

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



## GENERAL PROVISIONS

### ARTICLE I

#### **Acceptance of Bylaws**

**[At the Town Meeting held on October 2, 2000, under Article 2, it was voted to accept the codification of the General By-Laws and Zoning By-Laws of the Town of North Reading as set forth as Part I and Part II of this Code. Article 2 was approved by the Attorney General on March 29, 2001.]**



## ARTICLE II

**Use and Construction**

**[Adopted 11-22-1954 STM by Arts. 3, 4, 6 and 54 as Ch. 1, Secs. 1, 2 and 4, and Ch. 8 of the 1954 General Bylaws, approved 2-25-1955]**

**§ 1-1. Repealer; exceptions; title; effect of bylaws.**

- A. The adoption of these by-laws by the Town shall have force and effect of repealing all presently existing by-laws and regulations heretofore adopted by the Town in derogation hereto, except Board of Health rules and regulations, Planning Board rules and regulations and traffic regulations adopted by the Board of Selectmen, and amendments thereof and additions thereto, provided that the repeal shall not apply to or affect any by-law, order, or article heretofore adopted accepting or adopting the provisions of any statute of the commonwealth.
- B. These by-laws shall be known and referred to as "By-laws of the Town of North Reading."
- C. These by-laws and the repeal of all by-laws or regulations heretofore in force shall not affect any act done, any right accrued or liability incurred, or in suit, prosecution, or proceeding pending at the time when these by-laws take effect, nor shall the repeal of any by-law or regulation thereby have effect of reviving any by-law or regulation previously repealed or suspended.

**§ 1-1.1. Editorial revisions. [Added 10-5-2015 OTM by Art. 16, approved 1-14-2016]**

- A. The Town Clerk is authorized to assign appropriate numbers or letters to by-law sections, subsections, paragraphs and subparagraphs where none are approved by Town Meeting; and if such numbering or lettering is approved by Town Meeting, to make non-substantive editorial revisions to the same to ensure consistent and appropriate sequencing and numbering; and to make non-substantive editorial revisions to references regarding such numbering or lettering as contained within the by-laws to ensure accuracy and conformity.
- B. All such editorial revisions shall be identified with a footnote which describes the revision and the reason therefor.

**§ 1-2. Definitions. [Amended 10-30-1972 ATM by Art. 13, approved 10-11-1973]**

In the enforcement of any by-law or Town department regulation, the following words and expressions shall, unless inconsistent with the manifest intent, be severally construed as follows:

- A. PUBLIC WAY — Public way shall include any highway, town way, road, bridge, street, avenue, boulevard, roadway, parkway, lane, sidewalk, or square.

- B. PUBLIC BUILDING — Public building shall include all buildings belonging to or under the control of the Town.
- C. PUBLIC PLACE — Public place shall include all commons, parks, playgrounds, and public lands belonging to or under the control of the Town.
- D. OWNER OR OCCUPANT — Owner or occupant of a building or land shall include any sole owner or occupant and any joint tenant or tenant in common of the whole or any part of a building or lot of land.
- E. JOINT AUTHORITY — The words purporting to give joint authority to three (3) or more officers or other persons shall give such authority to a majority of such officers or persons.
- F. PERSONS — Persons shall include corporations, firms, organizations, associations and partnerships, or any other group acting as a unit, as well as a natural person.
- G. SINGULAR AND PLURAL — Words importing the singular shall include the plural; words importing the plural shall include the singular.
- H. GENDER — Words importing the masculine gender shall include the feminine and neuter genders.
- I. APPOINTING AUTHORITY — Appointing authority, as used in these by-laws, shall mean those persons so designated by statute, charter, or by-law.
- J. DWELLING — Dwelling shall mean any structure which is used for or designed for human habitation.
- K. TOWN MEETING — Town Meeting shall mean any legal public meeting to act on any and all business of the Town set forth in a warrant.
- L. TOWN — The words "The Town" shall mean the Town of North Reading in the County of Middlesex and Commonwealth of Massachusetts.
- M. COMPUTATION OF TIME — The time in which an act is to be done shall be computed by excluding the first and including the last day, and if the last day be Sunday or a legal holiday, that shall be excluded.
- N. MONTH — The word "month" shall mean a calendar month.
- O. PRECEDING, FOLLOWING — The words "preceding" and "following" mean next before and next after, respectively.
- P. SESSION — A session is the first gathering of the voters of the Town provided for by Section 2-4-1 of the Town Charter. **[Added 10-8-1981 ATM by Art. 16, approved 3-2-1982]**
- Q. ADJOURNED SESSIONS — Any subsequent gatherings of voters are considered "adjourned sessions." **[Added 10-8-1981 ATM by Art. 16,**

**approved 3-2-1982; amended 10-2-2000 ATM by Art. 3, approved 3-29-2001]**

- R. OTHER DEFINITIONS — If the definition does not appear in the General By-laws, the meaning given in Webster's Unabridged Dictionary, Third Edition shall be used. **[Added 10-8-1981 ATM by Art. 16, approved 3-2-1982]**

**§ 1-3. Severability. [Added 10-30-1972 ATM by Art. 13, approved 10-11-1973]**

It is hereby declared to be the intention of the Town that wherever possible the sections, paragraphs, sentences, clauses, and phrases of these by-laws shall be considered severable, and if any phrase, clause, sentence, paragraph, or section of these by-laws shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of these by-laws, since the same would have been enacted without the incorporation in these by-laws of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**§ 1-4. Catchlines of sections. [Added 10-30-1972 ATM by Art. 13, approved 10-11-1973]**

The catchlines of the several sections of these by-laws printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part of that section nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

**§ 1-5. Violations and penalties. [Added 10-30-1972 ATM by Art. 13, approved 10-11-1973; amended 10-6-1980 ATM by Art. 6, approved 1-8-1981; 10-2-1989 ATM by Art. 9, approved 12-7-1989]**

- A. Criminal complaint. Whoever violates any provision of this general by-law may be penalized by indictment or on complaint brought in a district court of competent jurisdiction. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense brought in such manner shall be three hundred dollars (\$300). Each day or portion of a day that any violation is allowed to continue shall constitute a separate offense.
- B. Noncriminal disposition.
- (1) Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in General Laws, Chapter 40, Section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, or department which is subject to a specific penalty.

- (2) Noncriminal disposition of by-law or municipal rule and regulation violations. Any enforcing person or any official of the Town of North Reading taking cognizance of a violation of a specific by-law, rule, or regulation which he is empowered to enforce, as an alternative to initiating criminal proceedings, may proceed pursuant to the provisions of Massachusetts General Laws Chapter 40, Section 21D to prosecute the alleged violation civilly.
- (3) Without intending to limit the generality of the foregoing, it is the intention of this provision that the following by-laws and sections of by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases, and that, in addition to police officers, who shall, in all cases, be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day or portion of a day that any violation is allowed to continue shall constitute a separate offense.

**General By-Laws [Amended 10-1-1990 ATM by Art. 15, approved 12-18-1990; 4-30-1992 ATM by Art. 21, approved 8-6-1992; 10-7-1993 ATM by Art. 3, approved 12-9-1993; 10-5-1998 ATM by Art. 12, approved 1-27-1999; 10-2-2000 ATM by Art 3, approved 3-29-2001]**

Chapter 11, Alarm Systems

Article I, Fire or Medical Aid

Alarms Fire Chief

1st offense: \$50

2nd offense: \$100

3rd and subsequent offenses: \$200

Article II, Alarms to Police Department

\$50 per day - any violation

Chapter 14, Alcoholic Beverages

\$50 each offense

Chapter 23, Animals

Article I, Dogs

§ 23-3, Vaccination

Animal Control Officer

\$50 each offense

§ 23-9, Penalty

Animal Control Officer

1st offense: \$25

2nd and subsequent offenses: \$50



## § 23-10, Leash Law

Animal Control Officer

1st offense: warning

2nd offense: \$25

Subsequent offenses: \$50

## § 23-12, Removal and disposal of waste

1st offense: written warning

2nd offense: \$25

Subsequent offenses: \$50

Chapter 31, Buildings, Numbering of  
Inspector of Buildings

1st offense: warning

2nd and subsequent offenses: \$50

## Chapter 62, Excavations

## § 62-1, Safety measures required

Building Inspector

1st offense: \$50

2nd offense: \$100

3rd and subsequent offenses: \$200

## § 62-2, Digging on town-owned land

\$50 each offense

## Chapter 68, Firearms

1st offense: \$25

2nd and subsequent offenses: \$50

## Chapter 80, Hazardous Materials

## Article II, Storage

## Fire Chief, Health Agent

1st offense: \$50

2nd and subsequent offenses: \$100

## Chapter 85, Historic District

## Building Inspector

\$300 per day per violation

Chapter 107, Marihuana **[Added 10-5-2009 OTM by Art. 16,  
approved 2-2-2010]**

## Article I, Public Consumption

\$300 each offense

## Chapter 110, Martin's Pond

§ 110-1, Use of personal motorized watercraft

1st offense: \$50

2nd offense: \$100

3rd and each subsequent offense: \$200

Chapter 128, Peace and Good Order

§ 128-2, Defacing property; posting notices.

\$100 each offense

Chapter 131, Peddlers, Solicitors and Transient Merchants

Article I, Peddlers and Solicitors

\$10 each offense

Chapter 139, Recreational Vehicles **[Added 10-7-2002 OTM by Art. 2, approved 12-30-2002]**

Police Department

1st offense: warning

2nd offense: \$50

3rd and subsequent offenses: \$100

Chapter 143, Secondhand Dealers and Pawnbrokers

\$200 per day - any violation

Chapter 149, Soil Removal

Building Inspector

1st offense: \$50

2nd offense: \$100

3rd and subsequent offenses: \$200

Chapter 152, Solid Waste

Article I, Junked Vehicles and Other Waste Material

Building Inspector

1st offense: warning

2nd offense: \$50

3rd offense: \$100

4th and subsequent offenses: \$200

Article II, Littering and Dumping

\$300 each offense

Article III, Recycling

\$25 any violation

Chapter 156, Stormwater Management **[Added 10-16-2006 OTM by Art. 3, approved 2-13-2007]**

Article I, Non-Stormwater Discharges

Dept. of Public Works Director, Employees, Officers or Agents

1st offense: written warning

2nd offense: \$50

3rd offense: \$100

4th and subsequent offenses: \$200

Article II, Construction and Post Construction Stormwater  
Management of New Developments and Redevelopments

Building Inspector

1st offense: written warning

2nd offense: \$50

3rd offense: \$100

4th and subsequent offenses: \$200

Chapter 158, Streets and Sidewalks

§ 158-1, Covering of vehicles

\$50 each offense

§ 158-9, Snow removal on streets and sidewalks **[Added  
10-7-2002 OTM by Art. 3, approved 12-30-2002]**

Police Department

1st offense: warning

2nd offense: \$50

3rd offense: \$100

§ 158-10, Utility poles **[Added 4-4-2002 ATM by Art. 8,  
approved 6-11-2002]**

Building Inspector

\$300 each offense

Chapter 163, Swimming Pools

Building Inspector

1st offense: \$25

2nd and subsequent offenses: \$50

Chapter 185, Vehicles, Recreational **[Added 10-6-2003 OTM by  
Art. 5, approved 11-12-2003]**

Article II, Restrictions on Use

Police Department

1st offense: warning

2nd offense: \$50

3rd and subsequent offenses: \$100

Chapter 191, Water

Article II, Water Supply Conservation

1st offense: \$50

Each subsequent offense: \$100

Chapter 196, Wetlands

Conservation Commission, Conservation Agent

1st offense: \$25

2nd offense: \$100

3rd and subsequent offenses: \$300

**§ 1-6. Disposition of fines and penalties. [Added 3-12-1973 STM by Art. 2, approved 10-11-1973]**

All fines and penalties for the violation of any of the provisions of these by-laws shall, when received, inure to the use of the Town and be paid into the Town treasury unless it be otherwise directed by the laws of the Commonwealth.

**§ 1-7. Prosecution of violations.**

Violations of these by-laws shall be prosecuted by the Chief of Police of the Town on his own initiative or on the order of the Selectmen. Any person who shall violate any of the provisions of these by-laws shall be subject to a fine for each offense in such sum as may be authorized by law.

**Chapter 5**  
**ADMINISTRATION**

**GENERAL REFERENCES**

**Emergency management — See Ch. 57.**

**Town Meeting — See Ch. 172.**

**Licenses and permits — See Ch. 104.**



ARTICLE I  
**General Provisions**

**§ 5-1. General powers of Selectmen.**

The Board of Selectmen shall have and exercise a general superintendence over all matters affecting the interests or welfare of the Town.

**§ 5-2. Claims and suits involving the town.**

- A. Settlement of claims. The Board of Selectmen shall have full authority as agents of the Town, after consultation with the Town Counsel, to settle any claims or suits against the Town which, in their judgment, cannot be successfully defended when the sum to be paid does not exceed the sum of one thousand (\$1,000) dollars.
- B. Prosecution of and defense against suits. The Board of Selectmen shall have full authority as agents of the Town, after consultation with the Town Counsel, to institute and prosecute any and all necessary suits and proceedings on behalf of the Town, and to appear and defend any and all suits and legal proceedings against or involving the interests of the Town.
- C. Annual report. The Selectmen, in their annual report, shall state what actions have been brought against and on behalf of the Town, what cases have been compromised or settled, and the current standing of all suits at law involving the Town or any of its interests.<sup>1</sup>

**§ 5-3. Traffic rules and orders.**

The authority to enact traffic rules and orders is delegated to the Board of Selectmen by virtue of Chapter 40, Section 22 of the General Laws.

**§ 5-4. Maintenance of regulations and bylaws.**

It shall be the duty of the Town Administrator to, at all times, maintain an up-to-date, complete, approved set of written rules and regulations for all departments, boards, committees, commissions, or offices having regulatory powers and an up-to-date, complete, approved set of the General By-laws, a copy of which shall be on file with the Town Clerk. Said copy shall be kept current, shall contain all revision and approval dates, and shall be available to the public for a fee to be set by the Board of Selectmen.<sup>2</sup>

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1. Editor's Note: Original Sec. 5.5, Building numbers, which immediately followed this section, was deleted 10-7-1993 OTM by Art. 3, approved 12-9-1993. See now Ch. 31, Buildings, Numbering of.

2. Editor's Note: Original Sec. 5.10, Sale of surplus town-owned property, which immediately followed this section, was deleted 10-16-1997 OTM by Art. 7, approved 1-29-1998. Original Sec. 5.11, Size of paper for correspondence, was deleted 10-8-1981 OTM by Art. 16, approved 3-2-1982.

**§ 5-5. Duties of all officers and boards.**

In addition to the duties fixed in these by-laws, all officers, boards, committees, and commissions shall have the duties imposed upon them by law by virtue of their office.

**§ 5-6. Mutual aid.<sup>3</sup>**

The police and fire departments are hereby authorized to go to the aid of another city or town at the request of said city or town.

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**3. Editor's Note: See also Ch. 57, Emergency management, § 57-4, Police aid to other cities and towns.**



ARTICLE II  
**Appointments**

**§ 5-7. Authority of Selectmen.**

- A. The Board of Selectmen shall make all necessary appointments as provided by charter or Town by-law or as deemed necessary by the Board of Selectmen for the conduct of business by the Town within sixty (60) days of the final session of the October Town Meeting, except as otherwise provided by the General Laws of the Commonwealth.
- B. This section not to be limiting upon the Board of Selectmen so as to prevent appointments when deemed necessary by the Board of Selectmen after the expiration of the sixty (60) day period as set forth above.

**§ 5-8. Notification of appointment. [Amended 10-8-1981 OTM by Art. 16, approved 3-2-1982]**

The appointing authority, upon making an appointment, shall immediately provide each newly appointed member with a written notification of his appointment, such notification to include the name of the board, committee, or commission, its function and responsibilities, and the names of its current members, and shall also notify the Town Clerk in writing of such appointments.

**§ 5-9. Posting of names.**

The Town Clerk shall post, in a prominent place in the Town Hall, a list showing the current members of all Town boards, committees, or commissions, elected or appointed.

**§ 5-10. Vacancies.**

- A. If a vacancy occurs on any board, committee, or commission created by the Town Meeting, such vacancy shall be filled by a majority vote of the Board of Selectmen and the committee involved, and they shall give notice in writing to the Town Clerk of such action, said notice to state the name and address of the new member or members.
- B. It shall be the duty of the Board of Selectmen to call the joint meeting for the purpose of filling the existing vacancy. Said meetings shall be convened within sixty (60) days of the vacancy, and said meetings shall be convened by the Board of Selectmen.



ARTICLE III  
**Committees, Boards and Commissions**

**§ 5-11. Officers.**

- A. The first member named to a committee, board, or commission is its chairman pro tem, and it is his duty to call together the committee, board, or commission and preside at meetings until the committee, board, or commission, by a majority of its number, elects a chairman, which it shall do unless the appointing authority has appointed a chairman.
- B. The committee, board, or commission, by a majority of its number, shall elect a secretary and other officers as it deems necessary.

**§ 5-12. Quorum.**

The quorum of a committee, board, or commission, shall be the majority of its existing members, unless the committee consists of twenty (20) members or more, in which case the committee, board, or commission shall vote to adopt a number, which may be a smaller number.

**§ 5-13. Conduct of meetings.**

- A. The committee, board, or commission will vote to adopt a schedule of meeting dates, such dates to be filed with the Town Clerk for posting in the Town Hall by the elected secretary.
- B. If the chairman is absent or, for any cause, fails or declines to call a meeting, the committee shall meet on the call of any two (2) of its members.
- C. The committee, board, or commission is able to act only if a quorum is present.
- D. If any member of the committee, board, or commission, by consistent absenteeism, interferes with the conduct of business, it shall be the duty of the chairman to notify the appointing authority.
- E. The precedence of motions as set forth in Chapter 172, Town Meeting, § 172-10 of these by-laws shall govern.
- F. Issuing of reports, procedures for the conduct of business, and all other rules not specifically mentioned in these by-laws shall be done in the manner described in Robert's Rules of Order.



ARTICLE IV  
**Records and Reports**

**§ 5-14. Meeting records; filing of reports.**

All committees, boards, commissions, or any other group or individual appointed by Town Meeting, Moderator, Board of Selectmen, or any other authorized appointing authority shall:

- A. Keep records of all meetings, such records to be a summary account of all proceedings conducted, including all votes taken, except as otherwise provided by charter. Such records shall be permanent records as required by the provisions of MGL c. 66, § 8. A copy of these records shall also be filed with the Town Clerk forthwith once approved and shall be maintained by said clerk for a period of five years, after which time the copies may be disposed of in accordance with and to the extent permitted by law, including all such copies of records currently maintained by the Town Clerk's office. This section shall not apply to budgetary deliberations of the Finance Committee. **[Amended 10-3-2011 OTM by Art. 27, approved 10-24-2011]**
- B. Prior to dissolution, file a final report with the Town Clerk, the Board of Selectmen, and the Town Administrator for inclusion in the Town's annual report.
- C. In the event that the committee, board, or commission is a continuing one, file a report each year to be published in the annual Town report. Such report shall be submitted to the Town Administrator on or before the third Monday in January.

**§ 5-15. Acceptance of reports.**

A vote to accept a report of any committee, board, or commission, or the publication of said report in the annual Town report, shall not be considered as an adoption or approval of any recommendations included in said report without the expressed vote duly passed by Town Meeting to that effect.

**§ 5-16. Transfer of records.**

In the event that the person holding the position of secretary to a committee, board, or commission is changed, the outgoing secretary shall place all records in her care in the custody of the Town Clerk for transfer to the incoming secretary.

**§ 5-17. Annual reports. [Amended 10-3-2011 OTM by Art. 28, approved 10-24-2011]**

The annual printed reports of the officers of the Town shall be made and published by the Board of Selectmen. These shall include reports of all town officers and others, committees, boards, commissions, and trustees. Report of the Town Clerk shall contain a copy of his record of all Town Meetings

held since publication of the last annual report. Town Accountant's report shall show all monies received into and paid out of the town treasury in the preceding fiscal year, by appropriation category and salaries in summary form. The accountant shall also report all other matters as are required by law to be contained therein or as may be requested by the Board of Selectmen under the discretion granted them by law. Such report shall be completed and copies readied for distribution at the office of the Town Clerk and such other places as may be designated by the Board of Selectmen by April 1 annually.

ARTICLE V  
**Town Counsel**

**§ 5-18. Appointment and removal.**

- A. Appointment. The Board of Selectmen shall annually, in the month of June, appoint a Town Counsel who shall be an attorney- and counselor-at-law. He shall hold office for the term of one (1) year from the first day of July following and until his successor is appointed and qualified.
- B. Removal. The Board of Selectmen shall have the power to remove the Town Counsel at any time if, in their judgment, the interests of the Town so require; and, in the case of a vacancy in the office, the Board of Selectmen shall fill the same by a new appointment.

**§ 5-19. Powers and duties.**

- A. General. The Town Counsel shall act as the legal advisor of the Town, except in cases in which the Town Meeting or Board of Selectmen may authorize or require him to secure the advice or services of additional counsel.
- B. Legal instruments. It shall be the duty of the Town Counsel to examine or cause to be examined all titles to property in which the Town may acquire an interest; to draft all deeds, obligations, contracts, bonds, leases, conveyances, agreements, and other legal instruments of whatever nature which may be required by any by-law, vote, or action of the Town or any board, committee or commission, or officer to which the Town or its agents may be a party, and which, by law, usage, or agreement, the Town is to be at the expense of drawing. All votes for the laying out, discontinuance, change, or improvement of streets or ways, for the taking lands for any municipal purposes whatever, for the assessment of betterments, and all other forms of assessment, shall be drawn by him or under his direction and approval.

**§ 5-20. Employment of other counsel. [Amended 10-17-1977 OTM by Art. 14, approved 2-28-1978]**

No Town officer or an elected or appointed board, committee, or commission, except the School Committee, shall retain for any monetary consideration the services of any attorney- or counselor-at-law other than the Town Counsel with regard to any Town business, provided, nevertheless, that by a majority vote of the Board of Selectmen or a majority vote of a Town Meeting, other counsel may be provided for any Town officer or board, committee, or commission requesting the same.<sup>4</sup>

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4. Editor's Note: Original Sec. 6.6, Expenditures exceeding \$4,000, which immediately followed this section, as amended 4-22-1974 ATM by Art. 34, approved 5-24-1974; 11-6-1978 ATM by Art. 24, approved 2-6-1979; and 4-7-1983 ATM by Art. 14, approved 5-5-1983, was deleted 10-1-1990 OTM by Art. 4, approved 12-18-1990, and 10-16-1997 OTM by Art. 11, approved 1-29-1998.





ARTICLE VI  
**Contracts**

**§ 5-21. Bond required for certain contracts.**

Every contract for construction work, whether for alterations, repairs, or original construction, the estimated cost of which amounts to two thousand (\$2,000) dollars or more shall be accompanied by a suitable bond for the performance of the same, or by deposit of money or security to the amount of the estimated cost.

**§ 5-22. Division of contracts.**

No bill, contract, or lease shall be split or divided for the purpose of evading any provision of this chapter.

**§ 5-23. Payment by private persons.**

- A. No board, committee, commission, or officer having charge of any work or services, the payment for which is in any part to be contributed by private persons, shall perform such work or services until a sum has been deposited with the Town Treasurer based upon estimates made in writing by the committee or officer in charge sufficient to cover the payment of that portion of work or services chargeable to such private persons. The Town Treasurer shall issue a receipt for the amount deposited which shall be presented to the committee or officer in charge before such work or services may begin.
- B. This by-law may be waived when the nature of the work or service makes advance payment impossible, such as emergency services, including ambulance service and emergency water repairs, or for a continuing service such as water supply.



ARTICLE VII  
**Town Property<sup>5</sup>**

**§ 5-24. Listing of town-owned land.**

- A. The Board of Selectmen shall annually make a written report to the citizens of the Town of all Town-owned land in the annual Town report, said report to indicate the general location and approximate area of all parcels together with the primary use of the named parcels at the time of the report.
- B. In the case of land acquired by the Town in lieu of taxes, such land shall be so designated as tax title land, together with its approximate location and area.
- C. When a parcel of land is under the control or supervision of a board, committee, or commission, or anyone other than the Board of Selectmen, this too shall become a part of the listings.
- D. The listing shall also include description and disposition of land acquired and sold since the time of last report, as well as all parcels owned at the time of and sold since the time of last report.

**§ 5-25. Sale of land. [Amended 4-23-1979 ATM by Art. 21, approved 5-18-1979; 10-8-1981 OTM by Art. 16, approved 3-2-1982; 10-5-1992 OTM by Art. 9, approved 1-6-1993]**

- A. Requests to sell land. Upon the written request of any person made to the Board of Selectmen that the Town consider disposing of specific parcel(s) of land owned by the Town, the Board shall cause an evaluation of the Town's need for the subject land to be made as set forth in Subsection B; and based on that evaluation, the Board shall determine whether the land is to be retained or sold. Such written request shall state the use the requesting party intends for the land.
- B. Municipal review. Prior to the Board of Selectmen making a determination as set forth in Subsection A, an information file shall be prepared which shall contain a complete description of the land, the fair market value of the land and a list of unpaid taxes and liens, if any. The information shall be distributed to the Community Planning and Conservation Commissions, the School, Finance, Recreation and Housing Partnership Committees, the Housing Authority and any then current committees whose charges relate to use of town-owned land. When a municipal use is not foreseen by any of the designated commissions or committees within forty-five (45) days, the Board of Selectmen may then proceed to determine whether the land will be retained or sold.

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5. Editor's Note: For provisions on excavations and digging on town-owned land see Ch. 62, § 62-2.

- C. Notice of sale. In addition to the public notice requirements of applicable law, notice of intention to sell Town-owned land shall be published for at least (2) consecutive weeks in a newspaper having circulation within the Town. Said notice shall include a description of the land and its location, together with the date, time, place and method of sale. A copy of the published notice shall be sent via certified mail to all abutters within seven (7) days of the first publication of the newspaper notice.

**§ 5-26. Acceptance of land.**

The Selectmen may accept, from time to time on behalf of the Town, gifts of land for any purpose, provided such gift is made by a good and sufficient deed executed by the donor in proper form to be recorded in the Registry of Deeds.

