dolomieu*), blue gills (*Lepomis macrochirus*) pumpkinseeds (*Lepomis gibbosus*), black crappie (*Promoxis nigromaculatus*) and rock bass (*Ambloplites rupestris*) build nests on the lake and bottom substrates within which they shed and fertilize their eggs.
- (7) Land within 100 feet of any bank abutting land under a water body is likely to be significant to the protection and maintenance of land under a water body, and therefore to the protection of the interests which these water bodies serve to protect.

B. Definition, critical characteristics and boundaries.

- (1) Land under water bodies is the land beneath any creek, river, stream, pond or lake. Said land may be composed of organic muck or peat, fine sediments, rocks or bedrock.
- (2) The physical characteristics and location of land under water bodies and waterways specified in the foregoing Subsection B(1) are critical to the protection of the interests specified in Subsection A above.
- (3) The boundary of land under water bodies is mean low water level.

C. The Commission may deny any activity, other than the maintenance of an already existing structure, which will result in the building within or upon, or removing, filling, dredging or altering of land under a water body or within 25 feet of land under a water body.

D. The Commission may require that any activity which is allowed under this section on land under a water body or within 100 feet of land under a water body shall comply with the following regulations. Any proposed work upon land under a water body or with 100 feet of land under a water body shall not impair the following:

- (1) The water-carrying capacity within the defined channel, which is provided by said land in conjunction with the banks.
- (2) Ground and surface water quality and quantity.
- (3) The capacity of said land to provide breeding habitat, escape cover or food for fisheries.

E. The Commission may deny any work to be performed within 50 feet of land under water bodies that abuts an estimated habitat area as designated on the most current map prepared by the Massachusetts

Natural Heritage and Endangered Species Program or within 50 feet of a vernal pool.

**§ 247-22. Land subject to flooding (bordering and isolated).**

**A. Findings.**

**(1) Bordering land subject to flooding.**

- (a) Bordering land subject to flooding is an area which floods from a rise in a bordering waterway or water body. Such areas are presumed to be significant to flood control and storm damage prevention and protection of surrounding land and other homes or buildings.
- (b) Bordering land subject to flooding provides a temporary storage area for floodwater which has overtopped the bank of the main channel of a creek, brook, river or stream or the basin of a pond or lake. During periods of peak runoff, floodwaters are both retained (i.e., slowly released through evaporation and percolation) and detained (slowly released through surface discharge) by bordering land subject to flooding. Over time, incremental filling of these areas causes increases in the extent and level of flooding by eliminating flood storage volume or by restricting flows, thereby causing increases in damage to public and private properties and downstream resource areas.
- (c) The hydrologic regime, plant community and structure, topography, soil, and proximity to water bodies or vegetated wetlands provide important food, shelter, migratory, and overwintering areas, and breeding for wildlife.
- (d) The hydrologic regime, surrounding plant community, topography, soil, and proximity to water bodies or vegetated wetlands of bordering land subject to flooding allows certain vegetation to successfully grow in these areas.

**(2) Isolated land subject to flooding.**

- (a) Isolated land subject to flooding is an isolated depression or a closed basin irrespective of size which serves as a ponding area for runoff or high groundwater which has risen above the ground surface, irrespective of size. Such areas are likely to be locally significant to flood control and storm damage prevention. In addition, where such areas are underlain by pervious material they are likely to be significant to public or private water supply and to groundwater supply. Where such areas are underlain by pervious material covered by a mat or organic peat and muck, they are also likely to be significant to the prevention of pollution. Isolated land subject to flooding provides important breeding habitat for amphibians and some rare plants. Isolated land subject to flooding provides a temporary storage area where runoff and high groundwater pond and slowly evaporate or percolate into the substrate. Filling causes lateral displacement of the ponded water onto contiguous properties, which may result in damage to said properties.
- (b) Isolated land subject to flooding, where it is underlain by pervious material, provides a point of exchange between groundwater and surface waters. Contaminants introduced into said area, such as road salts, find easy access into the groundwater. Where these conditions occur and a mat of organic peat or muck covers the substrate of the area, said mat serves to detain and remove contaminants which might otherwise enter the groundwater.
- (c) Isolated land subject to flooding is an isolated depression or closed basin without an inlet or an outlet. It is an area which at least once a year confines standing water. Basins or

lagoons which are part of wastewater treatment plants, swimming pools or other impervious man-made retention basins shall not be considered isolated land subject to flooding.

- (d) The characteristics specified above are critical to the protection of the interests identified.
  - (e) The boundary of isolated land subject to flooding is the perimeter of the largest observed or recorded volume of water confined in said area. In the event of a conflict of opinion regarding the extent of water confined in an isolated land subject to flooding, the applicant may submit an opinion certified by a registered professional engineer, supported by engineering calculations, as to the probable extent of said water. Said calculations shall be prepared based upon the total volume (rather than peak rate) of run-off from the drainage area contributing to the isolated land subject to flooding and shall be further based upon the assumption that there is no infiltration of said run-off into the soil within the isolated land subject to flooding. Said calculations shall also take into consideration any flooding volume contributed by seasonal high groundwater.
- (3) Where a project will remove, fill, dredge, build upon, degrade, discharge into or otherwise alter land subject to flooding (both bordering and isolated areas) the Commission shall presume that such an area is significant to the respective interests specified above.

B. Definitions, critical characteristics and boundaries.

(1) Bordering land subject to flooding.

- (a) Bordering land subject to flooding is an area with low, flat topography adjacent to and inundated by floodwaters rising from brooks, creeks, rivers, streams, pond or lakes. It extends from the banks of these waterways and water bodies; where a bordering vegetated wetland occurs, it extends from said wetland.
- (b) The topography and location of bordering land subject to flooding specified in the foregoing Subsection B(1)(a) are critical to the protection of the interests specified in Subsection A(1) above.
- (c) The boundary of bordering land subject to flooding is the estimated or observed maximum lateral extent of floodwater which will theoretically result or has resulted from the statistical one-hundred-year-frequency storm.

[1] Said boundary shall be that determined by reference to the most recently available flood profile data prepared for the Town of Bellingham within which the work is proposed under the National Flood Insurance Program (NFIP, currently administered by the Federal Emergency Management Agency, successor to the U.S. Department of Housing and Urban Development). Said boundary, so determined, shall be presumed accurate. This presumption may be overcome only by credible evidence from a registered professional engineer or other professional competent in such matters.

[2] Notwithstanding the foregoing, where NFIP profile data is unavailable or is determined by the Commission to be outdated, inaccurate or not reflecting current conditions, the boundary of bordering land subject to flooding shall be the maximum lateral extent of floodwater which has been observed or recorded.

(2) Isolated land subject to flooding.

