

**Chapter 1**  
**GENERAL PROVISIONS**



ARTICLE I  
**Construction and Penalties**  
**[Adopted as Art. 1 of the General Bylaws]**

**§ 1-1. Title.**

These bylaws shall be known as the "General Bylaws of the Town of Westwood." These bylaws shall become effective when approved and published as required by law.

**§ 1-2. Repeal of existing laws.**

The provisions of these bylaws, so far as they are the same as those of previously existing bylaws, shall be construed as a continuation thereof and not as new bylaws. Subject to said limitations and the provisions of the next section, all bylaws in force upon the effective date of this revision, other than those entitled "Zoning Bylaw of the Town of Westwood"; Article 10, "Police Regulations"; Article 11, "Use of Ways"; and Article 12, "Personnel Bylaw," are hereby repealed.

**§ 1-3. Continuance.**

The repeal of a bylaw hereby shall not affect any act done, any penalty or liability incurred, or any right accrued under such bylaw prior to its repeal. Such repeal shall not affect any action or prosecution pending at the time of such repeal. The repeal of a bylaw shall not thereby have the effect of renewing any bylaw theretofore repealed.

**§ 1-4. Manner of repealing, amending or adopting bylaws.**

Any or all of these bylaws, excepting those subject to the requirements of general law, may be repealed or amended or other bylaws may be adopted at any Town Meeting, annual or special, by inserting an article or articles for that purpose in the warrant for such meeting.

**§ 1-5. Penalty for violation. [Amended 5-5-2003 ATM by Art. 32; 5-6-2013 ATM by Art. 18]**

Whosoever violates any bylaw of the Town whereby any act or thing is enjoined, required or prohibited shall forfeit and pay a fine of \$100 for the first offense, \$200 for the second offense and \$300 for any subsequent offenses in any calendar year unless some other penalty is expressly provided by law, or some bylaw of the Town. Whosoever violates any of the Traffic Rules and Regulations shall forfeit and pay for each offense a fine of \$50 unless some other penalty is expressly provided by law, or by some bylaw of the Town.

**§ 1-6. Noncriminal disposition of bylaw violations. [Added 1999 ATM by Art. 20 (Art. 10, § 23 of the General Bylaws); amended 2000 ATM by Art. 30; 5-7-2007 ATM by Art. 29]**

- A. Any bylaw of the Town of Westwood relating to the Board of Health, the Conservation Commission or Building Commissioner or any rule or regulation of the Board of Health, the Town of Westwood, or the Commonwealth of Massachusetts, the violation of which is subject to a specific penalty, may, in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in MGL c. 40, § 21D, said section being incorporated by reference herein.
- B. "Enforcing person" as used in this bylaw shall mean the Health Director and other agents of the Board of Health; the Conservation Agent and other agents of the Conservation Commission and the Building Commissioner.
- C. Any violation issued shall include a due date for payment. Any payment received after said date shall accrue a rate of interest to be established at a rate equal to, or such other rate established by the Board of Selectmen no more than, the interest charged on tax bills under the provision of MGL c. 59, § 57. **[Added 5-1-2017 ATM by Art. 36]**

ARTICLE II

**Acceptance of General Bylaws**

**[At  
the  
Special  
Town  
Meeting  
held  
on  
March  
8,  
2010,  
under  
Article  
1,  
it  
was  
voted  
to  
accept  
the  
renumbering  
and  
recaptioning  
of  
the  
General  
Bylaws  
of  
the  
Town  
of  
Westwood  
as  
set  
forth  
in  
Part  
I  
and  
Part  
II  
of  
this  
Code.  
Article  
1  
was  
approved  
by  
the**

**Attorney  
General  
on  
March  
19,  
2010.  
The  
complete  
text  
of  
Article  
1  
is  
on  
file  
at  
the  
office  
of  
the  
Town  
Clerk.]**

**[At the Annual Town Meeting held on May 3, 2010, under Article 15, it was voted to adopt a number of amendments to the General Bylaws. Throughout the Code, all sections and subsections affected by Article 15 contain a corresponding history (e.g., "Amended 5-3-2010 ATM by Art. 15"). Article 15 also provided for the deletion of Article 14, Codes, of the 2003 General Bylaws and for following general amendments: All references to the Massachusetts General Laws will be standardized to the following format: MGL c. \_\_, § \_\_. All references to "by-law" are amended to read "bylaw." All references to "Chairman" are amended to read "Chairperson." Article 15 was approved by the Attorney General on August 19, 2010. The complete text of Article 15 is on file at the office of the Town Clerk.]**

## **Chapter 6**

### **AGING, COUNCIL ON**

#### **§ 6-1. Appointment.**

The Board of Selectmen shall appoint a Council on Aging in accordance with provisions of MGL c. 40, § 8B; membership and term of office shall be in accordance with provisions of the Town Charter.

#### **§ 6-2. Duties. [Amended 5-3-2010 ATM by Art. 15]**

The Council shall coordinate and carry out programs designed to meet the problems of aging persons in accordance with MGL c. 19A, as from time to time amended, and pursuant to this bylaw. It shall perform the duty of establishing general eligibility standards and selection preferences and priorities with respect to tenant selection for elderly housing units, such units defined under applicable sections of the Zoning Bylaw, as may be constructed within the Town.

#### **§ 6-3. Election of Council officers.**

After appointments are made by the Board of Selectmen and at its first meeting, the Council on Aging shall elect annually a Chairperson and a Secretary.

## **Chapter 30**

### **FINANCE**



## ARTICLE I

**Finance and Warrant Commission<sup>1</sup>**  
**[Adopted as Art. 7 of the General Bylaws]****§ 30-1. Membership and composition. [Amended 1994 ATM by Art. 14; 5-6-2013 ATM by Art. 18]**

There shall be a Finance and Warrant Commission of 15 voters, appointed subject to the provisions of the Town Charter. Five members shall be appointed annually, following the business session of the Annual Town Meeting, and shall serve three-year terms and until their successors have been appointed. The position of a member of the Finance and Warrant Commission shall be vacated whenever a member is certified by the Registrars of Voters as a candidate for elected office in the Town.

**§ 30-2. Organization. [Amended 11-19-1979 STM by Art. 2]**

The first meeting of the Finance and Warrant Commission, after the Annual Town Meeting and after the annual appointment of new members, shall be called by the Finance and Warrant Commission Secretary within 45 days of the final adjournment of the business session of the Annual Town Meeting. At this meeting the Commission shall organize by the choice of a Chairperson and Secretary. The Finance and Warrant Commission may employ a Secretary, not a member of the Commission.

**§ 30-3. Quorum.**

Seven members of the Commission shall constitute a quorum.

**§ 30-4. Attendance.**

If any member is absent from five consecutive meetings of said Commission without reason acceptable to the Moderator, the Chairperson of the Commission shall give notice thereof to the Town Clerk, and upon the giving of such notice the position shall become vacant and the Moderator shall fill said vacancy to complete the unexpired term.

**§ 30-5. Vacancies.**

Whenever a vacancy occurs in the appointed membership of the Commission, notice thereof shall be given in accordance with Chapter 80, § 80-16 of these bylaws. The Moderator shall fill the vacancy as soon as practicable after having been notified by the Town Clerk.

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1. Editor's Note: Article 18, adopted at the 5-6-2013 Annual Town Meeting, changed the name of this commission from the Finance Commission to the Finance and Warrant Commission.

**§ 30-6. Duties. [Amended 5-6-2013 ATM by Art. 18]**

It shall be the duty of the Finance and Warrant Commission to study the financial and other affairs of the Town and to advise with all officers of the Town as to expenditures and recommendations for appropriations to be made by them. All officers of the Town shall on request of the Commission furnish it with all facts, figures, and all other information pertaining to their several departments. Transfers from any sum appropriated by the Town as a reserve fund shall be made by this Commission as authorized by law.

**§ 30-7. Town Meeting warrants. [Amended 5-6-2013 ATM by Art. 18]**

The Finance and Warrant Commission shall consider all articles in the warrants for every Town Meeting and shall report in writing before each Town Meeting in a manner provided by bylaw, its advice, estimates, and recommendations for consideration by the Town Meeting, in accordance with the provision of the Town Charter.

**§ 30-8. Public meetings.**

The Commission shall hold a public meeting with respect to the warrant at least 14 days prior to any Town Meeting and conduct one or more such meetings on the proposed annual budget in accordance with provisions of the Town Charter.

**§ 30-9. Voting record. [Amended 5-6-2013 ATM by Art. 18]**

The recommendation of the Finance and Warrant Commission with reference to the various articles of the Town warrants shall include a poll of the votes taken at the meetings of the Finance and Warrant Commission, said poll to show only the number of Commission members voting in favor or against the actions recommended by the Commission.

**§ 30-10. Delivery deadline for annual report of Finance and Warrant Commission. [Amended 5-6-2013 ATM by Art. 18]**

The Finance and Warrant Commission shall cause to be distributed, no later than seven days before the business session of the Annual Town Meeting, a copy of its annual report to the listed residence of each voter of the Town.

Said annual report shall be published on the Town's website and copies made available at the Town Clerk's office; provided, however, that while it is the intent of this bylaw that every effort shall be made to distribute and post the report as set forth herein, failure to do so shall not invalidate the actions of the Annual Town Meeting.

ARTICLE II  
**General Financial Regulations**  
**[Adopted as Art. 8 of the General Bylaws]**

**§ 30-11. Monies received.**

All fees received by any Town officer by virtue of his office and all fines, penalties and forfeitures for the violation of any bylaws shall be paid into the Town treasury.

**§ 30-12. Actions and claims by and against the Town. [Amended 5-3-2010 ATM by Art. 15]**

The Selectmen may, in all cases not otherwise provided for by law, bring suit in the name of the Town against the principal and sureties, or either or any of them, named in any bond given to the Town by an officer, agent, contractor, or other person, for breach of the condition of such bond. They shall cause the appearance and answer of the Town to be entered and made in all suits brought against the Town and may employ counsel to defend the same. They shall consider all claims made against the Town and may settle the same, provided that in no case shall a settlement be so made by payment of more than \$1,000 without authority from the Town.<sup>2</sup>

**§ 30-13. Sale of tax title property. [Added 1987 ATM by Art. 19]**

The Board of Selectmen may sell, assign, or transfer any tax title property, held by the Town, to the highest bidder after a public auction. Fourteen days' notice of the time and place of the public auction must be made by publication in a newspaper of general local circulation and posting in two or more convenient and public places in the Town. Fourteen days' notice of the intended sale, assignment, or transfer must be sent by registered mail to the abutters of the subject parcel. The sum paid for the tax title property shall not be less than the amount necessary for redemption. Preference shall be given to abutters. This section shall not apply to improved property or to land that would be entitled to the issuance of a building permit.

**§ 30-14. Sale of Town personal property. [Amended 1986 ATM by Art. 15; 5-3-2010 ATM by Art. 15]**

The Chief Procurement Officer may sell or otherwise dispose of personal property under his/her control when the Chief Procurement Officer has been advised by the officer or board in charge of a department that such property is no longer essential to the operation of the Town, provided the value of such property does not, in the opinion of the Chief Procurement Officer, exceed \$1,000 and further provided the Chief Procurement Officer shall first advertise for bids and accept the highest responsible bidder in the case of any sale.

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2. Editor's Note: Original Sections 3 and 4, which immediately followed this section, were deleted by the Attorney General in 1972.

**§ 30-15. Contracts; public bid. [Amended 1981 ATM by Art. 22; 1983 ATM by Art. 41; 1986 ATM by Art. 15; 1991 ATM by Art. 14; 1992 ATM by Art. 20; 2001 ATM by Art. 27; 5-3-2010 ATM by Art. 15; 5-6-2013 ATM by Art. 18; 5-5-2014 ATM by Art. 15; 11-17-2014 STM by Art. 17]**

No contract for the purchase of equipment, supplies or materials; no contract for auditing or consulting work; and no contract for design engineering and construction projects, the actual or estimated cost of which amounts as required by MGL or more, except in cases of special emergency involving health or safety of the people or their property, shall be awarded unless proposals for the same have been invited by advertisement in at least one newspaper of general circulation in the Town, or if there is no such newspaper, in a newspaper published in the county, and, if required by MGL, in the Central Register and/or the Goods and Services Bulletin, and on the Town's web page, which publications are to be at least two weeks before the time specified for the opening of said proposals. Such advertisement shall state the time and place for opening the proposals in answer to said advertisement and shall reserve to the Town the right to reject any or all such proposals. All such proposals shall be opened in public. Unless authorized by the Board of Selectmen, a procurement officer shall not solicit or award a contract for a term exceeding three years, including any renewal, extension, or option. No bill or contract shall be split or divided for the purpose of evading any provision of this section. The Chief Procurement Officer(s) shall be responsible for enforcement of this section.

The Town Administrator shall serve as the Chief Procurement Officer under Chapter 30B of the General Laws and shall be responsible for the procurement and award of all contracts for supplies, services, materials and equipment other than those for the School Department and the library; provided, however, that any contract over \$100,000 shall require the approval of the Board of Selectmen.

**§ 30-16. Contracts; prohibition on execution.**

No contract or change in contract involving the expenditure of money shall be executed by or in behalf of the Town unless approved by the Town Counsel as to form and unless such contract is countersigned by the Town Accountant, who shall certify thereon that the proposed expenditure is not in excess of the appropriation therefor or the unexpended balance thereof.

**§ 30-17. Execution of deeds.**

Whenever it is necessary to execute a deed or other instrument conveying any interest in land belonging to the Town, other than a tax deed, unless it is otherwise provided by law, or by vote of the Town, such deed or instrument shall be executed in behalf of the Town by a majority of the Board of Selectmen and countersigned by the Town Treasurer and it shall be sealed with the Town Seal.

**§ 30-18. Disposition of tax title property. [Amended 5-3-2010 ATM by Art. 15]**

Prior to disposition of any property held by the Town under tax title, the Town Treasurer, or Tax Collector, as the case may be, shall notify in writing the Board of Selectmen, the Conservation Commission and the Planning Board at least 45 days prior to said disposition. Notification shall indicate the land area location and general description of the property in question, name and address of the record owner, and the proposed disposition.

**§ 30-19. Local licenses and permits. [Added 9-25-1989 STM by Art. 10]**

- A. The Town may deny any application for or revoke or suspend any local license or permit, including renewals and transfers, issued by any board, officer, or department for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.
- (1) The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Tax Collector," shall annually furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board. **[Amended 5-2-2011 ATM by Art. 25]**
  - (2) The licensing authority may deny, revoke, or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good

standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

- (3) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- (4) The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

**[Amended 5-3-2010 ATM by Art. 15]**

- B. This section shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; bicycle permits, MGL c. 85, § 11A;<sup>3</sup> sales of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping license, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.

### **§ 30-20. Enterprise fund accounts. [Added 1993 ATM by Art. 10]**

Rates and other charges for an enterprise for which an enterprise fund has been established pursuant to MGL c. 44, § 53F 1/2 shall be so established as to produce revenue that does not exceed the amount of the annual appropriation made for the enterprise, less any funds received for the enterprise from any other source without express authority from the Town Meeting.

### **§ 30-21. Interest and fees on outstanding police and fire detail balance. [Added 2001 ATM by Art. 28]**

All fees for fire and police details must be paid within 45 days of the issuance of the first bill. In the event that such charges remain unpaid after the expiration of 45 days, interest will accrue at the annual rate equivalent to the rate assessed for unpaid property taxes pursuant to the provisions of MGL c. 59, § 57, as said provisions may from time to time be amended. Said interest charges will be calculated and deducted from each payment,

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3. Editor's Note: Section 11A was repealed by St. 2008, c. 525.

with the remaining balance being applied to the principal, and said interest revenue will be deposited in the detail account.

**Chapter 47****INFORMATION TECHNOLOGY DEPARTMENT AND ADVISORY BOARD****§ 47-1. Purpose.**

The Information Technology (IT) Department shall have the sole responsibility to provide information technology services and systems to all Town offices and departments. All information services and systems shall be selected, purchased and operated under the guidance of the Communications & Technology Advisory Board (CTAB).

**§ 47-2. Organization.**

There shall be a department of the Town government, the Information Technology Department, which shall be part of the general government function. There shall be a Communications & Technology Advisory Board (CTAB), as described in § 47-3 below. The Department's operations shall be under the management and control of the Board of Selectmen. The Advisory Board shall serve in an advisory capacity for long-range planning, capital acquisitions and system selection and shall assist in the development of information technology policies and standards. The CTAB shall also provide guidance for matters relating to cable licensing to the Town's issuing authority, Board of Selectmen.

**§ 47-3. Communications & Technology Advisory Board.**

- A. There shall be a Communications & Technology Advisory Board consisting of nine members appointed by the Board of Selectmen and constituted as follows: the Town Administrator, the Director of Information Technology, and seven members at large who shall not be full-time employees of the Town. At least four of the at-large members shall possess technical knowledge and experience in the field of information technology or telecommunications. The Town Administrator and the Director of Information Technology shall serve in an ex officio capacity and thus would not be voting members.
- B. The at-large members of the Advisory Board shall serve three-year terms on a staggered basis so that at least one member will be appointed each year. In the event of a vacancy other than the normal expiration of the term of a member of the Advisory Board, the Selectmen shall, within 90 days after the vacancy occurs, appoint a successor to serve for the balance of the unexpired term.
- C. Meetings of the Advisory Board should be held on a regular basis, not fewer than four times each calendar year. The Town Administrator, the Chairperson or a majority of the Advisory Board may call a meeting at any and all reasonable times. Four voting members of the Advisory Board shall constitute a quorum at all meetings.



- D. The Advisory Board shall, within 30 days after the annual appointment, elect from its membership a Chairperson who shall not be an employee of the Town.

**§ 47-4. Information Technology Department.**

- A. The Town Administrator, with the approval of the Board of Selectmen, shall appoint a Director of Information Technology who shall manage the daily operations of the Information Technology Department. It shall be the responsibility of the Information Technology Department, through the Town Administrator and the Director of Information Technology, to provide information technology services for all Town offices and departments to the extent possible and practical. The Information Technology Department, with the guidance of the Advisory Board, shall be responsible for overseeing and coordinating all information technology activities, including, but not limited to, the selection, acquisition, implementation, operation and maintenance of the Town's information technology, including hardware, software, and applications. The Department shall attempt to accommodate all requests from all departments whenever economically feasible and within the limits of the equipment capability of the Town's resources. All departments shall therefore cooperate to the fullest extent with the Information Technology Department personnel, including the Town Administrator and the Director of Information Technology; provided, however, the Department's duties as provided by any federal, state, or local law, bylaw, rule, or regulation shall prevail. Materials or equipment used in the School Department for classroom instruction shall be excluded from the above provision. **[Amended 5-3-2010 ATM by Art. 15]**
- B. The Town Administrator, with the assistance of the Director of Information Technology and the Advisory Board consistent with MGL c. 41, § 23D, and all fiscal and budgetary requirements, shall continue to bring together under the jurisdiction of the Town's budgetary systems all information technology systems and services for all Town offices and departments into one or more centralized unit(s) of operation.
- C. Each office or department of the Town utilizing any service provided by the Information Technology Department covered by this bylaw shall have control over and be responsible for the data under its jurisdiction as it finds necessary to control its own affairs.
- D. Access to information, issuance of reports, forms controls, operations, commitments, costs of services, training and users approvals as they relate to the Information Technology Department shall be considered appropriate subjects to be covered by rules and regulations to be developed by the Information Technology Department with the assistance of the Advisory Board.

**§ 47-5. Confidentiality.**

- A. Although municipal records are generally of a public nature, it is recognized that certain information to be processed by systems under the jurisdiction of the Information Technology Department is of a classified or confidential nature. The head of any department, board, or commission or other official tribunal having control of such classified or confidential information shall notify the Town Administrator in writing of the classified or confidential nature of the information, who shall thereafter take the necessary steps to protect such classified or confidential information from unauthorized access.
- B. It shall be unlawful for any person to disclose or make known in any manner the contents or nature of any data while in the custody of the Department for processing or any information originated by the Department without the express consent of the head of the department, board, commission or other official tribunal supplying the information or tamper with, modify or destroy any data while in the custody of the Department except in accordance with approved routines for processing the data. Whoever violates any provision of this section shall be subject to appropriate disciplinary action.

**§ 47-6. Emerging technologies.**

It will be the responsibility of the IT Department and CTAB to look forward and accept new systems, technologies and infrastructure issues as they present themselves. This will continue with CTAB and be expanded as new technologies develop.

**Chapter 80**

**OFFICERS AND EMPLOYEES**

ARTICLE I  
**General Provisions**  
**[Adopted as Art. 4 of the General Bylaws]**

**§ 80-1. Term of office.**

A person duly elected to any Town office shall take up the duties of this office as provided in the Town Charter.

**§ 80-2. Public records. [Amended 5-6-2013 ATM by Art. 18]**

Except as otherwise provided for by law, any person having custody of any Town records or books shall, during reasonable business hours and at their regular office or at some convenient place, permit such books and records to be inspected and examined under their supervision. Such officer shall furnish copies thereof on payment of a reasonable fee, as set forth by 950 CMR 32.06; however, if the immediate furnishing of such copies would seriously interfere with the work upon which the officer is then engaged, any such copies shall be furnished pursuant to the state's public records law, 950 CMR 32.05(2).

**§ 80-3. Vacancy in elected office. [Amended 5-3-2010 ATM by Art. 15; 5-6-2013 ATM by Art. 18]**

If a vacancy occurs in the office of Moderator, such vacancy shall be filled in accordance with the Town Charter Section 2-9-2. A vacancy occurring in the office of Selectmen, Town Clerk, Town Treasurer or Tax Collector shall be filled in accordance with the provisions of the General Laws. A vacancy in the office of Regional School Representative shall be filled by vote of the School Committee and Board of Selectmen in accordance with the provisions of the General Laws.

**§ 80-4. Vacancy in elected or appointed boards.**

In the event of vacancy in elected or appointed boards, such vacancy shall be filled in accordance with general law, the Town Charter and these bylaws.

**§ 80-5. Conflict of interest.**

Town officers shall be subject to the conflict of interest laws as set forth in general law.

**§ 80-6. Organization of elected boards.**

All elected boards of the Town shall organize after the Town election and shall notify the Town Clerk, in writing, within 30 days after said election, of their selection of Chairperson and Clerk for the ensuing year subject to the provisions of the Town Charter.

**§ 80-7. Organization of boards appointed under provisions of Town Charter.**

- A. Subject to the provisions of general law, within 30 days or sooner after the final adjournment of the business session of the Annual Town Meeting, the Selectmen shall notify the Town Clerk in writing of all appointments made under applicable provisions of the Town Charter.
- B. The Moderator shall notify the Town Clerk in writing within 30 days or sooner after the final adjournment of the business session of the Annual Town Meeting of all appointments made under applicable provisions of the Town Charter.

**§ 80-8. Annual report by Town officers.**

Each Town officer, board, commission and committee shall annually, on or about the 15th day of January, prepare or cause to be prepared a report, in writing, covering clearly and concisely the work of his department for the preceding year, to be submitted to the Board of Selectmen for inclusion in the Annual Town Report.

**§ 80-9. Minutes. [Amended 11-18-2013 ATM by Art. 17; 5-5-2014 ATM by Art. 28]**

In accordance with MGL c. 30A, § 22, Town boards and committees shall create and approve minutes of all open sessions in a timely manner. Upon approval, said minutes shall, within 10 days, be posted on the Town's website and filed with the Town Clerk; minutes of all open sessions, whether approved or in draft form, will be made available upon request by any person within 10 days.

**§ 80-10. Rules and regulations.**

Rules and regulations made by any Town officer or board shall be made in accordance with the procedures contained in general law.

ARTICLE II  
**Town Clerk**  
**[Adopted as Art. 5 of the General Bylaws]**

**§ 80-11. Record of Town Meetings.**

The Town Clerk shall keep in a record book a complete record of all action taken at all Town Meetings and shall furnish a copy thereof to the Selectmen for inclusion in the Annual Town Report.

**§ 80-12. Statement of monies appropriated.**

The Town Clerk shall promptly after each session of a Town Meeting furnish the Assessors, Finance Commission, Town Accountant and Town Treasurer with a statement of all monies appropriated by the Town at each session and the purpose for which said monies are respectively appropriated.

**§ 80-13. Notice to Town officers of votes affecting their duties.**

The Town Clerk, as soon as possible after a vote of the Town has been passed which relates particularly to or affects the duties of any board, commission, committee or other officer of the Town, shall furnish a copy of such vote to such board or officer.

**§ 80-14. Provision for written ballots.**

The Town Clerk shall provide for use at each Town Meeting a sufficient number of ballots which shall be divided into two sections by a perforation and shall have the word "Yes" printed on one section and the word "No" on the other, each in letters no less than 1/4 inch high.

**§ 80-15. Notice of appointments by Moderator.**

The Town Clerk shall promptly cause to be notified in writing each person appointed by the Moderator.

**§ 80-16. All resignations to be filed with Town Clerk.**

In accordance with general law, no resignation of a Town or district officer shall be deemed effective unless and until such resignation is filed with the Town Clerk or such later time certain as may be specified in such resignation. Upon receipt of a resignation the Clerk shall notify the remaining members, if the resignation is received from a board of two or more members, and shall notify the executive officers of the Town, and such notice shall include the effective date of the resignation.

**§ 80-17. Notice of resignation to appointing authority.**

In the event of resignation of an officer appointed by the Moderator, the Town Clerk shall notify promptly in writing the Moderator of such fact.

**§ 80-18. Record of accepted general laws and special acts.**

The Town Clerk shall keep a record, which shall be printed together with the General Bylaws of the Town, of all acts of the General Court accepted by the Town. The list or table shall be in such form as the Town Clerk may determine, except that the list shall be numbered for purposes of reference and shall be in chronological order.<sup>4</sup>

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4. Editor's Note: See Ch. A500, General Laws and Special Acts.

## ARTICLE III

**Building Commissioner and Inspectors  
[Adopted as Art. 13 of the General Bylaws]****§ 80-19. Building Commissioner. [Amended 1992 ATM by Art. 22;  
5-3-2010 ATM by Art. 15]**

- A. Appointment. The Building Commissioner shall be appointed by the Board of Selectmen for a term of one year and shall serve until his successor has been appointed. The Board of Selectmen shall appoint an Assistant Building Commissioner for a term of one year who shall serve in the temporary absence or disability of the Building Commissioner.
- B. Duties. The Building Commissioner shall be responsible for the enforcement of the Building Code and the Zoning Bylaw of the Town of Westwood.
- C. Qualifications. To be eligible for appointment, the Building Commissioner shall be qualified for the office in accordance with the provisions of the Building Code of the Town of Westwood, as it may from time to time be modified and amended.

**§ 80-20. Inspector of Wires.**

- A. Appointment. The Inspector of Wires shall be appointed by the Board of Selectmen for a term of one year under provisions of MGL c. 166, § 32 and shall serve until his successor has been appointed. The Board of Selectmen shall appoint an Assistant Inspector of Wires who shall serve in the temporary absence or disability of the Inspector.
- B. Duties. The Inspector of Wires shall carry out his duties in accordance with provisions of general law and shall enforce the rules and regulations adopted and from time to time modified by the Board of Fire Prevention Regulations, Massachusetts Department of Fire Services established under MGL c. 143, § 3L. **[Amended 5-3-2010 ATM by Art. 15]**

**§ 80-21. Gas Inspector.**

- A. Appointment. The inspector of gas piping and gas appliances in buildings, who shall be a licensed plumber or licensed gas fitter, shall be appointed by the Board of Selectmen for a term of one year and shall serve until his successor has been appointed in accordance with MGL c. 143, § 3O.
- B. Duties. The Gas Inspector shall enforce the rules and regulations adopted and from time to time modified by the Board of State Examiners of Plumbers and Gas Fitters. **[Amended 5-3-2010 ATM by Art. 15]**

**§ 80-22. Inspector of Plumbing. [Amended 1976 ATM by Art. 31;  
5-3-2010 ATM by Art. 15]**

- A. Appointment. The Inspector of Plumbing shall be appointed by the Building Commissioner in accordance with MGL c. 142, § 11. The Commissioner shall appoint an Assistant Inspector of Plumbing who shall serve in the temporary absence or disability of the Inspector.
- B. Duties. The Inspector of Plumbing shall enforce the Uniform State Plumbing Code as adopted and modified from time to time by the Board of State Examiners of Plumbers and Gas Fitters established under MGL c. 142, as amended.



## ARTICLE IV

**Police Chief****[Adopted 1990 ATM by Art. 14 (Art. 12A of the General Bylaws)]****§ 80-23. Qualifications and procedures for selection of Police Chief.**

The Personnel Board shall draft, and may from time to time amend, a set of qualifications and procedures for the selection of a Police Chief, one of which shall be at least seven years of police experience, except that each year of supervisory experience in the rank of Sergeant or higher shall count for two years. The set of qualifications and procedures shall be filed with the Town Clerk as a public record.

**§ 80-24. Notice of availability of position.**

Prior to making an appointment, the Selectmen shall cause notice of the availability of the position to be posted in places in the Town where notices to employees are generally posted and to be advertised in a newspaper of general circulation in the Town and in such other publications as can be reasonably expected to give notice to qualified applicants.

**§ 80-25. Appointment.**

- A. At least 60 days after publication of the first notice of the availability of the position, the appointment shall be made by the Board of Selectmen in accordance with the qualifications and procedures on file with the Town Clerk, except that one or more of the qualifications or procedures may be waived by the Board of Selectmen.
- B. Pursuant to MGL c. 41, § 97A, the Board of Selectmen will appoint a Police Chief annually or for a term not exceeding three years as the Selectmen shall determine. **[Amended 5-3-2010 ATM by Art. 15]**

**§ 80-26. Discharge, removal, suspension or lowering in rank or compensation; abolishment of position.**

Without his consent in writing, the Police Chief shall not be discharged, removed, suspended for a period exceeding five days, lowered in rank or compensation, nor shall his position be abolished, except for just cause and for reasons specifically given to him in writing by the Board of Selectmen. At least three days after the Selectmen have given the Police Chief a written statement of the specific reasons for the contemplated action, he shall be given a full hearing before them or before a hearing officer appointed by them for that purpose. Within 10 days after the hearing, the Police Chief shall be given a written notice of the decision of the Board of Selectmen stating fully and specifically the reasons therefor.

- A. **Suspension.** A suspension of the Police Chief for a period not exceeding five days may be made by the Chairperson of the Board of Selectmen only for just cause. Within 24 hours of his suspension the Police Chief shall be given written notice stating the specific reasons for the

suspension and informing him that he may, within 48 hours of the receipt of the notice, request in writing a hearing by the Board of Selectmen on the question of whether there was just cause for the suspension. Such a hearing will be held within seven days of receipt of the written notice by the Chief. Within seven days after the hearing the Board of Selectmen shall give the Chief written notice of its decision. By a majority vote, the Board of Selectmen may find that the suspension was for just cause, or may reduce the number of days of the suspension, or may find that it was without just cause. If the suspension is found to be without just cause, the Chief shall be deemed not to have been suspended and he shall be entitled to compensation for the period for which he was suspended. If the number of days of the suspension are reduced by the full Board after hearing, the Chief shall receive compensation based on the number of days restored.

- B. Public hearing. Any hearing under this section shall be public, if requested in writing by the Police Chief, and he shall be allowed to answer the charges against him either personally or through counsel.
- C. Right to arbitration. Should the Police Chief be aggrieved by a decision of the Board of Selectmen he may, within 30 days following the receipt of such decision, file a written notice of demand for arbitration with the Board of Selectmen and the American Arbitration Association. Within 30 days of the receipt of such notice of demand the Board of Selectmen shall file with the American Arbitration Association a complete copy of all proceedings before it, certified by the Clerk of the Board, and it may file any other supplementary documents or statements as may pertain to such matter. The matter shall then be settled by arbitration in the Town of Westwood or within Norfolk County in accordance with the rules then existing of the American Arbitration Association. Such arbitration shall take place as soon as reasonably possible thereafter. In no event shall such arbitration take place after the date when institution of legal or equitable proceedings based on such aggrieved decision would be barred by the applicable statute of limitation.
- D. Judgment on arbitration.
  - (1) The decision rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. In rendering its decision, the arbitrators shall consider whether or not the Board of Selectmen's decision is:
    - (a) In violation of constitutional provisions;
    - (b) In excess of the authority of the Board of Selectmen;
    - (c) Based upon an error of fact or law;
    - (d) Made upon unlawful procedure;
    - (e) Unsupported by substantial evidence;

- (f) Arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.
  - (2) If the arbitrators find that the decision of the Board of Selectmen should be reversed, the Police Chief shall be reinstated in his position without the loss of compensation. The decision of the arbitrators shall be final and conclusive.
- E. Delivery of notice. Any notice required under this section may be delivered by hand to the address shown in the records of the Town. A certificate of the person mailing the notice shall be proof of giving notice.



## ARTICLE V

**Fire Chief****[Adopted 5-1-2017 ATM by Art. 35]****§ 80-27. Duties of Fire Chief.**

There shall be a Fire Department to be under the control of an officer to be known as the Chief of the Fire Department. S/he shall have charge of extinguishing fires in the Town and the protection of life and property in case of fire, medical emergency, or any hazard. S/he shall also act as Forest Warden for the Town. S/he shall purchase subject to the approval of the Selectmen and keep in repair all property and apparatus used for and by the Fire Department. S/he shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns except as herein provided. Officers and firefighters shall be appointed in accordance with the Town Charter. The Chief shall have authority in the administration of the department and shall make all rules and regulations for its operation, all in accordance with the terms of the Charter. S/he shall report to the Town Administrator and shall annually report to the Town the condition of the Department with his/her recommendation thereon. In the expenditure of money, the Chief shall be subject to such further limitations as the Board of Selectmen and Town Administrator from time to time prescribe.

**§ 80-28. Qualifications of Fire Chief.**

The Personnel Board shall draft, and may from time to time amend, a set of qualifications for the selection of a Fire Chief, one of which shall be at least seven years of fire and emergency medical response experience, except that each year of supervisory experience in the rank of Lieutenant or higher shall count for two years.

**§ 80-29. Notice of availability of position.**

Prior to making an appointment, the Selectmen shall cause notice of availability of the position to be posted in places in the Town where notices to employees are generally posted, including within the Fire Department, and to be advertised in a newspaper of general circulation in the Town and in such other media as can be reasonably expected to give notice to qualified applicants.

**§ 80-30. Appointments.**

The appointment shall be made by the Board of Selectmen for a term of not fewer than three and no more than five years.

**§ 80-31. Discharge; removal; suspension; lowering of rank or compensation, abolishment of position.**

Without his/her consent in writing, the Fire Chief shall not be discharged, removed, suspended for a period exceeding five days, lowered in rank or compensation, nor shall the position be abolished except for just cause and for reasons specifically given to him/her in writing by the Board of Selectmen. At least three days after the Selectmen have given the Fire Chief a written statement of the specific reasons for contemplated action, the Fire Chief shall be given full hearing before them or a Hearing Officer appointed by the Selectmen for the purpose. Within 10 days after the hearing, the Fire Chief shall be given a written notice of the decision of the Board of Selectmen stating fully and specifically the reasons therefor.

- A. Suspension. A suspension of the Fire Chief for a period not exceeding five days may be made by the Board of Selectmen, only for just cause. Within 24 hours of his/her suspension, the Fire Chief shall be given written notice stating the specific reasons for the suspension and informing him/her that s/he may, within 48 hours of receipt of written notice, request a hearing before the Board of Selectmen on the question of whether there was just cause for the suspension. Such a hearing will be held within seven days of receipt of written notice by the Fire Chief. Within seven days after the hearing, the Board of Selectmen shall give the Fire Chief written notice of its decision. By majority vote, the Board of Selectmen may find that the suspension was for just cause, or may reduce the number of days of the suspension, or may find that it was without just cause. If this suspension is found to be without just cause, the Fire Chief shall be deemed not to have been suspended and shall be entitled to compensation for the period for which s/he was suspended. If the number of days of the suspension is reduced by the full Board after the hearing, the Fire Chief shall receive compensation based on the number of days restored.
- B. Public hearing. Any hearing under this section shall be public, if requested in writing by the Fire Chief, and s/he shall be allowed to answer the charges against him/her either personally or through counsel.
- C. Right to arbitration. Should the Fire Chief be aggrieved by a decision by the Board of Selectmen s/he may, within 30 days following the receipt of such decision, file a written notice of demand for arbitration with the Board of Selectmen and the American Arbitration Association. Within 30 days of receipt of such notice of demand, the Board of Selectmen shall file with the American Arbitration Association a complete copy of all proceedings before them, certified by the Clerk of the Board, and the Board may file any other supplementary documents or statements as may pertain to such matter. The matter shall then be settled by arbitration in the Town of Westwood or within Norfolk County, in accordance with the rules then existing of the American Arbitration Association. Such arbitration shall take place as soon as reasonably possible thereafter. In no event shall such arbitration take place after

the date when institution of legal or equitable proceedings based on such aggrieved decision would be barred by applicable statute of limitation.

D. Judgment on arbitration.

(1) The decision rendered by the arbitrator shall be final and the judgment then be entered upon in accordance with applicable laws in any court having jurisdiction thereof. In rendering his/her decision, the arbitrator shall consider whether the Board of Selectmen's decision is:

- (a) In violation of constitutional provisions.
- (b) In excess of the authority of the Board of Selectmen.
- (c) Based upon an error of fact or law.
- (d) Made upon unlawful procedure.
- (e) Unsupported by substantial evidence.
- (f) Arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) If the arbitrator finds that the decision by the Board of Selectmen should be reversed, the Fire Chief shall be reinstated to his/her position without loss of compensation. The decision of the arbitrator shall be final and conclusive.

E. Delivery of notice. Any notice required under this section may be delivered by hand to the address shown in the records of the Town. A certificate of the person mailing the notice shall be proof of giving the notice.

## **Chapter 90**

### **PERSONNEL**

#### **§ 90-1. Purpose and authorization.**

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

#### **§ 90-2. Application.**

All Town departments and positions shall be subject to the provisions of this bylaw except elected officers, employees with personal contracts, and employees of the School Department. To the extent that any Town employee is subject to a collective bargaining agreement, in the event of a conflict and/or an inconsistency between said agreement and this bylaw, then said agreement shall govern the terms and conditions of that employee's work.

#### **§ 90-3. Town Administrator.**

Pursuant to Section 6-2-1(k) of the Town Charter, the Town Administrator is responsible for administering personnel policies, practices, rules and regulations, compensation and classification plan and related matters, in consultation with the Personnel Board, for all municipal employees and administering all collective bargaining agreements entered into by the Town.

Additionally, pursuant to Section 6-2-1(a)(i) of the Town Charter, the Town Administrator is authorized to appoint, discipline, suspend or remove Town officers, department heads or principal deputies or agents of elected and appointed boards or officers, and other employees, including employees in civil service positions, for whom no other method of selection is provided by the charter or general or special laws, consistent with the Town's personnel policies and subject to the terms of any applicable collective bargaining agreements; provided, however, that the Town Administrator shall keep the chairman of the Board of Selectmen, or the chairman's designee, informed as to status of all personnel decisions made or to be made hereunder and shall consult with the appropriate department head or principal deputy or agent prior to hiring an employee for that department.

#### **§ 90-4. Human Resources functions.**

The Town Administrator may organize human resources and personnel functions in a Human Resources Department. Subject to appropriation, the Town Administrator may, consistent with the provisions of Section 6-2-1(a)(i) and (ii) of the Charter, appoint a Human Resources Director to



act by and for the Administrator to impartially and equitably oversee all personnel activities and responsibilities of the Town, other than employees of the School Department; provided, however, that the Town Administrator shall retain responsibility for all such delegated acts.

**§ 90-5. Personnel Board.**

- A. Composition; mode of selection; term of office; qualifications. The Moderator shall appoint a Personnel Board consisting of five persons for three-year overlapping terms as provided in Section 7-4-1 of the Town Charter. Each term of office shall commence 30 days following the adjournment of the business session of the Annual Town Meeting, and every member shall serve until a successor is qualified. Any registered voter of the Town may be appointed to the Board; provided, however, that no elected official of the Town or Town employee shall be appointed to the Board. The Board shall annually elect a Chairperson and a Vice Chairperson from its membership at the first meeting following the appointment of new members, and may reorganize as necessary or appropriate. Any three members of the Board shall constitute a quorum for the transaction of business. The affirmative vote of three members shall be necessary for any official act of the Board to be effective.
- B. Powers and duties. The Board shall be responsible for formulating recommendations on and reviewing the classification and compensation plans, which plans shall be subject to such approval as required by law. The Personnel Board shall also evaluate classification of positions generally, including requests for reclassification, and cause a review of all positions in the classification plan at appropriate intervals in accordance with proper personnel practices. The Personnel Board shall also, in consultation with the Town Administrator, monitor the implementation and practices of the Town's personnel policies. Finally, the Personnel Board shall provide advice and assistance, to the extent requested, to the Town Administrator and Human Resources Director on any aspect of personnel policies and practices.

**§ 90-6. Personnel system.**

A personnel system shall be established by promulgation of policies pursuant to § 90-7. The personnel system shall make use of current concepts of personnel management and may include but not be limited to the following elements:

- A. Method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews, and evaluating the personnel system.
- B. Classification plan. A position classification plan for all employees subject to this bylaw shall be established, based on similarity of duties

performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same class. Nothing in the classification plan shall infringe upon or supersede an appointing authority's ability to hire an employee into a newly created position, provided that the Town Administrator and Personnel Board are first consulted regarding an appropriate starting salary. As part of its regular review, the Personnel Board shall seek to update the classification and compensation plans to include any new positions added during the prior year.

- C. A compensation plan. A compensation plan for all positions subject to this bylaw shall consist of:
  - (1) A schedule of pay grades, including minimum, maximum and intermediate rates for each grade; and
  - (2) An official list indicating the assignment of each position to specific pay grades.
- D. A recruitment and selection policy. A recruitment, employment, promotion and transfer policy which ensures that reasonable effort is made to attract qualified persons and that selection criteria are job related.
- E. Personnel records. A centralized recordkeeping system which maintains essential personnel records.
- F. Personnel policies. A series of personnel policies which establishes the rights, the benefits to which certain personnel employed by the Town are entitled, and the obligations of said employees to the Town.
- G. Other elements. Other elements of a personnel system as deemed appropriate or required by law.

#### **§ 90-7. Adoption and amendment of personnel policies.**

The Board of Selectmen shall promulgate personnel policies defining the rights, benefits and obligations of certain employees subject to this bylaw. Policies shall be adopted or amended as follows:

- A. Preparation of policies. Any member of the Board of Selectmen, Personnel Board, the Town Administrator, or any three employees may suggest policies for consideration. The Town Administrator shall refer such policies to the Personnel Board, which Board need not consider any proposal already considered in the preceding 12 months. Any person proposing a new or amended policy shall provide the substance and the reason for the proposed policy in writing. The Personnel Board shall hold a public hearing on any proposed policies or amendments. Any proposed policies or amendments shall be posted at least five days prior to the public hearing in prominent work locations, copies of all proposals shall be provided to representatives of each employee

collective bargaining unit, and a copy shall be submitted to the Board of Selectmen.

- B. Public hearing. The entity responsible for suggestion of the proposed policy or amendment shall present the purpose of the proposal and the implication of any proposed change at the public hearing. Any person may attend the hearing, speak and present information. The Town Administrator and the Personnel Board shall, within 20 days after such public hearing, consider the proposed policies and recommend that the Board of Selectmen adopt the policies (with or without modifications), reject the policies, or indicate that further study is necessary.
- C. Recommended policies. The Town Administrator, or the Personnel Board at the administrator's request, shall transmit recommendations in writing to the Board of Selectmen within 20 days of any recommendation on proposed personnel policies or amendments. The recommendations shall contain the text of the proposed policy or amended policy, an explanation of the policy and the implications of the policy. The Board of Selectmen shall consider recommendations of the Town Administrator and Personnel Board and may adopt, reject or return recommendations for further action. The Board of Selectmen need only act on proposed policies recommended for adoption. Policies shall become effective upon approval of the Board of Selectmen, unless some other date is specified.
- D. Computation of time. In computing time (days) under this bylaw, only days when the Town Hall is open for business shall be counted.

#### **§ 90-8. Severability.**

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

### **Chapter 113**

#### **SEWER COMMISSIONERS, BOARD OF**

##### **§ 113-1. Authority.**

The Board of Sewer Commissioners, elected in accordance with the provisions of the Town Charter, and acting for and on behalf of the Town, shall have full power and authority to construct and operate a system of sewers and drains in accordance with the provisions of Chapter 380 of the Acts of 1955 and subsequent adopted amendments and related acts, and provisions of general law as they may from time to time be modified and amended.

### **Chapter 122**

## **SPECIAL COMMITTEES**

### **§ 122-1. Definition.**

- A. The words "special committee" shall mean a committee established by vote of the Town Meeting for the purpose of studying a specified subject or subjects, said committee to report to the Town its findings and recommendations. Unless otherwise provided in the vote establishing said committee, the Selectmen shall have power to appoint all members under provisions of the Town Charter.
- B. This section shall not be construed to exclude the establishment of committees other than those created by vote of the Town, said committees, at the discretion of the selectmen, to be established as special committees or as ad hoc or advisory committees.

### **§ 122-2. Appointment.**

Within 45 days of any such vote, the persons chosen as members of a special committee shall be so notified in writing by the appointing authority.

### **§ 122-3. Organization.**

Unless otherwise provided, the first named member of a committee shall immediately call all members together for purposes of organization, the election of a chairperson, and the election of a secretary who shall keep records of the official business of the committee.

### **§ 122-4. Records of special committees.**

The records of said committee shall include the minutes of all meetings, any reports of progress and final reports, and such records shall be filed for preservation with the Town Clerk. If the Selectmen deem best or the Town so votes, the report of a special committee shall be published as part of the next Annual Town Report.

### **§ 122-5. Discharge of duties.**

A special committee shall proceed with its duties and report to the Town (and, when requested, to the appointing authority) as promptly as possible, and it shall make a report of progress or a final report at the next Annual Town Meeting. Following the completion of its duties, said committee shall request its discharge by vote of the Town at either a regular or a special Town Meeting.

### **§ 122-6. Requirement for continuation of members in office.**

All members of a committee which fails or neglects to make a report at each Annual Town Meeting shall by such failure be held to have resigned and without further action or vote new members shall be appointed.

**§ 122-7. Report to Finance and Warrant Commission. [Amended 5-6-2013 ATM by Art. 18]**

A special committee shall submit a copy of its report to the Finance and Warrant Commission for its consideration before said report can come before the Town for action. Reports to an Annual Town Meeting shall be submitted no later than two months before the date of the meeting, and reports to a Special Town Meeting no later than 21 days before the date of said meeting.

**§ 122-8. Action on committee report.**

A vote to accept the report of a committee shall not be equivalent to a vote to carry out the committee's recommendation. Under Chapter 138, § 138-6 of these bylaws, a committee may seek a vote of the Town to carry out its recommendations.

**Chapter 138****TOWN MEETINGS**



ARTICLE I  
**Call and Notice of Town Meetings**

**§ 138-1. Annual elections.**

The Annual Town Meeting for the election of officers and for the balloting on all matters which are to be determined by official ballot shall be held on the day provided in the Town Charter. The polls shall open at 7:00 a.m. and shall remain open until 8:00 p.m.

**§ 138-2. Annual Town Meeting. [Amended 5-6-2013 ATM by Art. 18; 5-5-2014 ATM by Art. 28]**

All business, except the election of officers and determination of such matters as by law are required or permitted to be upon the ballot, shall be considered at an adjournment thereof, as provided in the Town Charter. There shall also be a second business session Annual Town Meeting held on the second Monday in November unless said day shall fall on a state holiday in which case the meeting shall be held on the next business day, which meeting shall be an "Annual Town Meeting" for purposes of the General Laws; provided, however, that the Board of Selectmen may, at its discretion, cancel said Fall Annual Town Meeting, no later than September 15 in any year, so long as no more than 10 petitioned articles have been submitted for inclusion on the warrant of said Fall Annual Town Meeting, as set forth in the Charter, Section 2-6-1. Business sessions shall be called for 7:30 p.m.

**§ 138-3. Town Meeting warrant. [Amended 5-6-2013 ATM by Art. 18]**

Every Town Meeting shall be called by a warrant, directed by the Board of Selectmen to a constable or other duly appointed person, which shall be served by posting attested copies thereof online and in four public places equally distributed among the four precincts, and at least seven days before the time stated in the warrant for holding an Annual Town Meeting or at least 14 days before the time stated in the warrant for holding a Special Town Meeting.

**§ 138-4. Publication and printing of warrant. [Amended 1977 ATM by Art. 43; 5-6-2013 ATM by Art. 18]**

The Finance and Warrant Commission shall distribute at least 30 days prior to the business session a summary of each article contained in the warrant of the Annual Town Meeting to the listed residence of each voter of the Town. A copy of the complete warrant shall be included in the Finance and Warrant Commission report for the Annual Town Meeting and shall also be distributed to the listed residence of each voter of the Town prior to such annual Meeting. Prior to each Special Town Meeting, the Finance and Warrant Commission shall distribute a summary of each article contained in the warrant for said meeting to the listed residence of each voter of the Town. The summaries and reports required hereunder shall be posted on

the Town's website and copies made available at the Town Clerk's office; provided, however, that while it is the intent of this bylaw that every effort shall be made to distribute and post the summaries and reports as set forth herein, failure to do so shall not invalidate the action of the Town Meeting to which they relate.

**§ 138-5. Return of warrant to Town Clerk.**

The constable or person who serves a warrant for a Town Meeting shall, immediately after making service thereof, deliver to the Town Clerk the original warrant, with his return endorsed thereon stating fully the manner in which he served the same.

**§ 138-6. Articles of warrant.**

No business shall come before the meeting without an article for that purpose being inserted in the warrant, which shall set forth the subject matter to be considered and acted upon at such meeting. The name of the principal sponsor shall appear with all articles, to be printed following said article in the warrant, and, in the case of a petition article, shall include the address of the first petitioner.

**§ 138-7. Petition. [Amended 5-6-2013 ATM by Art. 18]**

As provided by law (MGL c. 39, § 10), 200 registered voters may petition the Selectmen to call a Special Town Meeting, 100 registered voters may insert an article in the warrant for any Special Town Meeting, and 10 registered voters may insert an article in the warrant for an Annual Town Meeting.

**§ 138-7.1. Pre-petition. [Added 5-6-2013 ATM by Art. 18]**

- A. Any five voters of the Town may submit to the Board of Selectmen or the Finance and Warrant Commission, not less than 30 days prior to the closing of the warrant, a proposed warrant article and shall designate a "lead petitioner" for the purposes of this section.
- B. The Board of Selectmen or the Finance and Warrant Commission shall include the proposed article on an agenda at a regular or special meeting for discussion and provide the lead petitioner with nonbinding guidance no later than seven days prior to the close of the warrant.
- C. Failure to submit an article under this section shall not prevent the filing of a petition under § 138-7; provided, however, that any guidance provided to the petitioners under this section shall not be binding on the Finance and Warrant Commission or Board of Selectmen in the event that a petition is submitted under § 138-7.



**§ 138-8. Warrant articles to Finance and Warrant Commission.  
[Amended 5-6-2013 ATM by Art. 18]**

Copies of all articles submitted for insertion in the warrant for any Annual or Special Town Meeting shall be forwarded forthwith by the Selectmen to the Finance and Warrant Commission for its consideration.

**§ 138-9. Adjournment notice.**

Copies of the vote adjourning any Town Meeting, except the stated adjournment of the Annual Town Meeting, shall be posted by the Town Clerk in at least two public places as soon as practicable after the adjournment. The notice shall include a brief statement of the business remaining to be acted upon.



## ARTICLE II

**Procedure of Town Meetings for the Transaction of Municipal Business****§ 138-10. Call to order.**

Immediately after the call to order, the warrant for the Town Meeting shall be read by the Moderator, unless the meeting votes that the reading of the articles in the warrant be dispensed with.

**§ 138-11. Admittance to hall.**

No person whose name does not appear upon the list of registered voters shall be admitted to the hall where a Town Meeting is being held, except with the permission of the Moderator. The Moderator shall determine the bounds of the hall.

**§ 138-12. Quorum.**

The number of registered voters necessary to constitute a quorum at any Town Meeting held for the transaction of municipal business shall be 175, but a smaller number may adjourn any meeting to a stated time and place. The determination and announcement of a quorum present by the Moderator shall be conclusive upon the question of fact, unless determination be doubted, in which case a count shall be taken and recorded.

**§ 138-13. Duties of Moderator.**

The Moderator shall preside at the meeting and shall preserve order and decorum. The Moderator may appoint a voter to perform the duties of Moderator while he addresses the meeting, or in case he is called away from the meeting.

**§ 138-14. Questions of order.**

The Moderator may speak to points of order in preference to other voters and he shall decide all such questions. Every question of order with the decision thereon shall be entered by the Clerk in his records of the meeting.

**§ 138-15. Motions and order of business.**

- A. Majority vote. Unless otherwise provided by law or bylaw, all motions shall require a majority vote of the voters present and voting. A motion may be withdrawn by the mover if no objection is made.
- B. Resolutions. Resolutions shall be presented in writing to the Moderator and entertained at his discretion.
- C. Order of business. All articles in the warrant shall be taken up in order of their arrangement unless otherwise decided by a two-thirds vote

of those present and voting. No motion to lay on the table shall be entertained at any time by the Moderator.

D. Motions under the article; negative and affirmative motions.

- (1) The recommendation of the Finance and Warrant Commission shall be the first motion under an article of the warrant and shall be considered the main motion. **[Amended 5-6-2013ATM by Art. 18]**
- (2) A motion for indefinite postponement shall be equivalent to a motion that no action be taken under the article and such motion may not be amended.
- (3) If the vote of the Town shall defeat the motion of indefinite postponement, favorable action on the subject matter of the article shall require a motion to that effect.
- (4) Any motion shall be reduced to writing if the Moderator so requests.

E. Permitted reports. No reports of committees shall be in order unless made under an article in the warrant which indicates the subject to be reported upon, or the report of the Finance and Warrant Commission on an article indicates the subject to be reported upon. **[Amended 5-6-2013ATM by Art. 18]**

F. Motion to dissolve. No motion, the effect of which would be to dissolve the meeting, shall be in order until the subject matter of every article in the warrant for such meeting has been finally disposed of, but this shall not preclude an adjournment of the meeting to another time and place.

**§ 138-16. Reconsideration. [Amended 2001 ATM by Art. 24]**

A motion to reconsider an article may only occur on the same night the article was voted and shall require a two-thirds vote of those present and voting and shall not be made again.

**§ 138-17. Rules of debate.**

- A. Every person desiring to speak shall rise, respectfully address the Chair and wait until he is recognized by the Moderator, and shall stand while speaking unless the Moderator directs otherwise. He shall confine himself to the question under consideration and avoid personalities.
- B. No person shall address the meeting without first being recognized by the Moderator, and all persons shall, at the request of the Moderator, be silent. When two or more persons shall rise to speak at the same time, the Moderator shall name the one entitled to speak.
- C. Without first obtaining leave of the meeting, no person shall speak more than twice on any question except to correct a mistake or misstatement, or to make an explanation, and no person shall speak more than 10

minutes at any one time without being again recognized by the Moderator.

- D. Limiting debate. Any motion to move the question or otherwise limit debate shall require a two-thirds vote of those present and voting.
- E. Any person who is employed as an attorney to speak on any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon.
- F. Voice vote. When a question is put, even if the motion requires a two-thirds affirmative vote to carry, the sense of the meeting shall be determined by the voices of the voters, and the Moderator shall first announce the vote as it appears to him by the sound, unless otherwise provided by general law. **[Amended 2001 ATM by Art. 25]**
- G. Standing or written vote. If the Moderator is unable to decide by the sound of the voices, or if his announcement of the vote is thereupon doubted by seven or more voters raising their hands for that purpose, the Moderator shall without debate determine the vote by ordering a standing vote, and he may appoint tellers to make and return the count, or he may order a vote by secret written ballot.
- H. Secret ballot. A written ballot, to be taken by a "yes" and "no" secret ballot, and in such manner as the Moderator shall determine, may be ordered on any motion by a majority of voters present and voting.
- I. Dividing the question. If a motion is susceptible of division, it shall be divided and the vote on each part taken separately if a majority of those present and voting so vote, or if the Moderator, in his discretion, so rules.

**§ 138-18. Further rules of procedure.**

In the conduct of all Town Meetings not prescribed by law or by these bylaws, the Moderator shall be guided by the rules of practice contained in Johnson, Trustman and Wadsworth, Town Meeting Time, A Handbook of Parliamentary Law, Little, Brown and Company.

**Chapter 142****TOWN REPORT, ANNUAL****§ 142-1. Contents. [Amended 1977 ATM by Art. 44; 11-19-1979 STM by Art. 3]**

The Annual Town Report shall contain the following:

- A. All the reports prescribed under Chapter 80, § 80-8 of these bylaws.  
**[Amended 1999 ATM by Art. 22]**
- B. Specific statements as to what Town ways and county ways have been laid out, altered or ordered.
- C. A statement of all damages assessed and paid.
- D. A detailed statement of all outstanding claims and of all claims presented against the Town in the previous fiscal year.
- E. A report of suits commenced by or brought against the Town, and the circumstances relating thereto.
- F. A statement of all repairs made upon public buildings.
- G. Such other matters as required by general law or the Selectmen consider expedient.

**§ 142-2. Distribution deadline. [Amended 5-6-2013ATM by Art. 18]**

The Selectmen shall, on or about the 25th day of February, cause the Annual Town Report to be posted on the Town's website with copies available at Town offices.

**Chapter 175****ALARM SYSTEMS**

## ARTICLE I

**Police Alarm Systems****[Adopted 1982 ATM by Art. 26 (Art. 10, § 15 of the General Bylaws)]****§ 175-1. Definitions. [Amended 5-3-2010 ATM by Art. 15]**

For the purpose of this bylaw, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in present tense include the future; words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**ALARM SYSTEM** — The term "alarm system" means an assembly of equipment and devices or a single device, such as a solid state unit which plugs directly into a one-hundred-ten-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provision of this bylaw. The provisions of § 175-3 of this bylaw shall apply to all users.

**FALSE ALARM** —

A. The term "false alarm" means:

- (1) Activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.
- (2) Any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when, in fact, there has been no unauthorized intrusion, robbery or burglary, or attempt thereat.

B. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

**§ 175-2. Control and curtailment of signals emitted by alarm systems.**

A. Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed.  
**[Amended 5-3-2010 ATM by Art. 15]**

B. All alarm systems installed after the effective date of this bylaw which use an audible horn or bell shall be equipped with a device that will

shut off such horn or bell within 10 minutes after activation of the alarm system.

- C. Any alarm system emitting continuous and uninterrupted signal for more than 15 minutes between 7:00 p.m. and 6:00 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under Subsection A of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under Subsection A of this section in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and time each complaint was made.

**§ 175-3. False alarms.**

- A. Upon receipt of three or more false alarms within a calendar year, the Police Chief may:
- (1) Order the user to discontinue the use of the alarm;
  - (2) Disconnect any direct connections to the Police Department;
  - (3) Order that further connections to the communications console in the Police Department will be contingent upon the user equipping any alarm system with a device that will shut off any audible horn or bell within 10 minutes after activation of the alarm system.
- B. The user shall be assessed \$50 as a false alarm service fee for each false alarm in excess of three occurring within a calendar year. All fees assessed hereunder shall be paid to the Town Treasurer for deposit to the general fund.