**§ 5-27. Naming of public properties. [Added 10-6-1997 OTM by Art. 12, approved 1-29-1998]**

Approval by Town Meeting shall be required to designate town owned real properties by name including, but not limited to: buildings, rooms, parts of buildings, paths, bridges, athletic facilities, playgrounds, street intersections, squares, parks, walkways, and cemeteries.

**Chapter 11**

**ALARM SYSTEMS**



## ARTICLE I

**Fire or Medical Aid Alarms****[Adopted 10-3-1988 OTM by Art. 7, approved 11-7-1988]****§ 11-1. Applicability.**

The following rules and regulations shall apply to the installation, operation, and maintenance of fire and/or medical aid alarm systems.

**§ 11-2. Scope.**

Fire and/or medical aid alarm systems shall include systems connected to fire headquarters by the municipal fire alarm circuit, direct wire, or on a telephone dial-up basis and systems which use exterior audible signals at the alarm location.

**§ 11-3. Authority.**

Massachusetts General Laws Chapter 148, Sections 26A to 26H require the installation of alarm systems in certain buildings and place responsibility for the enforcement of these provisions with the Fire Chief. This by-law is adopted to establish uniform rules and regulations and to implement a schedule of fees for the installation, operation, and maintenance of said alarm systems.

**§ 11-4. Installation.**

- A. Any current or future alarm user may contract with an alarm company of their choice for the purchase, lease, installation, and servicing of an alarm system on their premises.
- B. No alarm system or equipment shall be connected to the Fire Department Dispatch Center without prior written approval of the Fire Chief. This approval requirement shall include municipal connection, direct wire, and dial-up services.
- C. The only types of systems which will be allowed to connect to the Fire Department Dispatch Center will be systems which utilize telephone dialers equipped with digital transmitters or connection via the municipal fire alarm circuits, or such other types deemed compatible with the Fire Department Dispatch Center alarm console.
  - (1) Existing telephone dialers using voice-type tape recorders, which are not compatible with the alarm console, may continue to use the special alarm number set up only for this purpose for a period not exceeding one (1) year from the effective date of this by-law. No equipment as described in this Subsection C(1) shall use the primary fire reporting telephone number. New applicants for voice-type tape systems will not be approved.

- D. Actual connection to the Fire Department's alarm console will be made by the Town's designated alarm contractor or Fire Alarm Division personnel. Alarm users will be required to pay the alarm contractor for this service as set forth in a contract between the contractor and the alarm user.
- E. Fire alarm users shall, on or before July 1st of each year, remit to the Town Treasurer a connection fee of three hundred dollars (\$300) for each master box connection to the North Reading Fire Department receiving equipment. **[Added 10-1-1990 OTM by Art. 12, approved 12-18-1990; amended 4-7-2003 ATM by Art. 8, approved 4-25-2003]**
- F. The Town accepts no liability whatsoever for conditions which prevent proper reception of signals from the user's premises.

#### **§ 11-5. Regulations.**

- A. Each alarm user shall submit to the Fire Chief the names, addresses, and telephone numbers of three (3) persons who can be reached at any time, day or night, who are authorized to gain access to the protected premises for the purposes of silencing and resetting the alarm system. It shall be the alarm user's responsibility to keep this information up-to-date. Each control panel shall have located inside its door the above information and also the name of the company and phone numbers of the company which currently services the system.
- B. Written instructions for resetting the control panel shall be clearly visible on the control panel. Permission to attempt a system reset must be on file with the Fire Department if user wishes the Fire Department to reset control unit. If after three (3) attempts a system will not reset the zone or if necessary, the system shall be left not restored. In this event attempts shall be made to contact the parties from data given by the user. The Town assumes no liability for the inability to contact listed persons.
- C. This regulation shall apply to all alarm systems, i.e., those connected to the Fire Department Dispatch Center and those equipped with exterior audible signal devices.
  - (1) Any building other than a residential building of less than six (6) units which has a fire alarm system or other fire protection system shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be a type approved by the Chief of the Fire Department and shall be located and installed as approved by the Chief.



- (2) All premises shall have their legal street number clearly visible as per existing Town by-law prior to connection of alarm to the Fire Department Dispatch Center.
- D. All alarm users must notify the Dispatch Center in advance of any testing of equipment. Failure to do so may constitute a false alarm and therefore be subject to fee assessment.
- E. Any direct wire user who has multiple purpose alarms i.e., fire or medical aid or any combination thereof, must provide for individual multiple alarm connections to the Fire Department Dispatch Center as required.
- F. False alarms.
- (1) Alarm systems which generate false alarms in any twelve (12) month period shall be subject to assessment as follows: (12 month period is a fiscal year - July 1 to June 30)

**Fire Alarm and Emergency Medical Systems**

|        |           |            |
|--------|-----------|------------|
| Step 1 | 1 thru 3  | None       |
| Step 2 | 4 thru 5  | \$150 each |
| Step 3 | 6 or more | \$300 each |

- (2) (2) Definition of false alarm - The activation of an alarm system due to mechanical failure, malfunctioning equipment, improper installation, or negligence of the user of the alarm system or his employees or agents. Excluded from this definition are activations of alarm systems caused by utility company power outages, communication receiving equipment problems at Fire Headquarters, or other acts of nature beyond the control of the alarm user. False alarms shall include, but not be limited to, the following situations:
- (a) The continued activations of alarms resulting from any condition where no effective effort is made to correct the condition;
- (b) Detection devices reacting to a condition such as smoke, steam, etc., where such occurrences are continuous with no corrective action taken; and
- (c) Detection devices reacting to a condition such as dirt, dust, or any other debris or material resulting from the failure of the owner to properly maintain and clean the system.
- (3) The obligations of owners for the proper maintenance of their systems shall be as set forth in 527 CMR 24.08, which is incorporated herein by reference.
- G. Alarm users who cannot produce a valid service agreement for the protected property shall pay an additional fifty (\$50) dollars fee per

step. It is the intent of this section to have systems maintained on a regular basis annually.

- (1) False alarms caused by faulty telephone service, electrical storms, or power outages will be excluded from assessment. False alarms received during the first thirty (30) days of connection shall be discounted, provided no malicious intent has occurred and every attempt has been made to rectify new installation defects.
- (2) Determination that a false alarm has been transmitted will be the responsibility of the Fire Chief or his duly appointed duty officer. Malicious false alarms shall be excluded, provided the alarm systems owner actively discourages these types of alarms through education and installation of deterrent devices specifically designed for these purposes as requested by the Fire Chief.
- (3) Payments of assessment will be to the Town Treasurer.
- (4) Upon failure of an alarm user to pay two (2) consecutive fees assessed within sixty (60) days of the assessment, the Fire Chief shall order the alarm user to discontinue the use of the alarm system for not more than six (6) months. Recovery of funds through court proceedings.
- (5) Town, county, and state agencies are exempt from the provisions of the assessment schedule.

**§ 11-6. Violations and penalties. [Amended 10-2-1989 ATM by Art. 9, approved 12-7-1989]**

The following acts and omissions shall constitute a violation of these regulations and shall be punishable as follows: by a fine of not less than fifty (\$50) dollars for the first offense, one hundred (\$100) dollars for the second offense, and two hundred (\$200) dollars for the third and subsequent offenses.

- A. Failure to follow a written order issued by the Fire Chief to disconnect a fire alarm system from the municipal box or to disable telephone dialer arranged to dial the digital alarm console or the special alarm telephone numbers.
- B. Provision after the effective date of these regulations of a telephone dialing device arranged to dial a Fire Department Dispatch Center number.
- C. Failure to disconnect, after notification, an unauthorized telephone dialing device arranged to dial the Fire Dispatch Center number.
- D. Failure to pay two (2) or more consecutive fees assessed under § 11-5F of these regulations within sixty (60) days from the date of the second assessment.

- E. Failure to comply with the requirements set forth in §§ 11-4 and 11-5 of these regulations.
- F. Continued transmission of false alarms caused by the user's negligence or system malfunctions on the user premises which is under the user's control and where no effective effort is made to correct the condition.

**§ 11-7. Appeals.**

An alarm user wishing to appeal a decision of the Fire Chief pursuant to § 11-5F of these regulations may, within fifteen (15) calendar days of the fee assessment, request in writing a hearing with the Board of Selectmen.



## ARTICLE II

**Alarms to Police Department****[Adopted 4-24-1989 ATM by Art. 25, approved 6-20-1989]****§ 11-8. Applicability.**

The following rules and regulations shall apply to the installation, operation, and maintenance of alarm systems calling for a Police Department response.

**§ 11-9. Findings; purpose.**

It has been determined that the number of false alarms being made to the Police Department hinders the efficiency of said Department, lowers the morale of Department personnel, constitutes a danger to the general public in the streets during responses to false alarms, and jeopardizes the response of volunteers, and that the adoption of this by-law will reduce the number of false alarms and promote the responsible use of alarm devices within the Town of North Reading.

**§ 11-10. Definitions.**

For the purposes of these rules and regulations, the words and phrases used herein shall have the following meaning except in those instances where the context clearly indicates a different meaning. The word "shall" is always mandatory and not merely directory.

**ALARM DEVICE —**

- A. Any device which, when activated by a criminal act, fire, or other emergency calling for Police Department response:
  - (1) Transmits a signal to Police Headquarters;
  - (2) Transmits a signal to a person who relays the information to Police Headquarters; or
  - (3) Produces an audible or visible signal to which the Police Department is expected to respond.
- B. Excluded from this definition and the scope of this by-law are devices which are designated to alert or signal only employees within the premises in which the device is installed.

**ALARM USER —** The term alarm user or user means any person on whose premises the alarm system is maintained within the Town except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this section are central station personnel and persons who use alarm devices to alert or signal persons within the premises in which the alarm device is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or a beacon

designed to signal persons outside the premises, such system shall be within the definition of alarm device as that term is used in this section and shall be subject to this by-law.

**AUTOMATIC DIALING DEVICE** — The term automatic dialing device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

**CENTRAL STATION** — The term central station means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits, or where guards are maintained continuously to investigate signals.

**CHIEF OF POLICE** — The term Chief of Police means the Chief of Police of the Town of North Reading or his designated representative.

**COMMUNICATIONS CONSOLE** — The term communications console means the instrumentation on an alarm console at the receiving terminal of a signal line which, through either visual or audible signals, indicates activation of an alarm system at a particular location or which indicates line trouble.

**DIRECT CONNECT** — The term direct connect means an alarm system which has the capability of transmitting system signals to and receiving them at the North Reading Police Department.

**DISTURBANCE OF THE PEACE** — Disturbance of the peace shall mean any interruption of the peace, quiet, and good order of a neighborhood or community, particularly by unnecessary and distracting noises.

**FALSE ALARMS** —

A. The term false alarm means:

- (1) The 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 or attempted unauthorized intrusion into a premises and no robbery or attempted robbery or burglary or attempted burglary at a premises.

B. Excluded from this definition are activations of alarm systems caused by utility company power outages, communications console problems, electrical storms, or other acts of nature beyond the control of the alarm user.

**INTERCONNECT** — The term interconnect means to connect an alarm system to a regular telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the

telephone line to transmit an emergency message upon the activation of the alarm system.

**POLICE or POLICE DEPARTMENT** — The terms police or Police Department shall mean the Town of North Reading Police Department or any authorized agent thereof.

**§ 11-11. Administrative rules.**

- A. The Chief of Police may promulgate such rules as may be necessary for the implementation of this by-law.
- B. Alarms signaling the presence of medical emergencies may, with the prior written approval of the Chief of Police, be connected to the alarm console or received over the special telephone lines provided by the alarm console contractor.
- C. Fire and/or smoke alarm systems, after sending the initial call directly to the fire station, may, with the prior written approval of the Chief of Police, send a backup call to the Police Station over the special telephone lines provided by the alarm console contractor.

**§ 11-12. Direct connections.**

- A. Alarm systems may be connected to the communications console in the Police Department in compliance with the following:
  - (1) Prospective alarm users who want to connect an alarm system to the North Reading Station shall apply in writing to the Chief of Police for such permission.
  - (2) At such times as these rules and regulations become effective, alarm users who wish to continue the connection of their alarm systems to the North Reading Police Station shall apply in writing to the Police Department for such permission within three (3) months after such effective date.
  - (3) New owners or occupants of premises having alarm systems connected to the North Reading Police Station and who wish to continue the connection shall apply in writing to the Police Department for such permission within one (1) month of taking ownership or occupancy.
  - (4) The Chief of Police may deny an application to connect an alarm system to the North Reading Police Station for the following reasons:
    - (a) The system or user fails to comply with these rules and regulations; and
    - (b) Other reasonable cause affecting adversely the functioning of the total system or its parts.

- (5) The following information shall be provided to the Police Department regarding each alarm system connected to the Police Station:
  - (a) Name, address, and telephone number of the applicant alarm user;
  - (b) Type of alarm system;
  - (c) Names, addresses, and telephone numbers (home and business) of at least three (3) persons who can be reached any time, day or night, and who are able to enter the premises where the alarm is located, either to turn off the alarm or reset it; and
  - (d) Name, address, and telephone number of the installing alarm company.
- (6) Alarm systems may be connected to the North Reading Police Station in one of the following ways:
  - (a) Directly to the privately owned console or signal panel; and
  - (b) Indirectly by use of an automatic dialing device connected to the special telephone lines provided by the alarm console contractor for this purpose.
- B. The alarm user or his alarm company representative must arrange for the necessary tie in arrangements directly with the contractor who is responsible for the privately owned console and special telephone lines in the Police Station.
- C. All fees and charges related to services rendered to users by alarm companies or the police console contractor shall be set forth in the form of a written agreement between the alarm user and the parties providing the service. All such fees and charges shall be without cost to the Town of North Reading.
- D. Any alarm user may contract with any alarm company of his or her choice for the sale, installation, and/or servicing of the alarm system to be installed on his or her premises.
- E. No alarm system designed to transmit emergency messages directly to the Police Department shall be worked on, tested, or demonstrated without obtaining the permission of the Chief of Police. An unauthorized test constitutes a false alarm.
- (1) Any repair or test of private alarm systems that requires over twenty minutes to complete will require an employee of the company performing the repair or test to be in the North Reading Police Station to reset the alarm until such time as the alarm is repaired or disconnected.



- F. Tests of any system may be conducted with the express permission of the Chief of Police or his designated representative having first been applied for and received.
- G. The provisions of this by-law concerning false alarms shall apply to all alarm users or persons having direct connect systems, except municipal or other governmental agencies.

**§ 11-13. Automatic dialing devices.**

- A. No automatic dialing devices shall be connected to the Police Department telephone lines after the effective date of this by-law.
- B. Within three (3) months of the effective date of this by-law all automatic dialing devices now interconnected to any Police Department telephone lines shall be disconnected therefrom. The user of each such device shall be responsible for having the device disconnected upon notification by the Chief of Police.

**§ 11-14. Control and curtailment of signals.**

- A. Persons authorized to respond to alarms; required equipment; complaints.
  - (1) Every alarm user shall submit to the Chief of Police the names, addresses, and telephone numbers of at least three (3) other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the system is installed.
  - (2) All new or upgraded alarm systems shall be equipped with a device which will give at least a ten-second audible signal prior to alarm system activation in order to warn the alarm user of an open alarm circuit.
  - (3) Within six (6) months from the effective date of these rules and regulations, all alarm systems which use an audible horn or bell shall be equipped with a device which will shut off such horn or bell ten (10) minutes after activation of the alarm system.
  - (4) All alarm systems installed after the effective date of these rules and regulations which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within ten (10) minutes after activation of the alarm system.
  - (5) Any alarm system emitting a continuous uninterrupted signal for more than thirty (30) minutes 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(1) of this section and which interrupts the peace, comfort, or repose of a neighborhood or of inhabitants of the area where the alarm system

is located shall constitute a disturbance of the peace. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Chief of Police 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(1) of this section in an effort to abate the disturbance. The Chief of Police shall cause to be recorded the names, addresses, and telephone numbers of all complainants, and the time and date each complaint was made.

B. Action to abate disturbance; hearing.

- (1) In the event that the Chief of Police is unable to contact the alarm user or members of the alarm user's family or those persons designated by the alarm user under Subsection A(1) of this section or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system and if the Chief of Police is otherwise unable to abate the disturbance, he may direct a police officer or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the disturbance.
- (2) If entry upon property outside the home or building in which the alarm system is located is made in accordance with this section, the person entering upon such property:
  - (a) Shall not conduct, engage in, or undertake any search, seizure, inspection, or investigation while he or she is upon the property;
  - (b) Shall not cause any unnecessary damage to the alarm system or to any part of the home or building;
  - (c) Shall leave the property immediately after the audible signal has ceased.
- (3) After an entry has been made in accordance with this section, the Chief of Police shall have the property secured, if necessary, and a report of the action taken recorded. The reasonable costs and expenses of abating the disturbance in accordance with this section may be assessed to the alarm user, said assessment not to exceed one hundred (\$100) dollars.
- (4) Within ten (10) days after abatement of a disturbance in accordance with this section, the alarm user may request a hearing before the Board of Selectmen of North Reading and may present evidence showing that the signal emitted by his or her alarm system did not constitute a disturbance of the peace at the time of the abatement; that unnecessary damage was caused to his or her property in the course of the abatement; that the costs of the abatement should not be assessed to him or her; or that the requirements of this section were not fulfilled. The Board of

Selectmen shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to his property necessitated by the abatement, or excuse the alarm user from paying the costs of the abatement.

**§ 11-15. False alarms; cost assessment schedule.**

- A. After the Police Department has recorded three (3) separate false alarms within a twelve (12) month period from an alarm system, the Chief of Police shall notify the alarm user, in writing and by certified mail, of such fact and require said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If said user, because of absence from the Town or on any other reasonable basis, requests an extension of time for filing the report, the Chief of Police may extend the fifteen (15) day period for a reasonable period. If said user fails to submit such a report within fifteen (15) days or within such extended period, the Chief of Police shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Chief of Police's order.
- B. In the event that the Chief of Police determines that a report submitted in accordance with Subsection A of this section is unsatisfactory or that the alarm user has failed to show by the report that he or she has taken or will take reasonable steps to eliminate or reduce false alarms, then the Chief of Police shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Chief of Police's order.
- C. Any user of an alarm system which transmits repeated false alarm signals, whether or not because of the fault of the user, shall be responsible for the expense sustained by the Town, and specifically its safety departments, in responding to such alarm and/or taking the steps necessary to ascertain the nature of the alarm and temporarily to correct the situation. For each false alarm in excess of three (3) occurring within a twelve (12) month period, from midnight on the date of the first alarm, the user shall be responsible to pay the Town the sum of fifty (\$50) dollars, which amount has been determined to be a reasonable assessment for dealing with a false alarm. The cost amount so assessed shall be subject to change by the Chief of Police, with Board of Selectmen approval, depending on an increase or decrease in the constituent expenses upon which the assessment is based.
- D. All assessments hereunder shall be made payable to the Town Treasurer for deposit in the General Fund.
- E. Upon failure of the user of an alarm system to pay two (2) consecutive assessments hereunder within sixty (60) days of each assessment, notice of which has been given by first class mail to the user's last known address, the Chief of Police shall order that the user discontinue

use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Chief of Police's order, which shall be given by delivery in hand or certified mail.

- F. Any user of an alarm system who has, in accordance with this section, been ordered by the Chief of Police to discontinue use of an alarm system may appeal the order of discontinuance to the Board of Selectmen. Notice of an appeal shall be filed with the Board within fifteen (15) days of the date of the order of discontinuance. Thereafter, the Board of Selectmen shall consider the merits of the appeal and, in connection therewith, shall hear evidence presented by all interested persons. After hearing such evidence the Board of Selectmen may affirm, vacate, or modify the order of discontinuance.

**§ 11-16. Violations and penalties.**

Violations of these rules and regulations shall constitute violations of the by-laws of the Town of North Reading and shall be punishable by a fine of up to fifty (\$50) dollars. Each day during which the aforesaid violations continue shall constitute a separate offense.

**Chapter 14****ALCOHOLIC BEVERAGES****§ 14-1. Consumption on public property; possession of open containers.**

No person shall drink from or be in possession of an unsealed or open container of alcoholic beverage or offer alcoholic beverage to the public as defined in Chapter 138, Section 1 of the Massachusetts General Laws while on, in, or upon any public way or public building or upon any way or building to which the public has a right of access or in any place, way, or building to which members of the public have access as invitees or licensees or in any park or playground or school grounds or on private land. All alcoholic beverages being used in violation of this Town by-law shall be seized and safely held for trial before the Court, at which time they shall be returned to the person entitled to lawful possession. Whoever violates this Town bylaw shall be subject to a fine of fifty (\$50) dollars for each offense.

**§ 14-2. Applicability.**

Notwithstanding anything in the foregoing to the contrary, this bylaw shall not apply to any premises or land as to which a current and effective license for the consumption and/or service of alcohol has been issued by the licensing authority under General Laws Chapter 138. In addition, the foregoing bylaw shall not apply to the consumption and/or service of alcoholic beverages in private residences or upon private land to which the public does not have a right of access.

**Chapter 18****AMBULANCE SERVICE****GENERAL REFERENCES**

**Numbering of buildings — See Ch. 31.**

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**§ 18-1. Rate schedule.**

- A. The Board of Selectmen is authorized to establish a schedule of rates to be charged to patrons of ambulance service furnished by the Town. A rate schedule for ambulance service shall be posted in a prominent place in the fire station.
- B. The Board of Selectmen may, from time to time, review said rates and establish a new rate schedule. Such rate revisions shall become effective thirty (30) days after public notice in a newspaper having circulation within the Town.

**§ 18-2. Billing procedure.**

The Town Administrator shall be responsible for establishing the billing procedure for ambulance service. Fees levied for ambulance service shall be payable to the Town Collector. When deemed in the best interests of the Town, fees may be abated by a majority vote of the Board of Selectmen.

**Chapter 23****ANIMALS**

## ARTICLE I

**Dogs****[Adopted 3-28-1966 ATM by Art. 19, approved 4-22-1966]**

**§ 23-1. License fee; exemption for certain dogs; refunds. [Amended 10-8-1981 OTM by Art. 16, approved 3-2-1982; 10-9-1986 OTM by Art. 5, approved 11-4-1986; 10-4-1999 OTM by Art. 9, approved 12-14-1999]**

- A. The annual fee for every dog license shall be in accordance with the Town Clerk's Office fee schedule as established under authority of MGL c. 40, § 22F. If said fee schedule specifies a lesser fee for a neutered or spayed dog, then the certificate of a registered veterinarian who performed an operation that such dog has been neutered or spayed and has thereby been deprived of the power of propagation shall be required. If the Town Clerk is satisfied that the certificate of the veterinarian who performed such operation cannot be obtained, he may accept in lieu thereof a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth, describing the dog and stating that he has examined such dog, and that it appears to have been, and in his opinion has been, neutered or spayed and thereby deprived of the power of propagation, or a receipt of a bill from the veterinarian who performed such operation. **[Amended 10-4-2010 OTM by Art. 23, approved 11-17-2010]**
- B. No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided that the Massachusetts Commission for the Blind certifies that such dog is so trained and actually in the service of a blind person. No fee shall be charged for a license for a dog professionally trained in the hearing dog business to serve a deaf person; provided that the Director of the Office of Deafness certifies that such dog is so trained and actually in the service of the deaf person. No license, fee, or part thereof shall be refunded because of the subsequent death, loss, sterilization, removal from the Commonwealth, or other disposal of any licensed dog; nor shall any license fee or part thereof paid by mistake be paid or recovered back after it has been paid to the Town.

**§ 23-2. License period; late charges. [Added 10-2-1978 OTM by Art. 7, approved 12-28-1978; amended 4-4-1983 ATM by Art. 7, approved 5-5-1983; 10-9-1986 OTM by Art. 6, approved 11-4-1986; 6-6-2011 ATM by Art. 28, approved 9-13-2011]**

The licensing period for dogs is January 1 through December 31 annually. All dogs over the age of three (3) months must be licensed by March 31. A late charge, in addition to the cost of the license, will be assessed to all renewal dog licenses issued after March 31, in accordance with the Town Clerk's Office fee schedule.

**§ 23-3. Vaccination against rabies required. [Added 10-17-1977 OTM by Art. 23, approved 2-28-1978]**

- A. The owner or keeper of a dog at least three (3) and no more than six (6) months of age shall cause that dog to be vaccinated against rabies by a veterinarian using a vaccine approved by the Department of Public Health. Whoever violates this section shall be fined fifty (\$50) dollars for each offense. **[Amended 10-2-1989 OTM by Art. 9, approved 12-7-1989]**
- B. Upon vaccinating, the veterinarian shall prepare three (3) copies of a form which shall specify the name of the owner or keeper of the dog and the name, registered number, license number, and description of the dog. He shall mail one copy to the Clerk of the Town in which the dog is kept. He shall present one copy to the owner or keeper of the dog. **[Amended 10-2-2000 ATM by Art. 4, approved 3-29-2001]**

**§ 23-4. License conditions. [Added 10-17-1977 OTM by Art. 23, approved 2-28-1978]**

- A. As prior conditions of licensure, the owner or keeper of the dog to be licensed shall:
  - (1) Agree to control and restrain said dog from killing, chasing, or harassing livestock or fowl;
  - (2) Present written certification by a veterinarian that said dog has been vaccinated against rabies within a time period as established by the Board of Health, and using a vaccine approved by the Department of Public Health; and
  - (3) Cause said dog to wear around its neck or body a collar or harness of leather or other suitable material to which he shall securely attach the tag issued to him.
- B. The owner of any dog so licensed may add no more than ten (10) descriptive words upon the license form to indicate the color, breed, weight, and special markings of the dog. Substitute tags shall be secured by the owner or keeper at a cost of one (\$1) dollar in the event any tag is lost, defaced, or destroyed.

**§ 23-5. Disturbing the peace.**

No person shall own or keep in the Town any dog which, by biting, excessive barking, howling, or in any other manner, disturbs the quiet of the public.