- (a) Isolated land subject to flooding is an isolated depression or closed basin irrespective of size without an inlet or an outlet. It is an area which at least once a year confines standing water. Isolated land subject to flooding may be underlain by pervious material, which in turn may be covered by a mat of peat or muck.
  - (b) The characteristics specified in the foregoing Subsection B(2)(a) are critical to the protection of the interests specified in Subsection A(2) above.
  - (c) The boundary of isolated land subject to flooding is the perimeter of the largest observed or recorded volume of water confined in said area, or as otherwise specified under Subsection B(2)(d) below.
  - (d) In the event of a conflict of opinion regarding the extent of water confined in an isolated land subject to flooding, the applicant may submit an opinion certified by a registered professional engineer, supported by engineering calculations, as to the probable extent of said water. Said calculations shall be prepared based upon the total volume (rather than peak rate) of run-off from the drainage area contributing to the isolated land subject to flooding and shall be further based upon the assumption that there is no infiltration of said run-off into the soil within the isolated land subject to flooding. Said calculations shall also take into consideration any flooding volume contributed by seasonal high groundwater.
- C. The Commission may deny any activity, other than the maintenance of an already existing structure, which will result in the building within or upon, or removing, filling, dredging or altering of, land subject to flooding.
- D. Restrictions on activity.
  - (1) Any activity which is allowed under this section on land subject to flooding shall not result in the following:
    - (a) Flood damage due to filling which causes lateral displacement of water that would otherwise be confined within said area;
    - (b) Adverse effect on public and private water supply or groundwater supply, where said area is underlain by pervious material;
    - (c) An adverse effect on the capacity of said area to prevent pollution of the groundwater, where the area is underlain by pervious material which in turn is covered by a mat of organic peat and muck.
  - (2) Any such activity shall provide compensatory flood storage for all flood storage volume that will be lost at each elevation. Compensatory flood storage shall be at a 2:1 ratio, minimum, for each unit volume of flood storage lost at each elevation. Compensatory flood storage shall mean a volume not previously used for flood storage, shall have an unrestricted hydraulic connection to the same waterway or water body, and, with respect to waterways, shall be provided within the same reach of the river, stream, or creek. No new parking areas or garages shall be used as compensatory flood storage. The Commission has found that use of such areas or garages results in a significant or cumulative effect upon the resource area values protected by the Bylaw, and has found that these facilities can result in the uncontrolled acute or chronic release of these harmful materials into the resource areas protected by the Bylaw. The Commission has also found that using these structures for flood storage can result in the damage of vehicles and property under flooding conditions.

- E. The Commission may deny any work to be performed within 50 feet of land subject to flooding that abuts a potential vernal pool or an estimated habitat area as designated on the most current map prepared by the Massachusetts Natural Heritage and Endangered Species Program unless the applicant can demonstrate by a preponderance of credible evidence that the work will not have any short-term or long-term adverse effect on the resource area values protected by the Bylaw.

**§ 247-23. Vegetation removal and replacement.**

- A. Findings. Vegetation in a resource area protected by the Bylaw is significant for wildlife, wildlife habitat and water quality. In addition, vegetation controls flood and storm damage. Vegetation provides food, shelter, and opportunities for socialization, shade, water detention, sediment control, bank stabilization, biodiversity, and pollutant uptake, evapotranspiration of water, aesthetics, and atmospheric purification. In addition, plant size ordinarily is proportional to habitat value; i.e., large wooded trees are of greatest habitat value, followed by bushes, and then ground cover. Thus, an adequate quantity of vegetation must be maintained so that resource areas protected by the Bylaw can provide the resource area values protected by the Bylaw, including, but not limited to: flood control, storm damage prevention, pollution abatement, wildlife protection, aesthetic value, and recreation.
- B. Every reasonable effort shall be taken to avoid and/or minimize damage or removal of vegetation within a resource area. Where some removal or damage is required, plans for replacement shall be submitted to the Commission for approval.
- C. "In-kind replacement" shall refer to a combination of species type and surface area as defined by the area delineated by the drip line of the affected plant(s). "In-kind" means the same type and quantity of plant species that was removed, unless compelling evidence is presented in writing that explains why the resource area values under the Bylaw are promoted through an alternative proposal, and planted within the same resource area or another resource area located in close proximity on the project site. Notwithstanding the foregoing, only non-invasive plant species shall be planted as replacements.
- D. In all instances, the reasons for removal must be expressed in writing before the removal. In administering this standard, the Commission shall consider species selection, location, and timing of the plantings. Criteria to be considered by the Commission in determining whether to allow removal shall include:
- (1) Health of vegetation. Vegetation in a state of irreversible decay, or undesirable vegetation present as a result of lack of maintenance may be offered as a reason(s) for removal.
  - (2) Bank or slope stabilization. A bank or slope stabilization plan requires the restructuring of soils occupied by vegetation.
  - (3) Invasive species. The vegetation being removed is an aggressive, invasive, or non-native species as confirmed by wetlands scientist or as listed on a wetlands plant list acceptable to the Commission, such as, but not limited to that published by the United States Fish and Wildlife Service.
  - (4) Imminent risk to public health. The vegetation is an imminent risk to public health or safety as confirmed in writing by the Bellingham Tree Warden, Fire Department representative, Public Safety Officer, or a certified arborist.
- E. Application for removal. For all projects, the application for vegetation removal shall be submitted as part of the notice of intent as described by the Bylaw and these regulations. At a minimum, the

application will include:

- (1) Narrative. The narrative shall describe the existing conditions, the proposed planting plan, the list of existing and proposed species, the size of existing and proposed species, and number of plants before and after the revegetation event. The narrative shall also provide the rationale for the removal and discuss the proposed maintenance plan [see Subsection E(6) below].
- (2) Affirmation of the revegetation activities. All plans for revegetation must be accompanied by written testimony and scaled diagram from a certified arborist or wetland scientist or landscape architect. At a minimum, this document must include the following information:
  - (a) Is the vegetation removal necessary? (See Subsection D above)
  - (b) How much surface area of the vegetation will be removed (feet<sup>2</sup>-based on drip line)?
  - (c) How many individual plants will be removed by species; i.e., is the species list submitted with the NOI correct?
- (3) Planting plan. The planting plan must be drawn to scale and identify properly the resource area and buffer zone and the project site. It must include the locations of each replacement species. The planting plan and procedures shall comply with the American Standards for Nurserymen, Inc. or equivalent. It must also include the location of the erosion control devices used during the restoration event. A brief narrative must accompany this planting plan describing the storage location of all motorized equipment.
- (4) Species list.
  - (a) Each species existing before and after the restoration shall be listed in terms of area of coverage (feet<sup>2</sup>) and number of individual plants. A rationale for the species and size choice must be provided if the replacement is not "in-kind." Native species are the preferred plants of choice; invasive species are not allowed.
  - (b) The Commission may require that the replacement of a tree shall be with that of equivalent trunk diameter at breast height ("dbh") or when it is not possible to replace with the same dbh, it shall be replaced according to the following tables (derived from the American Standards for Nurserymen, Inc.) which list dbh to measure the tree to be removed and list the replacement trees in caliper or gallon/height as that is what is more commonly found at nearby nurseries:

[1] For deciduous trees:

#### Replacement Guideline

<b>Existing Trunk (dbh)</b>	<b>(caliper)</b>	<b>or</b>	<b>(gallon/ height)</b>
2" to 3.5"	1 x 2" to 3.5"		TBD
3.5" to 6"	2 x 2" to 3.5"		TBD
6" to 10"	3 x 2" to 3.5"		TBD
>10"	Discretion of Commission to reach equivalent		

[2] For evergreen trees:

**Replacement Guideline**

<b>Existing Trunk (dbh)</b>	<b>(caliper)</b>	<b>or</b>	<b>(gallon/ height)</b>
2" to 3.5"	1 x 2" to 3.5"		TBD
3.5" to 6"	2 x 2" to 3.5"		TBD
6" to 10"	3 x 2" to 3.5"		TBD
>10"	Discretion of Commission to reach equivalent		

[3] For bushes and shrubs. The replacement of bushes and shrubs shall be with bushes and shrubs of equivalent size.

- (5) Rationale for removal. Describe why the interests of wetlands protection are advanced by the revegetation plan.
  - (6) Maintenance plan. Vegetation replacement is not considered successful until the replacement plants have survived three full growing seasons. The maintenance plan shall describe how the restoration will be evaluated annually for three years and reported to the Commission. The Commission reserves the right to require a revised replanting plan, or additional plantings on an annual basis in the event that the vegetative plants decay or die.
- F. Security may be required in accordance with § 247-31, to assure successful survival of replacement vegetation.
- G. The Commission may require one or more of the following measures to protect vegetation during work:
- (1) Tree protection fencing. Prior to commencing work, four-foot-high snow fencing shall be installed and secured with wooden stakes (2" x 4" or 2" x 3") or six-foot steel channel posts so as to create an enclosure at the drip line of tree(s) or other distance as the site conditions allow to be protected. Such fencing shall be securely erected, be vertically plumb and be maintained for the duration of the project and shall protect individual trees or groups of trees.
  - (2) Tree protection blanket. "BarkSavers" or similar armored blankets shall be installed and maintained according to product specifications.
  - (3) No existing trees shall be used for crane stay, guys or other fastening.
  - (4) Vehicles shall not be parked below the canopy of any existing tree or where damage may result to existing trees.
  - (5) Construction materials shall not be stored beneath existing trees.
  - (6) Following completion of work, have a certified arborist monitor the health of trees on site for possible damage and take measures to repair damage.
  - (7) Prior to work, preparation of a tree protection plan showing summary of all trees on site (including dbh, species, extent of canopy, roots and health) and specifying whether each tree shall be saved or lost.

- H. The requirements of this section shall be met commensurate with the nature, scope, type, and cost of the proposed project or activity.

**§ 247-24. Buffer zone.**

A. Findings.

- (1) The buffer zones usually are significant to wildlife, plant or wildlife habitat, to public and private water supply, to groundwater supply, to flood control, to storm damage prevention, to prevention of pollution, to erosion control and sedimentation control, and to natural character and recreation.
- (2) Trees in the buffer zones provide important functions not provided by any other plant type. Trees provide shade to moderate water temperatures, levels of dissolved oxygen and water flow. They serve as windbreaks to moderate wind stress and shear during storms, and provide nesting, roosting and perching areas for birds, and other wildlife. The transitional assemblage of trees, shrubs and groundcover (containing both wetland and upland elements) frequently found in buffer zones has been found significant to the support of a greater number of native and specialist wildlife species in the interior of resource areas, which they border. Trees and other vegetation, if undisturbed or minimally disturbed, slow the rate of surface runoff providing flood control and reducing down-gradient storm damage.
- (3) Lands within the buffer zones are generally best left in an undisturbed and natural state.
- (4) There is overwhelming scientific consensus that significant physical, chemical, or biological alterations to buffer zones will have significant physical, chemical, or biological impacts on associated or adjacent wetland resource areas such as banks, creeks, streams, rivers, ponds, lakes, and wetlands. Buffer zones are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resource areas protected by the Bylaw have a high likelihood of adverse impact upon those areas, 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 limitation, erosion, siltation, loss of groundwater recharge, loss of flood control or storm damage prevention, poor water quality, and harm to wildlife and wildlife habitat. The ability of the buffer zones to protect a wetland resource, and to provide habitat, increases with buffer width and continuity.
- (5) Generally, buffer zones less than 25 feet wide are ineffective in protecting adjacent wetlands or providing wildlife habitat functions. Vegetated buffers larger than 25 feet are often necessary to provide wildlife habitat and to protect wetlands from continuing activities such as inputs of sediments and nutrients, direct human disturbance, to protect sensitive species from adverse impacts, and to protect wetlands from the adverse effects of changing water quality, including but not limited to nutrient concentrations, temperature, salinity and dissolved oxygen concentrations.
- (6) A growing body of research evidence also suggests that even "no disturbance" areas of 25 feet from other resource areas may be insufficient to protect many important characteristics and values. Problems of nutrient runoff, water pollution, siltation, erosion, vegetation change, and habitat destruction are greatly exacerbated by activities within 100 feet of wetlands. Thus, the Commission may determine that work and activity within that portion of the buffer zones beyond 25 feet shall be avoided and discouraged and reasonable alternatives pursued as required



above.

B. Buffer zones.

- (1) In reviewing whether work in the buffer zone may be permitted, the Commission may review:
  - (a) Slope.
  - (b) Soil characteristics.
  - (c) Drainage patterns.
  - (d) Extent and type of existing vegetation.
  - (e) Extent and type of invasive vegetation.
  - (f) Amount of impervious surface.
  - (g) Wildlife and wildlife habitat.
  - (h) Intensity and extent of use.
  - (i) Intensity and extent of adjacent and nearby uses.
- (2) This approach is intended to allow maximum flexibility for property use while maintaining adequate levels of protection of the resource values protected by the Bylaw. Ultimately, the Commission may establish "no-disturbance zones," "temporary disturbance zones," or permanent disturbance areas" within a buffer zone.
  - (a) No-disturbance zone. The Commission may, as a condition of approval, designate a no-disturbance zone which shall, in general, be designated as a specific number of feet from a regulated resource area. Prohibited activities may include, but are not limited to, mosquito spraying, fertilization, herbicide and pesticide applications, grading, landscaping, vegetation control, pruning, cutting, filling, excavation, roadway construction and/or driveway construction. Enforcement of the no-disturbance zone for existing single- and duplex-family residences is discretionary, if the Commission finds the zone's use to be insignificant or sufficiently mitigated. This is an area within the buffer zones in which virtually no activities or work, other than passive passage, are permitted. No vegetation may be disturbed, and leaf litter and debris shall remain in place. This minimal disturbance area should remain unchanged from its pre-project condition to maintain consistency with Subsection A(5). In general, a no disturbance zone may consist of 0- to 25-foot buffer zone from a resource area but the Commission may impose a smaller or larger no disturbance zone in order to protect the interests under the Bylaw and these Regulations.
  - (b) Temporary disturbance area. This is an area within the buffer zones where temporary disturbance for a limited period of time is permitted, such as for re-grading or travel by machinery. Once the activity is completed, however, the area shall be allowed to return to natural vegetation and function. Any subsequent disturbance or activity shall require a new filing. The Conservation Commission shall establish specific time frames and conditions for allowing temporary disturbances, as well as setting criteria for assessing the successful return of the buffer zones to natural functions. Normally this discretionary temporary disturbance area may consist of 25- to 50-foot portion of the buffer zone but the Commission may impose a smaller or larger temporary disturbance area in order to protect the interests under the Bylaw and these Regulations.