## ARTICLE II

**Fire Alarm Systems****[Adopted 1984 ATM by Art. 39 (Art. 16 of the General Bylaws)]****§ 175-4. Definitions. [Amended 5-3-2010 ATM by Art. 15]**

For the purpose of this bylaw, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in present tense include the future; words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**AUTOMATIC DIALER** — The term "automatic dialer" means any device capable of transmitting an alarm of fire to the Fire Department over a telephone line and received in a recorded voice form by the Fire Department and may only be used to report fire alarm activations.

**FIRE ALARM SYSTEM** — The term "fire alarm system" means an assembly of equipment and devices or a single device, such as a solid state unit which is powered electrically or mechanically, arranged to signal the presence of a hazard requiring urgent attention and to which the Fire Department is expected to respond. Fire alarm systems monitor temperature, smoke, extinguishing systems, and hazardous flammable gases and include manual pull station. Any other condition not directly related to the detection of fire is specifically excluded from the fire alarm system.

**FIRE ALARM SYSTEM OWNER** — An individual or entity who owns title to and/or has, on a business or residential premises, a fire alarm system equipped so as to send a fire alarm signal to a central station operating company or directly to the Westwood Fire Department by way of a master box.**[Added 1991 ATM by Art. 17]**

**MASTER BOX OWNER** — Connection of a fire alarm system to the Westwood Fire Department through a master box. Every master box owner whose fire alarm system, on the effective date of this bylaw, is connected to the Westwood Fire Department by way of a master box shall pay, on an annual basis, fees for residential, business, or commercial property and any connection or reconnection fees, as shall be established from time to time by the Board of Selectmen after a public hearing.**[Added 1991 ATM by Art. 17]**

**NEEDLESS ALARM** — The term "needless alarm" means activation of a fire alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances, shall not be deemed to be a needless alarm.

**§ 175-5. Regulations.**

- A. Every fire alarm user shall submit to the Fire Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by a fire alarm system and who can open the premises wherein the fire alarm system is installed.
- B. All automatic dialers shall use a telephone number designated by the Fire Chief and installed in the Fire Department specifically for automatic dialers. No published or listed telephone number of the Fire Department may be used by any automatic dialer. In the event of an automatic dialer not disconnecting from the designated Fire Department telephone line, the Fire Chief may require that automatic dialer be removed or replaced.
- C. The Town of Westwood Fire Department assumes no liability if a call is missed or the line is tied up for any fire alarm reported by an automatic dialer.
- D. A fee of \$25 per year shall be charged payable at the time of installation of an automatic dialer and on or before January 31 each year thereafter. This fee shall be paid to the Town Treasurer for deposit in the general fund. **[Amended 1991 ATM by Art. 17]**
- E. Connection of a fire alarm system to the Westwood Fire Department through a master box. Every master box owner whose fire alarm system on the effective date of this bylaw is connected to the Westwood Fire Department by way of a master box shall pay the following fees:  
**[Added 1991 ATM by Art. 17; amended 1994 ATM by Art. 6; 1996 ATM by Art. 26]**
  - (1) Annual fees:
    - (a) Residential, business or commercial property: \$200 per box.
    - (b) Maximum charge per property: \$250.
  - (2) Connection fee or reconnection fee: \$100.
- F. Updating information. Every master box owner shall be responsible, on an annual basis, for updating the information herein required to be provided to the Fire Chief. The master box owner shall provide the Fire Chief with the updated information and shall pay the fee, if any, required by this bylaw. If a master box owner fails to comply with this section, the Fire Chief may assess a fine of \$50. **[Added 1991 ATM by Art. 17]**
- G. Information to be provided. **[Added 1991 ATM by Art. 17]**
  - (1) Before any fire alarm system is connected to the Westwood Fire Department, the master box owner shall provide the Fire Chief with the following information:
    - (a) The name, address and home and work telephone numbers of the master box owner.

- (b) The street address where the master box is located.
  - (c) The names, addresses and telephone numbers of the persons or businesses protected by the fire alarm system connected to the master box.
  - (d) The names, addresses and home and work telephone numbers of at least two persons other than the owner who can be contacted 24 hours a day, and who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located.
  - (e) Such other information as the Fire Chief may require.
- (2) In the event a fire alarm system has been connected to the Westwood Fire Department by way of a master box prior to the adoption of this bylaw, the master box owner shall fully comply with the requirements of this section within 60 days after notice, by first-class mail, of the requirements of this section. If a master box owner fails to comply with this section, the Chief may assess a fine of \$50 per day for each day of noncompliance.
- H. All newly permitted (commercial and/or multiunit residential) buildings will be required to install a radio master fire alarm box in place of the hard wire boxes now utilized. **[Added 5-2-2006 ATM by Art. 40]**
- I. All newly permitted (commercial and/or multiunit residential) buildings will be required to install a radio repeater system to bolster and retransmit signals from portable radios during emergencies. Said radio repeat system will be in accordance with the requirements and specifications of the Fire Chief. **[Added 5-2-2006 ATM by Art. 39]**

**§ 175-6. Fire alarm system needless alarm fines. [Amended 1991 ATM by Art. 17]**

- A. In the event of a fire alarm system needless alarm as hereinbefore defined, the Fire Chief may assess a fine against a fire alarm system owner for each such needless alarm per fiscal year according to the following schedule:
- (1) First through third needless alarm: no fine will be assessed. However, upon the receipt of the third needless alarm, the Fire Chief shall notify the owner of the fire alarm system in writing that there have been three needless alarms.
  - (2) Fourth through sixth needless alarm: \$100 per alarm.
  - (3) Seventh through 11th needless alarm: \$200 per alarm.
  - (4) Each needless alarm after the 11th: \$300 per alarm.

- B. Private fire alarm systems connected to the Westwood Fire Department by other means, including automatic dialers and central station systems, shall be subject to the same fine schedule.
- C. All fines assessed shall be paid to the Town of Westwood for deposit in the general fund. If the fine is not paid within 30 days a final notice will be sent informing the owner and/or occupant that the master box will be disconnected and the insurance company notified.
- D. The Fire Chief, in addition to levying fines as provided herein, may order the owner of an automatic dialer to discontinue its use.
- E. Failure to pay the annual service fee within 30 days after issuance of the bill may subject the owner of the system to be fined \$50 per day for each day that the service fee remains unpaid and disconnection of the system at the discretion of the Fire Chief.

**Chapter 179****ALCOHOLIC BEVERAGES****§ 179-1. Consumption restricted.**

- A. No person shall drink any alcoholic beverage as defined in MGL c. 138, § 1:
- (1) While in or upon any public way or alley or any way to which the public has a right of access, whether in or upon a vehicle or motor vehicle or on foot; or
  - (2) While in or upon any place to which the public has access as invitees or licensees, including but not limited to parks, reservations, playgrounds and conservation land; or
  - (3) While in or upon any private land, building, structure or place without the consent of the owner or person in control thereof.
- B. All alcoholic beverages in possession of a person or persons in violation of this bylaw shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person or persons entitled to lawful possession.
- C. Notwithstanding any general, zoning, or other bylaw, rule or regulation to the contrary, the provisions of this Chapter 179 shall not apply to the service or consumption of alcohol within any licensed premises, inclusive of outdoor seating areas, that are located within the University Avenue Mixed Use District, and subject to an approved Master Development Plan under Section 9.8 of the Westwood Zoning Bylaw. **[Added 5-6-2013 STM by Art. 5]**

**Chapter 184****ANIMALS**



ARTICLE I  
**Animal Control**  
**[Adopted 5-6-2013 ATM by Art. 19<sup>5</sup>]**

**§ 184-1. Definitions.**

The following terms shall have the meanings herein given:

AT LARGE — Means unaccompanied by a responsible person.

ANIMAL CONTROL OFFICER — Means that person appointed by the Selectmen or otherwise serving in the capacity of Animal Control Officer for the Town of Westwood.

OESTRUS CYCLE — Means the technical term for the common expression "in heat."

OUT OF CONTROL — Means accompanied by a person not exerting the proper supervision.

RESTRAINED — Means being kept leashed when outside the bounds, or fenced within the bounds of the property of the owner or keeper.

**§ 184-2. Complaints.**

If any person shall make a complaint in writing (Note: A supply of forms which may be used for this purpose shall be available from the Town Clerk, Animal Control Officer, or police station.) and under oath the Animal Control Officer of Westwood that any dog has committed a violation of any of the provisions listed in § 184-4, the Animal Control Officer shall investigate such complaint and after finding such violation shall cause such dog to be impounded or restrained and cause the owner or keeper of such dog to receive a written warning or pay a penalty as set forth in § 184-3. The Animal Control Officer shall keep a written record of each such investigation and shall provide a copy thereof to the owner or keeper of the dog and the complainant.

**§ 184-3. Penalties.**

The penalty imposed upon an owner or keeper of a dog which has committed a violation of any of the provisions listed in § 184-4 except for those offenses set forth in § 184-4A(5) and (6) shall be \$25 for the first offense, \$50 for the second offense and \$75 for each subsequent offense. The penalty for violations of any of the provisions listed in § 184-4A(5) and (6) shall be a mandatory penalty of \$50 for the first offense and \$100 for each subsequent offense.

**§ 184-4. Violations.**

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5. Editor's Note: This article also repealed former Ch. 184, Animals, comprised of Art. I, Dog Control, adopted 1973 ATM by Art. 3 (Art. 15 of the General Bylaws), as amended.

- A. The Animal Control Officer shall cause penalties to be invoked for any of the following reasons:
- (1) If found without a license, collar, or tag as required by MGL c. 140.
  - (2) If found at large when in her oestrus cycle, or if creating a nuisance.
  - (3) No dog shall be permitted to be unrestrained while in or near any school yard, public park, public playground, public cemetery, or public or school recreational field or facility. Further, no person shall permit a dog under that person's control to defecate on any school yard, public park, public playground, public cemetery, or public or school recreational field or facility or any public property abutting thereto. Further, no dog shall be permitted to be at large or out of control of a responsible person in any other public area not designated within this subsection.
  - (4) If found at large or not in control of dog's owner.
  - (5) For having bitten, injured, or physically harmed any person or domestic animal; or having caused any person to be fearful for their safety by chasing, worrying, snapping, or otherwise frightening said person.
  - (6) For having bitten or injured any domestic animal.
  - (7) For chasing any vehicle or bicycle on a public way or way open to public traffic.
  - (8) If the dog is found to bark, howl, or in any other manner to basically disturb the quiet of any person.
  - (9) For having disturbed, spilled, or otherwise upset rubbish or trash.
  - (10) For having littered, defecated, or caused damage to the property of any person (except for the property of the owner/keeper of the dog).
  - (11) If found at large or out of control after having been ordered restrained by the Animal Control Officer.
- B. An impounded dog or domestic animal shall be released to its owner or keeper upon payment of the penalty as described in § 184-3 and upon payment of the pound fees as provided for in MGL c. 140. The following conditions, if applicable, shall also apply:
- (1) In the case of a dog impounded under Subsection A(1) above, upon the obtaining of a license as required by law.
  - (2) Except as hereinafter provided in § 184-5, in the case of a dog impounded under Subsection A(2) above, upon the agreement of the owner or keeper to undertake such restrictions or controls of



the animal to prevent violations of Subsection A(2) as the Animal Control Officer shall reasonably require.

- C. Dogs impounded and unclaimed by the owner or keeper within seven days may be put up for adoption or euthanized in accordance with the MGL c. 140, § 151A.
- D. For purposes of Subsection C above, no dog shall be obtained for the purpose of scientific experimentation, investigation, or instruction as discussed in MGL c. 140, § 151.

#### **§ 184-5. Control of dogs in oestrus cycle.**

If the Animal Control Officer determines that a dog in her oestrus cycle is attracting other dogs to the area, which conditions cause disturbances on or damage to neighboring property or public areas, he may impound the dog for the duration of the oestrus cycle, releasing it thereafter to the owner or keeper upon payment of penalties, if applicable, and upon payment of pound fees; as an alternative, the Animal Control Officer may require that the owner, or keeper, place and keep such a dog, while in such cycle, in a kennel or remove it from the area so that the nuisance is abated.

#### **§ 184-6. Control of dogs.**

- A. Restraint of dogs. In addition to and not in limitation of any other remedies or penalties, the Animal Control Officer shall order the owner or keeper of a dog to restrain a dog for violation of any of the provisions listed in § 184-4A. After a period of no less than 21 days, the Animal Control Officer may, at his discretion, remove an order of restraint if the owner or keeper of the dog satisfies him that the dog is unlikely to repeat the offense.
- B. Permanent restraining or muzzling of dogs. If any person shall make a complaint in writing (Note: A supply of forms which may be used for this purpose shall be available from the Town Clerk, Animal Control Officer, or police station.) to the Animal Control Officer of Westwood that any dog is a nuisance by reason of vicious disposition, or by repeated violations of any of the provisions listed in § 184-4A which are contrary to the safety and welfare of the community. The Animal Control Officer shall investigate such complaint, which may include an examination on oath of the complainant, the owner or keeper and witnesses, and upon finding that such dog is a nuisance as hereinbefore set forth shall order such dog to be permanently restrained and/or muzzled.

#### **§ 184-7. Enforcing officer.**

This bylaw shall be enforced the Animal Control Officer of Westwood and/or others who may be appointed from time to time by the Board of Selectmen of Westwood for such purpose.

**§ 184-8. Validity.**

- A. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.
- B. This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in MGL c. 140 but is in addition thereto.

**§ 184-9. Enforcement.**

In addition to the foregoing and not in limitation thereof, the Animal Control Officer shall impound any dog found at large.

**§ 184-10. Licensing; dogs worrying, maiming or killing livestock.**

- A. No person shall own or keep a dog in the Town of Westwood which is not duly licensed as required by the provisions of MGL c. 140, § 137. The registering, numbering, describing and licensing of dogs shall be conducted in the office of the Town Clerk of said Town. Any person who no longer owns a dog shall notify the Town Clerk immediately.
- B. When license fees for dogs are due in January of each year and the dog is a spayed female or neutered male, the spaying or neutering certificate must be presented at the time of license application. All rabies shot certificates must be shown before a new license can be issued.
- C. Notwithstanding the provisions of MGL c. 140, § 139 or any other provision of law to the contrary, the annual fees charged for the issuance of licenses for dogs shall be established by the Town Clerk in accordance with the provisions of MGL c. 40, § 22F. No license fee or part thereof shall be refunded because of the subsequent death, loss, spaying or removal from the Town or other disposal of said dog.
  - (1) Effective January 1, 2011, the term of any license issued by the Town Clerk shall be for the period of January 1 to December 31. The Town may impose a late fee of not less than \$25 in accordance with the provisions of MGL c. 40, § 22F, to be paid by the owners who license said dog or dogs after April 1 of any given year.
- D. Notwithstanding the provisions of MGL c. 140, § 147 or any other provision of law to the contrary, all money received from the issuance of dog licenses by the Town of Westwood, or recovered as fines or penalties by said Town under the provisions of MGL c. 140 or by vote of the Town under Article 38 of the warrant for the 1981 Annual Town Meeting relating to dogs, shall be paid into the treasury of said Town and shall not thereafter be paid over by the Town Treasurer to Norfolk County.
- E. Notwithstanding the provisions of MGL c. 140, § 160 or any other provision of law to the contrary, whoever suffers loss by the worrying, maiming or killing of his livestock or fowls by dogs, outside the

premises of the owners or keepers of such dogs, shall, after investigation as provided in MGL c. 140, § 161, be paid from the treasury of said Town.

**Chapter 189****ATHLETIC FIELDS****§ 189-1. Artificial lighting.**

- A. Any athletic field under the care, custody and control of any Town agency which has artificial lighting shall be subject to the following restrictions relating to the use of said artificial lighting:
- (1) Artificial lighting may be used only for athletic events that involve participants from recognized Westwood sports organizations or for community events sponsored by the School Committee or the Board of Selectmen.
  - (2) Artificial lighting may only be used with the permission of the particular Town agency that has the care, custody and control of the field, and participants shall be subject to the rules and regulations of said agency.
  - (3) Artificial lighting may not be used after the hour of 10:00 p.m.
- B. The foregoing provision shall not apply to any athletic field which has artificial lighting as of the effective date of this bylaw.

**Chapter 200****CHILD SAFETY ZONES**

## ARTICLE I

**Child Sex Offenders****[Adopted 5-5-2014 by Art. 27]****§ 200-1. Child sex offender in child safety zone.****A. Prohibition regarding child sex offender in child safety zone.**

- (1) Definitions: For the purpose of this article, the following terms, phrases, words and derivations shall have the meanings given herein. When not inconsistent with the context, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

CHILD SAFETY ZONE — A park, playground, recreation center, library, school, camps, day-care center, private youth center, video arcade, bathing beach, swimming pool or wading pool, gymnasium, sports field or sports facility, including the parking area and land adjacent to any of the aforementioned facilities, and school or camp bus stops, which is:

- (a) Under the jurisdiction of any department, agency or authority of the Town of Westwood, including but not limited to the School Department; or
- (b) Leased by the Town of Westwood to another person for the purpose of operating a park, playground, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field, or sports facility.

CHILD SEX OFFENDER —

- (a) Any person required to register as a sex offender pursuant to MGL c. 6, §§ 178C to 178P, inclusive, and given a Level 2 or Level 3 designation by the sex offender registry board under § 178K and whose victim was a child under the age of 16 or who has not yet been classified and who resides, has secondary addresses, works or attends an institution of higher learning in the commonwealth and who has been convicted of or who has been adjudicated as a youthful offender or as a delinquent juvenile, or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication of the following offenses: indecent assault and battery on a child under 14 under MGL c. 265, § 13B; rape of a child under 16 with force under § 22A of said Chapter 265; rape and abuse of a child under § 23 of said Chapter 265; assault of a child with intent to commit rape under § 26C of said Chapter 265; kidnapping of a child under the age of 16 under § 26 of said Chapter 265; enticing a child under the age of 16 for the purpose of committing a crime under § 26C of said Chapter 265; indecent

assault and battery on a mentally retarded person under § 13F of said Chapter 265; assault with intent to commit rape under § 24 of said Chapter 265; inducing a minor into prostitution under MGL, c. 272, § 4A; living off or sharing earnings of a minor prostitute under § 4B of said Chapter 272; disseminating to a minor matter harmful to a minor under § 28 of said Chapter 272; posing or exhibiting a child in a state of nudity under § 29A of said Chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under § 29B of said Chapter 272; unnatural and lascivious acts with a child under the age of 16 under § 35A of said Chapter 272; drugging persons for sexual intercourse under § 3 of said Chapter 272; aggravated rape under MGL, c. 277, § 39; any attempt to commit a violation of any of the aforementioned sections pursuant to MGL, c. 272, § 6, or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, and whose victim was a child under the age of 16.

- (b) A person who has been adjudicated a sexually dangerous person under MGL, c. 123A, § 14, as in force at the time of adjudication, or a person released from civil commitment pursuant to MGL, c. 123A, § 9, whichever last occurs, on or after August 1, 1981, and whose victim was a child under the age of 16.
  - (c) A person who resides in the Commonwealth of Massachusetts, has a secondary address, works at or attends an institution of higher learning in the commonwealth and has been convicted in any other state, in a federal or military court or in any foreign jurisdiction of any crime the essential elements of which are substantially the same as any of the crimes specified in above at Subsection (a), and which requires registration as a sexual offender in such other state or in the federal or military system, and who resides or works in this commonwealth on and after August 1, 1981, and whose victim was a child under the age of 16.
- (2) Prohibition. It shall be unlawful for a child sex offender to be present in any child safety zone.
  - (3) Exceptions. The provisions of this chapter shall not apply to:
    - (a) Any person whose name has been removed from the Massachusetts Sex Offender Registry or from the registry of any other state or in the federal or military system by act of a court or by expiration of the term such person is required to remain on such registry or reclassified as a Level 1 in Massachusetts or lowest offender category in another jurisdiction.

- (b) The facility in a child safety zone also supports a church, synagogue, mosque, temple or other house of religious worship, subject to all of the following conditions:
  - [1] The child sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
  - [2] The child sex offender shall not participate in any religious education programs that include individuals under the age of 18.
- (c) The property also supports the use lawfully attended by a child sex offender's natural or adopted child(ren), which child's use reasonably requires the attendance of the child sex offender as the child's parents upon the property, subject to the following condition:
  - [1] The child sex offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.
- (d) The property also supports a polling location in a local, state or federal election, subject to all of the following conditions:
  - [1] The child sex offender is eligible to vote;
  - [2] The property is the designated polling place for the child sex offender; and
  - [3] The child sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is to any member of the electorate, and vacates the property immediately after voting.
- (e) The property also supports a school lawfully attended by a child sex offender as a student under which circumstances the child sex offender may enter upon the property supporting the school at which time the child sex offender is enrolled, for such purposes and at such times as are reasonably required for the education purposes of the school.
- (f) The property also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
  - [1] The child sex offender is on the property only to transact business at the government office or place of business, excluding a library, or attend an official meeting of a governmental body; and
  - [2] The child sex offender leaves the property immediately upon completion of the business or meeting.

- B. Notice: The Chief of Police or his designee shall make reasonable efforts to provide prompt, actual written notice of the enactment of this section (which notice shall contain a copy of the bylaw) to all persons who are listed on the sex offender registry as of the effective date of this section and who were given a Level 2 or Level 3 designation, as well as those persons who are added to the sex offender registry at such levels thereafter, which persons' addresses (as shown on the sex offender registry) are within the Town of Westwood. Such notice requirement may be satisfied by the mailing of such notice by registered or certified mail, return receipt required, to the last known address of such person as listed on the sex offender registry or as otherwise known to the Chief of Police. The failure of any person to receive such actual written notice shall not be a defense to a violation of this section.
- C. Enforcement procedures.
- (1) Upon reasonable belief of a police officer that a child sex offender is present in a child safety zone in violation of this section, the officer shall obtain from the suspected child sex offender his/her name, address, and telephone number. Should the police officer thereafter establish that the individual is a child sex offender as defined in this section, then the officer shall issue a written citation that such individual is in violation of this section and also require that the individual leave the child safety zone. An individual who refuses to leave or is later found to be in the same child safety zone shall be subject to the penalties set for at § 200-2.
  - (2) A map<sup>6</sup> depicting and a written list describing the child safety zones shall be created and maintained by the Information Technology/GIS Department in coordination with the Police Department, which shall be reviewed annually or as the need arises for changes. Said map and list as well as a copy of this section shall be available to the public at the offices of the Town of Westwood Police Department and the Town Clerk and at all public buildings and will also be posted on the Town of Westwood's official website. In the event that the list, map or the words of this section shall conflict then the words of this section shall control.

## **§ 200-2. Penalties and remedies.**

- A. Any violation of § 200-1 may be subject to criminal penalties and prosecution in a court of competent jurisdiction and shall result in a criminal fine of up to \$150 for a first violation. Refusal to leave a child safety zone or being later found in the same child safety zone shall result in a criminal fine of up to \$300. A second violation of the section shall be subject to a criminal fine of up to \$300. A child sex offender commits a separate offense for each and every violation of this section. Except for persons who are not yet 17 years of age when they commit any such offense, violation of this section may further constitute

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6. Editor's Note: The Child Safety Zones Map is included as an attachment to this chapter.



a violation of MGL c. 272, § 59, for which the violator is also subject to immediate arrest without warrant. The issuance of a citation shall not preclude the Town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this section, to include written notification to the parole and/or probation officer and the commonwealth's Sex Offender Registry Board that the child sex offender has violated a municipal bylaw.

- B. As an alternative, any violation shall result in a noncriminal fine of \$150 for a first violation. Refusal to leave a child safety zone or being later found in the same child safety zone shall result in a noncriminal fine of \$300. A second violation of § 200-1 shall be subject to a noncriminal fine of \$300. A child sex offender commits a separate offense for each and every violation of this section. Except persons who are not yet 17 years of age when they commit any such offense, any violation of this section may further constitute a violation of MGL c. 272, § 59, for which the violator is also subject to immediate arrest without warrant. The issuance of a citation shall not preclude the Town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this section, to include written notification to the parole and/or probation office and the commonwealth's Sex Offender Registry Board that the child sex offender has violated a municipal bylaw.
- C. Injunction. If a child sex offender is present upon or within a safety zone in violation of § 200-1 above, Town Counsel or designee may bring an action in the name of the Town to permanently enjoin any such violation as a public nuisance.

**Chapter 212****CONSERVATION AREAS****§ 212-1. Open hours. [Amended 11-19-1979 STM by Art. 7]**

All conservation areas shall be closed to the general public from 1/2 hour after sunset to 1/2 hour before sunrise, and no person or persons shall be in or upon said conservation areas absent any special provision or special permission by the Conservation Commission, which special permission shall not be unreasonably withheld.

**§ 212-2. Swimming. [Added 1980 ATM by Art. 13 (Art. 10, § 14 of the General Bylaws)]**

No person shall swim in any area within the Town of Westwood which is under the care and control of the Westwood Conservation Commission without specific permission of the Conservation Commission.

**Chapter 238****FIREARMS****§ 238-1. Discharge.**

No person shall discharge any gun or firearm within 150 feet of any street, public way, place or square in the Town except with the permission of the Board of Selectmen, or on any private ground except with the consent of the owner thereof; provided, however, that this bylaw shall not apply to the use of such weapons at any military ceremony or in the lawful defense of the person, family or property of a citizen.

**Chapter 250****HAZARDOUS MATERIALS****§ 250-1. Authority.**

This bylaw is adopted by the Town of Westwood under its home rule powers, its powers to protect the public health and welfare, and its authorization under MGL c. 40, § 21.

**§ 250-2. Purpose.**

This bylaw is intended to protect the public health, safety, welfare, and environment as well as to preserve and maintain existing and potential groundwater supply, groundwater recharge areas, and surface waters from risk of hazardous material release within the Town of Westwood, and to provide local emergency responders with appropriate contingency plans to mitigate emergencies in a safe and timely manner.

**§ 250-3. Definitions.**

COMMERCIAL OR INDUSTRIAL ESTABLISHMENT — An establishment whose principal use is nonresidential and nonagricultural, either public or private.

EMERGENCY COORDINATOR — A person designated by the contingency plan to interact with the appropriate governmental agencies involved with response to a release or potential release of a hazardous material and given the authority to procure outside resources to help avert or mitigate such contingency, having been so designated based upon his or her knowledge of the facility; specific knowledge of areas where hazardous materials are manufactured, used, stored, or disposed; and understanding of the ramifications of a release of hazardous material for the safety of responders, the environment, and the community.

HAZARDOUS MATERIAL — A material or combination of materials which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in serious or incapacitating illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used, disposed of, or otherwise managed. These materials shall include, but not be limited to, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and any substances defined as "toxic" or "hazardous" under MGL c. 21C and c. 21E using the Massachusetts Oil and Hazardous Substance List (in 310 CMR 40.000).

MATERIAL SAFETY DATA SHEET (MSDS) — Information sheets, available by law from the manufacturer, containing data including physical characteristics, flammability, explosivity, reactivity, and the health and safety hazards of a product, as well as information relative to procedures recommended for spills and leaks of specific chemicals and special protection and precautions to be taken in the handling of the product.

SARA TITLE III — The "right-to-know" law within the Superfund Amendments and Reauthorization Act of 1986, also titled the "Emergency Planning and Community Right-To-Know Act."<sup>7</sup>

**§ 250-4. Exclusions.**

In order to focus efforts on significant threats not fully addressed by other authorities, the following materials, activities and facilities are not within the scope of authority of this regulation:

- A. Household waste, including garbage, trash, and domestic sanitary sewage.
- B. Wastes generated from the growing of agricultural crops and the raising of animals, including manure which is returned to the soil as fertilizer.

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7. Editor's Note: See MGL c. 111F.

- C. Treatment, storage, and disposal facilities as defined by 310 CMR 30.000, Hazardous Waste Regulations.
- D. Large quantity generators of hazardous wastes as defined by 310 CMR 30.000, Hazardous Waste Regulations.
- E. Hazardous materials which are the subject of Tier II reporting, as defined by SARA Title III (this shall not apply to hazardous materials not otherwise excluded). **[Amended 1997 ATM by Art. 14]**
- F. Materials storage subject to regulation by the Fire Department under MGL c. 148.
- G. Materials kept at the dwelling where they are used for routine yard or swimming pool maintenance.

#### **§ 250-5. Registration.**

In order that the Town, the abutters, and public safety officials may know of the existence and location where hazardous materials are stored, every owner or operator of a commercial or industrial establishment, including governmental entities, which stores, transports, uses, handles, or otherwise manages hazardous materials which, summed across all such materials, total 50 gallons liquid volume or 25 pounds dry weight or more in a calendar year must register with the Board of Health, unless excluded under § 250-4.

- A. Timing. Registration must be made prior to initiation of activity or construction of facilities subject to this bylaw, and prior to each two-year anniversary date as established by the Board of Health. In addition, if any of the following activities occur during the registration period, an updated registration must be obtained prior to such change:
  - (1) Remodeling, operating changes, or expansion of an existing facility which substantially modifies the type or quantity of hazardous materials managed.
  - (2) Changes in the location or method of use, storage, manufacture or handling of hazardous materials in any facility.
  - (3) Change in ownership of a facility. Registration is not transferable between past and future owners.
  - (4) Addition of new hazardous materials not documented in the original registration and resulting in the quantity threshold (50 gallons, 25 pounds) being exceeded.
- B. Submittals. The following must be submitted to the Board of Health as part of the registration process:
  - (1) A hazard prevention and contingency plan, to include the following:

- (a) A list of all qualified emergency coordinators, including names and addresses with both work and residence telephone numbers.
  - (b) A list of the resource agencies (including telephone numbers) to be contacted in the event of a hazardous material emergency.
  - (c) A list of all relevant emergency supplies and equipment available on the site, together with brief description of their capabilities and usage.
  - (d) Scale maps or drawings of the premises locating the areas where hazardous materials are stored, handled, or in use; areas where emergency equipment, such as spill kits and medical supplies, is kept; and emergency evacuation routes and assembly locations.
  - (e) Electronic copies of material safety data sheets (MSDS) on CD-ROM, one MSDS for each hazardous chemical in the workplace. If CD-ROM is unavailable, hard copies of MSDS are acceptable. **[Amended 5-4-2009 ATM by Art. 21]**
  - (f) A written description of the types of emergency which are the most likely, even if highly improbable; procedures to be followed routinely in reducing the risk of an emergency actually occurring through error, vandalism, corrosion or spillage, including employee training, and product loss detection through inventory reconciliation and monitoring; and procedures to be followed in response to any contingency, in order to protect safety and minimize any damage.
- (2) Information pertaining to any disposal of hazardous wastes: hazardous waste generator ID number assigned by the Department of Environmental Protection (DEP), name of the hazardous waste transporter(s), and methods of handling spills of less than the volume which must be reported under the Massachusetts Contingency Plan, 310 CMR 40.000.
  - (3) Fees. The basic fee shall be \$250 for initial registration and \$100 for biannual renewal. In addition, the Board of Health may require that the applicant pay for the reasonable fees and expenses of consultants selected by the Board if necessary for the review and evaluation of applications for registration.
- C. Approval. Registration submittals shall be acted upon and the applicant notified within 60 days following their receipt by the Board of Health. Submittals shall be approved only if, following consideration of recommendations by the Westwood Emergency Management Agency (WEMA), the Board, or the Health Director acting on behalf of the Board, finds that:

- (1) Submittals are substantially complete;
- (2) All other approvals relating to hazardous materials have been applied for and, if not yet received, operation has clearly been made contingent upon such approval; and
- (3) The contingency plan assures adequate protection of the environment and of public health and safety, taking into consideration the scale, location, and degree of hazard involved from the materials in question, and the norms of contemporary best management practices.

**§ 250-6. Storage requirements.**

A. Aboveground storage. Storage of hazardous materials above ground is permitted only in accordance with the following:

- (1) Materials shall be stored in product-tight containers, in an orderly manner with wastes stored separately from usable materials, and on an impervious surface.
- (2) Outdoor storage must be provided with secondary containment with impervious materials able to contain spills of not less than 110% of the volume stored, and to prevent any flow of product to exposed soils or outside drains, and must be protected from the elements, accidental damage, and vandalism, which in some cases may require a roof structure and fencing.
- (3) Indoor storage must be designed (by means of a berm, dike, or other means of containment) to prevent any flow of product to exposed soils, floor drains, or outside drains.

B. Underground storage.

- (1) Underground storage of hazardous materials is permitted only in underground storage facilities authorized by the Fire Department in accordance with state and federal law and regulations.
- (2) New installations for underground storage of hazardous materials are prohibited in the following locations:
  - (a) Within any Water Resource Protection District, as defined in the Westwood Zoning Bylaw;
  - (b) Within four feet of the historical high water table;
  - (c) Within 400 feet of a public surface water supply; or
  - (d) Within 100 feet of a private well for potable water supply.

C. Identification.

- (1) Hazardous material storage areas must be clearly delineated, and signs must be posted noting the dedicated nature of the area.

- (2) Containers of all non-waste hazardous materials must be labeled as required under SARA Title III, including the name of the product or chemical(s), the producer's name, address, and telephone, a listing of the physical and health hazards associated with the materials, and target organ effects from exposure.
- (3) Containers of hazardous wastes must be prominently labeled as "Hazardous Waste" and must also be labeled with the hazardous waste generator ID number and the date the container began accumulating waste.

#### **§ 250-7. Emergency requirements.**

- A. Notification. In case of a spill and/or loss of hazardous material at or above the volume which must be reported under the Massachusetts Contingency Plan, 310 CMR 40.000, the owner/operator must immediately report the spill or loss to the Fire Department. Notification shall be made to the Board of Health within 24 hours of the spill. Notification to the Massachusetts Department of Environmental Protection Emergency Response Section shall be in accordance with 310 CMR 40.0000.
- B. Planning.
  - (1) The map and written description required at § 250-5B(1) and (2) must also be posted at one or more of the following on-site locations: guard shack, fire alarm box annunciator panel, or other location acceptable to the Fire Department. The location of posting must be specified in the registration materials.
  - (2) Material safety data sheets must be kept on file and freely accessible at all times at an on-site location approved by the Health and Fire Departments. The data sheets must be available to the Fire and Health Departments during routine inspections and in the event of an emergency.
  - (3) The owner/operator shall provide adequate and reasonable employee training programs to ensure the proper use, storage, transportation and handling of hazardous materials, in compliance with SARA Title III.

#### **§ 250-8. Administration.**

- A. Enforcement.
  - (1) The Board of Health or its agent(s) shall be the enforcing authority for the bylaw.
  - (2) The Board of Health or its agent(s) may enter upon privately owned property for the purpose of performing their duties under this bylaw.

- B. Violations. Written notice of any violation of this bylaw shall be given by the Board of Health or its agent(s) and shall specify:
- (1) The nature of the violation and the item in this bylaw which is being violated.
  - (2) Any corrective measures which must be taken.
  - (3) A time schedule for compliance.
- C. Penalties. Whoever fails to take corrective action consistent with the time schedule for compliance required under Subsection B(3) shall be subject to a fine of \$50 per day per violation pursuant to the Town of Westwood General Bylaws, Chapter 1, § 1-6, Noncriminal disposition of bylaw violations, and as authorized by MGL c. 40, § 21D. **[Amended 1997 ATM by Art. 14; 2000 ATM by Art. 29]**
- D. Appeals and variances.
- (1) An administrative appeal of the interpretation of this bylaw by the Health Director in a specific application may be made to the Board of Health by the owner or operator of the premises in question, or by the owner or operator of any abutting premises, or by any Town official. Procedure shall be as prescribed at Subsection D(3) below.
  - (2) Variance in the application of this bylaw, unless otherwise precluded by law, may be granted by the Board of Health upon application by the owner or operator of the premises in question, upon the Board's determination that the alternative proposed, subject to any conditions imposed, will provide protection equivalent under the circumstances to that assured by literal compliance with the bylaw.
  - (3) Applications for administrative appeals or variances shall be made in writing to the Board of Health. The Board shall hold a public hearing on the application, at least 10 days prior to which notice shall be provided in a newspaper of general circulation in the Town and by certified mail to all abutters, at the expense of the applicant. A written decision shall be made by the Board within 30 calendar days of the close of the hearing, unless an extension is agreed to in writing by the applicant. Copies of the decision shall be provided to the Town Clerk, the applicant, the owner or operator of the premises, if different, and to any others requesting it.
  - (4) Any person aggrieved by a decision of the Board of Health or its agent(s) may seek relief therefrom within 30 days in any court of competent jurisdiction, as provided by the laws of this commonwealth.



**§ 250-9. Severability.**

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

**Chapter 250A****HISTORIC STRUCTURE DEMOLITION****§ 250A-1. Intent and purpose.**

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

**§ 250A-2. Definitions.**

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

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

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

**BUILDING** — A structure enclosed by exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**COMMISSION** — The Westwood Historical Commission.

**COMMISSIONER** — The Building Commissioner of the Town of Westwood.

**DEMOLITION** — Any act of pulling down, destroying, removing or razing a building and/or structure or commencing the work of total or substantial destruction with the intent of completing the project; "substantial" herein

shall mean either half the volume of the structure or half the assessed value. Demolition regulated hereunder shall not include replacement of roofing materials, siding, stairs, railings, windows, or similar features, nor shall it include demolition of non-historic additions or accessory structures.

DEMOLITION PERMIT — The permit issued by the Commissioner as required by the State Building Code for the demolition or removal of a building or structure.

HISTORIC OR ARCHITECTURALLY SIGNIFICANT STRUCTURE — Any building or structure which is:

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

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

PREMISES — The parcel of land on which an historic or architecturally significant structure exists.

STRUCTURE — An assembly of materials forming a construction for occupancy or use, including, among others, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, staging, observation towers, communication towers, flag poles, water tanks, trestles, piers, wharfs, open sheds, coal bins, shelters, fences and display signs, tanks in excess of 500 gallons used for the storage of any fluid other than water and swimming pools.

### **§ 250A-3. Regulated buildings and structures.**

The provisions of this bylaw shall apply to only the following buildings and structures:

- A. Buildings and structures listed on the National Register of Historic Places or the State Register of Historic Places, including contributing properties within the Colburn School Historic District and the Fisher School Historic District.
- B. Buildings and structures which in whole or in part were constructed on or before December 31, 1910.

### **§ 250A-4. Procedure.**

- A. Upon receipt of an application for a demolition permit for a building or structure regulated by this bylaw, the Commissioner shall within

seven days transmit a copy thereof to the Commission. No demolition permit shall be issued except in conformance with the provisions of this section.

- B. A public hearing shall be conducted by the Commission within 20 days of receipt of the application for demolition permit by the Commission, and shall be closed within 10 days of the opening of said hearing. Failure to open or close the hearing within these prescribed time periods shall be deemed to constitute constructive approval by the Commission, and in such case, the Commissioner shall, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- C. The Commissioner shall give notice of the public hearing by publishing at least five days before the hearing an announcement in a local newspaper of the time, place, and purpose of the hearing. The Commissioner shall also transmit a copy of said notice to the applicant, to the owner of record (if different from the applicant), to the owners of all properties within 300 feet of the subject property, to the Westwood Historical Society, and to any others the Commissioner deems necessary to notice. In cases where it is known that additional approvals will be required for the proposed redevelopment of the premises, including zoning variances, special permits, and/or subdivision approvals, notice of the Commission's public hearing shall be provided to the authority responsible for granting said approvals.
- D. If, following the public hearing, the Commission determines that the building or structure proposed for demolition is not an historic or architecturally significant structure, or that the proposed demolition of the building or structure would not be detrimental to the purposes protected by this bylaw, the Commission shall notify the Commissioner within five days of such determination. Upon receipt of such notification, or upon the expiration of five days from the close of the hearing without such notification, the Commissioner shall, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- E. If, following the public hearing, the Commission determines that (1) the building or structure is an historic or architecturally significant structure and (2) the demolition of this historic or architecturally significant structure would be detrimental to the historic or architectural resources of the Town, the Commission shall declare the building or structure a preferably preserved historic or architecturally significant structure. In making such a determination, the Commission will consider any information submitted by the property owner or its representative outlining a significant hardship, financial, or otherwise, resulting from any delay that may be caused by the employment of this bylaw. The Commission shall notify the applicant and the Commissioner within five days of such determination. If the Commission determines the building or structure to be a preferably preserved building or structure, then no demolition permit shall be issued for up to six months

from the date of the original application. Furthermore even if the owner or the owner's representative fails to accord the Commission with that which the Commission desires or requires for determination (such as, but not limited to, entry into the structure), if six months from the date of the original application have passed, a demolition permit shall be promptly issued by the Building Commissioner subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.

- F. Notwithstanding the above, prior to the expiration of the six-month waiting period, the Commissioner may issue a demolition permit for a preferably preserved historic or architecturally significant structure after receipt of written notice from the Commission that (a) the structure has been fully documented (at no cost to the property owner) to the satisfaction of the Commission, and that (b) all salvageable and valuable artifacts and materials have been or will be removed and preserved (at no cost to the property owner) to the satisfaction of the Commission, and that (c) any of the following applies:
- (1) The Commission is satisfied that there is no reasonable likelihood that the applicant, owner, or some other reasonable person or group is willing to purchase, preserve, rehabilitate, restore, or relocate said building structure; or
  - (2) The Commission is satisfied that for up to six months from the date of the original application, including periods of time prior to the date of submission of an application for demolition permit, the owner has made continuing, bona fide, and reasonable efforts to locate a purchaser to preserve, rehabilitate, restore, or relocate said building or structure, and that such efforts have been unsuccessful; or
  - (3) The Commission is satisfied that the proposed demolition may be conducted in a manner that is not detrimental to the historic or architectural resources of the Town.
- G. A decision by the Commission expires two years from the date of the decision and is transferable to a new property owner during this time period. If demolition has not occurred prior to the expiration of the Commission's decision, a new application for a demolition permit must be filed with the Commissioner, and reviewed by the Commission in accordance with the provisions of this section, prior to any subsequent demolition.
- H. If a building or structure is determined to be a preferably preserved historic or architecturally significant structure, the owner shall be responsible for properly securing such building or structure, if vacant, to the satisfaction of the Commission. Should the owner fail to properly secure such building or structure, a subsequent destruction of such building or structure at any time during the period of the demolition delay through fire or other cause which could have been prevented

by properly securing such building or structure shall be considered a voluntary demolition in violation of this bylaw and shall be subject to § 250A-6B.

**§ 250A-5. Commission's review and recommendation on other applications.**

Upon receipt of an application for an environmental impact and design review (EIDR) approval, a flexible multiple use overlay district (FMUOD) special permit, an earth material movement (EMM) special permit, a definitive subdivision approval, a senior residential development (SRD) special permit, or an open space residential development (OSRD) approval involving a parcel of land containing a building or structure regulated under § 250A-3, the granting authority shall transmit to the Commission a copy of the application for review and recommendation. Failure of the Commission to respond to the granting authority within 30 days of its receipt of such application shall be deemed to signify its lack of opposition to the project.

**§ 250A-6. Enforcement, remedies and appeals.**

- A. The Commission and the Commissioner are each authorized to institute any and all proceedings in law or in equity as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a violation thereof.
- B. No building permit shall be issued with respect to any premises upon which an historic or architecturally significant structure has been voluntarily demolished in violation of this bylaw for a period of two years after the date of the start or completion of such demolition.
- C. Appeals to court. A person aggrieved by a decision of the Commission may appeal to a court of competent jurisdiction within 20 days after the Commission's decision has been filed with the Town Clerk. Notice of such action with a copy of the complaint shall be filed with the Town Clerk within said 20 days.

**§ 250A-7. Pre-determination.**

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

**§ 250A-8. Severability.**

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

**Chapter 251****STRETCH ENERGY CODE****§ 251-1. Adoption of code.**

The Town of Westwood adopts 780 CMR 115.AA, the Stretch Energy Code, for the purpose of regulating the design and construction of buildings for the effective uses of energy, including future additions, amendments or modifications, thereon, a copy of which is on file with the Town Clerk.

**Chapter 284****MARIJUANA****GENERAL REFERENCES**

Alcoholic beverages — See Ch. 179.

Peace and good order — See Ch. 306.

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**§ 284-1. Public consumption regulated**

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined by MGL c. 94C, § 1, as amended) for nonmedical purposes (i.e., for other than medical use of marijuana as defined in Chapter 369 of the Acts of 2012, as it may be amended from time to time) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, trail, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot or any area or structure owned by or under the care, custody and control of any board, committee or commission of the Town of Westwood; or in a vehicle or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible by the public; or on any private land, building structure or place without the consent of the owner or person in control thereof. In addition, no person shall smoke marijuana or tetrahydrocannabinol (as defined by MGL c. 94C, § 1, as amended) for medical purposes in the areas noted above.

**§ 284-2. Enforcement; violations and penalties.**

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21, or by noncriminal disposition

pursuant to MGL c. 40, § 21D, by any police officer. The fine for violation of this bylaw shall be \$100 for the first offense, \$200 for the second offense and \$300 for each subsequent offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L, or other section of the General Laws that is or may be applicable upon its passage.

**§ 284-3. Appeals; hearing.**

Appeals must be filed with the Town Administrator's Office, 580 High Street, Westwood, MA 02090, within 21 days after the date of the violation, after which time the Town Administrator will schedule and conduct a hearing date for said appeal; otherwise, payment must be received within that time (21 days) or be subject to interest and demand notice charges to be set by the Board of Selectmen. The hearing will be presided over by the Town Administrator, and both the appellant and the Police Department shall be entitled to present evidence on their behalf, after which the Town Administrator will render a decision.

## **Chapter 292**

### **NOISE**

#### **GENERAL REFERENCES**

**Alarm systems — See Ch. 175.**

**Animals — See Ch. 184.**

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**§ 292-1. Regulation of certain types of activities.**

- A. For the purpose of controlling and abating disturbing noise, which either annoys, disturbs or injures or endangers the reasonable quiet, comfort or repose or the health or safety of others within the Town of Westwood, and to maintain and promote tranquility of residential neighborhoods, certain types of activities will be regulated.
- B. It shall be unlawful for any person or persons to operate or cause to be operated any type of construction machinery, including but not limited to heavy earthmoving equipment, materials handling equipment, logging and land clearing equipment, pumps, generators, and air compressors, powered by any internal combustion or diesel engine, during certain hours of the day, unless specifically authorized by the appropriate licensing or permitting authority.
- C. It shall be unlawful to operate or cause to be operated certain types of electrically powered equipment associated with construction activity, including but not limited to air-actuated nailing guns, circular saws, drills and the like, that are utilized for the purpose of building or assembling construction materials during certain hours of the day,

unless specifically authorized by the appropriate licensing or permitting authority.

- D. The aforementioned equipment and activities may only be utilized or carried out from 7:00 a.m. until 7:00 p.m. between Monday through Saturday, excluding legal holidays. The aforementioned equipment and activities may not begin prior to 12:00 noon and go beyond 7:00 p.m. on Sundays, unless a permit to perform such work or labor has been secured in accordance with MGL c. 136, § 7. **[Amended 5-3-2010 ATM by Art. 15]**
- E. Persons engaged in work on construction sites in residential neighborhoods shall not employ the use of radios or other noise-producing entertainment devices in such a manner or with volume at any time or place so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, or any other type of residence, or in any office or of any persons in the vicinity.

#### **§ 292-2. Exemptions.**

None of the terms or prohibitions shall apply or be enforced against:

- A. Emergency vehicles. Any police or fire vehicle or any ambulance while engaged in necessary emergency business.
- B. Highway and utility maintenance or construction. Necessary excavation in or repairs to bridges, streets, or highways or any public utility installation by or on behalf of the Town or any public utility or any agency of the State of Massachusetts.
- C. Public address. The reasonable use of amplifiers or loudspeakers for public addresses which are noncommercial in nature.

#### **§ 292-3. Penalties. [Amended 5-3-2010 ATM by Art. 15]**

The first violation of this bylaw shall be punished by a fine of not more than \$100. The second violation of this bylaw within 12 months after the first violation shall be punished by a fine of not more than \$200. Further violations within 12 months after the last violation shall be punished by a fine of not more than \$300. Each such act which either continues or is repeated more than 1/2 hour after the issuance of a written notice of violation of this bylaw shall be a separate offense and shall be prosecuted as a separate offense. If the violation occurs on the premises of rental property which has a nonresident owner, then the owner must also be notified in writing that the violation has occurred.

#### **§ 292-4. Severability.**

If any provision of this bylaw is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction the remaining provisions of the bylaw shall not be invalidated.



## **Chapter 306**

### **PEACE AND GOOD ORDER**

#### **GENERAL REFERENCES**

**Alarm systems — See Ch. 175.**

**Animals — See Ch. 184.**

**Alcoholic beverages — See Ch. 179.**

**Firearms — See Ch. 238.**

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#### **§ 306-1. Regulation of premises.**

No person who owns, leases, occupies, or maintains control of a premises shall knowingly cause or permit to be maintained any building, structure or premises where persons are creating a disturbance or disruption to the peace and/or well-being of others, acting in a disorderly manner, and/or where persons under the legal drinking age have gathered and are consuming alcoholic beverages or any other controlled substance.

#### **§ 306-2. Violations and penalties.**

A person who owns, leases, occupies, or maintains control of a premises who has received fair and adequate notice from the Police Department of such a violation and who within a reasonable time period following said notice subsequently causes, permits, or allows a further violation of this bylaw shall be subject to a fine of not more than \$200 for each subsequent violation.

## **Chapter 310**

### **LODGING FACILITIES**

#### **§ 310-1. Definitions.**

**HOTEL** — Any building used for the feeding and lodging of guests licensed or required to be licensed under the provisions of MGL c. 140, § 6.

**LICENSEE** — The person(s) or entity listed on the license and the owner of the land and building where the facility is operated.

**LODGER** — Any person residing in a rooming unit, including any person listed on the register or rental agreement.

**LODGING FACILITY** — Shall refer to any hotel, lodging house or motel as defined above.<sup>8</sup>

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**8. Editor's Note: So in original. "Hotel," "lodging house" and "motel" are defined in § 310-1, Definitions.**

LODGING HOUSE — A house where lodgings are let to four or more persons not within the second degree of kindred to the person conducting it, licensed or required to be licensed under MGL c. 140, § 23.

MOTEL — Any building or portion thereof, other than a hotel or lodging house, in which persons are lodged for hire with or without meals and which is licensed or required to be licensed under the provisions of MGL c. 140, § 32B, or is a private club.

ROOMING UNIT — The room or group of rooms let to an individual for use as living and sleeping quarters.

### **§ 310-2. Responsibilities of licensee.**

The licensee shall be responsible for the proper supervision, operation and maintenance of the lodging facility in accordance with the requirements of this bylaw and all other pertinent state laws, regulations and other Town bylaws. The appointment of an agent shall in no way relieve the licensee from responsibility for full compliance with all of the foregoing laws and regulations.

### **§ 310-3. Agents.**

- A. If the licensee is unable to exercise proper supervision of the premises, the licensee shall designate one or more agents to carry out all or part of its responsibilities. The owner of any such lodging facility having 12 or more units shall be required to have an agent present on the premises at all times. Upon recommendation of the Chief of Police, for reasons of public safety, the Board of Selectmen may require the owner of a facility having fewer than 12 units to have an agent present on premises at all times. Based on the qualifications of the agent(s) designated and the extent of their responsibilities, the Board of Selectmen may require more than one agent be provided. If, for any reason, an agent ceases to exercise his or her responsibilities, the licensee shall at once notify the Board of Selectmen and take immediate steps to provide proper interim supervision and obtain a suitable replacement.
- B. The agent(s) shall be available on a twenty-four-hour basis, and the telephone number for the on-duty agent must be posted in a conspicuous place inside each rooming unit or in a public area in the lodging facility office. The licensee must provide to the Board of Selectmen a list of all agents, including land line and cell phone contact information. The Selectmen's Office will provide the contact information to the Police, Fire, Health and Building Departments.

### **§ 310-4. Registers and card files.**

- A. The licensee of every lodging facility shall keep or cause to be kept, in a permanent form, a register. Such register shall contain the name and residence (or last residence for a person with no current residence)

of every person engaging or occupying a private room together with a true and accurate record of the room assigned to such person and the day and hour of check-in and checkout. The entry of the name(s) of the person(s) engaging a room shall be made by said person(s). Until the entry of such name(s) and the record of the room have been made, no one shall be allowed to occupy any room.

- B. In addition, each licensee shall keep or cause to be kept a card file or database containing current information on each lodger, including full name, date and time of registration, room number, address, registration number, state of registration and make of automobile. To ensure compliance with this section, the licensee or agent will require proof of identification of the lodger. Acceptable identification will include a government-issued photo identification showing the true name and date of birth of the holder. A photocopy of the identification will be maintained with the register card. These cards should be kept for a minimum of one year after departure of the lodger. The register and card file required by this section shall be available for inspection at all times by the Board of Selectmen, the Building Commissioner, the Health Director or any of their agents or any officer of the Westwood Police Department.

#### **§ 310-5. Providing false information.**

No person renting a room shall give a wrong or false name or address or any fictitious information pertaining to his or her identity. No licensee or agent shall knowingly permit the entry of any wrong or false information into the records described in § 310-4. Any police officer taking cognizance of any such violation may request the offender to state his or her true name and address. Whoever, upon such a request, refuses to state his or her name or address, or states a false name or address, or a name or address which is not his or her name or address in ordinary use, may be arrested by a police officer without a warrant.

#### **§ 310-6. Letting rooms to minors prohibited.**

No licensee shall let a room to any person under the age of 18, knowing or having reason to believe him or her to be such.

#### **§ 310-7. Training.**

All licensees and agents of each lodging facility shall complete a one-time training conducted by the Westwood Police Department along with representatives from the Town's Health, Building and Fire Departments. This instructional program will cover the requirements and expectations of the Town's lodging facility regulations and any other laws or regulations as the participating Town officials deem necessary for the safe and proper operation of the lodging facility. Any newly designated licensee or agent shall be required to complete the training program within 30 days of his or her designation. The Westwood Police Department will submit a list of

persons completing the training program to the Board of Selectmen. Failure to comply with the training requirement may result in revocation of the license at the discretion of the Board of Selectmen.

**§ 310-8. Severability.**

The provisions of this chapter are severable, and if any of its provisions shall be held unconstitutional or invalid by any court of competent jurisdiction, the decision of said court shall not affect any of the remaining provisions.

**§ 310-9. Penalties.**

- A. Any violation of § 310-3 through § 310-4 shall be punished by a fine of \$100 for the first offense and \$300 for any subsequent offense in any calendar year.
- B. Any violation of § 310-5 through § 310-6 shall be punished by a fine of \$300.

**Chapter 321**

**RETAIL STORES AND FOOD ESTABLISHMENTS**

ARTICLE I  
**Retail Hours of Operation**

**§ 321-1. Retail hours of operation restricted.**

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



## ARTICLE II

**One-Day Permit for Extended Hours of Operation****§ 321-2. Permit granted.**

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

## **Chapter 325**

### **SECONDHAND DEALERS**

#### **GENERAL REFERENCES**

**Soliciting and canvassing — See Ch. 338.**

**Fingerprint-based criminal record  
background checks — See Ch. 339.**

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#### **§ 325-1. Authority.**

Pursuant to MGL c. 140, § 54, the Board of Selectmen may license suitable persons to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or secondhand articles; may make rules and regulations relative to their business; and may provide for the supervision thereof.

#### **§ 325-2. License and other requirements.**

No person shall keep a shop for the purpose of the purchase, barter or sale of junk, old metal or secondhand articles, or be a dealer therein, without first having obtained a license therefor from the Board of Selectmen. Every licensee shall display its license in its shop in a suitable and conspicuous place. Every such shop, all articles of merchandise therein and all records pertaining to the acquisition and disposition of said articles may at all times be examined by the Board of Selectmen or members of the Police Department.

#### **§ 325-3. Record of acquisitions.**

- A. Every person licensed under § 325-2 shall keep a record of every acquisition of any such article to include:
  - (1) A description of the article;
  - (2) The name, date of birth and address of the person from whom the article was acquired; and
  - (3) The date and hour of the acquisition.
- B. Such record shall be open at all times to inspection by the Board of Selectmen or members of the Police Department.
- C. Every person licensed under § 325-2 shall deliver to the Westwood Police, either in person, by United States Mail or electronically every week, a legible and correct list, in the English language, containing an accurate description of all articles acquired, directly or indirectly, during the preceding week. All such lists shall be submitted in a format prescribed by the Chief of Police and shall be submitted on or before the close of business Mondays.



**§ 325-4. Retention of acquisitions.**

No person(s) licensed under § 325-2 shall permit any secondhand article acquired by him or her to be sold or altered in any way until at least 14 days after its receipt.

**§ 325-5. Acquisitions from minors prohibited.**

No person licensed under § 325-2 shall acquire, directly or indirectly, any article from a person under the age of 18, knowing or having reason to believe them to be such.

**§ 325-6. Providing false information.**

No person offering any article for sale or barter to a license shall give a wrong or false name or address or any fictitious information pertaining to identity. No person holding a license under § 325-2 shall knowingly permit the entry of any wrong or false information into the record of the transaction described in § 325-3. In order to prevent wrong or false information, a license holder will examine photo identification from any person offering any article for sale or barter. Any police officer taking cognizance of any such violation may request the offender to state his or her true name and address. Whoever, upon such a request, refuses to state his or her name or address, or states a false name or address, or a name or address which is not his or her name or address in ordinary use, may be arrested by a police officer without a warrant.

**§ 325-7. Severability.**

The provisions of this chapter are severable, and if any of its provisions shall be held unconstitutional or invalid by any court of competent jurisdiction, the decision of said court shall not affect any of the remaining provisions.

**§ 325-8. Penalties.**

Any violation of §§ 325-2 through 325-5 shall be punished by a fine of \$100. Any violation of § 325-6 shall be punished by a fine of \$300.

**§ 325-9. Exemptions.**

- A. The licensing requirements of § 325-1 shall not apply to the purchase, sale or barter of clothing, books, prints, coins or postage stamps.
- B. The licensing requirements of § 325-1 shall not apply to not-for-profit organizations that may receive donations of secondhand items, even if offered for sale.

**Chapter 338****SOLICITING AND CANVASSING****GENERAL REFERENCES**

**Secondhand dealers — See Ch. 325.**

**Fingerprint-based criminal record  
background checks — See Ch. 339.**

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**§ 338-1. Title.**

This chapter shall be known as the "Door-to-Door Solicitation Law of the Town of Westwood."

**§ 338-2. Intent.**

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

**§ 338-3. 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 person 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 chapter.

**NO SOLICITATION LIST** — A list of residential addresses in the Town, organized alphabetically by street name, indicating those residential properties placed on the list at the request of the owner or occupant indicating that they do not want sales agents to enter their property.

**SALES ORGANIZATION** — Any entity engaged in the supervision, recruitment, retention, or employment of a salesperson or -persons, 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(s) or -person(s) engaged in door-to-door sales.

**§ 338-4. Administration.**

The Town of Westwood door-to-door sales permit process shall be administered by the Westwood Police Department.

**§ 338-5. Application requirements.**

- A. Each salesperson must apply individually to the Westwood Police Department during posted administrative hours by submitting a completed application, which shall require:
  - 1. Government-issued photographic identification.
  - 2. Date of birth.
  - 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(s), his or her supervisor, or sales materials.
  - 11. Such other verifying information as may be reasonably required.
- B. An application fee to be established and adjusted from time to time by the Board of Selectmen shall accompany each Town of Westwood door-to-door sales permit application.
- C. The application will be considered and acted upon within two business days of its submission. If not acted upon within two business days, the applicant shall be notified. **[Added 5-6-2013 ATM by Art. 29]**

**§ 338-6. Background check. [Amended 5-6-2013 ATM by Art. 29]**

Subject to the provisions of the Massachusetts Criminal Records Offender Statute, MGL c. 6, § 167 et seq., regulations promulgated thereunder and Chapter 339, Fingerprint-Based Criminal Record Background Checks, of the Code of the Town of Westwood, the Westwood Police Department shall conduct a criminal records check of each applicant for a Town of Westwood door-to-door sales permit to determine the applicant's fitness and suitability to conduct door-to-door sales.