**§ 23-6. Complaint of nuisance. [Amended 10-2-2000 ATM by Art. 4, approved 3-29-2001]**

If any person shall make a complaint in writing to the Animal Control Officer that any dog owned or harbored within his jurisdiction is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the



Animal Control Officer shall investigate such complaint, which may include an examination under oath of the complainant, and submit a written report to the Selectmen of his findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complainant under oath, the Selectmen may make such order concerning the restraint, muzzling, or disposal of such dog as may be deemed necessary. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable the Selectmen to issue their order following receipt of the report of the Animal Control Officer. If the Selectmen fail to act during the period of the interim order, upon expiration of the period the interim order automatically is vacated.

**§ 23-7. Restraint or muzzling. [Amended 10-2-2000 ATM by Art. 4, approved 3-29-2001]**

- A. The Animal Control Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen (14) days, any dog for any of the following reasons:
- (1) For having bitten any person;
  - (2) If found at large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect;
  - (3) If found in a school, schoolyard, or public recreational area;
  - (4) For having killed or maimed or otherwise damaged any other domesticated animal;
  - (5) For chasing any vehicle upon any public way or way open to public travel in the Town;
  - (6) For any violation of § 23-5.
- B. Upon restraining or muzzling or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit, in writing to the Selectmen, a report of his action and the reasons therefor. Upon receipt of such report, the Selectmen may make such order concerning the restraint, muzzling, or disposal of such dog as may be deemed necessary. If the Selectmen fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period the interim order is automatically vacated.

**§ 23-8. Appeal of restraint or muzzling. [Amended 10-2-2000 ATM by Art. 4, approved 3-29-2001]**

The owner or keeper of any dog that has been ordered to be restrained or muzzled or has been restrained under this article may file a request in writing with the Animal Control Officer that the restraining order be vacated or that the dog be released; and after investigation by the Animal Control Officer, such Officer may vacate such order or release such dog if

the order or restraint was imposed by him. If the order was imposed by the Selectmen, the Animal Control Officer shall submit a written report of his investigation with his recommendations to the Selectmen, who may vacate such order.

**§ 23-9. Violations and penalties. [Amended 10-5-1987 ATM by Art. 5, approved 11-16-1987; 10-2-1989 ATM by Art. 9, approved 12-7-1989; 10-5-1998 ATM by Art. 12, approved 1-27-1999; 10-2-2000 ATM by Art. 4, approved 3-29-2001]**

Any owner or keeper of a dog who shall fail to comply with any order of the Animal Control Officer or Selectmen issued pursuant to this article shall be punishable by a fine of twenty-five (\$25) dollars for the first offense and \$50 for second and subsequent offenses.

**§ 23-10. Leash law. [Added 5-3-1971 ATM by Art. 38, approved 6-11-1971]**

- A. No person owning or keeping a dog in the Town of North Reading shall allow, permit, or suffer such dog to go or run at large in the Town without such dog being on a leash and under the control of said owner or keeper. Reports of all violations of this section shall be made to the Police Department, where a record of such violations shall be kept on file. Violations of this section shall be subject to a written warning for the first offense, a fine of twenty-five (\$25) dollars for the second offense and a fine of \$50 for subsequent offenses. **[Amended 10-5-1987 ATM by Art. 6, approved 11-16-1987; 10-2-1989 ATM by Art. 9, approved 12-7-1989; 10-5-1998 ATM by Art. 12, approved 1-27-1999]**
- B. Prior to the assessment of the aforementioned fine, reported violations of this section shall be investigated and validated by the Town's Animal Control Officer and/or the Police Department. **[Amended 10-2-2000 ATM by Art. 4, approved 3-29-2001]**
- C. The Animal Control Officer and/or the Police Department may waive prosecution under this section if, within twelve (12) months of said warning, no addition violation of this section has been recorded against the owner or keeper. **[Amended 10-2-2000 ATM by Art. 4, approved 3-29-2001]**

**§ 23-11. Dog pickup fee. [Added 10-17-1977 ATM by Art. 24, approved 2-28-1978; amended 4-23-1979 ATM by Art. 17, approved 5-18-1979; 4-4-1983 ATM by Art. 6, approved 5-5-1983; 10-2-2000 ATM by Art. 4, approved 3-29-2001]**

There shall be a pickup fee of twenty-five (\$25) dollars for each dog picked up by the Animal Control Officer or his assistant or designee and impounded for violation of any section of Chapter 140 of the Massachusetts General Laws. All money will be paid to the town.

**§ 23-12. Removal and disposal of waste. [Added 10-9-1997 ATM by Art. 8, approved 1-29-1998]**

- A. It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street or other public area in the town. It shall further be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any private property neither owned nor occupied by said person.
- B. No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street, park or other public area without the means of removal of any feces left by such dog. Furthermore, no person who owns, possesses or controls such dog shall appear with such dog on any private property neither owned nor occupied by said person without the means of removal of any feces left by said dog.
- C. For the purposes of this regulation, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces, unexposed to said person or the public. Disposal shall be accomplished by transporting such feces to a place suitable for the disposal of canine feces or as otherwise designated as appropriate by the Board of Health.
- D. Enforcement of this section may, in the first instance, be pursued through the provisions of Section 21D of Chapter 40 of the General Laws, which provides for a noncriminal disposition. The enforcing persons shall be any police officer of the Town or any animal control officer of the Town.
- E. Reports of all violations of this section shall be made to the Police Department, where a record of such violations shall be kept on file. Violation of this section shall be subject to a written warning for the first offense, a fine of twenty-five (\$25) dollars for the second offense and a fine of \$50 for subsequent offenses. **[Amended 10-5-1998 ATM by Art. 12, approved 1-27-1999]**
- F. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this by-law or to any individual who utilizes a guide dog.
- G. The provisions of this section are severable, and if any of the provisions of this section shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

## **Chapter 25**

### **ASSESSMENTS**

#### **§ 25-1. Betterment assessments.**

The Town of North Reading will provide 50% of the necessary funds for betterments approved through the processes outlined below.

#### **§ 25-2. Streets, sidewalks, storm drains.**

A. Private streets -- Street, sidewalk or storm drain betterments will be assessed using the "Fixed Uniform Rate" method.

- (1) The Town of North Reading, based on the availability of funds, will provide 50% of the necessary funds for street betterments.
- (2) At a public hearing, abutters on private streets must vote on whether they want their street converted to a public street. If a majority of the property owners residing on a street and representing a majority of the road frontage vote in favor of the conversion and the acceptance of costs for construction, the Public Works Department will recommend to the Board of Selectmen, the placement of the street on a list for conversion as funds become available. At the public hearing, abutters are given a NOT-TO-EXCEED assessment cost estimate per linear foot of frontage.
- (3) The final assessment is the LOWER of either of the actual per linear foot cost based on the total construction costs divided by the assessable frontage, or the estimated assessment quoted at the public hearing. The date between its acceptance on the list by the Board of Selectmen and the date it is funded for conversion may be and is typically several years. After it is funded, the Department of Public Works shall prepare engineering and construction documents so that it may be put out to bid and constructed. Sometime between the date it is funded and the award of the conversion contract, the street is accepted as a public street, by Town Meeting. Along with the Town Meeting vote of acceptance, a notice of assessment and a layout plan is filed at the Registry of Deeds. The filing allows for title companies to recognize that the street is to become a public street and assessments to be rendered at a future unknown date. However, the layout plan and notice of assessment will not show on a certificate of municipal liens because the work has not yet been undertaken and no costs have been assessed for the conversion of the street to public.
- (4) After the street is accepted as a public street, the construction contract is awarded and construction takes place. It is not uncommon for the construction of private streets, sidewalks, or storm drains to span two full construction seasons. The current practice is for assessments to be calculated within six (6) months

following the completion of all work associated with the particular street being converted. This six month allowance is in conformance with the statute. Therefore, abutters can expect to receive their assessments for street conversion within six months of completion of street construction.

**§ 25-3. Public water supply; sewers.**

A. Water main or sewer improvement betterments will be assessed using the "Uniform Unit" method.

- (1) The Town of North Reading, based on the availability of funds, will provide 50% of the necessary funds for water or sewer betterments.
- (2) At a public hearing the abutters and property owners must vote on whether they want water mains constructed in the street. If a majority of the property owners residing on a street and representing the majority of the estimated usage vote in favor of the construction of the water or sewer improvement and the acceptance of costs for construction, the Public Works Department recommends to the Board of Selectmen, the placement of the street on a list for construction as funds become available. At the public hearing the abutters will be given a NOT-TO-EXCEED assessment cost estimate based on estimated usage as defined in Title 5 of the State Environmental Code 300 CMR Section 15.203.
- (3) The final assessment is the LOWER of either the actual cost based on the total construction costs divided by the assessable usage, or the estimated assessment quoted at the public hearing. The date between acceptance on the list by the Board of Selectmen and the date funded may be and is typically several years. After funding, the Department of Public Works prepares engineering and construction documents so that the construction may be put out to bid and constructed. A notice of assessment and a layout plan is filed at the Registry of Deeds. The filing allows for title companies to recognize that assessments are to be rendered at a future unknown date. However the notice of assessment will not show on a certificate of municipal liens because the work has not yet been undertaken and no costs have been assessed for the construction or report of the sidewalks/drains.
- (4) The construction contract is awarded and construction takes place. It is not uncommon for the construction of water or sewer improvements to span multiple construction seasons. The current practice is for assessments to be calculated within six months following the completion of all work associated with the particular water main being constructed. This six month allowance is in conformance with the statute. Therefore, abutters can expect to receive their assessments within six months of completion.

## Chapter 31

### BUILDINGS, NUMBERING OF

#### GENERAL REFERENCES

Ambulance service — See Ch. 18.

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#### § 31-1. Assignment and display of numbers.

In order to provide for accurate location of and timely responses to emergencies by the Town's public safety services, it is essential to be able to identify dwellings, businesses and other locations by their individual street addresses. Toward this end, the following requirements shall apply:

- A. All individual parcels of land, and subdivisions thereof, within the Town shall be assigned a street address by the Assessing Department, after consultation with the Planning, Building, Fire and Police Departments, and subject to approval by the Board of Assessors.
- B. Compliance with this bylaw shall be the responsibility of the property owner(s).
- C. The number portion of the street address assigned to a parcel upon which a structure has been erected shall be permanently displayed in compliance with the requirements specified herein, and with design standards developed by the Building Department in consultation with the Fire and Police Departments, and subject to approval by the Board of Selectmen.
- D. Street address numbers shall be of a size and color placed against a contrasting background and affixed to the main structure of the parcel, or other approved mounting, so as to afford unobstructed recognition from the assigned street at all times, notwithstanding temporary weather related circumstances. In cases where structure-mounted numbers are not so observable, or where multiple addresses share a common driveway, a second posting of the number may be required.
- E. Enforcement of this bylaw shall be in accordance with the non-criminal disposition provisions of Chapter 1, General Provisions, § 1-5 of these General Bylaws. Provided, however, that parties not in compliance shall first be informed in writing of the bylaw requirements and be given 20 days to comply. Whoever violates the provisions of this section shall be subject to the following penalties: first offense: warning; second and subsequent offenses: \$50. **[Amended 10-2-2000 ATM by Art. 5, approved 3-29-2001]**

**Chapter 37****CARNIVALS, FAIRS AND EXHIBITIONS****GENERAL REFERENCES**

**Alcoholic beverages — See Ch. 14.**

**Peddlers, solicitors and transient vendors — See Ch. 131.**

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**§ 37-1. Permit required.**

No carnival, fair, or similar exhibition shall be held within the Town unless the sponsor thereof first obtains a permit for the same from the Board of Selectmen.

**§ 37-2. Application for permit; fee.**

- A. Application for permit shall be made to the Town Administrator. A fee of ten dollars (\$10) shall accompany each application.
- B. The following information will be required in the application:
  - (1) Name of sponsoring organization.
  - (2) Name and address of carnival operator, together with the names and addresses of officers of firm operating carnival.
  - (3) Proposed dates of carnival operation.
  - (4) Proposed location of carnival operation.
  - (5) Name and address of insurance carrier and amounts of public liability insurance provided. This information will be in the form of an official communication from the insurance carrier.

**§ 37-3. Temporary permits.**

The Board of Selectmen shall not issue a temporary permit for operation of a carnival, fair, or similar exhibition until the following requirements have been satisfied:

- A. A public hearing has been held on the application for permit at least thirty (30) days before but not more than ninety (90) days before the opening date of the proposed carnival, fair, or similar exhibition. Notice of such hearing shall be published in a local newspaper at least fourteen (14) days in advance of the hearing.
- B. Evidence of insurance has been judged satisfactory by the Board of Selectmen.
- C. Carnival operator agrees that the following requirements must be met before final permit will be issued:

- (1) Inspection and approval by the Board of Health.
  - (2) Inspection and approval by the Wiring Inspector.
  - (3) Inspection and approval of all rides and equipment by a certified safety engineer designated by the Town.
  - (4) Notification from the Chief of Police that adequate police protection has been engaged by the operator or sponsor of said carnival, fair, or exhibition.
- D. Any and all fees resulting from inspection set forth above shall be borne by the operator.

#### **§ 37-4. Operations.**

- A. Sunday operation is not permitted.
- B. The operation of carnivals, fairs, or similar exhibitions shall not commence before 9 a.m. nor extend beyond 10 p.m. The erection and/or dismantling of equipment, machinery, or any objects incidental to the operation of carnivals, fairs, or exhibitions shall be confined to between the hours of 8 a.m. and 10 p.m.
- C. Any additional restrictions as may be deemed appropriate by the Board of Selectmen.

#### **§ 37-5. Exceptions.**

This chapter shall not apply to fairs, carnivals, or similar exhibitions to be held within the confines of a closed building.

#### **§ 37-6. Revocation of permit.**

Permits issued under this chapter shall be revoked if any of the foregoing restrictions are violated.

## **Chapter 41**

### **CEMETERIES**

#### **§ 41-1. Authority of Director of Public Works.**

- A. All Town-owned cemeteries shall be under the direction and supervision of the Director of the Department of Public Works.<sup>6</sup>
- B. He shall be responsible for all maintenance, construction, and all other duties generally associated with cemeteries, including the enforcement of these by-laws.

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6. Editor's Note: Throughout this chapter, all references to the Superintendent of Public Works were amended to refer to the Director of Public Works 10-2-2000 ATM by Art. 6, approved 3-29-2001.



- C. In subsequent sections of this chapter, the word Director shall mean the Director of Public Works. The Director may delegate his authority to a designee, who in turn shall have the same power as the Director.

**§ 41-2. Funerals and interment. [Amended 10-5-2015 OTM by Art. 18, approved 1-14-2016]**

- A. Notice of 24 hours before the announced time of the funeral will be required. In cases of extreme weather conditions, causes beyond human control, documented religious or cultural limitations, or because of any other extenuating circumstances, the Director may schedule an interment as conditions permit. No funerals will be permitted on Sundays or on any of the following holidays: July 4th, Labor Day, Thanksgiving, Christmas, or New Year's Day.
- B. Upon reaching the cemetery, all funerals shall be under the charge of the Director.
- C. No interment shall be made until the Director has been furnished with such permits, as required by the Laws of the Commonwealth, together with an order of interment signed by the owner or legal representative of the lot in which interment is to be made, and all charges against said lot or grave and all fees for such interment have been paid.
- D. No interment will be permitted to be made other than at a right angle to the avenue or path on which the lot or grave is located. Exceptions to this rule may be allowed by the Director when deemed in the best interest of the Town.
- E. Not more than one (1) adult and one (1) cremation urn will be allowed to be interred in a single grave.
- F. A child under six (6) months of age may be interred with an adult in a single grave.

**§ 41-3. Receiving tomb.**

When applicable a charge will be made for the use of the receiving tomb as hereinafter provided. The Director reserves the right to order the removal of a body from the receiving tomb at any time.

**§ 41-4. Burial lots.**

The deed for a lot or grave will specify its dimensions and the inhabitants of the Town shall not be held liable for any statement, either expressed or implied, as to the number of graves such lot may contain.

**§ 41-5. Markers and monuments.**

- A. Only one (1) grave marker will be allowed on a single grave.

- B. Curbing, fences, corner posts, above grade urns, platforms, steps, buttresses, settees, concrete or stone vases are not allowed.
- C. Erection of above grade monuments shall be limited to those complete sections and/or complete rows of sections as designated by the Director of Public Works. Such monuments shall not exceed one (1) foot deep by four (4) feet wide by three (3) feet high for each lot containing two (2) or more graves. **[Amended 10-17-1977 ATM by Art. 21, approved 2-28-1978; 10-8-1981 ATM by Art. 16, approved 3-2-1982]**
- D. All grave markers must be set so that the long dimensions shall be placed parallel with the path or avenue on which the lot or grave is deeded. Grave markers must be set flush with the grade and must not exceed two (2) feet in length by one (1) foot in width, and must be smooth on all edges and the bottom. All grave markers must be set under the supervision of the Director. No upright markers are permitted. Exceptions to the rules governing the placement of grave markers may be allowed by the Director when deemed to be in the best interests of the Town.
- E. Whenever a memorial is to be removed, cleaned, or an inscription placed upon it, the proper order must be filled out and signed by the owner of the lot.
- F. Workmen employed in the cutting of inscriptions or the cleaning of existing monuments shall be under the control and direction of the Director.

#### **§ 41-6. Decoration of lots and graves.**

- A. There shall be no planting or disturbing the sod whatsoever.
- B. If any existing tree or shrub situated on any lot of land shall, by means of its roots or branches or otherwise, become detrimental to said lot or any adjacent lot or become dangerous or inconvenient, it shall be the duty of the Director, and he shall have the right, to enter upon said lot and remove said tree or shrub or any part as he may determine dangerous or inconvenient.
- C. Baskets or other containers shall have legs so that they will not rest directly on the ground and should be removed by the owners if they wish to preserve them; otherwise, they shall be removed by the Director when, in his judgment, the plants or flowers have decayed. The Town is not responsible for any flowers, baskets, or any other decoration placed on lots or graves by the owner.
- D. No person shall gather any flowers, remove, cut, or damage any tree or shrub, or mark, deface, or disturb any monument.

#### **§ 41-7. Removal.**

- A. Removals will not be made without a signed order from the owner.

- B. Removals will be made at the discretion of the Director as to time.
- C. Responsibility for damage to the casket or burial case or urn in the removal shall not be assumed by the Town.

**§ 41-8. Perpetual care charge.**

No lots or graves shall be purchased without payment of a perpetual care charge. Income derived from fees assessed for perpetual care shall be used forever to fill, level, top, dress, cut, and take care of the grass on such lot or grave.

**§ 41-9. Sale of lots.**

- A. No lot or grave in the cemetery shall be sold to any person other than a legal resident or former legal resident of the Town or on behalf of a legal resident or former legal resident.
- B. Ownership in a burial lot or grave is not transferable, except upon the decease of a proprietor of such lot, the title thereto shall vest in his heirs-at-law or devisees, according to General Law, Chapter 114, Section 29.
- C. Whenever a purchaser of a burial lot or grave removes his residence from the Town he may, if he so desires, resell his ownership back to the Town for a price not to exceed the original purchase price.
- D. No rights of burial shall be sold to nonresidents of the Town other than former legal residents of the Town. There shall be an additional charge for any nonresident buried in any lot or grave purchased by a resident.

**§ 41-10. Work on lots or graves.**

No work of any kind shall be performed on any lot or grave except under the supervision of the Director.

**§ 41-11. Opening of graves.**

No grave shall be opened for interment or removal by any person not in the employ of the Department of Public Works.

**§ 41-12. Fees and charges.**

- A. The Board of Selectmen is authorized to establish a schedule of fees, charges, etc., for the sale of lots, interments, removals, use of tombs, etc.
- B. A copy of this schedule shall be placed with the Town Clerk.
- C. The Board of Selectmen may, from time to time, review said fees and charges and establish a new schedule. Such revisions shall become

effective thirty (30) days after public notice in a newspaper having circulation within the Town.

D. Fees and charges shall be payable to the Town Collector.

**§ 41-13. Dogs and bicycles.**

Dogs and bicycles are not allowed in the cemetery at any time.

**§ 41-14. Unauthorized persons.**

There shall be no unauthorized persons allowed in the cemetery after dark.

**§ 41-15. Gifts.**

The Town is authorized to accept gifts for the establishment of a fund for the purpose of beautifying the cemetery. Such funds to be administered under the direction of the Director.

## **Chapter 57**

### **EMERGENCY MANAGEMENT**

#### **GENERAL REFERENCES**

Alarm systems — See Ch. 11.

Numbering of buildings — See Ch. 31.

Ambulance service — See Ch. 18.

Hazardous materials — See Ch. 80.

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**§ 57-1. Department of Emergency Management. [Amended 10-2-2000 ATM by Art. 7, approved 3-29-2001]**

There is hereby established a Department of Emergency Management (hereinafter called "the Department"). It shall be the function of the Department to have charge of emergency management as defined in Section 1, Chapter 639, Acts of 1950 and to perform emergency management functions as authorized or directed by said chapter or by any and all executive orders or general regulations promulgated thereunder and to exercise any authority delegated to it by the Governor under said Chapter 639.

**§ 57-2. Director of Emergency Management.**

The Department shall be under the direction of a Director of Emergency Management (hereinafter called "the Director") who shall be appointed as prescribed by law. The Director shall have direct responsibility for the organization, administration, and operation of the Department, subject to the direction and control of the appointing authority, and shall receive such salary as may be fixed from time to time by the appointing authority. The Director may, within the limits of the amount appropriated therefor, appoint

such experts, clerks, and other assistants as the work of the Department may require and may remove them and may make such expenditures as may be necessary to execute effectively the purposes of Chapter 639, Acts of 1950. The Director shall also have authority to appoint district coordinators and may accept and may receive on behalf of the Town, services, equipment, supplies, materials, or funds by way of gifts, grant, or loan, for purposes of emergency management, offered by the federal government or any agency or officer thereof or any person, firm, or corporation subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The Director shall cause appropriate records to be kept of all matters relating to such gifts, grants, or loans.

**§ 57-3. Emergency Management Advisory Council.**

There is hereby established a Emergency Management Advisory Council (hereinafter called the "Council"). Said Council shall serve without pay and shall consist of the Director of Emergency Management, such other department heads and such other persons as the Director may deem necessary. Such member of said Council as said appointing authority shall designate shall serve as Chairman of said Council. Said Council shall serve subject to the direction and control of the appointing authority and shall advise said appointing authority and the Director on matters pertaining to emergency management.

**§ 57-4. Police aid to other cities and towns.<sup>7</sup>**

The Police Department is hereby authorized to go to aid another city or town at the request of said city or town in the suppression of riots or other forms of violence therein.

**§ 57-5. Termination of by-law.**

Section 57-4 shall remain in force during the effective period of Chapter 639, Acts of 1950, and any act in amendment or continuation thereof or substitution therefore.

**§ 57-6. Reference to state act.**

All reference to Chapter 639, Acts of 1950, as now in force, shall be applicable to any act or acts in amendment or continuation of or substitution of said Chapter 639.

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7. Editor's Note: See also Ch. 5, Administration, § 5-6, Mutual aid.

## **Chapter 62**

### **EXCAVATIONS**

#### **GENERAL REFERENCES**

**Soil removal — See Ch. 149.**

**Streets and sidewalks — See Ch. 158.**

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**§ 62-1. Safety measures required. [Amended 10-17-1977 ATM by Art. 18, approved 2-28-1978; 10-2-1989 ATM by Art. 11, approved 12-7-1989; 10-2-2000 ATM by Art. 8, approved 3-29-2001]**

Any person excavating land or any person in charge of such excavations or any owner of land which has been excavated shall erect barriers or take other suitable measure immediately after such person has been notified in writing by the Building Inspector that, in his opinion, such excavation constitutes a hazard to public safety. Whoever, after receiving such notice, continues to violate this by-law shall be subject to the following penalties: first offense: \$50; second offense: \$100; third and subsequent offenses: \$200. Each day the violation remains shall constitute a separate offense.

**§ 62-2. Digging on town-owned land; removal of objects. [Added 10-1-1979 ATM by Art. 7, approved 1-14-1980; amended 10-2-1989 ATM by Art. 9, approved 12-7-1989]**

No digging, excavating, removing surface or subsurface objects, surveys, field investigations, including the use of so-called metal mineral detectors, shall be allowed on Town-owned land, except by Town boards and department authorized to do so, without the written consent of the Town board or departments supervising or controlling said land. All specimens and objects collected by unauthorized persons, including relics, artifacts, remains, or any other evidence of an historical or archaeological nature, shall become the property of the Town and shall be turned over to the Board of Selectmen. Any violation of this by-law is punishable by a fine of fifty (\$50) dollars for each offense.

## **Chapter 68**

### **FIREARMS**

**§ 68-1. Discharge of firearms prohibited; exceptions.**

No person shall, except as authorized or required by law, fire or discharge any gun, fowling piece or other firearms, or an air rifle in the Town of North Reading, but provisions of this section shall not apply to the Chief of Police or other police officers in the performance of their duties nor to the use of such weapons at any military exercises or any established rifle range or in the lawful defense of the person, family, or property of any citizens nor to

the rights and privileges of an owner or lessee of land as set forth in Chapter 131, Section 37 of the General Laws.

**§ 68-2. Violations and penalties.**

Whoever violates the provisions of § 68-1 shall be punished by a fine of twenty-five dollars (\$25.00) for the 1st offense and fifty dollars (\$50.00) for 2nd and subsequent offenses.

**Chapter 80**

**HAZARDOUS MATERIALS**

**GENERAL REFERENCES**

**Solid waste — See Ch. 152.**





## ARTICLE I

**Transportation****[Adopted 10-7-1985 ATM by Art. 14, approved 11-21-1985]****§ 80-1. Safety valve required.**

Trucks containing hazardous chemicals, including but not limited to herbicides and pesticides, which draw water on site shall be equipped with a safety valve arrangement so that the transported chemicals cannot enter the water suction hose. This shall be enforced through a required permit to be issued yearly by the Board of Health.



## ARTICLE II

**Storage****[Adopted 10-9-1986 ATM by Art. 4, approved 11-4-1986]****§ 80-2. Authority.**

This by-law is adopted by the Town of North Reading under its home rule powers, its police powers to protect the public health, safety, and welfare, and its authorization under MGL Chapter 40, Section 21.

**§ 80-3. Purpose.**

The purpose of this by-law is to protect, preserve, and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface water within the Town of North Reading from contamination. Nothing in this by-law shall be construed as inconsistent with, or in interference with, the authority vested upon the North Reading Fire Chief under MGL Chapter 148, or any rules and regulations adopted pursuant thereto.