- (c) Permanent disturbance area. This is an area within the buffer zones in which most, if not all, legal activities and permanent disturbances are permitted. The permanent disturbance area may include the area from 50 feet to 100 feet of the wetland resource area boundary but the Commission may impose a smaller or larger permanent disturbance area. Houses, porches, driveways, gardens, and lawns in the buffer zone represent permanent disturbance areas. Nevertheless, within the context of permanent disturbance, the Conservation Commission may set specific conditions prohibiting or restricting those forms of work and activities in the buffer zones deemed potentially harmful to the wetland resource area values protected by the Bylaw, such as the use of herbicides and pesticides, use of interceptor drains, or installation of in-ground sprinkler systems for irrigating areas in the adjacent upland resource.
- C. The following construction activities may be prohibited by the Commission in any portion of the buffer zone: changing of oil, refueling, or damage to other vegetation not scheduled for removal.

**§ 247-25. Vernal pool, associated 100-foot buffer zone and no-disturbance zone.**

A. Findings.

- (1) Vernal pools and their associated 100-foot buffer zone are likely to be significant to the protection of wildlife habitat and rare plant and animal habitat. Vernal pools constitute a unique and increasingly rare type of wetland that is inhabited by many species of wildlife, some of which are completely dependent on vernal pools and their associated habitat for their survival. Areas in the immediate vicinity of the vernal pool provide these species with important non-breeding habitat functions, such as migratory pathways, feeding, shelter, and over-wintering sites. Many other species utilize vernal pools and their associated 100-foot buffer zone for breeding and non-breeding functions, although such species are not limited to this type of wetland. The protection of vernal pools and the buffer zone thereto are essential for the survival of wildlife species that depend on these unique and threatened resource areas. Vernal pools need not be state-certified in order to be protected under the Wetlands Bylaw or these regulations.
- (2) The extreme edges of vernal pool habitat represent one of the most ecologically valuable portions of these habitats. Shallow water at the edges of a pool generally is the first to thaw in the spring. This provides early access to the pool for the earliest breeding species. The shallow water zones also tend to be significantly warmer than the deeper portions of a vernal pool throughout the spring. Egg masses of early breeding amphibians benefit from the warmer water temperatures at the pool edges that promote rapid egg development.

B. Definition, critical characteristics and boundary.

- (1) Vernal pools exhibit a tremendous variation in physical, geographic, hydrologic and vegetative conditions, and therefore, for the purposes of these regulations, these conditions are not considered reliable criteria for their identification. A vernal pool is a temporary freshwater body, which, in most years, holds water for a minimum of two months and is free of established, reproducing fish populations, and is protected by these regulations if it meets any of the following criteria:
  - (a) The vernal pool contains breeding evidence of any one of the following obligate indicator species: Spotted Salamander, Blue-Spotted Salamander, Jefferson Salamander, Marbled Salamander, Wood Frog or Fairy Shrimp; or
  - (b) In the absence of any obligate indicator species identified in (a) above, the vernal pool

contains evidence of two of any of the following facultative indicator species: Spring Peeper, American Toad, Green Frog, Pickerel Frog, Gray Tree Frog, Four-Toed Salamander, Spotted Turtle, Caddisfly larvae or cases of Caddisfly larvae, Dragonfly or Damselfly larvae or shed skins (exuvia) of Dragonfly or Damselfly larvae, adults, juveniles or shells of either Fingernail Clams or amphibious, air-breathing snails.

- (c) Isolated vegetated wetlands which impound water for a period of four weeks in the spring are presumed to be vernal pools unless the applicant demonstrates, during the breeding season, that the pool does not meet paragraphs (a) and (b) above.

(2) The boundary of vernal pool.

- (a) The boundary of vernal pool is the lower of:

- [1] The maximum elevation of a topographic depression that holds water for a minimum of two continuous months each year; or

- [2] The maximum observed or recorded water level in a topographic depression.

- (b) The boundary of vernal pool may be defined differently for the purpose of state or federal protection. The boundary of vernal pool is not established when a vernal pool certification number is issued by the Commonwealth.

C. Timing of evidence collection.

- (1) Many of the indicators of vernal pool habitat are seasonal. For example, certain salamander egg clusters are found only between late March and late May; Wood Frog chorusing occurs only between late March and late May, and then only at night. Consequently, failure to find evidence of breeding must be tied explicitly to those periods during which the evidence is most likely to be available.
- (2) Accordingly, in the case of challenges to the presumption of vernal pool habitat, the Commission may require that the determination be postponed until the appropriate time period consistent with the evidence being presented. The Commission may also require its own site visit(s) as necessary to confirm the evidence. Vernal pool investigations shall be conducted during the amphibian breeding season, or from March 1 to May 31 in any one year. The Commission reserves the right to waive or modify the above time frame at an applicant's request or when current weather conditions warrant.

D. Presumption of significance. Where a proposed activity involves the removing, filling, dredging, or altering of a vernal pool or its adjacent buffer zone, the Commission shall presume that the vernal pool and/or its buffer zone is significant to the protection of wildlife habitat and rare plant and animal habitat.

E. Establishment of a no-disturbance zone. Unless the presumption set forth in § 247-25D of these regulations is overcome, the following standards shall apply to a vernal pool and its buffer zone:

- (1) No-disturbance zone. The Commission may require that no activity shall be permitted within a designated number of feet from the delineated edge of a vernal pool, or in the case of a wetland resource area that encompasses the pool, within a designated number of feet from the delineated edge of said wetland resource area. In many cases, this no-disturbance zone may extend for 50 feet. Prohibited activities include, but are not limited to, mosquito spraying, fertilization, herbicide and pesticide applications, grading, landscaping, vegetation control, pruning, cutting,

filling, excavation, roadway construction and/or driveway construction.