**§ 338-7. No solicitation list.**

- A. The No Solicitation List shall be established and maintained by the Westwood Police Department. Residents may submit their property for inclusion on the list without charge.
- B. Upon approval and issuance of a Town of Westwood door-to-door sales permit, each salesperson shall be provided with a copy of the No Solicitation List.

**§ 338-8. 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 Westwood 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 Westwood door-to-door sales permit.
- C. No sales supervisor shall direct, supervise, or allow any salesperson to engage in door-to-door sales who has not applied for and received a Town of Westwood door-to-door sales permit.
- D. No salesperson shall enter within the perimeter of any residential property included on the No Solicitation List. In addition to the fine(s) established below, inclusion of a residential property on the No Solicitation List shall constitute notice prohibiting trespass under MGL c. 266, § 120.
- E. No salesperson shall solicit sales from a person situated within a residential property included on the No Solicitation List from a street, sidewalk or other adjacent property.
- F. Each salesperson shall carry the Town of Westwood 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 is 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 Westwood door-to-door sales permit application and the exterior of said vehicle is marked with name of the sales organization and the words "DOOR-TO-DOOR SALES." All required information shall be in letters a minimum of four inches in height on both sides of the vehicle.
- H. Door-to-door sales shall not be conducted except during the hours between 9:00 a.m. and 7:00 p.m.

**§ 338-9. Penalties.**

- A. Each violation of any provision of this bylaw shall be punished by a fine not to exceed \$300.

- B. Upon the occurrence of a second violation of this bylaw by any salesperson, the issuing authority may revoke that salesperson's Town of Westwood door-to-door sales permit.

**§ 338-10. Severability.**

The invalidity of any portion or portions of this chapter shall not invalidate any other portion, provision or section thereof.

**Chapter 339**

**FINGERPRINT-BASED CRIMINAL RECORD BACKGROUND CHECKS**

**GENERAL REFERENCES**

Alcoholic beverages — See Ch. 179.

Soliciting and canvassing — See Ch. 338.

Secondhand dealers — See Ch. 325.

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**§ 339-1. Purpose and authorization.**

- A. In order to protect the health, safety, and welfare of the inhabitants of the Town of Westwood, and as authorized by MGL c. 6, § 172B1/2, this by law shall require:
- (1) Applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town as enumerated in § 339-2 below to submit to fingerprinting by the Westwood Police Department;
  - (2) The Police Department to conduct criminal record background checks based on such fingerprints; and
  - (3) The Town to consider the results of such background checks in determining whether or not to grant a license.
- B. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS) and the Federal Bureau of Investigation (FBI) as may be applicable to conduct on behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this bylaw. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this bylaw.

**§ 339-2. Applicant's submission to fingerprinting.**

- A. Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of

fingerprints taken by the Westwood Police Department within 10 days of the date of the application for a license, for the purpose of conducting a state and national criminal record background check to determine suitability of the applicant for the license:

Manager of alcoholic beverage license

Hawker and peddler

Door-to-door salesperson

Owner or operator of public conveyance (taxi or livery service)

Dealer of second hand articles

Ice cream truck vendor

- B. At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's FBI criminal history records.

**§ 339-3. Processing of fingerprint-based criminal record background checks; communication of results.**

- A. The Police Department shall transmit fingerprints it has obtained pursuant to § 339-2 of this bylaw to the Identification Section of the Massachusetts State Police, DCJIS and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal record checks of license applicants specified in § 339-2.
- B. An applicant may request and receive a copy of his or her criminal history records from the Police Department. Should an applicant wish to correct or amend the information contained in it, he or she will be directed to the DCJIS for state records and the FBI for national records.
- C. The Police Department shall determine whether the applicant is suitable after completing fingerprint-based criminal record background checks and communicate their determination of suitability to the licensing authority within the Town. **[Amended 11-18-2013 ATM by Art. 18]**

**§ 339-4. Reliance on results.**

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal history record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in § 339-2. A Town licensing authority may deny any application for a license on the basis of the results of the fingerprint-based criminal record background check, if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on the applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been

afforded a reasonable time to correct or complete the record or has declined to do so.

**§ 339-5. Compliance with law, regulation and Town policy.**

Implementation of this bylaw and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, which shall include record retention and confidentiality requirements. The Town shall not disseminate the results of fingerprint-based criminal record background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information to unauthorized persons or entities.

**§ 339-6. Fees.**

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be \$100. A portion of the fee, as specified in MGL c. 6, § 172B1/2, shall be deposited into the Firearms Fingerprint identity Verification Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

**Chapter 342**

**SOLID WASTE**





ARTICLE I

**Litter and Refuse Disposal**

**[Adopted as Art. 10, § 2 of the General Bylaws; amended in its  
entirety 1973 ATM by Art. 4]**

**§ 342-1. Litter and refuse.**

No person shall litter or dispose of any refuse on or in any public land, way, sidewalk, pond, stream, brook, watercourse or on any private land except with the consent of the owner thereof.

**Chapter 350**  
**STORMWATER MANAGEMENT**

ARTICLE I  
**General Provisions**

**§ 350-1. Purpose.**

- A. The purpose of this bylaw is to protect the health, safety, general welfare, and environment in the management, operation, and maintenance of the Town's stormwater system by regulating or prohibiting actions detrimental to either the proper quality or quantity of water in the system. Actions regulated or prohibited include unauthorized or improper connections and discharges to the stormwater system, allowing or enabling pollutants to enter the system, and controlling construction site runoff and post-construction runoff. Stormwater runoff is potentially a major cause of:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, groundwater and drinking water supplies;
  - (2) Contamination of drinking water supplies;
  - (3) Contamination of downstream areas;
  - (4) Alteration or destruction of aquatic and wildlife habitat;
  - (5) Overloading or clogging of municipal stormwater management systems; and
  - (6) Flooding.
- B. The objectives of this bylaw are to:
- (1) Protect water resources;
  - (2) Comply with state and federal statutes and regulations relating to stormwater discharges, including total maximum daily load (TDML) requirements;
  - (3) Prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and reduce or eliminate pollutants entering the Town's MS4 from existing uses;
  - (4) Prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
  - (5) Establish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  - (6) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and

- (7) Establish the Town of Westwood's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

## **§ 350-2. Definitions.**

Definitions applicable to this bylaw are provided herein:

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

**BEST MANAGEMENT PRACTICE (BMP)** — An activity, procedure, restraint, or structural improvement found to be effective and practical to reduce the quantity or improve the quality of stormwater runoff.

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

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

**DEVELOPMENT** — The modification of land to accommodate a new use or expansion of use, usually involving construction.

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into the MS4 or into the waters of the United States or commonwealth from any source.

**DISTURBANCE OF LAND** — Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

**EROSION** — The wearing away of the land surface by natural or artificial forces, such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN** — A document containing a narrative, drawings and details developed by a qualified professional engineer (PE) or a certified professional in erosion and sedimentation control (CPESC), which includes best management practices (BMPs), or equivalent measures designed to control surface runoff and erosion and sedimentation during preconstruction and construction-related land disturbance activities.

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

**ILLICIT CONNECTION** — A surface or subsurface drain or conveyance which allows an illicit discharge into the MS4, 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 the Stormwater Management Bylaw.

**ILLCIT DISCHARGE** — Direct or indirect discharge to the MS4 that is not composed entirely of stormwater, except as exempted in § 350-9. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from firefighting activities exempted pursuant to § 350-9D(1) of the Stormwater Management Bylaw.

**IMPERVIOUS SURFACE** — Any material or structure on or above the ground that prevents water from infiltrating the underlying soil, including without limitation roads, paved parking lots, sidewalks, and rooftops.

**IMPOUNDMENT** — A stormwater pond created by either constructing an embankment or excavating a pit which retains a permanent pool of water.

**INFILTRATION** — The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**LAND DISTURBING ACTIVITY** — Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

**LAND USE OF HIGHER POTENTIAL POLLUTANT LOAD (LUHPPL)** — Land uses or activities with higher potential pollutant loadings, as defined in the Massachusetts Stormwater Management Standards, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high-intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances or marinas.

**MASSACHUSETTS ENDANGERED SPECIES ACT** —MGL C — 131A and its implementing regulations, 321 CMR 10.00, which prohibit the taking of any rare plant or animal species listed as endangered, threatened, or of special concern.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS** — The standards issued by the Department of Environmental Protection, and as amended, that coordinate the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and controlling the quantity of runoff from a site.

**MS4** — Municipal separate storm sewer 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 Westwood.

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

NONSTORMWATER DISCHARGE — Discharge to the MS4 not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN — A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

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

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

POLLUTANT(S) — 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 MS4, sewage treatment works or waters of the commonwealth. 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, and soils;
- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

PRECONSTRUCTION — All activity in preparation for construction.

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.

**REDEVELOPMENT** — Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface on previously developed sites.

**RUNOFF** — Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT** — Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION** — The process or act of deposition of sediment.

**SITE** — Any lot or parcel of land or area of property where land disturbing activities are, were, or will be performed.

**SOIL** — Any earth, sand, rock, gravel, or similar material.

**STORMWATER** — Runoff from precipitation or snow melt and surface water runoff and drainage.

**STORMWATER AUTHORITY** — Town of Westwood Conservation Commission or its authorized agent(s).

**STORMWATER MANAGEMENT PLAN** — A plan required as part of the application for a land disturbance permit.

**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 substance defined as "toxic" or "hazardous" under MGL c. 21C and c. 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.

**WATERS OF THE COMMONWEALTH** — All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WETLAND RESOURCE AREA — Areas specified in the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and in the Town of Westwood Wetlands Protection Bylaw.

WETLANDS — Tidal and nontidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include "marshes," "swamps" and "bogs."

### **§ 350-3. Authority.**

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the home rule statutes, the regulations of the Federal Clean Water Act found at 40 CFR 122.34, Chapter 1, § 1-4, of the General Bylaws of the Town of Westwood and Chapter 9 of the Charter of the Town of Westwood.

### **§ 350-4. Responsibility for administration.**

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

### **§ 350-5. Waivers.**

- A. Following a public hearing on a waiver request, the Stormwater Authority may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where:
  - (1) Such action is allowed by federal, state and local statutes and/or regulations; and
  - (2) Is in the public interest; and
  - (3) Is not inconsistent with the purpose and intent of this bylaw.
- B. All waiver requests shall be submitted in writing and shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objective of this bylaw.
- C. All waiver requests shall be discussed and voted on at the public hearing for the project.
- D. If in the Stormwater Authority's opinion, additional time or information is required for review of a waiver request, the Stormwater Authority may continue a hearing to a certain date announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.



**§ 350-6. Regulations.**

- A. The Stormwater Authority may adopt, and periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this bylaw by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation, at least 14 days prior to the hearing date. Failure of the Stormwater Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw.
- B. Such regulations, rules or guidance may include without limitation, provisions for the establishment of one or more categories of administrative review approvals for specific types or sizes of projects. Administrative review applications that meet all the standard requirements may be issued by one or more agents designated in writing by the Stormwater Authority, without the requirement for a public hearing as detailed in Article III of this bylaw. Administrative review approval shall comply with all other provisions of this bylaw.

**§ 350-7. 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.



## ARTICLE II

**Discharges to Municipal Separate Storm Sewer System (MS4)****§ 350-8. Applicability.**

Article II of this bylaw shall apply to all water entering the MS4 that is generated on any developed or undeveloped lands except as explicitly exempted in this bylaw or where the Stormwater Authority has issued a waiver in accordance with Article I, § 350-5.

**§ 350-9. Prohibited activities; exemptions.**

- A. Illicit discharges. No person shall dump, discharge, spill, cause or allow to be discharged any pollutant or nonstormwater discharge into the MS4, onto an impervious surface directly connected to the MS4, into a watercourse, or into the waters of the commonwealth.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of MS4. No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior consent from the Stormwater Authority.
- D. Exemptions. The following nonstormwater discharges or flows are exempt from the prohibition of nonstormwaters provided that the source is not a significant contributor of a pollutant to the MS4:
  - (1) Discharge or flow resulting from firefighting activities;
  - (2) Waterline flushing;
  - (3) Flow from potable water sources, with the exception of landscape irrigation and lawn watering;
  - (4) Springs;
  - (5) Natural flow from riparian habitats and wetlands;
  - (6) Diverted stream flow;
  - (7) Rising groundwater;
  - (8) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Stormwater Authority prior to discharge and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Stormwater Authority;

- (9) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
- (10) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided that 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;
- (11) Discharge from street sweeping;
- (12) Dye testing, provided that verbal notification is given to the Stormwater Authority prior to the time of the test;
- (13) Nonstormwater discharge permitted under a National Pollutant Discharge Elimination System (NPDES) permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (14) Discharge for which advanced written approval is received from the Stormwater Authority as necessary to protect public health, safety, welfare or the environment.

#### **§ 350-10. Additional prohibited pollutants.**

- A. Pet waste: Because pet feces are a major component of stormwater pollution, and Westwood is subject to a bacteria TMDL, it shall be the duty of each person who owns, possesses, or controls a pet to remove and properly dispose of any feces left by the pet on any public or private property neither owned nor occupied by said person, or on any private property where untreated stormwater flows to the MS4. It is prohibited to dispose of pet feces in any public or private storm drain, catch basin, wetland or water body or on any paved or impervious surface. However, this provision shall not be applicable to a person using a service dog or other service animal registered as such. Persons walking pets must carry with them a device designed to dispose of pet feces including, but not limited to, a plastic bag or "pooper scooper." For specific requirements and penalties for violations see General Bylaw Chapter 184, Animals.
- B. Pavement sealers: Coal-tar-based driveway and pavement sealers have been identified as a primary source of poly-aromatic hydrocarbons affecting streams in developed areas. Poly-aromatic hydrocarbons are classified by the United States Environmental Protection Agency as a probable human carcinogen and are highly toxic to aquatic life. The application of coal-tar-based driveway and pavement sealers is prohibited for all paved areas directly connected to the MS4. Asphalt-based driveway and pavement sealers contain low concentrations of poly-aromatic hydrocarbons and are thus permitted.

**§ 350-11. Emergency suspension of storm drainage system access.**

The Stormwater Authority may suspend MS4 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 Stormwater Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**§ 350-12. 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 MS4 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 Westwood Fire and Police Departments. 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 Stormwater Authority written confirmation of all electronic 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.

**§ 350-13. Enforcement.**

The Stormwater Authority or its authorized agent shall enforce this bylaw, the regulations, and any associated 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, or any associated regulations, permit, notice, or order issued thereunder, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations, or compelling the person to perform abatement or remediation of the violation.
- B. Orders. The Stormwater Authority or its authorized agent may issue a written order to enforce the provisions of this bylaw or any regulations thereunder, which may include:
  - (1) Elimination of illicit connections or discharges to the MS4;
  - (2) Performance of monitoring, analyses, and reporting;

- (3) Requirement that unlawful discharges, practices, or operations shall cease and desist;
  - (4) Implementation of measures designed to minimize the discharge of pollutants until such time as the illicit connection shall be eliminated; and
  - (5) Remediation of pollutants in connection therewith.
- C. **Deadline.** If the enforcement authority determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline for the completion of abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the costs thereof shall be charged to the violator.
- D. **Reimbursement of costs.** If the Stormwater Authority determines that abatement or remediation of pollutants is required, the order shall set forth a deadline for completion of the abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the costs thereof shall be charged to the violator or property owner. 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 Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority 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 Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the cost shall become a special assessment against the property owner of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 30th day at which the costs first become due.
- E. **Criminal and civil penalties.** Any person who violates any provision of this bylaw, the regulations, or the terms or conditions in any permit or order issued thereunder, shall be subject to a fine not to exceed \$300 for each day such violation occurs or continues, or in the alternative shall be subject to a civil penalty, which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.
- F. **Noncriminal disposition.** As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1, § 1-6, of the Town of Westwood General Bylaws, in which case the agent of the Stormwater Authority shall be the enforcement authority. The penalty for the first violation shall be a warning. The penalty for the second

violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- G. 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 Stormwater Authority, 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 Stormwater Authority deems reasonably necessary.
- H. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.
- I. 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.

**§ 350-14. Transitional provisions.**

Residential property owners shall have 60 days from the effective date of this bylaw to comply with its provisions, provided that good cause is shown for the failure to comply with the bylaw during that period.





## ARTICLE III

**Stormwater Management and Land Disturbance****§ 350-15. Applicability.**

- A. Article III of this bylaw shall apply to all activities that result in disturbance of 5,000 square feet of land or more that drains to the municipal separate storm sewer system (MS4). Except as authorized by the Stormwater Authority in a land disturbance permit or as otherwise provided in these regulations, no person shall perform any activity that results in disturbance of 5,000 square feet of land or more. There are two levels of reviews based on the amount of land proposed to be disturbed as part of a single project as follows:
- (1) Administrative land disturbance review is required for projects disturbing at least 5,000 square feet but less than 1/2 acre (21,780 square feet) of land.
  - (2) A land disturbance permit is required for disturbance of 1/2 acre (21,780 square feet) or more of land or if the proposed use is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards, regardless of the amount of land to be disturbed.
- B. Exemptions:
- (1) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling conducted in such a way as not to cause a nuisance;
  - (2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
  - (3) Construction of utilities other than drainage (gas, water, electric, communication, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment to the MS4;
  - (4) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act Regulation 310 CMR 10.04; and
  - (5) Disturbance of land or redevelopment that is subject to jurisdiction under the Wetlands Protection Act and demonstrates compliance with the Massachusetts Stormwater Management Standards and the Town of Westwood Stormwater Management Regulations as reflected in a valid order of conditions issued by the Conservation Commission.

**§ 350-16. Permit required.**

An applicant seeking an approval and/or permit shall file an appropriate application with the Stormwater Authority in a form and containing

information as specified in this bylaw and in regulations adopted by the Stormwater Authority. An approval or permit must be obtained prior to the commencement of land disturbing or redevelopment activity based on thresholds described in the Town of Westwood Stormwater Management Regulations (regulations). Permit procedures and requirements are outlined in the regulations. Where appropriate, said regulations will require an erosion and sedimentation control plan and/or an operation and maintenance plan. Any person that fails to follow the requirements of a land disturbance permit and/or the requirements of an erosion and sedimentation control plan, or operation and maintenance plan issued under the regulations shall be in violation of the Town of Westwood Bylaws.

#### **§ 350-17. Entry.**

Filing an application for an approval or permit grants the Stormwater Authority and its employees or agents permission to enter the site to verify the information in the application and to inspect for compliance with approval or permit conditions.

#### **§ 350-18. Inspection and site supervision.**

The Stormwater Authority or its designated agent shall make inspections as outlined in the regulations to verify and document compliance with the land disturbance permit.

#### **§ 350-19. Surety.**

The Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit.

#### **§ 350-20. Final reports.**

Upon completion of the work, the applicant shall submit a report, including certified as-built construction plans, from a professional engineer (P.E.), surveyor, or certified professional in erosion and sedimentation control (CPESC), certifying that all erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved erosion and sediment control plan and stormwater management plan. Any discrepancies shall be noted in the cover letter.

#### **§ 350-21. Enforcement.**

The Stormwater Authority or its authorized agent shall enforce this bylaw, the regulations, and any associated 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, or any associated regulations, permit, notice, or order issued thereunder, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders. If the Stormwater Authority determines that a person has failed to follow the requirements of a land disturbance permit, and/or the requirements of a related erosion and sedimentation control plan or operation and maintenance plan, or is creating an adverse impact to a water resource area, or if the Stormwater Authority determines that an activity not otherwise required to obtain a land disturbance permit is causing an adverse impact to a water resource area, then the Authority may issue a written order to the person to enforce the provisions of this bylaw or any regulations thereunder, and to remediate the adverse impact, which may include:
  - (1) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the land disturbance permit;
  - (2) Maintenance, installation or performance of additional erosion and sediment control measures;
  - (3) Monitoring, analyses, and reporting; and
  - (4) Remediation of erosion and sedimentation resulting directly or indirectly from the land disturbing activity.
- C. Deadline. If the enforcement authority determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline for the completion of abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the costs thereof shall be charged to the violator.
- D. Reimbursement of costs. If the Stormwater Authority determines that abatement or remediation of pollutants is required, the order shall set forth a deadline for completion of the abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the costs thereof shall be charged to the violator or property owner. 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 Town, including administrative costs. The violator or property owner may file a written protest objecting to the

amount or basis of costs with the Stormwater Authority 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 Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the cost shall become a special assessment against the property owner of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the 30th day at which the costs first become due.

- E. Criminal and civil penalties. Any person who violates any provision of this bylaw, the regulations, or the terms or conditions in any permit or order issued thereunder, shall be subject to a fine not to exceed \$300 for each day such violation occurs or continues, or in the alternative shall be subject to a civil penalty, which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.
- F. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1, § 1-6, of the Town of Westwood General Bylaws, in which case the agent of the Stormwater Authority shall be the enforcement authority. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. 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 Stormwater Authority, 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 Stormwater Authority deems reasonably necessary.
- H. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.
- I. 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.

**Chapter 355**

**STREETS AND SIDEWALKS**



## ARTICLE I

**Obstructions**

**[Adopted as Art. 10, § 1 of the General Bylaws; amended in its entirety 1973 ATM by Art. 4]**

**§ 355-1. License required.**

No persons except officers of the Town, in the lawful performance of their duties, and those acting under their orders, shall obstruct any sidewalk or street, or break or dig the ground of same, without first obtaining a written license from the Selectmen therefor.

**§ 355-2. Animals.**

No person shall tie a horse or other animal to any tree, nor to any structure protecting such tree, in the public streets of the Town.

**§ 355-3. Gate or door opening onto public way.**

No person shall allow any gate or door on premises under his control, and adjoining any public way, to swing on, over or into said public way.

**§ 355-4. Curb cuts for driveways. [Added 1975 ATM by Art. 34]**

No person shall make or cause to be made a curb cut for a driveway unless it shall be limited to those areas outside the PC (point of curvature) or PT (point of tangency) of two intersecting ways. All curb cuts for driveways shall require a permit from the Highway Department. The Highway Department shall take action on the request for a permit within 30 days, and, upon approval, which approval shall not be unreasonably withheld, the construction shall be accomplished at the expense of the owner.





## ARTICLE II

**Snow and Ice Removal**

**[Adopted as Art. 10, § 3 of the General Bylaws; amended in its entirety 1973 ATM by Art. 4]**

**§ 355-5. Placement of snow or ice; penalty. [Amended 1994 ATM by Art. 24]**

No person shall lay, throw, place or cause to be placed any snow or ice on any paved Town street or sidewalk so as to create a hazardous condition or public safety concern. If, after having received notice from a duly authorized agent of the Town that such a condition exists, the owner of the property from which the snow or ice was removed (or his agent having charge thereof) fails to correct the condition within a reasonable amount of time, the owner or agent shall be deemed to be in violation of this bylaw. Violation of this section shall be punished by a fine of \$300 or any cost incurred by the Town as a result of said violation or both.



ARTICLE III

**Signs and Outdoor Advertising**

**[Adopted as Art. 10, § 5 of the General Bylaws; amended in its entirety 1973 ATM by Art. 4]**

**§ 355-6. Permit required.**

No person shall display, allow or cause to be placed posters, signs, pamphlets or other promotional/advertising materials in or upon any street, sidewalk or Town way for any purpose without obtaining a permit from the Selectmen therefor.



ARTICLE IV

**Coasting**

**[Adopted as Art. 10, § 6 of the General Bylaws; amended in its  
entirety 1973 ATM by Art. 4]**

**§ 355-7. Restriction.**

No person shall coast upon any sidewalk or street in the Town except at such times and in such places as may from time to time be designated by the Selectmen.



## ARTICLE V

**Obstruction of Passage**

**[Adopted as Art. 10, § 12 of the General Bylaws; amended in its entirety 12-13-1978 STM by Art. 5]**

**§ 355-8. Violations and penalties.**

Whoever continues to stand, sit, or loiter in or about any street, sidewalk or any public way so as to obstruct the free passage of travelers or vehicles thereon, after being directed by a police officer to move on or disperse, shall be punished by a fine not exceeding \$25.

**§ 355-9. Breach of the peace.**

It shall be deemed to be a breach of the peace and it shall be the duty of any police officer of the Town to order any person so acting as to obstruct the free passage of travelers or vehicles to move on and disperse, and if the person so ordered does not forthwith obey, to remove such person, or to arrest and cause such person to be brought before a Justice of District Court of Norfolk County, Dedham, Massachusetts, upon a complaint made for a violation of the provision of the preceding § 355-8.

**§ 355-10. Severability.**

The provisions of this bylaw are severable, and if any of its provisions shall be held unconstitutional or invalid by any court of competent jurisdiction, the decision of said court shall not affect or impair any of the remaining provisions.





## ARTICLE VI

**Street Furniture**

**[Adopted 1999 ATM by Art. 18 (Art. 10, § 22 of the General Bylaws);  
amended in its entirety 2002 ATM by Art. 32]**

**§ 355-11. Purpose.**

The purpose of the regulation of the placement of street furniture is to enhance the public health, safety, convenience, and good order of the Town of Westwood.

**§ 355-12. Definition.**

Street furniture is defined as any structure erected or placed within the layout of any public way of the Town of Westwood on a temporary or permanent basis, excluding fences or stone walls.

**§ 355-13. Permit required; exemptions.**

Street furniture, as hereinbefore defined, shall not be permitted within the layout of the public ways of the Town without a permit being issued for the location of the same from the Board of Selectmen. Exempted from the provisions of this bylaw are those structures erected or placed by authorized public agencies for public safety and/or public welfare purposes, including, but not limited to, streetlights, traffic lights, U.S. Postal Service receptacles, fire hydrants, street trees, and trash receptacles.

**§ 355-14. Issuance of permit.**

The Board of Selectmen shall, upon written application and the payment of any required fees, issue a permit for the location of an article of street furniture upon its finding that the applicant is in compliance with all provisions of this bylaw. The Selectmen shall issue said permit within 10 days of this finding of compliance. If an application is denied, the Selectmen shall notify the applicant within 10 days of this vote by certified mail and shall state the specific reasons for the denial. The applicant may appeal this denial within 30 days of receipt of the denial and the Selectmen shall hear the appeal within 30 days of receipt of the appeal.

**§ 355-15. Compliance.**

Subsequent to the adoption of this bylaw, no person shall place, erect, maintain or continue to maintain an article of street furniture within the layout of any public way of the Town without first obtaining said permit from the Board of Selectmen.

**§ 355-16. Application; placement and maintenance of street furniture.**

- A. Applications must be submitted in writing on a form prescribed by the Board of Selectmen.

- B. The street furniture, for which a permit is sought, must not occupy an area greater than nine square feet, nor be more than 52 inches tall.
- C. The placement of the street furniture shall not result in less than five feet of pedestrian traffic width on the sidewalk.
- D. The placement of the street furniture shall not be less than four feet from any road surface, fire hydrant, U.S. Postal Service receptacle, etc.
- E. The street furniture shall be well maintained and shall have no sharp edges or corners which are likely to cause personal injury.
- F. The street furniture must display the following information: permit holder name, street address, city or town, state, zip code and telephone number of said permit holder. Said display shall be prominently displayed on the article of street furniture.

#### **§ 355-17. Decal.**

After an application has been approved, the Board of Selectmen shall issue to each permit holder a decal, which shall contain the permitted location of the article of street furniture, the permit number and the expiration date of said permit. Said decal shall be prominently displayed on the article of street furniture.

#### **§ 355-18. Validity of permit; fees. [Amended 5-3-2010 ATM by Art. 15]**

All permits issued under this bylaw shall be valid for a period of not more than 24 months from the date of issuance. All permits issued for the location of an article of street furniture shall expire on January 1 of the second year after the initial issuance of said permit. The fee for each new or renewal permit issued for each article of street furniture shall be \$25 per year.

#### **§ 355-19. Removal. [Amended 5-3-2010 ATM by Art. 15]**

Any article of street furniture found within any layout of a public way of the Town without a valid permit or decal as required, or for which an application is not pending review, or whose placement is not in compliance with § 355-16 of this bylaw may be removed by the Director of Public Works after 10 days unless the article of street furniture is brought into compliance before the expiration of said ten-day period. The notice of the violation shall be forwarded to the permittee via first-class mail and affixed to the article of street furniture in violation for said ten-day period and shall include the following information, if available: the location and permit number of the article of street furniture in violation of the provisions of the bylaw; statement of the facts causing the violation; and notice that at the expiration of 10 days after receipt of this violation notice, the article of street furniture will be removed by the Director of Public Works unless the violation is corrected within that time period. The permit holder may claim said article from the Director of Public Works upon payment of reasonable

storage fees to be determined and from time to time as amended by the Board of Selectmen. The Town shall not be held responsible for lost or damaged articles of street furniture in the possession of the Department of Public Works.

**§ 355-20. Fines.**

Any persons violating the provisions of this bylaw shall be punished by a fine of \$50 for each offense. Each day that said violation continues shall be considered a separate and continuing offense.

**§ 355-21. Waivers.**

Strict compliance with this bylaw may be waived if the Board of Selectmen finds that the waiver is in the public interest and is consistent with the intent and purpose of this bylaw.

**§ 355-22. Severability.**

If any section or provision of this bylaw is held invalid, it shall not invalidate any other section or provision hereof. If the application of any provision of this bylaw to any person or circumstances is held invalid, it shall not invalidate the application of this bylaw to other persons and circumstances hereof.



## ARTICLE VII

**Use of Ways****[Adopted as Art. 11 of the General Bylaws]****§ 355-23. Obstruction of sidewalks.**

No person shall place or cause to be placed upon any sidewalk any coal, bale, box, or trunk, crate, cask, barrel, garbage can, package or anything, so as to obstruct the same for more than 24 hours after having been notified by a constable, police officer, or Selectman to move it.

**§ 355-24. Permit to occupy street. [Amended 5-3-2010 ATM by Art. 15]**

- A. Every person intending to erect, repair, or take down any building on any land abutting on any street or way which the Town is required to keep in repair, and who desires to make use of any portion of said street or way for the purpose of placing therein building materials or rubbish, shall give notice thereof to the Selectmen. The Selectmen may grant a permit to occupy a portion of said street or way, and such permit shall be upon the condition that the permittee shall keep a sufficient number of lighted lanterns at or near the part of the street or way obstructed or unsafe, and shall keep a railing or guard around the same, while such obstruction shall continue. If such obstruction is more than a temporary condition, the permittee shall place a good temporary walk around said obstruction and at the completion of the work shall restore the street or way to its former condition.
- B. Before issuing a permit as specified in Subsection A, the person applying for the same shall execute a written agreement to indemnify and save harmless the Town against and from all damages by reason of cost or expense it may suffer or be put to by reason of any claim for damages or by reason of any proceedings, criminal or civil, on account of the existence of such obstruction or excavation.

**§ 355-25. Team or vehicle.**

No person shall permit any team or vehicle under his care or control to stand across any public highway or street in the Town in such a manner as to obstruct the travel over the same for an unreasonable length of time, no person shall stop with any team or vehicle in any such public highway or street so near to another team or vehicle as to obstruct public travel, and no person shall stop with any team or vehicle upon or across any crossing in such highway or street.

**§ 355-26. Impoundment of vehicles impeding snow removal. [Added 1947 ATM by Art. 47]**

The Superintendent of Streets or Chief of the Police Department, for the purpose of removing or plowing snow, or removing ice, from any way, may

remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle interfering with such work, and the cost of such removal, and of the storage charges, if any, resulting therefrom, shall be imposed upon the owner of such vehicle.

**§ 355-27. Repairs in private ways. [Added 11-19-1979 STM by Art. 10]**

The Town may make temporary minor repairs in private ways which have been opened to public use for six years or more; the cost of said temporary minor repairs shall be paid for by the abutters and shall only be done if petitioned for by a majority of said abutters and if the Selectmen determine that said repairs are required by the public necessity. No such repairs shall be commenced unless and until a cash deposit equal in amount to the estimated cost of such repairs as determined by the Highway Department, or an agent duly authorized by said Highway Department, is paid over to the Town. Said temporary minor repairs shall only include the filling of holes or depressions with sand, gravel, or cinders or other suitable materials and shall not include drainage or resurfacing or permanent construction of said way. The Town shall not be liable on account of any damage whatever caused by such repair.

**§ 355-28. Contractor or developer bond. [Added 1991 ATM by Art. 33]**

Any contractor or developer of new construction in the area of an accepted Town way shall post a bond with the Board of Selectmen or provide evidence of sufficient insurance coverage prior to any construction, the amount of said bond to be sufficient to cover the cost of returning the Town way to its original condition in the event of damage caused by the contractor or developer during such construction.

**§ 355-29. Poles and overhead wires prohibited in certain areas. [Added 1995 ATM by Art. 9; amended 1996 ATM by Art. 23; 1999 ATM by Art. 16]**

Any person, firm or corporation, partnership, their agents and employees who has been granted, or may be granted, any license, permission, or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways is forbidden from installing or constructing, and shall remove immediately, any poles, overhead wires and associated structures which are located on, along or across the following sections of roadway which are described below:

<b>Roadway</b>	<b>From</b>	<b>To</b>
Washington Street	Fairview Street	Everett Street
University Avenue	Blue Hill Drive	Canton Street

<b>Roadway</b>	<b>From</b>	<b>To</b>
High Street	Assessor Parcel No. 14-132	Windsor Road
High Street	Windsor Road	Fire Station
High Street	Fire Station	Barlow Lane

**§ 355-30. Utility work. [Added 5-5-2003 ATM by Art. 33]**

- A. Upon the grant of location, alteration or replacement thereof, for utility poles, lines, wires, conduits, piers, or abutments erected for the purposes of construction, reconstruction, or moving utility lines, wires, poles, conduits, piers, or abutments under or across a public way or way maintained by the Town, or public property, all installations, construction, reconstruction or other work related thereto shall be completed by the owners of said utility within 90 days of the vote by the Board of Selectmen authorizing said work.
- B. The penalty for violation of this section shall be \$100 per day, with each day constituting a new violation. **[Amended 5-3-2010 ATM by Art. 15]**

**§ 355-31. Trenches. [Added 5-5-2008 ATM by Art. 38]**

The Director of the Department of Public Works is hereby designated, pursuant to MGL c. 82A, § 2, as the officer to issue permits for the excavation of trenches on privately owned land and for the excavation of a public way of the Town of Westwood, subject to the requirements of said MGL c. 82A and the regulations promulgated thereunder.

**Chapter 370****UNATTENDED DONATION CONTAINERS****§ 370-1. Authority and interpretation.**

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

**§ 370-2. Purpose.**

The purpose of this bylaw is to regulate and restrict the placement of unattended donation containers (UDCs) in order to:

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

**§ 370-3. Nonconforming existing UDCs.**

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

**§ 370-4. Prohibition.**

UDCs are prohibited from being kept on or within the layout of any street, way or sidewalk or on other public property by any person or entity other than the Town of Westwood, except in the case of a UDC placed by a lessee, contractor or assign of the Town pursuant to a written agreement signed by the Town Administrator. UDCs are prohibited from being kept



on any private property without first obtaining a license from the Board of Selectmen. UDCs are prohibited in all residential zones.

**§ 370-5. License.**

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

**§ 370-6. Placement.**

- A. Placement of a UDC shall conform to the setback requirements for an accessory structure as set forth in the Westwood Zoning Bylaw for the particular district in which the UDC is located. The UDC shall be placed in a location such that there shall be safe and convenient pedestrian and/or vehicular access to the UDC.
- B. The Board of Selectmen may deny any application for a UDC when it finds that the proposed UDC does not meet the purpose of this section or when the proposed UDC otherwise fails to comply with the requirements of this bylaw and/or the requirements of the Board's UDC license regulations.

**§ 370-7. Cost of license.**

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

**§ 370-8. Refundable deposit.**

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

**§ 370-9. Administration and enforcement; alternate penalties.**

- A. Enforcement. The Building Commissioner is hereby charged with the enforcement of this bylaw.
  - (1) The Building Commissioner and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have power to enter upon the premises on which any UDC is erected or maintained in order to inspect said UDC.

- (2) The Building Commissioner is further authorized, upon notice as herein provided, to order the repair or removal of any UDC which in his judgment is prohibited or is likely to become dangerous, unsafe or in disrepair, or which is erected or maintained contrary to this bylaw. The Building Commissioner shall serve a written notice and order upon the owner of record of the premises where the UDC is located and any advertiser, tenant, or other person known to him having control of or a substantial interest in said UDC, directing the repair or removal of the UDC within a time not to exceed seven days after giving such notice. If such notice and order is not obeyed within such period of time, the Building Commissioner and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which said UDC is erected or maintained and repair or remove, or cause to be repaired or removed, said UDC. All expenses incurred by the Building Commissioner and his duly authorized agents in repairing or removing any UDC shall be assessable against any person who failed to obey said notice and order and shall be recoverable in any court of competent jurisdiction if not paid within 30 days after written notice of assessment is given by the Building Commissioner at any such person.
- B. Alternate penalties. If such UDC is not removed for noncompliance with the provision hereof or noncompliance with any license granted hereunder after seven days' notice from the Building Commissioner, a fine of \$300 per day to the person or organization placing said UDC and \$300 per day to the property owner where UDC was placed may be issued and enforced in accordance with the provisions of MGL c. 40, § 21D.

## **Chapter 380**

### **VEHICLES AND TRAFFIC**

## ARTICLE I

**Recreational Vehicles**

**[Adopted as Art. 10, § 8 of the General Bylaws; amended in its entirety 1973 ATM by Art. 4]**

**§ 380-1. License required.**

No person shall operate any recreation vehicle primarily propelled by a motor and not subject to licensing or regulation under the laws of the commonwealth within the limits of the Town without first having obtained a license from the Chief of Police, and provided further, should such operator be a minor child, application for such license shall be made by his parents or guardian.



ARTICLE II

**Automobile Service Stations**

**[Adopted as Art. 10, § 9 of the General Bylaws; amended in its entirety 1973 ATM by Art. 4]**

**§ 380-2. Hours of operation.**

For the purpose of controlling and abating noise, no automobile service station within the Town shall conduct business during the hours of 10:00 p.m. and 6:00 a.m.



## ARTICLE III

**Public Safety Lanes**

**[Adopted 1983 ATM by Art. 23 (Art. 10, § 16 of the General Bylaws);  
amended 1995 ATM by Art. 23]**

**§ 380-3. Obstructing private ways.**

It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent or hamper access by fire apparatus, fire equipment, ambulance service or police cruisers to any multiple-family building, stores, shopping centers, schools, parking lots, and places of public assembly.

**§ 380-4. Designation of public safety lanes.**

It shall be unlawful to obstruct or park a vehicle in any public safety lane, such public safety lanes to be designated by the Chief of the Fire Department and the Chief of the Police Department and posted as such, said public safety lanes to be a distance of 12 feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and location shall be established by the Chief of the Fire Department and the Chief of the Police Department.

**§ 380-5. Removal of vehicles.**

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

**§ 380-6. Signs and road markings.**

The owner of record of any building affected by these sections shall provide and install signs and road markings as provided in § 380-4 of this bylaw. Said signs shall be no less than 12 inches by 18 inches and shall read "Public Safety Lane — No Parking — Tow Zone."

**§ 380-7. Violations and penalties. [Amended 5-7-2012 ATM by Art. 37]**

Any persons violating any of the foregoing sections may, for each offense, be punished by a fine of \$50. Each day that such violation continues shall constitute a separate offense.





## ARTICLE IV

**Handicapped Parking**

**[Adopted 1983 ATM by Art. 24 (Art. 10, § 17 of the General Bylaws);  
amended 1994 ATM by Art. 22]**

**§ 380-8. Spaces to be reserved.**

Owners or persons in control of private ways or improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, or other places where the public has a right of access shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by MGL c. 90, § 2 in accordance with the provision of MGL c. 40, § 21(23).

**§ 380-9. Use of spaces restricted.**

No person other than a disabled veteran or handicapped person shall park or leave a vehicle unattended within parking spaces designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons as authorized by Clause 23 of MGL c. 40, § 21 or in such manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.

**§ 380-10. Violations and penalties. [Amended 5-3-2010 ATM by Art. 15; 5-7-2012 ATM by Art. 37]**

For each offense a penalty of \$100 shall be imposed plus the cost of removing the vehicle in accordance with MGL c. 266, § 120D.



## ARTICLE V

**Street Parking****[Adopted 5-2-2011 ATM by Art. 29<sup>9</sup>]****§ 380-11. Overnight parking during winter months.**

It shall be unlawful for the owner or operator of any vehicle, other than one acting in an emergency, to park said vehicle on any public street or place where the traveling public has the right of access between the hours of 2:00 a.m. and 5:00 a.m. of any day during the period of December 1 through March 31.

**§ 380-11.1. Obstructing traffic.**

No owner or operator of a motor vehicle shall leave it parked or standing on a public street or place where the traveling public has the right of access in such a way that obstructs or impedes the flow of traffic. If an owner or operator refuses to move such a vehicle or the owner or operator cannot be located, the vehicle may be ticketed and/or towed in order to restore the safe flow of traffic.

**§ 380-11.2. Snow and ice emergencies.**

- A. In order to facilitate the safe and orderly snow clearing operations, the Emergency Management Director may declare a snow or ice emergency based on existing or expected weather conditions.
- B. During a snow or ice emergency all parking on Town roads is prohibited.
- C. Vehicles parked on Town roadways in violation of the ban may be ticketed and/or towed at the owner's expense.
- D. When possible, advance notice will be sent out through various media electronic means, including posting on the Town's website: [www.town.westwood.ma.us](http://www.town.westwood.ma.us).

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9. Editor's Note: This article also repealed former Art. V, All-Night Parking, adopted 1993 ATM by Art. 22 (Art. 10, § 18 of the General Bylaws).



## ARTICLE VI

**School Crossings****[Adopted 1994 ATM by Art. 23 (Art. 10, § 20 of the General Bylaws)]****§ 380-12. Failure to stop.**

A sworn police officer of the Town of Westwood is hereby authorized to cite any person who has been found to be operating or in charge of a motor vehicle who refused or neglected to stop when signalled to do so by a Traffic Supervisor while in uniform and engaged in the performance of his/her duties as a school crossing guard within a school crossing.



## ARTICLE VII

**Motorized Scooters****[Adopted 2002 ATM by Art. 16 (Art. 10, § 25 of the General Bylaws)]****§ 380-13. Definition.**

As used in this article "motorized scooter" shall mean any two-wheeled device that has handlebars, is designed to be stood or sat upon by the operator and is powered by an electric, gasoline or alcohol fueled motor that is capable of propelling the device with or without human propulsion. A "motorcycle" or "motorized bicycle" as defined in MGL c. 90, § 1 is not a motorized scooter.

**§ 380-14. Operation restricted.**

No person under the age of 16 shall operate a motorized scooter on any way or on any sidewalk appurtenant thereto, or in any place to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, or on any public property, schools, playground or parks within the Town. In no event shall anyone be allowed to operate a motorized scooter on the turf of a playground, park or athletic field.

**§ 380-15. Responsibility of owner or custodian.**

No person, owner, lessee or person who has under his/her custody, care or control a motorized scooter shall allow or permit any person under the age of 16 to operate a motorized scooter on any way or on any sidewalk appurtenant thereto, or in any place to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, or on any public property, schools, playgrounds or parks within the Town. In no event shall anyone be allowed to operate a motorized scooter on the turf of a playground, park or athletic field.

**§ 380-16. Standards for operation.**

Operation of motorized scooters must follow all applicable roadway rules and regulations. Reckless operation of motorized scooters is prohibited.

**§ 380-17. Altered scooters.**

No person shall operate a motorized scooter that has been altered in such a manner that allows it to be operated at a higher rate of speed and/or to produce noise in excess of that which it was originally designed.

**§ 380-18. Safety helmet required.**

No person shall operate a motorized scooter or be on a motorized scooter without a safety helmet.

**§ 380-19. Violations and penalties.**

Violations of any section of this regulation shall result in a fifty-dollar fine for each offense.



## ARTICLE VIII

**Hackney Carriages; Taxicabs and Vehicles for Hire  
[Adopted 5-7-2012 ATM by Ord. No. 36]****§ 380-20. Board to regulate; availability of regulations; notice.**

The Board of Selectmen, pursuant to the provisions of MGL c. 40, § 22, may make such rules, orders, and regulations for the licensing and operation of hackney carriages, taxicabs and vehicles for hire operated within the Town of Westwood and relative to the licensing of the operators thereof, including the imposition of penalties for violations therefor, as the Selectmen deem necessary and advisable from time to time. Such rules, orders and regulations shall be printed in a form made available to applicants for such licenses. Notice thereof and of said regulations and any changes thereon shall be duly published in a newspaper, all as prescribed by MGL c. 40, § 22.

**§ 380-21. Hackney/taxi license penalties. [Added 5-4-2015 ATM by Art. 18]**

Whoever violates any of the rules and regulations promulgated under § 380-20 shall be punished as follows:

- A. Violations related to the licensing of taxis or the conduct of taxi operators as required by the regulations shall be punished by a fine of \$300. Violations shall include, but are not limited to: operating a taxi company without a proper license, operating a taxi without a proper license, allowing an improperly licensed taxi driver to operate a taxi and refusing to accept a passenger.
- B. Any other violations as required by the regulations related to the lawful operation of a taxi and/or a taxi company shall be punished by a fine of \$100 for the first offense, \$200 for the second offense and \$300 for each subsequent offense.
- C. Notwithstanding any violation or fine referenced in the previous paragraphs, the license of a duly licensed taxi company, taxi operator or both may have said licenses suspended or revoked for a period of time determined appropriate by the Chief of Police based on conduct that he/she deems to be in violation of this bylaw, the regulations cited above or that is necessary to ensure the health, safety and/or welfare of the Town.
- D. Any violations of this bylaw shall be issued using a civil violation notice as approved by the Town.
- E. Appeals will need to be filed with the Town Administrator's Office, 580 High Street, Westwood, MA 02090 within 21 days after the date of the violation. The Town Administrator will set up a hearing on said appeal in or within 30 days of the appeal; otherwise payment must be received within that time or be subject to interest and demand notice charge to be set by the Board of Selectmen. Failure to pay a fine that has been

imposed within 30 days of the date of issuance or the date of a decision of an appeal may result in revocation of license.

**Chapter 392****WETLANDS PROTECTION****§ 392-1. Purpose.**

The purpose of this bylaw is to protect wetlands and adjoining land areas in the Town of Westwood by controlling activities deemed by the Conservation Commission likely to have a significant or incremental effect upon wetland values, including but not limited to the following: public or private water supply, groundwater supply and quality, flood control, storm damage prevention, prevention of pollution, fisheries, wildlife habitat, and erosion and sedimentation control (collectively, the "wetland values protected by this bylaw").

**§ 392-2. Jurisdiction. [Amended 1998 ATM by Art. 28]**

- A. Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall remove, fill, dredge, build upon, or alter the following resource areas: any freshwater wetland, marsh, wet meadow, bog, or swamp; any bank, lake, pond, vernal pond, river, or stream; any land under said waters; any land subject to flooding; or any riverfront area. Any activity proposed or undertaken within 100 feet of any freshwater wetland, marsh, wet meadow, bog, swamp, bank, lake, pond, vernal pond, river or stream (hereinafter called the "buffer zone") which, in the judgment of the Commission, will alter an area subject to protection under this bylaw is subject to regulation under this bylaw.
- B. The Commission may regulate activities under this bylaw regardless of whether those same activities are regulated under the Wetlands Protection Act, MGL c. 131, § 40. **[Added 2002 ATM by Art. 23]**

**§ 392-3. Exceptions.**

- A. The permit and application required by this bylaw shall not be required by this bylaw for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph, or other telecommunication services, provided that the structure or facility is not substantially changed or altered, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission and provided that the Commission issues written confirmation that such performance standards and design specifications are met by the work.
- B. The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or 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 a political subdivision thereof, provided that advance notice, oral or written, has been given to the Conservation Commission prior to commencement of work or within 24 hours after commencement, provided that the Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of an emergency a permit application shall be filed with the Commission for review as provided in this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

C. Alteration of resource areas. **[Added 1998 ATM by Art. 27; amended 2000 ATM by Art. 28]**

(1) The presumption that activity undertaken within 35 feet of certain resource areas shall alter those resource areas, as set out in Subsection (11) of the definition of "alter" in § 392-8 of this bylaw, shall not apply to:

- (a) Any lot shown on a subdivision plan filed and approved by the Planning Board pursuant to MGL c. 41, § 81P or 81S, for which application for Planning Board endorsement or approval has been made prior to March 1, 1998;
- (b) Any lot otherwise in existence as of March 1, 1998; or
- (c) The repair, maintenance, alteration, reconstruction or expansion of any structure in existence as of March 1, 1998.

(2) Such land and structures shall be subject to the presumption that any activity undertaken within 10 feet of the boundary of a wetland, bank, pond, vernal pool, stream or river shall alter that resource area. The subdivision of any lot otherwise grandfathered pursuant to Subsection C(1)(a) or (b) above shall be subject to the thirty-five-foot setback presumption.

D. Other than stated in this section, the exceptions provided in the Wetlands Protection Act (MGL c. 131, § 40) shall not apply.

**§ 392-4. Applications for permits and requests for determination.  
[Amended 2002 ATM by Arts. 22, 24 and 25]**

A. Written application shall be filed with the Commission to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. The application shall include such information and plans as are deemed necessary by the Commission to describe the proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw. The Commission in an appropriate case may

accept as the application and plans under this bylaw the notice of intent and plans filed under the Wetlands Protection Act, MGL c. 131, § 40.

- B. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission. The Commission in an appropriate case may accept as the application and plans under this bylaw the request for determination and plans filed under the Wetlands Protection Act, MGL c. 131, § 40.
- C. Any person filing an application for a permit or a request for determination shall do so with the Commission by hand delivery or certified mail, return receipt requested.
- D. Any person filing an application for a permit or request for determination with the Commission shall provide a copy thereof, by certified mail or hand delivery, to the Town boards and offices as directed by the Commission. The Commission may take into account any comments provided to the Commission by other Town boards and offices in determining the effect the project may have on protected resource areas. The Commission shall allow the applicant an opportunity to respond to any such comments.
- E. At the time of an application for a permit or request for determination the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, § 40, and shall be commensurate with the costs incurred by the Commission.
- F. To assist its review of permit applications, the Commission may engage scientific and environmental professionals to review applications for technical accuracy and compliance with this bylaw, including delineation of wetland boundaries, identification and verification of wetland features, identification and assessment of wildlife habitat, and the review of hydrological data or calculations. The Commission is authorized to require the applicant to pay the costs and expenses of any expert consultant deemed necessary by the Commission to review the application. The Commission may waive the filing fee and costs and expenses for an application or request filed by a government agency and shall waive them for a request for determination filed by a person having no financial connection with the property which is the subject of the request.

**§ 392-5. Notice and hearings. [Amended 2002 ATM by Art. 24]**

- A. Application for permit.
  - (1) Any person filing an application for a permit shall do so with the Commission by hand delivery or certified mail, return receipt requested, and such application shall also include a certified list of

abutters within 300 feet, according to the most recent records of the Assessors, including those across a travelled way or a body of water. The Commission shall set the date and time for the public hearing for the application and provide to the applicant a copy of a public hearing notice which shall be published at the applicant's expense in a newspaper of general circulation in the Town of Westwood at least five working days prior to the hearing date. Concurrently with newspaper advertisement, the applicant shall post to each abutter by certified mail, return receipt requested, a copy of the public hearing notice supplied to the applicant by the Commission and shall state where copies of the application, including plans, may be examined and obtained by abutters free of charge. Applicants shall provide the Town Clerk with a complete copy of the application and plans for public review.

- (2) The date of receipt of all filings made under this bylaw shall be the date of the Commission's first regular meeting scheduled at least seven days following receipt of the filing by hand delivery or certified mail, return receipt requested.
- (3) The Commission shall commence the public hearing within 21 days of the date of receipt of an application for a permit. The return receipts from all abutters and/or proof of attempted delivery by certified mail shall be submitted to the Commission at the opening of the public hearing.
- (4) The Commission shall issue its permit or decision to deny the permit within 21 days from the close of the public hearing.
- (5) The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, or reasons deemed necessary by the Commission in its discretion. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.
- (6) The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40.

B. Request for determination of applicability (RDA).

- (1) Any person filing a request for determination of applicability (RDA) shall do so by certified mail, return receipt requested, or by hand delivery to the Conservation Commission office. The Commission shall provide the person filing the RDA with a copy of the public meeting notice giving the date, time, and location at which the RDA will be heard. The person filing the RDA shall post, certified mail, return receipt requested, to the owner and to each abutter, as defined above, a copy of the public meeting notice giving the

date, time, and location at which the RDA will be heard. The public meeting notice shall state where complete copies of the RDA, including plans, if any, may be inspected or obtained free of charge. Applicants shall provide the Town Clerk with a complete copy of the RDA. **[Amended 5-5-2003 ATM by Art. 27]**

- (2) The Commission shall issue a determination of applicability within 21 days of receipt of the request for determination.
- (3) The Commission in an appropriate case may combine its meeting under this bylaw with the meeting conducted under the Wetlands Protection Act, MGL c. 131, § 40.

**§ 392-6. Permits, determinations and conditions.**

- A. If the Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant or incremental effect upon the wetland values protected by this bylaw, the Commission within 21 days of the close of the hearing shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or incremental effects upon the wetland values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission, or for projects undertaken by a government agency. Any permit may be renewed once for an additional one-year period, provided that a request for renewal is received in writing by the Commission prior to expiration.
- D. For good cause the Commission may revoke or modify a permit issued under this bylaw after public notice and public hearing and notice to the holder of the permit.
- E. The Commission in an appropriate case may combine the permit or other action on an application issued under this bylaw with the order of conditions issued under the Wetlands Protection Act.

- F. Prior to the commencement of any work permitted or required by a permit issued pursuant to this bylaw, the permit shall be recorded by the applicant in the Registry of Deeds or with the Registry of the Land Court, within the chain of title of the affected property. Certification of recording shall be sent to the Commission prior to the commencement of work. Failure to provide this certification prior to commencement shall be considered to be a violation of this bylaw.

### **§ 392-7. Regulations.**

After public notice and public hearing the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall define key terms in this bylaw not inconsistent with this bylaw. Until such time as such regulations are promulgated, the regulations promulgated under the Wetlands Protection Act, MGL c. 131, § 40, shall be deemed to effectuate the purposes of this bylaw.

### **§ 392-8. Definitions.**

- A. The following definitions shall apply in the interpretation and implementation of this bylaw.

ALTER — The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by this bylaw:

- (1) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (2) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- (3) Drainage or other disturbance of water level or water table;
- (4) Dumping, discharging, or filling with any material which may degrade water quality;
- (5) Placing of fill, or removal of material, which would alter elevation;
- (6) Driving of piles, erection or repair of buildings, or structures of any kind;
- (7) Placing of obstructions or objects in water;
- (8) Destruction of plant life including cutting of trees or brush;
- (9) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;



- (10) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- (11) Any activity undertaken within 35 feet of the boundary of a wetland, bank, pond, vernal pond, stream, or river shall be presumed to alter that resource area. This presumption may be overcome by demonstrating to the satisfaction of 2/3 of the Commission that the proposed activity will materially benefit the resource area. **[Amended 1998 ATM by Art. 27]**

COMMISSION — The term "Commission" shall mean the Conservation Commission as constituted under Chapter 5, Section 3, of the Town Charter.

FRESHWATER WETLAND — The term "freshwater wetland" shall mean any area, natural or man-made, in which groundwater is near, at, or above the surface of the soil for a significant portion of the growing season. Such areas have a hydrophytic vegetational community consisting of greater than 50% wetland plant species and have a saturated hydric soil. Wetland plant species are considered to be those species identified by the United States Fish and Wildlife Service as occurring primarily in wetlands, or those species identified as wetland species in scientific or technical reference publications.

LAND SUBJECT TO FLOODING — The term "land subject to flooding" shall mean any area adjacent to a water body which is inundated during the one-hundred-year storm, as indicated on FEMA maps.

PERSON — The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

POND — The term "pond" shall mean any body of water, either naturally occurring or man-made, which is never without standing water due to natural causes except during periods of extended drought. Swimming pools or other impervious man-made basins shall not be considered ponds.

RIVER — A river is any natural flowing body of water that empties to any ocean, lake, pond, or other river and which flows throughout the year. Perennial streams are rivers; intermittent streams are not rivers. **[Added 1998 ATM by Art. 28]**

RIVERFRONT AREA — The area of land between a river's mean annual high-water line measured horizontally outward from the river and a parallel line located 200 feet away, except that the parallel line is located 25 feet away in densely developed areas, as designated by the Conservation Commission, and 100 feet away for new agricultural and aquacultural activities. **[Added 1998 ATM by Art. 28]**

**STREAM** — The term "stream" shall mean any body of water which flows either throughout the year or intermittently, in a definite channel in the ground, whether natural or man-made. A portion of a stream may flow through a culvert. Such channel in the ground must be clearly visible on the surface of the substrate at such times when the channel is dry. Streams subject to protection under this bylaw are those that flow within or out of a pond, lake, marsh, bog, swamp or wet meadow.

**VERNAL POND** — The term "vernal pond" shall mean any naturally occurring confined basin depression which holds water for a minimum of two continuous months during the spring and/or summer.

**WETLANDS PROTECTION ACT** — The term "Wetlands Protection Act" shall mean MGL c. 131, § 40.

- B. Except as otherwise provided or required by this bylaw or regulations promulgated hereunder, definitions set forth in MGL c. 131, § 40 and the regulations thereunder (310 CMR 10.00 et seq.) shall apply to the construction of terms in this bylaw.

### **§ 392-9. Security.**

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility equal in value to the cost of performance and observance of the conditions imposed to protect or restore the resource areas, as determined by the Commission;
- B. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

### **§ 392-10. Enforcement.**

- A. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.
- B. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

- C. Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- D. Municipal boards and officers, including any police officer having police powers, shall have authority to assist the Commission in enforcement.
- E. Any person who violates any provision of this bylaw, regulations thereunder, or permits issued thereunder shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense. In the alternative to criminal prosecution the Commission may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D.

#### **§ 392-11. Preacquisition violations.**

Any person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this bylaw or in violation of any permit issued pursuant to this bylaw shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against any such person unless commenced within three years following the date of acquisition of the real estate by such person or five years after the violation, whichever is earlier.

#### **§ 392-12. Burden of proof.**

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

#### **§ 392-13. Rights of appeal.**

Any person aggrieved by the decision of the Commission, whether or not previously a party to the proceeding, may file a complaint seeking relief in the Superior Court of the County of Norfolk, according to the provisions of Massachusetts General Laws, not more than 21 days after the issuance of the decision of the Commission. Such a complaint may also be filed if the Commission fails to hold a public hearing or issue an order, notification, or determination within the time period required by this bylaw.

**§ 392-14. Relation to Wetlands Protection Act.**

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the home rule statutes, independent of the Wetlands Protection Act, MGL c. 131, § 40, and regulations thereunder.