**§ 80-4. Definitions.**

The following definitions shall apply in the interpretation and implementation of this by-law:

**ABANDONED** — Means being out of service for a period in excess of 180 days, in the case of a storage facility for which a license is required under the provisions of MGL Chapter 148, or for a period of twelve (12) months, in the case of any other storage facility.

**DISCHARGE** — Means the disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material or any constituent thereof into or on any land or water so that such material may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

**HAZARDOUS MATERIALS** — Means any substance or combination of substances which, because of quantity, concentration, or physical, chemical, or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed into or on any land or water in the Town of North Reading. Any substance deemed a hazardous waste under Section 3001 of the Resource Conservation and Recovery Act of 1976, as amended, 40 CFR, Part 261, shall also be deemed a hazardous material for the purposes of this by-law. A copy of 40 CFR, Subpart 261.30 to 261.33 is on file with the Town Clerk.

**LEAK** — Means any uncontrolled movement, measurable by a testing method accurate to 0.05 gallons per hour, of any hazardous material out of a tank or its components, or any uncontrolled movement of water into a tank or its components.

OUT OF SERVICE — Shall mean not in use, with no regular filling or drawing; or not being maintained, without adherence to the requirements of this by-law; or uncontrolled, without being attended or secured; or any combination thereof.

TANK — Means any structure used, or designed to be used, for the storage of hazardous materials of any kind.

UNDERGROUND TANK OR STORAGE — Shall mean any storage containment system including piping in connection therewith, which meets at least one of the following criteria: (1) the top of which is located below ground; (2) any portion of which is four (4) feet or more below ground. "Underground Tank or Storage" shall not include the storage of fuel oil for heating purposes in a freestanding container within a building.

WATER SUPPLY RECHARGE AREA — Means those areas designated Zones 1 and 2 as depicted on a map prepared by Camp, Dresser & McKee, entitled "Aquifer Protection Districts Town of North Reading." The Water Supply Recharge Areas are those areas that supply drinking water directly or indirectly to any public water supply.

#### **§ 80-5. Registration.**

- A. Every owner or operator of a commercial or industrial establishment, including home occupations and agriculture, storing hazardous materials in quantities totaling more than fifty (50) gallons liquid volume or twenty-five (25) pounds dry weight shall register with the Board of Health, on a form so obtained, the following information:
- (1) Name, address, and telephone numbers (day and night) of the owner or operator.
  - (2) Capacity and contents of the tank(s), with specific description of the type of hazardous material being stored.
  - (3) The date of installation of the tank(s), if available.
  - (4) The type of tank construction, and indication of any leak detection methods in place.
  - (5) The depth below ground level of the lowest and highest points of the tank, if the tank is subsurface.
  - (6) Description of any previous leaks, including approximate dates, causes, estimated amounts, and repairs undertaken.
  - (7) If the tank is underground, additional material as required by § 80-6A herein.
- B. Owners or operators of commercial or industrial establishments who meet the registration requirements of Subsection A shall register initially within ninety (90) days of the enactment of this by-law, and annually thereafter within thirty (30) days of January 1. Owners or operators of commercial or industrial establishments who later meet

the registration requirements shall register initially within thirty (30) days of meeting such requirements, and thereafter within thirty (30) days of January 1.

- C. In addition to registration, owners or operators of commercial or industrial establishments registered in accordance with Subsections A and B shall maintain on the premises an inventory, reconciled on a monthly basis, of purchase, sale, use, disposal, or discharge of hazardous materials. The purpose of this inventory is to detect any product loss and to provide ongoing record of all hazardous materials within the town over the registration period. If unaccounted for product loss is discovered in the monthly reconciliation, the owner or operator shall comply with the provisions of § 80-10B herein. Accurate daily inventory records required pursuant to MGL Chapter 148 and 527 CMR 5.06 shall suffice for the purposes of this section, and may be submitted, under Subsection D below, in accordance with this by-law. **[Amended 10-6-2003 OTM by Art. 4, approved 11-12-2003; 10-5-2009 OTM by Art. 15,<sup>8</sup> approved 2-2-2010]**
- D. Upon the request of the Board of Health or the Fire Chief, owners or operators shall produce, within twenty-four (24) hours, their latest reconciled inventory.
- E. Wastes containing hazardous materials shall be held on the premises in product-tight containers for removal by a licensed carrier for disposal in accordance with MGL Chapter 21C.
- F. Surfaces underlying areas where hazardous materials are stored aboveground, or used, transferred, or delivered to such tanks, shall be impermeable to the materials being stored, and shall be enclosed by a permanent dike of impermeable construction. The dike system shall be sufficient to contain 10 per cent of the total volume of the containers, or the largest container, whichever is greater. Nothing in this section shall be construed to replace the application of the dike requirements to tanks licensed under MGL Chapter 148, or 527 CMR 9.00, thereunder. **[Amended 10-6-2003 OTM by Art. 4, approved 11-12-2003; 10-5-2009 OTM by Art. 15, approved 2-2-2010]**

#### **§ 80-6. Underground storage tanks.**

- A. All owners of underground storage tanks containing hazardous materials, in any quantity, including owners of buried fuel oil storage tanks, shall file with the Board of Health the following information:
- (1) The size of the tank.
  - (2) The type of subsurface tank.
  - (3) The type of hazardous material(s) being stored and quantity.

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8. Editor's Note: This article also changed all instances of "M.G.L.A." to "MGL."

- (4) The location of each tank on the premises, complete with sketch map.
- (5) The age of each tank, evidence of the date of installation, including any permits, if applicable.
- B. Such information shall be filed in the same manner, and at the same times, on a form so obtained, as that information required by § 80-5A above.
- C. Owners of tanks for which evidence of installation date is not available shall, at the order of the Board of Health or Fire Chief, have such subsurface tanks and systems tested, in accordance with Subsection D herein. If the Board of Health or the Fire Chief determines that the tank is not product-tight, it shall be repaired or disposed of under the direction of that authority. The provisions of this Subsection C shall apply only within a water supply recharge area of the Town of North Reading.
- D. <sup>9</sup>All materials used in the construction of any tank or container shall be suitable for the purpose, and such tank or container shall be designed or constructed to withstand any normal stress to which it may be subjected. Where applicable, tanks shall be constructed in accordance with MGL Chapter 148 and 527 CMR 9.00, et seq., as amended.

#### **§ 80-7. Abandonment and removal.**

- A. The holder of any license issued for underground storage of any liquid hazardous material shall notify the Board of Health and the Fire Chief whenever the provisions of said license cease to be exercised. Upon notification, the Fire Chief shall prescribe appropriate action under 527 CMR 10.00, and MGL Chapter 148, as amended. **[Amended 10-6-2003 OTM by Art. 4, approved 11-12-2003; 10-5-2009 OTM by Art. 15, approved 2-2-2010]**
- B. All other tanks, not regulated by MGL Chapter 148, shall be regulated as follows in Subsection C to F.
- C. If the owner of a tank, which is located under a building and which cannot be removed from the ground without first removing the building, decides to abandon said tank, the owner shall promptly notify the Board of Health of this decision, and, subject to the directions of the Board of Health, have all the hazardous materials removed from the tank and have the tank filled with sand or other inert material, as prescribed by the Board of Health.
- D. Except as provided in Subsection C, no tank may be abandoned in place. Aboveground tanks shall be disposed of after emptied of all

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9. Editor's Note: Former Subsection D, regarding testing of steel subsurface tanks, as amended, was repealed 10-5-2009 OTM by Art. 15, approved 2-2-2010. This ordinance also redesignated former Subsection E as Subsection D.

hazardous materials. Abandoned tanks shall be emptied of all hazardous materials under the direction of the Board of Health and the Fire Chief. The product and tank shall be disposed of, at the owner's expense, as directed by those authorities.

- E. The owner of an abandoned tank shall promptly notify the Board of Health and the Fire Chief of the decision, and, where the tank is subsurface, the materials remaining shall be removed from the tank and disposed of as directed by those authorities, and the tank filled with water.
- F. If the Board of Health or the Fire Chief determine that a tank or its components shall be removed, any removal shall be completed within ninety days after that authority has notified the owner, in writing, of its decision.

#### **§ 80-8. Defects.**

- A. All leaking tanks must be emptied by the owner or operator within twelve hours after detection of the leak, and the tank removed by the owner or operator in accordance with § 80-7F above.
- B. The Fire Chief shall determine whether any tank or its components that have been identified as the source of a leak shall be repaired, or removed and replaced, and shall notify the owner of his decision. In making his determination, the Fire Chief shall be governed by the following conditions, on the repair, by relining, of any steel tank:
  - (1) The tank must have a minimum design shell thickness of 0.18 inches or 7 gauge.
  - (2) The tank must have no open seam or split.
  - (3) The tank must meet all standards of the lining manufacturer for structural soundness.

#### **§ 80-9. Variances.**

The Board of Health may vary the application of any provision of this by-law, unless otherwise precluded by law, when, in its opinion, the applicant has demonstrated that an equivalent degree of environmental protection required under this by-law will still be achieved. Variances pursuant to § 80-6D shall be governed by the criteria set forth therein. The applicant at his own expense must notify all abutters by certified mail at least ten days before the hearing at which such variance request shall be considered. The notification shall state the variance sought and the reasons therefore [sic]. The Board of Health shall also notify, within fourteen (14) days of receipt of a variance request, the Fire Chief, Conservation Commission, and Building Inspector, of any variance requested under this Section, for their response in writing. The Board of Health shall hold a hearing on such variance request within forty-five (45) days of its receipt. Any variance granted by the Board of Health shall be in writing, as shall be any denial of a variance

request, and shall contain a brief statement of the reasons for the granting or denial of the variance.

**§ 80-10. Enforcement; violations and penalties.**

- A. All discharges of hazardous materials within the Town are prohibited.
- B. Any person having knowledge of any discharge of hazardous materials shall immediately report the discharge to the Board of Health and the Fire Chief.
- C. The Board of Health or its agents may enter upon privately owned property for the purpose of performing their duties under this by-law.
- D. Any person who violates any provision of this by-law shall be punished by a fine of not more than fifty dollars (\$50) first offense, one hundred dollars (\$100) second and subsequent offenses. Each day or portion thereof during which a violation continues shall constitute a separate offense. If more than one violation exists, each condition shall constitute a separate offense. Upon the request of the Board of Health or the Fire Chief, the Board of Selectmen shall take such legal action as is necessary to enforce this by-law. **[Amended 10-2-1989 OTM by Art. 9, approved 12-7-1989]**

**§ 80-11. Severability.**

If any provision of this general by-law is held to be unconstitutional, or in violation of state law, it shall not affect any other provision or the administration thereof.

**§ 80-12. Fees. [Added 10-1-1990 OTM by Art. 13, approved 12-18-1990]**

- A. Registration of hazardous material: 50 gallons of liquid volume - 25 gallons of dry weight: \$25.00.
- B. Annual testing of an underground storage tank per location: \$25.00.
- C. Removal from the ground of an underground storage tank: \$25.00.
- D. Permit to install underground storage tank: \$200.00.
- E. Permit to alter tank or piping: \$25.00.



## **Chapter 85**

### **HISTORIC DISTRICT**

#### **GENERAL REFERENCES**

**Zoning — See Ch. 200.**

**Subdivision of land — See Ch. 350.**

**Site plan review — See Ch. 340.**

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#### **§ 85-1. Title.**

This bylaw shall be known and may be cited as the Historic District Bylaw of the Town of North Reading, Massachusetts.

#### **§ 85-2. Purpose.**

The purpose of this bylaw is to promote the educational, cultural, economic, and general welfare of the community by:

- A. Providing a mechanism to identify and preserve the distinctive historic and architectural characteristics of North Reading which represent elements of the Town's cultural, social, economic and political and architectural history;
- B. Fostering civic pride in the beauty and noble accomplishments of the past as represented in North Reading's landmarks and historic districts;
- C. Conserving and improving the value of property designated as landmarks or that reside within historic districts;
- D. Protecting and enhancing the attractiveness of the Town to home buyers, tourists, visitors, and shoppers, and thereby supporting and promoting business, commerce and industry, as well as providing economic benefit to the Town.
- E. Fostering and encouraging preservation, restoration, and rehabilitation of structures, areas, and neighborhoods and thereby preventing future urban blight.

#### **§ 85-3. Authority.**

This Historic District Bylaw is adopted pursuant to the authority granted by Chapter 40C of the General Laws of the Commonwealth of Massachusetts as amended.

**§ 85-4. Definitions.**

Unless specifically defined below, words or phrases in this bylaw shall be interpreted so as to give them the same meaning as they have in common usage and so to give this bylaw its most reasonable application.

**ALTERATION** — Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, rebuilding, restoration, removal or demolition of any structure.

**AREA** — A specific geographic division of the Town of North Reading.

**BUILDING** — A combination of materials forming a shelter for persons, animals, or property.

**CERTIFICATE OF APPROPRIATENESS** — A certificate issued by the Historic District Commission indicating its approval of plans for alteration, construction, removal, or demolition of a building or of a structure within a historic district.

**CERTIFICATE OF HARDSHIP** — A certificate issued by the Historic District Commission authorizing an alteration, construction, removal, or demolition.

**CERTIFICATE OF NON-APPLICABILITY** — A certificate issued by the Historic District Commission indicating that a proposed activity does not require Historic District Commission authorization or approval.

**COMMISSIONER** — Member of the North Reading Historic District Commission.

**CONSTRUCTION** — The act of adding a structural addition to an existing building or structure or the erection of a new principal or accessory structure on a lot or property and includes the words build, erect, install, enlarge, and move.

**DEMOLITION** — Any act or process that destroys in part or in whole a building or a structure within a historic district.

**DESIGN GUIDELINE** — A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

**EXTERIOR ARCHITECTURAL APPEARANCE** — The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, and appurtenant elements visible from any public way.

**EXTERIOR ARCHITECTURAL FEATURE** — Such portion of the exterior of a building or structure as is open to view from a public street, public way, public park, or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs, and other appurtenant exterior fixtures.

HISTORIC DISTRICT — An area designated as a "historic district" by North Reading Town Meeting.

OWNER OF RECORD — With respect to land located in North Reading, the person, corporation, or other legal entity listed as owner on the records of the Middlesex South District Registry of Deeds.

PARTY AGGRIEVED — Applicant, owner of adjoining property, an owner of property within the same historic district as property within 100 feet of said property lines or others as described in MGL c. 40C, § 5.

REMOVAL — Any relocation of a building or structure on its site or to another site.

REPAIR — Any change that is not construction, removal, or alteration.

STRUCTURE — Any combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

#### **§ 85-5. Historic District Commission.**

- A. Membership. There is hereby established an historic district commission to be known as the Historic District Commission consisting of seven (7) residents all of whom shall be appointed by the Board of Selectmen, including when possible one (1) of two nominees representing the North Reading Historical and Antiquarian Society from a list of nominees submitted by said organization; one (1) of two nominees representing the local Board of Realtors from a list of nominees submitted by said organization; one (1) of two nominees representing the American Institute of Architects from a list of nominees submitted by said organization; one (1) member who is a resident and/or property owner in an historic district and three (3) members who are residents of the town at-large. All requests to the above organizations for nominees shall require a response within 30 days. In the event of no response, the Board of Selectmen shall appoint any qualified resident. **[Amended 4-11-1996 ATM by Art. 19, approved 7-22-1996]**
- B. Terms of office. The term of office of the members of the Historic District Commission shall be for three (3) years, excepting that the initial membership of the Historic District Commission shall serve respectively for terms as follows: two (2) members shall be appointed for one (1) year; two (2) members shall be appointed for two (2) years; and three (3) members shall be appointed for three (3) years. Successors shall each be appointed for a term of three (3) years. Vacancies shall be filled within sixty (60) days by the Board of Selectmen by appointment to the unexpired term. A maximum of three alternate members shall be appointed to serve on the Commission. In the absence of, or the disqualification of the regular members, alternates shall be voting members. Terms of office for alternate members shall be for one (1) year. **[Amended 4-11-1996 ATM by Art. 19, approved 7-22-1996]**

- C. Compensation. All members and alternate members shall serve without compensation.
- D. Officers. Officers shall consist of a Chairman, a Vice-Chairman, and a Clerk elected by the members who each shall serve a term of one (1) year and shall be eligible for re-election. The Chairman shall preside over meetings. In the absence of the Chairman, the Vice-Chairman shall perform the duties of the Chairman. If both are absent, a Temporary Chairman shall be elected by those present. The Clerk to the Historic District Commission shall have the following duties:
- (1) Take minutes of each Historic District Commission meeting;
  - (2) Be responsible for publication and distribution of copies of the minutes, reports, and decisions of the Historic District Commission to the members of the Historic District Commission;
  - (3) Give notice as provided herein or by law for all public hearings conducted by the Historic District Commission;
  - (4) Advise the Board of Selectmen of vacancies on the Historic District Commission and expiring terms of members; and
  - (5) Prepare and submit to the annual town report a complete record of the proceedings before the Historic District Commission.
- E. Meetings. A quorum shall consist of a majority of the members. All decisions or actions of the Historic District Commission shall be made by a majority vote of those members present and voting at any meeting where a quorum exists. Meetings shall be held at regularly scheduled times to be established by resolution of the Historic District Commission at the beginning of each calendar year or at any time upon the call of the Chairman. No action shall be taken by the Commission that could in any manner deprive or restrict the owner of a property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at a public meeting of the Historic District Commission, as provided herein. All meetings of the Historic District Commission shall be open to the public. The Historic District Commission shall keep minutes of its proceedings showing the vote, indicating such facts, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Town Clerk and shall be a public record.
- F. Conflict of interest. No member of the Historic District Commission shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member.
- G. Powers and duties. The Historic District Commission shall have all the powers and duties of Historic District Commissions pursuant to MGL c. 40C and subsequent amendments thereto. Unless specifically limited by this bylaw, the Commission shall have regulatory control over new construction, reconstruction, alterations, removals, and demolition of

all exterior architectural features of buildings and structures within the historic district. In addition, the Historic District Commission shall have the following powers and duties:

- (1) To adopt its own procedural rules and regulations not inconsistent with the provisions of the Historic District Act or this Historic District Bylaw;
- (2) To recommend to the Town Meeting the establishment of areas having special historic, community or architectural value as "Historic Districts";
- (3) To keep a register of all properties and structures that have been designated as historic districts, including copies of all information required for each designation;
- (4) To hold public hearings and to review applications for construction, alteration, removal, or demolition affecting proposed or designated buildings or structures within historic districts and issue or deny certificates of appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;
- (5) To consider applications for certificates of hardship that would allow the performance of work for which a certificate of appropriateness has been denied;
- (6) To develop specific design guidelines for the alteration, construction, or removal of buildings and structures within historic districts;
- (7) To review proposed zoning amendments, applications for special use permits, or applications for zoning variances that affect proposed or designated historic districts. The Community Planning Commission or Zoning Board of Appeals shall send applications for subdivisions, special permits, or variances to the Historic District Commission for comment prior to the date of the hearing;
- (8) To call upon available Town staff members as well as other experts for technical advice;
- (9) To retain such specialists or consultants or to appoint such citizen advisory committees as may be required from time to time;
- (10) To periodically review the North Reading Zoning Bylaw and to recommend to the Community Planning Commission any amendments appropriate for the protection and continued use of property and structures within historic districts; and
- (11) To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of this bylaw.

**§ 85-6. Center Village Historic District.**

- A. Name of district. There is hereby established an historic district in the Town of North Reading as shown on the Historic District Map and designated as follows: Center Village Historic District - CVHD.
- B. Area of district. The historic district is herein established as an overlay district. The exact boundary lines of the district shall be determined by the center of the solid boundary line(s) as shown on the Historic District Map.
- C. Historic District Map.
  - (1) The Historic District Map dated September 1, 1993, along with district boundaries prepared by the Historic District Study Committee and superimposed over the Town of North Reading's Assessor's Map is hereby made a part of this bylaw and is on file with the Middlesex South District Registry of Deeds and the North Reading Town Clerk.
  - (2) Where the boundary lines are shown upon said map within the right-of-way lines of public and private ways, the center lines of such ways shall be the boundary lines.
  - (3) Boundary lines located outside of such side lines of public or private ways and shown approximately parallel thereto shall be regarded as parallel to such side lines, and dimensions shown in figures placed upon said map between such boundary lines and side lines of public and private ways are the distance in feet of such boundary lines from such side lines, such distance being measured at right angles to such side lines unless otherwise indicated.
  - (4) Where the boundary lines shown are approximately on the location of property or lot lines, and the exact location of the district or area boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
  - (5) In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of the map.

**§ 85-7. Application procedures.**

- A. Certificates. Except as this bylaw provides no building or structure within an historic district shall be constructed or altered in any way that affects exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship with respect to such construction or alteration; nor shall any building permit or permit for demolition be issued by the Town or any department thereof for any

building or structure within an historic district until the certificate required by this section has been issued by the Commission.

B. Applications.

(1) Applications for certificates shall be filed with the Historic District Commission in the Community Planning Commission's office. Eight copies of all application materials shall be submitted in the form specified by the Historic District Commission, and shall include site plans, elevations and construction plans, drawn to scale, detailed enough to show the architectural design of the structure and its relation to existing buildings, and other materials deemed necessary by the Commission. Plot and site plans should be filed when the applicant proposes improvements affecting appearances, such as walks, fences, steps, and paving. In the case of demolition or removal, the applicant must include a statement of the proposed condition and appearance of the property thereafter.

(2) All site plans shall be signed and stamped by a registered land surveyor; all architectural plans shall be signed and stamped by a registered architect.

C. Initial review. Within fourteen (14) days of the filing of the application for any certificate, a determination shall be made as to whether the application involves any exterior architectural features which are subject to review and/or approval by the Commission.

D. Public hearing. If the application requires the Commission's review, or at the request of the applicant, the Commission shall hold a public hearing, unless waived according to the Historic District Act, MGL c. 40C, as amended. Public notice of the time, place and purpose of the hearing shall be given at least fourteen (14) days in advance and the Commission shall mail notice to all affected parties by certified mail as provided in the Historic District Act as amended.

E. Determination.

(1) The Commission shall make a final determination on an application within sixty (60) days of the filing or within such further time as the applicant may allow in writing.

(2) Written notice of the approval or denial of the application for a certificate of appropriateness shall be provided to the applicant and the Building Department within ten (10) days following the determination and shall be accompanied by a certificate of appropriateness in the case of an approval. **[Added 10-2-2000 ATM by Art. 9, approved 3-29-2001]**

F. Conditions of approval. In deciding upon matters before it, the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure; the general design, arrangement, texture, material, and color of the

features involved; and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size, shape, and material of the building or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity, and the Commission may, in appropriate cases, impose dimensional and setback requirements in addition to those required by applicable zoning bylaws.

- G. Recommendations and requirements. The Historic District Commission shall not make any recommendations or requirements with regard to new construction, reconstruction, or additions, except for the purpose of preventing development incongruous with the historic aspects and/or architectural characteristics of the surroundings and of the historic district.
- H. Changes in material. Any change in material, including, but not limited to, the painting of a previously unpainted surface, the removal of paint from a previously painted surface, or the covering of a surface with artificial siding, shall require the review and approval of the Historic District Commission as set forth in this bylaw.
- I. Denial of a certificate of appropriateness.
  - (1) A denial of a certificate of appropriateness shall be accompanied by a statement of the reasons for the denial. The Historic District Commission shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the Historic District Commission to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the Historic District Commission. The applicant may resubmit an amended application within fourteen (14) days that takes into consideration the recommendations of the Historic District Commission.
  - (2) Each certificate shall be dated and signed and the Commission shall keep a permanent record of its determinations and of the vote of each member participating therein, and shall file a copy of notice of certificates and determinations or disapprovals with the Town Clerk and Building Inspector.
- J. Certificate of hardship.
  - (1) If an application is deemed inappropriate or if application is specifically made for a certificate of hardship, the Commission may issue a certificate of hardship if conditions especially affecting the building or structure involved, but not affecting the historic district generally, would result in a substantial hardship to the applicant and if approval would not result in a substantial detriment to the public welfare or substantially derogate from the intent and purposes of the Historic District Act. A certificate of hardship shall



also be issued in the event that the Commission does not make a determination on an application within the time specified in this bylaw.

- (2) Application for certificate of hardship shall be made on a form prepared by the Historic District Commission. The Historic District Commission shall schedule a public hearing concerning the application and provide notice in the same manner as described above, and any person may testify at the hearing concerning hardship in the same manner.
- (3) The Historic District Commission may solicit expert testimony or require that the applicant for a certificate of hardship make submissions concerning any or all of the following information depending upon the circumstances of the hardship being claimed, before it makes a determination on the application:
  - (a) Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Historic District Commission for changes necessary for the issuance of a certificate of appropriateness;
  - (b) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
  - (c) Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Historic District Commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use;
  - (d) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
  - (e) All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
  - (f) Assessed value of the property according to the two most recent assessments;
  - (g) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;

- (h) Any other information considered necessary by the Historic District Commission to make a determination as to whether the property does yield or may yield a reasonable return to the owners.
- K. Determination of hardship. The Commission shall review all the evidence and information required of an applicant for a certificate of hardship and make a determination within sixty (60) days of receipt of the application whether the denial of a certificate of appropriateness would deprive the owner of the property of reasonable use of, or economic return on, the property. Written notice of the determination shall be provided in the same manner as required above.
- L. Certificate of non-applicability.
  - (1) Upon request, the Commission may issue a certificate of non-applicability to any applicant whose proposed work does not require Commission approval.
  - (2) In order for the Historic District Commission to issue a certificate of non-applicability, it must first find that the proposed work does not require the issuance of a certificate of applicability or a certificate of hardship and that the proposed work will not adversely affect the character or nature of the historic district in which it is proposed.
- M. Standards for review. In considering an application for a building or demolition permit or for a certificate of appropriateness, the Historic District Commission shall be guided by the following general standards in addition to any design guidelines in the bylaw designating the historic district. All applications shall comply as much as possible to the guidelines set forth in the 1990 revised version of the Secretary of the Department of the Interior's Standards for Rehabilitation.
  - (1) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
  - (2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
  - (3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier or later appearance shall be discouraged.
  - (4) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired

significance in their own right, and this significance shall be recognized and respected.