- (2) No-disturbance zone demarcation. To maintain the perpetual integrity of the no-disturbance zones and to ensure that there will be no encroachments into these zones by the applicant or future owners of the subject property, the Commission may require the no-disturbance zone to be marked on the ground, at the applicant's expense, with permanent markers. These markers shall be made of weather-resistant material (i.e., granite or concrete), and the Commission shall determine their number, location and size. The Commission may require the maintenance of such markers in any certificate of compliance issued for the project.
- (3) Vernal pool habitat are those that have been identified as such by the Commission using information such as required by the Massachusetts Division of Fisheries and Wildlife in certifying vernal pools or as in § 247-25B(1), regardless of whether said Division has certified said vernal pool habitat to the Conservation Commission and DEP. The burden of proof of non-significance or non-existence of a vernal pool is on the applicant.

**§ 247-26. Application of herbicides, pesticides, fertilizers or salts.**

- A. For projects proposed after the effective date of these regulations, the Commission may prohibit the use of salts, pesticides, fertilizers and herbicides within the 100-foot buffer zone and within the 200-foot riparian zone.
- B. Possible exemptions to these regulations are the application of herbicides within the buffer zone and application of salt in areas for the express interest of public safety where no other measures are adequate or practicable. The herbicide exemption applies only if the work is performed in accordance with such plans as is required by the Department of Food and Agriculture pursuant to 333 CMR 11.00. rights-of-way management, consistent with M.G.L. ch. 131, § 40, shall apply only if the person proposing such activity has requested and obtained a determination of the boundaries of the buffer zone and areas subject to protection and has submitted that determination as part of the vegetation management plan. Such exemptions are allowed for public utilities for work on structures or facilities used in the service of the public.
- C. The application of herbicides to control nuisance aquatic vegetation may be a permitted activity after Conservation Commission review in the notice of intent or request for determination of applicability process provided all state and federal permitting criteria has been met.

**§ 247-27. Areas of critical environmental concern, priority habitat, or estimated habitat.**

- A. Any areas within the Town of Bellingham which have been designated as areas of critical environmental concern, priority habitat or estimated habitat by the Commonwealth of Massachusetts are so designated due to the particularly unique environmental factors that affect such areas and that highlight the unique importance of each area so designated.
- B. As a result of such designation, it is incumbent upon the Commission to be even more diligent in its review of projects proposed within such areas. The highest standards of scrutiny as to the impact of any proposal are required shall be exercised by the Commission.

**§ 247-28. Emergencies.**

- A. The permit and application required by the Bylaw and these regulations shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or the

Town of Bellingham. Notice, oral or written, shall be provided to the Conservation Commission prior to commencement of work or within 24 hours after commencement, provided that:

- (1) The Conservation Commission certifies the work as an emergency project; and
  - (2) The work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency; and
  - (3) Protective measures required by the Conservation Commission are complied with; and
  - (4) Within 21 days of the commencement of an emergency project, a permit application shall be filed with the Commission for review as provided by this bylaw.
- B. Such notice shall state the name of the person performing the work, the name of the property owner (if different), the property and the location on the property where the work is to be performed, the exact nature of the emergency and of the work which is to be performed, and when the work was begun and when it is expected to be completed. The Commission may, at its discretion, conduct a site visit to view the work being performed under such notice and to confirm that the information in the notice is correct.
- C. Other than stated in this section, the exceptions provided in the Massachusetts Wetlands Protection Act shall not apply.
- D. Any person requesting permission to do an emergency project shall specify why the project is necessary for the protection of the health or safety of the citizens of the Town of Bellingham and what agency of the Town is to perform the project or has ordered the project to be performed.
- E. A single Commissioner or the Commission's designated Conservation Agent can act on a request for emergency certification. A single Commissioner or the Commission's Agent may condition the emergency certification to assure minimum standards for resource area protection are met while the project is ongoing. The full Commission will review the emergency certification within 21 days of issuance and ratify the certificate and take such other action as it deems appropriate.
- F. Any work undertaken as an emergency activity shall be completed within 30 days from the commencement of such work unless written approval for a later completion date is given by the Commission.
- G. No emergency work shall be allowed within estimated habitat which is indicated on the most recent Estimated Habitat Maps of State-Listed Rare Wetlands Wildlife published by the Natural Heritage and Endangered Species Program of the Massachusetts DEP of Fisheries, Wildlife, and Environmental Law Enforcement without express consent of both NHESP and the Commission.

**§ 247-29. Plan requirements.**

- A. Plans shall describe the proposed activity and its effect on the environment. Due regard shall be shown for all natural features such as large trees, watercourses and water bodies, wildlife habitat and similar community assets.
- (1) The following items are set out as a minimum standard. The applicant may submit, or be required to submit, any further information that will assist in the Commission's review and that is deemed necessary to determine the proposed effect on the interests protected by the Bylaw. The Conservation Commission may waive any of these plan requirements it deems insignificant or irrelevant for a particular project.

- (2) The applicant must submit the original material to the Conservation Commission, plus four copies of the following:
  - (a) Complete and signed permit application.
  - (b) An eight-and-one-half-inch-by-eleven-inch reproduction of the USGS quadrangle sheet showing the project locus, and in the case where the project requires two or more plans to show the locus, an eight-and-one-half-inch-by-eleven-inch sheet clearly identifying the proposed site and work in addition to the labeled boundaries of the resource areas.
  - (c) Copies of all submittals in digital form (pdf, dxf and dwg) unless waived or varied by the Conservation Commission.

B. Plan content.

- (1) The following information shall be provided:
  - (a) The names and addresses of the record owner(s), the applicant(s) and of all abutters, as determined by the most recent local tax list as provided by the Assessor's Office, unless the applicant shall have a more recent knowledge of such abutters.
  - (b) Description of any alteration to flood storage capacity on the site. Include calculations and watershed maps if necessary.
  - (c) Soil characteristics in representative portions of the site. Locate all Town-witnessed test pits on the site plan.
  - (d) The Commission may in its sole discretion require the applicant to provide a runoff plan and calculations using the Rational Method, "the Cornell" method or any other applicable method, and based on the ten-year, fifty-year and one-hundred-year-flood frequency event period. Calculations shall show existing and proposed runoff conditions for comparative purposes.
  - (e) Methods to be used to stabilize and maintain any embankments facing any wetlands, or show slope on plans of less than or equal to 3:1.
  - (f) Methods to control erosion and sedimentation during and after construction.