**§ 392-15. Severability.**

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

**Chapter A500****GENERAL LAWS AND SPECIAL ACTS****§ A500-1. Statutes or regulations accepted by the Town of Westwood.**

1. Chapter 386 of the Acts of 1890, relative to printing and distributing ballots for Town elections at public expense. Accepted December 18, 1897, Art. 2.
2. Chapter 304 of the Acts of 1888, relative to public libraries and trustees thereof. Accepted February 2, 1898, Art. 4.
3. Chapter 170 of the Acts of 1891, relative to Town jurisdiction over highways and county bridges. Accepted January 17, 1900, Art. 2.
4. Chapter 324 of the Acts of 1894, relative to the reservation of spaces in public ways (parking spaces). Accepted January 17, 1900, Art. 3.
5. Chapter 288 of the Acts of 1899, authorizing the Norfolk Western Street Railway Company to carry mail and to act as a common carrier of baggage and small parcels of merchandise. Accepted March 12, 1900, Art. 20.
6. Chapter 309 of the Acts of 1885, relative to licensing of picnic groves and other lawful amusements. Accepted August 14, 1901, Art. 2.
7. Chapter 346 of the Acts of 1902, relative to the election of moderators for a term of one year. Accepted March 2, 1903, Art. 18.
8. Sections 1 through 9 of Chapter 50 (and any statutes in addition thereto or in amendment thereof) relative to betterments. Accepted March 6, 1905, Art. 17.
9. Sections 42, 43 and 45 of Chapter 49, relative to sidewalks. Accepted March 1, 1909, Art. 23.
10. Chapter 209 of the Acts of 1908, relative to the protection of forest or sprout lands from fire. Accepted March 1, 1909, Town Ballot.

11. Chapter 503 of the Acts of 1912, relative to pensions of laborers employed by cities and towns. Accepted November 5, 1912, State Ballot.
12. Chapter 487 of the Acts of 1913, relative to the promotion of call men in city and town fire departments. Accepted March 2, 1914, Town Ballot.
13. Chapter 807 of the Acts of 1913, relative to compensation of certain public employees for injuries sustained in the course of their employment. Accepted March 2, 1914, Town Ballot.
14. Section 42 of Chapter 514 of the Acts of 1909, relative to the eight-hour workday. Accepted March 2, 1914, Town Ballot.
15. Chapter 217 of the Acts of 1914, relative to vacations of city and town laborers. Accepted November 3, 1914, State Ballot.
16. Chapter 688 of the Acts of 1914, relative to half holidays for certain commonwealth employees. Accepted November 3, 1914, State Ballot.
17. Chapter 790 of the Acts of 1914, relative to abolishing enrollment of members of political parties and to limit the membership of ward and Town committees. Accepted November 3, 1914, State Ballot.
18. Section 3 of Chapter 143, relative to building inspection. Accepted March 10, 1924, Art. 28.
19. Chapter 145, GL, relative to tenement houses. Accepted March 10, 1924, Art. 29.
20. Sections 73 through 81 of Chapter 41, designating the Selectmen a board of survey. Accepted March 14, 1927, Art. 22. (Rescinded by acceptance of Section 81A of Chapter 41. See No. 31.)
21. Section 26 of Chapter 136, relative to sports on the Lord's Day. Accepted March 11, 1929, Art. 45. (Repealed by Section 2 of Chapter 616 of the Acts of 1962.)
22. Sections 3 through 12 of Chapter 143, relative to building inspection. Accepted June 10, 1929, Art. 5.
23. Section 97 of Chapter 41, relative to the establishment of a Police Department. Accepted August 17, 1931, Art. 5. (Rescinded by acceptance of Chapter 595 of the Acts of 1948. See No. 39.)
24. Chapter 248 of the Acts of 1930, authorizing the Dedham Water Company to furnish water to the Town of Westwood. Accepted March 12, 1934, Art. 16.
25. Chapter 30 of the Acts of 1937, relative to civil service status for the Chief and permanent (regular) police officers of the Town of Westwood. Accepted March 1, 1937, Town Ballot.

26. Sections 7 and 8 of Chapter 136, relative to the sale of confectionery, ice cream, fruit and soda water on Sunday. Accepted March 14, 1938, Art. 25. (Repealed by Section 2 of Chapter 616 of the Acts of 1962.)
27. Sections 1 and 2 of Chapter 133 of the Acts of 1938, relative to changes in zoning ordinances and bylaws. Accepted March 13, 1939, Art. 28.
28. Chapter 403 of the Acts of 1936, relative to the inclusion of additional public employees within the provisions of the Workmen's Compensation Law. Accepted March 11, 1940, Art. 23.
29. Sections 81F through 81J of Chapter 211 of the Acts of 1936, relative to streets and subdivisions. Accepted March 11, 1940, Art. 25.
30. Adopted a bylaw providing that the existing Board of Appeals under the Building and Zoning Bylaw be a Board of Appeals under Chapter 41, Section 81I. (See Chapter 211 of 1936.) Accepted March 11, 1940, Art. 26.
31. Established a Planning Board under the provisions of Chapter 41, Section 81A. (See Chapter 211 of the Acts of 1936.) Accepted March 9, 1942, Art. 38.
32. Chapter 710 of the Acts of 1941, relative to the registration of bicycles. Accepted March 9, 1942, Art. 45.
33. Section 6B of Chapter 40, relative to the purchase of uniforms for the Police and Fire Departments. Accepted March 8, 1943, Art. 31.
34. Chapter 95 of the Acts of 1945, an act authorizing the Town of Westwood to acquire the cemetery located in said Town known as the Westwood Cemetery, and maintain the same as a public cemetery. Accepted March 11, 1946, Art. 56.
35. (Reserved)<sup>10</sup>
36. Sections 1 through 28 of Chapter 32, relative to contributory retirement systems for public employees. Accepted November 5, 1946, State Ballot.
37. Chapter 560 of the Acts of 1950, an act authorizing the Town of Westwood to borrow money for school purposes. Accepted July 24, 1950, Art. 5.
38. Chapter 610 of the Acts of 1950, an act establishing the Dedham-Westwood Water District. Accepted January 15, 1951, Art. 1.
39. Chapter 595 of the Acts of 1948, relative to the establishment of police departments in certain towns. Accepted March 12, 1951, Art. 11.

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**10. Editor's Note: The former acceptance of Sections 42, 43, and 44 of Chapter 48, accepted September 9, 1946, Art. 5, was rescinded May 1, 2017, Art. 33.**

40. Chapter 820 of the Acts of 1950, relative to pensions, retirement allowances, annuities and other benefits payable by the commonwealth and its political subdivisions to certain former employees and persons claiming under them. Accepted March 12, 1951, Art. 73.
41. Chapter 781 of the Acts of 1951, relative to increasing the amounts of pensions and retirement allowances payable to certain former public employees. Accepted June 9, 1952, Art. 6.
42. Chapter 624 of the Acts of 1952, relative to increasing the amounts of pensions, retirement allowances and annuities payable to certain former public employees. Accepted March 9, 1953, Art. 64.
43. Chapter 384 of the Acts of 1949, relative to vacations for members of the regular or permanent police and fire forces in certain cities and towns. Accepted March 1, 1954, Town Ballot.
44. Section 6E of Chapter 40, relative to temporary minor repairs on private ways which have been open to public use for six years or more. Accepted March 14, 1955, Art. 33. (Repealed by Chapter 693 of 1977, paragraph 1.)
45. Chapter 380 of the Acts of 1955, an act authorizing the Town of Westwood to construct and operate a system of sewers and drains. Accepted June 27, 1955, Art. 1.
46. Chapter 670 of the Acts of 1955, relative to increasing the amounts of pension retirement allowances and annuities payable to certain former public employees. Accepted March 12, 1956, Art. 50.
47. Chapter 760 of the Acts of 1955, relative to contributory group life, accident, hospitalization, medical and surgical insurance for persons in the service of a county, city, town or district and their dependents. Accepted March 5, 1956, Town Ballot.
48. Chapter 145 of the Acts of 1956, providing for the establishment of the office of Executive Secretary of the Selectmen. Accepted March 11, 1957, Art. 7.
49. Section 65 of Chapter 44, relative to vacation pay advances to employees. Accepted March 11, 1957, Art. 8.
50. Chapter 401 of the Acts of 1956, relative to classifying civil defense volunteers as Town employees for purposes of Chapter 40, Section 5(1) and Chapter 41, Section 100A. Accepted March 11, 1957, Art. 16.
51. Section 47B of Chapter 31, relative to the provisions of civil service applying to janitors and custodians. Accepted March 3, 1958, Town Ballot. (Rescinded April 25, 1977, Town Ballot.)
52. Chapter 764 of the Acts of 1957, providing for the inclusion of the Town of Westwood within the South Metropolitan Sewerage District. Accepted November 17, 1958, Art. 14.
53. Section 103 of Chapter 41, relative to the establishment of a Purchasing Department. Accepted March 9, 1959, Art. 4G.

54. Chapter 493 of the Acts of 1959, relative to increasing the amount of pensions and retirement allowances payable to certain former public employees. Accepted March 14, 1960, Art. 46.
55. Section 40 of Chapter 71, relative to compensation and equality of teachers. Accepted March 6, 1961, Town Ballot.
56. Section 7 of Chapter 40, relative to appropriations for removal of snow and ice from sidewalks in accordance with Chapter 85, Section 6. Accepted March 13, 1961, Art. 7A.
57. Chapter 647 of the Acts of 1960, relative to increasing the amounts of pensions and retirement allowances payable to certain former employees. Accepted March 13, 1961, Art. 50.
58. Section 9A of Chapter 32B, providing for Town payment of 1/2 the premium costs payable by retired employees for group life insurance and for group general or blanket hospital, surgical and medical insurance. Accepted March 5, 1962, Town Ballot.
59. Chapter 602 of the Acts of 1962, authorizing the Town of Westwood to construct certain sewers and assess the total costs to the owners of land benefited thereby. Accepted November 19, 1962, Art. 3.
60. Section 19B of Chapter 41, relative to permanent tenure for Florence M. Tripp. Accepted March 4, 1963, Town Ballot.
61. Section 11B of Chapter 32B, relative to contributory group hospital, surgical and medical insurance for elderly persons retired from the service of the Town and to their dependents, with 50% of the premium cost and a portion of the administrative expense to be paid by the Town. Accepted March 4, 1963, Town Ballot.
62. Chapter 409 of the Acts of 1962, relative to the adoption of rules regulating the use of ways by pedestrians and providing for noncriminal disposition of violators thereof (c. 90, § 18A). Accepted March 11, 1963, Art. 11.
63. Chapter 322 of the Acts of 1961, authorizing the towing of vehicles from city and town ways which are parked or standing in violation of the law (c. 40, § 22D). Accepted March 11, 1963, Art. 12.
64. Chapter 190 of the Acts of 1963, authorizing the purchase of stormy weather work clothes for certain employees. Accepted November 4, 1963, Art. 7.
65. Chapter 478 of the Acts of 1963, relative to increasing the amount of pensions and retirement allowances payable to certain former public employees. Accepted March 9, 1964, Art. 50.
66. Section 8C of Chapter 40, relative to the establishment of a Conservation Commission. Accepted October 18, 1965, Art. 2.
67. Section 48 of Chapter 31, relative to civil service insofar as it pertains to the chief and regular or permanent members of a fire department. Accepted March 6, 1967, Town Ballot.



68. Sections 56 through 59 of Chapter 32, relative to veterans' retirement. (See Chapter 143 of 1971.) Accepted November 16, 1971, by vote of the Selectmen.
69. Section 6C of Chapter 40, relative to appropriations for removal of snow and ice from private ways open to public use. Accepted April 10, 1972, Town Ballot.
70. Section 9D of Chapter 32B, relative to Town payment of 1/2 of premium costs for the surviving spouse of an employee or retired employee for group, general or blanket hospital, surgical, medical and other health insurance. Accepted April 30, 1973, Town Ballot.
71. Section 18A of Chapter 90, relative to the adoption of rules regulating pedestrian use of ways within the control of the Selectmen. Accepted May 6, 1974, Art. 27.
72. Section 8E of Chapter 40, relative to the establishment of a Youth Commission. Accepted February 9, 1976, Art. 12.
73. Chapter 183 of the Acts of 1976, an act providing that the positions of janitor and custodian for the Town of Westwood be exempt from civil service law and rules. Accepted April 25, 1977, Town Ballot. (Rescinded action of March 3, 1958. See No. 51.)
74. Section 19B of Chapter 41, relative to permanent tenure for Edith P. McCracken, Town Clerk. Accepted April 30, 1979, Town Ballot.
75. Section 13 of Chapter 258, relative to indemnification of municipal officers. Accepted April 28, 1980, Town Ballot.
76. Sections 26C and 26E of Chapter 148, relative to installation of smoke detectors. Accepted May 5, 1980, Art. 14.
77. Section 71E of Chapter 71, relative to revolving funds. Accepted May 18, 1981, Art. 36.
78. Section 53E of Chapter 44, relative to revolving funds. Accepted May 17, 1982, Art. 4.
79. Section 20A 1/2 of Chapter 90, relative to parking fines and the collection thereof. Accepted May 18, 1982, Art. 24.
80. Sections 16A to 16F inclusive of Chapter 83, relative to making annual sewer charges a lien against the property. Accepted May 18, 1982, Art. 33.
81. Section 53D of Chapter 44, relative to revolving funds. Accepted November 15, 1982, Art. 5.
82. Section 1 of Chapter 597 of the Acts of 1982, relative to exemption of excise tax on certain vehicles of former prisoners of war. Accepted February 13, 1984, Art. 11.
83. Section 26G of Chapter 148, relative to mandatory automatic sprinkler systems in certain nonresidential buildings. Accepted February 13, 1984, Art. 12.

84. Chapter 743 of the Acts of 1981, as amended by Chapter 653 of the Acts of 1982, relative to new statutory tax exemptions for certain persons (Chapter 59, Section 5, Clause 17C). Accepted May 7, 1984, Art. 46.
85. Chapter 653 of the Acts of 1982, relative to statutory tax exemption for certain elderly persons (Chapter 59, Clause 41B). Accepted May 7, 1984, Art. 47.
86. Chapter 653 of the Acts of 1982, relative to statutory tax exemption for certain blind persons (Chapter 59, Clause 37A). Accepted May 7, 1984, Art. 48.
87. Section 8J of Chapter 40, relative to the establishment of a Handicapped Commission consisting of five members. Accepted May 6, 1985, Art. 2.
88. Chapter 193 of the Acts of 1985, An Act Establishing the Dedham-Westwood Water District. Accepted September 30, 1985, Art. 8.
89. Chapter 308 of the Acts of 1985, an act authorizing cities and towns to assume responsibility and liability for dog licensing, control and regulation. Accepted February 3, 1986, Art. 3.
90. Approved the acceptance by the Blue Hills Regional Vocational Technical School District of Section 13 of Chapter 188 of the Acts of 1985, as amended by Chapter 704 of the Acts of 1985, relating to a professional development grant. Accepted February 3, 1986, Art. 5.
91. Approved the acceptance by the Blue Hills Regional Vocational Technical School District of Section 12 of Chapter 188 of the Acts of 1985, as amended by Chapter 704 of the Acts of 1985, relating to an equal educational opportunity grant. Accepted February 3, 1986, Art. 6.
92. Section 13 of Chapter 188 of the Acts of 1985, as amended by Chapter 704 of the Acts of 1985, providing for professional development grants for teachers in the Westwood public schools and the Educational Cooperative. Accepted February 3, 1986, Art. 8.
93. Section 40 of Chapter 71, as amended by Chapter 188 of the Acts of 1985, as further amended by Chapter 704 of the Acts of 1985, to increase teacher salaries to at least \$18,000 per year. Accepted February 3, 1986, Art. 9.
94. Section 100B of Chapter 41, relative to Town payment of medical costs of policemen and firemen who retire from duty due to injury on the job. Accepted May 5, 1987, Art. 22.
95. Section 39K of Chapter 40, an act authorizing cities and towns to establish enterprise funds. Accepted May 2, 1988, Art. 37.
96. Section 9E of Chapter 32B relative to proportional rates for health insurance for retired employees. Accepted May 1, 1989, Art. 18.

97. Chapter 40, Section 57, as amended by Chapter 640 of the Acts of 1985, relative to the right to deny, revoke or suspend Town licenses and permits as a means of collecting from any person, enterprise or corporation fees, taxes or other municipal charges owed to the Town which they have failed or refused to pay. Accepted September 25, 1989, Art. 9.
98. Section 3A of Chapter 64G relative to imposing an excise tax on the transfer of rooms in a hotel or lodging house within the Town. Accepted September 25, 1989, Art. 11.
99. Sections 26H and 26I of Chapter 148 mandating approved automatic sprinkler systems in buildings containing more than four dwelling units constructed or substantially rehabilitated after the passage of this bylaw. Accepted May 7, 1990, Art. 33.
100. Section 40 of Chapter 653 of the Acts of 1989 as it amends Section 2A(a) of Chapter 59 relative to assessment of physical improvements to real property between January 2 and June 30 for the fiscal year 1992. Accepted May 6, 1991, Art. 11.
101. Section 57C of Chapter 59, as enacted by Chapter 653, Section 41, of the Acts of 1989, to implement a quarterly tax payment system to commence with fiscal year 1992. Accepted May 6, 1991, Art. 12.
102. Chapter 291 of the Acts of 1990 relative to enhanced 911 service. Accepted May 6, 1991, Art. 16.
103. Section 8IU of Chapter 41 relative to authorizing the expenditure of proceeds of any bond or deposit to meet the cost and expense of the Town in completing work as specified in an approved subdivision plan upon failure of performance for which any bond or deposit was given. Accepted May 6, 1991, Art. 30.
104. Section 8D of Chapter 40, relative to the establishment of a Historical Commission without public funding. Accepted May 4, 1992, Art. 18.
105. Section 22D of Chapter 32, as amended by Chapter 399 of the Acts of 1992, which provides for a retirement system funding schedule to reduce the unfunded actuarial liability of the Norfolk County Retirement System. Accepted May 3, 1993, Art. 5.
106. Section 48 of Chapter 133 of the Acts of 1992, as amended by Chapter 399 of the Acts of 1992, relative to an early retirement program for certain municipal employees. Accepted May 3, 1993, Art. 6.
107. Section 8J of Chapter 40, as amended by Section 10 of Chapter 260 of the Acts of 1990 and Chapter 390 of the Acts of 1991, relative to the establishment of a Disability Commission. Accepted May 3, 1993, Art. 20.

108. Section 108L of Chapter 41, establishing a career incentive pay program offering base pay salary increases to regular, full-time officers of the Police Department who have earned degrees in the field of law enforcement. Accepted May 1, 1995, Art. 16.
109. Section 5, Clause 41C, of Chapter 59, relative to increased income eligibility of elderly homeowners for tax exemptions. Accepted May 5, 1997, Art. 12.
110. Section 22F of Chapter 40, relative to establishing reasonable fees for licenses, permits, etc. Accepted May 5, 1997, Art. 24.
111. Section 3D of Chapter 60, relative to the establishment of a voluntary fund to provide tax relief for certain elderly and disabled persons. Accepted May 3, 1999, Art. 12.
112. Chapter 31, Section 58A, relative to minimum age for police and fire. Accepted February 27, 2002, Art. 2.
113. Chapter 40, Section 8G, relative to mutual aid programs for police departments. Accepted February 27, 2002, Art. 3.
114. Chapter 32B, Section 91, relative to health care coverage for those Town employees in the Reserves called to military duty. Accepted May 6, 2002, Art. 18.
115. Chapter 33, Section 59, relative to payment of six months' differential compensation for Town employees serving in the Reserves who are called to active duty. Accepted May 6, 2002, Art. 19.
116. Chapter 39, Section 23D (as amended by Chapter 79 of the Acts of 2006), to allow a member of any municipal board, committee or commission of the Town of Westwood, including but not limited to the Zoning Board of Appeals, the Conservation Commission, and the Planning Board, to miss a single session of an adjudicatory hearing and still vote on the matter provided that the absentee member examines all evidence received at the session, including an audio or video recording or transcript of the session, and provides written certification that he or she has done so prior to voting on the matter, which certificate is to be included in the record of the hearing. Accepted May 7, 2007, Art. 26.
117. Chapter 59, Section 5, Clause 55, allowing units leased to and occupied by members of cooperatives and occupied by them as their domiciles to be considered as owned by the members for the purpose of making them eligible for personal exemptions, to be effective for exemptions granted for any fiscal year beginning on or after July 1, 2007. Accepted May 7, 2007, Art. 30.
118. Chapter 32B, Section 18, requiring that Medicare eligible retirees, spouses and/or dependants enroll in Medicare Extension Plans provided that the benefits under the Medicare Extension Plan plus Medicare Part A and Part B together are of comparable actuarial value to benefits under the retirees' existing coverage, effective January 1, 2009. Accepted May 5, 2008, Art. 22.

119. Chapter 53, Section 9A, relative to nomination papers. Accepted May 3, 2010, Art. 14.
120. Chapter 60A, Section 1, Paragraph 9, relative to excise tax on motor vehicles. Accepted May 3, 2010, Art. 17.
121. Chapter 41, Section 19K, relative to additional compensation for a town clerk. Accepted May 2, 2011, Art. 28.
122. Chapter 32B, Section 20, relative to an other Post-Employment Benefits Liability Trust Fund. Accepted May 7, 2012, Art. 11.
123. Chapter 386 of the Acts of 2012, exempting the position of Deputy Police Chief from the civil service laws. Approved January 2, 2013.
124. Chapter 59, Section 5, Clause 56, establishing a Citizen Soldier Exemption. Accepted May 6, 2013, Art. 26.
125. Chapter 59, Section 5N, entitling qualified veterans to provide services in exchange for a reduction in real estate property tax obligations (Veterans Work Off Program). Accepted May 6, 2013, Art. 27.
126. Chapter 137 of the Acts of 2003, Military Pay Differential Act, relative to public employees serving in the Armed Forces of the United States. Accepted May 6, 2013, Art. 28.
127. Chapter 41, Section 19B, providing permanent tenure for Dorothy A. Powers, Town Clerk. Accepted April 29, 2014.
128. Chapter 64L, Section 2(a), imposing a local meals excise tax. Accepted November 17, 2014, Art. 7.
129. Chapter 138, Section 15F, Special license for sale of wine produced by farmer-winery for off-premises consumption at indoor or outdoor agricultural event. Accepted November 17, 2014, Art. 18.
130. Chapter 53, Section 18B, Information relating to questions on city, town or district ballot; contents; written arguments by principal proponents and opponents; public inspection. Accepted May 4, 2015, Art. 19.
131. Chapter 90I, Section 1, the Complete Streets Program, to allow the Town to participate in, apply for, and receive funding pursuant to said section and Section 6121-1318, Chapter 79 of the Acts of 2014. Accepted November 9, 2015, Art. 18.
132. Chapter 40, Section 58, Municipal charges lien, specifically for Building Division fines and fees. Accepted May 1, 2017, Art. 37.
133. Chapter 40, Section 58, Municipal charges lien, specifically for Board of Health and Health Division fines and fees. Accepted May 1, 2017, Art. 38.
134. Chapter 40, Section 58, Municipal charges lien, specifically for Conservation Commission and Conservation Division fines and fees. Accepted May 1, 2017, Art. 39.

**§ A500-2. Recall elections.**

Under Article 13 of the Annual Town Meeting on May 6, 1991, it was voted to authorize the Board of Selectmen to petition the General Court to enact a special act relative to recall elections in the Town of Westwood. The act was adopted as Chapter 246 of the Acts of 1992 as follows:

AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF WESTWOOD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. A holder of an elected office in the Town of Westwood may be recalled therefrom by the registered voters of said Town as herein provided, except that the maximum number of members of a board that may be recalled is a majority.

SECTION 2. Any two hundred registered voters of the Town of Westwood may initiate a recall petition by filing with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. At least fifty names of registered voters shall be from each of the voting precincts into which said Town is divided. Said Town Clerk shall thereupon deliver to said voters making such affidavit, a sufficient number of copies of petition blanks demanding such recall, a supply of which shall be kept on hand. Such blanks shall be issued by one Town Clerk, with his signature and official seal attached thereto. Further, such blanks shall be dated, shall be addressed to the selectmen of said Town and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought and the grounds of recall as stated in the affidavit and shall demand the election of a successor to said office. A copy of the affidavit shall be entered in a record book to be kept in the office of said Town Clerk. Said recall petition shall be returned and filed with the Town Clerk within twenty days after the filing of the affidavit and shall be signed by at least fifteen percent of the registered voters of said Town, who shall add to their signatures their place of residence, including their street, number and precinct; provided; however, that not more than thirty-three and one-third percent of the total number shall be from any one precinct.

The Town Clerk shall, within twenty-four hours of receipt thereof, submit the signed petition to the registrars of voters in the Town and said registrars shall within five working days, certify thereof the number of signatures which are names of registered voters of the Town.

SECTION 3. If the petition shall be found and certified by the Town Clerk to be sufficient said Town Clerk shall submit the same with his certificate to the selectmen within five working days, and the selectmen shall, within five working days, give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign, within five days thereafter, order an election to be held on a date fixed by them not less than sixty-five nor more than ninety days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided, however, that if any other Town election is to occur within one hundred days after the date of the certificate the selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the certificate. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

SECTION 4. An officer sought to be removed may be a candidate to succeed himself and, unless such officer requests otherwise in writing, the Town Clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election and the conduct of the same, shall be in accordance with the provisions of law relative to elections unless otherwise provided herein.

SECTION 5. An incumbent shall continue to perform the duties of the office until a recall election is held. If not recalled, such officer shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in this section. If such officer is recalled in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office for the remainder of the unexpired term. If a successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

SECTION 6. Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which a voter, by marking a cross mark (X), or by indicating his intentions by suitable mechanical means, may vote for either of said propositions. Under the propositions shall appear the word "Candidates," the directions to the voters required by section forty-two of chapter fifty-four of the General Laws and, beneath this, the names of candidates nominated in accordance with the provisions of law relating to elections. If two-thirds 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 more than one-third of the votes on the question are in the negative, the ballots for candidates need not be counted.

SECTION 7. No recall petition shall be filed against an officer within ninety days after he takes office nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least ninety days after the election at which his recall was submitted to the voters.

SECTION 8. No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him shall be appointed to Town office within one year after such recall or such resignation.

SECTION 9. This act shall take effect upon its passage.

House of Representatives, November 17, 1992.

In Senate, November 17, 1992.

Approved by the Governor November 25, 1992.

### **§ A500-3. Licensing for sale of all alcoholic beverages.**

Under Article 14 of the Annual Town Meeting of May 5, 2003, it was voted to authorize the Board of Selectmen to petition the General Court to enact a special act relative to the authorization to grant licenses for the sale of all alcoholic beverages and wines and malt beverages to be drunk on the premises. The act was adopted as Chapter 8 of the Acts of 2004, as follows:

AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES AND WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES. (see House. No. 4361) Approved by the Governor, January 22, 2004.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding section 11 of chapter 138 of the General Laws or any general or special law to the contrary, the licensing authority in the town of Westwood may grant, to common victuallers licensed pursuant to chapter 140 of the General Laws to conduct restaurants, licenses for the sale of all alcoholic beverages and for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138. The licenses shall be subject to all of said chapter 138 except section 11.

SECTION 2. This act shall take effect upon its passage.

Approved January 22, 2004.

### **§ A500-4. Licensing of innkeepers for sale of alcoholic beverages.**

Under article 16 of the Annual Town Meeting of May 1, 2006, it was voted to authorize the Board of Selectmen to petition the General Court to enact a special act relative to the authorization to grant innkeepers licenses for the sale of all alcoholic beverages and/or wines, liquors, and malt beverages to be drunk on the premises. The act was adopted as Chapter 226 of the Acts of 2006, as follows:



AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT ALCOHOLIC BEVERAGES LICENSES TO INNOLDERS, (see House, No. 5232) Approved by the Governor, August 9, 2006.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding section 11 of chapter 138 of the General Laws, the licensing authority of the town of Westwood may grant to innholders licensed under chapter 140 licenses for the sale of all alcoholic beverages, and for the sale of wines and malt beverages to be drunk on premises under section 12 of said chapter 138. The licenses shall be subject to all of said chapter 138 except said section 11.

SECTION 2. This act shall take effect upon its passage.

Approved August 9, 2006.

**§ A500-5. Licensing of food stores for sale of wine and malt beverages not to be drunk on premises.**

Under Article 18 of the Annual Town Meeting of May 5, 2008, it was voted to authorize the Board of Selectmen to petition the General Court to enact a special act relative to the authorization to grant a license for the sale of wine and malt beverage at a food store in the Mixed-Use overlay District. The act was adopted as Chapter 389 of the acts of 2008, as follows:

AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES OF A FOOD STORE. (see House, No. 4832) Approved by the Governor, December 17, 2008

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Westwood may grant a license for the sale of wines and malt beverages at a food store, not to be drunk on the premises, under section 15 of said chapter 138. Except as otherwise provided in this act, the license shall be subject to all of said chapter 138 except said section 17.

For the purposes of this act, "food store" shall mean a grocery store or supermarket with a gross floor area of more than 100,000 square feet which sells at retail, food for consumption on or off the premises either alone or in combination with grocery items or other nondurable items typically found in a grocery store and sold to individuals for personal, family or household use; provided, however, that the food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store shall specifically exclude a convenience store or specialty store; and provided further, that the board of selectmen shall determine whether an applicant is a food store under this act. In making the determination, the board of selectmen shall consider such factors as the volume of sales, actual or proposed, and the extent and range of merchandise offered for sale. The holder of the license under this act may sell wines and malt beverages alone or in combination with any other items offered for sale and the licensed premises shall be located in the mixed use overlay zoning district. The amount of any initial or renewal fee for such license shall be determined by the licensing authority granting or renewing that license.

Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other location, but the license may be granted to a new applicant at the same location if the applicant has followed all rules prescribed by the board of selectmen, and has submitted a letter from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

If the license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority of the town of Westwood, which may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

SECTION 2. This act shall take effect upon its passage.

Approved December 17, 2008

#### **§ A500-6. Licensing of food stores for sale of wines and malt beverages.**

Under Article 1 of the Special Town Meeting on October 21, 2008, it was voted to authorize the Board of Selectmen to petition the General Court to enact a special act relative to the authorization to grant three food stores licenses to sell wines and malt beverages. The act was adopted as Chapter 173 of the Acts of 2010, as follows:

AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT 3 LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES TO FOOD STORES (see House No 4089) Approved by the Governor, July 22, 2010

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the Town of Westwood may grant 3 licenses for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138 to food stores. Except as otherwise provided herein, the licenses shall be subject to all of said chapter 138, except said section 17.

(b) For the purposes of this act, "food store" shall mean a grocery store or supermarket with a floor area of more than 1,000 square feet which sells at retail, food for consumption on or off the gross premises either alone or in combination with grocery items or other nondurable items typically found in a grocery store and sold to individuals for personal family or household use; provided, however, that the food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store shall not be a convenience store, specialty store or a store that sells gasoline; provided, however, that the board of selectmen shall determine whether an applicant is a food store under this act. In making such determination, the board of selectmen shall consider such factors as the volume of sales, actual or proposed, and the extent and range of merchandise offered for sale. A licensee under this act may sell wines and malt beverages alone or in combination with any other items offered for sale and the food store shall be lawfully operating as a commercial business. The amount of any initial or renewal fee for such license shall be determined by the licensing authority.

(c) Notwithstanding any general or special law, rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other location, but the license may be granted to a new applicant at the same location if the applicant for the license files with the licensing authority a letter from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.

(d) If a license granted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same or other appropriate location and under the same conditions as specified in this act.

SECTION 2. This act shall take effect upon its passage.

Approved July 22, 2010

**§ A500-7. Licensing for sale of all alcoholic beverages and wine and malt beverages.**

Under Article 26 of the Annual Town Meeting of May 2, 2011, it was voted to authorize the Board of Selectmen to petition the General Court for enactment of a special act relative to the authorization to grant licenses for the sales of all alcoholic beverages and wines and malt beverages. The act was adopted as Chapter 385 of the Acts of 2012, as follows:

AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT SPECIAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES AND WINES AND MALT BEVERAGES. (see House, No. 3675, amended) Approved by the Governor, January 2, 2013

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 11 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Westwood may grant: (i) special licenses for the sale of wines and malt beverages only, or either of them, to the responsible manager of an indoor or outdoor activity or enterprise; and (ii) special licenses for the sale of all alcoholic beverages or wines and malt beverages only, or any of them, to the responsible manager of any nonprofit organization conducting an indoor or outdoor activity or enterprise under section 14 of said chapter 138. The licenses shall be subject to all of said chapter 138 except said section 11. The fees for licenses granted under this act shall be fixed from time to time by the licensing authority of the town of Westwood and need not be uniform.

A license under this act shall not be granted to a person whose application for a license under section 12 of said chapter 138 is pending before the licensing authority.

SECTION 2. This act shall take effect upon its passage.

Approved, January 2, 2013.

#### **§ A500-8. Exemption of Police Department from Civil Service Law.**

Under Article 7 of the Fall Town Meeting of November 18, 2013, it was voted to authorize the Board of Selectmen to petition the General Court for enactment of a special act relative to the exemption of the Police Department from the provisions of the Civil Service Law. The act was adopted as Chapter 15 of the Acts of 2015, as follows:

AN ACT EXEMPTING THE POLICE DEPARTMENT OF THE TOWN OF WESTWOOD FROM THE CIVIL SERVICE LAW (see House No. 2370, amended) Approved by the Governor, April 24, 2015

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The police department of the town of Westwood shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of any person holding a position as personnel of the police department in the town of Westwood on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.

Approved, April 24, 2015.

**§ A500-9. Exemption of all positions in Fire Department from civil service laws.**

Under Article 3 of the Special Town Meeting of November 17, 2014, it was voted to authorize the Town to petition the General Court for enactment of a special act relative to the exemption of all positions in the Fire Department from civil service laws. The act was adopted as Chapter 149 of the Acts of 2015 as follows:

AN ACT EXEMPTING ALL POSITIONS IN THE FIRE DEPARTMENT OF THE TOWN OF WESTWOOD FROM CIVIL SERVICE LAWS. (see House No. H3198) Approved by the Governor, December 9, 2015

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. All positions in the fire department of the town of Westwood, including the positions of fire chief and deputy fire chief, shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of any person holding a position in the fire department of the town of Westwood on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.

Approved, December 9, 2015.

**Chapter DT**

**DERIVATION TABLE**

**Chapter DL**

**DISPOSITION LIST**

**§ DL-1. Disposition of legislation.**

**Adoption**

<b>Date</b>	<b>Adopted by</b>	<b>Subject</b>	<b>Disposition</b>
5-5-2003	ATM Art. 15	Petition to General Court for licensing for sale of alcoholic beverages, wine and malt beverages for consumption on premises	NCM
5-5-2003	ATM Art. 27	Wetlands protection amendment	Ch. 392
5-5-2003	ATM Art. 30	Hours of operation of retail stores amendment	Ch. 321, Art. I

<b>Adoption Date</b>	<b>Adopted by</b>	<b>Subject</b>	<b>Disposition</b>
5-5-2003	ATM Art. 31	Information Technology Department and Advisory Board amendment	Superseded 5-5-2008; see Ch. 47
5-5-2003	ATM Art. 32	Construction and penalties amendment	Ch. 1, Art. I
5-5-2003	ATM Art. 33	Use of ways amendment	Ch. 355, Art. VII
1-22-2004	Acts of 2004, Ch. 8	Licensing for the sale of alcoholic beverages, wine and malt beverages for consumption on premises	Ch. A500
5-2-2006	ATM Art. 16	Petition to General Court for grant of alcoholic beverage licenses to innholders	NCM
5-2-2006	ATM Art. 39	Fire alarm systems amendment	Ch. 175, Art. II
5-2-2006	ATM Art. 40	Fire alarm systems amendment	Ch. 175, Art. II
8-9-2006	Acts of 2006, Ch. 226	Grant of alcoholic beverage licenses to innholders	Ch. A500
5-7-2007	ATM Art. 26	Accept MGL c. 39, § 23D	Ch. A500
5-7-2007	ATM Art. 28	Stormwater management	Repealed by ATM 5-4-2015, Art. 16
5-7-2007	ATM Art. 29	Construction and penalties amendment	Ch. 1, Art. I
5-7-2007	ATM Art. 30	Accept MGL c. 59, § 5, cl. 55	Ch. A500
5-5-2008	ATM Art. 22	Accept MGL c. 32B, § 18	Ch. A500
5-5-2008	ATM Art. 24	Information Technology Department and Advisory Board amendment	Ch. 47
5-5-2008	ATM Art. 38	Use of ways amendment	Ch. 355, Art. VII
10-21-2008	STM Art. 1	Petition to General Court for grant of licenses for sale of wine and malt beverages at food stores	NCM
12-17-2008	Acts of 2008, Ch. 389	Grant of license for sale of wines and malt beverages not to be drunk on premises of food store	Ch. A500
5-4-2009	ATM Art. 21	Hazardous materials amendment	Ch. 250

<b>Adoption Date</b>	<b>Adopted by</b>	<b>Subject</b>	<b>Disposition</b>
3-8-2010	STM Art. 1	Acceptance of General Bylaws	Ch. 1, Art. II
5-3-2010	ATM Art. 14	Accept MGL c. 53, § 9A	Ch. A500
5-3-2010	ATM Art. 15	Amendments to General Bylaws	Ch. 1, Art. II
5-3-2010	ATM Art. 16	Dog control amendment	Ch. 184, Art. I
5-3-2010	ATM Art. 17	Accept MGL c. 60A, § 1, para. 9	Ch. A500
7-22-2010	Acts of 2010, Ch. 173	Authorizing licensing for sales of wines and malt beverages	Ch. A500
5-2-2011	ATM Art. 15	Petition to General Court for revised Charter	NCM
5-2-2011	ATM Art. 25	General financial regulations amendment	Ch. 30, Art. II
5-2-2011	ATM Art. 26	Petition to General Court for special act	NCM
5-2-2011	ATM Art. 28	Accept MGL c. 41, § 19K	Ch. A500
5-2-2011	ATM Art. 29	Street parking	Ch. 380, Art. V
3-19-2012	Acts of 2012, Ch. 56	Charter amendment	Charter
4-24-2012	Referendum	Approval of Charter amendment	Charter
5-7-2012	ATM Art. 11	Accept MGL c. 32B, § 20	Ch. A500
5-7-2012	ATM Art. 18	Establish revolving fund	NCM
5-7-2012	ATM Art. 19	Stretch Energy Code	Ch. 251
5-7-2012	ATM Art. 20	Petition to General Court to exempt position of Deputy Police Chief from Civil Service Law	NCM
5-7-2012	ATM Art. 34	Lodging facilities	Ch. 310
5-7-2012	ATM Art. 35	Soliciting and canvassing	Ch. 338
5-7-2012	ATM Art. 36	Vehicles and traffic: hackney carriages; taxicabs and vehicles for hire	Ch. 380, Art. VIII
5-7-2012	ATM Art. 37	Vehicles and traffic: public safety lanes amendment; handicapped parking amendment	Ch. 380, Art. III; Ch. 380, Art. IV

<b>Adoption Date</b>	<b>Adopted by</b>	<b>Subject</b>	<b>Disposition</b>
5-7-2012	ATM Art. 38	Secondhand dealers	Ch. 325
5-7-2012	ATM Art. 39	Fingerprint-based criminal record background checks	Ch. 339
1-2-2013	Acts of 2012, Ch. 385	Grant of special licenses for the sale of all alcoholic beverages and wines and malt beverages	Ch. A500
1-2-2013	Acts of 2012, Ch. 365	Exempting the position of Deputy Police Chief from Civil Service Law	Ch. A500
5-6-2013	STM, Art. 4	Retail stores: hours of operation amendment	Superseded by 5-2-2016 ATM, Art. 20
5-6-2013	STM, Art. 5	Alcoholic beverages amendment	Ch. 179
5-6-2013	ATM, Art. 18	General Bylaws amendments	Ch. 1; Ch. 30; Ch. 80; Ch. 90; Ch. 122; Ch. 138; Ch. 142
5-6-2013	ATM, Art. 19	Animal control	Ch. 184, Art. I
5-6-2013	ATM, Art. 26	Accept MGL c. 59, § 5, Clause 56	Ch. A500
5-6-2013	ATM, Art. 27	Accept MGL c. 59, § 5N	Ch. A500
5-6-2013	ATM, Art. 28	Accept Ch. 137 of the Acts of 2003	Ch. A500
5-6-2013	ATM, Art. 29	Soliciting and canvassing amendment	Ch. 338
11-18-2013	ATM, Art. 17	Officers and employees: general provisions amendment	Ch. 80, Art. I
11-18-2013	ATM, Art. 18	Fingerprint-based criminal record background checks amendment	Ch. 339
4-29-2014	Annual Town Election	Accept MGL c. 41, § 19B	Ch. A500
5-5-2014	ATM, Art. 15	Finance: general financial regulations amendment	Ch. 30, Art. II
5-5-2014	ATM, Art. 27	Child safety zones: child sex offenders	Ch. 200, Art. I



<b>Adoption Date</b>	<b>Adopted by</b>	<b>Subject</b>	<b>Disposition</b>
5-5-2014	ATM, Art. 28	Officers and employees: general provisions amendment; Town Meetings amendment	Ch. 80, Art. I; Ch. 138
11-17-2014	STM, Art. 7	Accept MGL c. 64L, § 2(a)	Ch. A500
11-17-2014	STM, Art. 17	Finance: general financial regulations amendment	Ch. 30, Art. II
11-17-2014	STM, Art. 18	Accept MGL c. 138, § 15F	Ch. A500
4-24-2015	Acts of 2015, Ch. 15	Exempting the Police Department from the Civil Service Law	Ch. A500
5-4-2015	ATM, Art. 16	Stormwater management	Ch. 350
5-4-2015	ATM, Art. 18	Vehicles and traffic: hackney carriages; taxicabs and vehicles for hire amendment	Ch. 380, Art. VIII
5-4-2015	ATM, Art. 19	Accept MGL c. 53, § 18B	Ch. A500
11-9-2015	ATM, Art. 17	Retail stores: hours of operation amendment; permit for extended hours	Superseded by 5-2-2016 ATM, Art. 20
11-9-2015	ATM, Art. 18	Accept MGL c. 90I, § 1	Ch. A500
12-9-2015	Acts of 2015, Ch. 147	Exempting all positions in the Fire Department from civil service laws	Ch. A500
5-2-2016	ATM, Art. 19	Unattended donation containers	Ch. 370
5-2-2016	ATM, Art. 20	Retail stores and food establishments	Ch. 321
5-2-2016	ATM, Art. 22	Historic structure demolition	Ch. 250A
5-1-2017	ATM, Art. 19	Marijuana	Ch. 284
5-1-2017	ATM, Art. 33	Rescind MGL c. 48, §§ 42, 43, and 44	Ch. A500
5-1-2017	ATM, Art. 34	Charter amendment	Pending referendum
5-1-2017	ATM, Art. 35	Officers and employees: Fire Chief	Ch. 80, Art. V
5-1-2017	ATM, Art. 36	General provisions: construction and penalties amendment	Ch. 1, Art. I

<b>Adoption Date</b>	<b>Adopted by</b>	<b>Subject</b>	<b>Disposition</b>
5-1-2017	ATM, Art. 37	Accept MCL c. 40, § 58 (Building Division fines and fees)	Ch. A500
5-1-2017	ATM, Art. 38	Accept MCL c. 40, § 58 (Board of Health and Health Division fines and fees)	Ch. A500
5-1-2017	ATM, Art. 39	Accept MCL c. 40, § 58 (Conservation Commission and Conservation Division fines and fees)	Ch. A500

**ZONING BYLAW  
OF THE  
TOWN OF WESTWOOD,  
MASSACHUSETTS**



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

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## SECTION 1.0 PURPOSE AND AUTHORITY

- 1.1 **PURPOSE.** These regulations are enacted to promote the general welfare of the Town, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the Town, to preserve the cultural and historical heritage of the community, to protect the natural environment, to increase the amenities of the Town and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, M.G.L. Chapter 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.
- 1.2 **AUTHORITY.** This Zoning Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto.
- 1.3 **SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures and land in the Town are regulated as hereinafter provided.
- 1.4 **APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.
- 1.5 **AMENDMENTS.** This Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in M.G.L. Chapter 40A, section 5 and any amendments thereto.
- 1.6 **SEPARABILITY.** The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

## SECTION 2.0 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Building (see structure) A structure enclosed by exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

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

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

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

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

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

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

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



roofer or sign painter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Impervious** Any area impenetrable by surface water.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Premises A lot together with all structures, buildings and uses thereon.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **SECTION 3.0 DISTRICTS**

### **3.1 ESTABLISHMENT OF DISTRICTS**

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

#### **3.1.1 Residential Districts:**

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

#### **3.1.2 Nonresidential Districts:**

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

#### **3.1.3 Overlay Districts:**

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

### **3.2 PURPOSES OF NONRESIDENTIAL DISTRICTS**

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

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

- 3.2.3 **Highway Business.** HB Districts are intended as locations for businesses to serve a larger market area from locations which abut or have access to major highways.
- 3.2.4 **Industrial.** I and IO Districts are intended as locations for businesses engaged in office, manufacturing, distribution, retail and restaurant activities.

### **3.3 LOCATION OF DISTRICTS**

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

### **3.4 DISTRICT BOUNDARIES**

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

- 3.4.1 Where a boundary is shown approximately on the location of a property or lot line and the exact location of said property or lot line is not indicated by means of a figure or otherwise, then the property or lot line shall constitute the district boundary line.
- 3.4.2 Where a boundary is shown upon a street, railroad or utility transmission line, the boundary shall be the center line thereof, unless otherwise indicated.
- 3.4.3 Where a boundary is shown outside a street, railroad or utility transmission line approximately parallel thereto, it shall be taken as parallel to the center line thereof.
- 3.4.4 In any case not covered by the other provisions of this Section, the location of a district boundary shall be determined by the distance in feet, if given, from other lines or points shown on the Zoning Map or, if distances are not given, by the scale of the Map.
- 3.4.5 Wherever any uncertainty exists as to the exact location of a district boundary line, the location of such line shall be determined by the Building Commissioner.

### **3.5 LOTS IN TWO DISTRICTS**

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



## **SECTION 4.0 USE REGULATIONS**

### **4.1 PRINCIPAL USES**

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

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

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

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

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

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

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

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

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

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

## **4.2 NOTES FOR TABLE OF PRINCIPAL USES**

- <sup>1</sup> Accessory dwellings may be allowed to the extent expressly allowed by the special permit.
- <sup>2</sup> Non-exempt farm stands on municipal properties are permitted and exempt from BA special permit requirements.
- <sup>3</sup> Retail sales and services in the Industrial and Industrial-Office Districts between 15,000 square feet and 50,000 square feet shall require a special permit from the Board of Appeals. Retail sales and services over 50,000 square feet shall require only a special permit from the Planning Board pursuant to Section 7.2, Major Business Development.
- <sup>4</sup> Except for a retail grocery store which may exceed 10,000 square feet.
- <sup>5</sup> For only retail sales and services in the Highway Business District that do not require a special permit pursuant to other sections of the Bylaw and do not involve Adult Uses.
- <sup>6</sup> In addition to meeting all other requirements for a special permit for a Fast Order Food Establishment in the Highway Business District, the Applicant shall be required to submit the opinion of a qualified professional expert, and the data upon which such opinion is based, showing to the reasonable satisfaction of the Board of Appeals that the facilities for on-site parking (taking into account all other uses and activities that share the premises with the proposed use) will be sufficient to serve the employees and customers of such establishment without encroaching upon or using neighboring streets or property.
- <sup>7</sup> A special permit from the Board of Appeals shall be required if there is outdoor storage of equipment or materials.
- <sup>8</sup> Does not include wireless communications facilities.
- <sup>10</sup> Open Space Residential Development shall be permitted in the SRB, SRC and SRE districts and the uses delineated in Article 8.0, Special Residential Development, Section 8.3, Open Space Residential Development, shall be the allowed uses in OSRD projects.

## **4.3 ACCESSORY USES**

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

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

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

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

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

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



4.3.3.6 Home Occupation pursuant to Section 4.4.1	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
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ACCESSORY USE	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO

**4.3.3 ACCESSORY USES IN RESIDENTIAL DISTRICTS, CONTINUED**

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

#### 4.3.4 ACCESSORY USES IN ALL NONRESIDENTIAL DISTRICTS

4.3.4.1 Living quarters for necessary caretakers and watchmen	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.4.2 Transient accommodations for business visitors to the premises	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y
4.3.4.3 Retail Take-out Counter	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	N

#### 4.3.5 ACCESSORY USES IN INDUSTRIAL AND ARO DISTRICTS

4.3.5.1 Retail uses, such as cafeterias, snack bars, gift shops and vending machines dispensing food, soft drinks and incidental merchandise items; provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.	N	N	N	N	N	N	N	N	N	N	Y	Y	BA <sup>1</sup>
4.3.5.2 Display and sale of products of manufacturing activities conducted on the premises.	N	N	N	N	N	N	N	N	N	N	Y	Y	N
4.3.5.3 Operations required to maintain or support any uses permitted in the Industrial District, if conducted on the same lot as the permitted use, such as maintenance and machine shops, power plants and keeping of animals.	N	N	N	N	N	N	N	N	N	N	Y	Y	N
4.3.5.4 Parking Garage <sup>2</sup>	N	N	N	N	N	N	N	N	N	Y	Y	Y	BA

#### 4.4 NOTES FOR TABLE OF ACCESSORY USES

- <sup>1</sup> Provided that any such uses shall be conducted primarily for the convenience of employees and the clientele of the principal use of the premises and shall be wholly within a building and have no exterior advertising display.
- <sup>2</sup> The total square feet of floor space within a parking garage as an accessory use shall not be included in the calculation of Floor Area Ratio.

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

- 4.4.1 Not more than two (2) persons other than the residents of the premises shall be regularly employed thereon in connection with such use;
- 4.4.2 No stock in trade shall be regularly maintained except for products of the occupation itself, or for goods or materials customarily used incidental to its performance;
- 4.4.3 Such use shall not produce noise or other effects observable at the lot lines in amounts exceeding those normal to residential property;
- 4.4.4 No external change shall be made which alters the residential appearance of the buildings or structures on the premises; and
- 4.4.5 There shall be no exterior display or other outward evidence that the premises are being used for any purpose other than residential (except for a sign as herein permitted).

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

- 4.4.2.1 Plans for all proposed outdoor seating must be approved by the Town Planner, in writing, in advance of implementation.
- 4.4.2.2 In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.
- 4.4.2.3 Outdoor seating areas shall be appropriately separated from streets and sidewalks by means of fencing, plantings, or other similar measures, and where necessary, shall be protected from vehicles by means of curbing, curb stops, bollards, or other similar buffering and protection measures.

- 4.4.2.4 Outdoor seating areas shall at all times comply with the requirements of Section 6.6 [Noise] and Section 6.4 [Exterior Lighting] of this Bylaw.
- 4.4.2.5 A sufficient number of off-street parking spaces shall be provided to meet the minimum parking requirements for the associated business, including parking spaces related to the outdoor seats.
- 4.4.2.6 Outdoor seating areas shall be maintained in a neat and orderly condition at all times and shall be managed in such a manner as to not negatively affect any adjacent properties.
- 4.4.2.7 Once implemented, outdoor seating areas shall be reconfigured upon the order of the Building Commissioner, as the Building Commissioner deems necessary to address public safety, convenience, order, or appearance.

## **4.5 NONCONFORMING USES AND STRUCTURES**

- 4.5.1 **Applicability.** This Section shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. Chapter 40A, Section 5 at which this Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.
- 4.5.2 **Nonconforming Uses.** The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:
  - 4.5.2.1 Change or substantial extension of the use.
- 4.5.3 **Nonconforming Structures.** The Board of Appeals may grant a special permit to reconstruct, extend, alter or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:
  - 4.5.3.1 Reconstructed, extended or structurally changed.
  - 4.5.3.2 Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

- 4.5.4 **New or Expansion of Nonconformity.** The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required setback, shall require the issuance of a special permit from the Board of Appeals.
- 4.5.5 **Nonconforming Single and Two-Family Residential Structures.** Nonconforming single and two-family residential structures may be reconstructed, extended, altered or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:
- 4.5.5.1 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot area, where the alteration will also comply with all of said current requirements.
  - 4.5.5.2 Alteration to a structure which complies with all current setback, yard, building coverage and building height requirements but is located on a lot with insufficient lot frontage, where the alteration will also comply with all of said current requirements.
  - 4.5.5.3 Alteration to a structure which encroaches upon one (1) or more required setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements regardless of whether the lot complies with current lot area and lot frontage requirements.
  - 4.5.5.4 Alteration to the side or face of a structure which encroaches upon a required setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure regardless of whether the lot complies with current lot area and lot frontage requirements.
  - 4.5.5.5 Alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.
- 4.5.6 **Special Permit.** In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration or change where it determines that the proposed modification will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

- 4.5.7 **Abandonment or Non-use.** A nonconforming use or structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of this Bylaw.
- 4.5.8 **Single and Two-Family Reconstruction after Catastrophe or Voluntary Demolition.** Any single and two-family nonconforming structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions:
- 4.5.8.1 Reconstruction of said premises shall commence within one (1) year after such voluntary demolition, or within two (2) years after such catastrophe, which time period may be extended by the Building Commissioner for good cause.
  - 4.5.8.2 The building as reconstructed shall:
    - 4.5.8.2.1 be located on the same footprint as the original structure, and shall only be as great in volume or area as the original nonconforming structure; or
    - 4.5.8.2.2 comply with all current setback, yard and building coverage requirements and shall have a maximum building height of twenty-five (25) feet if constructed on a lot that does not comply with current lot area and lot frontage requirements.
  - 4.5.8.3 In the event that the proposed reconstruction does not meet the provisions of Sections 4.5.8.1 and 4.5.8.2, a special permit shall be required from the Board of Appeals for such demolition and reconstruction.
- 4.5.9 **Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## **SECTION 5.0    DIMENSIONAL REQUIREMENTS**

### **5.1    GENERAL**

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

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

## 5.2 TABLE OF DIMENSIONAL REQUIREMENTS<sup>1</sup>

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



### **5.3 NOTES FOR TABLE OF DIMENSIONAL REQUIREMENTS**

- <sup>1</sup> Shall not apply to sewage pumping stations operated by the Town.
- <sup>2</sup> The term “Nonwetland Area” shall mean land other than the fresh water wetland as that term is defined in M.G.L. Chapter 131, Section 40. The Minimum Nonwetland Area shall be measured in contiguous square feet. The Minimum Nonwetland Area requirement of 12,000 square feet in all Residential Districts shall apply to all lots created prior to the date of adoption of this provision. M.G.L. Chapter 40A, Section 6 may also limit the requirements for certain other lots.
- <sup>3</sup> The minimum front setback distance shall be measured from the nearest street line; provided, however, that where the street has a right-of-way width of less than forty (40) feet, the setback distance shall be measured from a line on the lot twenty (20) feet from and parallel to the center line of said street.
- <sup>4</sup> The minimum side yard and rear yard setbacks shall be the minimum horizontal distance from the lot line to the nearest point of a building or structure.
- <sup>5</sup> Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of ten (10) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least seventy-five (75) feet shall be set back a minimum of three (3) feet from the side lines of its lot.
- <sup>6</sup> Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of three (3) feet from the rear line of its lot.
- <sup>7</sup> Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of fifteen (15) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least one hundred (100) feet shall be set back a minimum of six (6) feet from the side lines of its lot.
- <sup>8</sup> Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of six (6) feet from the rear line of its lot.
- <sup>9</sup> Unless the wall facing a side lot line is either a party wall or, if adjoining another lot in the same district, a wall with its outer face coincident with such line. The space between buildings or structures, if any, shall not be reduced to less than fifteen (15) feet.
- <sup>10</sup> Except that if the side yard abuts a railroad right-of-way, there shall be no minimum side yard setback.
- <sup>11</sup> Except that if the rear yard abuts a railroad right-of-way, there shall be no minimum rear yard setback.

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

<sup>13</sup> See Section 8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT for density and dimensional requirements for OSRD.