- (5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
  - (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
  - (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
  - (8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
  - (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
- N. Design guidelines. In applying the standards for review for certificates of appropriateness, the Historic District Commission shall, at a minimum, consider the following architectural criteria:
- (1) Height. The height of any proposed alteration or construction should be compatible with the style and character of the building or structure and with surrounding structures in a historic district.
  - (2) Proportions of windows and doors. The proportions and relationships between doors and windows should be compatible with the architectural style and character of the building or structure and with surrounding buildings or structures within a historic district.
  - (3) Relationship of building masses and spaces. The building or structure within a historic district and the open space between it and adjoining structures should be compatible. **[Amended 10-2-2000 ATM by Art. 9, approved 3-29-2001]**

- (4) Roof shape. The design of the roof should be compatible with the architectural style and character of the building and surrounding buildings in a historic district.
  - (5) Landscaping. Landscaping should be compatible with the architectural character and appearance of the property and of surrounding buildings, structures and landscapes in historic districts.
  - (6) Scale. The scale of the building or structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding buildings or structures in a historic district.
  - (7) Directional expression. Facades in historic districts should blend with other buildings with regard to directional expression. Buildings in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a building after alteration, construction, or partial demolition should be compatible with its original architectural style and character.
  - (8) Architectural details. Architectural details including materials, colors, and textures should be treated so as to make a building compatible with its original architectural style and character and to preserve and enhance the architectural style or character of a building or historic district.
- O. Appeals. Any party aggrieved by a determination of the Historic District Commission may, within twenty (20) days after the filing of the notice of such determination with the North Reading Town Clerk, appeal to the Superior Court sitting in equity pursuant to MGL c. 40C, § 12A.

**§ 85-8. Certificate of appropriateness; application for demolition or building permit.**

- A. Certificate of appropriateness. A certificate of appropriateness shall be required before the following actions affecting the exterior architectural feature of any building or structure within an historic district may be undertaken:
- (1) Any construction, alteration, or removal requiring a building permit from the Town of North Reading;
  - (2) Any demolition in whole or in part requiring a permit from the Town of North Reading;
  - (3) Any construction, alteration, demolition, or removal affecting any significant exterior architectural feature as specified in this bylaw.
- B. Applications for permits. Every application for a demolition permit or a building permit, including the accompanying plans and specifications,

affecting the exterior architectural appearance of a property within a designated historic district shall be forwarded by the Building Department to the Historic District Commission within seven (7) days following receipt of the application by the Building Department. The Building Department shall not issue the building or demolition permit until and unless a certificate of appropriateness has been issued by the Historic District Commission. Any applicant may request a meeting with the Historic District Commission before the application is sent by the Building Department to the Historic District Commission or during the review of the application.<sup>10</sup>

**§ 85-9. District establishment.**

- A. Designation of historic districts. Designations shall be made to the Historic District Commission on a form prepared by it and may be submitted by a member of the Historic District Commission, Historical Commission, owners of record of the designated properties, or any other person or organization.
- B. Criteria for consideration of designation. The Historic District Commission shall, upon such investigation as it deems necessary, make a determination as to whether a designated area meets one or more of the following criteria:
  - (1) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state, or country;
  - (2) Its location as a site of a significant local, county, state, or national event;
  - (3) Its identification with a person or persons who significantly contributed to the development of the community, county, state, or country;
  - (4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
  - (5) Its identification as an area of the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state or country;
  - (6) Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
  - (7) Its embodiment of design elements that make it structurally or architecturally innovative;

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**10. Editor's Note: Original Sec. VIIC, Determination by Historic District Commission, which immediately followed this subsection, was deleted 10-2-2000 ATM by Art. 9, approved 3-29-2001. See now § 85-7E.**

- (8) Its unique location or singular physical characteristics that make it an established or familiar visual feature;
  - (9) Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance; and/or
  - (10) Its suitability for preservation or restoration.
- C. Any area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration.
- D. Notification of designation. The Historic District Commission shall transmit copies of reports to the North Reading Community Planning Commission, North Reading Historical Commission, and to the Massachusetts Historical Commission for recommendations within 60 days of the Historic District Commission's decision to establish an historic district.
- E. Public hearing.
  - (1) A public hearing shall be held by the Historic District Commission on the report not less than sixty (60) days after the transmittal of the report to the Community Planning Commission, North Reading Historical Commission and Massachusetts Historical Commission.
  - (2) Due notice of public hearing shall be given at least fourteen (14) days prior to the scheduled date of the public hearing to all owners of property within the proposed historic district as they appear on the most recent Tax Assessor's list.
  - (3) Oral or written testimony concerning the significance of the designated historic district shall be taken at a public hearing from any party concerning the nomination. The Historic District Commission may present expert testimony or present its own evidence regarding the compliance of the designated historic district with the criteria for consideration of a nomination. The owner of any property within a nominated historic district shall be allowed reasonable opportunity to present evidence regarding significance and shall be afforded the right of representation by counsel and reasonable opportunity to cross-examine expert witnesses. The hearing shall be closed upon completion of testimony.
- F. Adoption. The Historic District Commission shall submit a final report, complete with recommendations and a map showing the proposed location of an historic district to the North Reading Town Meeting. A two-thirds majority vote of the Town Meeting shall be required in order to establish an historic district.

- G. Interim control. No building permit shall be issued by the Building Department for alteration, construction, demolition, or removal of a designated historic district or of any property or structure within a designated historic district from the date of the meeting of the Historic District Commission at which a designation form is first presented until the final disposition of the designation by Town Meeting. In no event shall the delay be for more than one hundred eighty (180) days.

**§ 85-10. Applicability to town; amendments.**

- A. The Town of North Reading shall be subject to the provisions of this bylaw notwithstanding any Town bylaw to the contrary.
- B. This bylaw may be amended from time to time by a two-thirds (2/3) majority vote of the Town Meeting, subject to the procedures set forth in MGL c. 40C, § 3, as amended.

**§ 85-11. Severability.**

If any section, subsection, sentence, clause, phrase or section of this Historic District Bylaw is for any reason held invalid, illegal or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

**§ 85-12. When effective.**

Following Town Meeting approval, this bylaw shall take effect immediately when the following conditions have been met:

- A. Approval by the Attorney General of the Commonwealth;
- B. Filing of a map of the boundaries of the historic district with the North Reading Town Clerk, the North Reading Building Inspector, and the Middlesex South Registry of Deeds.

**§ 85-13. Violations and penalties.**

- A. Violations. The provisions of this bylaw may be enforced by noncriminal disposition pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. The Building Inspector shall be the enforcing official. Upon taking cognizance of a violation of a specific Historic District Bylaw, as an alternative to initiating criminal proceedings, he may give to the offender a written citation of violation.
- B. Penalties. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense. The penalty for violation of any provision of this bylaw shall be as follows: \$300.00 per day per violation.

**Chapter 90**

**(RESERVED)****Chapter 98****LAND UTILIZATION COMMITTEE****§ 98-1. Establishment; membership.**

- A. There is hereby established a Land Utilization Committee, consisting of nine citizens, seven of whom shall be appointed by the Town Administrator. The Committee shall be appointed for overlapping terms, starting in January 1996 as follows: 2 members for a term of 3 years, 3 members for a term of 2 years, 2 members for a term of 1 year and thereafter for three-year terms as their terms expire.
- B. One additional member shall be appointed by the Recreation Committee and one by the Conservation Commission. Each of these two members shall be appointed by the Board they represent, for a term of one (1) year. At its organizational meeting each year, the Committee shall elect a Chairman and Vice Chairman.
- C. The Land Utilization Committee shall be authorized to appoint such non-voting associate members as it deems expedient and necessary. The following boards and committees of the Town shall be encouraged to establish and maintain liaison with the Land Utilization Committee:
  - (1) Board of Selectmen.
  - (2) School Committee.
  - (3) Community Planning Commission.
  - (4) Finance Committee.
  - (5) Housing Partnership.
  - (6) Hillview Commission.

**§ 98-2. Powers and duties; assistance from other boards.**

- A. The Land Utilization Committee shall have the following powers and duties:
  - (1) To work with existing boards and committees in establishing goals, determining methodology, and investigating the feasibility of acquiring and/or utilizing land within the Town of North Reading for purposes of open space maintenance, aquifer, wetland, and floodplain protection, passive recreation, establishment of parks and recreation sites, and such other similar uses as may be consistent with the enhancement of the quality of life in North Reading.



- (2) To work within or add to the scope of the existing North Reading Master Plan for Open Space and Recreation.
  - (3) To study the feasibility of using revenues from the operation of the Hillview Facility for the purpose of funding its recommendations.
  - (4) To present annually a report of its activities to the Town, either independently or in collaboration with other boards or committees.
- B. All boards and committees of the Town shall be encouraged to provide the Land Utilization Committee with such reasonable cooperation and assistance as may be within their jurisdiction.

## **Chapter 104**

### **LICENSES AND PERMITS**



## ARTICLE I

**General Provisions**

**[Adopted 11-22-1954 STM by Art. 5 as Ch. 1, Sec. 3 of the 1954  
General Bylaws, approved 2-25-1955]**

**§ 104-1. Licensing authority. [Amended 8-11-1955 STM by Art. 1;  
10-30-1972 ATM by Art. 13, approved 10-11-1973; 10-8-1981 ATM  
by Art. 16, approved 3-2-1982]**

When, in the Charter of the Town of North Reading or a bylaw, anything is prohibited from being done without license or permission from a certain authority, said authority shall have the power to license or permit such a thing to be done unless otherwise provided by law or bylaw. Every permit, license, or authorization granted by the Board of Selectmen or other authority is revokable by the granting authority with cause at any time and, unless otherwise regulated by statute, shall expire on December 31 of each year.

**§ 104-2. Denial, revocation and suspension of licenses. [Added  
10-3-1994 ATM by Art. 8, approved 12-15-1994]**

- A. The Town Collector shall annually furnish to each department, board, commission or division of the Town, 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 party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charge for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement or a pending petition before the Appellate Tax Board.
- B. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or other matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges and whose name appears on said list furnished to the licensing authority from the Town Collector, provided, however, that written notice is given to the party and the Town Collector, as required by Subsection F hereof, and the party is given a hearing to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Town 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 licensing authority receives a certificate issued by the Town 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 Town as of the date of issuance of said certificate.

- C. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the license authority to issue a certificate indicating the limitations to the license or permit, and the validity of said license shall be conditioned upon satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by Subsection B.
- D. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is not direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his/her immediate family, as defined in Section 1 of Chapter 268 of the General Laws,<sup>11</sup> in the business or activity conducted in or on said property.
- E. This section shall not apply to the following licenses and permits (as referenced to the General Laws): open burning, Section 13 of Chapter 48; bicycle permits, Section 11A of Chapter 85; sales of articles for charitable purposes, Section 33 of Chapter 101; children work permits, Section 69 of Chapter 149; clubs, association dispensing food or beverage licenses, Section 21E of Chapter 140; dog licenses, Section 137 of Chapter 140; fishing, hunting, trapping licenses, Section 12 of Chapter 131; marriage licenses, Section 28 of Chapter 207; and theatrical events, public exhibition permits, Section 181 of Chapter 140.
- F. Whenever written notice is required in Subsection B hereof, notice shall be hand-delivered and a signed receipt obtained therefor or notice shall be sent by registered or certified mail, return receipt requested, postage prepaid.

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**11. Editor's Note: See Chapter 268A of the General Laws.**

## ARTICLE II

**Fingerprinting of Applicants; Criminal History Checks**  
**[Adopted 10-1-2012 OTM by Art. 17, approved 10-12-2012]****§ 104-3. Authorization of fingerprint-based criminal history checks.**

The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172B 1/2, conduct state and federal fingerprint-based criminal history checks for individuals applying for the following licenses:

- A. Hawking and peddling or other door-to-door salespeople.
- B. Manager of alcoholic beverage license.
- C. Owner or operator of public conveyance.
- D. Dealer of secondhand articles.
- E. Pawn dealers.
- F. Hackney and livery drivers.
- G. Ice cream truck vendors.
- H. Registered marijuana dispensary licensee. **[Added 10-6-2014 OTM by Art. 15, approved 1-20-2015]**
- I. Registered marijuana dispensary license executives, as defined by 105 CMR 725.000. **[Added 10-6-2014 OTM by Art. 15, approved 1-20-2015]**
- J. Class Two automobile licenses. **[Added 6-1-2015 ATM by Art. 25, approved 8-2-2015]**

**§ 104-4. Notification of applicant.**

At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin which explains the requirements for Town by-laws and the procedures for obtaining criminal history information to see if there have been any updates to be sure the Town remains in compliance.

**§ 104-5. Transmittal of fingerprints.**

Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this by-law to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting

fingerprint-based state and national criminal records background checks of license applicants specified in this by-law.

**§ 104-6. State and national criminal record background checks authorized; use of information.**

- A. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize state and FBI records in connection with such background checks, consistent with this by-law. The state and FBI criminal history will not be disseminated to unauthorized entities. Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this by-law until it has taken the steps detailed in this subsection.
- B. Municipal officials should not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so. The Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town as listed. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

**§ 104-7. Promulgation of regulations.**

The Board of Selectmen, is authorized to promulgate regulations for the implementation of the proposed by-law, but in doing so it is recommended that it consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state laws.

**§ 104-8. Use of criminal record by licensing authorities.**

- A. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal 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 this by-law. A Town licensing authority may deny an application for a license on the basis of the results of a 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 an applicant's suitability in making this determination.
- B. The Town or any of its officers, departments, boards, committees or other licensing authorities are hereby authorized to deny any application, including for renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this by-law.

**§ 104-9. Fees.**

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be determined by the Board of Selectmen and shall not exceed \$100. The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of those fees. A portion of the fee (\$30), as specified in Massachusetts General Laws Chapter 6, Section 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

**§ 104-10. Effective date.**

This by-law shall take effect upon approval of the Massachusetts Attorney General, so long as the requirements of MGL c. 40, § 32, are satisfied.





## ARTICLE III

**Registered Marijuana Dispensary (RMD) Licenses**  
**[Adopted 10-6-2014 OTM by Art. 14, approved 1-20-2015]****§ 104-11. Purpose.**

The purpose of this bylaw is to protect the public safety and minimize any possible adverse public safety and health consequences that could result from the establishment of registered marijuana dispensaries ("RMD") within the Town pursuant to Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana" (the "Act") and 105 CMR 725.000, while acknowledging the Act's intent to make medical marijuana available to qualifying patients on a lawful basis.

**§ 104-12. License required.**

- A. No person or corporation shall operate a RMD within the Town unless licensed to do so by the Board of Selectmen ("Board").
- B. A RMD license shall be valid for a term of one year from the date of issuance by the Board.
- C. Each day of operation without a valid Town RMD license shall constitute a separate offense.
- D. A RMD license granted under this bylaw shall be subject to the RMD's compliance with all applicable Massachusetts and Town laws, by-laws, regulations, and codes, including, but not limited to, 105 CMR 725.000, the Town's Zoning bylaws, and any Town regulations adopted pursuant to this bylaw.

**§ 104-13. Regulations.**

The Board may issue regulations for the implementation of this bylaw in consultation with the Chief of Police and/or other Town departments, officials or boards, as necessary.

**§ 104-14. Applications for new or renewed RMD licenses.**

- A. The Board shall specify the process and forms to be used by applicants for new and renewed RMD licenses.
- B. The Board or its designee(s) may inspect a RMD and affiliated vehicles prior to the issuance of a RMD license or any license renewal.
- C. All areas of a RMD and all RMD records may be subject to inspection consistent with applicable law. The Board may, to the extent permitted under applicable law (including any Town regulations promulgated hereunder), consider whether a license applicant is a suitable and responsible license candidate and other aspects of the application as may be necessary to implement the purposes of this bylaw.

- D. An applicant's noncompliance with applicable Massachusetts and Town laws, bylaws, regulations, and codes, including, but not limited to, 105 CMR 725.00, the Town's Zoning bylaws, and any Town regulations adopted pursuant to this bylaw, may be cause for denial of an application for a new or renewed RMD license.

**§ 104-15. Implementation.**

This bylaw shall not be implemented in a manner that conflicts or interferes with the Act or with 105 CMR 725.000.

**§ 104-16. Severability.**

If any clause, sentence, paragraph or section of this bylaw or the application thereof shall for any reason be adjudged by a court to be invalid, such judgment shall not affect, impair or invalidate the remainder of this bylaw or its application.

**Chapter 107**

**MARIHUANA**

**GENERAL REFERENCES**

**Alcoholic beverages — See Ch. 14.**

**Peace and good order — See Ch. 128.**



## ARTICLE I

**Public Consumption****[Adopted 10-5-2009 OTM by Art. 16, approved 2-2-2010]****§ 107-1. Public consumption prohibited.**

No person shall smoke, ingest or otherwise use or consume marihuana (marijuana) or tetrahydrocannabinol as defined in MGL c. 94C, § 1, as amended while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, municipal parking lot, or any other area owned or under the control of the Town; or in or upon any bus or passenger conveyance operated by a common carrier, or in any place accessible to the public.

**§ 107-2. Violations and penalties.**

Whoever violates the provisions of this bylaw shall be subject to the following penalties - \$300 for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

**§ 107-3. Enforcement.**

This bylaw may be enforced through any lawful means in law and in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to MGL c. 40, § 21 and § 1-5A of the General Bylaws, or non-criminal disposition pursuant to MGL c. 40, § 21D and § 1-5B of the General Bylaws by any police officer of the Town.

**Chapter 110****MARTIN'S POND****§ 110-1. Use of personal motorized watercraft prohibited.**

No person shall operate a jetski, surf jet, or waterbike on the waters of Martin's Pond.

**§ 110-2. Violations and penalties.**

- A. Violation of this bylaw shall be punishable by fines as follows:
  - (1) First offense: \$50.
  - (2) Second offense: \$100.
  - (3) Third and each subsequent offense: \$200.
- B. Enforcement of this chapter shall be carried out by the North Reading Police Department under the provisions of Chapter 1, General Provisions, § 1-5B, Noncriminal disposition, of the General By-laws of the Town of North Reading.

**Chapter 116****MOBILE HOMES**

## ARTICLE I

**Rent Control Board****[Adopted 10-1-1990 ATM by Art. 9, approved 12-18-1990]****§ 116-1. Authority.**

This by-law is authorized under Chapter 561 of the Acts of 1989 - an Act Providing for the Establishment and Administration of Rent Regulations and the Control of Evictions in Mobile Home Park Accommodations in the Town of North Reading; the provisions of which were accepted by the 1990 Annual Town Meeting.

**§ 116-2. Establishment and appointment.**

There shall be a Mobile Home Rent Control Board, comprised of three town residents, excluding mobile home park owners and tenants appointed by the Board of Selectmen. Initial appointments shall be for one (1), two (2) and three (3) years, with subsequent terms to be three years.

**§ 116-3. Powers and duties. [Amended 4-1-1991 ATM by Art. 8, approved 7-3-1991]**

The Mobile Home Rent Control Board shall have the authority to regulate rents, to establish minimum occupancy and eviction standards, make and enforce rules and regulations, and such other authority as specified in Chapter 561 of the Acts of 1989 and any subsequent amendments thereto.

## **Chapter 128**

### **PEACE AND GOOD ORDER**

#### **GENERAL REFERENCES**

**Alarm systems — See Ch. 11.**

**Carnivals, fairs and exhibitions — See Ch. 37.**

**Alcoholic beverages — See Ch. 14.**

**Firearms — See Ch. 68.**

**Animals — See Ch. 23.**

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#### **§ 128-1. Unlawful entry on premises.**

- A. No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another with the intention of peering into the windows or doors of a house or of spying upon, in any manner, any person or persons therein.
- B. Whoever violates this section shall be subject to arrest without a warrant in accordance with Chapter 276, Section 28, General Laws.

#### **§ 128-2. Defacing property; posting notices. [Amended 10-1-1990 ATM by Art. 15, approved 12-18-1990]**

- A. No person shall deface in any manner, nor affix to any post, pole, tree, sidewalk, road surface, hydrant, fence, wall or similar structure within the limits of any sidewalk, public way, private way or town property, any sign, poster, placard, advertisement notice, slogan or bill of any kind. Signs or notices which are in the public interest may be posted with the approval of the Board of Selectmen.
- B. The Town shall, through the Selectmen, require persons in violation of this section to remove the materials which are in violation. Persons in violation of this subsection will be liable for a fine of one hundred dollars (\$100) for each offense. Each day a violation remains shall constitute a separate offense.
- C. Property which is a part of a planned unit development shall be excluded from the provisions of this section.

## **Chapter 131**

### **PEDDLERS, SOLICITORS AND TRANSIENT VENDORS**

#### **GENERAL REFERENCES**

**Carnivals, fairs and exhibitions — See Ch. 37.**

**Secondhand dealers and pawnbrokers — See Ch. 143.**



## ARTICLE I

**Peddlers and Solicitors****[Adopted 5-3-1971 ATM by Art. 36, approved 6-11-1971]**

**§ 131-1. Registration required; exceptions. [Amended 10-17-1977 ATM by Art. 19, approved 2-28-1978; 10-2-1989 ATM by Art. 9, approved 12-7-1989]**

No person, firm, or corporation shall offer for sale, solicit funds, or offer services door-to-door within the Town of North Reading without prior registration with the North Reading Police Department, said registration to consist of the name and address of all persons, firms, or corporations, together with a list of all persons to be engaged in said canvassing. Canvassing is to be done during daylight hours only. Provided, nevertheless, the above requirements shall not apply to any political, charitable, or religious organizations duly chartered under the laws of the states or of the Federal Government nor shall they apply to persons running for political office. Each violation of this by-law shall be punishable by a fine of ten (\$10) dollars for each offense.



## ARTICLE II

**Transient Vendors**

**[Added 3-12-1973 ATM by Art. 2, approved 10-11-1973; amended 10-5-1998 ATM by Art. 13, approved 1-27-1999]**

**§ 131-2. Definitions.**

The term "transient vendor," for the purpose of this by-law, shall be the same as defined in Section 1 of Chapter 101 of the General Laws. The term "outdoor transient vendor" for purposes of this by-law shall mean any person, either principal or agent, who engages in any exhibition and sale of goods, wares, or merchandise, in one locality, which business is not conducted in or under a tent, booth, building or other structure.

**§ 131-3. License required; fee; term.**

Every transient vendor or outdoor transient vendor, before making any sale of goods, wares, or merchandise in the Town, shall apply to the Board of Selectmen for a license and shall accompany such application with a license fee of twenty-five (\$25) dollars. Thereupon the Board of Selectmen shall issue a license to the applicant, provided that the applicant meets all the requirements that may be established by law. Such license shall authorize the sale of goods, wares, and merchandise, and shall remain in force so long as the licensee shall continuously keep and expose for sale in the Town such stock of goods, wares or merchandise, but not later than January 1 following the date of issuance.

**§ 131-4. Compliance with state regulations required.**

No license shall be granted under this by-law until the applicant has complied with the provisions of General Laws, Chapter 101, Section 3 and has exhibited to the Board of Selectmen a license by the Director of Standards of the Commonwealth where applicable.

**§ 131-5. Revocation of license.**

The Board of Selectmen is hereby authorized to revoke any license under the provisions of this by-law where the licensee is guilty of violating any provisions of this by-law or any provisions of laws or by-laws which violation would make such licensee a person unfit to hold the license.

**§ 131-6. Sales in open areas or vacant lots.**

No person, whether principal or agent, who engages in temporary or transient business shall offer for sale, expose for sale any article in any open area, alley, or vacant lot, and, without limiting the generality of the foregoing, such items as wreaths, flowers, Christmas trees or Christmas decorations, unless such person has first obtained an outside transient vendor license therefore from the Board of Selectmen as provided by § 131-3. This section shall not apply to any person who is assessed or is

liable for assessment of personal property taxes on the above referenced goods, as of January 1 in the year in which the sales referred to above are to be made. Religious and charitable institutions shall be exempt from the provisions of this section.

**§ 131-7. Severability.**

In [sic] any clause, sentence, paragraph or section of this by-law or the application thereof to any person or circumstances shall for any reason be adjudged by a court to be invalid, such judgment shall not affect, impair or invalidate the remainder of this by-law or its application.

**Chapter 143****SECONDHAND DEALERS AND PAWNBROKERS****GENERAL REFERENCES**

**Peddlers, solicitors and transient vendors — See Ch. 131.**

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**§ 143-1. Intent and purpose. [Amended 10-2-2000 ATM by Art. 10, approved 3-29-2001]**

The intent of this by-law is to establish a system which fairly and impartially regulates retail transactions of a pawn-broker or a second-hand dealer for the purpose of:

- A. Identifying stolen property unintentionally received by the regulated parties; and
- B. Detection of regulated parties intentionally transacting business in stolen property.

**§ 143-2. Definitions.**

PAWNBROKER — Any transaction wherein there is the lending of money secured by taking possession of jewelry, wearing apparel, household goods or other personal property, with interest charged thereon, shall be regulated.

SECOND-HAND DEALER — Shall mean any person, firm, partnership or corporation whose business is the retail buying, selling, buy-back, exchanging, dealing in or dealing with second-hand articles including but not limited to jewelry, watches, diamonds, or other precious stones or gems, gold, silver, platinum, or other precious metals, musical instruments and equipment, cameras, furs, small collectible antiques, home and auto stereo equipment, televisions, VCR's, tools, computers and computer equipment, firearms, auto accessories, sporting equipment and collectibles. Mail order transactions or retail stores that exchange or provide cash or credit for returned articles shall not be included within these definitions.

**§ 143-3. Licensing procedure.**

- A. No person, firm, partnership, or corporation shall operate, conduct, or engage in business as a second-hand dealer/pawnbroker unless such person, firm, partnership, or corporation shall first obtain a license from the Board of Selectmen or their designee, i.e. Chief of Police.
- B. Applications for new licenses and renewal licenses for a second-hand dealer/pawnbroker shall be made in writing to the Police Department on forms provided for this purpose by the Town of North Reading. Each

issued license and applicable licensing requirements shall be issued on a location specific basis. No such license shall be issued to any person, firm, or corporation who has in the last ten years been convicted of receiving stolen property or who has repeatedly violated ordinances or statutes of this state or any other state or territory related to the business license in this state or any state or territory. Refusal of a license shall be based on just cause.