C. Plan specifications.

- (1) Drawings for a request for determination of applicability must be to scale unless waived or varied by the Conservation Commission. All other plans (e.g., for notices of intent) shall be drawn to scale (one inch equals 40 feet maximum) with the title designating the name of the project, location, the name(s) of the person(s) preparing the drawings and the date prepared, including all revision dates; such drawings shall be stamped and signed by a licensed professional engineer or a licensed professional land surveyor of the Commonwealth of Massachusetts. Drawings shall be to NAD88 datum and NAD83 grid coordinate system. All surveying shall be from the ground for coverage of resource areas, including ILSF.
- (2) Drawings must include the boundary and location of all resource areas protected by the Bylaw on the project site and within 100 feet, regardless of whether or not the applicant believes the work is subject to M.G.L. ch. 131, § 40, the Wetlands Protection Act or the Bellingham Wetlands Bylaw

- (3) Alterations.
  - (a) Drawing must include a delineation of all alterations proposed in buffer zones and wetlands and floodplains as indicated below:
    - [1] Areas to be dredged;
    - [2] Areas to be filled;
    - [3] Areas to be altered in any other way;
  - (b) All alterations should be clearly explained in text or footnotes.
- (4) All drawings shall show the distance 25 feet, 50 feet and 100 feet from the resource areas listed in § 247-2A(1) through (8) as well as the riverfront area associated with all streams.
- (5) Calendar dates of measurements, samplings, contours and so forth should appear with such data. Datum shall be stated in NAVD88 base. The contour interval shall be no greater than two feet.
- (6) Indicate existing and final contours and contour interval used, including pond bottom and stream invert contours.
- (7) Indicate locations and elevations of sills and bottom of foundation(s) and septic system(s) (if any).
- (8) Indicate soil and groundwater characteristics in representative parts of property, to be determined by independently-witnessed test pits or soil borings. A minimum of three test pits is required at the location for proposed stormwater management structures.
- (9) Indicate locations, sizes and slopes of existing and proposed culverts and pipes.
- (10) Include cross-section of all wetlands, showing slopes, and bank and bottom treatments for proposed wetland crossings.
- (11) Include existing and proposed water storage capacity of the property, including calculations and data on which the capacity is based. If filling is proposed, determine the effect of loss of storage on downstream channels and culverts.
- (12) Indicate location and elevation of bench mark used for survey.
- (13) Indicate existing trees of 10-inch caliper or greater where work is proposed within upland resource areas (those to be preserved and/or removed), stone walls, fences, buildings, historic sites, rock ridges and outcroppings.
- (14) Indicate invert elevations on catch basins.
- (15) Indicate proposed on-site pollution control devices, such as hooded catch basins, oil absorption pillows, detention/retention basins, flow dissipaters or vegetative buffers.
- (16) Show locations/details of erosion control devices.
- (17) Assessors map and lot number(s) shall be shown.
- (18) If location is within an area of critical environmental concern or estimated habitat, it shall be so indicated on the plan.

- D. The requirements of this section shall be met commensurate with the nature, scope, type, and cost of the proposed project or activity.
- E. Verification shall be provided that the project meets or will meet current zoning bylaw requirements or that zoning variances have been obtained.
- F. Plans submitted shall be the latest version also before for the Planning Board, Board of Health or Zoning Board of Appeals.
- G. Record drawings shall be submitted for acceptance before a certificate of compliance may be issued. Any variations from the approved plans shall be annotated on the record drawings. Six sets of the final record drawings shall be submitted in paper and digital form (.dxf or GIS-compatible format). Record drawings shall be stamped by a professional land surveyor and certified as accurate, and performed and produced in accordance with surveying standards.

**§ 247-30. Areas to be staked prior to site inspection.**

- A. Before site inspections can be made by the Conservation Commission or the Commission's agent, the following conditions must be met:
  - (1) Stakes shall be provided as follows:
    - (a) Stakes indicating the corners of houses or other structures nearest the wetland resource area.
    - (b) Stakes indicating the septic tank and the leaching field location.
    - (c) Stakes indicating the limit of work.
  - (2) Lot number or house number should be posted at location.
  - (3) Edges of all resource areas and the buffer zones shall be delineated.
  - (4) Directions shall be made available to the Commission to locate property.
- B. Failure to have the lot staked may result in non-review and thus delay of a project.
- C. Upon completion of staking, the Conservation Commission shall be notified and a site inspection shall be arranged prior to the scheduled public hearing.
- D. The requirements of this section shall be met commensurate with the nature, scope, type, and cost of the proposed project or activity.

**§ 247-31. Security requirements.**

- A. As part of any permit issued under these regulations, in addition to any security required by any other municipal or state board, agency or official, the Conservation Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:
  - (1) By a proper deposit of money, passbook agreement or tri-party (lender's) agreement sufficient in the opinion of both the Commission and the applicant. This security may be held in common with another Town board or agency for which the same permitted activity or restoration work is being bonded. Written, signed agreement that both boards will sign off prior to release of funds



will be required.

- (2) By a conservation restriction, easement or other covenant approved by both the Commission and the applicant, where applicable, which is enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Bellingham whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.
  - (3) By a lot-based covenant in lieu of financial surety, provided that the market value of the designated lot is at least 150% of the cost of work for which security is required. This is to account for possible downward fluctuation in market value during the course of the project.
- B. The form of any security instrument, easement, restriction or covenant is subject to the Commission's or its counsel's approval.

**§ 247-32. Riverfront area.**

Riverfront area is defined in § 247-4, Definitions, and includes rivers, streams, brooks and creeks. The definitions, critical characteristics, boundaries, presumptions, general performance standards, re-development standards, and grandfathered/exempt projects for riverfront area are identical to those found at 310 CMR 10.58.

**§ 247-33. Stormwater compliance.**

A. Applicability.

- (1) For the protection of resource areas and for flood prevention required under the MA Wetlands Protection Act and the Bellingham Wetlands Bylaw, the Bellingham Conservation Commission has established the following submittal standards for evaluating and mitigating development impacts from the following types of projects:
  - (a) Subdivisions.
  - (b) Commercial projects.
  - (c) Industrial projects.
  - (d) Transportation projects.
- (2) These standards do not apply to the following projects:
  - (a) Subdivisions with upland areas in excess of 80,000 square feet per building lot.
  - (b) Developments of less than two acres.

B. General application standards. A development application shall include information to assess protection of resource areas and flood mitigation. A stormwater management evaluation shall be provided consistent with the DEP Stormwater Management Handbook, the Bellingham Stormwater Management and Erosion Control Handbook, the Bellingham Wetlands Regulations, and the following. Stormwater management designs shall meet the following criteria:

- (1) Outside the Water Resource District, 2-foot minimum separation shall be provided between the stormwater management location<sup>74</sup> bottom and estimated seasonal high groundwater. Within the Water Resource District, 4-foot minimum separation shall be provided between the stormwater

management location bottom and estimated seasonal high groundwater. Where seasonal high groundwater is not observable by redoximorphic features, the Frimpter method shall be used at each test location. The effects of groundwater mounding shall also be considered in meeting the minimum separation requirements.