## 5.4 HEIGHT REGULATIONS

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

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

<p>5.4.1.6 Highway Business Administrative-Research-Office (except Residential Retirement Community)</p>	<p>percent (60%) of the building footprint shall be built upon to a height in excess of four (4) stories and in no event shall any building or other structure exceeding sixty-five (65) feet in height be authorized. Building footprints shall be measured at the building foundation, but shall exclude covered walkways connecting adjacent buildings. In determining whether to grant such a special permit, the Planning Board shall evaluate the proposed building or other structure in terms of the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw. Any additional height which is allowed in an Industrial District by special permit shall be designed to relate harmoniously to the terrain and to the use, scale and architecture of existing buildings and to mitigate the visual impacts on surrounding non-industrial uses. The project proposal shall incorporate aesthetically-conscious design which promotes environmentally compatible uses, pervious surfaces and landscaped areas in exchange for the additional building height.</p> <p>Thirty-nine (39) feet unless a special permit authorizing a greater height is granted by the Board of Appeals; provided that in no event shall any building or other structure exceeding forty-five (45) feet in height be authorized. In determining whether to grant such a special permit, the Board of Appeals shall evaluate the proposed building or other structure in terms of the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw.</p>
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- 5.4.2 **Height Determination and Exceptions.** In all Districts, the height of a building or structure shall be measured as set forth in the definition of “Building Height” contained in Section 2.0 of this Bylaw, except that in Residential Districts, the height of a building or other structure shall be measured from the highest finished ground elevation adjoining the structure at the exterior walls. The limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, amateur radio antennas and other necessary features usually carried above the roof line, provided such features do not

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

## **5.5 SPECIAL DIMENSIONAL REGULATIONS**

- 5.5.1 Exception for Existing Lots.** Any increase in area, frontage, width and yard requirements of this Bylaw shall not apply to a lot for single-family and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage. The provisions of this Subsection shall not be construed to prohibit a lot being built upon, if at the time of the building, building upon such lot is not prohibited by the Zoning Bylaw in effect.
- 5.5.2 Lot Shape Requirement for Residential Districts.** Lots in residential districts shall provide satisfactory sites for buildings in relation to their natural topography, and shall to the extent feasible, be generally rectangular in shape. Lots shall not contain irregular shapes or elongations solely to provide necessary square footage. Any new lot created by a subdivision plan shall have a Shape Factor of fifty (50) or less, where the Shape Factor shall be calculated using the following formula:  $SF = P^2/A$  where P = the perimeter of the lot and A = the area of the lot. The Planning Board may waive the requirements of this section when, in its determination, the strict application of such requirements would result in peculiar or exceptional difficulties, and the waiver of such requirements would pose no substantial detriment to any adjacent property or proximate neighborhood, and would not nullify or substantially derogate from the intent or purpose of this Section.
- 5.5.3 Plan Freeze.** If a definitive plan, or a preliminary plan, followed within seven (7) months by a definitive plan is submitted to the Planning Board for approval under the Subdivision Control Law, and written notice of such submission has been given to the Town Clerk before the effective date of the Bylaw, the land shown on such plan shall be governed by the applicable provisions of the Bylaw, if any, in effect at the time of the first such submission while such plan or plans are being processed under the Subdivision Control Law, and, if such definitive plan or an amendment thereof is finally approved, for eight (8) years from the date of the endorsement of such approval.
- 5.5.4 Reduction of Occupied Lots.** No lot on which a building or structure is located in any district shall be reduced or changed in size or shape so that the building or structure or lot fails to comply with the lot area, frontage, coverage, setback, yard or other provisions of this Bylaw applicable to the construction of said building or structure on said lot. This prohibition shall not apply when a portion of the lot is taken or conveyed for a public purpose. This Subsection shall not apply to a sewage pumping station operated by the Town.
- 5.5.5 Corner Clearance.** No building or structure shall be constructed within the triangular area formed by the exterior lines of intersecting streets and a line joining points on such lines which are twenty-five (25) feet from their point of intersection (or, in the case of a

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

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

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

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

5.5.7.2 would reduce the environmental impacts of the proposed project;

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

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

## SECTION 6.0 GENERAL REGULATIONS

### 6.1 OFF-STREET PARKING

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

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

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

6.1.4.1 Use of land or structures for religious purposes	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, in principal assembly area
6.1.4.2 Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, plus one (1) space per employee
6.1.4.3 Child Care Facility in new building 6.1.4.4 Child Care Facility in existing building	One (1) space per employee and two (2) spaces per classroom
6.1.4.5 Agricultural Use, Exempt 6.1.4.6 Municipal Facilities	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.
6.1.4.7 Farm Stand, Exempt	One (1) space for each two hundred fifty (250) square feet of floor area or fraction thereof devoted to selling, storage, service and all other activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises
6.1.4.8 Essential Services 6.1.4.9 Public Utility	One (1) space per employee
6.1.4.10 Extension of existing cemetery	Not applicable
<b>6.1.5 COMMERCIAL USES</b>	
6.1.5.1 Retail sales and services, less than 15,000 square feet 6.1.5.2 Retail sales and services, 15,000 square feet or more 6.1.5.3 Office of doctor or dentist not a resident on premises 6.1.5.4 Bank, Financial Institution 6.1.5.5 Personal Services Establishment 6.1.5.6 General Services Establishment 6.1.5.7 Farm Stand, Non-exempt 6.1.5.8 Animal Clinic or Hospital 6.1.5.9 Pet Care Facility 6.1.5.10 Commercial boarding or training kennel; Commercial breeder kennel; Veterinary kennel 6.1.5.11 Building Trade Shop in an establishment with less than 8,000 square feet 6.1.5.12 Building Trade Shop in an establishment with 8,000 square feet or more 6.1.5.13 Registered Marijuana Dispensary	One (1) space for each two hundred fifty (250) square feet of floor area or fraction thereof devoted to selling, storage, service and all other activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises
6.1.5.14 Professional Services Establishment 6.1.5.15 Business Services Establishment	One (1) space for each three hundred thirty-three (333) square feet of floor area or fraction thereof

	devoted to activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises
6.1.5.16 Motor Vehicle Sales and Rental; other open air sales 6.1.5.17 Motor Vehicle General Repairs and Body Repair 6.1.5.18 Motor Vehicle Light Service 6.1.5.19 Printing/copy/publishing establishment, less than 4,000 square feet 6.1.5.20 Printing/copy/publishing establishment, 4,000 square feet or more 6.1.5.21 Commercial laundry, dry cleaning, dye work, carpet cleaning	Not less than one (1) space for each two hundred fifty (250) square feet floor area in office use, one (1) space for each two thousand (2,000) square feet floor area in use for storage, and one (1) space for each five hundred (500) square feet floor area in other uses, provided that there is reserved area on the site for potential future parking expansion to not less than one (1) space per five hundred (500) square feet of floor area
6.1.5.22 Funeral Home	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench
6.1.5.23 Motel or Hotel on five (5) acres or more	One (1) space per each sleeping room for double or single occupancy
6.1.5.24 Restaurant without entertainment, less than 10,000 square feet 6.1.5.25 Restaurant with entertainment, 10,000 square feet or more 6.1.5.26 Restaurant with entertainment	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, plus one (1) space per two (2) employees
6.1.5.27 Coffee Shop 6.1.5.28 Ice Cream Parlor 6.1.5.29 Fast Order Food Establishment	One (1) space per each four (4) seats, or where benches are used, one (1) space per eight (8) lineal feet of bench, plus one (1) space per two (2) employees, plus three (3) spaces per take-out station
6.1.5.30 Agricultural Use, Non-exempt 6.1.5.31 Commercial Recreation, Outdoor 6.1.5.32 Commercial Recreation, Indoor 6.1.5.33 Golf Course 6.1.5.34 Campground, wildlife preserve, fishing grounds operated not for profit 6.1.5.35 Major Business Development per Section 7.2 6.1.5.36 Public Communication Use 6.1.5.37 Educational Use, Non-Exempt 6.1.5.38 Contractor's Yard	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.
<b>6.1.6 INDUSTRIAL USES</b>	
6.1.6.1 Light Manufacturing 6.1.6.2 Warehouse, wholesale or distribution facility without outdoor storage 6.1.6.3 Warehouse, wholesale or distribution facility with outdoor storage 6.1.6.4 Manufacturing 6.1.6.5 Research and Development 6.1.6.6 Self-Storage or Mini-Storage Facility	Not less than one (1) space for each two hundred fifty (250) square feet floor area in office use, one (1) space for each two thousand (2,000) square feet floor area in use for storage, and one (1) space for each five hundred (500) square feet floor area in other uses, provided that there is reserved area on the site for potential future parking expansion to not less than one (1) space per five hundred (500)



	square feet of floor area
6.1.6.7 Earth Material Removal per Section 7.1	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients, or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.
6.1.6.8 Junkyard or Automobile Graveyard	Not applicable
<b>6.1.7 OTHER USES</b>	
6.1.7.1 Temporary Structure, building or use not in conformance with this Bylaw, but not for more than one (1) year, or extended over more than a total of three (3) years	Sufficient parking spaces to accommodate under all normal conditions the vehicles of occupants, employees, members, customers, clients, or visitors of the premises, as determined by the Planning Board. Such space shall be deemed inadequate if the off-street parking area is often substantially full and there is frequent parking of such vehicles in access drives or on streets near the premises in question.
6.1.7.2 Commercial outdoor parking 6.1.7.3 Parking Garage 6.1.7.4 Drive-Through Service	Not applicable

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 6.1.12.1 That the demand for the joint/shared off-street parking spaces differs significantly by time of day between the various uses; and
- 6.1.12.2 That a sufficient number of joint/shared off-street parking spaces are available to satisfy the parking demand for each use during the time period with the highest total combined parking demand; and
- 6.1.12.3 That the buildings associated with the requested waiver are pre-existing and that total floor area of those buildings is no greater than that which would be permitted absent the grant of a waiver pursuant to this Section; and
- 6.1.12.4 That satisfactory provisions have been made for an increase in the number of joint/shared parking spaces up to the minimum number otherwise required by Section 6.1.10 or 6.1.11, in the event that a change in use, or in intensity or character of use, results in an increased joint/shared parking demand. Such provisions may include a demonstration of physical and financial ability to construct additional surface or structured parking spaces in compliance with the requirements of Section 6.1.10 or 6.1.11, or such other assurances as are satisfactory to the Planning Board.
- 6.1.12.5 That the issuance of this waiver would not be inconsistent with the intent of this Bylaw.

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

- 6.1.13.1 That such spaces are located within a Municipal Parking Lot, so dedicated by the Board of Selectmen;
- 6.1.13.2 That such spaces are within four hundred (400) feet walking distance of the building entrance to be served;
- 6.1.13.3 That such off-site parking shall not be used to accommodate increased parking requirements due to new construction and/or expansion of existing buildings or structures; and

- 6.1.13.2 That the Board of Selectmen or its designee documents to the Building Commissioner that there is in fact sufficient capacity in the Municipal Parking Lot to accommodate the excess parking required.
- 6.1.14 **Special Provisions in Residential Districts.** Any off-street parking located in a Residential District (whether herein required or voluntarily provided) containing five (5) or more parking spaces shall be placed at least twenty-five (25) feet from all street lines and ten (10) feet from side and rear lot lines and shall, if visible at normal eye level from any point on an abutting lot (if also in a Residential District), be screened from such view pursuant to Section 6.3.6, Screening Standards.
- 6.1.15 **Storage of Inoperative Vehicles and Commercial Vehicles.** Except in the case of a lot used for municipal purposes, and except as allowed in a Nonresidential District pursuant to a permit issued at the discretion of the Board of Selectmen, no motor vehicle which is, and for the immediately preceding thirty-one (31) day period, has been dismantled or inoperative shall be stored or parked in any district, and no commercial vehicle (whether or not operative and registered) of a gross vehicle weight in excess of eight thousand five hundred (8,500) pounds or more than twenty (20) feet in length shall be stored or parked overnight in any Residential District unless such vehicle is not visible at normal eye level from any point on any abutting lot in a Residential District, or if screened from such view pursuant to Section 6.3.6, Screening Standards. None of the foregoing shall be construed to permit any parking or storage of vehicles that would otherwise be in violation of the Use Regulations set forth in Section 4.0 of this Bylaw.
- 6.1.16 **Replacement, Alteration, Enlargement or Change of Use of a Building or Structure.** The replacement, alteration, enlargement or change of use of a building or structure which results in an increased off-street parking requirement shall require the provision of additional off-street parking.
- 6.1.17 **Design of Parking Areas.** Except in the case of single residences, all parking areas shall be designed in conformity with the requirements of this Bylaw and parking regulations adopted and from time to time amended by the Planning Board.
- 6.1.18 **Parking Areas with Fewer Than Ten Parking Spaces.** Parking lots designed for fewer than ten (10) parking spaces shall provide such landscaping as may be required under Section 6.3 of this Bylaw pertaining to enclosure, screening and buffering requirements.
- 6.1.19 **Parking Areas for Ten or More Parking Spaces.** The following requirements shall apply to all new parking areas containing ten (10) or more parking spaces, and to existing parking areas containing ten (10) or more parking spaces which are being subjected to Section 7.3 of this Bylaw pertaining to Environmental Impact and Design Review. Any additional requirements set forth in Section 6.3 of this Bylaw pertaining to enclosure, screening and buffering requirements shall also apply.
- 6.1.19.1 **Landscape Design Requirements.** All parking areas applicable to this section shall conform to the following design requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.1.19.4.2 Existing topography, including any proposed grading changes;

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

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

6.1.19.4.5 Existing and proposed planting, landscaping and screening; and

6.1.19.4.6 Exterior lighting.

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

6.1.20 **Parking Setback Requirements.**

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

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

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

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

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



- 6.1.24 **Outdoor Sales.** No parking areas shall be used as an outdoor sales area.
- 6.1.25 **Driveways.** No access or egress point to a parking area shall be closer than one hundred fifty (150) feet to the centerline of an intersecting street. There shall be no more than a total of two (2) access and two (2) egress points to any one parking area.
- 6.1.26 **Entrance from Residential Streets to Nonresidential Districts.** Where a Residential District is bounded by a portion of a Nonresidential District, any side street extending through such Residential District into such Nonresidential District shall not be used, except as herein set forth for any business, commercial or other purpose not permitted as of right in such Residential District. Any nonresidential structure erected in said Nonresidential District shall face and open upon the street set aside for nonresidential purposes, except that show windows in such nonresidential structure may be built and exposed upon said side street within the area set aside as a part of such Nonresidential District, and an entrance may be made at the corner of such nonresidential and residential streets, and all other entrances to said nonresidential structure must face on the nonresidential street, except that in a Local Business District entrances may be made from such residential street to the upper stores of such nonresidential structure.
- 6.1.27 **Loading.** Adequate off-street loading facilities and space with unimpeded access shall be provided for all new construction and for all building additions greater than one hundred (100) square feet of net floor area. Facilities shall be so sized and arranged that no trucks shall be parked on a public way while loading, unloading or waiting to do so.
- 6.1.28 **Shared Driveways.** Use of land for shared driveways is permitted in all Districts, however, a shared driveway shall not be considered to adequately provide access for parking as required by this Bylaw on any lot for which a shared driveway is proposed as the sole means of access for parking unless the Planning Board so authorizes by special permit. Authorization shall be granted only if the Planning Board determines that the arrangement improves public safety, such as by reducing the number of curb cuts on a major roadway or by avoiding a driveway at a potentially dangerous location; or serves environmental protection, such as by eliminating a wetlands crossing, and that such an arrangement will be more advantageous to the neighborhood than separate driveways; and unless the Board further finds that the use of a shared driveway does not circumvent the intent of the Subdivision Control Law. The Planning Board shall adopt and may from time to time amend rules and regulations for the administration of this Section.

## **6.2 SIGNS**

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

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

- 6.2.1.2 to reduce distractions, hazards and obstructions from signage that will have an adverse impact on vehicular safety;
  - 6.2.1.3 to discourage excessive visual competition in signage;
  - 6.2.1.4 to ensure that signage will adequately aid communication and orientation, identify uses and activities, and express local history and character; and
  - 6.2.1.5 to preserve or enhance town character by requiring new and replacement signage which is compatible with the surroundings, appropriate to the type of activity to which it pertains, expressive of the identity of individual proprietors or of the community as a whole, and appropriately sized in its context.
- 6.2.2 **Definitions.** For the purposes of this section, the following terms shall be defined as indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Section 2.0 of this Bylaw.
- 6.2.2.1 Awning Sign A sign consisting of letters or graphics painted on, incorporated into, or affixed to any fixed or retractable device, of any material, which extends over or otherwise covers a sidewalk, courtyard, walkway, eating area, driveway or other area or space.
  - 6.2.2.2 Banner A sign, frequently constructed of fabric or other flexible material and frequently displayed on a pole or staff which can be freestanding or attached to a building or structure, and temporary in nature.
  - 6.2.2.3 Billboard An off- premises sign which is either a freestanding sign larger than one hundred (100) square feet, or a wall sign covering more than ~~ten~~ fifteen percent (15%) of the area to which it is affixed.
  - 6.2.2.4 Changeable Sign A sign whose wording, design, or appearance changes periodically, or whose illumination is not kept constant in intensity at all times or which exhibits changes in light, color, direction or animation.
  - 6.2.2.5 Construction Sign An on-premises sign at a site under construction or to be developed to identify the contractor, architect, landscape architect and/or engineer's name, address and other pertinent information.
  - 6.2.2.6 Development Identification Sign A sign or group of signs clustered together as a single compositional unit which identifies a development, and may also identify individual business establishments within that development.
  - 6.2.2.7 Directional Sign A sign providing pedestrian and/or vehicular traffic instruction, and/or restrictions on the use of parking or travel areas. "No

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

- 6.2.2.8      Directory Sign   A listing and/or graphic representation of individual business establishments and other uses within a development or portion of a development.
- 6.2.2.9      Facade   The exterior surface of a building wall facing a street or containing a public entrance, which corresponds to the height and width of the interior space owned or leased by the occupant of the building.
- 6.2.2.10     Flag   A sign, frequently constructed of fabric or other flexible material and frequently displayed on a pole or staff which can be freestanding or attached to a building or structure, and temporary in nature.
- 6.2.2.11     Freestanding Sign   A sign structurally separate from a building or structure that is attached to or part of a self-supporting structure.
- 6.2.2.12     Historic Designation Sign   A sign listing only the date of origin, historic name, original owner, or official historic designation of a historic building or structure.
- 6.2.2.13     Illuminated Sign   A sign illuminated by electricity or other artificial light including reflective or phosphorescent light and shall include the location of the source of illumination.
- 6.2.2.14     Internally Illuminated Sign   A sign which utilizes translucent panels, canvas or other fabric, letters, devices or other similar components to create an image by allowing light to pass through.
- 6.2.2.15     Landmark Sign   An older sign of artistic or historic merit, uniqueness or extraordinary significance to the Town as identified by the local Historical Commission.
- 6.2.2.16     Marquee Sign   A sign painted on, or attached to, a sheltering structure of permanent construction projecting from and totally supported by the wall and/or the roof of a building.
- 6.2.2.17     Moveable Sign   A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels or supported by legs, sandwich signs and A-frame signs.
- 6.2.2.18     Municipal Sign   A sign installed by the Town.
- 6.2.2.19     Off-Premises Sign   A sign that advertises, calls attention to or identifies an occupant of a premises, or the business transacted on a premises or

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

- 6.2.2.20 On-Premises Sign A sign that advertises, calls attention to or identifies an occupant of a premises on which the sign is maintained, or the business transacted on a premises or advertises the property itself or any part thereof as for sale or lease.
- 6.2.2.21 Projecting Sign A sign consisting of letters or graphics which is attached to or suspended from a building or structure such that any part of said sign extends more than six (6) inches from the wall surface of that building or structure.
- 6.2.2.22 Real Estate Open House Sign A temporary sign announcing a real estate open house during which an agent or owner will show property for sale or lease.
- 6.2.2.23 Real Estate Sign A temporary sign advertising property being sold or leased.
- 6.2.2.24 Roof Sign A sign erected, constructed and maintained wholly upon, connected to or over the roof, gutter line, top of wall coping or parapet of any building or structure.
- 6.2.2.25 Sign Any temporary or permanent lettering, word, numeral, billboard, pictorial representation, display, emblem, trademark, device, banner, pennant, insignia or other figure of similar character, located outdoors or visible outdoors, attached to, painted on, or in any other manner represented on a building or other structure, and which is used to announce, direct, attract, advertise or promote.
- 6.2.2.26 Special Events Sign A temporary sign that advertises a charitable, nonprofit or civic event, which event may include an open house, registration or similar event associated with a charitable, nonprofit or civic organization.
- 6.2.2.27 Temporary Sign A sign that is used temporarily and is not permanently mounted. Posters, construction signs, seasonal business signs, real estate signs, yard sale signs, special event signs, banner signs and open house signs are all considered to be temporary signs. Hand-held signs are excluded.
- 6.2.2.28 Video Media Display Any video display which is used to announce, direct, attract, advertise, or promote. Video media display shall not include displays used solely for the purpose of operating a device to

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

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

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

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

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

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

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

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

- 6.2.5.2 The maximum area of each sign shall not exceed one (1) square foot.
  - 6.2.5.3 The sign surface shall be wood or synthetic material made to resemble wood. The supporting framework shall be wood or granite, or synthetic material made to resemble wood or granite.
  - 6.2.5.4 Notwithstanding the above limitations on number and total area of signs, standard-sized directional signs and parking restriction signs shall be permitted as approved by the Building Commissioner.
- 6.2.6 **Signs Allowed in Local Business A (LBA) and Local Business B (LBB) Districts.** The following signs may be erected or maintained in Local Business A and Local Business B Districts, provided such signs are in compliance with all conditions set forth in this Section: Awning signs, directory signs, freestanding signs, marquee signs, projecting signs, wall signs and window signs.
- 6.2.6.1 The maximum number of signs shall not exceed the number of commercial establishments located on the premises, plus one (1) additional sign, plus one (1) additional historic sign.
  - 6.2.6.2 The maximum area of one (1) sign associated with a commercial establishment shall not exceed seventy-five (75) square feet, and the maximum area of all other signs associated with that same commercial establishment shall not exceed twenty (20) square feet each.
  - 6.2.6.3 The total square footage of all signs associated with any commercial establishment shall not exceed ten percent (10%) of the facade attributed to that commercial establishment.
  - 6.2.6.4 The sign surface of any sign other than an awning sign shall be wood or synthetic material made to resemble wood. The supporting framework of any sign other than an awning sign shall be wood or granite, or synthetic material made to resemble wood or granite.
  - 6.2.6.5 Notwithstanding the above limitations on number and area of signs, standard-sized directional signs and parking restriction signs shall be permitted as approved by the Building Commissioner.
- 6.2.7 **Signs Allowed in Highway Business (HB), Industrial (I), Industrial Office (IO), and Administrative-Research-Office (ARO) Districts.** The following signs may be erected or maintained in Highway Business, Industrial, Industrial Office, and Administrative-Research-Office Districts, provided such signs are in compliance with all conditions set forth in this Section: Awning signs, development identification signs, directory signs, freestanding signs, marquee signs, projecting signs, wall signs, wayfinding signs, and window signs.

- 6.2.7.1 The maximum number of signs shall not exceed the number of commercial establishments located on the premises, plus one (1) additional sign.
- 6.2.7.2 The maximum area of one (1) sign associated with a commercial establishment shall not exceed one hundred (100) square feet, and the maximum area of all other signs associated with that same commercial establishment shall not exceed thirty (30) square feet each.
- 6.2.7.3 The total square footage of all signs associated with any commercial establishment shall not exceed fifteen percent (15%) of the facade attributed to that commercial establishment.
- 6.2.7.4 The sign surface and supporting framework shall be of a material in compliance with the applicable provisions of the Massachusetts State Building Code.
- 6.2.7.5 Notwithstanding the above limitations on number and area of signs, standard-sized directional signs and parking restriction signs shall be permitted as approved by the Building Commissioner.
- 6.2.8 **Prohibited Signs.** The following signs shall be prohibited in all districts except as specified herein:
  - 6.2.8.1 Billboards, roof signs, moveable signs, changeable signs, off-premises signs, including off-premises commercial directional signs.
  - 6.2.8.2 Flags, buntings, balloons, streamers, pennants, banners, strings of lights, ribbons, spinners and other similar devices; except that temporary exhibition associated with the commemoration of national holidays, shall be permitted, and properly displayed official flags of governmental jurisdictions and decorative flags on residences shall be permitted.
  - 6.2.8.3 Signs advertising any defunct commercial establishment or organization, except landmark signs which may be preserved and maintained even if they no longer pertain to the present use of the premises.
  - 6.2.8.4 Sign, other than traffic, regulatory or directional signs, which use the words “stop”, “caution”, or “danger”, or incorporate red, amber or green lights resembling traffic signals, or resemble universal “stop” or “yield” signs in shape and color.
  - 6.2.8.5 Signs or sign structures projecting or extending over a public way, including a sidewalk.

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

## 6.2.9 Dimensional Requirements.

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

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

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

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



- 6.2.10.1 **Illumination in Residential, Local Business and Administrative-Research-Office Districts.** Illumination of any sign within a Residential District, Local Business District, or Administrative-Research-Office District shall only be external illumination by properly shielded light fixtures, or by edge-lighting, or by halo lighting. Internal illumination shall not be permitted. In all cases illumination shall only be by steady white light. Notwithstanding the above, awning signs shall not be internally illuminated.
- 6.2.10.2 **Illumination in Highway Business, Industrial, and Industrial Office Districts.** Illumination of any sign within a Highway Business, Industrial, or Industrial Office District shall be external illumination by properly shielded light fixtures, or by edge-lighting, or by halo lighting, or internal illumination of only the lettering, wording or insignia portions of a sign. In all cases illumination shall only be by steady white light. Notwithstanding the above, awning signs shall not be internally illuminated.
- 6.2.10.3 **Prohibited Means of Illumination.** Illumination of signs by neon or external florescent lighting shall be prohibited in all districts. Changeable signs, variable lit signs, and variable message signs shall be prohibited in all districts, except that signs or portions of signs displaying time, date and/or temperature shall be permitted provided that such signs meet all other provisions of this section. Variable message municipal signs, used to provide public information, traffic or safety messages, shall be permitted in all districts.
- 6.2.10.4 **Prohibited Means of Sign Movement.** Movement of a sign body or any segment thereof, by rotation, revolution, up and down movement, or any other type of action involving a change of position of a sign body or segment thereof, whether caused by mechanical or other means, shall be prohibited in all districts.
- 6.2.10.5 **Video Media Display.** Video media display shall be permitted in Local Business and Highway Business Districts, only as follows:
- 6.2.9.5.1 No video media display shall be positioned so as to be visible from any public way, including any sidewalk, whether such display is located on the interior or exterior of a building or structure.
  - 6.2.9.5.2 No more than four (4) video media displays shall be permitted on any property at one time.
  - 6.2.9.5.3 No single video media display shall exceed one and one-

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

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

**6.2.11.1 General Provisions for Temporary Signs.**

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

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

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

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

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

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

6.2.11.1.7 Temporary signs shall not be illuminated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 6.2.12 **Nonconforming Signs.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **6.3 ENCLOSURE, SCREENING AND BUFFERS**

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

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

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

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

6.3.1.4 Automobile parking lots.

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

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

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

- 6.3.3 **Definition.** As used in this Section, “Principal State Highways” shall mean Route 128, Route 1 and Route 1A, as designated by the State Department of Public Works on March 11, 1968, and “public street” shall mean a street established and maintained under public authority, or a street plotted or laid out for ultimate public use and shown on a plan approved by the Planning Board.
- 6.3.4 **Uses within Buffer Areas.** Buffer areas, except as the same are part of a public street, shall be used only as provided herein. No building or structure, except for fences constructed in accordance herewith, shall be constructed or otherwise placed within any portion of the buffer area, whether or not used for business or industrial purposes. However, in any Industrial District the buffer area may contain driveways, and in a Local Business, Highway Business or Industrial District the buffer area may contain sidewalks or pedestrian paths, as long as the applicable screening requirements set forth in Sections 6.3.4.1 or 6.3.4.2 are achieved to the satisfaction of the Planning Board. The following distances nearest the Residential District boundary shall be used and maintained so as to preserve the natural features of the area, including trees, woods, streams and ponds, and as a planting area for lawns with trees, shrubs and other landscape materials:
- 6.3.4.1 In the Industrial Districts, one hundred twenty-five (125) feet. The remaining seventy-five (75) feet of buffer area may be used for unenclosed surface off-street parking or other permitted outdoor uses, providing such uses are screened from view at normal eye level on said Residential District boundary line.
- 6.3.4.2 In the Local Business or Highway Business Districts, twenty (20) feet. A suitable planting area shall be interpreted as requiring a substantially sight impervious screen of evergreen foliage at least eight (8) feet in height, or less dense planting of shrubs and trees complemented by a sight impervious fence at least five (5) feet and not more than eight (8) feet in height. Notwithstanding the foregoing, the plantings within any portion of a buffer area located within eight (8) feet of a public street or any other roadway shall be such as to avoid impairment of traffic visibility.
- 6.3.5 **Uses Requiring Screening.** The following uses of land shall be screened if visible at normal eye level from any point on an abutting lot in a Residential District as set forth herein:
- 6.3.5.1 Any off-street parking area containing five (5) or more parking spaces and located in or adjacent to a Residential District, and not contained within a structure;
- 6.3.5.2 Any commercial vehicle (whether or not operative and registered) of a gross vehicle weight in excess of eight thousand five hundred (8,500) pounds or more than twenty (20) feet in length stored or parked overnight in any Residential District;

- 6.3.5.3 Refuse disposal and dumpster areas, outdoor storage areas of goods and materials;
- 6.3.5.4 The outdoor storage of used materials, used vehicles or equipment or waste materials;
- 6.3.5.5 Except in the case of a lot used for municipal purposes, the outdoor parking or storage of two or more buses, trucks or earthmoving equipment items or similar contractor's equipment or heavy vehicles; and
- 6.3.5.6 Except in the case of a lot used for municipal purposes, the outdoor storage of solid fuel, sand, road salt, manure, fertilizer or other similar substances piled in bulk form.

**6.3.6 Screening Standards.**

- 6.3.6.1 Screening shall consist of fencing and/or an area of at least three (3) feet in width of densely planted shrubs or trees which are at least two (2) feet high at the time of planting and are of a type that may be expected to form within three (3) years after planting a year-round, continuous, substantially impervious visual screen.
- 6.3.6.2 Screening as required in this Section shall be located so as not to obstruct vehicle sight distances, entrances and exits. Such screening shall not exceed a height of more than two (2) feet within thirty (30) feet of an intersection or ten (10) feet of a driveway. In no case shall the screening of parking facilities from abutting streets exceed four (4) feet in height.
- 6.3.6.3 Plantings shall be of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and provide for a year-round, continuous, substantially impervious visual screen.
- 6.3.6.4 Fences shall be solidly constructed of wood, stone or brick materials. There shall be no metal or chain-link materials used.
- 6.3.6.5 Screening shall be continuously maintained to effectively serve the purpose for which it is intended. No advertising devices of any kind shall be allowed on screening.
- 6.3.6.6 Screening shall be continuous except for required access.

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



- 6.3.8 **Maintenance of Landscaped Areas.** All plant materials required pursuant to this Section shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.
- 6.3.9 **Screening Standards Special Permit.** By the grant of a special permit, the Planning Board may waive or modify the requirements of Section 6.3.6 when in its judgment the strict application of such requirements would result in peculiar or exceptional difficulties, or exceptional and undue hardship or in a specific instance where for topographic or other reasons, fences, walls and screening as herein required could not possibly screen the activities conducted at ground level.
- 6.3.10 **Perimeter Fence Special Permit.** The Board of Appeals may grant a special permit to install a freestanding fence a maximum of eight (8) feet in height, or a fence installed on or immediately adjacent to a wall such that the fence and wall together have a combined height of a maximum of eight (8) feet, measured from the lowest point of grade adjacent to the fence or combined wall and fence, only upon its written determination that the adverse effects of the project will not outweigh its beneficial impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the project in relation to the site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:
- 6.3.10.1 degree to which existing landscaping, vegetation and other screening will be maintained;
  - 6.3.10.2 proximity to abutting residences;
  - 6.3.10.3 proximity to heavily traveled roadways; and
  - 6.3.10.4 consistency with the interests of public safety, particularly sight distances for traffic visibility.

## **6.4 EXTERIOR LIGHTING**

- 6.4.1 **Purpose.** The purpose of this Section is to enhance public safety by providing for adequate and appropriate outdoor lighting, protect community character, promote energy conservation and protect against light trespass and glare.
- 6.4.2 **Definitions.** For the purposes of this Section, the following terms shall be defined as indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Section 2.0 of this Bylaw.
- 6.4.2.1 Color Rendering Index (CRI) A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of

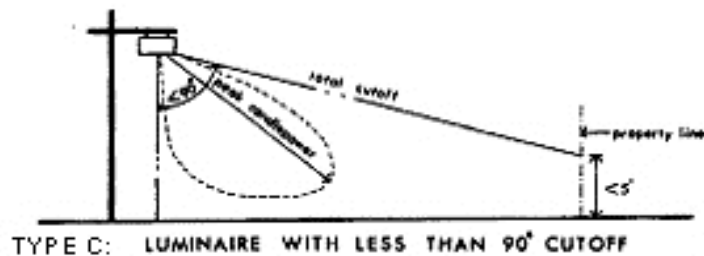
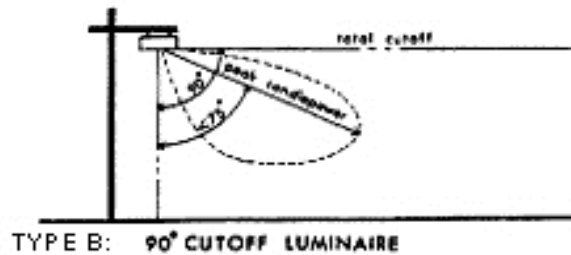
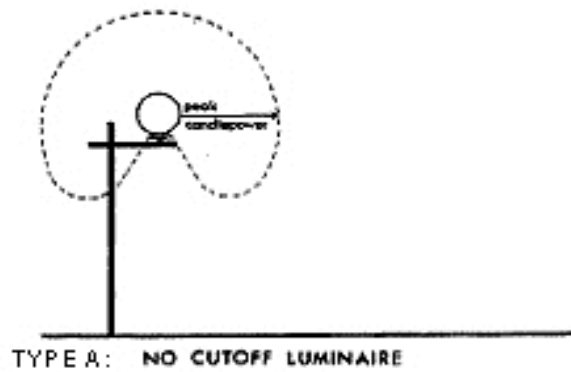
comparable color temperature. CRI values generally range from 0 to 100, where 100 represents incandescent light.

- 6.4.2.2 Fixture The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens or diffuser lens.
  - 6.4.2.3 Glare Light emitted from a luminaire with intensity great enough to produce annoyance, discomfort or a reduction in a viewer's ability to see.
  - 6.4.2.4 Lamp The component of a luminaire that produces the actual light.
  - 6.4.2.5 Light Trespass The shining of direct light produced by a luminaire beyond the boundaries of the lot on which it is located.
  - 6.4.2.6 Lumen A measure of light energy generated by a light source. One foot candle is one lumen per square foot. For purposes of this Bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.
  - 6.4.2.7 Luminaire A complete lighting system, including a lamp or lamps and a fixture.
- 6.4.3 **Applicability.** Outdoor illumination by flood or spot luminaires rated at nine hundred (900) lumens or more (which is approximately equal to one 60-watt incandescent light bulb) or by any other luminaires rated at one thousand eight hundred (1800) lumens or more (which is approximately equal to one 120-watt incandescent light bulb) shall be subject to the provisions of this Section, with the following exceptions: emergency lighting; hazard warning; temporary decorative or holiday lighting; public roadway illumination or other lighting required by or installed by governmental agencies. It shall also not apply to any luminaire intended solely to illuminate any freestanding sign, flag or the walls of any building but such luminaire shall be shielded so that its direct light is confined to the surface of such sign, flag or building.
- 6.4.3.1 The replacement of existing fixtures shall be subject to the provisions of this Section, however, the replacement of existing nonconforming lamps or fixtures with the same or lower output nonconforming lamps or fixtures is exempted.
  - 6.4.3.2 The Planning Board in performing review pursuant to Section 7.3, Environmental Impact and Design Review may determine that special circumstances of the site, context or design make an alternative lighting design at least equally effective in meeting the purposes of this Section and in such cases, may modify the requirements of this Section.

- 6.4.4 **Exterior Lighting Plan.** Applications subject to the provisions of Section 7.3, Environmental Impact and Design Review shall submit a lighting plan which shall include the following information, except to the extent waived by the Planning Board. All other lighting not subject to the provisions of said Section 7.3 does not require a lighting plan but shall meet the standards as set forth in this Section, unless as may otherwise be provided herein. The lighting plan shall include the following information:
- 6.4.4.1 location, orientation and type of outdoor luminaire, including the height of the luminaire;
  - 6.4.4.2 luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;
  - 6.4.4.3 type of lamp such as metal halide, compact fluorescent, high pressure sodium and its associated Color Rendering Index (CRI);
  - 6.4.4.4 photometric plan showing the intensity of illumination expressed in foot-candles at ground level within the interior of the property and at the property boundaries. The plan shall also include the following illumination information in a table format: Minimum; Maximum; Average; Average to Minimum and Maximum to Minimum; and
  - 6.4.4.5 evidence that any light trespass does not exceed the limitations set forth in Chart IV herein.
- 6.4.5 **Flickering and Flashing Lights.** No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.
- 6.4.6 **Wall Mounted Fixtures.** In Nonresidential Districts, a luminaire attached to the exterior of a building or structure for area lighting shall be mounted no higher than fifteen (15) feet above grade and shall be shielded to control glare.
- 6.4.7 **Pole Mounted Fixtures.** Pole mounted exterior lighting fixture types are defined and restricted as follows:
- 6.4.7.1 Type A. No light cutoff.
  - 6.4.7.2 Type B. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from straight down, and essentially no light is emitted above the horizontal.
  - 6.4.7.3 Type C. Luminaire shielded such that total cutoff is at less than 90 degrees from straight down, and no light source is in direct view of an observer five (5) feet above the ground at any point off the premises.

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

## CHART I. ILLUSTRATIONS



## CHART II. POLE MOUNTING HEIGHT LIMITATIONS

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

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

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

**CHART III. LIGHTING LEVELS (horizontal foot-candles)**

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

\* Applicable to the entire lighted area

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

**CHART IV. LIGHT TRESPASS LIMITATIONS**

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

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

## 6.5 FLOOR AREA RATIO LIMITATION

- 6.5.1 **FAR Limitations in the Highway Business, Industrial-Office and Administrative-Research-Office Districts.** In the Highway Business, Industrial-Office and Administrative-Research-Office Districts, the floor area ratio (FAR) resulting from new construction, renovation or addition shall not exceed 0.4 on any lot, except that the Planning Board may grant a special permit for FAR not to exceed 0.8 upon its written determination, in addition to any other findings required under this Bylaw, that it meets the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw and its off-site impacts on traffic will be mitigated or compensated as herein provided.
- 6.5.2 **FAR Limitations in the Industrial District.** In the Industrial District, the floor area ratio (FAR) resulting from new construction, renovation or addition shall not exceed 0.6 on any lot, except that the Planning Board may grant a special permit for FAR not to exceed 1.0 upon its written determination, in addition to any other findings required under this Bylaw, that it meets the standards set forth in the decision criteria for a Major Business Development in Section 7.2 of this Bylaw and its off-site impacts on traffic will be mitigated or compensated as herein provided.
- 6.5.3 **Traffic Mitigation.** Applications for approval of an FAR exceeding 0.4 in the Highway Business, Industrial-Office and Administrative-Research-Office Districts and 0.6 in the

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

## **6.6 NOISE**

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

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

**NOISE ZONE A:** Nonresidential Districts.

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

**NOISE ZONE C:** All other locations.

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

### **ALLOWABLE EXTERIOR NOISE LEVEL**

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

## SECTION 7.0 SPECIAL REGULATIONS

### 7.1 EARTH MATERIAL MOVEMENT (EMM)

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

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

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

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

7.1.2.3 Topographical contours as proposed after completion of the

7.1.2.4 Proposed lateral support to adjacent properties;

7.1.2.5 Proposed drainage and soil erosion prevention measures;

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

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

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

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

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



- 7.1.3.3 Result in transportation of materials on ways giving access to the subject land which will cause traffic congestion or hazards;
  - 7.1.3.4 Result in transportation which will cause undue injury to roadway surfaces;
  - 7.1.3.5 Result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted;
  - 7.1.3.6 Have a material adverse effect on the natural or engineered drainage patterns of groundwater or surface water; or
  - 7.1.3.7 Have a material adverse effect on the health or safety of persons living in the neighborhood or on the use or amenities of adjacent land.
- 7.1.4 **Conditions.** In granting a special permit hereunder, the Planning Board shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which shall include conditions as to:
- 7.1.4.1 Area and limits of work;
  - 7.1.4.2 Method of import, export and/or regrading of earth material;
  - 7.1.4.3 Type and location of temporary structures;
  - 7.1.4.4 Duration of time and termination date of import, export and/or regrading of earth material;
  - 7.1.4.5 Hours of operation;
  - 7.1.4.6 Policing of traffic entering and leaving the site;
  - 7.1.4.7 Routes for transporting earth material through the Town;
  - 7.1.4.8 Area and depth of excavation and/or fill;
  - 7.1.4.9 Proximity to street and lot lines;
  - 7.1.4.10 Grades of slopes;
  - 7.1.4.11 Reestablishment of ground levels and grades;
  - 7.1.4.12 Provisions for temporary and permanent drainage and erosion control;
  - 7.1.45.13 Disposition of boulders, tree stumps and other debris;

- 7.1.4.14 Replacement of loam over the area of removal;
  - 7.1.4.15 Planting of the area to suitable cover, including trees; and
  - 7.1.4.16 Cleaning of roadway surfaces during and following transport of earth material.
- 7.1.5 **Fill Material.** A statement may be required from a certified professional to verify the source and content of fill material if the special permit is issued for the placement of fill. The analysis of the content of the fill material may be required so as to detect the presence and quantity of hazardous or substandard materials. This analysis shall be conducted by a certified professional hired by the Planning Board at the expense of the Applicant.
- 7.1.6 **Surety and Performance Bond.** A surety and performance bond, cash or other adequate security may be required to insure compliance with the terms, conditions, limitations and safeguards of such special permit and to indemnify the Town for any harm to any public well, roadway, wetland or other resource caused by such import, export and/or regrading of earth material and the equipment used for such operations on the premises or by ancillary activities.
- 7.1.7 **Time Limit.** No special permit for the export, import and/or regrading of earth material shall be granted for a period of more than one (1) year in a Residential District or more than three (3) years in a Nonresidential District, although the special permit may be renewed for additional periods in the same manner as for the initial issuance.
- 7.1.8 **Exempt Operations.** The movement of earth material in any of the following operations shall constitute an exempt operation and shall not require an EMM special permit:
- 7.1.8.1 **Less Than 200 Cubic Yards in Residential Districts.** Export, import and/or regrading of less than two hundred (200) cubic yards of earth material in the aggregate in any year on any one premises in a Residential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed grade elevations.
  - 7.1.8.2 **Less Than 250 Cubic Yards in Nonresidential Districts.** Export, import and/or regrading of less than two hundred (250) cubic yards of earth material in the aggregate in any year on any one premises within a Nonresidential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed natural grade elevations.
  - 7.1.8.3 **Excavation for Foundations.** Export and/or regrading of earth material necessarily excavated in connection with the lawful construction of a

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

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

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

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

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

## **7.2 MAJOR BUSINESS DEVELOPMENT (MBD)**

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

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

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

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

7.2.2.1.2 bank or other financial institution;

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

7.2.2.1.4 printing/copy/publishing establishment;

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

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

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

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

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

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

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

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

- 7.2.4.5 Impact analyses on appropriate issues as may be identified by the Town, including identification of public facility improvements to be made by the Applicant and others;
- 7.2.4.6 Description of project timing and phasing.
- 7.2.5 **Decision.** A special permit for a MBD shall be granted by the Planning Board only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:
  - 7.2.5.1 ability of roads, water and drainage facilities as existing, or as committed by the Town or the Applicant to be improved, to serve the project adequately and safely without material deterioration in service to other locations;
  - 7.2.5.2 degree of assurance that no planned process or unplanned contingency will result in hazard or contamination of air, land or water resources;
  - 7.2.5.3 visual compatibility with the vicinity, including consideration of site arrangement, consistency in architectural scale (or reasonability of departure), retention of existing site features, especially trees and architectural character;
  - 7.2.5.4 degree of threat to environmental resources, including loss of valuable trees and other vegetation, disturbance to habitats and soil through erosion;
  - 7.2.5.5 buffering and screening from any nearby uses of different character; and
  - 7.2.5.6 degree to which the proposal serves job, service or other interests of Town residents.
- 7.2.6 **Reimbursement for Consultants.** It is contemplated that in some cases it will be necessary for the Planning Board to hire consultants in connection with the review and evaluation of applications for special permits pursuant to this Section. The Planning Board will be reimbursed by the Applicant for the reasonable fees and expenses of such consultants, and each application for a special permit hereunder shall contain an agreement by the Applicant to that effect.
- 7.3 **ENVIRONMENTAL IMPACT AND DESIGN REVIEW (EIDR)**
  - 7.3.1 **Purpose.** The purpose of this Section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the Town and

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

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

- 7.3.2.1 Construction, expansion, exterior alteration(exclusive of signs governed by the provisions of Section 6.2), or change of use of any municipal, institutional, commercial, industrial, or multi-family property.
- 7.3.2.2 Reconfiguration, restriping or expansion, by three (3) or more parking spaces, of a parking area or facility containing five (5) or more parking spaces.
- 7.3.2.3 Any change in use which results in a use prohibited or requiring a special permit in a Water Resource Protection Overlay District, whether or not within such a district and whether or not requiring a building permit.
- 7.3.2.4 Construction of an Open Space Residential Development (OSRD) pursuant to Section 8.3 of this bylaw.
- 7.3.2.5 Construction, installation or alteration of a Minor Wireless Communication Facility pursuant to Section 9.4 of this bylaw.

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

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

- 7.3.5 **Procedures.** An application for environmental impact and design review shall be accompanied by a site plan and other application materials in accordance with the requirements specified below and the Planning Board's rules and regulations. The Planning Board shall hold a public hearing in accordance with its rules and regulations and shall provide its decision forthwith to the Building Commissioner and Applicant.
- 7.3.6 **Administrative Review and Approval of Minor Alterations.** An application for environmental impact and design review involving exterior alterations to buildings or sites, which alterations are determined by the Building Commissioner to be minor in nature, shall be reviewed and considered for approval by the Town Planner. Application and submittal items shall be the same as set forth in this Section and in the Planning Board's rules and regulations for Planning Board consideration, except in the number of paper copies required, which shall be reduced to a number determined by the Town Planner to be sufficient for review purposes. The Town Planner, within 21 days of receipt of a complete application, shall review the application and submittal items for conformance with the standards set forth in Section 7.3.7, and shall issue an Administrative Approval, an Administrative Approval with Conditions, or an Administrative Denial of said application. In the case of an Administrative Approval with Conditions or an Administrative Denial, the applicant may apply to the Planning Board for further consideration of the EIDR Application in the course of a duly noticed public hearing.
- 7.3.7 **Submittal Requirements.** To assist the Planning Board in its evaluation of an application for environmental impact and design approval hereunder, the Applicant shall submit the following materials at the time of application, except to the extent waived by the Planning Board:
- 7.3.7.1 **Site Plan.** The site plan shall be prepared by a Registered Professional Engineer, Registered Landscape Architect and/or Registered Professional Land Surveyor and shall show the following information, except to the extent waived by the Planning Board:
- 7.3.7.1.1 Existing and proposed planting, landscaping and screening, which shall show the location, dimension and arrangement of all open spaces and yards, including type and size of planting materials, methods to be employed for screening and proposed grades and a plan for maintenance;
- 7.3.7.1.2 Location, type, size and dimension of existing trees, rock masses and other natural features with designations as to which features will be retained;
- 7.3.7.1.3 Dimension and location of existing and proposed buildings and structures;
- 7.3.7.1.4 Existing topography, including any proposed grade changes;

- 7.3.7.1.5      Parking areas and facilities, traffic circulation, driveways, loading areas, access and egress points;
- 7.3.7.1.6      Storm drainage, including direction of flow and means of ultimate disposal. Stormwater drainage runoff calculations used for the drainage system design shall be prepared by a Registered Professional Engineer and must support the sizing of all drainage structures and pipes and demonstrate compliance with the stormwater management standards adopted and as amended from time to time by the Massachusetts Department of Environmental Protection;
- 7.3.7.1.7      Provisions for sanitary sewerage and water supply, including fire protection measures; and
- 7.3.7.1.8      Location of all utilities, signage, outdoor storage and trash disposal areas.
- 7.3.7.1.9      Location and description of any proposed disturbance to existing vegetation, or alteration of natural or historic features, which are proposed in relation to temporary access, utility installation, or other aspects of construction, including provisions for site restoration.
- 7.3.7.2      **Exterior Lighting Plan.** The Exterior Lighting Plan shall show the information as required in Section 6.4.4 of this Bylaw, except to the extent waived by the Planning Board.
- 7.3.7.3      **Traffic Study.** The traffic study shall be prepared by a Registered Professional Engineer consistent with study guidelines adopted and from time to time amended by the Planning Board, except to the extent waived by the Planning Board.
- 7.3.7.4      **Drawings/Renderings.** A drawing or rendering of the proposed building, including color and type of surface materials showing front, rear and side elevations.
- 7.3.7.5      **Photographs.** Photographs showing any existing structures to be altered, the proposed building site and surrounding properties. Applications for alterations and additions shall include photographs showing each existing structure to be altered and its relationship to adjacent properties.
- 7.3.7.6      **Impact Statement.** An explanation of how each of the environmental impact and design standards cited herein is incorporated into the design of the proposed development. Where a particular standard is not applicable a statement to that effect will suffice. An environmental impact statement



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

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

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

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

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

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

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

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

- 7.3.8.5 **Stormwater Drainage and Erosion Control.** Special attention shall be given to proper site surface drainage (i) so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system and (ii) so as to minimize any adverse impact upon nearby “downstream” properties. Stormwater shall be removed from all roofs, canopies and paved areas in a manner complying with the stormwater management standards adopted and as amended from time to time by the Massachusetts Department of Environmental Protection. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved area. Erosion and sediment controls must be implemented to prevent any negative impacts during construction or other land disturbance activities. Permanent post-development erosion controls must be implemented and maintained where necessary.
- 7.3.8.6 **Advertising Features.** The size, location, design, color texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.
- 7.3.8.7 **Special Features.** Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties. All towers, antennas and poles shall be sited, designed and sized to have minimal visual impact on nearby properties.
- 7.3.8.8 **Safety.** With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces shall be designed to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of an accident or attempted criminal act. Traffic to and

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

- 7.3.8.9 **Heritage.** With respect to the Town's heritage, removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
- 7.3.8.10 **Microclimate.** With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage or the installation of machinery which emits heat, vapor or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air and water resources or on noise and temperature levels of the immediate environment.
- 7.3.8.11 **Energy Efficiency.** To the maximum extent reasonably practicable, proposals shall utilize energy-efficient technology and renewable energy resources and shall adhere to the principles of energy-conscious design with regard to orientation, building materials, shading, landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of the building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.
- 7.3.8.12 **Detrimental Effects.** No proposed facility shall be detrimental to the health, safety or welfare of persons working or living in the neighborhood, or by reason of danger of fire or explosion, environmental pollution, corrosion, toxic or noxious fumes, gas, smoke, soot, dust, odors, noise or vibrations or other hazards.
- 7.3.8.13 **Nearby Properties.** Nearby properties shall be protected against detrimental uses on the site.
- 7.3.8.14 **Specific Standards for High and Washington Street.** Where the nature of the following design features is considered significant to the preservation or enhancement of the desirable visual quality and property values of a particular part of High Street or Washington Street, any new structure or alteration shall be harmoniously related to nearby pre-existing structures and the street facade in terms of color, texture, materials, scale, height, setbacks, roof and cornice lines, signs and design elements such as door and window size and location and door and window detailing, including materials for sills, lintels, frames and thresholds and any other major design elements.
- 7.3.8.15 **Air Quality.** Any use whose emissions are such as to cause it to be classified as a major new stationary source of air pollution, as defined by the Environmental Protection Agency (EPA) under the Clean Air Act, and

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

- 7.3.8.16 **Plants and Animals.** Location and design shall not cause avoidable damage to wildlife habitats or corridors, or to any plant species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program, or to any tree with more than a twenty-four (24) inch trunk diameter one (1) foot above grade. An application for a MBD special permit must include documentation to the Planning Board of having consulted with the Conservation Commission and the Massachusetts Natural Heritage Program regarding these considerations, and that the proposed site either contains no such habitats or materials, or that all feasible efforts to avoid, minimize or compensate for damage have been reflected in the development proposal.
- 7.3.8.17 **Vibration.** Except for blasting and other activities within the jurisdiction of the Board of Fire Prevention Regulations, no use shall be allowed which produces vibration at or beyond the boundaries of the premises exceeding two-thirds (2/3) the frequency/amplitude limitations established by the Board of Fire Prevention Regulations at 527 CMR 13.11 (18) for three (3) minutes or more in any hour between 7:00 am and 9:00 pm or for thirty (30) seconds or more in any hour between 9:00 pm and 7:00 am.
- 7.3.8.18 **Electrical Disturbances.** No EMF emission shall be permitted which adversely affects the operation of any equipment on other properties.
- 7.3.8.19 **Historic and Archaeological Sites.** Location and design shall not cause avoidable damage or impairment to the historic or archaeological value of buildings on sites recorded on the Massachusetts Register of Historic Places. An application for a MBD special permit shall submit documentation that either the site does not contain or impact such buildings or sites, or that any potential damage or impairment has been effectively mitigated.
- 7.3.8.20 **Solid Waste.** Each development must document arrangements for satisfactory disposal of tree stumps and debris resulting from construction, and must make permanent arrangement for satisfactory on-site storage of refuse pending its removal, such storage to be screened from public view, secure from vermin, birds or other animals, and located to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.

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

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

- 7.3.9.1 Minimize the volume of cut and fill, the number of removed trees six (6) inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion and threat of air and water pollution;
- 7.3.9.2 Maximize pedestrian and vehicular safety on the site and egress to and from the site;
- 7.3.9.3 Minimize obstruction of scenic views from publicly accessible locations;
- 7.3.9.4 Minimize visual intrusion by controlling the visibility of parking, storage or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- 7.3.9.5 Minimize glare from headlights and lighting intrusion;
- 7.3.9.6 Minimize unreasonable departure from the character, materials and scale of buildings in the vicinity, as viewed from public ways and places;

- 7.3.9.7 Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling or containment of hazardous substances; and
- 7.3.9.8 Ensure compliance with the provisions of this Bylaw, including parking, landscaping, exterior lighting and noise.
- 7.3.10 **Modifications.** Once environmental impact and design approval has been granted by the Planning Board, any subsequent changes in which the Building Commissioner has determined will substantially affect or alter the visual appearance of the building facade or roof or will substantially affect or alter traffic flow or modify the site plan, a new application shall be submitted pursuant to this Section.
- 7.3.11 **Lapse.** Environmental impact and design approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the grant of the environmental impact and design approval. The Planning Board may extend such approval, for good cause, upon the written request of the Applicant.
- 7.3.12 **Regulations.** The Planning Board may adopt reasonable rules and regulations for the administration of this Section.
- 7.3.13 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for environmental impact and design review.
- 7.3.14 **Reimbursement for Consultants.** It is contemplated that in some cases it will be necessary for the Planning Board to hire consultants in connection with the review and evaluation of applications for environmental impact and design approval under this Section. The Planning Board will be reimbursed by the Applicant for the reasonable fees and expenses of such consultants, and each application for a permit hereunder shall contain an agreement by the Applicant to that effect.

## **SECTION 7.4 REGISTERED MARIJUANA DISPENSARIES**

- 7.4.1 **Purpose.** The purpose of this Section is to assure that Registered Marijuana Dispensaries (RMDs) are carefully designed, located and operated in accordance with applicable state and local laws, rules and regulations, and to assure that adequate provisions are made for impacts of such facilities upon the character of the Town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof.
- 7.4.2 **Special Permit Required.** No RMD shall be constructed or operated except pursuant to a special permit therefor granted by the Board of Appeals in accordance with Section 7.4.
- 7.4.3 **Application Requirements.** An application for a special permit for a RMD shall be accompanied by a site plan and all other application materials required by the rules and

regulations of the Board of Appeals.

- 7.4.4 **Referral of Application to Board of Health.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Board of Health, whereupon said Board may, at its discretion, review the proposed RMD project and report in writing its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Board of Health, or until said Board of Health has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report.
- 7.4.5 **Referral of Application to Police Chief.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Police Chief, whereupon said Police Chief may, at his or her discretion, review the proposed RMD project and report in writing recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Police Chief, or until said Police Chief has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report.
- 7.4.6 **Referral of Application to Planning Board.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Planning Board, whereupon said Board may, at its discretion, review the proposed RMD project and report in writing its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Planning Board, or until said Planning Board has allowed sixty-five (65) days to elapse after receipt of such application without submission of a report. Said Planning Board report shall indicate the status of the proposed RMD's Environmental Impact and Design Review (EIDR) application which is required pursuant to Section 7.3 of this Bylaw. If the Board of Appeals shall vote to grant a RMD Special Permit prior to the Planning Board's issuance of an EIDR Approval for the RMD project, the Board of Appeals' decision shall be conditional upon the granting of such EIDR Approval by the Planning Board and subject to any conditions thereof.
- 7.4.7 **Findings.** No RMD Special Permit shall be granted unless the Board of Appeals finds that operations conducted under such special permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town.

## **SECTION 7.5 ACCESS APPROVAL OVERLAY DISTRICT**

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

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

- 7.5.2 **Granting Authority.** The Planning Board shall be the granting authority for all approvals required under this Section.
- 7.5.3 **Applicability.** The Clapboardtree Street Corridor Overlay shall apply to all land abutting Clapboardtree Street from Milk Street to Everett Street. The Canton Street Corridor Overlay shall apply to all land abutting Canton Street from Hemlock Drive to the beginning of Dedham Street:
- 7.5.3.1 Except as provided herein, an Access Approval shall be required for a new or modified curb cut that provides access for a commercial, institutional or multifamily use to any public road within the overlay district. The Access Approval shall be required prior to the issuance of a curb cut permit by the Department of Public Works.
  - 7.5.3.2 The Access Approval requirement shall not apply to any existing or proposed curb cut on a state highway.
  - 7.5.3.3 The Access Approval requirements shall not apply to any existing or proposed curb cuts for projects which are anticipated to add fewer than fifty (50) vehicle trips per day to Clapboardtree Street or Canton Street, and which are not anticipated to negatively affect the level of service of either the Route 1A/Clapboardtree Street/Everett Street/Washington Street intersection or the University Avenue/Canton Street intersection, and which are otherwise determined by the Town Planner to have de minimis effects on traffic within the overlay district.
  - 7.5.3.4 This Section 7.5 shall not apply to any building or use which prior to March 27, 2015 has (i) been issued a special permit pursuant to General Laws Chapter 40A, Section 9, and (ii) has submitted an application for a curb cut permit for an access drive to serve that building or use.
  - 7.5.3.5 This overlay district’s regulations supplement the zoning regulations of the underlying zoning district. The overlay district is an additional zoning requirement that does not change the underlying zoning.
  - 7.5.3.6 When the overlay district standards conflict with applicable standards of the underlying zoning district or with other regulations of this bylaw, the regulations of the overlay district shall govern. When no special overlay district standards are specified, the base district standards and all other applicable regulations of this bylaw shall govern.



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

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

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

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

- a. **Determination of Traffic Impact.** In determining traffic generation under this provision, the data contained in the most recent edition of the Institute of Traffic Engineers publication "Trip Generation" shall be used.
- b. The traffic impact analysis shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. The Planning Board may engage, at the applicant's expense, a traffic engineer to peer review the traffic impact analysis.

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

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

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

- 7.5.6.1 The Planning Board shall base its decision on the safety, design and expected performance of the proposed access/egress point as detailed in the traffic study and on the site plan, as well as the effect of the additional vehicles on existing intersections within one mile of the curb cut. In order to issue the Access Approval, the Planning Board must find that the traffic generated by the proposed project will adequately protect the public interest and will not cause material detriment to the public safety of residents within the district and the Town of Westwood. If the Planning Board cannot make this finding based on the traffic impact analysis and peer review of said analysis, if any, the Planning Board shall condition its Access Approval as necessary to enable positive findings to be made.
- 7.5.6.2 All reasonable efforts shall be made to align curb cuts with existing curb cuts on the opposite side of the street in order to maximize pedestrian and vehicular safety.
- 7.5.6.3 The Planning Board may require off-site mitigation within up to one mile of the curb cut if necessary to protect public safety.
- 7.5.7 **Modifications.** Once an Access Approval has been granted by the Planning Board, if any subsequent changes are proposed to a project approved hereunder, which changes are determined by the Town Planner to modify the site plan or proposed use so as to negatively affect or alter traffic flow or volume, an application for modification of the Access Approval shall be submitted pursuant to this Section.
- 7.5.8 **Lapse.** Access Approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the grant of the Access Approval. The Planning Board may extend such approval, for good cause, upon the written request of the Applicant.
- 7.5.9 **Regulations.** The Planning Board may adopt reasonable rules and regulations for the administration of this Section.
- 7.5.10 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for Access Approval.
- 7.5.11 **Reimbursement for Consultants.** It is contemplated that in some cases it will be necessary for the Planning Board to hire consultants in connection with the review and evaluation of applications for Access Approval under this Section. The Planning Board

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

## **SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS**

### **8.1 CONVERSION OF ONE-FAMILY DWELLING**

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

- 8.1.1.1 to preserve culturally, historically, or architecturally significant residential structures of value to the community;
- 8.1.1.2 to encourage the preservation of community character through the maintenance of existing residential properties and their surrounding landscapes;
- 8.1.1.3 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character.

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

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

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

### **8.2 TWO-FAMILY DWELLINGS**

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

### **8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT**

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

- 8.3.1.1 to conserve natural, hydrological and wetlands resources, wildlife habitat, scenic corridors and views, agriculture, horticulture and forestry operations, cultural resources and other natural and man-made features of value to the community;
  - 8.3.1.2 to lessen the amount of disturbance to soils, topography and vegetation on the site, and to provide roads and infrastructure in more efficient and less intrusive ways than with conventional subdivisions;
  - 8.3.1.3 to provide the opportunity for more flexibility and imagination in the design of residential developments;
  - 8.3.1.4 to assure that the 4-step Design Process (as defined in 8.3.12) guides the design of an OSRD by identifying the resources and amenities to be protected, prior to laying out buildings, roadways, and lots;
  - 8.3.1.5 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character.
  - 8.3.16 to encourage senior housing development, affordable housing development, historic preservation, and greater conservation of open space.
- 8.3.2 **Definitions.** For the purposes of this Section, the following terms are defined:
- 8.3.2.1 **Single-family Attached Dwelling Units.** Single-family Attached Dwelling Units shall mean buildings where two (2) or more individual single-family dwelling units are physically connected to like dwellings for at least a portion of one or more of their exterior walls. Single-family Attached Dwelling Units may include townhouses in traditional row or other configuration or shape; or individual single-family dwelling units meeting at a common lot line. Single-family Attached Dwelling Units shall not include any building where any dwelling unit is located above or below any other dwelling unit.
  - 8.3.2.2 **Cluster.** Cluster shall mean a distinct area or “pod” of housing within an OSRD development, separated physically and visually from other clusters of housing by open space and/or other facilities or common areas.
  - 8.3.2.3 **Tract.** Tract shall mean the boundaries and area of the original parcel of land proposed for the OSRD, prior to further division.
  - 8.3.2.4 **Age-Restricted Dwelling Units.** Age-Restricted Dwelling Units shall mean dwelling units where occupancy shall be restricted in perpetuity to households where at least one person has reached fifty-five (55) years of age.