- C. Upon approval, a license shall be issued and continue in force until January 1, next following, unless sooner revoked. Each license fee and renewal fee shall be \$26.00. Said license may not be assigned or transferred and will be clearly and prominently displayed.
- D. A second-hand dealer may apply for a waiver of the licensing requirement hereunder. The Board of Selectmen or their designee, i.e. Chief of Police, may grant such waiver if it is determined that the applicant is in a business which (a) receives its stock-in-trade from charitable donations; or (b) is a business the nature of which is not susceptible to the purchase and resale of stolen property. Applications for waivers shall be made in writing to the Police Department on forms provided for this purpose by the Town of North Reading, and shall be renewed on a yearly basis on such terms and conditions as the Town shall mandate.

#### **§ 143-4. Purchasing from minors.**

No second-hand dealer/pawnbroker, nor any person employed by a second-hand dealer/pawnbroker shall directly or indirectly purchase any aforementioned article from anyone under 18 years old, knowing or having reason to believe him or her to be such, except when said minor is accompanied by a parent or legal guardian, who shall sign the transaction record in person before said dealer.

#### **§ 143-5. Records; identification; inspections.**

- A. Every second-hand dealer/pawnbroker, upon the acquisition of any aforementioned article, shall prepare transaction records upon forms approved by the Town of North Reading, stating the full name, ID number, date of birth, phone number and address of the seller, date of the transaction, and a full, accurate and detailed description (to include make, model and serial number) of each article. Dealer shall attach a photocopy of the identification to the form along with the seller's signature. A photocopy of the article, if required by the nature or the size of the item, will also be attached to the form. One legible copy of the transaction record shall be delivered to the Police Department within forty-eight hours of the end of said dealer's business day.
- B. Jewelry, watches, diamonds, or other precious stones or gems, gold, silver, platinum or other precious metals or items by virtue of their size shall be photocopied by use of a document copier.

- C. Positive identification in the form of a government photo ID shall be required of the seller and the type of identification used shall be noted on the dealer's records. This shall not apply with a transaction between second-hand dealers/pawnbrokers as herein defined.
- D. Said dealer shall retain copies of purchase records in his possession, which, together with any article listed therein, may be inspected at any time by any duly authorized North Reading police officer during regular business hours while making all reasonable efforts not to disrupt the normal course of business.
  - (1) All transaction records shall be kept by said second-hand dealer/pawnbroker for a minimum of seven years.
  - (2) No article shall be sold, encumbered by sales contract, or otherwise disposed of or altered in its appearance, within fifteen days of purchase, unless the second-hand dealer is granted permission in writing from the Chief of Police, but in any case not within 24 hours of time of purchase. Pawnbrokers shall retain nonperishable articles for at least four months and perishable articles for one month.

**§ 143-6. Removal of articles by police officers.**

- A. If the North Reading Police Department determines that an article is needed for evidence in a criminal investigation the Police Department shall seize that evidence pursuant to applicable criminal procedures. The second-hand dealer/pawnbroker shall be issued a receipt for the article.
- B. The North Reading Police Department shall keep seized articles under the court's direction as long as necessary to permit the article to be used as evidence. At the conclusion of all court proceedings or closure of the police investigation the Police Department shall notify the original owner, the second-hand dealer/pawnbroker, and any person who may have a lawful interest that the property will be released in 30 calendar days to the original owner if no other claim is placed on the property.

**§ 143-7. Violations and penalties.**

- A. Any violation of this chapter shall be punishable by a fine not exceeding \$200.00 per day.
- B. The Chief of Police may suspend or revoke said license for just cause. Said action will be stayed if an appeal is filed.
- C. Any suspension or license revocation by the Chief of Police may be appealed by the licensee to the Board of Selectmen. That appeal must be made within ten business days of the date of action by the Chief of Police.

**Chapter 145**  
**SEX OFFENDERS**



## ARTICLE I

**Residency Restrictions****[Adopted 10-6-2014 OTM by Art. 18, approved 1-20-2015]****§ 145-1. Purpose; intent.**

- A. The public purpose of this by-law is to ensure and protect public safety in the Town of North Reading for its residents and children and improve the health, safety and welfare of the residents of North Reading by creating safe and secure areas around elderly housing locations and where children regularly congregate wherein individuals finally classified as Level 3 sex offenders by the Sex Offender Registry Board are prohibited from establishing a permanent residence.
- B. After careful consideration, the Town finds that this by-law is narrowly tailored to limit, to the fullest extent possible, the opportunity for Level 3 registered sex offenders to approach or otherwise come into contact with children and senior citizens and that the health and safety of these populations is a compelling governmental interest that the Town seeks to protect.
- C. This by-law is intended to create a civil nonpunitive regulatory scheme to promote public safety throughout Town and protect children and the elderly to the greatest extent possible. This by-law is intended to impose reasonable safety precautions and to mitigate the potential risk of harm to children and the elderly in Town.

**§ 145-2. Definitions.**

The following definitions shall apply to this by-law unless the context clearly indicates a different meaning:

CHILDREN — Any persons under eighteen (18) years of age.

DAY-CARE CENTER — Any establishment, whether public or private, which provides care for children and is registered and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

ELDERLY — Any persons over fifty-five (55) years of age.

ELDERLY HOUSING FACILITY — Any building or buildings on the same lot containing four (4) or more dwelling units restricted to occupancy by households having one or more members fifty-five (55) years of age or older.

ESTABLISH A PERMANENT RESIDENCE — To set up a home, dwelling place or abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property.

PARK — Any public land located within the Town of North Reading designated for active or passive recreational or athletic use by the Town of North Reading, including playgrounds.

PERMANENT RESIDENCE — A place where the person lives, abides, lodges, or resides for fourteen (14) or more consecutive days.

SCHOOL — Any public, religious or private educational facility that provides educational services to children in nursery through 12th grade.

SCHOOL BUS STOP — Any location in the Town of North Reading designated by a public or private school to pick up or drop off children for the purposes of educational transportation.

SEX OFFENDER — Shall have the same meaning as provided for in MGL c. 6, § 178C.

SEX OFFENDER REGISTRY — The commonwealth's registry of sex offenders established and maintained pursuant to MGL c. 6, §§ 178C to 178P, inclusive.

### **§ 145-3. Prohibited acts.**

- A. It is unlawful for any sex offender who is finally classified as a Level 3 sex offender by the Sex Offender Registry Board, for as long as so classified, to establish a permanent residence within one thousand (1,000) feet of any elderly housing facility, school, day-care center, or park or within 250 feet of any school bus stop if, after written notice and a hearing before the Police Chief and/or his designee, the Police Chief and/or his designee determines that the Level 3 sex offender poses a risk to children and/or the elderly, and, therefore, residency should be limited in accordance with this section. At said hearing, the Police Chief may review all evidence presented by the Level 3 sex offender and review all available criminal justice information in making said determination. In accordance with this section, the Police Chief shall issue a written determination to said Level 3 sex offender within fourteen (14) days of such hearing.
- B. To determine the minimum distance separations, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of an elderly housing facility, school, school bus stop, day-care center or park.

### **§ 145-4. Exceptions.**

A person who is finally classified as a Level 3 sex offender by the Sex Offender Registry Board residing within one thousand (1,000) feet of an elderly housing facility, school, day care center or park or within 250 feet of any school bus stop, for as long as so classified does not commit a violation of this by-law if any of the following apply:

- A. The Level 3 sex offender established the permanent residence and reported and registered said residence, in accordance with the Sex Offender Registry Law and any applicable regulations of the Massachusetts Sex Offender Registry Board, prior to the effective date of this by-law.

- B. The elderly housing facility, school, day-care center, park, or school bus stop was established after the Level 3 sex offender established his/her permanent residence and reported and registered the permanent residence pursuant to the Sex Offender Registry Law and any applicable regulations of the Massachusetts Sex Offender Registry Board.
- C. The prohibition in § 145-3 above shall not be construed or enforced so as to prohibit a Level 3 sex offender from exercising his/her right to vote in any federal, state or municipal election, or from attending any religious service.
- D. The Level 3 sex offender is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility located within one thousand (1,000) feet of an elderly housing facility, school, day-care center, park, or within 250 feet of a school bus stop in the Town of North Reading or is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to G.L. c. 123 located within one thousand (1,000) feet of an elderly housing facility, school, day-care center, park, or within 250 feet of a school bus stop in the Town of North Reading.
- E. The finally classified Level 3 sex offender is a minor.

#### **§ 145-5. Enforcement.**

- A. The North Reading Police Chief and his designee at the North Reading Police Department shall be charged with the enforcement of this by-law.
- B. A map depicting the prohibited areas shall be created by the Town and maintained by the North Reading Police Department. The Town and or the Police Department shall update the map yearly if necessary.<sup>12</sup>

#### **§ 145-6. Violations and penalties.**

Violation of this by-law may be enforced through all lawful means in law by the Police Chief or his designee, including, but not limited to, enforcement by noncriminal disposition pursuant to MGL c. 40, § 21D. The penalties shall be as follows:

- A. First offense: written notification by the Police Chief and/or his designee that the finally classified Level 3 sex offender has thirty (30) days to move, along with an opportunity for a hearing with the Police Chief and/or his designee.
- B. Subsequent offense: This shall apply to any offender served or supplied with a notification of a first offense and an opportunity for a hearing that has failed to comply with all requirements of the notification within the thirty (30) day period: noncriminal fine of \$300 issued by the Police Chief and/or his designee and written notification to the

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**12. Editor's Note: Said map is included as an attachment to this chapter.**

finally classified Level 3 sex offender's landlord, parole officer and/or probation officer and the commonwealth's Sex Offender Registry Board that said person has violated this by-law. Following the first offense, each day a violation exists shall constitute a separate violation.

**§ 145-7. When effective.**

This article shall be effective following compliance with MGL c. 40, § 32.

## **Chapter 149**

### **SOIL REMOVAL**

#### **GENERAL REFERENCES**

**Excavations — See Ch. 62.**

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#### **§ 149-1. General provisions.**

No person shall strip or remove any soil, except from land in public use, for purposes not in conformity with the intent and purpose of this by-law. The removal of soil, loam, sand, peat, or gravel shall be in accordance with one of the following procedures.

#### **§ 149-2. Permit required.**

- A. For general removal (sand pit) operations, a written permit must be obtained therefore from the Board of Selectmen after a public hearing, at which time all interested persons shall be given the opportunity to be heard. At least fourteen (14) days notice of the time and place of such hearing shall, at the expense of the applicant for a permit, be published in a newspaper of general circulation in the Town.
- B. Before granting any such permit, the Board of Selectmen shall give due consideration to the location of the place from which it is proposed to remove soil, loam, sand, peat, or gravel, to the general character of the neighborhood surrounding such location, and to the effect of the proposed removal on such neighborhood, to the amount of noise, dust, and vibration likely to result from the proposed removal, to the extent, depth, and contour of the location and surrounding neighborhood from which such removal is proposed, to the general safety of the public in the immediate vicinity of such location and to the use to which such location has been put prior to the application for a permit. A determination shall be made as to the existence of any other gravel pit in the close vicinity of the proposed location, the existence of which shall normally be considered an inhibiting factor in granting the proposed permit. No permit granted by the Board of Selectmen shall be valid for a period in excess of three (3) years from its date of issue.
- C. As part of and set forth in such permit shall be the restriction forbidding excavation to a depth below the mean grade of an adjacent serving street in the immediate vicinity of the street. No excavation shall be such as to alter the direction of a watercourse or to cause surface water to gather as in a sump or swale. In addition, the Selectmen shall impose and set forth in the permit such other restrictions and conditions as they deem reasonable and in the public interest, including but not limited to the following:

- (1) The duration of time during which the permit may be exercised;
  - (2) The extent, depth, and contour of the area of removal;
  - (3) The grade of the slope of the banks of the area of removal;
  - (4) The proximity of such operations to any public way;
  - (5) The hours of the day during which such operations may be permitted;
  - (6) The hours of the day during which vehicles may be loaded with soil, loam, sand, peat, and gravel and during which such loaded vehicles may be permitted to leave such location;
  - (7) The use of covers over soil, loam, sand, peat, or gravel loaded in vehicles for removal from the area;
  - (8) The shoring and reinforcement of the banks of any excavation; and
  - (9) The placement of topsoil and the replanting of the area of removal and screening the same from public view.
- D. In the renewal of any permit upon its expiration, the Board of Selectmen shall give full consideration to the manner in which the permit holder has lived up to his contractual relations with the Town, and under no circumstances shall renewal be granted where there has been a history of repeated failure to live up to restrictions and requirements of the previous permit.

**§ 149-3. Soil removal incidental to development and construction.**

- A. Where soil is to be removed in connection with the preparation of a subdivision, the soil, loam, sand, peat, or gravel may, under normal circumstances, be removed solely from the road down to the grades indicated on the subdivision plan only after the approval of said plan by the Community Planning Commission and the issuance of a permit by the Board of Selectmen. Where special circumstances exist requiring regrading of other than the road areas, the developer shall with the approval of the Community Planning Commission, file a topographic plan showing the proposed initial and final contours of the area involved. In these circumstances, sufficient loam must be retained on the subdivision for regrading to a minimum depth of six (6) inches over the exposed subsoil. **[Amended 10-2-2000 ATM by Art. 11, approved 3-29-2001]**
- B. Where soil is to be removed in connection with the preparation of a specific site for building, removal may take place only after the issuance of a building permit by the Building Inspector. Removal will normally be only from the area for the building, the driveways, from parking areas, and from areas where removal is specifically required by the Board of Health in connection with disposal systems. Where special circumstances exist requiring general regrading, removal of peat, etc.,

the builder may file a rough plan and request for additional soil removal with the Building Inspector as provided in § 149-4 below. In all cases, sufficient loam shall be retained on the premises for regrading to a minimum depth of six (6) inches over the subsoil.

**§ 149-4. Soil removal incidental to improvements.**

Removal of miscellaneous amounts of soil not covered under the provisions of § 149-2 or § 149-3 above is permitted, provided the removal is concomitant with the improvement of the property from which removal takes place and provided the removal is in accord with the expressed intent and purpose of the provisions of this by-law.

- A. Removal of aggregate quantities of less than fifty (50) cubic yards from any one general site requires no formal permit. Where the removal of soil in quantities in excess of fifty (50) cubic yards but less than five hundred (500) cubic yards is desired, application must be made to the Building Inspector for a miscellaneous soil removal permit. If appropriate, the Building Inspector, with the concurrence of the Town Engineer, may issue the permit. The permit, if issued, shall indicate the approximate quantity of soil to be removed, the purpose of removal, and the location of the site of removal. The permit shall also specify that upon completion of excavation, exposed subsoil shall be graded and covered with loam to a minimum depth of six (6) inches and that failure to do so shall be deemed a violation of the by-law.
- B. Where special circumstances exist which indicate the removal of soil in excess of five hundred (500) cubic yards but for which a general permit under § 149-2 above is not appropriate, a permit for a larger amount up to two thousand (2,000) cubic yards may be issued, provided that it additionally has the approval of and bears the signature of the Chairman of the Board of Selectmen or his designated representative.
- C. Except where the removal under this § 149-4 is done in connection with the formation or enlargement of a pond, excavation shall not be permitted below the mean grade of the street or road serving the property where the excavation is in the immediate vicinity of the street and, in any case shall not be such as to change the direction of flow of a watercourse or to cause surface water to gather as in a sump or swale. Pits for burying large rocks, stumps, or other large objects shall immediately be backfilled for safety reasons.

**§ 149-5. Violations and penalties. [Amended 10-2-1989 ATM by Art. 9, approved 12-7-1989]**

The penalty for violation of this by-law shall be as follows: for the first offense fifty (\$50) dollars, for the second offense, one hundred (\$100) dollars, and for the third and subsequent offenses, two hundred (\$200) dollars.

**Chapter 152**

**SOLID WASTE**

**GENERAL REFERENCES**

**Hazardous materials — See Ch. 80.**



## ARTICLE I

**Junked Vehicles and Other Waste Material**  
**[Adopted 6-1-2015 ATM by Art. 22, approved 8-2-2015<sup>13</sup>]****§ 152-1. Definitions.**

For this article, the following terms shall have the following meanings:

**GARBAGE** — Every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of edibles, and other matter, of any nature whatsoever, which is subject to decay, purification and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ carrying insects, or any container of material defined herein.

**JUNK** — Any tangible item such as furniture, appliances, bicycles, motor vehicles or smaller property not having a useful purpose to the owner or abandoned by the owner and not included within the definitions of garbage or rubbish.

**RUBBISH** — Any trash such as paper, cardboard, cans, glass, plastics and similar material.

**§ 152-2. Restrictions on storage.**

- A. No occupier or owner of land shall permit any junked, stripped, partially dismantled, or wrecked motor vehicle or parts thereof, or junk, scrap metals, garbage or rubbish to be stored, parked, or placed on any premises owned or occupied by him unless the same shall be within a proper container, building or area such that the materials previously enumerated shall be unexposed to view of the public or abutters, or within an area operated by a properly licensed person or persons or corporation for the purpose of selling the same and is not in violation of any other bylaw of the Town or rule or regulation of any Town agency or law of the commonwealth.
- B. For purposes of this subsection only, the Board of Health or its designee shall be charged with enforcement of this subsection. Each day a violation remains shall constitute a separate offense.

**§ 152-3. Storage of unregistered vehicles.**

- A. No occupier or owner of land shall permit more than one (1) unregistered, used motor vehicle within public view or the view of abutters on the land owned or occupied by him unless such unregistered, used motor vehicles are used regularly on the premises or unless such unregistered, used motor vehicles are displayed by a

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**13. Editor's Note: This article also repealed former Art. I, Junked Vehicles and Other Waste Material, adopted 6-17-1968 STM by Art. 23, approved 7-24-1968, as amended.**

properly licensed person or persons or corporation for the purpose of selling the same.

- B. For purposes of this section, the Chief of Police or his designee shall be charged with enforcement of this subsection. Each day a violation remains shall constitute a separate offense.

**§ 152-4. Violations and penalties.**

Whoever violates the provisions of this article shall, in addition to any other lawful remedy, be subject to the following penalties, first offense: warning; second offense: \$50; third offense: \$100; and fourth and subsequent offenses: \$200.

## ARTICLE II

**Littering and Dumping****[Adopted 6-1-2015 ATM by Art. 22, approved 8-2-2015<sup>14</sup>]****§ 152-4.1. Prohibited acts; removal of materials.**

- A. No person shall in any manner, whether from on foot or from any vehicle, throw, drop, leave, discard or otherwise deposit on any street, sidewalk, way, lot, pond, stream, or other body of water, or any public place, any rubbish, papers, glass, metal, wood, garbage, litter, or refuse of any kind. Persons in violation of this subsection will be liable for a fine of three hundred dollars (\$300) for each offense.
- B. The Town shall, through its Chief of Police or his designee, require persons in violation of this article to remove the materials which are in violation. Each day a violation remains shall constitute a separate offense.

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**14. Editor's Note: This article also repealed former Art. II, Littering and Dumping, adopted 10-1-1990 ATM by Art. 15, approved 12-18-1990, as amended.**



## ARTICLE III

**Recycling****[Adopted 4-10-1995 ATM by Art. 19, approved 5-5-1995]****§ 152-5. Rules and regulations.**

The Town, in order to optimize recycling of the solid waste generated within the Town, authorizes the Selectmen to adopt rules and regulations to require residents of every household utilizing solid waste municipal collection to separate designated recyclable materials, so that they may be recycled.

**§ 152-6. Definitions.**

For the purposes of this by-law the term "recyclable" shall mean: glass, corrugated cardboard, metal cans, as well as any other material the Selectmen may determine can be recycled. The Selectmen shall have the authority to add, alter or delete items to be separated, as markets for recycled goods fluctuate.

**§ 152-7. Violations and penalties. [Amended 10-2-2000 ATM by Art. 12, approved 3-29-2001]**

The Selectmen may set a fine not to exceed \$25.00 for each violation of the rules and regulations established pursuant to this bylaw.

## **Chapter 156**

# **STORM WATER MANAGEMENT**

### **GENERAL REFERENCES**

**Excavations — See Ch. 62.**

**Wetlands — See Ch. 196.**

**Soil removal — See Ch. 152.**

**Zoning — See Ch. 200.**

ARTICLE I  
**Non-Storm Water Discharges**

**§ 156-1. Purpose.**

- A. Increased and contaminated storm water runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drainage system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of Chapter 156, Article I are:
  - (1) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
  - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
  - (3) To require the removal of all such illicit connections;
  - (4) To comply with state and federal statutes and regulations relating to storm water discharges; and
  - (5) To establish the legal authority to ensure compliance with the provisions of Chapter 156, Article I through inspection, monitoring, and enforcement.

**§ 156-2. Definitions.**

**AUTHORIZED ENFORCEMENT AGENCY** — The Director of the Department of Public Works, its employees, officers, or agents are designated to enforce Article I Non-Storm Water Discharges.

**BYLAW** — Refers to Chapter 156, Storm Water Management Bylaw of the "Bylaws of the Town of North Reading."

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

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into the municipal storm drainage system or into the waters of the United States or Commonwealth of Massachusetts from any source.

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

**ILLICIT CONNECTION** — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drainage system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether

said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

**ILLCIT DISCHARGE** — Direct or indirect discharge to the municipal storm drainage system that is not composed entirely of storm water, except as exempted in § 156-8. The term does not include a discharge in compliance with a NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to § 156-8.

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

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAINAGE SYSTEM** — The system of conveyances designed or used for collecting or conveying storm water, 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.

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

**NON-STORM WATER DISCHARGE** — Discharge to the municipal storm drainage system not composed entirely of storm water.

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

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

**POLLUTANT** — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include without limitation:

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



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

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

STORM WATER — Storm water runoff, snowmelt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT — A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

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 G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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

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

WATERS OF THE COMMONWEALTH OF MASSACHUSETTS — All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WETLANDS — Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to G.L. c. 131, § 40 and 310 CMR 10.00 et seq.

**§ 156-3. Applicability.**

Chapter 156, Article I shall apply to flows entering the municipal storm drainage system.

**§ 156-4. Authority.**

Chapter 156, Article I is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to G.L. c. 83, §§ 1, 10, and 16, as amended by St. 2004, c. 149, §§ 135-140, and the regulations of the federal Clean Water Act found at 40 CFR 122.34

**§ 156-5. Responsibility for administration.**

The Authorized Enforcement Agency shall administer, implement and enforce Chapter 156, Article I, and any rules and regulations adopted thereunder. Any powers granted to or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the Authorized Enforcement Agency to employees or agents of the Authorized Enforcement Agency.

**§ 156-6. Regulations.**

The Authorized Enforcement Agency may promulgate rules and regulations to effectuate the purposes of Chapter 156, Article I. Failure by the Authorized Enforcement Agency to promulgate such rules and regulations shall not have the effect of suspending or invalidating Chapter 156, Article I.

**§ 156-7. Prohibited activities.**

- A. Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth of Massachusetts.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drainage system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of municipal storm drainage system. No person shall obstruct or interfere with the normal flow of storm water into or out of the municipal storm drainage system without prior written approval from the Authorized Enforcement Agency.

**§ 156-8. Exemptions.**

- A. Discharge or flow resulting from fire fighting activities.

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

**§ 156-9. Emergency suspension of municipal storm drainage system access.**

The Authorized Enforcement Agency may suspend municipal storm drainage system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**§ 156-10. Notification of spills.**

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

**§ 156-11. Enforcement.**

The Director of the Department of Public Works or appointed designee shall enforce Chapter 156, Article I, regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

- A. Civil relief. If a person violates the provisions of Chapter 156, Article I, regulations, permit, notice, or order issued there under, the Authorized Enforcement Agency may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders.
  - (1) The Authorized Enforcement Agency or an authorized agent of the Authorized Enforcement Agency may issue a written order to

enforce the provisions of Chapter 156, Article I or the regulations there under, which may include:

- (a) Elimination of illicit connections or discharges to the MS4;
  - (b) Performance of monitoring, analyses, and reporting;
  - (c) That unlawful discharges, practices, or operations shall cease and desist; and
  - (d) Remediation of contamination in connection therewith.
- (2) If the Authorized Enforcement Agency determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- (3) Within thirty (30) days after completion by the Town of 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 Authorized Enforcement Agency within thirty (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 thirty (30) days following a decision of the Authorized Enforcement Agency affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.
- C. Criminal penalty. Any person who violates any provision of Chapter 156, Article I, regulation, order or permit issued there under, shall be punished by a fine of not more than \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in G.L. Ch. 40, § 21D and adopted by the Town as a general bylaw<sup>15</sup> in which case the Authorized Enforcement Agency of the Town shall be the enforcing person. The penalty for the 1st violation shall be a written warning. The penalty for the 2nd violation shall be \$50. The penalty for the 3rd violation shall be shall be \$100. The

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15. Editor's Note: See Ch. 1, General Provisions, § 1-5B, Noncriminal disposition.

penalty for the 4th and subsequent offenses shall be \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- E. Entry to perform duties under Chapter 156, Article I. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Authorized Enforcement Agency, 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 Authorized Enforcement Agency deems reasonably necessary.
- F. Appeals. The decisions or orders of the Authorized Enforcement Agency shall be final. Further relief shall be to a court of competent jurisdiction.
- G. Remedies not exclusive. The remedies listed in Chapter 156, Article I are not exclusive of any other remedies available under any applicable federal, state or local law.

#### **§ 156-12. 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.

#### **§ 156-13. Transitional provisions.**

Residential property owners shall have 90 days from the effective date of Chapter 156, Article I of this bylaw to comply with its provisions provided good cause is shown for the failure to comply with Chapter 156, Article I during that period.