- (2) A minimum of three test pits shall be provided within each stormwater management location. Soils data from NRCS soils mapping shall be verified by witnessed, on-site soil and groundwater examinations, and soil types characterized accordingly.
- (3) For areas storing stormwater for retention or detention, a minimum 1-foot freeboard shall be provided between the 100-year flood elevation and the emergency overflow elevation.
- (4) Emergency spillways shall be sized for the 100-year peak basin inflow rate, while providing a 6-inch freeboard to the dike crest.
- (5) Any basin outlet less than a 4-inch orifice or a 2-inch slot shall be considered plugged for purposes of flood routing calculations.
- (6) Surface basins shall also be sized assuming frozen ground conditions within the basins — no infiltration — during a 25-year storm event.
- (7) Pipe and basin sizing shall utilize the latest hydrologic data from Cornell University (or other current, accepted hydrological data) to determine the volumes of the 2-, 10-, 25- and 100-year storm for comparison of pre- and post-development runoff.
- (8) Within the Water Resource District, vegetative pretreatment or equivalently-effective system shall be utilized for all impervious area stormwater runoff prior to discharge.
- (9) There shall be no increase in stormwater runoff rate for any of the above-specified storm events. There shall be no increase in runoff volume from a development for up to the 25-year storm.
- (10) Other aspects of the stormwater management shall comply with the requirements of the DEP Stormwater Management Handbook (Volumes 1-3, latest edition).

C. Hydrogeologic assessment standards.

- (1) A development application shall include a hydrogeologic assessment of nutrient impacts to groundwater and surface water. The analysis of the impacts of the development will vary depending on its location in relation to sensitive water resources within the Town. One of three categories will apply. They are:
  - (a) Water Resource District.
  - (b) Zone II protection areas to public drinking water supplies, per the MA GIS designation of a Zone II.
  - (c) The watershed of a surface water body.
- (2) The standards for large projects do not apply, unless specifically required by the Commission to subdivisions with upland in excess of 80,000 square feet per buildable lot or developments of less than two acres.

---

74. Note: Stormwater management locations are those where stormwater is retained, detained or infiltrated, e.g., subsurface or surface basins or infiltration systems, water quality swales, drywells, etc.

- (3) An application shall not be deemed complete unless the required information is submitted. Specific submittal standards may be found at the Town of Bellingham website at [bellinghamma.org](http://bellinghamma.org), Boards and Committees, Conservation Commission, Filing under Bellingham Wetlands Bylaw, Submittal Standards.

### **Derivation Table**

**Chapter DT****DERIVATION TABLE**

**In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the Town of Bellingham Code of Bylaws, as amended through the May 2012 ATM, have been included in the 2013 Code, or the reason for exclusion.**

**§ DT-1. Derivation Table of Code of Bylaws to 2013 Code**

<b>Chapter/Title From Code of Bylaws</b>	<b>Location in 2013 Code</b>
Ch. 1, General Provisions	
§§ 1.01 - 1.03	Ch. 1, Art. I, §§ 1-1 - 1-3
§ 1.04	Ch. 1, Art. III, § 1-7
§ 1.05	Ch. 1, Art. II
§ 1.06	Ch. 1, Art. III, § 1-8
§ 1.07	Ch. 1, Art. I, § 1-4
Ch. 2, Records	
Art. 2.01, Records Kept; Location; Open For Inspection	Ch. 146, Art. I, § 146-1
Art. 2.02, Public Administration Research Collection	Ch. 146, Art. III
Art. 2.03, Building Committee Working Papers	Ch. 146, Art. I, § 146-2
Art. 2.04, Annual Town Report	Ch. 146, Art. II
Ch. 3, Officers and Employees Generally	
Art. 3.01, Officers, Employees, Agents not to Receive Extra Compensation; Exception	Ch. 126, Art. I
Art. 3.02, General Duties of Board of Selectmen	Ch. 159, Art. I
Art. 3.03, Property Inventory to be Kept; Annual Delivery of Inventory Required	Ch. 210, Art. II
Art. 3.04, Grant of License, Permit for Enterprise; Public Hearing; Notice	Ch. 159, Art. II
Art. 3.05, Sale or Trade of Obsolete or Surplus Town Property	Ch. 210, Art. I

<b>Chapter/Title From Code of Bylaws</b>	<b>Location in 2013 Code</b>
Art. 3.06, Personnel Board	Ch. 25, Art. I
Art. 3.08, Conservation Commission - Wetlands Protection	Ch. 235
Ch. 4, Town Meetings	Ch. 205
Ch. 5, Financial Affairs Generally	Ch. 71
Ch. 6, Finance Committee	Ch. 25, Art. II
Ch. 7, Capital Improvements Committee	Ch. 25, Art. III
Ch. 8, Council on Aging	Ch. 25, Art. IV
Ch. 9, Contracts	Ch. 49
Ch. 10, Legal Affairs	Ch. 107
Ch. 11, Animals	Ch. 55
Ch. 12, Buildings and Structures	
Art. 12.01, Permit Fees	Ch. 30, Art. I
Art. 12.02, Inspector of Buildings to Engage in Business	Ch. 30, Art. II
Art. 12.03, Obsolete Signs	Ch. 169
Ch. 13 (Reserved)	Omitted
Ch. 14, Miscellaneous Provisions and Offenses	
Art. 14.01, Junk or Secondhand License Required	Ch. 101
Art. 14.02, Discharging Firearm, Explosive Article	Ch. 76
Art. 14.03, Gravestone Rubbing, Making Impressions Prohibited	Ch. 87, § 87-1
Art. 14.04, Hawkers and Peddlers	Ch. 135, Art. I
Art. 14.05, Veterans' Graves	Ch. 87, § 87-2
Art. 14.06, Group Insurance	Ch. 96
Art. 14.07, Mandatory Recycling; Violations and Penalties	Ch. 178, Art. I
Art. 14.08, Exterior Redemption Vending Machines	Ch. 222
Art. 14, Public Consumption of Marijuana or Tetrahydrocannabinol	Ch. 60, Art. I
Ch. 15, Streets and Sidewalks	
Art. 15.01, Numbering of Buildings	Ch. 35

**Chapter/Title From Code of Bylaws****Location in  
2013 Code**

Art. 15.02, Snow Removal Operations

Ch. 191, Art.  
I

Art. 15.03, Scenic Roads

Ch. 154

Art. 15.04, Water Discharge Upon Public Way

Ch. 191, Art.  
II

Art. 15.05, Temporary Repairs for Certain Private Ways

Ch. 191, Art.  
III

Art. 15.06, Street Opening Permits

Ch. 191, Art.  
IV

Art. 15.07, Selling from Sidewalks, Stalls and Carts

Ch. 191, Art.  
VArt. 15.08, Depositing Dirt, Refuse, Garbage, Wastewater, Filth; In  
Street, Pond, Vacant Lot

Ch. 113

Art. 15.09, Trash Containers

Ch. 178, Art.  
II

## Ch. 16, Traffic and Parking

Art. 16.01, DPW Director Authorized to Remove Vehicles Hindering  
Snow RemovalCh. 216, Art.  
I

Art. 16.02, Off-Road Vehicle Restrictions

Ch. 216, Art.  
II

Art. 16.03, Dwelling in Trailer Coach Park

Ch. 216, Art.  
III

Art. 16.04, Keeping on Premises Unregistered Motor Vehicles

Ch. 216, Art.  
IVArt. 16.05, Consuming Intoxicating Beverages on Public Ways or Other  
Public Property