- 8.3.3 **Eligible Districts.** An OSRD shall be permitted only within the Single Residence B (SRB), Single Residence C (SRC), and Single Residence E (SRE) districts, pursuant to the requirements of this Section.
- 8.3.4 **Minimum Tract Requirements.** The minimum tract of land for an OSRD shall consist of one parcel or two or more contiguous parcels, with a minimum area of 120,000 square feet in SRB, 200,000 square feet in SRC, and 400,000 square feet in SRE, prior to further division. The Planning Board may make a finding that two or more parcels separated by a road or other infrastructural element are effectively contiguous if such is consistent with the purposes of this Section.
- 8.3.5 **Uses Allowed As of Right.** The following uses are allowed as of right in an OSRD:
- 8.3.5.1 Detached single-family Dwelling Units.
- 8.3.6 **Special Permit Uses.** The following uses are only allowed by OSRD Special Permit in an OSRD:
- 8.3.6.1 Single-family Attached Dwelling Units;
- 8.3.6.2 Bonus Dwelling Units.
- 8.3.7 **Facilities and Amenities.** The following facilities and amenities are allowed in an OSRD:
- 8.3.7.1 Common open space areas for active or passive recreation, preservation of habitat and natural resources, maintenance of scenic amenities, buffering between uses, both within the site and from abutting properties, connecting greenways to abutting protected open space, lawn and landscaped areas within the site, pedestrian and bicycle trails, and similar features;
- 8.3.7.2 Recreational amenities primarily for residents of the OSRD, including but not limited to: a community center, swimming pool, beach, tennis court, or children's playground;
- 8.3.7.3 Accessory uses necessary to the operation and maintenance of the development, including but not limited to detached structures for parking, sheds for equipment and tool storage, structures housing heating/ventilating and air conditioning, pumping stations or similar facilities, and energy generating facilities allowed by this bylaw.
- 8.3.8 **Planning Board Approvals Required.**
- 8.3.8.1 **Subdivision Approval Required.** When applicable under M.G.L. c. 41, § 81K through § 81GG and the Westwood Rules and Regulations Governing the Subdivision of Land, an OSRD shall require a Definitive Subdivision

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

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

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

### 8.3.9 **Density and Dimensional Requirements.**

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

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

The Yield Calculation is determined by the following steps:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

- 8.3.9.4.2 **Affordable Housing.** For every one (1) dwelling unit restricted in perpetuity to meet the definition of Affordable Housing in Section 2.0, over and above the minimum number of affordable dwelling units required pursuant to the Affordability Requirements in Section 8.3.11, a bonus equal to two (2) additional market rate dwelling units may be allowed.
- 8.3.9.4.3 **Moderate Income Housing.** For every one (1) dwelling unit restricted in perpetuity to meet the definition of Moderate Income Housing in Section 2.0, a bonus equal to one (1) additional market rate dwelling unit may be allowed.
- 8.3.9.4.4 **Historic Preservation.** Where an OSRD preserves a historically significant building or historically significant major structure, including a barn or other accessory structure, a bonus equal to one (1) additional dwelling unit may be allowed. The determination of historical significance and the suitability of [preservation initiatives shall be made by the Planning Board, which may choose to consult with the Westwood Historical Commission.
- 8.3.9.4.5 **Additional Open Space.** For each additional five (5) percent of the tract protected as common open space above the minimum required below in Section 8.3.10.1, a bonus equal to ten (10) percent of the maximum base number of dwelling units may be allowed. Where the calculation of Bonus Dwelling Units results in a fraction, for results less than 2, eliminate any fractional part, and for results greater than 2, round up to the next whole number for fractions of .5 or greater, and round down to the previous whole number for fractions less than .5.
- 8.3.9.4.6 **Aggregate Yield.** The Aggregate Yield for an OSRD shall be based on any combination of the bonuses listed above,

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

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

#### 8.3.10 Common Open Space Requirements.

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

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

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

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

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

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

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

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

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

- 8.3.10.4.2 **Conservation Restrictions.** When common open space is not conveyed to the Town or to its Conservation Commission, a conservation restriction or agricultural or forest preservation restriction enforceable by the Westwood Conservation Commission or other board under M.G.L. c. 184, § 31, is required, in compliance with the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources, or their successor agencies. Said restriction shall be recorded in the manner provided by statute. The Board of Selectmen is hereby authorized to accept such restrictions if the Conservation Commission declines to do so. The common open space shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth in this Section, and shall be maintained in a manner which will ensure its suitability for its intended purposes.
- 8.3.10.4.3 **Conservation Covenants.** Any common open space that does not qualify for inclusion in a conservation restriction or agricultural preservation restriction, or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts, shall be subject to a restrictive covenant, which shall be approved by the Planning Board and Board of Selectmen, and which shall be duly recorded at the Registry of Deeds and subject to the Extension of Period provisions in Sections 27 and 28 of M.G.L. chapter 184. The Town of Westwood shall retain the right to enforce such covenants.
- 8.3.10.4.4 **Special Maintenance Provisions.** The Town shall be granted an easement over the common open space in all cases, to ensure its perpetual maintenance as open space consistent with the purposes of this Section. Such easement shall provide that in the event the corporation, trust, or other owner fails to maintain the open space in good functional condition, the Town may, after notice to the owners and a public hearing, enter the common open space to provide reasonable maintenance, in order to prevent or abate a nuisance. The cost of such maintenance shall be assessed against the properties within the development and/or to the owner of the common open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 8.3.13.3 **Pedestrian and Bicycle Circulation.** Where appropriate, walkways and/or multi-purpose trails shall be provided within the OSRD to connect dwellings with parking areas, recreation facilities and open space, and adjacent land uses.
- 8.3.13.4 **Visibility of Open Space.** Open space in the OSRD shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- 8.3.13.5 **Architectural Design and Neighborhood Compatibility.** In overall scale, architectural detailing, building massing, height, exterior materials, and roofline articulation, residential structures in an OSRD shall be reasonably compatible with existing structures in surrounding residential areas, when there is a functional or visual relationship between the surrounding structures and the proposed structures. The Planning Board may limit and/or redistribute the number of dwelling units contained in a single structure, if it determines that the proposed structure would otherwise compromise or obstruct desired views from abutting properties or from public ways, or if the proposed configuration has a negative environmental impact upon any abutting property.
- 8.3.13.6 **Cultural Resources.** The removal or disruption of historic or archaeological resources or traditional or significant uses, structures, or architectural elements shall be minimized.
- 8.3.13.7 **Stormwater Management.** To the extent practicable, the use of low impact development and soft drainage techniques shall be employed in the design of an OSRD, subject to compliance with all applicable local and state standards and requirements.
- 8.3.13.8 **Off-street Parking.** All off-street parking in an OSRD shall comply with the requirements of Section 6.0 in this bylaw, except in the case of an age-restricted OSRD, or age-restricted OSRD cluster, where parking requirements shall be as provided in Section 8.3.13.10.4.



- 8.3.13.9      **Mix of Housing Types.** Any mix of one or more of the allowed housing types, shall be permitted in an OSRD, up to the maximum number of dwelling units permitted under this Section.
- 8.3.13.10      **Design Standards for Age-Restricted Dwelling Units.** Where Age-Restricted Dwelling Units within an OSRD, or within an OSRD cluster, are developed pursuant to Section 8.3.9.4.1, such dwelling units shall be located and designed in such a manner as to serve the physical and social needs of senior residents, fifty-five (55) years of age and older, with a range of income levels and physical abilities. The following additional design standards for Age-Restricted Dwelling Units shall apply:
- 8.3.13.10.1      **Coordinated Development.** The age-restricted OSRD, or age-restricted OSRD cluster, shall be developed as a coordinated unit, under common management and serving a common function.
- 8.3.13.10.2      **Accessibility.** All Age-Restricted Dwelling Units shall be designed to accommodate suitable means of access and egress for people with disabilities in conformance with 521 CMR Section 9. Additionally, in cases where supplemental wheelchair ramps and/or lifts are necessary to achieve suitable means of access and egress, architectural plans for individual dwelling units shall demonstrate the location and means of incorporating such ramps and/or lifts. Such ramps and/or lifts shall be installed by the owner of any dwelling unit if required by a resident of said dwelling unit.
- 8.3.13.10.3      **Limit on Number of Bedrooms.** There shall be not more than two (2) bedrooms in any Age-Restricted Dwelling Unit, nor shall there be any den, office, bonus room, loft, attic, or similar area which could be converted for use as a third bedroom.
- 8.3.13.10.4      **Off-Street Parking.** Off-street parking may be reduced to one and one-half (1 ½) parking spaces per Age-Restricted Dwelling Unit at the discretion of the Board. At least one parking space shall be reserved for each Age-Restricted Dwelling unit and located within one hundred fifty (150) feet thereof. Adequate provisions shall be made for additional visitor parking spaces, in a manner and amount deemed appropriate by the Board.
- 8.3.13.10.5      **Community Facilities.** The age-restricted OSRD, or age-restricted OSRD cluster, shall contain appropriately designed on-site community facilities to serve the recreational and social needs of residents, unless the Board determines that such is unnecessary due to location of the development in close walking distance to similar off-site facilities.

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

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

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

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

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

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

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

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

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

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

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

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

8.3.16.3.1 **General.** All OSRD applications shall be subject to the EIDR process in Section 7.3 of this bylaw. In the case of an application for an OSRD Special Permit, the EIDR component shall be consolidated within the Board's OSRD Special Permit review pursuant to Section 8.3.16.4. The Planning Board may waive particular submission requirements for OSRD's if they are determined to be inapplicable or unnecessary for EIDR review purposes, provided that doing so is consistent with the purposes of this Section.

8.3.16.3.2 **OSRD-EIDR Decision.** In the case of an application for OSRD-EIDR Approval, the Board shall render a written OSRD-EIDR decision within ninety (90) days of the close of the public hearing. Said decision shall be based upon a determination by the Planning Board that the OSRD application meets the criteria below.

- 1) Consistency with the purposes of Section 8.3.
- 2) Demonstration of proper and complete application of the OSRD 4-step design process.
- 3) General consistency with all applicable elements of the EIDR standards in Section 7.3.7.

- 4) Responsiveness to all applicable elements of the Design Standards in Section 8.3.13.
- 5) Establishment of measures sufficient to provide for effective protection and maintenance of the common open space.

8.3.16.4      **OSRD Special Permit Review Requirements.**

8.3.16.4.1      **General.** All OSRD applications for projects including Single-family Attached Dwelling Units as defined in Section 8.3.2.1 and/or requesting Bonus Dwelling Units pursuant to Section 8.3.9.4, shall require OSRD Special Permit Approval by the Planning Board.

8.3.16.4.2      **OSRD Special Permit Decision.** The Board shall render a written OSRD Special Permit decision within ninety (90) days of the close of the public hearing. Said decision shall be based upon consideration by the Planning Board of the OSRD special permit criteria below. Failure to take action within the 90 day period shall be deemed to constitute constructive approval of the OSRD Special Permit application.

8.3.16.4.2.1      **OSRD Special Permit Decision for Single-family Attached Dwelling Units.** Approval shall be granted by means of a written OSRD Special Permit decision, based upon a finding by the Planning Board that the OSRD application demonstrates consistency with the standards below:

- 1) Consistency with the purposes of Section 8.3.
- 2) Demonstration of proper and complete application of the OSRD 4-step design process.
- 3) General consistency with Section 10.3 [Special Permits] of the Zoning Bylaw.
- 4) Compatibility with the scale, visual character and amenities in the surrounding neighborhood.
- 5) Compatibility of the Single-family Attached Dwelling Units with the other housing types and

clusters within the OSRD, using site design, architectural elements, building massing, and open space and landscaping, thereby creating a unified development that succeeds in establishing a harmonious residential environment.

- 6) Responsiveness to all applicable elements of the Design Standards in Section 8.3.13.
- 7) Establishment of measures sufficient to provide for effective protection and maintenance of the common open space.

8.3.16.4.2.2      **OSRD Special Permit Decision for Bonus Dwelling Units.** Approval shall be granted by means of a written OSRD Special Permit decision, based upon a finding by the Planning Board that the proposed density bonus meets one or more of the allowed bonuses in Section 8.3.9.4 and demonstrates consistency with the standards below:

- 1) Conformance with the Aggregate Yield requirements of Section 8.3.9.4.6.
- 2) Demonstration of no significant negative fiscal impact to the town.
- 3) Consistency with the purposes of Section 8.3.
- 4) Demonstration of proper and complete application of the OSRD 4-step design process.
- 5) Compatibility with the scale, visual character and amenities surrounding neighborhood.
- 6) General consistency with Section 10.3 [Special Permits] of the Zoning Bylaw.
- 7) Responsiveness to all applicable elements of the Design Standards in Section 8.3.13.
- 8) Establishment of measures sufficient to provide for effective protection and maintenance of the common open space.

- 9) Suitability of the proposed design, location, and layout of the overall OSRD, and of each individual dwelling unit and all proposed common facilities, to uniquely serve the physical and social needs of the residents.
  - 10) Impact on the quantity and quality of the available housing choices for the residents of the affordable dwelling units, moderate income dwelling units, and/or residents fifty-five (55) years of age or older, with a range of income levels and physical abilities, and demonstrated market for all proposed Age-Restricted Dwelling Units.
- 8.3.17 **Special Conditions and Performance Guarantee.** The Planning Board may impose reasonable conditions as part of any OSRD-EIDR or OSRD Special Permit approval and may require suitable performance guarantees to assure compliance with those conditions.
- 8.3.18 **Regulations.** The Planning Board may adopt OSRD rules and regulations consistent with this Zoning Bylaw and the laws of the Commonwealth.

#### **8.4 RESIDENTIAL RETIREMENT COMMUNITY (RRC)**

- 8.4.1 **Special Permit Required.** A Residential Retirement Community shall require the issuance of a special permit by the Board of Appeals in compliance with the provisions of this Section.
- 8.4.2 **General.** A RRC is a development of land comprising townhouse or apartment type dwellings, under-over type dwellings, multiple type dwellings, or any combination of such housing types, with resident services, operated or sponsored as a Coordinated Unit by a corporation or organization having among its principal purposes the provision of housing for retired and aging persons. Such facility may also include a restorative care center/skilled nursing facility. A Coordinated Unit is a building or group of buildings under common management and serving purposes which assist the elderly in maintaining an independent lifestyle. The program of resident services may include restorative care center/skilled nursing, transportation, laundry, financial, barber/beautician, medical evaluation, home health, adult day care and respite care services, meals on wheels, both scheduled and unscheduled exercise, recreational and educational activities, and other similar services or activities. These programs and services will be primarily for the benefit of residents of the RRC and/or the Town.
- 8.4.3 **Restrictions.** A RRC shall be subject to the following restrictions:
- 8.4.3.1 **Age Limitation.** Occupancy of dwelling units shall be limited to persons who have reached the age of sixty-two (62) years and any close relative of a person who has reached the age of sixty-two (62) years, residing with such person. For purposes hereof, “close relative” shall mean a lineal ancestor, lineal descendant, brother, sister, aunt or uncle, and shall include

a person so related by legal adoption and by the half blood.

- 8.4.3.2 **Lot Area.** The minimum lot area shall be five (5) acres.
- 8.4.3.3 **Lot Frontage.** The minimum lot frontage shall be one hundred sixty (160) feet.
- 8.4.3.4 **Building Height.** The maximum building height shall be five (5) stories, provided that no more than sixty percent (60%) of the building footprint shall be built upon to a height in excess of four (4) stories. Building footprints shall be measured at the building foundation, but shall exclude covered walkways connecting adjacent buildings.
- 8.4.3.5 **Density Limitation.** The total number of dwelling units within a RRC shall not exceed four and one-half (4½) dwelling units per acre or one and one-half (1½ ) nursing facility beds per acre.
- 8.4.4 **Procedures.** An application for a special permit for a RRC shall be filed in accordance with the rules and regulations of the Board of Appeals.
- 8.4.5 **Plans.** An application for a special permit for a RRC shall submit a plan in conformance with the rules and regulations of the Board of Appeals.
- 8.4.6 **Decision.** A special permit for a RRC shall be granted by the Board of Appeals, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.
- 8.4.7 **Compliance with Subdivision Rules and Regulations.** Nothing contained herein shall in any way exempt a proposed RRC involving a subdivision from compliance with the rules and regulations of the Planning Board governing the subdivision of land or the rules and regulations of any other Town board having jurisdiction. Nor shall this Section in any way affect the right of the Board of Health and of the Planning Board to approve, with or without modifications, or disapprove a subdivision plan in accordance with the provisions of such rules and regulations and of the Subdivision Control Law.

## 8.5 ACCESSORY APARTMENTS

- 8.5.1 **Purposes.** The purposes of this section are as follows:
  - 8.5.1.1 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character; and



- 8.5.1.2 to encourage preservation of community character through the continued ownership of existing residential properties and their surrounding landscapes.
- 8.5.2 **Special Permit Required.** An Accessory Apartment shall require the issuance of a special permit by the Board of Appeals in compliance with the provisions of this Section.
- 8.5.3 **Applicability.** The principal dwelling or accessory building or structure to be altered or constructed to contain an Accessory Apartment shall be a single-family dwelling or building accessory thereto.
- 8.5.4 **Limited Number of Special Permits.** The maximum number of special permits to be issued and in effect shall not exceed one percent (1%) of the current number of single-family and two-family dwelling units in Town. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed.
- 8.5.5 **General Requirements.** An Accessory Apartment shall be subject to the following general requirements:
- 8.5.5.1 There shall be no more than one (1) Accessory Apartment per lot.
- 8.5.5.2 No Accessory Apartment shall be permitted on a property which also contains a Conversion of a One-family Dwelling pursuant to Section 8.1.
- 8.5.5.3 No Accessory Apartment shall be permitted on a property which also contains a boarding house.
- 8.5.5.4 The owner of the premises within which the Accessory Apartment is located shall occupy either the principal dwelling or the Accessory Apartment. For purposes of this Section, the owner shall be one or more individuals who constitute a family, who holds title to the premises, and for whom the premises is the primary residence for voting and tax purposes. An affidavit certifying owner occupancy shall be filed with the Building Commissioner upon initial occupancy and every four years thereafter.
- 8.5.5.5 Adequate provision shall be made for the disposal of sewage, waste and drainage to be generated by the occupancy of the Accessory Apartment, in accordance with the requirements of the Board of Health.
- 8.5.6 **Design Requirements.** An Accessory Apartment shall be subject to the following design requirements:

- 8.5.6.1 The exterior character of the property containing an Accessory Apartment within a principal or accessory building or structure shall maintain the appearance of a single-family property.
- 8.5.6.2 The floor area of the Accessory Apartment shall not be less than five hundred (500) square feet.
- 8.5.6.3 The floor area of the Accessory Apartment shall not exceed the lesser of nine hundred (900) square feet, or thirty-three percent (33%) of the floor area of the combined dwelling or dwellings if the footprint of the principal dwelling remains unchanged, or twenty-four percent (24%) of the floor area of the combined dwelling if the footprint of the principal dwelling is enlarged.
- 8.5.6.4 Adequate provision shall be made for direct ingress and egress to and from the Accessory Apartment without passage through any other portion of the principal structure, except that passage to and from the Accessory Apartment shall be permitted through a garage or breezeway connected to the principal structure.
- 8.5.6.5 All stairways to upper stories shall be enclosed within the exterior walls of the building in which the Accessory Apartment is located.
- 8.5.7 **Alterations, Relocations, or Additions.** The Board of Appeals may allow for the alteration or relocation of a structure proposed for conversion under this section, and may allow for the construction of one or more additions to said structure, if in the Board's determination, the proposed alteration, relocation, or addition does not significantly change the exterior character of the property.
- 8.5.8 **Parking Requirements.** An Accessory Apartment shall be subject to the following parking requirements:
  - 8.5.8.1 Off-street parking shall be provided for each automobile used by an occupant of the Accessory Apartment. Said parking shall be in addition to the number of parking spaces required pursuant to Section 6.1.3.1 of this Bylaw.
  - 8.5.8.2 Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface. No motor vehicle shall be regularly parked on the premises other than in such a parking space. No parking space shall be located within a street right-of-way.
  - 8.5.8.3 If a total of more than four (4) parking spaces are required to serve the principle dwelling and the Accessory Apartment, the provision

of such additional spaces shall require a special permit pursuant to Section 4.3.3.2 of this Bylaw.

8.5.8.4 Where there are more than four (4) outdoor parking spaces associated with the principal dwelling and the Accessory Apartment, said parking spaces shall be screened with evergreen or dense deciduous plantings, walls or fences, or a combination thereof acceptable to the Zoning Board of Appeals. Said screening shall be sufficient to minimize the visual impact on abutters and to maintain the single-family appearance of the neighborhood.

8.5.9 **Building Permit and Certificate of Occupancy Required.** No accessory apartment shall be constructed without the issuance of a building permit by the Building Commissioner. No use of an Accessory Apartment shall be permitted unless a certificate of occupancy therefor, issued by the Building Commissioner, shall be in effect. A certificate of occupancy shall not be issued unless the Building Commissioner determines that the accessory apartment is in conformity with the provisions of this Section and any special permit issued therefor.

8.5.10 **Expiration of Special Permit.** A special permit issued pursuant to this Section shall automatically become null and void upon the expiration of ninety (90) days following such time as neither the principal dwelling nor the accessory apartment is occupied as the primary residence of the owner thereof for voting and tax purposes. Failure to provide recertification of owner occupancy pursuant to Section 8.6.5.4 shall be grounds for automatic expiration.

## SECTION 9.0 OVERLAY DISTRICTS

### 9.1 ADULT USES OVERLAY DISTRICT (AUOD)

- 9.1.1 **Purpose.** It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that adult entertainment uses are distinguishable from other business uses and that the location of adult entertainment uses degrade the quality of life in the areas of the community where they are located, with impacts including increased levels of crime, blight and late hours of operation resulting in noise and traffic late into the night. Therefore this Bylaw is enacted pursuant to M.G.L. Chapter 40A, Section 9 and Section 9A to serve compelling Town interests by regulating and limiting the location of adult entertainment enterprises as defined herein. The regulation of the Adult Uses Overlay District (AUOD) is to provide detailed review of the location, design and operation of Adult Uses to minimize any adverse impacts on the character of the Town and nearby properties and preserve the quality of its neighborhoods, commercial district and the quality of life through effective land use planning.
- 9.1.2 **Location.** The AUOD is herein established as an overlay district. The AUOD shall include the area as shown on the Zoning Map, located east of University Avenue, between Yale Street and Rosemont Road. The AUOD is located on the following parcels as shown on the Westwood Board of Assessors Map 38, Lots 3, 4, 5, 9 and 14, as of May 5, 1997.
- 9.1.3 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the AUOD may be used for any purpose permitted as of right or by special permit in the underlying district.
- 9.1.4 **Special Permit Uses.** Adult Uses may be authorized in the AUOD by special permit from the Board of Appeals subject to the following requirements and conditions:
- 9.1.4.1 Except as permitted herein, Adult Uses may not be located within five hundred (500) feet of any Single, General or Special Residence District, except as separated by a limited access highway, which is part of the interstate highway system, or an active railroad right-of-way with no at-grade vehicular crossing accessing said Districts or within five hundred (500) feet of any church, school, park, playfield or any establishment licensed under the provisions of M.G.L. Chapter 138, Section 12, or any establishment with a common victualler license that allows consumption of alcoholic beverages on its premises. The distances specified above shall be measured by the minimum horizontal distance from the lot line of the premises of any of the uses and/or zoning districts set forth herein to the lot line of the premises of the Adult Use.

- 9.1.4.2 Appearance of buildings for Adult Uses shall be consistent with the appearance of buildings in similar (but not specifically ‘adult’) use in the Town, not employing unusual color or building design which would attract attention to the premises.
- 9.1.4.3 Special permits shall be granted for Adult Uses only upon determination by the Board of Appeals that the location and design of the facility is in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.
- 9.1.4.4 A special permit granted for an Adult Use shall be subject to annual renewal.

## **9.2 FLOOD AREA OVERLAY DISTRICT (FAOD)**

- 9.2.1 **Purpose.** The purpose of the Flood Area Overlay District (FAOD) is to reduce flood losses, to preserve and maintain the ground water table, to protect the public health and safety of persons and property against hazards of flood water inundation and to limit and control the development of flood prone areas.
- 9.2.2 **Location.** The FAOD is herein established as an overlay district. The FAOD includes all Special Flood Hazard Areas, designated as Zone A and AE as set forth on the Norfolk County Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, including map panels 25021C0038E, 25021C0039E, 25021C0159E, 25021C0176E, 25021C0177E, 25021C0178E, 25021C0179E, 25021C0181E, 25021C0183E, 25021C0184E, and 25021C0186E, effective as of July 17, 2012. The exact boundaries of the FAOD are defined by the one percent (1%) annual chance base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Board of Health and Building Commissioner.
- 9.2.3 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the FAOD may be used for any purpose permitted as of right or by special permit in the underlying district.
- 9.2.4 **Development Standards.** The following development standards shall apply within the FAOD:
  - 9.2.4.1 All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with:

- a. Chapter 131, Section 40 of the Massachusetts General Laws, as amended from time to time;
  - b. Sections of the Massachusetts State Building Code addressing floodplain and coastal high hazard areas, under 780 CMR, as amended from time to time;
  - c. Wetlands Protection Regulations promulgated by the Massachusetts Department of Environmental Protection (MA-DEP), under 310 CMR 10.00, as amended from time to time;
  - d. Inland Wetlands Restrictions promulgated by MA-DEP, under 310 CMR 13.00, as amended from time to time; and
  - e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, promulgated by MA-DEP under 310 CMR 15, Title 5.
- Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

- 9.2.4.2 In Zone AE, along watercourses that have a regulatory floodway designated on the FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 9.2.4.3 In Zones A and AE, along watercourses that have no designated regulatory floodway, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 9.2.4.4 New construction or substantial improvement of residential structures within the FAOD shall have the lowest floor (including basement) elevated to or above the one percent (1%) annual chance flood level as shown on the FIRM. Nonresidential structures within the FAOD shall either be similarly elevated or, together with attendant utility and sanitary facilities, be watertight flood-proofed to or above the one percent (1%) annual chance flood level. Substantial improvement shall include any repair, construction or alteration costing fifty percent (50%) or more of the actual cash value of the structure before improvement or, if damaged, before damage occurred.
- 9.2.4.5 Where watertight flood-proofing of a structure is permitted, a Registered Professional Engineer or Registered Professional Architect shall certify to the Building Commissioner that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and uplift forces and other factors associated with the one percent (1%) annual chance flood level. In all events, construction shall conform with the minimum standards of the Massachusetts State Building Code. The Building Commissioner shall obtain and maintain records of elevation and

flood-proofing for new construction or substantial improvements to existing sites and these certificates shall be maintained for a permanent record by the Building Commissioner.

9.2.4.6 Base flood elevation data shall be required for developments involving more than 5 acres or more than 50 lots, within unnumbered A zones.

9.2.5 **Exemption by Special Permit.** The Board of Appeals may by special permit exempt from the requirements of this Section any structures within the FAOD which would be functionally impaired by such measures, which would require waterside location and which are not used for sustained human occupancy; provided that the Board of Appeals finds that such structures do not substantially derogate from the purposes herein.

9.2.6 **Notification of Watercourse Alteration.** The Town Engineer shall notify adjacent communities, the National Flood Insurance Program (NFIP) State Coordinator, and the NFIP Program Specialist, of any alteration or relocation of a watercourse.

### **9.3 WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)**

9.3.1 **Purpose.** The purpose of the Water Resource Protection Overlay District (WRPOD) is to protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the known aquifers of the Town and to protect public health by preventing excessive degradation of the Town's water resources.

9.3.2 **Location.** The WRPOD is herein established as an overlay district. The WRPOD shall include the areas as shown on the Zoning Map, around White Lodge Wells 1, 2, 3 and 4; Rockmeadow Well; and Buckmaster Pond.

9.3.3 **Definition.** For purposes of this Section, 'dispose' shall be construed consistently with 'disposal' as that term is defined in 310 CMR 30.010; that is, to be on-site disposal, whether planned or accidental, but not such things as are transported from the site subject to Department of Environmental Protection-approved manifests.

9.3.4 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the WRPOD may be used for any purpose permitted as of right or by special permit in the underlying district; provided that application for a building or occupancy permit for a nonresidential use within the WRPOD must include documentation that the proposal has been reviewed for compliance with water resource protection requirements set forth herein, and must include documented assurance that there will be compliance with any conditions to agency approvals. The following uses shall be deemed to be permitted in the WRPOD provided that they meet the hazardous material storage requirements set forth in Subsection 9.3.7.5 herein and may also be subject to regulations as may otherwise be provided herein:

- 9.3.4.1 Any use of land or buildings which involves the generation, treatment, storage, disposal or other handling of toxic or hazardous materials or wastes, but only in quantities associated with normal household use and only if otherwise allowable at that location;
- 9.3.4.2 Storage of liquid petroleum products of any kind, but only if incidental to the following:
  - 9.3.4.2.1 normal household use, ordinary maintenance, the heating of a structure and de minimis accessory uses;
  - 9.3.4.2.2 waste oil retention facilities required by M.G.L. Chapter 21, Section 52A;
  - 9.3.4.2.3 treatment works approved under 314 CMR 5.00 for the treatment of contaminated ground or surface waters;
- 9.3.4.3 Facilities that generate, treat, store or dispose of hazardous waste which is subject to M.G.L. Chapter 21C and 310 CMR 30.00, but only for the following:
  - 9.3.4.3.1 very small quantity generators as defined under 310 CMR 30.00;
  - 9.3.4.3.2 waste oil retention facilities required by M.G.L. Chapter 21, Section 52A;
  - 9.3.4.3.3 treatment works approved under 314 CMR 5.00 for the treatment of contaminated ground or surface waters.
- 9.3.5 **Special Permit Uses.** The following uses may be authorized in the WRPOD by special permit from the Board of Appeals and may also be subject to regulations as may otherwise be provided herein:
  - 9.3.5.1 Any use of land or buildings which involves the generation, treatment, storage, disposal or other handling of toxic or hazardous materials or wastes in quantities greater than those associated with normal household use and only if otherwise allowable at that location. The storage of hazardous materials shall meet the requirements of Subsection 9.3.7.5 and such storage and transfer safety requirements as the Board of Appeals may require.
  - 9.3.5.2 Storage of liquid petroleum products of any kind for the sole use for emergency or back-up generators only for business, professional or other office uses where the Board of Appeals determines that such generator is required by statute, rule, regulation or operational necessity and where the



Board of Appeals determines that the use of alternative fuels such as propane or natural gas is not feasible for the demonstrated need. The storage of liquid petroleum shall meet the hazardous materials storage requirements set forth in Subsection 9.3.7.5 herein and such storage and transfer safety requirements as the Board of Appeals may require.

- 9.3.5.3 Storage of commercial fertilizers and soil conditioners, as defined in M.G.L. Chapter 128, Section 64, but only in a structure with an impermeable cover and impervious surface which the Board of Appeals finds is sufficiently designed to prevent the discharge of contaminated run-off or leachate.
- 9.3.5.4 Stockpiling of animal manures, but only in a structure with an impermeable cover and impervious surface which the Board of Appeals finds is sufficiently designed to prevent the discharge of contaminated run-off or leachate.
- 9.3.5.5 New buildings or structures, parking areas, disposal facilities, point source discharges, or additions to any of those, which are located within four hundred (400) feet of a public water supply well, or change in use within existing buildings or structures to a use prohibited or requiring a special permit hereunder, unless the portion of such development lying within four hundred (400) feet of a public water supply well is essential to the provision of public water supply, but only upon determination by the Board of Appeals that denial of such development would result in a substantial economic loss for the property involved, and that any threat from proposed development to the integrity of water quality has been minimized.

**9.3.6 Prohibited Uses.** The following uses are prohibited in the WRPOD:

- 9.3.6.1 Landfills and open dumps, as defined in 310 CMR 19.006;
- 9.3.6.2 Landfilling of sludge and septage;
- 9.3.6.3 Automobile graveyards and junkyards, as defined in M.G.L. Chapter 140B, Section 1;
- 9.3.6.4 Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roadways;
- 9.3.6.5 Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice which has been removed from roadways located outside of the WRPOD; and

- 9.3.6.6 Removal of soil except for excavations for the construction of building foundations, roadway construction or the installation of utility works, the removal of soil, loam, sand, gravel or any other mineral substances within four (4) feet of the historical high water level, as determined by the Board of Health, unless the substances removed are deposited on site to achieve a final grading greater than four (4) feet above the historical high water mark within forty-five (45) days of removal.

9.3.7 **Requirements.** The following requirements shall apply in the WRPOD:

- 9.3.7.1 **Minimum Lot Area.** The minimum lot area shall be as required in the underlying zoning district.
- 9.3.7.2 **Drainage.** All drainage shall meet the stormwater management standards adopted and as amended from time to time by the Massachusetts Department of Environmental Protection. The WRPOD is a “critical area” under these standards.
- 9.3.7.3 **Vegetation.** No less than twenty percent (20%) of that portion of the lot area situated within a WRPOD shall be maintained as a vegetation area. If impervious materials cover more than fifteen percent (15%) of that portion of the lot area situated within a WRPOD, all storm drainage shall be recharged on-site.
- 9.3.7.4 **Split Lots.** Where the premises are partially outside of the WRPOD, site design shall to the degree feasible locate potential pollution sources such as on-site disposal systems outside of the WRPOD.
- 9.3.7.5 **Storage of Hazardous Materials.** Liquid hazardous materials, as defined in M.G.L. Chapter 21E, and also as required herein, shall be stored in the WRPOD only if stored above ground level and on an impervious surface and either in 1) a container or above ground tank within a building, or 2) outdoors in a covered container or above ground tank. All such containers and tanks shall be located in an area that has a containment system designed and operated to hold either ten percent (10%) of the total possible storage capacity of all containers, or one hundred ten percent (110%) of the largest container’s storage capacity, whichever is greater. These storage requirements shall not apply to storage of products used for normal household use in quantities associated with normal household use. These storage requirements shall not apply to the replacement of existing tanks or systems for the dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.
- 9.3.7.6 **Public Sewer.** All uses requiring wastewater disposal shall be connected to a public sewerage system if available, and if such system is not

available, any on-site disposal system shall be subject to the limitations of 310 CMR 22.21(2)(a) 5 and 6.

**9.3.8 Application.** Application for a special permit in a WRPOD shall include the following:

9.3.8.1 The written opinion of a Registered Professional Engineer, addressed to the Board of Appeals, as to the impact of the proposed use upon the existing and potential groundwater supply and groundwater recharge areas within the known aquifers of the Town. This opinion shall bear the stamp and signature of the Professional Registered Engineer responsible for its preparation;

9.3.8.2 Complete listing of toxic or hazardous materials which are to be:

9.3.8.2.1 stored, manufactured or used on or transported over any land in the WRPOD in such a quantity that the use, spilling or discharge thereof might cause a danger to public health or safety; and/or

9.3.8.2.2 contained in industrial wastewater or sewage generation in excess of six (6) gallons per day per one thousand (1,000) square feet of lot area or fifteen thousand (15,000) gallons per day total. Such listing shall be accompanied by a description of measures to prevent vandalism, spills, corrosion and leakage and by a spill control plan;

9.3.8.3 Description of any hazardous or toxic waste to be generated;

9.3.8.4 Such further description of the proposed use and its operation as necessary to demonstrate that the use is not prohibited by this Section and will be in compliance with each of the requirements set forth herein;

9.3.8.5 Evidence of conformity with applicable requirements of the Massachusetts Department of Environmental Protection and of Town Bylaws and regulations, such as Article 17, the Hazardous Materials Bylaw;

9.3.8.6 Locus plan at an appropriate scale showing the boundaries of the property subject to the application in relation to the WRPOD boundaries; and

9.3.8.7 Site plan, if required by the Board of Appeals.

**9.3.9 Referral of Application to Other Boards.** Within ten (10) days after receipt of the WRPOD special permit application, the Board of Appeals shall forward a copy thereof to the Building Commissioner, Dedham-Westwood Water District, Planning Board, Conservation Commission, Board of Health and Fire Chief which may, at their discretion, conduct such investigations as they deem to be appropriate and report in

writing their recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from said review agencies or until thirty-five (35) days has elapsed after receipt of such application without submission of a report. If such report is not received by the Board of Appeals within said thirty-five (35) days, it shall be deemed lack of objection to the issuance of the special permit.

9.3.10 **Review Meetings.** The Applicant or any one of the review agencies may request that the Building Commissioner schedule a meeting of said review agencies to perform a preliminary staff review of the proposed application in an effort to identify relevant issues and the regulatory framework applicable to the proposed project during the review period. Any information exchanged as part of this meeting shall be considered as advisory and shall not be binding on the part of the Applicant or Board of Appeals.

9.3.11 **Decision.** A special permit required pursuant to this Section shall be granted by the Board of Appeals only upon its written determination of the following:

- 9.3.11.1 the application materials are sufficiently detailed, definite and credible to support positive findings relative to the standards of the Bylaw;
- 9.3.11.2 the proposed use meets the standards of this Section;
- 9.3.11.3 neither during construction nor thereafter will the use have material adverse impact upon the existing or potential quality or quantity of the existing and potential groundwater supply and groundwater recharge areas in the WRPOD; and
- 9.3.11.4 proposed control and response measures adequately and reliably mitigate risks to groundwater quality resulting from accident or system failure.

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

## 9.4 WIRELESS COMMUNICATION OVERLAY DISTRICT (WCOD)

9.4.1 **Purpose.** The purpose of the Wireless Communication Overlay District (WCOD) is to permit and regulate the use of wireless communication facilities within the Town and to encourage their location and use in a manner which minimizes negative visual and environmental impacts. It is intended that this Section be in compliance with the Federal Telecommunications Act of 1996 in that the requirements of this section: (i) do not prohibit or have the effect of prohibiting the provision of wireless communication

services; (ii) are not intended to discriminate unreasonably among providers of functionally equivalent services; and (iii) do not regulate wireless communication services on the basis of environmental effect of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning emissions. This Section does not apply to the construction or use of an antenna structure by a federally licensed amateur radio operator, as exempted by M.G.L. Chapter 40A, Section 3.

**9.4.2 Location.** The Wireless Communication Overlay District– (WCOD 1) is herein established as an overlay district as shown on the Official Zoning Map and as described herein:

**9.4.2.1 The WCOD** shall comprise all land within the following zoning districts:

Administrative-Research-Office (ARO)  
Highway Business (HB)  
Industrial (I)  
Industrial-Office (IO)

**9.4.2.2** The WCOD shall also include the following specific parcels, or discrete portions of parcels, as shown on the Westwood Board of Assessors' Map, as of January 1, 2014:

Parcel 04-001 (Hale Reservation, limited to existing utility easement);  
Parcel 09-065 (Dedham-Westwood Water District water towers);  
Parcel 14-046 (High Street Fire Station);  
Parcel 14-071 (Town Hall);  
Parcel 14-072 (Police Station);  
Parcel 14-079 (Westwood Public Library);  
Parcel 14-094 (Deerfield School);  
Parcel 14-096 (St. John's Episcopal Church);  
Parcel 14-140 (First Baptist Church);  
Parcel 14-181 (Colburn School Building);  
Parcel 16-005 (Hanlon School); Parcel 16-238 (St. Denis Church);  
Parcel 16-250 (First Evangelical Free Church);  
Parcel 20-072 (Baker Conservation Area, limited to portion so designated on plan entitled "Wireless Communications Overlay District, Parcel 20-072 (Baker Conservation Area), Westwood, Massachusetts", prepared by BETA Engineering, and dated April 15, 2013);  
Parcel 21-044 (St. Margaret Mary Church);  
Parcel 21-047 (Thurston Middle School);  
Parcel 21-048 (Westwood High School);  
Parcel 21-050 (First Parish of Westwood United Church);  
Parcel 21-064 (First Parish of Westwood United Church);  
Parcel 23-189 (Islington Community Center);

Parcel 23-215 (Islington Fire Station and Morrison Field);  
 Parcel 24-135 (Downey School);  
 Parcels 27-022 and 27-221 (June Street Conservation Area, limited to portion so designated on plan entitled “Wireless Communications Overlay District, Parcels 27-022 and 27-221 (June Street Conservation Area), Westwood, Massachusetts”, prepared by BETA Engineering, and dated April 15, 2013);  
 Parcel 28-077 (Sheehan School);  
 Parcel 28-078 (Sheehan Fields, limited to portion so designated on plan entitled “Wireless Communications Overlay District, Parcel 28-078 (Sheehan Fields), Westwood, Massachusetts”, prepared by BETA Engineering, and dated April 15, 2013);  
 Parcel 28-329 (Temple Beth David);  
 Parcels 29-123 (Westwood Lodge);  
 Parcel 35-089 (Martha Jones School); and  
 That abandoned portion of public right-of-way which extends from the intersection of Grove Street and Country Club Road to Route 128.

9.4.3 **Definitions.** For the purposes of this Section, the following definitions shall apply:

9.4.3.1 **Wireless communication facility.** Any tower, pole, antenna, receiving or transmitting equipment of any kind, and any equipment or structure related to wireless communication activities such as cellular telephone service, personal communication service (PCS), enhanced specialized mobile radio service, paging, light radio, and any other functionally equivalent service, including access ways, screening materials and landscaping associated with said facility.

9.4.3.2 **Minor wireless communication facility.** A wireless communication facility for which all components are located fully within a building or structure, and are not visible from the exterior of said building or structure, or for which any components located outside of, or attached to, an existing building or structure are less than ten (10) feet in height.

9.4.3.3 **Major wireless communication facility.** A wireless communication facility not meeting the limitations specified for a Minor wireless communication facility.

9.4.4 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in a WCOD may be used for any purpose permitted as of right or by special permit in the underlying district. Minor wireless communication facilities and Major wireless communication facilities may be permitted in the WCOD as set forth in this Section. Wireless communication facilities, whether Major or Minor, shall not be permitted outside the boundaries of the WCOD.

#### 9.4.5 Permits Required.

- 9.4.5.1 Minor wireless communication facilities to be located entirely within the interior of an existing building or structure, and not involving a change to the exterior size or appearance of the building or structure, or to be located entirely within the interior of an addition to an existing building where said addition is approved pursuant to Section 7.3 of this bylaw, and which facilities are not visible from the exterior, shall be a permitted use in the WCOD, provided that the wireless communication facility complies with FCC standards for radio frequency emissions and receives a building permit from the Building Inspector. However, any addition to an existing building which is designed primarily to house a wireless communication facility, shall require a WCOD EIDR Approval from the Planning Board in compliance with the provisions of this section and Section 7.3 of this bylaw.
- 9.4.5.2 Minor wireless communication facilities to be located outside of, or attached to, an existing building or structure, including an existing communication facility, utility transmission tower or pole, water tower or related facility, shall be a permitted use in the WCOD, provided that the wireless communication facility is no more than ten (10) feet in height, adds no more than ten (10) feet in height to the building or structure, and receives a WCOD EIDR Approval pursuant to this section and Section 7.3 of this bylaw.
- 9.4.5.3 Minor wireless communication facilities to be located entirely within the interior of a new building which is designed primarily to house a wireless communication facility, and which facilities are not visible from the exterior, shall be permitted in the WCOD only upon the issuance of a WCOD Special Permit from the Planning Board in compliance with the provisions of this section.
- 9.4.5.4 Major wireless communication facilities may be permitted in the WCOD only upon the issuance of a WCOD Special Permit from the Planning Board, which shall include a determination by the Planning Board that the location of the proposed facility would provide adequate screening and/or buffering such that the proposed facility would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of the Bylaw.
- 9.4.5.5 **Administrative Review and Approval of Minor Alterations.** Minor alterations of an existing wireless communications facility operating under a valid WCOD Special Permit and/or WCOD EIDR Approval, which alterations will result in no visible exterior changes to an existing wireless facility, or which will result in visible exterior changes to an existing

wireless facility which are determined by the Building Commissioner to be sufficiently minor in nature, may be permitted upon the issuance of an Administrative WCOD EIDR Approval pursuant to Section 7.3.6 [Administrative Review and Approval for Minor Alterations] of this Bylaw.

9.4.6 **Application and Submittal Requirements.** An application for a WCOD Special Permit or WCOD EIDR Approval shall be filed in accordance with the Planning Board's Rules and Regulations for Wireless Communication Overlay District Special Permits, and shall include the following, except to the extent waived by the Planning Board:

- 9.4.6.1 Locus map at a scale of 1":200' which shall show all streets, landscape features, dwellings units and all other structures within five hundred (500) feet of the proposed wireless communication facility.
- 9.4.6.2 Site plan prepared by a Registered Professional Engineer at a scale of 1":40' which shall show the following information:
  - 9.4.6.2.1 Location, size and height of the wireless communication facility, including the location, size and height of all accessory structures and equipment.
  - 9.4.6.2.2 Property boundaries of the site.
  - 9.4.6.2.3 Topographical site information, including existing and proposed elevations.
  - 9.4.6.2.4 Fencing, landscaping, lighting and signage.
  - 9.4.6.2.5 Areas to be cleared of vegetation and trees.
  - 9.4.6.2.6 Location and identification of all existing buildings, structures and uses of land located on the site.
  - 9.4.6.2.7 Location and identification of all existing buildings, structures and uses of land located within five hundred (500) feet of the property boundaries of the site.
- 9.4.6.3 Profile or elevation drawings to illustrate the view lines from the wireless communication facility to all nearby residences and public areas.
- 9.4.6.4 Color photograph or computerized rendition of the wireless communication facility and its components and accessory structures. For a Major wireless communication facility, a rendition shall also be prepared to illustrate the view lines from all neighboring streets.



- 9.4.6.5 Description of the wireless communication facility and the technical, economic and other reasons for the proposed location, height and design.
- 9.4.6.6 Visual representation of the area of solid Radiofrequency Radiation (RFR) coverage and the area of marginal RFR coverage of the wireless communication facility, existing and proposed.
- 9.4.6.7 Confirmation that the wireless communication facility complies with all applicable federal and state standards, regulations, statutes and other requirements. This shall include, if applicable, a written statement that the wireless communication facility is in compliance with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health.
- 9.4.6.8 A description of the wireless communication facility's capacity, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
- 9.4.6.9 Documentation that the Applicant has the legal right to install and use the wireless communication facility.
- 9.4.6.10 After the submittal of an application, the Planning Board may require that the Applicant perform a "balloon test" or other test in the field sufficient to illustrate the proposed height and location of the wireless communication facility in relation to the surrounding area.
- 9.4.7 Development Standards.**
- 9.4.7.1 An Applicant proposing a wireless communication facility must demonstrate to the satisfaction of the Planning Board that the visual and aesthetic impacts of the wireless communication facility on nearby properties will be minimal. The Applicant must also demonstrate that the facility must be located at the proposed site due to technical, topographical or other unique circumstances, and that no reasonable combination of locations, techniques, or technologies will mitigate the height or visual impact of the proposed wireless communication facility.
- 9.4.7.2 Co-location of wireless communication facilities is encouraged. To the extent possible, wireless communication facilities shall be located in or on existing buildings or structures, including, but not limited to, buildings, communication facilities, utility transmission towers or poles, water towers, and related facilities, provided that such installation preserves the character and integrity of these buildings or structures. The Applicant

shall have the burden of demonstrating to the satisfaction of the Planning Board that a good faith effort has been made to co-locate on an existing building or structure, or on an existing Major or Minor wireless communication facility, that there are no feasible existing buildings or structures upon which to locate, and that no reasonable combination of locations, techniques or technologies will obviate the need for the proposed wireless communication facility.

- 9.4.7.3 Major wireless communication facilities shall be designed and constructed to accommodate the maximum number of presently interested users that is technologically practical, except where the Planning Board determines that a reduction in the size or height of a facility would be preferable despite a negative effect on co-location opportunity. In addition, if the number of proposed users is less than four, the applicant shall provide a plan showing how the proposed tower can be expanded to accommodate up to four users. In the event that the Planning Board finds that co-location is preferable, the applicant must agree to allow co-location pursuant to commercially reasonable terms to additional users.
- 9.4.7.4 All new antenna support structures shall be buildings or monopoles. Where appropriate to the surrounding area, at the sole discretion of the Planning Board, monopoles shall be disguised as flag poles or trees.
- 9.4.7.5 The highest point of a Major wireless communication facility, including its antenna support structure and any component thereof or attachment thereto, shall not exceed one hundred (100) feet above ground level, except that this height limit may be increased, at the sole discretion of the Planning Board, subject to a finding that such increased height will have no significant adverse impact on the town and surrounding residential properties.
- 9.4.7.6 The maximum diameter or width of any Major wireless communication facility antenna support system shall be no more than three (3) feet, except that this diameter or width may be increased, at the sole discretion of the Planning Board, subject to a finding that such increased diameter or width will have no significant adverse impact on the town and surrounding residential properties.
- 9.4.7.7 All Major wireless communication facilities shall be setback from all property lines abutting any public way, including any sidewalk, a distance equal to one hundred percent (100%) of the height of the highest point of the wireless communication facility, except that this setback requirement may be reduced, at the sole discretion of the Planning Board, to allow the integration of a wireless communication facility into an existing or proposed building or structure.

- 9.4.7.8 No Major wireless communication facility shall be constructed within a distance equal to one hundred percent (100%) of the height of the highest point of the wireless communication facility from any existing residential dwelling or any proposed dwelling for which a building permit or subdivision approval has been issued. However, this regulation shall not prohibit the later development of any residential dwelling within said distance from an existing wireless communication facility.
- 9.4.7.9 All equipment enclosures and other improvements included within a wireless communication facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair.
- 9.4.7.10 Unless waived by the Planning Board, fencing shall be provided to control access to the base of a Major wireless communication facility. The fencing shall be compatible with the scenic character of the Town, as determined by the Planning Board, and shall not consist of chain link, barbed wire or razor wire.
- 9.4.7.11 All exterior wireless communication facilities shall be painted, colored, molded, installed or otherwise screened to minimize their visibility to abutters, adjacent streets, views from scenic roads, and residential neighborhoods. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Existing on-site vegetation shall be preserved to the maximum extent feasible.
- 9.4.7.12 All antennas on a Major wireless communication facility shall be single unit cross-polar antennas. Antennas shall be designed and mounted in such a manner as to present the smallest possible silhouette, profile, or cross-section.
- 9.4.7.13 Wireless communication facilities shall not be lighted unless required by the Federal Aviation Administration (FAA), or unless after consultation with the Police and Fire Chiefs, the Planning Board requires such lighting for public safety reasons, or unless the Planning Board requires the lighting of a monopole disguised as a flag pole.
- 9.4.7.14 Wireless communication facilities shall not interfere with nor have any negative effect on the Town's emergency radio communications.
- 9.4.7.15 Signs posted for advertisement or any other reasons shall not be allowed on or in the vicinity of a Major wireless communication facility, with the exception of one (1) sign not exceeding four (4) square feet in area at the facility which shall display the name and telephone number of the person

and company responsible for the maintenance of the facility. The signage shall also display a 'No Trespassing' warning.

9.4.8 **Decision.** A WCOD Special Permit or WCOD EIDR Approval shall only be granted upon the determination of the Planning Board that the application meets the objectives cited herein. The Planning Board may impose reasonable conditions at the expense of the Applicant, including performance guarantees, to promote these objectives. Prior to the issuance of any WCOD Special Permit or WCOD EIDR Approval, the Planning Board shall make positive findings that:

9.4.8.1 The Applicant has demonstrated to the satisfaction of the Planning Board that there exists a significant gap in coverage and that said gap would be sufficiently reduced or eliminated by the proposed wireless communication facility.

9.4.8.2 The Applicant has demonstrated to the satisfaction of the Planning Board that the wireless communication facility must be located at the proposed site due to technical, topographical or other unique circumstances, in order to satisfy a demonstrated gap in coverage.

9.4.8.3 The Applicant has demonstrated to the satisfaction of the Planning Board that the visual and aesthetic impacts of the wireless communication facility on nearby properties will be minimal, and that no reasonable combination of locations, techniques or technologies will mitigate the height or visual impact of the proposed wireless communication facility.

9.4.8.4 The Applicant has demonstrated, in any case where a major wireless communication facility is permitted within the WCOD, that the location of the proposed facility would provide adequate screening and buffering such that the proposed facility would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of the Bylaw.

9.4.8.5 The Applicant has demonstrated to the satisfaction of the Planning Board that the wireless communication facility will have no significant adverse impact on the town and surrounding residential properties.

9.4.9 **Discontinuance of Use.** A wireless communication facility, and all accessory equipment, shall be removed within six (6) months of abandonment or discontinuation of use. As a condition of any special permit for the placement, construction or modification of a Major wireless communication facility, the Applicant shall provide a bond, in a form acceptable to the Town, or shall place into escrow a sum of money sufficient to cover the costs of removing the facility from the subject property and said funds shall be held by an independent escrow agent to be appointed by the Applicant and the Planning Board. The amount of the surety shall be certified by a Registered Professional Engineer or Registered Professional Architect. The Applicant shall authorize and, as necessary, shall

provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued.

**9.4.10 Pre-existing Non-conforming Facilities.** Any wireless telecommunication facility legally in existence on the date of enactment of this section which does not comply in all respects with these provisions shall be deemed a pre-existing non-conforming use. Such wireless communication facilities may be renewed by vote of the Planning Board at a public meeting. Non-conforming Minor wireless communication facilities may be reconstructed, expanded and/or altered pursuant to the issuance of a WCOD EIDR Approval from the Planning Board in compliance with the applicable provisions of this section. Non-conforming Major wireless communication facilities may be reconstructed, expanded and/or altered pursuant to the issuance of a WCOD Special Permit from the Planning Board in compliance with the applicable provisions of this section. A new Minor wireless communication facility associated with a non-conforming Major wireless communication facility may be granted WCOD-EIDR Approval in compliance with the applicable provisions of this section.

**9.4.11 Time Limitation.** A special permit issued for a Major wireless communication facility over fifty (50) feet in height shall be valid for a period of five (5) years. At the end of this time period, the Major wireless communication facility shall be removed at the Applicant's expense unless the Applicant receives approval from the Planning Board to renew the WCOD Special Permit for an additional five (5) years.

## **9.5 FLEXIBLE MULTIPLE USE OVERLAY DISTRICT (FMUOD)**

**9.5.1 Purpose.** The purpose of the Flexible Multiple Use Overlay District (FMUOD) is as follows:

- 9.5.1.1 to provide a desirable mix of land uses, including office, retail, service and residential uses, that will serve Town and regional interests in housing, employment, conservation and net tax revenue;
- 9.5.1.2 to promote creative, efficient and appropriate solutions to the development of complex sites and encourage redevelopment of underutilized properties by proving greater flexibility of design and promoting more efficient use of land while remaining sensitive to surrounding properties and natural resources;
- 9.5.1.3 to encourage the development of comprehensive projects of appropriate scale in transit-oriented locations and areas that provide proximate access to major transportation routes;
- 9.5.1.4 to promote walking, bicycling, and public transportation, by encouraging complementary uses and facilities that support such objectives;

- 9.5.1.5 to encourage a comprehensive approach to site design, by considering buildings, open space, landscaping and site amenities, circulation patterns and parking, in an integrated manner, so as to create an aesthetically pleasing environment, without causing substantial detriment to abutting neighborhoods; and
- 9.5.1.6 to eliminate duplication of effort and foster coordination between applicable town boards and committees, which may be responsible for review of a proposed development project.
- 9.5.2 **Location.** Five distinct Flexible Multiple Use Overlay Districts - FMUOD 1, FMUOD 2, FMUOD 3, FMUOD 4 and FMUOD 5 - are herein established as overlay districts as shown on the Official Zoning Map and as described herein:
- 9.5.2.1 **FMUOD 1: University Avenue Business District.** FMUOD 1 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 1, approximately bounded by Route 128/95, the Neponset River, Canton Street and Town of Westwood Conservation Land.
- 9.5.2.2 **FMUOD 2: Southwest Park.** FMUOD 2 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 2, approximately bounded by Providence Highway, Route 128/95 and the MBTA Commuter Rail Tracks.
- 9.5.2.3 **FMUOD 3: Glacier/Everett Business District.** FMUOD 3 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 3, in the vicinity of Glacier Avenue and Everett Street, west of Providence Highway.
- 9.5.2.4 **FMUOD 4: Perwal/Walper Business District.** FMUOD 4 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 4, in the vicinity of Perwal and Walper Streets, east of Providence Highway.
- 9.5.2.5 **FMUOD 5: Allied Drive Business District.** FMUOD 5 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 5, including properties abutting the Route 128 Circumferential Highway in the vicinity of Allied Drive and East Street within Westwood.
- 9.5.2.6 **FMUOD 6: Washington Street Business District.** FMUOD 6 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 6, including properties along Washington Street within the Local Business B District, between Fairview Street and Everett Street.

- 9.5.2.7 **FMUOD 7: High Street Business District.** FMUOD 7 shall include the areas as shown on the Official Zoning Map within Flexible Multiple Use Overlay District 7, including properties along High Street within the Local Business A District, between Windsor Road and High Rock Street.
- 9.5.3 **Special Permit Granting Authority.** The Planning Board shall be the Special Permit Granting Authority for all FMUOD Special Permits.
- 9.5.4 **Regulations.** The Planning Board shall adopt rules and regulations for the administration of this Section (henceforth referred to as the “Rules and Regulations”). Such Rules and Regulations shall include, but not be limited to, the following: application and submittal requirements, fees, review procedures, reimbursement for consultants, performance guarantees, and procedures for the consideration of permit extensions.
- 9.5.5 **Special Permit Required.** Development under this Section requires a FMUOD Special Permit issued by the Planning Board in compliance with the provisions of this Section. Any special permits which may otherwise be required pursuant to this Bylaw shall be consolidated into the FMUOD Special Permit. In such case, a consolidated Special Permit Application shall be acted upon by the Planning Board in accordance with the requirements of this Section, regardless of which board is designated as the Special Permit Granting Authority in the applicable sections of this Bylaw. Any Environmental Impact and Design Review (EIDR) approval otherwise required pursuant to Section 7.3 of this Bylaw shall be consolidated into a mandatory site plan approval component of the FMUOD Special Permit, and no separate EIDR Approval shall be required.
- 9.5.6 **Phased Developments.** Development under this Section may be approved in one or more phases authorized under a single FMUOD Special Permit. The FMUOD Special Permit for a project approved for development in two or more phases shall include an approximate development timeline and anticipated construction schedule in conformance with the Rules and Regulations. An FMUOD Special Permit for a phased development shall be granted by the Planning Board based on the Planning Board’s approval of final plans for one or more early phases of the development, along with the Planning Board’s approval of preliminary plans for future phases of the development. In such instance, the FMUOD Special Permit shall be amended by Planning Board approval of final plans for each subsequent phase of development as such plans become available. Once final plans for any phase of development are approved under a FMUOD Special Permit or any amendment to that FMUOD Special Permit, such plans shall be deemed to be in compliance with the provisions of this Bylaw, and the Planning Board shall not require amendment of said approved final plans. Upon the issuance of a FMUOD special permit approval under this Bylaw for any individual phase, such phase shall be deemed to be in compliance with the provisions of this Bylaw, notwithstanding the status of any other phase and/or any noncompliance of such other phase with the phasing plan, or phasing requirements set forth herein or otherwise.

9.5.7 **Applicability.** Except as otherwise provided herein, the provisions of this Section shall apply to any parcel or set of parcels within FMUOD 1, FMUOD 2, FMUOD 3, FMUOD 4, FMUOD 5, FMUOD6 or FMUOD7, whether held in common or separate ownership.