## ARTICLE II

**Construction and Post Construction Storm Water Management of  
New Developments and Redevelopments****§ 156-14. Purpose.**

- A. Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated storm water runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater. In addition, land disturbances can cause harmful impacts due to:
- (1) Soil erosion and sedimentation.
  - (2) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater.
  - (3) Contamination of drinking water supplies.
  - (4) Erosion of stream channels.
  - (5) Alteration or destruction of aquatic and wildlife habitat.
  - (6) Flooding.
  - (7) Overloading or clogging of municipal catch basins and municipal storm drainage systems.
- B. Therefore, Chapter 156, Article II establishes storm water management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople, and the general public. In addition, Chapter 156, Article II establishes storm water management standards for land disturbances that have harmful impacts of soil erosion and sedimentation.
- C. The objectives of Chapter 156, Article II are:
- (1) To require practices to control the flow of storm water from new and redeveloped sites into the municipal storm drainage system in order to prevent flooding and erosion.
  - (2) To protect groundwater and surface water from degradation.
  - (3) To promote groundwater recharge and infiltration.
  - (4) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4.

- (5) To ensure adequate long-term operation and maintenance of structural storm water best management practices (BMPs) so that they work as designed.
- (6) To require practices that eliminate soil erosion and sedimentation and control the volume and rate of storm water runoff resulting from land disturbances.
- (7) To ensure that soil erosion and sediment control measures and storm water runoff control practices are incorporated into the site planning and design process and are implemented and maintained.
- (8) To require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
- (9) To comply with state and federal statutes and regulations relating to storm water discharges.
- (10) To establish the Town's legal authority to ensure compliance with the provisions of Chapter 156, Article II through inspection, monitoring, and enforcement.

#### **§ 156-15. Definitions.**

**ABUTTER** — The owner(s) of land abutting the activity.

**ALTERATION OF DRAINAGE CHARACTERISTICS** — Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**APPLICANT** — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a Storm Water Management Permit for proposed land disturbances.

**APPLICANT'S TECHNICAL REPRESENTATIVE** — A registered professional engineer (P.E.) hired by the applicant to certify that design and construction are completed in accordance with the applicable local, state, and federal storm water requirements.

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

**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.

CLEARING — Any activity that removes the vegetative surface cover.

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 municipal storm drainage system or into the waters of the United States or Commonwealth of Massachusetts from any source.

ENFORCEMENT OFFICER — Town's authorized agent to enforce construction and post construction runoff controls as specified in Chapter 156, Article II and the Storm Water Management Rules and Regulations. The Building Inspector is designated as the Enforcement Officer.

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 SEDIMENT CONTROL PLAN — A document containing narrative, drawings, and details developed by a registered professional engineer (P.E.) or a certified professional in erosion and sediment control (CPESC), which includes BMPs, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbances. The plan is required as part of the application for a Storm Water Management Permit.

GRADING — Changing the level or shape of the ground surface.

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

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

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

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OR MUNICIPAL STORM DRAINAGE SYSTEM — The system of conveyances designed or used for collecting or conveying storm water, 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.

OPERATION AND MAINTENANCE PLAN — A plan setting up the functional, financial, and organizational mechanisms for the ongoing operation and maintenance of a storm water management system to insure 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 of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE — Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Non-hazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and
- K. Noxious or offensive matter of any kind.

PRE-CONSTRUCTION — All activity in preparation for construction.

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 or increase the impervious area 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 disturbances are, were, or will be performed.

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

STORM WATER — Storm water runoff, snowmelt runoff, and surface water runoff and drainage.

STORM WATER MANAGEMENT PLAN — A plan required as part of the application for a Storm Water Management Permit.

STORM WATER UTILITY — A special assessment district set up to generate funding specifically for storm water management. Users within the district pay a storm water fee and the revenue generated directly supports operation, maintenance, and upgrade of existing storm drain systems; development of drainage plans, flood control measures, and water-quality programs; administrative costs; and construction of capital improvement projects.

STREAM — A body of running water, including brooks, creeks, and other water courses, which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert, is naturally obscured, or beneath a bridge. A stream's flow may be intermittent (i.e., does not flow throughout the year), or perennial.

WATERS OF THE COMMONWEALTH OF MASSACHUSETTS — All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WETLANDS — Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to G.L. c. 131, § 40 and 310 CMR 10.00 et seq.

#### **§ 156-16. Authority.**

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to G.L. c. 83, §§ 1, 10, and 16, as amended by St. 2004, c. 149,

§§ 135-140, and the regulations of the federal Clean Water Act found at 40 CFR 122.34.

**§ 156-17. Applicability.**

- A. No person may undertake a construction activity, including clearing, grading, and excavation that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land draining to the Town MS4 without a Storm Water Management Permit from the Enforcement Officer. After the initial common plan construction activity is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new plan of development. For example, after a house is built and occupied, any future construction on that lot (e.g., reconstructing after fire, adding a pool or parking area, etc.), would stand alone as a new common plan for purposes of calculating acreage disturbed to determine if a Storm Water Management Permit is required. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or the original purpose of the site.
- B. Exemptions.
- (1) Construction activities waived from permit coverage under the NPDES General Permit for Storm Water Discharges from Construction Activities.
  - (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
  - (3) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
  - (4) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
  - (5) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
  - (6) As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities identified in § 156-17B that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with Chapter 156, Article II.
  - (7) Emergency work to protect life, limb, or property.

**§ 156-18. Administration.**

- A. The Enforcement Officer, shall administer, implement, and enforce Chapter 156, Article II. Any powers granted to or duties imposed upon the Enforcement Officer may be delegated in writing by the Enforcement Officer to its employees and agents.
- B. Rules and regulations. The Enforcement Officer may adopt, and periodically amend, rules and regulations relating to the procedures and administration of Chapter 156, Article II after public notice and public hearing. Failure by the Enforcement Officer 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 Chapter 156, Article II.
- C. Storm Water Utility. The Board of Selectmen may adopt, through rules and regulations authorized by this Storm Water Management Bylaw, a Storm Water Utility pursuant to MGL c. 83, § 16 MGL and c. 40, § 1A. The Board of Selectmen shall administer, implement and enforce this Utility. Failure by the Board of Selectmen to promulgate such a Storm Water Utility through rules and regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

**§ 156-19. Permits and procedures.**

Permits and procedures shall be defined and included as part of any rules and regulations promulgated as permitted in § 156-18B.

**§ 156-20. Fee structure.**

Fee structure. The Enforcement Officer shall obtain with each submission an application and review fee fixed by the Enforcement Officer to cover expenses connected with the application review of the Storm Water Management Permit. Authority for the Enforcement Officer is granted pursuant to MGL c. 40, § 22F and adopted by the Town as part of a general bylaw.<sup>16</sup> The applicant must hire a registered professional engineer (P.E.) to certify that the plans are in accordance with the Town's standards. The Enforcement Officer is authorized to retain professional consultation from applicable Town departments to advise the Enforcement Officer on any or all aspects of these plans.

**§ 156-21. Waivers.**

- A. The Enforcement Officer may waive strict compliance with any requirement of Chapter 156, Article II or the rules and regulations promulgated hereunder, where:

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16. Editor's Note: See Chapter 500, Acts Accepted By Town, MGL c. 40, § 22F.

- (1) Such action is allowed by federal, state and local statutes and/or regulations,
  - (2) Is in the public interest, and
  - (3) Is not inconsistent with the purpose and intent of Chapter 156, Article II.
- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of Chapter 156, Article II does not further the purposes or objectives of Chapter 156, Article II.
- C. All waiver requests shall be reviewed by the Enforcement Officer and if necessary, discussed with other Town departments.
- D. If in the Enforcement Officer's opinion, additional time or information is required for review of a waiver request, the Enforcement Officer may continue a hearing to a date certain 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.

**§ 156-22. Enforcement.**

- A. The Enforcement Officer or an authorized agent of the Enforcement Officer shall enforce Chapter 156, Article II, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violation.
- B. Orders.
- (1) The Enforcement Officer or an authorized agent of the Enforcement Officer may issue a written order to enforce the provisions of Chapter 156, Article II or the regulations there under, which may include requirements to:
    - (a) Cease and desist from construction or land disturbance until there is compliance with Chapter 156, Article II, and an approved Storm Water Management Permit, including the storm water management plan and the erosion and sediment control plan;
    - (b) Repair, maintain; or replace the storm water management system or portions thereof in accordance with the operation and maintenance plan;
    - (c) Perform monitoring, analyses, and reporting; and
    - (d) Remediate adverse impact resulting directly or indirectly from malfunction of the storm water management system.

- (2) If the enforcing person determines that abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed by the violator or property owner. 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 property owner shall reimburse the Town's expenses.
- (3) Within thirty (30) days after completion by the Town of all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall 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 Enforcement Officer within thirty (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 thirty (30) days following a decision of the Enforcement Officer affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57, after the thirty-first day at which the costs first become due.
- C. Criminal penalty. Any person who violates any provision of Chapter 156, Article II, or regulation, order or permit issued there under, shall be punished by a fine of not more than \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. 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 adopted by the Town as a general bylaw<sup>17</sup> in which case the Enforcement Officer of the Town shall be the enforcing person. The penalty for the 1st violation shall be a written warning. The penalty for the 2nd violation shall be \$50. The penalty for the 3rd violation shall be shall be \$100. The penalty for the 4th and subsequent offenses shall be \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. The decisions or orders of the Enforcement Officer shall be final. Further relief shall be to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in Chapter 156, Article II are not exclusive of any other remedies available under any applicable federal, state, or local law.

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17. Editor's Note: See Ch. 1, General Provisions, § 1-5B, Noncriminal disposition.

**§ 156-23. Severability.**

If any provision, paragraph, sentence, or clause of Chapter 156, Article II shall be held invalid for any reason, all other provisions shall continue in full force and effect.



**Chapter 158****STREETS AND SIDEWALKS****GENERAL REFERENCES****Numbering of buildings — See Ch. 31.****Vehicles and traffic — See Ch. 181.****Excavations — See Ch. 62.****Subdivision of land — See Ch. 350.**

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**§ 158-1. Covering of vehicles. [Amended 10-17-1977 OTM by Art. 16, approved 2-28-1978]**

No person, firm, or corporation shall use the public ways or streets of the Town of North Reading to transport or convey thereon sand, fill, gravel, or other like materials by open motor vehicle, truck, or trailer, unless the cargo shall be covered by properly secured tarpaulin or other suitable covering material. Penalty for violation of this section shall be a fine of fifty dollars (\$50.00) for each violation.

**§ 158-2. Horses on public ways. [Added 3-12-1973 ATM by Art. 2, approved 10-11-1973]**

The riding or leading of horses on a public way shall be prohibited between one half (1/2) hour after sundown and one half (1/2) hour before sunrise.

**§ 158-3. Excavations or obstructions. [Added 3-12-1973 ATM by Art. 2, approved 10-11-1973; amended 10-2-2000 OTM by Art. 13, approved 3-29-2001]**

No person shall break or dig up any sidewalk, curbing, street, highway, or public way, or place thereon any staging or other temporary structure, or move any building in or along the same without first obtaining proper insurance coverage and a written permit from the Director of Public Works. Any permit issued hereunder shall be in force for such time as the Director of Public Works may specify and shall be subject to such conditions as he may prescribe. Lighted lanterns or similar warning devices and proper barriers shall be so placed so as to protect travelers from danger.

**§ 158-4. Restoration of traveled surfaces. [Added 3-12-1973 ATM by Art. 2, approved 10-11-1973; amended 10-17-1977 OTM by Art. 20, approved 2-28-1978]**

- A. No person shall, when constructing, reconstructing, or altering any building or structure located on a lot bordering on an accepted public way within the Town, or when excavating, grading, or landscaping on such a lot, cause any construction equipment or vehicle to pass over any curbing or sidewalk bordering said public way without having first obtained a permit therefor from the Director of Public Works. It shall

be a condition of the granting of any such permit that any damage occurring to the way, sidewalk, or curbing as a result of the use of said equipment or vehicle shall be repaired by the holder of the permit at his own expense.

- B. No person shall remove or alter any section of a curbing without having first obtained a permit from the Director of Public Works.
- C. No person shall break or dig up any sidewalk, curb, street, highway, or public way without a permit. A person issued a permit under this section shall restore the sidewalk, curb, street, highway, or public way to its original condition or to a condition satisfactory to the Director of Public Works and shall maintain such restoration for a period of two years. Application for permits must be filed with the Director of Public Works, and said Director of Public Works may revoke said permit at any time and may require a bond before the work commences.

**§ 158-5. Traffic control for construction projects. [Added 3-12-1973 ATM by Art. 2, approved 10-11-1973]**

When construction on any sidewalk, street, highway, or public way is to be performed, there shall be a police officer to direct traffic if, in the opinion of the Chief of Police, such officer is necessary. The expense of such officer shall be assumed by the party or parties doing the construction work.

**§ 158-6. Placing materials on public ways or common land. [Added 3-12-1973 ATM by Art. 3, approved 10-11-1973; amended 10-8-1981 OTM by Art. 16, approved 3-2-1982; 10-2-2000 OTM by Art. 13, approved 3-29-2001]**

No person shall place or cause to be placed on any public sidewalk, street, highway, public way, or upon any of the common lands of the Town any gravel, dirt, wood, lumber, snow, or any other material without the permission of the Director of Public Works.

**§ 158-7. Discharging of liquids. [Added 3-12-1973 ATM by Art. 2, approved 10-11-1973]**

No person shall cause any water or other liquid substances to run or be discharged from any building or land owned by him or under his control on or across any sidewalk, street, highway, or public way, except that any person may wash, with water from hose or pipe, windows or other parts of a building or vehicles on private property without danger to the public safety.

**§ 158-8. Maintenance of private ways. [Added 10-23-1980 OTM by Art. 7, approved 1-8-1981; amended 10-5-1992 OTM by Art. 8, approved 1-6-1993]**

The Town shall not repair or maintain private ways, except that the Town may make repairs on private roads provided:

- A. That such repairs are necessary to keep such ways open for emergency vehicles;
- B. That only such drainage work shall be performed as is necessary to keep such ways passable;
- C. That the repairs are required by public necessity;
- D. That at least 1 percent of the abutters of any private way which is to be the subject of repairs shall have previously made a request for road repairs, and then the decision as to whether to make repairs shall lie in the exclusive discretion of the Department of Public Works;
- E. That no betterment charges shall be assessed;
- F. That the liability limit of the Town on account of damages in any fashion caused by such repairs shall not exceed ten thousand (\$10,000) dollars;
- G. That such ways shall have been open to public use for at least six (6) years prior to the passage of the by-law; and
- H. No cash deposit shall be required for said repairs.

**§ 158-9. Snow removal on streets and sidewalks.<sup>18</sup> [Added 10-7-2002 OTM by Art. 3, approved 12-30-2002]**

- A. The tenant or occupant, and in case there is no tenant or occupant, the owner or any other person having the care of any building or lot of land which is used for non-residential purposes abutting upon any street or public place within the Town where there is a sidewalk, shall clear sidewalks of snow and ice [within 24 hours after the snow ceases to fall]. If the sidewalk becomes covered with ice that cannot be readily removed, the tenant, occupant, or owner shall place sand, ash, salt or similar materials on the sidewalk so as to render it safe for pedestrians. Failure to comply with the requirements of this section may result in the Town causing the snow and ice to be removed, and the costs of such removal, if not paid by the tenant, occupant, or other person within thirty (30) days of the issuance of a statement therefor by the Town, shall be assessed and collected in accordance with the provisions of General Laws Chapter 80. The foregoing shall not limit the remedies set forth in Subsection D. **[Amended 10-5-2015 OTM by Art. 19, approved 1-14-2016]**
- B. The owner, or any other person having the care of any non-residential building abutting upon or any part of which stands within fifteen (15) feet of the line of any street, the roof of which building pitches or slopes toward the street or sidewalk, shall fit or provide such roof with snow barriers or guards sufficient to prevent the sliding of snow and ice from such building onto any part of the street or sidewalk. Failure to comply

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**18. Editor's Note: Former § 158-9, Unaccepted streets, adequate access, adopted 4-2-2001 ATM by Art. 20, was approved by the Attorney General 8-21-2001 as a Zoning Bylaw. At the 4-4-2002 ATM the Town voted to relocate the text to Ch. 200, Zoning. See now § 200-100.**

with the requirements of this section may result in the Town causing the snow and ice to be removed from the public sidewalks, and the costs of such removal, if not paid by the tenant, occupant, or other person within thirty (30) days of the issuance of a statement therefor by the Town, shall be assessed and collected in accordance with the provisions of General Laws Chapter 80. The foregoing shall not limit the remedies set forth in Subsection D. **[Amended 10-5-2015 OTM by Art. 19, approved 1-14-2016]**

- C. No person shall lay, throw or place or cause to be placed any snow or ice on any portion of any street or sidewalk within the town, which has been cleared or plowed for travel. No snow shall be plowed across any public way by any private plow to deposit snow from one property to another. No snow shall be deposited in such a way as to obstruct the operation of any fire hydrant, including Fire Department connections to buildings, cisterns and dry hydrants. This provision shall be in addition to the provisions of § 158-6.
- D. This bylaw shall be enforceable through the non-criminal disposition provided for in § 1-5. The penalty for violation shall be: first offense: warning, second offense: \$50.00, third offense: \$100.00. Each day or portion thereof during which a violation continues shall constitute a separate offense. The North Reading Police Department shall be authorized to enforce this bylaw.
- E. To the extent that any particular provision of this bylaw is determined to be invalid, such invalidation shall not affect the validity of any other provision.<sup>19</sup>

## Chapter 163

### SWIMMING POOLS

#### GENERAL REFERENCES

Water supply conservation — See Ch. 191, Art. II.

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#### § 163-1. Enclosure requirements.

- A. Every swimming pool which is not emptied when not in use shall be enclosed by a fence or a wall not less than four (4) feet high from ground level permanently secured, erected, and maintained so that no persons may pass through it except by opening a door or gate therein which shall be equipped with a self-closing and self-latching device and shall be kept securely padlocked at all times when not in actual use.

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**19. Editor's Note: Former § 158-10, Utility poles, added 4-4-2002 ATM by Art. 8, approved 6-11-2002, which immediately followed this section, was repealed 4-3-2006 ATM by Art. 26, approved 6-27-2006.**

- B. In the case of above-ground pools, the above requirement is considered to be satisfied if all of the following three conditions are met:
- (1) At no point is the top of the wall less than four (4) feet above the ground surface.
  - (2) Any ladder, set of stairs, or other similar device used to enter the pool must be secured in the upright position and padlocked or completely removed when not in actual use.
  - (3) All filtering, pumping, and associated equipment shall be either contained within a four foot high fence or stationed far enough away from the pool so that it does not serve as a stepping stone for persons to gain access to the pool.
- C. A swimming pool having a depth of less than twenty-four (24) inches which is not emptied when not in use shall meet the above standards or shall be equipped with a closely woven monofilament polypropylene cover, or comparable material, securely fastened which will sustain weights up to two hundred (200) pounds. All swimming pool installations shall meet the approval of the Building Inspector.

**§ 163-2. Violations and penalties.**

- A. Whoever violates any provision of this by-law shall be punished by a fine of twenty-five (\$25) dollars for the first offense and fifty (\$50) dollars for the second and subsequent offenses. **[Amended 10-2-1989 ATM by Art. 9, approved 12-7-1989]**
- B. Each day any violation of this section shall continue shall constitute a separate offense.

**Chapter 169**

**TOBACCO PRODUCTS**

**§ 169-1. Cigarette vending machines.**

All sales of cigarettes by machine is [sic] prohibited.

**Chapter 172**

**TOWN MEETING**

**GENERAL REFERENCES**

**Administration — See Ch. 5.**

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**§ 172-1. Notice.**

Notice of all Town Meetings shall be posted in seven (7) or more conspicuous places in Town at least fourteen (14) days prior to the time of holding such meetings. Notice of any Town Meeting shall be given by printing the date, time, and place of the meeting in a newspaper of local circulation at least once during each of two (2) consecutive weeks immediately prior to such meetings as set forth in Charter 2-4-4.<sup>20</sup>

**§ 172-2. Dissolution.**

No motion to dissolve the meeting shall be in order until every article in the warrant has been duly considered and acted upon.

**§ 172-3. Adjournment. [Amended 10-17-1977 OTM by Art. 10, approved 2-28-1978; 10-2-2000 OTM by Art. 14, approved 3-29-2001; 10-3-2011 by OTM by Art. 29. approved 10-24-2011]**

A motion to adjourn the meeting to a time, date, and place certain shall not be made until action on the previous motion before the meeting has been made completed. This provision shall not apply to the omnibus articles of the June Town Meeting. Debate on a motion to adjourn shall be limited to three (3) minutes per speaker, and no speaker shall speak more than once, except by permission of the Moderator, and then only briefly to answer a question raised by another speaker.

**§ 172-4. Admission; quorum. [Amended 11-6-1978 ATM by Art. 14, approved 2-6-1979; 4-6-1998 ATM by Art. 21, approved 8-4-1998; 10-3-2011 by OTM by Art. 29. approved 10-24-2011]**

The Board of Registrars shall appoint tellers who shall permit only registered voters to enter upon the floor of the meeting place of any Town Meeting. Any number of registered voters present shall constitute a quorum sufficient for any June or October Annual Town Meeting to conduct business between the hours of 7 p.m. and 11 p.m. on any Mondays and Thursdays of consecutive weeks until final adjournment. One hundred fifty (150) registered voters shall constitute a quorum sufficient to conduct business at any other time at an Annual Town Meeting or at any Special Town Meeting.

**§ 172-5. Nonregistered voters and visitors.**

- A. Nonregistered voters or visitors may be admitted to a town meeting by a majority vote of the meeting. Such persons shall not be seated on the assembly floor, but in an area designated by the Moderator. Specifically named individuals may, by a majority vote of the Town Meeting, be

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<sup>20</sup>Editor's Note: Original Sec. 2.2, regarding adjourned sessions, which immediately followed this section, as amended 10-7-1974 OTM by Art. 4, approved 12-13-1974, and 5-2-1977 ATM by Art. 29, approved 8-30-1977, was deleted 11-6-1978 ATM by Art. 15.

seated with the officials and departments they serve. **[Amended 4-6-1981 ATM by Art. 3, approved 7-21-1981]**

B. Nonregistered voters; exceptions.

- (1) Nonregistered voters serving the Town as an employee, consultant, or in some other official capacity may be allowed to address the meeting with permission of the Moderator.
- (2) Such persons shall not be allowed to make motions nor shall they be allowed to vote on any question before the meeting.

**§ 172-6. Seating.**

- A. The Moderator shall require the seating of all persons within the confines of the auditorium, meeting hall, or such meeting place designated by the Board of Selectmen for the purpose of meeting and acting upon the articles set forth in the warrant of Town Meeting, regular or emergency, before any article may be acted upon.
- B. This section shall not apply to any person specifically granted permission to stand by the Moderator.

**§ 172-7. Addressing the meeting.**

- A. No person shall address the Town Meeting or offer a motion or an amendment to any motion without prior recognition by the Moderator.
- B. Any person requesting recognition by the Moderator shall stand at his place and wait for an indication by the Moderator that he has been recognized before addressing the meeting or offering a motion or an amendment to a motion. Upon recognition by the Moderator, the speaker shall first state his name and place of residence before addressing the meeting.

**§ 172-8. Time limit.**

- A. No person shall speak for more than five (5) minutes on any article or portion thereof nor more than once without first obtaining leave of the meeting, except to correct a mistake or answer a question.
- B. When debate is closed by ordering the previous question or by vote to close debate at a specified time, the maker of the motion under consideration shall be allowed to speak three (3) minutes and may grant to any other voter a part or a whole of his time, or give his time to the meeting. **[Added 10-1-1990 OTM by Art. 8, approved 12-18-1990]**

**§ 172-9. Submission of motions.**

- A. All motions and amendments to motions shall be made in writing and submitted to the Moderator before any action shall be taken on said motions or amendments to said motions.

- B. The following motions may be excluded from the above provisions that they must be submitted in writing to the Moderator:
- (1) Adjournment to a place, date, and time certain.
  - (2) A motion to end, limit, or extend debate.
  - (3) A point of order or personal privilege.
  - (4) A privileged motion.
  - (5) Incidental motions.

**§ 172-10. Precedence of motions. [Amended 10-8-1981 OTM by Art. 16, approved 3-2-1982]**

- A. When a question is before the meeting, the following motions shall take precedence in the order listed:
- (1) Fix the time to which to adjourn (when privileged under Robert's Rules).
  - (2) Adjourn (when privileged under Robert's Rules).
  - (3) Recess (when moved while a question is pending).
  - (4) Raise a point of personal privilege.
  - (5) Call for the orders of the day.
  - (6) Lay on the table.
  - (7) Move the question.
  - (8) Limit or extend limits of debate.
  - (9) Postpone to a time certain.
  - (10) Commit or refer.
  - (11) Amend.
  - (12) Postpone indefinitely.
- B. Of the above motions one through eight are not debatable, and motions nine through twelve are debatable.

**§ 172-11. Reconsideration. [Amended 10-4-1971 OTM by Art. 12, approved 11-12-1971]**

A motion for reconsideration of any article or portion thereof shall be considered by the Meeting but once. No article or portion thereof may be reconsidered, except at the session during which the original article, or portion thereof, is placed before the Meeting for action. No article or portion thereof, having once been disposed of by the Meeting, shall be



reconsidered, except by an affirmative vote of two-thirds (2/3) majority of those present and voting.

**§ 172-12. Division of motions.**

When a motion is readily susceptible of division it shall be divided and the vote upon each part taken separately, provided the Moderator deems best or seven (7) voters present so request.

**§ 172-13. Determination of vote. [Amended 10-17-1977 OTM by Art. 12, approved 2-28-1978]**

- A. When only a majority vote is required the sense of the meeting shall be determined by a voice vote, and the Moderator shall declare the vote as it appears to him. Whenever a two-thirds vote is required by statute, such vote may be declared as such by the Moderator without a count and be recorded as such by the Clerk upon such declaration. **[Amended 4-4-2005 ATM by Art. 6, approved 7-19-2005]**
- B. If the Moderator is unable to decide the vote by the sound of the voices or if his decision is immediately questioned by seven (7) or more voters standing in their place for that purpose, the Moderator shall, without debate, determine the vote by ordering a standing vote.
- C. Should twenty-five (25) voters stand in their place favoring the use of "yes" or "no" ballots, such a vote shall be taken. The Moderator shall appoint tellers to make and return the count.