Ch. 9, Art. I

Art. 16.06, Handicapped Parking

Ch. 216, Art.  
V

## Ch. 17, Vehicles for Hire

Ch. 198

## Ch. 18, Adult Entertainment (disapproved by Attorney General)

Omitted

## Ch. 19, Sewer and Water

Art. 19.01, Sewer Connections

Ch. 165, Art.  
I

Art. 19.02, Pumping Stations

Ch. 165, Art.  
II

Art. 19.03, Water Use Restrictions

Ch. 228, Art.  
I

**Chapter/Title From Code of Bylaws****Location in  
2013 Code**

Art. 19.04, Wastewater Treatment and Disposal Facilities

Ch. 228, Art.  
II

Art. 19.05, Storm Sewer Treatment Facilities Construction

Ch. 165, Art.  
III

Art. 19.06, Traffic Control Lights

Repealed  
10-13-2010  
STM by Art.  
19

Art. 19.07, Discharges to the Storm Sewer System

Ch. 165, Art.  
IV

Art. 19.08, Stormwater Management Systems on Private Property

Ch. 165, Art.  
V

Ch. 20, Commission on Disability

Ch. 25, Art.  
V**Disposition List**

**Chapter DL****DISPOSITION LIST**

**The following is a chronological listing of legislation of the Town of Bellingham adopted since the publication of the Code. Upon publication, the Town Code was up-to-date through the May 22, 2013, Annual Town Meeting.**

**§ DL-1. Disposition of legislation.**

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
STM, Art. 9	10-9-2013	Financial affairs amendment	§ 71-2, § 71-4D, § 71-4E
STM, Art. 11	10-9-2013	Zoning amendment	Ch. 240, Art. XXVI
STM, Art. 12	10-9-2013	Solid waste: residential trash removal	Ch. 178, Art. III
STM, Art. 16	10-9-2013	Ice cream truck vendors	Ch. 92
ATM, Art. 31	5-28-2014	Boards, committees and commissions: residency requirement	Ch. 25, Art. V
ATM, Art. 32	5-28-2014	Peddling and hawking: door-to-door solicitation	Ch. 135, Art. II
Chapter 333, Acts of 2014	10-1-2014	Charter amendment	Charter Sections 4-4-1(b), 5-9-1, 5-9-2, 5-10-1, 5-10-2, 7-9-1, 8-2-2(c)1, 8-2-2(c)3, 8-2-2(c)5
STM, Art. 13	10-8-2014	Property maintenance: registration and maintenance of abandoned and/or foreclosed properties	Ch. 140, Art. I
STM, Art. 16	10-14-2015	Alcoholic beverages: consumption in public amendment	§ 9-2, § 9-3
STM, Art. 17	10-14-2015	Boards, committees and commissions: Personnel Board repealer	Ch. 25, Art. I (Editor's Note only)
STM, Art. 18	10-14-2015	Town Meetings amendment	§ 205-8, § 205-9
STM, Art. 19	10-14-2015	Vehicles and traffic: used car licenses	Ch. 216, Art. VII



Enactment	Adoption Date	Subject	Disposition
STM, Art. 20	10-14-2015	Wetlands protection amendment	§ 235-3
STM, Art. 22	10-14-2015	Scenic roads amendment	§ 154-7
STM, Art. 8	10-19-2016	Littering amendment	§ 113-1
STM, Art. 9	10-19-2016	Contracts and bidding amendment	§ 49-2
STM, Art. 10	10-19-2016	Contracts and bidding amendment	§ 49-5A(1)
STM, Art. 11	10-19-2016	Dogs amendment	§ 55-1, § 55-2, § 55-4, § 55-7, § 55-10, § 55-12E repealer, § 55-15, § 55-16
ATM, Art. 15	6-13-2017	Financial affairs amendment	§ 71-6
ATM, Art. 18	6-13-2017	Zoning amendment	§ 240-28A(2), Ch. 240, Art. XXVII
ATM, Art. 19	6-13-2017	Zoning amendment	§ 240-28A(2), Ch. 240, Art. XXVIII
STM, Art. 12	10-11-2017	Bulk Storage	Ch. 236
STM, Art. 13	10-11-2017	Zoning Amendment	Ch. 240
STM, Art. 1	3-28-2018	Zoning Amendment	Ch. 240
STM, Art. 2	3-28-2018	Zoning Amendment	Ch. 240
STM, Art. 7	10-10-2018	Financial Affairs Amendment	§ 71-6
STM, Art. 14	10-10-2018	Zoning Amendment	§ 240-28A(2); Art. XXIX
	3-7-2019	Zoning Amendment	Ch. 240, Attachment 4

Enactment	Adoption Date	Subject	Disposition	Supp. No.
ATM, Art. 17	5-22-2019	Zoning Map Amendment	NCM	11
ATM, Art. 28	5-22-2019	Town Meetings Amendment	§ 205-2B	10
STM, Art. 15	11-18-2020	Town Meetings Amendment	§ 205-7J and M	10
STM, Art. 16	11-18-2020	Financial Affairs Amendment	§ 71-6E	10

Enactment	Adoption Date	Subject	Disposition	Supp. No.
STM, Art. 9	11-17-2021	Water Resource District Map Amendment	NCM	11
STM, Art. 13	11-17-2021	Financial Affairs Amendment	§ 71-6	11
STM, Art. 17	11-16-2022	General Provisions Amendment; Boards, Committees and Commissions Amendment; Dogs Amendment; Financial Affairs Amendment; Property Maintenance Amendment; Records and Reports Amendment; Sewers Amendment; Solid Waste Amendment; Town Meetings Amendment; Vehicles and Traffic Amendment	§§ 1-2, 1-7; §§ 25-1, 25-4, 25-5, 25-6, 25-9, 25-12, 25-13, 25-14, 25-16, 25-20, 25-28; § 55-4; §§ 71-3, 71-4, 71-5; § 140-4; § 146-4; § 178-3; §§ 205-1, 205-2, 205-3, 205-6, 205-7, 205-10; § 216-2	11
ATM, Art. 18	5-24-2023	Zoning Amendment	Art. XXVI	11
ATM, Art. 20	5-24-2023	General Law Acceptance	NCM	11
ATM, Art. 21	5-24-2023	Financial Affairs Amendment	§ 71-6	11
STM, Art. 1	5-1-2024	Zoning Amendment	§ 240-31, § 240-32	11
ATM, Art. 19	5-22-2024	Vehicles and Traffic Amendment	Art. VIII	11
ATM, Art. 22	5-22-2024	Revolving Fund Expenditure Limit Increase	NCM	11

Enactment	Adoption Date	Subject	Disposition	Supp. No.
FTM, Art. 9	11-20-2024	Zoning Amendment	Art. XXX	11
FTM, Art. 16	11-20-2024	Streets and Sidewalks: Street Openings Amendment	§ 191-15	12
Ch. 400, Acts of 2024	1-10-2025	Charter Amendment	Ch. C	11