9.5.8 **Permitted Uses.** FMUOD Special Permits shall be granted only for uses specified below. Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in any FMUOD may be used for any purpose permitted as of right or by special permit in the underlying district pursuant to Section 4.0, Use Regulations and other applicable sections of this Bylaw. Multiple uses may be contained within a single building or structure pursuant to an FMUOD Special Permit.

**9.5.8.1 Uses Permitted by FMUOD Special Permit in any FMUOD:**

- 9.5.8.1.1 Bank or financial institution;
- 9.5.8.1.2 Business service establishment;
- 9.5.8.1.3 Coffee shop;
- 9.5.8.1.4 Commercial recreation, indoor;
- 9.5.8.1.5 Cultural facility, art gallery or museum;
- 9.5.8.1.6 Educational facility, including public, non-profit, or for profit;
- 9.5.8.1.7 Ice cream shop;
- 9.5.8.1.8 Municipal use;
- 9.5.8.1.9 Office of a doctor or dentist;
- 9.5.8.1.10 Personal services establishment;
- 9.5.8.1.11 Printing/copy/publishing establishment;
- 9.5.8.1.12 Professional service establishment;
- 9.5.8.1.13 Restaurant with or without entertainment, less than 10,000 sq. ft.;
- 9.5.8.1.14 Retail sales and services establishment, less than 10,000 sq. ft.;
- 9.5.8.1.15 Shuttle service system.

**9.5.8.2 Additional Uses Permitted by FMUOD Special Permit in FMUOD1:**

- 9.5.8.2.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;
- 9.5.8.2.2 Hotel;
- 9.5.8.2.3 Kennel, commercial;
- 9.5.8.2.4 Multi-family dwelling;
- 9.5.8.2.5 Pay-to-Park Outdoor Parking Facility;
- 9.5.8.2.6 Research and development facility;
- 9.5.8.2.7 Restaurant with or without entertainment, 10,000 sq. ft. or more;
- 9.5.8.2.8 Retail sales and services establishment, 10,000 sq. ft. or more.

**9.5.8.3 Additional Uses Permitted by FMUOD Special Permit in FMUOD2:**



- 9.5.8.3.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;
- 9.5.8.3.2 Hotel.
- 9.5.8.3.3 Research and development facility;

**9.5.8.4 Uses Permitted by FMUOD Special Permit in FMUOD3:**

- 9.5.8.4.1 Age-restricted dwelling for persons 55 years and older;
- 9.5.8.4.2 Assisted living residence;
- 9.5.8.4.3 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;
- 9.5.8.4.4 Multi-family dwelling.
- 9.5.8.4.5 Research and development facility;

**9.5.8.5 Additional Uses Permitted by FMUOD Special Permit in FMUOD4:**

- 9.5.8.5.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;
- 9.5.8.5.2 Research and development facility;

**9.5.8.6 Additional Uses Permitted by FMUOD Special Permit in FMUOD5:**

- 9.5.8.6.1 Fast order food establishment, provided such establishment is within an office or other non-retail building and is accessed through that building's lobby, atrium or interior corridor, and provided such establishment does not have a direct entrance from the exterior of the building or a drive-thru;
- 9.5.8.6.2 Research and development facility;

**9.5.8.7 Additional Uses Permitted by FMUOD Special Permit in FMUOD6:**

- 9.5.8.7.1 Multi-family dwelling.

**9.5.8.8 Additional Uses Permitted by FMUOD Special Permit in FMUOD7:**

- 9.5.8.8.1 Multi-family dwelling.

**9.5.8.9 Accessory Uses Permitted by FMUOD Special Permit in all FMUOD districts:** Any use accessory to a use permitted by FMUOD Special Permit may be permitted pursuant to that same permit, irrespective of whether such use is located on the same lot as the principal use, provided that the principal use to which such use is accessory shall be clearly identified, and further provided that such accessory use shall be specifically reviewed and approved by the Planning Board in the FMUOD Special Permit.

**9.5.9 Alternative Dimensions.** The alternative dimensions set forth in the table below may be used for a project developed under a FMUOD Special Permit rather than the requirements provided elsewhere in this Bylaw. There shall be no minimum lot frontage, lot width, or setback requirements, and no maximum impervious surface or lot coverage requirements for a project developed under a FMUOD Special Permit. Rather, specific project dimensions shall be determined by the Planning Board. In all cases, there shall be sufficient separation between any two structures to allow emergency vehicle access.

		<u><b>FMUOD 1</b></u>	<u><b>FMUOD 2</b></u>	<u><b>FMUOD 3</b></u>	<u><b>FMUOD 4</b></u>	<u><b>FMUOD 5</b></u>	<u><b>FMUOD 6</b></u>	<u><b>FMUOD 7</b></u>
9.5.9.1	Minimum Project Area <sup>1</sup>	10 acres	5 acres	10 acres	5 acres	5 acres	1 acre	1 acre
9.5.9.2	Minimum Lot Area	15,000 sq. f.t.	15,000 sq. f.t.	15,000 sq. f.t.	15,000 sq. f.t.	15,000 sq. f.t.	4,000 sq. f.t.	4,000 sq. f.t.
9.5.9.3	Maximum Building Height	70 feet <sup>2</sup>	80 feet	45 feet	45 feet	45 feet	36 feet	36 feet
9.5.9.4	Maximum Floor Area Ratio, not including area of parking structure	1.0 <sup>3</sup>	1.0	1.0	1.0	1.0	1.0	1.0
9.5.9.5	Minimum Residential District Buffer required under Section 6.3.2 (feet)	100	20	50	50	50	20 feet	20 feet
9.5.9.6	Minimum Public Amenity Areas or other public amenities required under Section 9.5.14.2.4.3	10%	other public amenity	10%	other public amenity	other public amenity	other public amenity	other public amenity

<sup>1</sup> Minimum project area shall include contiguous parcels and parcels separated by a roadway or railroad right-of-way that are effectively contiguous.

<sup>2</sup> Where a lot in FMUOD 1 is within two thousand five hundred (2,500) feet of the MBTA Train Station parcel (shown as Lot 1 on Assessor's Plat 33 ), and east of University Avenue, the Planning Board may

allow an increased maximum building height of no more than 120 feet. In no case shall the height of any building exceed one hundred seventy-eight and one-half (178.5) feet above sea level.

<sup>3</sup> Where a lot in FMUOD 1 is within two thousand five hundred (2,500) feet of the MBTA Train Station parcel (shown as Lot 1 on Assessor's Plat 33), and east of University Avenue, the Planning Board may allow an increased maximum floor area ratio of no more than 1.2.

**9.5.10 Alternative Parking Arrangements.** The alternative parking arrangements set forth in Sections 9.5.10.1 through 9.5.10.2 may be used for a project in the FMUOD rather than the requirements applicable to the underlying district as provided elsewhere in this Bylaw.

**9.5.10.1 Parking Space Requirements.** Developments proposed under this Section may provide fewer parking spaces than otherwise required under Section 6.1.2, Table of Parking Requirements, where in the determination of the Planning Board, proposed parking spaces are found to be sufficient to meet the needs of the development. In making such determination, the Planning Board may consider complementary uses and activities having different peak demands, transportation demand management (TDM) measures, and such other means as may be applicable.

**9.5.10.2 Joint Off-street Parking.** Joint off-street parking arrangements may be permitted when determined by the Planning Board to be appropriate.

**9.5.11 Alternative Sign Requirements.** The alternative sign requirements set forth in Sections 9.5.11.1 through 9.6.11.10 may be used for a project in the FMUOD rather than the requirements applicable to the underlying district as provided elsewhere in this Bylaw.

**9.5.11.1 Definitions.** For the purposes of these alternate sign requirements, the following terms shall be defined as indicated below:

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

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

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

Outlet”, and “Do Not Enter” are examples of directional signs.

- 9.5.11.1.4     **Directory Sign** A listing and/or graphic representation of individual business establishments and other uses within a development or portion of a development.
- 9.5.11.1.5     **Projecting Sign.** A sign consisting of letters or graphics which is attached to or suspended from a building or structure such that any part of said sign extends more than six (6) inches from the wall surface of that building or structure.
- 9.5.11.1.6     **Temporary Construction Sign.** A sign at a site currently under construction which identifies the name of the development, and may include the names and addresses of the contractor, architect, landscape architect, and project engineer, and other pertinent information.
- 9.5.11.1.7     **Wall Sign.** A sign consisting of letters or graphics painted on, incorporated into, or affixed parallel to the wall of a building or structure and which extends not more than six (6) inches from the wall surface of that building or structure.
- 9.5.11.1.8     **Way Finding Sign.** A sign providing instructions for circulation throughout a development, including direction to individual business establishments and parking areas related to said business establishments. “Retail Center Parking”, “Shuttle Bus Stop Ahead”, “Exit to Providence Highway”, “Additional Parking in Rear” are examples of way finding signs.
- 9.5.11.1.9     **Window Sign.** A sign consisting of letters or graphics painted on, incorporated into, or affixed to either side of the glass surface of a window or door, or any interior sign designed to be visible from the exterior of a building or structure.
- 9.5.11.2     **Development Identification Sign.** Where appropriate, a project developed under a FMUOD Special Permit shall be allowed a development identification sign at any primary entrance to the project, as determined by the Planning Board. Such development identification sign may include the name and/or logo of the development project, as well as the names and/or logos of any anchor establishments within the development, as determined by the Planning Board. Development

identification signs may have two (2) faces, each of which shall not exceed one hundred and sixty (160) square feet in area. Development identification signs shall not exceed twenty (20) feet in height. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Development identification signs shall include appropriate landscaping as determined by the Planning Board.

9.5.11.3 **Individual Business Identification Signs.** Individual business identification signs shall be permitted as follows:

9.5.11.3.1 **Wall or Awning Signs.** Any combination of wall signs and awning signs shall be permitted such that the aggregate of all such signs associated with an individual business establishment shall not exceed two (2) square feet of signage for each one (1) linear feet of facade associated with said establishment, up to a maximum of two hundred (200) square feet of wall and/or awning signage per business establishment. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. In no case shall any individual letter exceed five (5) feet in height, nor shall any logo or graphic representation exceed ten (10) feet in height. Awning signs shall have at least 8 feet clearance above the pedestrian grade and shall be setback at least 4 feet from the adjacent curb. No awning sign shall extend over any public way, including a sidewalk, without further approval by the Board of Selectmen. Wall signs and/or awning signs for establishments having no direct association with an exterior facade may be permitted at the sole discretion of the Planning Board.

9.5.11.3.2 **Projecting Signs.** One projecting sign may be permitted for any individual business establishment. A projecting sign shall have two (2) legible faces, each of which shall not exceed eight (8) square feet in area. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Projecting signs must have at least 8 feet of clearance above the pedestrian grade, and shall not project more than 4 feet from a building facade. No such projecting sign shall extend over any public way, including a sidewalk, without further approval by the Board of Selectmen. Projecting signs for establishments having no direct association with an exterior facade may be permitted at the sole discretion of the Planning Board.

- 9.5.11.3.3 **Window Signs.** Window signs shall be permitted such that the aggregate of all such signs associated with an individual business establishment shall not exceed a total of one (1) square foot of signage for each one (1) linear foot of facade associated with said establishment, up to a maximum of fifty (50) square feet of window signage per business establishment. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Window signs for establishments having no direct association with an exterior facade may be permitted at the sole discretion of the Planning Board.
- 9.5.11.4 **Directional Signs.** Directional signs shall be allowed throughout a development. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic safety. Directional signs shall not exceed two (2) square feet in area and shall have a maximum height of eight (8) feet above ground. Directional signs may be post-mounted, ground-mounted, or mounted on a building or structure, and shall provide adequate clearance for vehicular and/or pedestrian traffic.
- 9.5.11.5 **Way Finding Signs.** Where determined by the Planning Board to be appropriate in light of the size and scale of a project, way finding signs shall be allowed throughout a development, and may be allowed at off-premise locations at the sole discretion of the Planning Board. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic safety. Way finding signs shall be post-mounted, ground-mounted, or mounted on a building or structure, and shall not exceed thirty-two (32) square feet in area and shall have a maximum height of eight (8) feet above ground. All way finding signs located throughout a development shall be consistent in material, color and lettering style. Way finding signs shall not contain individual business identification logos. Way finding signs may include electronically changed lettering as appropriate to provide directions and/or indicate availability of public parking. Such changeable signs must be static displays that do not flash, or exhibit changes in lighting levels, or offer multiple messages on a cyclical basis.
- 9.5.11.6 **Directory Sign** One or more directory signs may be permitted at the sole discretion of the Planning Board. Directory signs shall not exceed thirty-five (35) square feet in area and shall have a maximum height of seven (7) feet above ground.
- 9.5.11.7 **Temporary Construction Signs.** Temporary constructions signs shall be permitted at any primary entrance to the project, and at such other appropriate locations as determined by the Planning Board. Temporary construction signs shall not exceed twenty-four (24) square feet in area

and shall have a maximum height of six (6) feet above ground. Temporary construction signs shall be removed within thirty (30) days of the completion of construction.

- 9.5.11.11 **Prohibited Signs.** Billboards, roof signs, internally illuminated signs, flashing signs, variable lit signs, variable message signs (except as permitted in Section 9.5.11.5), flags, balloons, streamers, pennants, banners, strings of lights, ribbons, spinners and other similar devices, shall be prohibited in any project authorized under a FMUOD Special Permit. No sign which indicates the time, date and temperature shall be considered a flashing sign provided such signs meet all other provisions of this Section.
- 9.5.11.12 **Sign Materials.** Signs shall be manufactured using industry standard materials that are consistent with a high quality project. Structurally necessary brackets, posts or other supports may be visible if compatible with the appearance of the sign they support. Conduit, tubing, raceways, conductors, transformers and similar equipment shall be concealed from view, to the greatest practical extent.
- 9.5.11.13 **Sign Illumination.** Indirect illumination of a sign by properly shielded light fixtures, or by edge-lighting, or by halo lighting, or internal illumination of only the lettering, wording or insignia portions of a sign, shall be permitted. In all cases illumination shall only be permitted by steady white light. Notwithstanding the above, awning signs shall not be internally illuminated.
- 9.5.12 **Waivers.** The Planning Board may grant waivers from some or all of the requirements set forth in Sections 9.5.9 through 9.5.11, and/or some or all of the dimensional, parking and sign requirements contained elsewhere in this bylaw if, in its determination, such waivers will result in a substantially improved project, and if, in its determination, such project will otherwise meet the performance and design standards set forth in this Section, and if, in its determination, such waiver will pose no substantial detriment to any adjacent property or proximate neighborhood, and will not nullify or substantially derogate from the intent or purpose of this Section.
- 9.5.13 **Percentage of Residential Units.** Pre-existing and new housing units, where permitted, shall occupy no more than thirty-three (33%) of the total gross floor area of any project within FMUOD 1, and no more than fifty percent (50%) of the total gross floor area of any project within FMUOD 3, FMUOD 6 or FMUOD 7, except that age-restricted dwelling units for persons 55-years or older permitted within FMUOD 3 may occupy up to 100% of the total gross floor area of a project. The maximum allowable number and type of residential units shall be determined by the Board, in its sole discretion, following the Board's acceptance of a fiscal impact report demonstrating that said residential units will have no significant negative fiscal impact on the town. The Planning Board shall have the authority to approve, in its sole discretion, phased construction of the residential

components of a project, independent of the phased construction of the non-residential components of the same project, as long as the total gross floor area of the residential components of all phases does not exceed the approved percentage of total gross floor area of the project authorized under the FMUOD Special Permit, and as long as no portion of the total land area approved for non-residential components is developed for residential use. Residential units shall be located on upper stories unless the Planning Board determines that a combination of first floor and upper floor residential units are acceptable in a particular development.

- 9.5.14 **Affordability Requirements.** Where any project authorized under a FMUOD Special Permit will result in the development of at least eight (8) new residential units, the minimum number of dwelling units specified in the table below shall be restricted to meet the definition of Affordable Housing in Section 2.0 of this Bylaw and in the Rules and Regulations. All such affordable dwelling units shall be contained within the FMUOD Project unless the Planning Board determines a proposed alternative to be at least equivalent in serving the Town's housing needs after consultation with the Westwood Housing Partnership and Westwood Housing Authority. The affordable dwelling units authorized under the provisions of this Bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or affordable units developed under additional programs adopted by the Commonwealth of Massachusetts or its agencies. All said dwelling units shall count toward Westwood's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended and all affordable dwelling units shall remain affordable in perpetuity.

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

- 9.5.15 **Performance and Design Standards.** No FMUOD Special Permit shall be granted unless the Planning Board finds that the project meets the following performance and design standards:

9.5.15.1 **Performance Standards.**



9.5.15.1.1 **Environmental Impact Standards.** All FMUOD projects shall conform to all applicable Environmental Impact Standards, including but not limited to the following areas of potential impact:

9.5.15.1.1.1 **Air Quality.** Any use or activity which requires an air quality permit from the Massachusetts Department of Environmental Protection (MA- DEP) or successor agencies, under 310 CMR 6.00 to 8.00, as amended from time to time, shall require the submission of documentation that such air quality permit has been applied for or obtained.

9.5.15.1.1.2 **Noise.**

- a. Any use or activity on a property shall not produce sound pressure levels that exceed an existing background sound pressure level in excess of:
  - i. 10dBA at any perimeter boundary of the development tract that abuts a residential district or sensitive receptors such as nursing and rehabilitation homes, hospitals, day care centers, schools or other facilities so deemed by the Planning Board.
  - ii. 15dBa at any outer perimeter boundary of the development tract that abuts any predominantly non-residential district.
  - iii. 15dBa anywhere within the development tract.

Background or existing sound pressure level is defined as the level on the A-weighted sound pressure scale that is exceeded 90% of the time in the quietest 60 minute time interval that occurs during any hours of operation.

- b. Impulsive or intermittent sounds shall not exceed the sound pressure level limits in 9.6.14.1.1.2, a. i., ii. & iii. above, for a duration not to exceed a cumulative total of one minute within any single hour.
- c. No user or activity shall produce a sound pressure level that is in excess of:
  - i. 50dBA nighttime and 60dBA daytime at any perimeter boundary of the development tract that abuts a residential district or sensitive receptors such as nursing and rehabilitation homes, hospitals, day care centers, schools or other facilities so deemed by the Planning Board.
  - ii. 60dBA nighttime and 65dBA daytime at any perimeter boundary of the development tract that abuts any predominantly non-residential district.
  - iii. 65dBa anywhere within the development tract.
- d. “Pure tone” conditions that are typically produced by facilities such as heating, ventilation and air conditioning systems, outdoor transformers or energy generation systems shall be designed so as to generally comply with widely-applied standards for pure tone levels from the American Noise Standards Institute/American Standards Association. ANSI/ASA S3.21-2004 (R2009) as amended from time to time.

9.5.15.1.1.3 **Vibration.** Any use or activity shall not produce vibration, measured at any receptor internal or external to the permitted site, that exceeds the combined-axis, one-third octave band vibration accelerations of the

American National Standards Institute, Section 3.29 or currently applicable standards regulating human vibration exposure, or associated sound levels in the 31.5 Hz octave band or lower, in which a sound pressure level of 65 dB is exceeded. Exceptions shall include public gatherings and special events, emergency and public safety vehicle operations, use of outdoor maintenance equipment, temporary construction of buildings or infrastructure, or similar activity conducted for public benefit.

9.5.15.1.1.4 **Electrical Disturbances.** Any use or activity shall not produce electromagnetic interference on a repeat or prolonged basis, in any electrical or electronic device used by receptors internal or external to the permitted site.

9.5.15.1.1.5 **Cultural, Historical and Archeological Resources.** Where there is evidence on a development tract of a resource that is on or eligible for inclusion on the Massachusetts Register of Historic Places, or where the tract overlies a designated Historic District under state or federal auspices, the application shall demonstrate that the design makes every reasonable effort to avoid or minimize damage or impairment to the cultural, historic or archaeological resources. Any unavoidable damage or impairment shall be mitigated to the greatest extent practicable.

9.5.15.1.1.6 **Natural Resources and Habitat.** Where there is evidence on a development tract of sensitive natural resources, whether in the form of vegetation communities, wildlife habitat or hydrological systems, especially as identified in the Massachusetts Natural Heritage Program, the application shall demonstrate that the design makes every reasonable effort to avoid or minimize damage or impairment to those resources.

Any unavoidable damage or impairment shall be mitigated to the greatest extent practicable.

9.5.15.1.1.7 **Construction Solid Waste Management.** An application shall include documentation of satisfactory arrangements for the disposal of tree stumps and debris resulting from construction. An application shall also include documentation of satisfactory permanent arrangements for on-site storage of refuse pending its removal. Such on-site storage shall be screened from public view, secure from birds or other animals, and located so as to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.

9.5.15.1.1.8 **Visual Mitigation and Screening of Infrastructural Elements.** Exposed storage areas, exposed machinery or electric installations, common service areas, truck loading areas, utility structures, trash/recycling areas and other elements of the infrastructure shall be subject to reasonable visual mitigation requirements, including but not limited to, modified site location, screen plantings or buffer strips, combinations of visually impermeable fencing and plantings, or other screening methods determined by the Planning Board to be necessary to assure an attractive visual environment.

9.5.15.1.2 **Water Quality.** If a site authorized for development pursuant to a FMUOD Special Permit is located within a Water Resources Protection Overlay District established under Section 9.3 of this Bylaw, and any use or activity subject to said special permit requires a special permit under Section 9.3.5 therein, the Planning Board shall be the Special Permit Granting Authority for the Water Resources Protection Special Permit, and that required special permit shall be consolidated into the FMUOD Special Permit.

9.5.15.1.3 **Compatibility of Uses and Activities.** Any development authorized under a FMUOD Special Permit must contain a

compatible mix of uses sufficiently advantageous to the Town. Developers are strongly encouraged to include a beneficial mix of office and non-office uses. Compatibility between uses shall take into account peak hours of use and parking for individual components.

9.5.15.2      **Design Standards.**

9.5.15.2.1      **Building Design.**

9.5.15.2.1.1      **Context.** Structures shall relate harmoniously to the existing landscape and to the scale and architecture of existing buildings that have a functional and/or visual relationship to the proposed structures. The Planning Board may require a modification in massing or layout so as to reduce the effect of shadows on an abutting property, public open space or street, or to otherwise lessen any negative visual impacts of a proposed structure.

9.5.15.2.1.2      **Architectural Design.** Structures shall be designed to create a visually pleasing, unifying and compatible image for the development as a whole. Any combination of architectural design elements may be employed to meet this standard, including building color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and elements such as door and window size and location, and door and window detailing. Where the nature of the following design features is considered by the Planning Board to be significant to the preservation or enhancement of the desirable visual quality and property values of a particular area, any new structure or alteration shall be harmoniously related to nearby pre-existing structures and the street facade in terms of color, texture, materials, scale, height, setbacks, roof and cornice lines, signs and design elements such as door and window size and location and door and window detailing, including materials

for sills, lintels, frames and thresholds and any other major design elements.

9.5.15.2.1.3 **Visual Relief.** Structures shall include one or more features which create visual relief, such as varied roof lines, articulated building facades, including a higher level of treatment on one or more primary facades as designated by the Planning Board; elements of transparency or windows within a facade to provide architectural contrast and interior views; breaking up of continuous building surface by providing space between structures and/or jogs in the building line or plane; signs, vertical free-standing elements or other elements. Complementary use of public pedestrian spaces may also be considered as a contributory element.

9.5.15.2.1.4 **Energy Efficiency.** Insofar as practicable, projects shall incorporate energy-efficient technology in building materials, lighting, heating, ventilating and air conditioning systems, as well as use of renewable energy resources, and shall adhere to the principles of energy-conscious design with regard to building orientation, shading, landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of a building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.

9.5.15.2.2 **Street Design.** Streets, interior drives and related infrastructure within the proposed development shall comply with the applicable standards contained in the Planning Board's Rules and Regulations Governing the Subdivision of Land, and shall be designed with sufficient capacity to accommodate anticipated trip generation, to provide for adequate access by public safety vehicles and maintenance equipment, and to safely maintain pedestrian and bicycle circulation. The Planning Board may waive any such provisions to permit an alternate design standard, if in its determination, doing so enhances the project, is consistent with the purposes of this Section, and does not

negatively impact access, safety, or environmental protection.

9.5.15.2.3

**Circulation, Traffic Impact & Public Street Access.**

Development authorized under a FMUOD Special Permit shall provide for a comprehensive, interconnected, safe and efficient system of circulation that adequately incorporates all feasible transportation modes, vehicular and non-vehicular. This system shall include the layout of roadways, interior drives and parking facilities, and shall include separated pedestrian and bicycle circulation, wherever feasible. Review of site circulation shall include: entrances and approaches, ramps, walkways, interior drives, and parking access. Traffic planning shall consider the surrounding system of public streets, the existing and future vehicular trip volume, the number and location of proposed access points to public streets, and existing and proposed traffic controls and management measures. The impact of volume increases on adjacent residential districts and business areas shall be mitigated to the satisfaction of the Planning Board. Each facility, to the extent feasible, shall accommodate alternative means of transportation, including bicycle routes and pedestrian ways separated by grade or physical division from vehicular circulation; internal shuttle bus routes where warranted; accommodation of vehicles for regional transit connections; and convenient and safe connections to sidewalks and streets in adjacent business areas and neighborhoods, in order to encourage non-vehicular travel. Minor improvements designed to facilitate alternative transportation, such as shuttle bus turn-outs at individual buildings, bicycle racks, and directional signage shall be provided to the satisfaction of the Planning Board.

9.5.15.2.4

**Open Space and Common Landscaped Areas.**

9.5.15.2.4.1

**Attractive Utilization of Existing Open Space.**

Existing natural landscapes, including trees and vegetation, shall be preserved in their natural state to in so far as practicable. Such open space may be attractively utilized to meet minimum open space requirements, buffering and screening needs, or landscaping requirements. Existing surface waters shall be similarly used as a site amenity, subject to protection under the

MA Wetlands Protection Act. All open space which cannot be preserved in its natural state shall be replanted as far as practicable with new plantings that establish similar effects on the landscape.

9.5.15.2.4.2 **Site Disturbance.** Soil removal shall be minimized and major grade changes avoided, in so far as practicable. Grade changes and elevations shall be consistent with adjacent developed areas in so far as practicable.

9.5.15.2.4.3 **Public Amenity Areas.** Development authorized under a FMUOD Special Permit shall include one or more areas, exclusive of wetlands, to which the public has at least visual access, and preferably physical access, including landscaped areas and features such as pedestrian walks, landscaped pedestrian spaces and plazas, and incidental support structures, but excluding vehicular travelways, driveways and parking surfaces. Public amenity areas shall be designed to maximize visibility for persons passing the site or viewing it from nearby properties. The Planning Board may accept other public amenities which, in its determination, are appropriate for the development in substitution of such public amenity area.

9.5.15.2.5 **Stormwater Management.**

9.5.15.2.5.1 **General.** Stormwater management systems serving the proposed development shall be designed in conformance with the Massachusetts Department of Environmental Protection Stormwater Standards, as amended from time to time, to efficiently collect runoff from all impervious surfaces, roofs and canopies in a manner that avoids adverse drainage impact on any neighboring property.

Where possible, the review of stormwater plans and associated materials by the



Planning Board shall be coordinated with any Conservation Commission review of the same.

9.5.15.2.5.2 **Erosion and Sedimentation Controls.** A plan for controls that are appropriate and specific to the site and the project, and which includes both pre-construction and post-development measures, shall be employed to mitigate erosion and sedimentation impacts.

9.5.15.2.5.3 **Alternative Design.** Where space, topography, soils and the character of the proposed development make it practical, low impact designs (LID) that capture and recharge runoff to the groundwater may be used as an alternative to closed systems. Examples of LID practices include, but are not limited to vegetated swales, filtration strips, rain gardens or other bio-retention cells, disconnection of impervious surface areas, reduction of impervious surface, retention of existing open space, vegetated rooftops, and other methods.

9.5.15.2.6 **Off-Street Parking.**

9.5.15.2.6.1 **Parking Types and Design.** Any combination of surface, under-building and structured parking may be included in development authorized under a FMUOD Special Permit, provided that the parking plan is found by the Planning Board to be adequate to meet the purposes of this section. Parking may be provided at ground level, but with preference given to sub-grade or structured parking. In all cases, parking areas shall be designed to minimize paved surface area. In developments or portions of developments where structures are at or close to the street line in an urban or village layout, parking shall generally be located to the sides, rear, or below said structures.

9.5.15.2.6.2 **Surface Lots.** Surface parking lots shall generally be provided in multiple, distinctly separated lots, screened and landscaped in accordance with Section 6.1.17. Separation of parking lots may occur by means of intervening open space, landscaped areas, buildings or other structures, streets or physical elements clearly delineating a division between two or more parking lots. The number of entrances and exits shall be the minimum necessary to ensure traffic safety.

9.5.15.2.6.3 **Parking Structures.** Parking structures may be free-standing or may be integrated into the structural design of a building containing a principal use authorized by the FMUOD Special Permit. Parking structures and decks shall contain architectural facing or other articulation or visual relief on all primary or highly visible facades, as determined by the Planning Board.

9.5.15.2.6.4 **Pedestrian Facilities.** Sidewalks or multi-purpose pedestrian ways and facilities shall connect each parking lot or facility to buildings, public spaces or other destination points within the development.

9.5.15.2.6.5 **Loading Areas.** Adequate loading areas shall be provided for all businesses and other applicable uses containing more than ten thousand (10,000) square feet of net floor area. When exclusive loading areas are provided, such areas shall be designed so as to have unobstructed access and shall be configured so that no trucks or other vehicles are parked on a public street or way while loading or unloading, or while waiting to load or unload.

## 9.5.15.2.7 **Exterior Lighting.**

9.5.15.2.7.1 **General.** Exterior lighting specifications and requirements shall be in compliance with Section 6.4.

9.5.15.2.7.2 **Design Standards.** Lighting shall be designed so as to avoid light trespass and glare on adjacent neighborhoods, business areas and streets. Where appropriate, exterior lighting fixtures shall be of the full-cutoff type, and hoods and shields shall be incorporated as needed to prevent light trespass and glare. Lighting in minimally used areas shall be reduced after business hours, particularly where access is limited by gated entry.

9.5.15.2.8 **Public Utilities, Water and Sewer Systems.** All developments authorized under a FMUOD Special Permit, and all principal buildings within them, shall be connected to public water supply. Sewage collection shall be by the public sewage collection system or by an approved local area or on-site treatment facility. Access easements to any utility connections shall be granted to the Town to assure maintenance and emergency repair.

9.5.15.2.9 **Communications Facilities.** All towers, antennas and poles permitted under a consolidated FMUOD Special Permit with consolidated WCOD Special Permit shall be sited, designed and sized to have minimal visual impact on nearby properties.

9.5.16 **Procedures.** The following procedures shall apply in the submission, review and consideration of any application for a FMUOD Special Permit.

9.5.16.1 **Pre-application Conference.** Applicants may elect to submit, prior to filing a special permit application, a preliminary application and sketch plan as the basis for preliminary discussion with the Planning Board, following which the Board shall provide non-binding guidance in regard to the development proposal. The Board may consult with other regulatory departments and committees in the formulation of its response. The sketch plan shall meet the submission requirements specified in the Rules and Regulations.

9.5.16.2 **Application and Submittal Requirements.** An application for a FMUOD Special Permit shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board in the manner and quantity specified in the Rules and Regulations. The application shall include all items and materials required pursuant to said rules and regulations, except to the extent waived by the Planning Board.

- 9.5.16.3 **Planning Board Review.** The Planning Board's review and consideration of an application for FMUOD Special Permit shall be in conformance with the Rules and Regulations.
- 9.5.16.4 **Public Hearing Required.** The Planning Board shall hold a public hearing within sixty (60) days of the filing date of said application and shall render a decision within one hundred and eighty (180) days from the date of the opening of the public hearing. Failure to take final action within the one hundred and eighty (180)-day period shall be deemed to be a constructive approval of the special permit, unless the applicant and the Planning Board execute a written extension agreement.
- 9.5.16.5 **Reimbursement for Consultants.** If the Planning Board determines the need to hire one or more consultants, engineers or attorneys in connection with the review and evaluation of the an application for a FMUOD Special Permit, it may do so, and all reasonable costs associated with the hiring of said consultant or consultants shall be reimbursed by the applicant, in accordance with Massachusetts General Law Chapter 53G, and in the manner specified in the Rules and Regulations. Each application pursuant to this Section shall contain an agreement by the applicant to that effect.
- 9.5.16.6 **Special Permit Decision.** A FMUOD Special Permit shall be granted by the Planning Board only upon its written determination that the beneficial effects of the project will outweigh any adverse impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the project in relation to that site, and that the uses allowed are in harmony with the general purpose and intent of this Section.
- 9.5.16.7 **Conditions.** A FMUOD Special Permit may be granted with such reasonable conditions, safeguards or limitations on design, time or use, including performance guarantees, as the Planning Board may deem necessary to serve the purposes of this Section.
- 9.5.16.8 **Performance Guarantee.** The Planning Board may require that the applicant provide a performance guarantee, in the form and amount required pursuant to the Rules and Regulations.
- 9.5.16.9 **Impact Mitigations.** Since approval of a FMUOD Special Permit authorizes substantial increases in permissible densities of population and employment, a condition of the FMUOD Special Permit shall be that the project shall mitigate some or all of the impacts of those density increases on water and sewer utilities, off-site traffic circulation, facilities, and schools through grants and incentives obtained from other agencies, or from contributions at the expense of the applicant.

- 9.5.16.10 **Non-Regulatory Agreements.** Development under a FMUOD Special Permit, in addition to compliance with provisions of this Section and other regulatory provisions, may involve memoranda of understanding or non-regulatory agreements reached between the Applicants and the Town, and possibly other entities. Said non-regulatory agreements shall be incorporated by reference and made part of a FMUOD Special Permit.
- 9.5.16.11 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for FMUOD Special Permits. Such fees shall be more particularly described in the Rules and Regulations.
- 9.5.16.12 **Special Permit Modification.** Once a FMUOD Special Permit has been granted by the Planning Board, any subsequent change which the Building Commissioner determines will substantially affect or alter the visual appearance of the project, or of any building facade or roof within the project, or will substantially affect or alter traffic flow, or will constitute a significant modification to the site plan, will be considered a major modification, and will require the submission of an application for amendment of the FMUOD Special Permit. Said application for amendment shall be considered in accordance with the same standards and procedures set forth in this Section for the approval of the original application. Any modification, which the Building Commissioner determines not to rise to the level of a major modification, shall be considered a minor modification, and may be authorized by a majority vote of the Planning Board. However, if the Planning Board in its review determines such modification to constitute a major modification, it shall require the submission of an application for amendment of the FMUOD Special Permit.
- 9.5.16.13 **Appeals.** Appeals to a court of competent jurisdiction may be taken by a person aggrieved by reason of their inability to obtain a permit under this Section. Such appeals shall be filed in court within twenty (20) days after the decision has been filed with the Town Clerk. Notice of such action with a copy of the complaint shall be filed with the Town Clerk within said twenty (20) days.
- 9.5.16.14 **Lapse.** A FMUOD Special Permit shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the grant of the FMUOD Special Permit. The Planning Board may extend such approval, for good cause, upon the written request of the applicant pursuant to procedures established under the Rules and Regulations.
- 9.5.17 **Superseding Provisions.** In the event of any conflict between the provisions of this Section and other sections of the Zoning Bylaw, the provisions of this Section shall govern and control. Following the completion of construction of a project developed

pursuant to a FMUOD Special Permit granted under this Section, all requirements applicable to underlying zoning shall be superseded by the terms and conditions of the FMUOD Special Permit.

## **9.6 UPPER STORY RESIDENTIAL OVERLAY DISTRICT (USROD)**

9.6.1 **Purpose.** The purpose of the Upper Story Residential Overlay District (USROD) is as follows:

9.6.1.1 to permit the most beneficial redevelopment and reuse of municipal buildings which are no longer required for municipal use;

9.6.1.2 to promote appropriate solutions to the redevelopment of existing buildings in the High Street area.

9.6.2 **Location.** The USROD is herein established as an overlay district. The USROD shall include all properties fronting on High Street, between Barlow Lane and Gay Street, which were improved with one or more buildings and were either municipally-owned as of January 1, 2011 or are municipally-owned at the time of application.

9.6.3 **Special Permit Granting Authority.** The Planning Board shall be the Special Permit Granting Authority for all USROD Special Permits.

9.6.4 **Special Permit Required.** Development under this Section requires a USROD Special Permit issued by the Planning Board in compliance with the provisions of this Section. Any special permits which may otherwise be required pursuant to this Bylaw shall be consolidated into the USROD Special Permit. Any Environmental Impact and Design Review (EIDR) approval otherwise required pursuant to Section 7.3 of this Bylaw shall be consolidated into a mandatory site plan approval component of the USROD Special Permit, and no separate EIDR Approval shall be required.

9.6.5 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in the USROD may be used for any purpose permitted as of right or by special permit in the underlying district. In addition, one or more upper story dwelling units may be permitted to the extent authorized under a USROD Special Permit.

9.6.6 **Regulations.** Unless the Planning Board adopts specific rules and regulations for the administration of this Section, the Planning Board's General Special Permit Granting Authority Rules and Regulations shall apply (henceforth referred to as the "Rules and Regulations").

9.6.7 **Environmental Impact and Design Standards.** The standards set forth in Section 7.3.7 for EIDR shall be utilized by the Planning Board to review and evaluate all applications pursuant to this Section. Alterations and/or additions to existing buildings shall be

consistent with the historic architectural character of those existing buildings, and, where possible, shall be harmoniously related to nearby pre-existing structures.

9.6.8 **Parking Standards.** Developments proposed under this Section may provide fewer parking spaces than otherwise required under Section 6.1.2, Table of Parking Requirements, where in the determination of the Planning Board, proposed parking spaces are found to be sufficient to meet the needs of the development. Parking shall be primarily located such that parking spaces are not between the building and High Street.

9.6.9 **Procedures.** The following procedures shall apply in the submission, review and consideration of any application for a USROD Special Permit.

9.6.9.1 **Application and Submittal Requirements.** An application for a USROD Special Permit shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board in the manner and quantity specified in the Rules and Regulations. The application shall include all items and materials required pursuant to said rules and regulations, except to the extent waived by the Planning Board.

9.6.9.2 **Planning Board Review.** The Planning Board's review and consideration of an application for USROD Special Permit shall be in conformance with the Rules and Regulations.

9.6.9.4 **Reimbursement for Consultants.** If the Planning Board determines the need to hire one or more consultants, engineers or attorneys in connection with the review and evaluation of the an application for a USROD Special Permit, it may do so, and all reasonable costs associated with the hiring of said consultant or consultants shall be reimbursed by the applicant, in accordance with Massachusetts General Law Chapter 53G, and in the manner specified in the Rules and Regulations. Each application pursuant to this Section shall contain an agreement by the applicant to that effect.

9.6.9.5 **Special Permit Decision.** A USROD Special Permit shall be granted by the Planning Board only upon its written determination that the beneficial effects of the project will outweigh any adverse impacts on the Town or the neighborhood, in view of the particular characteristics of the site, and of the project in relation to that site, and that the uses allowed are in harmony with the general purpose and intent of this Section.

9.6.9.6 **Conditions.** A USROD Special Permit may be granted with such reasonable conditions, safeguards or limitations on design, time or use, including performance guarantees, as the Planning Board may deem necessary to serve the purposes of this Section.

- 9.6.9.7 **Fees.** The Planning Board may adopt reasonable administrative fees and technical review fees for applications for USROD Special Permits. Such fees shall be more particularly described in the Rules and Regulations.

## **9.7 UNIVERSITY AVENUE MIXED USE DISTRICT (UAMUD)**

- 9.7.1 **Purpose.** The University Avenue Mixed Use District (UAMUD) is an overlay district established to encourage the development of mixed use projects in an area that provides proximate access to major highways and public transportation. The UAMUD provisions are intended to promote creative, efficient, and appropriate solutions for the development of complex sites, and facilitate the development of a mix of complementary land uses, including both residential and nonresidential development, that will address Town and regional interests in additional employment, housing, and tax revenue.
- 9.7.2 **Location.** The UAMUD boundary is as shown on a map of land entitled “University Avenue Mixed Use District,” filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Bylaw.
- 9.7.3 **Master Development Plan.** The project developed pursuant to this Section 9.7 must have a Master Development Plan adopted by a two-thirds vote of a town meeting in accordance with the procedures for adoption or change of zoning ordinances or by-laws set forth in M.G.L. Chapter 40A, section 5. As used in this Section 9.7, the term “UAMUD project” refers to the project that is depicted on this Master Development Plan, entitled “University Avenue Mixed Use District Master Development Plan,” prepared by Tetra Tech, dated November 30, 2012, revised December 11, 2012, further revised March 22, 2013, the term “UAMUD project area” refers to the geographic area for the project delineated on the Master Development Plan, and the term “proponent” refers to the proponent or developer of the proposed UAMUD project or any phase or portion thereof.
- 9.7.3.1 **General Plan Requirements.** The package of Master Development Plan materials submitted for approval at Town Meeting shall include the following information, which shall be on file with the Town Clerk and available for review:
- (a) The area of land proposed to be developed under this Section 9.7.
  - (b) A plan of existing conditions showing the topography and features, including wetlands and water bodies, if any, of the land to be developed, as well as the boundaries of the Water Resource Protection Overlay District (WRPOD) in relation to the land to be developed.
  - (c) Plans showing the location and width of the existing and proposed roads and ways that will serve the land to be developed, together with a description of the means by which the proposed roads and ways are to be laid out, including whether such roads and ways are to be created



through the Subdivision Control Law and/or as public ways to be laid out through town meeting approval.

- (d) Bicycle and pedestrian pathways, including the expected circulation routes.
- (e) A mix of complementary land uses, including both residential and nonresidential development.
- (f) A summary plan showing the location of permissible building areas, with the following indicated for each: designated Use Type(s), as defined in Section 9.7.3.4; maximum building height for buildings in each development area (i.e., each area restricted to certain Use Types as identified on the plan); maximum floor area ratio (FAR) for the overall development; a schedule showing the overall number of parking spaces to be provided for the development, subject to adjustment based upon use changes and tenancy requirements; and aggregate maximum developable gross floor area and unit count, as applicable, for each use category for the entire UAMUD project.
- (g) The location, size, and designated use of dedicated open space, recreational, and buffer areas, including the general nature of the proposed buffer.
- (h) Illustrated descriptions of amenities and design features, such as streetscape improvements, landscaping, and signage, to be included as part of the proposed development.
- (i) Illustrations of the general architecture of the proposed structures. For structures located within 300 feet of residentially-zoned areas, the illustrations must show the height of the proposed structures in relation to surrounding buildings and topography.
- (j) Accompanying technical reports and studies, consisting of a (i) stormwater and drainage report, (ii) fiscal impact study (including the impact on tax revenue of the proposed mix of commercial and residential uses), (iii) traffic study, (iv) noise study, and (v) utilities report.
- (k) A summary of the proposed mitigation and traffic improvements, including concept plans for proposed offsite mitigation, exactions, financial contributions, easements, land grants, alternative affordable housing arrangements, if applicable, and other items to be addressed through the Development Agreement required to be entered into with the Town.

9.7.3.2 **Core Development Area Requirements.** The Master Development Plan shall delineate a Core Development Area (CDA), which shall include

Open Space Uses in addition to Retail/Service Uses and other Use Types, as defined in Section 9.7.3.4 below. With respect to the CDA, the Master Development Plan submittals shall show the following additional details:

- (a) The location of the CDA, together with the location of buildings within that area.
- (b) A narrative describing all significant details of the CDA.
- (c) The layout of parking, loading, and landscaped areas, and pedestrian and bicycle paths.
- (d) Roadway, drainage and utility infrastructure servicing the CDA.
- (e) Architectural elevations or perspectives of all buildings and parking structures.
- (f) With respect to any proposed residential development, (i) the location of residential building(s), (ii) the total number of units allocated by bedroom type in each residential building, (iii) the number of Affordable Housing units in each residential building, and (iv) the number of dwelling units designed for inclusion on the Massachusetts Department of Community Development (DHCD) Subsidized Housing Inventory.
- (g) The FAR of the CDA.
- (h) A description of the anticipated use(s) of each building within the CDA, including identification of any anticipated uses that would require a special permit, which shall be provided for informational purposes only.
- (i) Documentation, including, without limitation, plans, letters, and/or memoranda, that any proposed work within the WRPOD complies with the requirements of Section 9.7.5.
- (j) An initial estimated development timeline for the CDA, which shall be provided for informational purposes only.
- (k) A list of the sustainable development measures to be included in the project.
- (l) The titles and dates of all submittals intended to satisfy the requirements of this Section 9.7.3.2.

9.7.3.3 **Additional Details for Non-CDA Areas.** To the extent available, the Master Development Plan shall include the type of details required for the

CDA pursuant Section 9.7.3.2 for the non-CDA portions of the Master Development Plan.

- 9.7.3.4 **Use Types.** For the purposes of this Section 9.7, the UAMUD Use Types set forth below shall be established and identified on the Master Development Plan where applicable. Multiple Use Types may be contained within a single building or structure or on a single lot.
- 9.7.3.4.1 **Retail/Service Use Type.** Includes uses that involve the sale of goods and/or provision of services to the public, which uses are typically found in a shopping center or mixed-used development with a retail component.
- 9.7.3.4.2 **Restaurant/Entertainment Use Type.** Includes uses that involve preparation, service, and sale of meals for consumption by the public and/or that otherwise provide recreational or entertainment opportunities to the public.
- 9.7.3.4.3 **Office/R&D Use Type.** Includes uses that involve the provision of office space to individuals and businesses, including businesses that are involved in research and development, which uses are typically found in an office building or mixed-used development with an office component.
- 9.7.3.4.4 **Hotel/Commercial Lodging Use Type.** Includes commercially-oriented lodging and senior living uses, such as conventional and extended-stay hotels, assisted living, memory care and nursing or convalescent facilities (including hospice care).
- 9.7.3.4.5 **Residential Use Type.** Includes multi-family dwellings.
- 9.7.3.4.6 **Municipal Use Type.** Includes all facilities that are owned or operated by or for benefit of the Town of Westwood or other governmental authority.
- 9.7.3.4.7 **Open Space Use Type.** Includes all green, landscaped, and open space areas, wellhead protection areas, and stormwater management areas designed to serve stormwater control, recreational, buffering and/or open space purposes. Such areas may include, without limitation, underground utilities, stormwater control infrastructure, and sidewalks and paths to be used for pedestrian and/or bicycle circulation and/or active or passive recreation.

- 9.7.4 **Permitted Uses.** The land and buildings shown on an approved Master Development Plan may be used for any use permitted as of right or by special permit as set forth below, provided that the use is located in an area where the applicable Use Type is designated on the Master Development Plan (subject to the exceptions identified below as being allowed anywhere on the Master Development Plan). Multiple uses may be contained within a single building or structure or on a single lot, provided that each such use is either permitted by right or has been granted a special permit where required by this Section 9.7.4.

9.7.4.1 **Principal Uses Permitted By Right**

9.7.4.1.1 **Retail/Service Use Type.** See Section 9.7.3.4.1

- a. Bank or Financial Institution, including Drive-Through Service
- b. Business Services Establishment
- c. General Services Establishment
- d. Personal Services Establishment
- e. Professional Services Establishment
- f. Printing/copy/publishing establishment
- g. Retail sales and services establishment, including pharmacy with Drive-Through Service

9.7.4.1.2 **Restaurant/Entertainment Use Type.** See Section 9.7.3.4.2

- a. Coffee Shop, which may include Drive-Through Service, provided that any Coffee Shop located in Development Area A, as shown on the Master Development Plan, shall be accessory to, and located within the same building as, an Office/R&D Use.
- b. Fast Order Restaurant, provided that any Fast Order Restaurant located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.
- c. Fitness or Health Club, provided that any Fitness or Health Club with an outdoor recreation component shall be located solely within Development Area C.
- d. Ice Cream Parlor, provided that any Ice Cream Parlor located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.
- e. Restaurant with or without entertainment, less than 10,000 square feet, provided that any Restaurant less than 10,000 square feet located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.

9.7.4.1.3 **Office/R&D Use Type.** See Section 9.7.3.4.3

- a. Business Services Establishment
- b. Data Storage Facility
- c. Educational Use, Non-Exempt
- d. General Office
- e. Medical Center or Clinic
- f. Office of Health Care Professional
- g. Professional Services Establishment
- h. Research and Development

9.7.4.1.4 **Hotel/Commercial Lodging Use Type.** See Section 9.7.3.4.4

- a. Assisted Living Residence
- b. Memory Care Facility
- c. Motel or Hotel
- d. Nursing or Convalescent Home (including hospice care)

9.7.4.1.5 **Residential Use Type.** See Section 9.7.3.4.5

- a. Multi-Family Dwelling in accordance with Section 9.7.4.5, Residential Use Requirements, provided that no more than 350 units total are permitted without a special permit.

9.7.4.1.6 **Municipal Use Type.** See Section 9.7.3.4.6

- a. Municipal Facilities

9.7.4.1.7 **Uses Allowed Anywhere on the Master Development Plan**

- a. Commercial Parking Garage
- b. Child Care Facility
- c. Cultural Facility
- d. Educational Use, Exempt
- e. Essential Services
- f. Shuttle Service

## 9.7.4.2 **Uses Permitted By Special Permit**

9.7.4.2.1 **Retail/Service Use Type.** See Section 9.7.3.4.1

- a. Drive-Through Service, unless identified in Section 9.7.4.1, provided that the later addition of Drive-Through Service to a Bank or Financial Institution, a pharmacy, or a Coffee Shop shall require Project Development Review pursuant to Section 9.7.12.2.2 of this Bylaw if the building containing such use was not originally built so as to provide Drive-Through Service.

9.7.4.2.2 **Residential Use Type.** See Section 9.7.3.4.5

- a. Multi-family Dwelling in accordance with Section 9.7.4.5, Residential Use Requirements.

9.7.4.2.3 **Restaurant/Entertainment Use Type.** See Section 9.7.3.4.2

- a. Restaurant with or without entertainment, 10,000 square feet or more
- b. Commercial Recreation, Indoor, except for Fitness or Health Club, which is allowed by right pursuant to Section 9.7.4.1.2.c. Such uses include, but are not limited to, movie theater, music venue, bowling alley, and other entertainment uses that are not accessory to a use permitted by right.
- c. Commercial Recreation, Outdoor

Notwithstanding any other provision of this Zoning Bylaw, the Planning Board shall be the special permit granting authority for all uses set forth above.

9.7.4.3 **Prohibited Uses**

Any use(s) not expressly allowed pursuant to Sections 9.7.4.1 or 9.7.4.2 shall be prohibited unless the Building Commissioner, in consultation with the Town Planner, determines that a proposed use is substantially similar in both its characteristics and its impact on abutting properties to either a use listed as permitted by right or a use listed as permitted by special permit, and provided further that if the use is substantially similar to a use listed as permitted by special permit, a special permit shall be required, and the Planning Board shall be the special permit granting authority. Prohibited uses include, but are not limited to, the following uses.

- 9.7.4.3.1 Earth removal or mining operations, except for site work and excavation activity in connection with the construction of buildings and structures, including building pads, roadway construction, or the installation of utilities or other development infrastructure
- 9.7.4.3.2 Junkyard or Automobile Graveyard
- 9.7.4.3.3 Landfills and open dumps, as defined in 310 CMR 19.006
- 9.7.4.3.4 Landfilling of sludge and septage
- 9.7.4.3.5 Light Manufacturing
- 9.7.4.3.6 Manufacturing
- 9.7.4.3.7 Motor Vehicle General Repairs and Body Repair
- 9.7.4.3.8 Motor Vehicle Light Service
- 9.7.4.3.9 Motor vehicle sales and rentals; motor vehicle general and body repairs; motor vehicle light service
- 9.7.4.3.10 Self-Storage or Mini-Storage Facilities

- 9.7.4.3.11 Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice which has been removed from roadways located outside of the UAMUD project area
- 9.7.4.3.12 Warehouse, wholesale, or distribution facility with or without outdoor storage, provided that warehouse-type retail sales and home improvement stores are a permitted Retail/Service Use Type. An existing warehouse, Light Manufacturing, wholesale, or distribution facility within the UAMUD project area that is in existence as of the date of adoption of this Section 9.7 is an allowed use, provided that any expansion of the building containing this use requires a special permit issued by the Planning Board pursuant to Section 10.3, Special Permits.

9.7.4.4 **Accessory Uses.** Any use that is incidental to, or customarily used in connection with, any principal use permitted within the UAMUD project shall be permitted as an accessory use, provided that such use would not be prohibited within the UAMUD project as a principal use. Without limiting the foregoing, the following accessory uses shall be permitted:

9.7.4.4.1 **Accessory Uses Permitted By Right**

- a. Outdoor display, storage, sales, and seating, provided that the requirements of Section 9.7.7.3 are met
- b. Automated Teller Machines (ATMs)
- c. Sales, service, and installation of mobile automotive audio provided in connection with a principal retail use
- d. Medical Center or Clinic in connection with a principal retail use
- e. Pet grooming, veterinary services, and boarding provided in connection with a principal retail use
- f. Retail Take-Out Counter
- g. Uses within an office building that support office uses, including, without limitation, health and fitness centers, restaurants/cafeterias, dry cleaner drop-off service, and small-scale retail stores

9.7.4.4.2 **Accessory Uses Permitted By Special Permit**

- a. Within the area off Harvard Street shown as Development Area C on the Master Development Plan, and upon the issuance of a special permit by the Planning Board pursuant to Section 10.3, Special Permits, sales and installation of automotive tires, batteries, and similar accessories provided in connection with a principal retail use, provided that no general repair of automobiles, including body work and

oil/lubrication services, shall be permitted; provided further that, if such accessory automotive use is located within the WRPOD, then the applicable special permit shall be issued pursuant to Section 9.3, with the Planning Board designated as the special permit granting authority.

- b. Storage of calcium chloride, chemically treated abrasives or other chemicals, but not sodium chloride, solely to be used for the removal of snow or ice on the roadways, walkways, or parking lots within the UAMUD project area, provided that these chemicals are stored in a structure with an impermeable cover and impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.
- c. With the exception of (i) outdoor commercial recreation and (ii) entertainment accessory to restaurant of less than 10,000 square feet, any accessory use that would require a special permit if conducted as a primary use shall also require a special permit if conducted as an accessory use.

Notwithstanding any other provision of this Zoning Bylaw, the Planning Board shall be the special permit granting authority for all accessory uses set forth above.

9.7.4.4.3 **Accessory Use Not Located on the Same Lot as Principal Use.** An accessory use may be located on a different lot from its associated principle use provided that the accessory use remains reasonably proximate to the principal use. The location of an accessory use on a different lot than the principal use shall require the Planning Board's determination, at an administrative meeting, that such accessory use is generally compatible with the surrounding development area.

9.7.4.5 **Residential Use Requirements.** All residential components of a UAMUD project shall comply with the below provisions. Except as provided in Section 9.7.4.5.3.b below, for purposes of this Section 9.7.4.5, an Assisted Living Residence, Memory Care Facility, and Nursing or Convalescent Home shall not be considered a residential component, with the exception of any such facilities that are independent dwelling units because they have independent kitchens and bathrooms or any such facilities that contain multiple independent dwelling units within one structure.



- 9.7.4.5.1 **Dwelling Units.** The aggregate of all residential components shall not exceed a maximum of 650 dwelling units. A maximum of 350 dwelling units shall be allowed by right. Any dwelling units above the 350 dwelling units allowed by right shall require a special permit from the Planning Board pursuant to Section 9.7.4.5.4.
- 9.7.4.5.2 **Design.** All residential components shall be appropriately integrated with the overall development through the use of sidewalks, crosswalks, and other pedestrian connections, and shall be of a scale and character that both enhances and complements the overall development and ensures the advancement of smart growth initiatives so as to enable safe, attractive, and comfortable access and travel for all users, including pedestrians, bicyclists, motorists and public transport users of all ages and abilities.
- 9.7.4.5.3 **Affordable Housing.** All of the following requirements for affordable housing must be satisfied:
- a. Of the three hundred and fifty (350) residential units allowed by right in the CDA, a minimum of two hundred and twenty-one (221) units plus ten percent (10%) of all units in excess of two hundred and twenty-one (221), rounded up to the next whole number, must, in the determination of the Planning Board, be designed for inclusion on the DHCD Subsidized Housing Inventory and remain affordable in perpetuity.
  - b. A minimum of ten percent (10%) of total dwelling units in excess of the 350 dwelling units allowed by right, if any, rounded up to the next whole number, must be Affordable Housing units and remain affordable in perpetuity. In addition, if the units within any Assisted Living Residence, Memory Care Facility, or Nursing or Convalescent Home are included in the Town's total number of housing units on the DHCD Subsidized Housing Inventory, then ten percent (10%) of these units shall be Affordable Housing units, unless the proponent satisfies the alternative requirements provided in Section 9.7.4.5.3.c below.
  - c. In the alternative to Section 9.7.4.5.3.b above, for each Affordable Housing unit required but not included within the UAMUD project, the Planning Board, in its discretion, may allow the proponent: (i) to provide an Affordable Housing unit at an off-site location; or (ii) to

make a payment to the Town's Affordable Housing Trust Fund in an amount that the Planning Board determines adequate to offset the lack of the Affordable Housing unit within the UAMUD project area.

- d. All Affordable Housing units provided under this Section 9.7.4.5.3 must be permanently encumbered so as to be maintained as Affordable Housing units in perpetuity.

9.7.4.5.4 **The Special Permit Requirement.** Development of dwelling units above the initial 350 dwelling units requires a special permit to be issued by the Planning Board pursuant to this Section 9.7.4.5.4. No special permit for such additional residential development shall be issued until at least 60% of the initial 350 dwelling units have been occupied.

- a. **Application and Administrative Requirements.** The requirements of Sections 10.3.2 and 10.3.4 through 10.3.9 of this Bylaw shall apply to any special permit required under this section provided that the Planning Board shall have the discretion to waive applicable filing requirements based upon information already provided to the Planning Board in connection with prior UAMUD project reviews.

- b. **Decision.** A special permit shall be granted by the Planning Board only upon its written determination that the adverse effects of the proposed residential component will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In making this determination, the Planning Board may make such findings as are deemed relevant by the board for consideration of the potential adverse effects and beneficial impacts associated with a particular project. However, no special permit shall be granted unless the board finds, at a minimum, that:

1. The residential use is physically and functionally integrated with surrounding uses and provides appropriate access to public transportation infrastructure.
2. The residential use is one component of a larger, coherent plan for a project component in which it shares public spaces, amenities, and pedestrian circulation.

3. The residential use is part of, supports, or complements a predominantly nonresidential project component.
4. The dwelling units diversify the housing choices within the UAMUD project area and the community.
5. With the inclusion of the residential component, the overall UAMUD project still results in net fiscal benefits to the Town, and the proponent has adequately mitigated any adverse fiscal impacts of the proposed residential use.
6. The residential use adequately accommodates and addresses traffic flow and safety, is adequately serviced by utilities and other public services, and does not pose unacceptable and unmitigated impacts on the environment.
7. The residential use meets the affordable housing requirements of Section 9.7.4.5.3.

9.7.4.6 **Determination of Permitted Uses.** All individual uses shall be subject to the requirements of Sections 9.7.4, including special permit requirements where applicable. In the event of an uncertainty as to whether an individual use is included within a Use Type set forth in Section 9.7.3.4, which Use Type is specified as a Permitted Use Type for the relevant section of the Master Development Plan, the Building Commissioner, after consultation with the Town Planner, shall make a determination as to whether such use is appropriately included.

## 9.7.5 **Water Resources Protection Overlay District (WRPOD) Requirements**

9.7.5.1 **Special Permit Granting Authority.** Except as provided in Section 9.7.5.2 below, any use allowed pursuant to Section 9.7.4 shall, if located within the WRPOD, satisfy the requirements of Section 9.3 of this Bylaw. Where a WRPOD special permit is required under the provisions of this section, the Planning Board shall be the special permit granting authority, and the requirements of Sections 9.3.8 through 9.3.12 shall apply to such special permits, except that all references to the Board of Appeals in those sections shall, for purposes of this provision, be deemed references to the Planning Board.

9.7.5.2 **WRPOD Standards and Requirements.** To the extent the requirements of Section 9.3, Water Resource Protection Overlay District (WRPOD), are inconsistent with the requirements of this Section 9.7.5.2, the requirements of this section shall govern a UAMUD project.

9.7.5.2.1 **Storage.** The following storage uses shall not require a special permit pursuant to Section 9.3.5 or be subject to the requirements of Section 9.3.7.5, unless expressly stated

otherwise, provided that they satisfy the general requirements of Section 9.7.5.2.10.

- a. Hazardous Materials. The storage of Hazardous Materials in greater than household quantities solely for sale at the same retail store where these materials are stored. For purposes of this provision, Hazardous Materials shall include liquid petroleum products packaged for consumer use.
- b. Liquid Petroleum Products. The storage of liquid petroleum products solely for use in an emergency or back-up generator. In addition, liquid petroleum products in the fuel tanks of vehicles parked in parking structures or on lots within the UAMUD project area shall not be considered the storage of liquid petroleum products pursuant to Section 9.3.5.2 or the storage of hazardous materials pursuant to Section 9.3.7.5.
- c. Commercial Fertilizers. Storage of commercial fertilizers and soil conditioners solely for sale at the same retail store where these materials are stored.
- d. Snow or Ice Removal Chemicals. Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice solely for sale at the same retail store where these materials are stored.

9.7.5.2.2 **Construction-Related Excavation**. The removal of soil, loam, sand, gravel or any other mineral substances for excavation for construction-related activities in conformance with approved plans, including the construction of roadways, utilities, and other infrastructure, shall be permitted by right and shall not be restricted in any way by Section 9.3.6.6.

9.7.5.2.3 **Minimum Lot Area**. Minimum lot area for a lot within the WRPOD shall be the minimum lot area required in Section 9.7.7.1.

9.7.5.2.4 **Drainage**. The requirements for the recharge of storm drainage may be met across the aggregate of all land within the UAMUD project area, but do not have to be met on each individual lot. All drainage shall meet the stormwater management standards adopted by the Massachusetts

Department of Environmental Protection (DEP). The WRPOD is a “critical area” under these standards.

- 9.7.5.2.5 **Vegetation.** No less than twenty percent (20%) of the overall UAMUD project area shall be maintained as a green or vegetated area. Such green or vegetated area may be provided (a) within the UAMUD project area and/or (b) within areas outside such UAMUD project area, but within the UAMUD, that are or will be subject to a recorded easement, restriction or covenant, or other instrument deemed appropriate by the Planning Board.
- 9.7.5.2.6 **Impervious Areas.** If a UAMUD project includes areas both within and outside of the WRPOD, then all stormwater runoff from buildings shall be directed to recharge systems anywhere within the UAMUD project area, in accordance with applicable DEP regulations, and all other runoff shall be required to comply with the stormwater management standards adopted by DEP.
- 9.7.5.2.7 **Public Water Supply.** The location and use of new buildings, structures, parking areas, disposal facilities, point source discharges, and other infrastructure within the Zone I area that extends outward in a 400-foot radius from any public water supply well shall be reviewed and approved as part of the approval of the Master Development Plan and, to the extent outside of the CDA, as part of Project Development Review pursuant to Section 9.7.12.2.2 of this Bylaw and shall not require a special permit pursuant to Section 9.3.5; provided that the Planning Board may, in its discretion, require a special permit pursuant to Section 9.3.5 if it determines that any changes to the approved Master Development Plan within the Zone I area may pose material adverse impacts to water quality. A special permit shall not be required for minor adjustments in the location and configuration of the buildings, parking areas and other site features which are considered de minimis by the Building Commissioner.

Within the Zone I area, the following limitations shall apply. To the extent that any other provisions of the Bylaw are inconsistent with the limitations set forth below, the limitations set forth below shall control.

- a. No portion of a building containing a home improvement store or any retail use that will store or sell toxic or hazardous materials regulated under

Section 9.3 of the Zoning Bylaw on substantially the same scale as, or in similar quantity to, a home improvement store shall be located within the Zone I area.

- b. No fertilizers, herbicides, or insecticides shall be used within the Zone I area, except for organic and/or low-phosphorous alternatives that are appropriate for use in sensitive areas and have been approved in writing by the Town Planner after consultation with the Dedham Westwood Water District.
- c. Any commercial dumpsters or commercial compactors located outdoors within the Zone I shall have an impermeable lid or cover integral to the dumpster or compactor itself and shall be located on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.
- d. Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals is prohibited within the Zone I area.
- e. No emergency or back-up generators, nor storage of liquid petroleum products for use in an emergency or back-up generator, shall be located within the Zone I area.

**9.7.5.2.8 Storage and Use of Snow Removal Materials.** Within any portion of the UAMUD project area within the WRPOD, the storage of calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roadways, but not sodium chloride, may be allowed by special permit, consistent with Section 9.7.4.4.2.b, provided that these chemicals are stored in a structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water. In addition, only calcium chloride shall be used in such areas, provided that the Town Planner, after consultation with the Dedham Westwood Water District, may approve in writing the use

of a snow removal agent shown to be less harmful to the environment.

9.7.5.2.9 **Wastewater.** All UAMUD uses located within the WRPOD requiring wastewater disposal shall be connected to a public sewer system or be served by a local area or on-site treatment facility approved by the Planning Board by special permit pursuant to Section 10.3, Special Permits.

9.7.5.2.10 **General Requirements within the WRPOD**

- a. Hazardous Materials, commercial fertilizers and soil conditioners, and sodium chloride, calcium chloride, chemically treated abrasives or other chemicals offered for sale at a retail store must be individually packaged in household quantities within covered, leak-proof containers designed for consumer purchase and use. Except as provided in subsection (b) below, such retail containers must be stored above-ground within a fully-enclosed structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.
- b. Commercial fertilizers and soil conditioners offered for sale may be stored within the garden center or similar section of a home improvement store or similar retail operation, provided that they are sited in a structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.
- c. Liquid petroleum products used for emergency or back-up generators must comply with Section 9.3.7.5, Storage of Hazardous Materials.
- d. Any home improvement store, and any retail use that will store or sell toxic or hazardous materials regulated under Section 9.3 on substantially the same scale as, or in similar quantity to, a home improvement store, shall file with the Building Commissioner a Spill Prevention and Contingency Plan to prevent, contain, and control the spill of oil

and/or hazardous materials. Any such store shall also (a) maintain an emergency services agreement with a licensed hazardous materials clean-up contractor to respond to a release at a store location, including any loading dock or outdoor loading area associated with the store location, and (b) ensure that its employees receive such hazardous material training as is required by law.

- e. All loading docks shall be fully sealed so that loading and unloading activities occur within the applicable building. Loading dock areas shall benefit from a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water, to include catch basins with oil/gas/sand interceptors providing at least 200 gallons of storage. Shut-off valves on proposed drain lines must be accessible above ground, clearly labeled, properly maintained, and located so as to prevent accidental damage. Spill response requirements must be posted within the loading dock. Employees using the loading dock shall receive training in the use of shut-off valves and the containment of spills.

9.7.5.2.11 **Building Commissioner Review.** Prior to issuance of a Certificate of Occupancy for any use subject to this Section 9.7.5, the Building Commissioner shall review and confirm compliance with the foregoing standards and requirements. Nothing in this provision shall preclude the Planning Board from reviewing compliance with these standards and requirements as part of its Project Development Review.

9.7.6 **Protection of Existing Uses.** Except for existing warehouse uses as provided in Section 9.7.4.3.12, the requirements of this Section 9.7 shall not apply to any existing building(s) within the Master Development Plan project area unless such building(s) are redeveloped, expanded, or changed in use as part of the UAMUD project, and such existing buildings and the existing use(s) thereof shall be treated as nonconforming uses and structures in accordance with Section 4.5, Nonconforming Uses and Structures.

9.7.7 **Dimensional Standards and Requirements.** The alternative dimensional and other requirements set forth in this Section 9.7.7 shall be used for a UAMUD project rather than the requirements provided elsewhere in this Bylaw, including, without limitation: Section 5.2, Table of Dimensional Requirements; Section 5.3, Notes for Table of Dimensional Requirements; Section 5.4, Height Regulations; Section 5.5.4, Corner Clearance; Section 5.5.5, Uses within Setbacks; Section 5.5.6, Creation of Ways; Section



6.3.2, Buffer Areas in Nonresidential Districts; Section 6.3.9, Screening Standards; Section 6.5, Floor Area Ratio Limitation; and Section 7.1, Earth Material Movement.

#### 9.7.7.1 **Table of Dimensional Requirements**

Minimum Lot Area	15,000 square feet
Maximum Building Height <sup>^</sup> *	
Development Area A <sup>+</sup>	70 feet
Development Area B	80 feet
Development Area C	60 feet
Development Area D	60 feet
Core Development Area 1	60 feet
Core Development Area 2	70 feet
Core Development Area 3	60 feet
Core Development Area 4	60 feet
Maximum Floor Area Ratio**	1.0
<sup>^</sup>	In no event shall the height of a building exceed one hundred seventy-eight and one-half (178½) feet above the North American Vertical Datum of 1988 (NAVD88).
*	Unoccupied mechanical features such as chimneys, clock towers, ventilators, skylights, tanks, bulkheads, penthouses, antennae, green energy infrastructure, rooftop screening elements, and functional, decorative, or architectural features carried above the roof line are exempted from the limitations on building height provided they do not collectively cover more than thirty percent (30%) of the roof area of the building, provided that no such features exceed one hundred seventy-eight and one-half (178½) feet above NAVD88. Upon issuance of a special permit by the Planning Board pursuant to Section 10.3, Special Permits, an increase in building height to a maximum of 120 feet shall be permitted in the development area located to the south/east of University Avenue, identified as Development Area B on the

Master Development Plan, provided that no building, including unoccupied mechanical structures, shall exceed one hundred seventy-eight and one-half (178½) feet above NAVD88.

+ Development Areas and Core Development Areas are shown on the Master Development Plan.

\*\* The floor area ratio on individual lots within the UAMUD project area may exceed the limits set forth herein, provided that the aggregate FAR of all lots in the overall UAMUD project otherwise complies with such limit.

9.7.7.2 The buffer and screening requirements set forth in Sections 6.3.2 through 6.3.10 of this Bylaw shall not apply. Instead, wherever the UAMUD project area abuts or is within twenty (20) feet of the boundary line of any Residential District, there shall be a buffer area with a minimum width of one hundred (100) feet. Said buffer area may include streets, access drives, and other means of public access comprising no more than ten percent (10%) of the applicable buffer area, and shall be used to minimize visual impact on any adjacent residential uses through the use of plantings, berms, and/or fencing, or alternatively may be developed as a publicly accessible open space area with walkways and other opportunities for passive recreation.

9.7.7.3 Outdoor seating for retail use, restaurants, and other uses shall not be subject to Section 6.3.1, Enclosure Requirements in Highway Business and Industrial Districts. However, the following standards shall apply to all outdoor seating, sales, and display areas within a UAMUD project:

- (a) In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.
- (b) Such areas shall be appropriately separated from streets and sidewalks by means of fencing, plantings, or other similar measures.
- (c) Outdoor sales and display areas shall be maintained in a neat and orderly condition at all times.

All proposed outdoor seating, sales, and display areas within an UAMUD project must be approved in writing in advance by the Building Commissioner and, once implemented, shall be reconfigured upon the order of the Building Commissioner as the Building Commissioner deems necessary to address public safety, convenience, order, or appearance.

9.7.7.4 More than one (1) building shall be permitted on any lot.

- 9.7.7.5 The owner of any lot shown on the approved Master Development Plan shall be entitled to lawfully divide such lot, including without limitation by virtue of plans endorsed by the Planning Board pursuant to M.G.L. Chapter 41, section 81P, without modifying the approved Master Development Plan and without the need for other approvals under this Bylaw, provided that any such lot must have minimum frontage of 50 feet at the street line. To the extent consistent with the Subdivision Control Law, M.G.L. Chapter 41, section 81K, et seq., lots within an approved UAMUD project may be separated by a public or private way.
- 9.7.7.6 Except where otherwise expressly provided in this Section 9.7.7, all dimensional requirements applicable to a UAMUD project shall be calculated across the entire UAMUD project area, irrespective of individual lot lines within the UAMUD development. Consistent with typical site configurations for larger, complex mixed-use developments, individual buildings within the UAMUD development may be located immediately adjacent to individual lot line boundaries. Without limiting the foregoing, there shall be no minimum corner clearance, lot width, setback requirements, minimum non-wetland area, maximum building coverage, maximum impervious surface, or lot coverage requirements for a project developed under this Section 9.7, provided that a minimum setback and corner clearance may be required by the Planning Board to preserve acceptable sightlines for traffic safety.
- 9.7.8 **Parking and Loading.** The alternative parking requirements set forth in this Section 9.7.8 shall be used for a UAMUD project rather than the requirements applicable to the underlying district as provided under applicable Planning Board regulations and/or elsewhere in this Bylaw, including, without limitation, Sections 6.1.1 through 6.1.26.
- 9.7.8.1 Expected parking requirements for the UAMUD project shall be as set forth on a schedule included with the Master Development Plan (the “Parking Schedule”), rather than by reference to Section 6.1.2. The number of parking spaces within a UAMUD project or any portion thereof shall be approved by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a Project Development Review (PDR) Approval, as defined in Section 9.7.12.2.2, as applicable, and the actual aggregate number of spaces approved by the Planning Board may vary from the Parking Schedule. The number of spaces contained within the UAMUD project may change from time to time, based upon changes in use and tenant requirements. Such adjustments in spaces may be accomplished without the need for further Planning Board review or approval, unless on-site parking has been deemed inadequate by the Building Commissioner. Such parking shall be deemed inadequate if the on-site parking area is often substantially full and there is frequent parking of vehicles in access drives or on streets within or near the UAMUD project area. In such case the Planning Board shall review the issues at an administrative meeting and determine whether to require PDR Approval for parking modifications.

- 9.7.8.2 If accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a PDR Approval, as defined in Section 9.7.12.2.2, for other phases or areas shown on the Master Development Plan, shared off-street parking arrangements, which may include structured parking, shall be permitted and may be located on contiguous lots or on separate lots that are within the UAMUD Project area.
- 9.7.8.3 There shall be no minimum parking setback requirements as required in Section 6.1.18 except at any boundary line at the perimeter of the overall Master Development Plan area. The number of entrances and exits shall be the minimum necessary for safe and efficient traffic circulation.
- 9.7.8.4 Parking lot landscaping, both internal and perimeter, for a UAMUD project shall be substantially as shown on the approved Master Development Plan and as accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a PDR Approval, as defined in Section 9.7.12.2.2. Where provided, trees shall be spaced, on average, not more than twenty-seven (27) feet on center.
- 9.7.8.5 Parking may be provided through any combination of at grade, on street, and/or structured parking facilities, both stand-alone and part of other buildings. Parking for cars and bicycles shall be as accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.7.12.2.1, or as part of a PDR Approval, as defined in Section 9.7.12.2.2. Bicycle racks for parking shall comply with standards adopted by the Planning Board in the Rules and Regulations promulgated under this Section 9.7.
- 9.7.8.6 Sidewalks or multipurpose pedestrian ways and facilities shall connect each parking lot or facility to buildings, public spaces, or other destination points within the development.
- 9.7.8.7 Adequate loading areas shall be provided for all businesses and other applicable uses containing more than ten thousand (10,000) square feet of net floor area. When exclusive loading areas are provided, such areas shall be designed so as to have unobstructed access and shall be configured so that no trucks or other vehicles are parked on a public street while loading or unloading, or while waiting to load or unload.
- 9.7.9 **Transportation Demand Management (TDM).** A TDM program, satisfactory to the Planning Board, shall be provided, including the following:
- (a) The appointment of a TDM Coordinator for the project, or separate TDM Coordinators for individual components of the project;
  - (b) The submission of a TDM plan for the project, or separate TDM plans for individual components of the project, to include programs and techniques designed to reduce single-occupancy vehicle use, and to facilitate the use of

alternative means of transportation, and which may include membership in the Neponset Valley Transportation Management Association or its successor, or a similar organization approved by the Planning Board.

9.7.10 **Signage.** The alternative sign requirements set forth in this Section 9.7.10 shall be used for a UAMUD project rather than the signage requirements applicable to the underlying district as provided elsewhere in this Bylaw.

9.7.10.1 **Definitions.** For the purposes of these alternate sign requirements, the following terms shall be defined as indicated below:

9.7.10.1.1 **Awning Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations painted on, incorporated into, or affixed to any fixed or retractable device, of any material, which extends over or otherwise covers a sidewalk, courtyard, walkway, eating area, driveway or similar area or space.

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

9.7.10.1.3 **Directional Sign.** A sign providing pedestrian and/or vehicular traffic instruction, and/or restrictions on the use of parking or travel areas. “No Parking”, “One Way”, “No Outlet”, and “Do Not Enter” are examples of directional signs.

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

9.7.10.1.5 **Facade.** The exterior surface of a building wall facing a street, internal drive, or pedestrian and/or vehicular access way, which wall corresponds to the height and width of the interior space owned or leased by the occupant of the building.

9.7.10.1.6 **Projecting Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations which is attached to or suspended from a building or structure such that any part of said sign extends more than eight (8) inches from the wall surface of that building or structure.

- 9.7.10.1.7 **Special Event.** A charitable, nonprofit or civic event, which event may include an open house, registration or similar event associated with a charitable, nonprofit or civic organization.
- 9.7.10.1.8 **Temporary Construction Sign.** A sign at a specific development site currently under construction which identifies the name of the development, and may include the names and addresses of the contractor, architect, landscape architect, and project engineer, and other pertinent information. For purposes of this definition, individual developments within the master development plan project site may be considered specific development sites, even if such developments consist of more than one individual business establishment, but the entire master development plan project site shall not be considered a specific development site.
- 9.7.10.1.9 **Wall Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations painted on, incorporated into, or affixed parallel to the wall of a building or structure and which extends not more than eight (8) inches from the wall surface of that building or structure.
- 9.7.10.1.10 **Way Finding Sign.** A sign providing instructions for circulation throughout a development, including direction to individual business establishments and parking areas related to said business establishments. “Retail Center Parking”, “Shuttle Bus Stop Ahead”, “Exit to Providence Highway”, “Additional Parking in Rear” are examples of way finding signs.
- 9.7.10.1.11 **Window Sign.** A sign consisting of letters, numbers, symbols, logos, emblems and/or graphic representations painted on, incorporated into, or affixed to either side of the glass surface of a window or door, or designed to be visible from the exterior of a building or structure and located within five (5) feet of the interior side of such glass surface.
- 9.7.10.1.12 **Window Screening Display.** Graphic or display which is intended to reduce visual access to the interior of an establishment.
- 9.7.10.2 **Development Identification Sign.** A UAMUD project shall be allowed to install and maintain development identification signs in the vicinity of

each substantial gateway(s) or entrance(s) to the project from neighboring streets, which signs may be installed at on-site and/or off-site locations. Such development identification sign may include the name and/or logo of the development project, as well as the names and/or logos of any occupants within the development. Development identification signs may have two (2) faces, each of which shall not exceed two hundred (200) square feet of copy area, excluding frame and borders. Development identification signs shall not exceed twenty-five (25) feet in height. Development identification signs shall include appropriate materials and landscaping to ensure an attractive entrance(s) to the development.

- 9.7.10.3 **Wall or Awning Signs.** Any combination of Wall Signs and Awning Signs shall be permitted such that the aggregate of all such Wall Signs and Awning Signs associated with each individual business establishment shall not exceed two (2) square feet of signage for each one (1) linear foot of facade associated with said establishment, measured across the longest facade in the case of establishments with more than one facade. Awning Signs shall have at least 8 feet clearance above the pedestrian grade.
- 9.7.10.4 **Projecting Signs.** One Projecting Sign may be permitted for any individual business establishment. A projecting sign shall have two (2) legible faces, each of which shall not exceed sixteen (16) square feet in area. Projecting Signs must have at least eight (8) feet of clearance above the pedestrian grade, and shall not project more than six (6) feet from a building facade.
- 9.7.10.5 **Window Signs.** Window Signs shall be permitted such that the aggregate of all such Window Signs associated with an individual business establishment shall not exceed twenty percent (20%) of the total surface area of all windows associated with such establishment.
- 9.7.10.6 **Window Screening Displays.** Window Screening Displays shall be permitted for windows and glass doors on the rear and side walls of the buildings shown as Building N, Building O, and Building Q on a plan entitled "Street Address Plan", dated 8/01/14, prepared for Westwood Marketplace Holdings, LLC, a copy of which is on file with the Planning Board, but only where such Window Screening Displays do not constitute Window Signs as defined in Section 9.7.10.1.11. Window Screening Displays may be permitted for windows and glass doors on other walls of buildings within the Core Development Area, but only where the Planning Board finds that such graphics or displays are necessary and appropriate, and only where such graphics or displays do not constitute Window Signs as defined in Section 9.7.10.1.11. In all cases, Window Screening Displays shall be visually distinguishable in appearance from graphics or displays painted on, incorporated into, or affixed to either side of the glass surface of a window or door and shall not be painted on, incorporated into,

nor affixed to either side of the glass surface of a window or door, nor located within one (1) inch of such glass surface.

- 9.7.10.7 **Directional Signs.** Directional Signs shall be allowed throughout a development. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic safety. Directional Signs shall not exceed four (4) square feet in area and shall have a maximum height of eight (8) feet above ground. Directional Signs may be post-mounted, ground-mounted, or mounted on a building or structure, and shall provide adequate clearance for vehicular and/or pedestrian traffic.
- 9.7.10.8 **Way Finding Signs.** Way Finding Signs shall be allowed throughout a development, and may be allowed both on site and at off-premises locations. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic and pedestrian safety. Way Finding Signs shall be post-mounted, ground-mounted, or mounted on a building or structure, and shall not exceed thirty-two (32) square feet in area and shall have a maximum height of thirteen (13) feet above ground. All Way Finding Signs located throughout a development shall be consistent in material, color and lettering style. Way Finding Signs shall not contain individual business identification logos. Way Finding Signs may include electronically changed lettering as appropriate to provide directions and/or indicate availability of public parking. Such changeable signs must be static displays that do not flash, or exhibit changes in lighting levels, or offer multiple messages on a cyclical basis.
- 9.7.10.9 **Directory Sign.** One or more Directory Signs shall be permitted within the UAMUD project area. Directory Signs shall not exceed thirty-five (35) square feet in area and shall have a maximum height of eight (8) feet above ground.
- 9.7.10.10 **Temporary Construction Signs.** Temporary Construction Signs for both owners and occupants of lots within the approved Master Development Plan shall be permitted. Temporary Construction Signs shall not exceed thirty-two (32) square feet in area and shall have a maximum height of six (6) feet above ground. Temporary Construction Signs shall be removed within thirty (30) days of the completion of construction.
- 9.7.10.11 **Temporary Construction Fence Screening Graphics.** Where a temporary construction fence is permitted to reduce public visual access to a construction site, screening graphics displayed on non-rigid material affixed to the exterior of such fence, and not exceeding the height of such fence, may be permitted upon the issuance of a temporary sign permit by the Building Commissioner. Such permit shall be valid for a period of six (6) months, and may be renewed at the discretion of the Building Commissioner for up to three (3) additional six (6) month terms. All



screening graphics shall be maintained in good condition and shall be removed upon the final expiration of the temporary sign permit.

- 9.7.10.12 **Prohibited Signs.** Banners, flags, balloons, streamers, pennants, strings of lights, ribbons, spinners, roof signs, flashing signs, variable lit signs, variable message signs, except as permitted in Section 9.7.10.8, = and other similar devices, shall be prohibited in any UAMUD project. Temporary signs or graphics are prohibited except as provided in Sections 9.7.10.10 and 9.7.10.11, or in connection with customarily celebrated holidays or with Special Events as defined in Section 9.7.10.7. No sign which indicates the time, date and temperature shall be considered a flashing sign provided such sign meets all other provisions of this Section 9.7.10.
- 9.7.10.13 **Sign Materials.** Signs shall be manufactured using industry standard materials that are consistent with a high quality project. Structurally necessary brackets, posts or other supports may be visible if compatible with the appearance of the sign they support. Conduit, tubing, raceways, conductors, transformers and similar equipment shall be concealed from view.
- 9.7.10.14 **Sign Illumination.** Indirect illumination of a sign by properly shielded light fixtures, or by edge-lighting, or by halo lighting, or internal illumination of only the lettering, wording or insignia portions of a sign, shall be permitted. In all cases indirect illumination shall only be permitted by steady white light. Notwithstanding the above, Awning Signs shall not be internally illuminated.
- 9.7.10.15 **Project-Specific Signage Alternative.** In recognition of the interrelated nature of signage systems in complex, mixed-use projects, and the importance of clear, adequate, and effective signage to the safe and efficient operation of such projects, notwithstanding the provisions of Sections 9.7.10.1 through 9.7.10.15 of this Bylaw, the Planning Board may, as part of its Conformance Determination for the CDA or PDR Approval for all other areas and phases of the UAMUD project, approve an alternative signage package or alternative signs for the UAMUD project, provided that the Planning Board finds that the alternative adequately addresses the needs of the development and traffic safety while appropriately balancing any impacts on the surrounding environment.
- 9.7.11 **Design and Performance Standards.** The following design and performance standards shall apply to UAMUD projects. These standards shall be reflected in the Master Development Plan submittals for the CDA and, to the extent practicable, for the non-CDA areas. The standards and requirements set forth in this Section 9.7.11 shall override any other standards and requirements imposed elsewhere in this Bylaw, except as expressly provided in Section 9.7.

**Building Design**

- (a) **General.** Structures shall be designed to create a visually pleasing, unifying and compatible image for the development as a whole. Any combination of architectural design elements may be employed to meet this standard, including building color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and elements such as door and window size and location, and door and window detailing.
- (b) **Exterior Materials.** Exterior walls for the project shall use a combination of architectural masonry materials, including but not limited to brick, glass, stone, stucco, exterior insulation and finishing system (EIFS), high quality siding and shingles, precast concrete architectural panels, stainless steel, split face block. No standard scored or flat face block will be allowed. Stainless steel shall be used solely as accents at entrances or windows, unless otherwise approved by the Planning Board as part of its Conformance Determination or PDR Approval. Colors shall be medium values of natural building materials such as earth, stone, etc. Extremes of colors shall not be used except as accents at entrances.
- (c) **Facade Treatments.** To avoid long unbroken expanses of wall, the architecture shall incorporate, as appropriate, design features providing horizontal and vertical relief including projections, building jogs, elements of transparency or windows, architectural detailing, and changes in surface materials. The design of public entrance ways shall incorporate architectural features and elements to emphasize the entrance locations and interrupt long stretches of building facade. The facades of parking structures shall be designed to a standard of architectural finish consistent with other buildings within the project. All exterior walls shall be designed and finished with materials that maintain a consistent architectural character with adjoining buildings. Complementary use of public pedestrian spaces may also be considered as a contributory element.
- (d) **Relationships Among Structures and Components.** Buildings and parking structures shall be designed with common elements that both create a sense of unity and express a relationship to the interior. An example is using ornamentation to reflect floor levels. These elements may include the horizontal spacing of bays, columns, and windows; and the vertical alignment and spacing of floors. Structures shall relate harmoniously to the existing landscape and to the scale and architecture of existing buildings that have a functional and/or visual relationship to the proposed

structures. Special attention shall be paid to reduce the effect of shadows on an abutting property, public open space or street, or to otherwise lessen any negative visual impacts of a proposed structure.

- (e) **Detailing.** Architectural detailing and surface textures and colors of adjoining components of the UAMUD project, such as anchor stores, residential structures, and parking structures, should be related and contribute to an overall sense of cohesion within the project. While a variety of design treatments is encouraged to avoid monotony, individual components shall be designed to avoid overly strong contrasts.
- (f) **Rooftops.** Rooftop mechanical features, heating and air conditioning units, vents, stacks, mechanical penthouse(s) shall be screened by use of parapet walls or similar elements

9.7.11.2 **Visual Mitigation and Screening of Infrastructural Elements.** Exposed storage areas, exposed machinery or electric installations, common service areas, truck loading areas, utility structures, trash/recycling areas and other elements of the project infrastructure shall be subject to reasonable visual mitigation requirements, including, but not limited to, screen plantings or buffer strips, combinations of visually impermeable fencing and plantings, or other screening methods necessary to assure an attractive visual environment.

9.7.11.3 **Utilities.** All new, permanent utilities such as electricity, telephone, gas, and fiber optic cable to be installed in connection with the UAMUD development shall be placed underground. All UAMUD developments, and all principal buildings within them, shall be connected to the public water supply. Sewage collection shall be by the public sewage collection system or by a local area or on-site treatment facility approved by the Planning Board by special permit pursuant to Section 10.3, Special Permits. Access easements to any utility connections shall be granted to the Town to assure maintenance and emergency repair.

9.7.11.4 **Land Uses and Common Areas.** Open space or publicly-accessible common areas shall be included within the development, to encourage pedestrian activity and to visually separate buildings or groups of buildings. When reasonably feasible, independently sited common areas shall be connected to other nearby open space and common areas by use of pathways and other similar pedestrian connections.

9.7.11.5 **Street Design.** Streets, interior drives and related infrastructure within the proposed development shall be designed in accordance with applicable engineering standards, and shall be designed with sufficient capacity to accommodate anticipated trip generation and turning movements, to

provide for adequate access by public safety vehicles and maintenance equipment, and to safely maintain and encourage pedestrian and bicycle circulation.

- 9.7.11.6 **Circulation, Traffic Impact & Public Street Access.** A UAMUD development shall provide for a comprehensive, interconnected, safe and efficient system of circulation that adequately incorporates varied transportation modes, both vehicular and non-vehicular. This system shall include the layout of roadways, interior drives, automobile and bicycle parking facilities and shall include pedestrian and bicycle circulation and directional signage. Review of site circulation shall include: entrances and approaches, ramps, walkways, interior drives, and parking access. Traffic planning shall consider the surrounding system of public streets, the existing and future vehicular trip volume, the number and location of proposed access points to public streets, and existing and proposed traffic controls and management measures. The impact of volume increases on adjacent residential districts and business areas shall be mitigated to the satisfaction of the Planning Board using traffic engineering and traffic calming techniques. Drive-Through Services shall not impede the circulation of traffic on roadways or within parking lots in a way that gives rise to congestion or safety hazards. The proponent shall provide plans identifying potential locations for future shuttle or bus stops in the event that a shuttle or public bus service becomes available.
- 9.7.11.7 **Public Safety.** UAMUD projects shall be designed and located so as not to endanger their occupants or the public. The design shall include adequate water supply distribution and storage for fire protection. Vehicular circulation shall consider the access needs of emergency and public safety vehicles.
- 9.7.11.8 **Stormwater Management.** Stormwater management systems serving the proposed development shall be designed in conformance with DEP Stormwater Standards, as amended from time to time, to efficiently collect runoff from all impervious surfaces, roofs, and canopies in a manner that avoids adverse drainage impact on any neighboring property. A plan for controls that are appropriate and specific to the site and the project, and which includes both pre-construction and post-development measures, shall be employed to mitigate erosion and sedimentation impacts. Where space, topography, soils, and the character of the proposed development make it practical, low impact designs (LID) that capture and recharge runoff to the groundwater shall be used as an alternative to closed systems.
- 9.7.11.9 **Outdoor Lighting.** Lighting shall be designed so as to avoid any material light trespass and glare on adjacent neighborhoods, business areas, and streets. Exterior lighting fixtures shall be of the full-cutoff type, and hoods and shields shall be incorporated as needed to prevent light trespass and glare. Lighting in minimally-used areas shall be reduced after business

hours. The project shall incorporate lighting practices and systems that will reduce light pollution and conserve energy, while maintaining reasonable nighttime safety and security. Section 6.4 shall not be applicable to a UAMUD project.

- 9.7.11.10 **Mixed Uses and Activities.** A UAMUD project must contain a mix of uses. Proponents are strongly encouraged to include a beneficial mix of commercial and non-commercial uses. Compatibility between uses shall take into account peak hours of use and parking for individual components.
- 9.7.11.11 **Energy Efficiency.** A UAMUD project shall incorporate energy-efficient technology in building materials, lighting, heating, ventilating and air conditioning systems, as well as use of renewable energy resources, and shall adhere to the principles of energy-conscious design with regard to building orientation, shading, landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of a building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.
- 9.7.11.12 **Sustainability.** Tenants shall be encouraged to adopt energy-efficient construction methods and technologies using a Tenant Energy Efficiency Manual that identifies green requirements, initiatives, and goals for the UAMUD project. The Tenant Energy Efficiency Manual is to be prepared by the proponent and provided to each tenant within the UAMUD project. The UAMUD project shall also voluntarily submit to a state-level review of its greenhouse gas impacts, and, in connection with such review, shall incorporate sustainable measures and practices, potentially including white roofing, daylighting, photovoltaics, LED technology, water using fixtures that meet WaterSense or equivalent standards, and similar measures, that demonstrate a measurable reduction in such impacts.
- 9.7.11.13 **Public Gathering Areas.** A UAMUD development shall include one or more areas, exclusive of wetlands, to which the public has at least visual access, and preferably physical access, including landscaped areas and features such as pedestrian walks, landscaped pedestrian spaces and plazas, and incidental support structures, but excluding vehicular travelways, driveways, and parking surfaces. These public gathering areas shall be designed to maximize visibility for persons passing the site or viewing it from nearby properties.
- 9.7.11.14 **Air Quality, Noise, Vibration, Etc.** The approved project, when open, shall comply with applicable DEP standards as to the project's environmental impacts. Under no circumstances shall the project result in "noxious" impacts to the environment or the community, and the air quality, noise, and vibration impacts associated with the project shall be appropriate for the project and the character of surrounding uses, with the

sole exception of any temporary impacts associated with public gatherings or special events, emergency and public safety vehicle operations, construction, and similar activities. Section 6.6 shall not be applicable to UAMUD projects.

- 9.7.11.15 **Construction Solid Waste Management.** The proponent shall make arrangements for the disposal of tree stumps and debris resulting from construction, and shall arrange for appropriate on-site storage of refuse pending its removal. Such on-site storage shall be screened from public view, secure from birds or other animals, protected from wind and other weather conditions, and located so as to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.
- 9.7.11.16 **Water Quality.** The requirements with respect to uses and structures within the WRPOD are addressed in Section 9.7.5.
- 9.7.11.17 **Spill Prevention and Response.** The proponent shall provide an operation and maintenance plan and an emergency response and contingency plan that identify design and operational controls and measures to prevent and respond to potential releases, discharges, and spills of oil and/or hazardous material within the UAMUD project area that are appropriate in view of the proximity to public water supply.
- 9.7.11.18 **Water Efficiency.** A UAMUD project shall incorporate water-efficient technology in building materials, air conditioning systems, irrigation systems, and plumbing fixtures and appliances, and shall, where reasonably feasible, utilize EPA WaterSense or equivalent labeled toilets, faucets, urinals, showers, pre-rinse nozzles and irrigation controllers.

## 9.7.12 Administration

- 9.7.12.1 **Development Agreement.** A UAMUD project shall mitigate the impacts of the development to the satisfaction of the Town both through seeking grants and incentives from state and/or federal agencies and the proponent's mitigation commitments and contributions. The mitigation and other general project commitments of the proponent shall be memorialized in a Development Agreement entered into between the proponent and the Board of Selectmen. No building permit shall be issued until the Development Agreement has been executed.
- 9.7.12.2 **Project Review**
  - 9.7.12.2.1 **Conformance Determination.** The CDA shall undergo Conformance Determination review simultaneously with the Planning Board's review and recommendation of this Section 9.7 for purposes of Town Meeting approval. In the event that the Planning Board requires additional

information or materials prior to approving the CDA, and the proponent is not able to deliver such materials sufficiently in advance of Town Meeting, then the CDA shall undergo Conformance Determination following the receipt of such materials by the Planning Board. All other areas and phases of the approved UAMUD project shall undergo Project Development Review in accordance with Section 9.7.12.2.2 below. The Planning Board shall issue the Conformance Determination if it finds that the final plans and materials (i) materially conform to the approved Master Development Plan materials, and (ii) are otherwise compliant with the standards and requirements set forth in this Section 9.7. The Conformance Determination shall be conclusive evidence of such findings. No building permit shall be issued with respect to the CDA prior to the issuance of a Conformance Determination for the CDA.

**9.7.12.2.2 Project Development Review.** Following approval of the Master Development Plan for a UAMUD project by Town Meeting, the proponent shall undergo Project Development Review for any phase or area of the approved UAMUD project other than the CDA prior to issuance of a building permit for such phase or area. The Planning Board shall issue a Project Development Review (PDR) Approval for a phase of the UAMUD project if it finds that the following criteria have been met with respect to the project or the phase thereof for which a building permit is being sought:

- (a) Conformance. The project or applicable phase thereof materially conforms to the approved Master Development Plan submittals submitted pursuant to Section 9.7.3, as the same may be modified pursuant to this Bylaw.
- (b) Impact. (i) Any previously-developed portion of the UAMUD project has not resulted in material adverse impacts that have caused a condition that does not comply with applicable regulatory requirements or, in the opinion of the Planning Board, is substantially detrimental to the public health or safety or the environment; (ii) the project or applicable phase thereof does not pose new material adverse impacts or materially exacerbate existing adverse impacts to any adjacent property or the proximate neighborhood that have not already been addressed through mitigation required by the Development Agreement, as the same may be

amended from time to time, or a prior PDR Approval; and (iii) the project component for which PDR Approval is sought results in net fiscal benefits to the Town and the proponent has adequately mitigated any adverse fiscal impacts.

- (c) Design. The project or applicable phase thereof complies with the standards and requirements set forth in this Section 9.7, including but not limited to the performance and design standards set forth in Section 9.7.11.

The findings required under paragraphs (b) and (c) above may be satisfied through the Planning Board's imposition of mitigation measures and other requirements pursuant to Section 9.7.12.2.5 that, if satisfied, will cause the project or applicable phase thereof to conform to these criteria.

A PDR Approval shall be conclusive evidence of the Planning Board's findings under this section.

- 9.7.12.2.3 **Submittal Requirements.** An application for a Conformance Determination or PDR Approval shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board in the manner and quantity specified in the Rules and Regulations adopted pursuant to Section 9.7.12.6 of this Zoning Bylaw (the "Rules and Regulations").
- 9.7.12.2.4 **Review Procedure.** The Planning Board's review and consideration of an application for a CDA Conformance Determination or PDR Approval shall be in accordance with the Rules and Regulations.
- 9.7.12.2.5 **Supplemental Development Standards and Mitigation.** In issuing a PDR Approval, the Planning Board may include, as part of its written report, mitigation measures, supplemental development standards, requirements, safeguards, limitations, and specifications that address specific components of the approved development, such as lighting, signage, and landscaping. The Planning Board may include requirements for post-approval monitoring of certain development impacts, as well as performance guarantees, self-reporting commitments, and other measures to ensure compliance with the approved plans and submittals.



- 9.7.12.2.6 **Waivers.** In connection with a PDR Approval, the Planning Board, in its discretion, may waive the dimensional requirements of Section 9.7.7, except for height and FAR, if it determines that (i) the waiver will substantially improve the UAMUD project; (ii) the project or applicable phase thereof satisfies the performance and design standards set forth in this Section 9.7; and (iii) the granting of a waiver will not nullify or substantially derogate from the intent or purpose of this Section 9.7. A waiver shall not be granted if it would cause the UAMUD project to become inconsistent with the approved Master Development Plan submittals pursuant to Section 9.7.3 of this Bylaw.
- 9.7.12.2.7 **Denial.** In the event that the Planning Board denies a Conformance Determination, PDR Approval, or waiver, the proponent shall either (i) withdraw the development proposal; (ii) modify its plans to make them consistent with the Planning Board's findings and submit the modified plans to the Planning Board for reconsideration of the Conformance Determination, PDR Approval, or waiver; (iii) seek approval of a modification of the Master Development Plan by the Planning Board pursuant to Section 9.7.12.12 or Section 9.7.12.13, followed by a Conformance Determination for the CDA or a PDR Approval for development outside of the CDA; or (iv) seek, at its option, either (a) a Special Permit for modification of the Master Development Plan pursuant to Section 9.7.12.14 of this Bylaw or (b) approval of a revised Master Development Plan by a majority vote at Town Meeting. Additionally, where a Conformance Determination is denied, the proponent may, at its option, submit additional materials and undergo full Project Development Review in accordance with Section 9.7.12.2.2.
- 9.7.12.3 **Phased Development.** An approved UAMUD project may be constructed in one or more phases, provided that such phased development complies with the requirements of Section 9.7.12.2.1, with respect to the CDA, or the requirements of Section 9.7.12.2.2 with respect to other phases or areas shown on the approved Master Development Plan. Upon the granting of a Conformance Determination for the CDA or a PDR Approval for any other phase of the approved UAMUD project, such phase shall be deemed to be in compliance with the requirements of this Bylaw at the time such finding is made, notwithstanding the status of any other phase of the development and/or any noncompliance of such other phase with the requirements of this Section 9.7.

9.7.12.4      **Application of Requirements to Individual Lots.** The requirements of Section 9.7 of this Bylaw shall not be applied to the individual lots or ownership units within an approved UAMUD project, but shall be applied as if the entire plan area were a single conforming lot, whether or not the same is in single or multiple ownership. Any violation of this Bylaw by an owner or occupant of a single lot or ownership unit or demised premises within an approved UAMUD project shall not constitute a violation by any other owner or occupant; provided, however, that the foregoing shall not be deemed to affect the Planning Board's right to impose conditions on development phases subsequent to the CDA to address adverse project impacts related to any previous phase.

9.7.12.5      **Relationship to Underlying Districts and Regulations.** The UAMUD is established as an overlay district superimposed over, rather than replacing, the applicable underlying zoning district(s). Except as otherwise noted in this Section 9.7, the provisions and requirements of other applicable overlay districts, including, without limitation, Section 9.5, Flexible Multiple Use Overlay District (FMUOD), and any rules and regulations or design standards of the Planning Board, shall not apply to any project developed pursuant to this Section 9.7.

Except as provided elsewhere in this Section 9.7, special permit and similar approvals/criteria otherwise required under this Bylaw shall not be required for a UAMUD development, including, without limitation, any such approvals/criteria required pursuant to: Section 7.1, Earth Material Movement; Section 7.2, Major Business Development (MBD); Section 7.3, Environmental Impact Design Review (EIDR); Section 8.4, Senior Residential Development (SRD); Section 8.5, Residential Retirement Community (RRC); and Section 9.2, Flood Area Overlay District. The requirements of Section 9.3, Water Resource Protection Overlay District, as applied to a UAMUD project are addressed elsewhere in this Section 9.7.

Upon approval of a Master Development Plan, the use regulations of the underlying zoning district(s) shall not apply to the area within the Master Development Plan, but all other regulations of the underlying zoning district(s) shall apply except to the extent that they are inconsistent with, supplemented by, or modified by the provisions of this Section 9.7. In the event of any conflict or inconsistency between the other provisions of this Bylaw and this Section 9.7, the provisions of this Section 9.7 shall prevail.

Development of any or all lots within an approved Master Development Plan may be pursued under other applicable

underlying zoning and overlay districts, subject to receipt of approvals, if any, required under such other regulations only if the Planning Board, in its discretion, votes to release the lot or lots from the Master Development Plan.

9.7.12.6 **Rules and Regulations.** The Planning Board may adopt rules and regulations for the administration of this section, which shall be limited to defining the application and submittal requirements, fees, reimbursement for consultants, performance guarantees, and procedural requirements for any approvals required pursuant to Section 9.7. The Planning Board may also adopt bicycle rack standards required by Section 9.7.8.5.

9.7.12.7 **Enforcement.** The Building Commissioner shall have jurisdiction to enforce compliance with the standards and requirements of a Conformance Determination for the CDA and PDR Approval for all other areas and phases of the approved UAMUD project, both before and after construction, and may institute legal proceedings or take such other actions as are necessary to ensure compliance.

9.7.12.8 **Issuance of Building Permit.** Following the Planning Board's issuance of a Conformance Determination for the CDA or PDR Approval for all other areas and phases of the approved UAMUD project, the proponent shall submit copies of the Planning Board's Conformance Determination or PDR Approval and accompanying reports to the Building Commissioner, along with other required building permit application materials and fees, and a building permit may thereafter be issued for the approved project, or any individual component thereof, without the need for any further approvals under this Bylaw, except where this Section 9.7 specifically requires further approval. Building permits may be sought and issued for individual components of an approved project, and nothing in this Section 9.7 shall obligate the proponent to construct all of the improvements shown on an approved Master Development Plan, except that all construction associated with public roadways, infrastructure, utilities, and open space shall be substantially complete prior to the issuance of any building permit for a building outside of the CDA unless adequate performance guarantees have been incorporated into the Development Agreement.

9.7.12.9 **Issuance of Occupancy Permit.** All construction associated with public roadways, infrastructure, utilities, and open space shall be substantially complete prior to the issuance of any occupancy permit for a building within the CDA unless adequate performance guarantees have been incorporated into the Development Agreement.

- 9.7.12.10      **Transfer of UAMUD Approvals.** UAMUD approval of a project, or any individual portion thereof, may be freely transferred between lots and between owners, provided that the transferee complies with the provisions of this Section 9.7.
- 9.7.12.11      **Post-Construction Development Review.** Following completion of construction of any portion of the UAMUD project, PDR Approval from the Planning Board pursuant to Section 9.7.12.2.2 shall be required for the following within such UAMUD area: (i) construction of any new building not previously approved; (ii) an expansion of an existing building that increases the gross floor area of such building by 3,000 square feet or more or by 10% or more of the existing gross floor area, whichever is less; or (iii) any exterior alteration to an existing building that is deemed by the Planning Board not to constitute a minor modification because it would have the effect of materially changing the overall character of the applicable portion of the UAMUD project.
- 9.7.12.12      **Minor Modifications of the Master Development Plan.** Once a Master Development Plan has been approved at Town Meeting, the Planning Board may, in its discretion, approve a minor modification of the Master Development Plan by a majority vote at a public meeting. For purposes of this subsection, a plan modification is “minor” if the changes proposed, considered in the aggregate with all minor modifications previously approved:
- (a) Are consistent with the requirements and standards set forth in this Section 9.7 and do not have a material adverse effect on the overall design and implementation of the UAMUD project;
  - (b) Do not increase by more than ten percent (10%) the maximum gross floor area limitations for each category of use as noted in the approved Master Development Plan or the size of any individual permissible building area;
  - (c) Do not result in the aggregate floor area ratio of all lots on the approved Master Development Plan exceeding 1.0;
  - (d) Do not increase the land area included within the Master Development Plan by more than ten percent (10%);
  - (e) Do not adversely affect the storm water quality of the development;
  - (f) Do not increase projected vehicle trips by more than five percent (5%), unless it is demonstrated that such increase (i) for any intersection in the vicinity of the development that operates at LOS D or better would not result in a reduction of

overall intersection level of service below LOS D and (ii) would not otherwise cause vehicular traffic to operate in an objectively unsafe manner, or cause queue lengths that block intersections, unless any such impacts are addressed with adequate traffic mitigation, as certified by the proponent's Registered Traffic Engineer and approved by the Planning Board; and

- (g) Do not include any residential dwelling units in excess of the limits established by this Section 9.7.

Minor adjustments in the location and configuration of the buildings, parking areas, and other site features within an approved development area, shall not require further Planning Board approval, as long as such adjustments are considered de minimis by the Building Commissioner, do not exceed individual gross floor area requirements, and would not have the effect of changing the overall character of the applicable portion of the UAMUD project.

9.7.12.13 **Permitted Modifications to Retail and Office Uses.** In addition to minor modifications pursuant to Section 9.7.12.12, the Planning Board may, in its discretion, approve modification of the Master Development Plan by a majority vote at a public meeting if the modification meets one of the following criteria:

- (a) An increase in Office/R&D Uses to a maximum of 550,000 square feet and/or increase in Retail/Service and Restaurant/Entertainment Uses to a maximum of 900,000 square feet, provided that (i) the increase does not trigger any of the thresholds in Section 9.7.12.12, with the exception of the limits set forth in Sections 9.7.12.12(b) and (d), which may be exceeded with the approval of the Planning Board; and (ii) any traffic and parking impacts attributable to any such increase(s) are mitigated to the satisfaction of the Planning Board.
- (b) Substitution of Office/R&D Uses for any other uses outside of the CDA, except Open Space Uses, provided that (i) the substitution does not trigger any of the thresholds in Section 9.7.12.12, with the exception of the limits set forth in Sections 9.7.12.12(b) and (d), which may be exceeded with the approval of the Planning Board; and (ii) any traffic and parking impacts attributable to any such increase(s) are mitigated to the satisfaction of the Planning Board.

9.7.12.14 **Master Development Plan Special Permit.** In the event that the Planning Board determined that a proposed change in the Master

Development Plan does not meet the requirements for approval pursuant to Section 9.7.12.12 or Section 9.7.12.13, or in the event that the Planning Board exercised its discretion not to approve a proposed modification pursuant to those sections, then the proponent shall have the option of seeking either (A) an amendment of the Master Development Plan at Town Meeting, or (B) a special permit for modification of the Master Development Plan pursuant to Section 10.3 of this Bylaw authorizing the final development plans to be implemented as proposed. The Planning Board shall be the special permit granting authority for any such special permit.

- 9.7.12.15 **Lapse.** A Master Development Plan approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within three (3) years following the date of approval by Town Meeting. The Planning Board may extend such approval, for good cause, upon the written request of the proponent. Substantial use, including, without limitation, the filing of a building permit application for construction, of any portion of the approved Master Development Plan shall permanently vest the Master Development Plan and it shall not thereafter lapse for any reason.

## **SECTION 10.0 ADMINISTRATION AND PROCEDURES**

### **10.1 EXECUTION AND ENFORCEMENT**

**10.1.1 Execution.** The Building Commissioner shall execute the provisions of this Bylaw, except where otherwise provided, and in so doing shall have the same powers as are provided for the execution of the Massachusetts State Building Code. The Building Commissioner shall issue no permit for the construction, alteration or relocation of any building or structure if the building or structure as constructed, altered or relocated would be in violation of this Bylaw; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this Bylaw. Where a special permit or other permit is required pursuant to the provisions of this Bylaw, or where an appeal or petition involving a variance, special permit or other permit is pending, the Building Commissioner shall issue no building permit until such permit is granted and the applicable appeal period has expired or such appeal is no longer pending.

**10.1.2 Building Permits.** Applications for permits shall be accompanied by a certified plot plan, submitted in duplicate, of the lot showing the exact location and size of the actual dimensions of the lot and the exact location and size of the buildings or structures already upon the lot, and of the other buildings or structures to be constructed or altered, together with the streets adjacent to the lot. Construction or operations pursuant to a building or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within six (6) months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**10.1.3 Occupancy Permits.** It shall be unlawful to initially use any building or structure, or any addition to an existing building or structure, hereafter constructed, or to use that portion of a building or structure which is hereafter renovated, or to occupy or use any building or structure for a purpose other than that for which it was designed (as set forth in the permit for its construction, if any), until the Building Commissioner has issued an occupancy permit. Such permit shall not be issued unless and until the Building Commissioner has found the premises to be in apparent conformity in all applicable respects to the provisions of this Bylaw or decision rendered hereunder.

#### **10.1.4 Enforcement.**

**10.1.4.1** If the Building Commissioner shall be informed or have reason to believe that any provision of this Bylaw or any permit or decision hereunder has been, is being, or is about to be violated, he shall make or cause to be made an investigation of the facts, including the inspection of the premises where the violation may exist, and if the Building Commissioner finds any violation, he shall give immediate notice in writing to the owner or duly authorized agent and to the occupant of the premises. If after such notice, a violation occurs, with respect to any building, structure or use contrary to the provisions of this Bylaw, the Building Commissioner shall forthwith

revoke any permit issued in connection with the premises and shall take such other action as is necessary to enforce the provisions of this Bylaw.

10.1.4.2 If the Building Commissioner is requested in writing to enforce this Bylaw against any person allegedly in violation thereof and declines to act, the Building Commissioner shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen (14) days of receipt of such request. If the Building Commissioner is so requested in writing and does not decline to act, he shall give written notice of his disposition of the matter to the party making such request within thirty (30) days of such receipt.

10.1.4.3 Any person taking cognizance of a violation of the Zoning Bylaw that he is empowered to enforce (including without limitation the Building Commissioner and any police officer), hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice, in which event the procedure for enforcement shall be as set forth in M.G.L. Chapter 40, Section 21D.

10.1.5 **Penalty for a Criminal Complaint.** Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provisions of this Bylaw, or any of the conditions under which a permit or special permit is issued, or any decision rendered hereunder, shall be subject to a fine not to exceed the amount of two hundred dollars (\$200.00) for each offense, which shall be recovered as provided by law and shall inure to the Town. Each day that any such violation continues shall constitute and be considered a separate offense.

10.1.6 **Penalty for Noncriminal Complaint.** In addition to the procedures for enforcement as described in this Section, the provisions of this Bylaw may be enforced by the Building Commissioner by noncriminal complaint pursuant to the provisions of M.G.L. Chapter 40, Section 21D. The penalty for a violation enforced hereunder shall be one hundred dollars (\$100.00) for each offense. Each day that such violation continues shall constitute and be considered a separate offense.

#### 10.1.7 **Appeals.**

10.1.7.1 Appeals to the Board of Appeals may be taken by a person aggrieved by reason of their inability to obtain a permit or enforcement action under this Zoning Bylaw, or may be taken by an officer or board of the Town or other person aggrieved by an order or decision of any administrative official under this Bylaw. The Petitioner shall file such appeal with the Town Clerk within thirty (30) days after the refusal of a permit or the issuance of the order of decision. The Petitioner shall forthwith transmit a



copy thereof, with the date of filing certified by the Town Clerk, with the Board of Appeals and the officer or board whose order or decision is being appealed. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the receipt of the petition and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board of Appeals to take final action upon a petition within the one hundred (100)-day period shall be deemed to be a grant of the appeal.

10.1.7.2 A person aggrieved by a decision of the Board of Appeals or the Special Permit Granting Authority or by the failure of the Board of Appeals to take final action concerning any appeals, application or petition within the required time or by the failure of a Special Permit Granting Authority to take final action concerning an application for a special permit within the required time, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to a court of competent jurisdiction within twenty (20) days after the decision has been filed with the Town Clerk. Notice of such action with a copy of the complaint shall be filed with the Town Clerk within said twenty (20) days.

10.1.8 **Repetitive Appeal, Application or Petition.** No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals or Planning Board shall be favorably and finally acted upon within two (2) years after the date of such unfavorable action unless the Board which acted upon the appeal, application or petition, by a unanimous vote if the Board of Appeals or all but one of the members if the Planning Board, finds specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in its records. All but one of the members of the Planning Board must also consent to a repetitive appeal, application or petition initially acted upon by the Board of Appeals and submitted for reconsideration within two (2) years after the date of unfavorable action after notice is given to parties in interest of the time and place of the proceedings to consider consent.

## **10.2 BOARD OF APPEALS**

10.2.1 **Establishment.** There is hereby established a Board of Appeals of three (3) members and six (6) associate members. All members shall be residents of the Town, who shall be appointed by the Board of Selectmen.

10.2.2 **Powers.** The Board of Appeals shall have and exercise all the powers granted to it by M.G.L. Chapters 40A, 40B and 41 and by this Bylaw. The powers of the Board of Appeals are as follows:

10.2.2.1 To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the Special Permit Granting Authority, to act in all matters in accordance with the provisions of Section 10.3, or as otherwise specified.

- 10.2.2.2 To hear and decide appeals or petitions for variances from the terms of this Bylaw, with respect to particular land or structures, as set forth in M.G.L. Chapter 40A, Section 10. The Board of Appeals shall not grant use variances.
  - 10.2.2.3 To hear and decide appeals taken by any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. Chapter 40A, Sections 8 and 15.
  - 10.2.2.4 To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L. Chapter 40B, Sections 20 through 23.
- 10.2.3 **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.
- 10.2.4 **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals and applications for comprehensive permits.

### 10.3 SPECIAL PERMITS

- 10.3.1 **Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.
- 10.3.2 **Application.** An application for a special permit for uses designated in the Zoning Bylaw shall be filed with the Town Clerk, who shall forthwith transmit it to the Special Permit Granting Authority. The Special Permit Granting Authority shall hold a public hearing within sixty-five (65) days of the filing date and shall render a decision within ninety (90) days from the date of the public hearing. Failure to take final action within the ninety (90)-day period shall be deemed to be a grant of the special permit.
- 10.3.3 **Decision.** Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:
- 10.3.3.1 Social, economic or community needs which are served by the proposal;
  - 10.3.3.2 Traffic flow and safety, including parking and loading;
  - 10.3.3.3 Adequacy of utilities and other public services;

- 10.3.3.4 Neighborhood character, aesthetics and social structures;
  - 10.3.3.5 Impacts on the natural environment; and
  - 10.3.3.6 Potential fiscal impact, including impact on Town services, tax base and employment.
- 10.3.4 **Procedures.** An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.
- 10.3.5 **Conditions.** Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.
- 10.3.6 **Plans.** An Applicant for a special permit shall submit a plan in substantial conformance with the requirements of the Special Permit Granting Authority.
- 10.3.7 **Regulations.** The Special Permit Granting Authority may adopt rules and regulations for the administration of this Section.
- 10.3.8 **Fees.** The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.
- 10.3.9 **Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17 from the grant thereof) with the Town Clerk.

#### 10.4 VARIANCES

- 10.4.1 **Permit Granting Authority.** Variances from the specific requirements of this Bylaw may be authorized by the Board of Appeals, except that variances authorizing a use not otherwise permitted in a particular zoning district shall not be granted.
- 10.4.2 **Application.** A petition for a variance shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board of Appeals to take final action within the one hundred (100)-day period shall be deemed to be a grant of the variance.
- 10.4.3 **Findings.** Before granting a variance from the requirements of this Bylaw, the Board of Appeals must specifically find that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or

structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

10.4.4 **Procedures.** An application for a variance shall be filed in accordance with the rules and regulations of the Board of Appeals.

10.4.5 **Conditions.** Variances may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the Board of Appeals may deem necessary to serve the purposes of this Bylaw.

10.4.6 **Plans.** An Applicant for a variance shall submit a plan in substantial conformance with the requirements of the Board of Appeals.

10.4.7 **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of this Section.

10.4.8 **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for applications for variances.

10.4.9 **Lapse.** Any rights authorized by a variance which are not exercised within one (1) year from the date of grant of such variance shall lapse. The Board of Appeals, in its discretion and upon the written application of the Applicant, may extend the time for exercise of the variance for a period not to exceed six (6) months provided that the application for such extension is filed with the Board of Appeals prior to the expiration of the one (1) year period. If the request for an extension is not granted, the variance may be reestablished only after notice and new hearing pursuant to M.G.L. Chapter 40A, Section 10.

## **10.5 REPETITIVE BYLAW AMENDMENT**

10.5.1 **Repetitive Bylaw Amendment.** No proposed amendment to this Bylaw which has been unfavorably acted upon by the Town Meeting shall be considered by the Town Meeting within two (2) years after the date of such unfavorable action unless adoption of the proposed change has been recommended in the final report of the Planning Board to the Town Meeting.