**§ 172-14. Paper ballot. [Amended 10-4-1971 OTM by Art. 10, approved 11-3-1971; amended 10-17-1977 OTM by Art. 11, approved 2-28-1978]**

- A. When a vote is to be taken by "yes" or "no" ballot in accordance with § 172-13, the door to the meeting shall be secured, the floor cleared of all nonregistered voters, and the Moderator shall appoint a teller to direct, row by row, each voter desiring to cast a vote to proceed to the station of the tellers. The voter shall there obtain a yes and no ballot and deposit that portion of the ballot corresponding to his vote in a receptacle labeled "Ballots." The unused portion shall be deposited in a receptacle labeled "Discards."
- B. The Moderator shall implement a procedure to prevent duplicate voting. The tally of the ballots and discards shall be made by the tellers. The results of said tally shall be conveyed to the Moderator to be read to the Meeting.

**§ 172-15. Assistant Moderator.**

- A. The Moderator may, with an affirmative vote of a majority of those attending and voting at the Town Meeting, appoint an Assistant

Moderator to assist him in the proper and orderly conduct of any Town Meeting, regular or emergency.

- B. Such Assistant Moderator, if and when appointed, shall be deemed the Assistant Moderator only during the session in which he has been appointed.
- C. The services of the Assistant Moderator may be ended at any time by declaration of the duly elected Moderator, or by a majority vote of the Town Meeting.

#### **§ 172-16. Temporary Moderator.**

- A. If a vacancy in the Office of Moderator occurs during any term, a Temporary Moderator shall be elected by the Town Meeting.
- B. At any Town Meeting during which a Temporary Moderator is to be elected, the Town Clerk shall preside over the meeting until election of said Temporary Moderator is accomplished.
- C. In the absence of the Town Clerk, a member of the Board of Selectmen shall preside over the meeting until the election of the Temporary Moderator.<sup>21</sup>

#### **§ 172-17. Distribution of materials.**

No person shall distribute or offer for sale any literature, goods, handbills, or other materials within 100 feet of the entrance of Town Meeting hall or halls without the consent of a majority vote of the Board of Registrars.

#### **§ 172-18. Submission of warrant articles.**

- A. All articles to be inserted in the warrant of any regularly scheduled Town Meeting must be submitted to the Board of Selectmen in writing on or before the third Monday in March for the June session of Town Meeting and on or before the third Monday in August for the October session of Town Meeting. **[Amended 10-9-1986 OTM by Art. 8, approved 12-4-1986; 6-6-2011 ATM by Art. 29, approved 9-13-2011]**
- B. All articles shall be signed by the person or persons presenting the article(s), the name of said person or persons to appear on the article in the warrant.

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**21. Editor's Note: Original Sec. 2.18, Recording of Meetings, which immediately followed this subsection, was deleted 10-17-1977 OTM by Art. 13, approved 2-18-1978.**

**§ 172-19. Contents of warrant. [Added 10-10-1991 OTM by Art. 14, approved 1-7-1992; amended 10-3-2011 OTM by Art. 29, approved 10-24-2011]**

The warrant shall include an explanation of each article. The June Town Meeting budget/omnibus article shall include a detailed explanation of certain line items deemed appropriate by the Finance Committee.

**§ 172-20. Omission of warrant articles.**

- A. The Board of Selectmen may, by an affirmative vote of at least three (3) members of said Board, omit any article from any Town Meeting warrant, regular or emergency, which the Board deems not to be in the best interests of the Town of North Reading.
- B. Such power as outlined above shall not apply to such articles submitted for inclusion on said warrants of any regular or emergency Town Meeting when petitioned for inclusion according to the General Laws of the Commonwealth.

**§ 172-21. Physical facilities.**

The Town Administrator shall be responsible for the providing of all physical facilities required by the Town Meetings, regular or emergency.<sup>22</sup>

**§ 172-22. Order of articles for Town Meeting. [Added 4-2-2001 ATM by Art. 19, approved 7-30-2001]**

The order of consideration of the articles on the warrant may be changed only by a four-fifth vote of the Town Meeting.

## **Chapter 181**

### **VEHICLES AND TRAFFIC**

#### **GENERAL REFERENCES**

**Recreational vehicles — See Ch. 185.**

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**22. Editor's Note: Original Sec. 2.22, Order of Articles for Town Meeting, which immediately followed this section and was added 10-5-1992 OTM by Art. 7, approved 1-6-1993, was deleted 4-16-1998 ATM by Art. 22, approved 8-4-1998.**



## ARTICLE I

**Winter Parking Ban****[Adopted 4-11-1996 ATM by Art. 17]****§ 181-1. Parking restrictions.**

- A. No vehicles shall park in public rights-of-way between the periods of November 15th and April 15th from 1:00 a.m. to 6:00 a.m. other than acting in an emergency.
- B. During snow operations/emergencies, parking in public rights-of-way shall be prohibited at all times.

**§ 181-2. Removal of vehicles.**

The Director of Public Works, for the purpose of removing or plowing snow or removing ice from any way within the limits of the Town and from the Town parking areas and from any other land owned or used by the Town, may remove or cause to be removed to some public garage or other convenient place, any vehicle parked upon such highway, parking area or land and interfering with such work, and the storage charges and other cost of such removal shall be borne and paid by the owner of the vehicle.

**Chapter 185**  
**VEHICLES, RECREATIONAL**

**GENERAL REFERENCES**

**Vehicles and traffic — See Ch. 181.**

**Zoning — See Ch. 200.**

ARTICLE I  
**Restrictions on Operation**

**§ 185-1. Consent required for operation.**

Registered and unregistered recreational motorized vehicles, including those commonly referred to as snowmobiles, all-terrain vehicles, minibikes, etc., shall not be operated on any property, private or public, without the expressed consent of the owner or overseer of said property. Evidence of written permission shall be in the possession of the operator of said vehicles and shall be presented on demand of any police officer or other law enforcement officer as set forth in Chapter 589, Acts and Resolves of the General Court, 1970.

**§ 185-2. Time limits.**

In no case shall such vehicles be operated within the confines of the Town between the hours of 9 p.m. and 7 a.m.





ARTICLE II  
**Restrictions on Use**

**§ 185-3. Operation near residential zones.**

It shall be unlawful to operate, for recreation or pleasure, any motor vehicle designed or modified for use over unimproved terrain, in or within three hundred (300) feet of a residential zone established by the Zoning Bylaw,<sup>23</sup> except on land owned by the owner of such vehicle.

**§ 185-4. Noise.**

No person shall operate a recreational vehicle that emits an unusual or excessive amount of noise. A recreational vehicle shall be deemed to emit an unusual or excessive amount of noise if:

- A. It produces a sound pressure level of more than seventy-eight decibels, as measured at maximum speed at fifty feet;
- B. It increases the broadband sound level by more than 10ddB(A) above ambient; or
- C. It produces a "pure tone" condition - when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure level by 3 decibels or more.

**§ 185-5. Violations and penalties.**

Whoever violates the provisions of this bylaw shall be subject to the following penalties: first offense: warning; second offense: \$50.00; third and subsequent offenses: \$100.00. Each day or portion thereof during which a violation continues shall constitute a separate offense.

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**23. Editor's Note: See Ch. 200, Zoning.**

## **Chapter 191**

### **WATER**

#### **GENERAL REFERENCES**

**Martin's Pond — See Ch. 110.**

**Wetlands — See Ch. 196.**

**Swimming pools — See Ch. 163.**

ARTICLE I

**Damage to Water Supply**

**[Adopted 3-12-1973 ATM by Art. 2, approved 10-11-1973]**

**§ 191-1. Prohibited acts.**

No person shall in any way injure, pollute, or obstruct any of the drinking fountains, waterways, or water supply of the Town.



## ARTICLE II

**Water Supply Conservation**

**[Adopted 10-21-1974 ATM by Art. 38, approved 12-13-1974;  
amended 10-17-1977 ATM by Art. 22, approved 2-28-1978;  
10-9-1997 ATM; by Art. 9, approved 1-29-1998]**

**§ 191-2. Purpose.**

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply conservation or state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

**§ 191-3. Authority.**

This bylaw is adopted by the Town under its police power to protect public health and welfare and its power under MGL c. 40, § 21 et seq. and implements the Town authority to regulate water use pursuant to MGL c. 41, § 69B. This bylaw also implements the Town's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

**§ 191-4. Definitions.**

PERSON — Shall mean any individual, corporation, trust, partnership or association, or other entity.

STATE OF WATER SUPPLY EMERGENCY — Shall mean a state of water supply emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 to 17.

STATE OF WATER SUPPLY CONSERVATION — Shall mean a state of water supply conservation declared by the Town pursuant to § 191-5 of this bylaw.

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

**§ 191-5. Declaration of state of water supply conservation.**

The Town, through its Board of Selectmen, may declare a State of Water Supply Conservation upon determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all consumers. Public notice of a state of water supply conservation shall be given under § 191-7 of this bylaw before it may be enforced.

**§ 191-6. Restrictions on water use. [Amended 10-12-2000 ATM by Art. 29; 10-4-2010 OTM by Art. 22, approved 2-7-2011]**

The Board of Selectmen may adopt and periodically amend, rules and regulations relating to the procedures and administration of Chapter 191, Article II after public notice and a public hearing.

**§ 191-7. Notification of public and Department of Environmental Protection.**

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a state of water supply conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the state of water supply conservation. All restrictions imposed under § 191-6 shall not be effective until such notification is provided. Notification of the state of water supply conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

**§ 191-8. Termination of state of water supply conservation; notice.**

A state of water supply conservation may be terminated by a majority vote of the Board of Selectmen, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a state of water supply conservation shall be given in the same manner as required in § 191-7.

**§ 191-9. State of water supply emergency.**

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

**§ 191-10. Violations and penalties.**

- A. Any person violating this bylaw shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation which shall inure to the Town.
- B. The enforcing persons of the by laws and rules and regulations under Chapter 191, Water shall be any police officer of the Town and the Director of the Department of Public Works or his designee(s) under the provisions of Chapter 1, General Provisions, Section 1-5B, Non criminal disposition, of the General Bylaws of the Town of North Reading. **[Amended 10-6-2014 OTM by Art. 17, approved 1-20-2015]**
- C. Fines shall be recovered by increment, or upon complaint before the District Court, or by non-criminal disposition in accordance with

Section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

- D. The Town reserves the right to shut off any water supply or service for disregard of water use restrictions in cases of a state of water supply conservation or state of water supply emergency. **[Added 10-4-2010 OTM by Art. 22, approved 2-7-2011]**

**§ 191-11. Severability.**

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





## ARTICLE III

**Water Commission****[Adopted 4-4-1994 ATM by Art. 15, approved 6-13-1994]****§ 191-12. Purpose.**

The production, acquisition and delivery of high quality drinking water through the public water system are priority goals of the townspeople of North Reading. Accordingly, it is imperative that related decisions be made by Town officials focused on these goals. Therefore, the following by-law is established to provide for a Water Commission with the authority and responsibilities specified.

**§ 191-13. Appointment; terms of office; alternate members.**

A Water Commission consisting of five regular members shall be appointed for three year terms by the Board of Selectmen. Initially, the five members shall be appointed as follows: 2 terms for three years, 2 terms for two years, one term for one year. Thereafter, the Board of Selectmen shall annually fill the expiring term. The Board of Selectmen shall also appoint two alternate members for not more than three years.

**§ 191-14. Powers and duties.**

- A. The Commission shall adopt rules and regulations pertaining to the distribution and use of water by the Town.
- B. The Commission shall, in accordance with §§ 191-16 and 191-17, as follows:
  - (1) Recommend rate and charges for water use to the Board of Selectmen.
  - (2) Adopt a capital plan setting forth the cost, scheduling and financing of capital improvements and associated efforts addressing the needs of the water system.
  - (3) Adopt an annual operating budget delineating the costs of staffing, goods and services needed to operate the water system, and the amount and sources of revenue needed to adequately fund the enterprise.
- C. The capital plan and annual operating budgets so adopted shall be submitted to the Town Administrator consistent with the provisions of the Town Charter.

**§ 191-15. Staff and other resources.**

The Commission shall work with the Town Administrator, in a manner consistent with the Town Charter, to provide for staff, technical, management and administrative resources, and for the procurement of

goods and services sufficient to meet the daily operational needs of the water enterprise.

## ARTICLE IV

**Water Rates and Capital Plan****[Adopted 4-4-1994 ATM by Art. 16, approved 6-13-1994]****§ 191-16. Water rate hearings.**

The Board of Selectmen, or other governmental body having the authority to set water rates, shall conduct a public hearing prior to each change in such rates, but no less often than annually. Notice of hearings shall be given for two (2) consecutive weeks in a newspaper of local distribution and simultaneously in the location of postings of all public meetings.

**§ 191-17. Capital plan hearings.**

The Board of Selectmen, or other governmental body having the authority to set water rates, shall adopt by its vote a capital plan for the public water system that sets out the necessary items of capital maintenance, improvement and expansion of the system. Such authority shall conduct a public hearing prior to each change in such capital plan, but no less often than annually. Notice of hearings shall be given for two consecutive weeks in a newspaper of local distribution and simultaneously in the location of postings of all public meetings.

**Chapter 196****WETLANDS****GENERAL REFERENCES**

**Zoning — See Ch. 200.**

**Subdivision of land — See Ch. 350.**

**Site plan review — See Ch. 340.**

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**§ 196-1. Purpose.**

The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in the Town of North Reading by prior review and control of activities deemed by the Conservation Commission (the Commission) to have a significant or cumulative effect upon resource area values including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution control, fisheries, shellfish, wildlife habitat, recreation, aesthetics, agriculture, and aquaculture (collectively, the "resource area values protected by this bylaw").

**§ 196-2. Jurisdiction.**

Except as permitted by the Conservation Commission or as provided in this by-law, no person shall remove, fill, dredge, build upon, degrade, or alter the following resource areas: any freshwater wetland; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; beaches; dunes; estuaries; flats; land under water bodies; lands subject to flooding or inundation by groundwater, surface water or tidal action; and lands within 100 feet of any of the aforesaid resource areas (collectively the "resource areas protected by this bylaw").

**§ 196-3. Exceptions.**

- A. Public service facilities. The permit and application required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to the performance standards and design specifications in the regulations adopted by the Commission.
- B. Agricultural use. The permit and application required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use or in aquacultural use, provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

- C. Emergency work. The permit and application required by the 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 notice, oral or written, has been given to the Commission prior to or within 24 hours after commencement of the work, provided that the Conservation 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 Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of any emergency project a permit application shall be filed with the Commission for review as provided in this bylaw or, if the person performing the emergency work is the Town of North Reading, a written certification from the Town Engineer stating that all work performed conformed to the performance standards and design specifications in the regulations adopted by the Commission. 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.
- D. Previously authorized work. The permit and application required by this bylaw shall not apply to any work which, prior to the effective date of this bylaw, had been authorized by all required orders of conditions under Massachusetts General Laws, Chapter 131, Section 40, and special permits under the former Section 9.4 of the Zoning By-law, provided that such work is performed in accordance with the terms of said orders and special permits, including any amendment or extension of said orders and special permits as may be granted by the issuing authority.
- E. Other exceptions. Other than stated in this section, the exceptions provided in the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00, shall not apply under this bylaw.

**§ 196-4. Applications for permits and requests for determination.**

- A. Applications for permits.
- (1) Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw.
  - (2) The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activity shall commence without receiving and complying with a permit issued pursuant to this bylaw. The Commission in an appropriate case may accept as the permit application and plans under this bylaw the notice of intent and plans filed under the

Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.

- B. Requests for determination. 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 information and plans as are deemed necessary by the Commission.
- C. Fees.
  - (1) At the time of a permit application or request for determination, the applicant shall pay a filing fee as approved by the Board of Selectmen and specified in the regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
  - (2) In addition to the filing fee, the Commission shall require the applicant to pay the reasonable costs and expenses of any expert consultant deemed necessary by the Commission to review the application or request for determination. The applicant shall have the right to make recommendations concerning the choice of expert consultant to be used. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, environmental or land use law, field inspections and monitoring of work permitted by the Commission under this bylaw. Payment for consultant services shall be made to the Town of North Reading prior to the issuance of a final decision by the Commission. Funds collected under this provision shall be placed in a consultant services account of the Commission, and shall be immediately paid to the consultant for specific consultant services rendered. The phrase "necessary services" shall mean any services beyond the initial review and evaluation of a permit application or a request for determination.
  - (3) The Commission shall return any unused portion of any payment made for consultant services to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the payment for consultant services, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws. The Commission may waive the filing fee or costs or expenses for a permit application or request for determination filed by a government agency or for a request for determination filed by a person having no financial connection with the property which is the subject of the request.
  - (4) Failure to submit required fees, costs or expenses shall constitute an incomplete filing and shall be considered cause for denial.

**§ 196-5. Notice and hearings.**

- A. Notice. Any person filing a permit application or a request for determination with the Commission subsequent to acceptance shall give written notice thereof, by certified mail (return receipt requested) to all abutters at their mailing addresses as shown on the most recent applicable tax list of the Assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall state where copies of the application, including plans and calculations, may be examined and obtained by abutters. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent to the owner as well as to the person making the request.
- B. Public hearing.
- (1) The Commission shall conduct a public hearing on any permit application or request for determination, with written notice given at the expense of the applicant, five days prior to the hearing, in a newspaper of general circulation in North Reading.
  - (2) The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination unless an extension is authorized in writing by the applicant.
  - (3) The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
  - (4) 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, and regulations, 310 CMR 10.00.
  - (5) The Commission shall have authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant, information and plans required of the applicant, deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed in § 196-6. In the event that 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.

**§ 196-6. Coordination with other boards.**

Any person filing a permit application or a request for determination with the Commission shall provide copies to be delivered by the Conservation Commission to the Community Planning Commission, Board of Appeals, Board of Health, Building Inspector and Town Engineer. The Commission

shall not take final action until such boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

**§ 196-7. Permits, determinations and conditions.**

- A. Granting of permit. 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 cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission may impose conditions, which the Commission deems necessary to protect those values, and all activities shall be done in accordance with those conditions.
- B. Denial of permit. 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 submit required fees, costs or expenses; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values.
- C. Expiration of permit. A permit shall expire three years from the date of issuance. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission not less than one month prior to expiration.
- D. Revocation or modification of permit. For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit, notice to the public, abutters, and town boards pursuant to §§ 196-5 and 196-6 and a public hearing.
- E. Relationship to order of conditions. The Commission in an appropriate case may incorporate the order of conditions or determination of applicability issued under the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00, into a permit or determination issued under this bylaw.
- F. Recording of permit. No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the Commission receives a



copy of the recorded permit bearing the recording information on the permit.

**§ 196-8. Rules and 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.

**§ 196-9. Definitions.**

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

- (1) 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.
- (2) The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:
  - (a) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
  - (b) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
  - (c) Drainage or other disturbance of water level or water table;
  - (d) Dumping, discharging or filling with any material which may degrade water quality;
  - (e) Placing of fill, or removal of material, which would alter elevation;
  - (f) Driving of piles, erection or exterior repair of buildings, or structures of any kind;
  - (g) Placing of obstructions or objects in water;
  - (h) Destruction of plant life including cutting of trees;
  - (i) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of any waters;

- (j) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater; and
  - (k) Application of pesticides or herbicides.
- (3) The term "land subject to flooding" shall include both isolated land subject to flooding and bordering land subject to flooding as set forth in the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
- B. Except as otherwise provided in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.

### **§ 196-10. 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 sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit;
- B. By 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.

### **§ 196-11. Enforcement; violations and penalties.**

- A. General. No person shall remove, fill, dredge, build upon, degrade or alter the resource areas protected by this bylaw, or cause, suffer, or allow such activity to continue or allow such fill or other alteration to be left in place, without the required authorization pursuant to this bylaw.
- B. Right of entry. The Commission or its agent(s) 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. Prior to entry upon any privately owned land, the Commission shall send notice, mailed or delivered to the current owner of the land in question stating when the Commission intends to inspect the land, the reasons and purpose for entering upon the land and any violations reported to the Commission. The owner of the land has the right to be present at any or all such entries and may refuse entry by the

Commission or its agent(s) either verbally or in writing at any point during the inspection process.

C. Enforcement actions.

- (1) 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. Any person who violates any provision of this bylaw may be ordered to restore the property to its original condition or take other action deemed necessary to remedy such violation.
- (2) Upon request of the Commission, the Board of Selectmen and Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Board of Selectmen may order the Chief of Police to take legal action for enforcement under criminal law.
- (3) Town boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

D. Fines. Whoever violates any provision of this by-law, or regulations, permits, or administrative orders issued thereunder, shall be subject to the following penalties: first offense: \$25; second offense: \$100; third and subsequent offenses: \$300. Each day or portion thereof during which a violation continues or unauthorized fill or other alteration remains in place shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and adopted by the Town as a general bylaw.<sup>24</sup> **[Amended 10-2-2000 ATM by Art. 15, approved 3-29-2001]**

**§ 196-12. 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 cumulative 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.

**§ 196-13. Appeals.**

A decision of the Commission shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with MGL c. 249, § 4.

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24. Editor's Note: See Ch. 1, General Provisions, § 1-5B, Noncriminal disposition.

**§ 196-14. 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 310 CMR 10.00 thereunder.

**§ 196-15. Severability.**

The invalidity of any section or provisions 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 198****YOUTH SERVICES COMMITTEE****§ 198-1. Establishment and membership.**

- A. There is hereby established a Youth Services Committee. The Committee shall consist of 11 members appointed by the Board of Selectmen for alternating three year terms. The Board shall fill any vacancy arising on said Committee for the remainder of the unexpired term.
- B. At its organization meeting during December of each year, the Committee shall elect a Chair and Vice-Chair.
- C. The Youth Services Committee shall be authorized to appoint such non-voting associate members as it deems expedient and necessary. All boards and committees of the Town shall be encouraged to communicate with the Youth Services Committee.

**§ 198-2. Powers and duties.**

- A. The Youth Services Committee shall be given the following instructions:
  - (1) To work with existing boards and committees in assessing needs, establishing goals, and developing programs to better serve the entire youth community.
  - (2) To oversee activities of a Youth Services Director who shall be appointed by the Town Administrator and who shall be a Town employee.
  - (3) To increase awareness on the Youth Services Committee, its programs and initiatives throughout the community. To work collaboratively with the School Department. To work to increase constructive youth involvement in the community. To promote healthy living by providing resources, programs and facilities that support healthy living; active lifestyles; coping with stress and emotional wellness.

- (4) To present annually to Town Meeting a report of its activities and budget.
- B. All boards and committees of the Town shall be encouraged to provide the Youth Services Committee with such reasonable cooperation and assistance as may be within their jurisdiction.

## **Chapter 200**

### **ZONING**

#### **GENERAL REFERENCES**

**Historic district — See Ch. 85.**

**Site plan review — See Ch. 340.**

**Wetlands — See Ch. 196.**

**Subdivision of land — See Ch. 350.**



## ARTICLE I

**Title, Purpose and Authority****§ 200-1. Title.**

This bylaw shall be known and cited as the "Zoning Bylaw of the Town of North Reading, Massachusetts," and is hereinafter referred to as the "Zoning Bylaw."

**§ 200-2. Purpose.**

The purpose of this Zoning Bylaw shall be to promote the health, safety, convenience and general welfare of the inhabitants of North Reading; to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town; and to preserve and increase amenities within the Town of North Reading.

**§ 200-3. Authority.**

This Zoning Bylaw is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended, hereinafter referred to as the Zoning Act and to accept the provisions of Chapter 808 of the Acts of 1975.





ARTICLE II  
**Definitions**

**§ 200-4. Word usage and definitions.**

- A. In this Zoning Bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the meaning given herein. Words used in the present tense include the future; the singular includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered" to be used or occupied; the words "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof," and the word "shall" is always mandatory and not merely directory.
- B. Terms and words not defined herein but defined in the Massachusetts State Building Code and Town of North Reading General Bylaws, as amended, shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, 3rd Edition. Uses listed in the Table of Use Regulations under the classes Retail, Service and Commercial and Wholesale, Transportation and Industrial shall be further defined by the 1997 North American Industry Classification System. **[Amended 10-17-1991 ATM by Art. 21, approved 2-4-1992; 4-6-2000 ATM by Art. 26, approved 6-28-2000; 10-2-2000 ATM by Art. 16, approved 3-29-2001]**
- C. Definitions.

ABANDONMENT — The purposeful discontinuation of a use of a building or lot; or the removal of the characteristic equipment or furnishings used in the performance of a nonconforming<sup>25</sup> use, without its replacement by similar equipment or furnishings; or the occurrence of the circumstances delineated in § 200-12.

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

ACCESSORY USE — A use of a lot customarily subordinate and incidental to the principal use of the lot or to a structure on the lot.

BUILDING — A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, processes or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."

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25. Editor's Note: Throughout this chapter, each instance of the word "non-conforming" was amended to "nonconforming" 10-2-2000 ATM by Art. 16, approved 3-29-2001.

**BUILDING AREA** — The aggregate of the maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces expressed as a percentage of total lot area.

**BUILDING INSPECTOR** — The duly appointed official of the Town of North Reading charged, among other things, with enforcement of this Zoning Bylaw.

**BUILDING PERMIT** — A permit issued by the Building Inspector for the construction, reconstruction, alteration or change of a structure as required by the Massachusetts State Building Code and this Zoning Bylaw.

**CAMP** — A place consisting of more or less permanent structures used for vacationing or other recreational purposes.

**CERTIFICATE OF COMPLIANCE** — A statement signed by the Building Inspector, setting forth either that a building or structure complies with this Zoning Bylaw or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

**COUNTRY CLUB** — A suburban club with facilities for golf, other outdoor sports and social activities.

**DECISION** — A determination made by the Zoning Board of Appeals pursuant to an appeal, an application for a special permit, or an application for a variance or a determination made by the Community Planning Commission pursuant to an application for a special permit. The term "decision" is synonymous with the term "finding."**[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

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

**DISTRICT** — A zoning district as established by §§ 200-29 and 200-30 of this Zoning Bylaw.

**DRIVE-IN RESTAURANT/TAKE-OUT RESTAURANT** — Premises and buildings used primarily for the sale, dispensing or serving of food, refreshments or beverages for consumption off the premises or consumption in vehicles temporarily parked on the premises, or at tables, benches or counters, the majority of which are out of doors.

**DRIVE-IN USES** — A retail or consumer service use of land or a building in which the business transacted usually is conducted by a customer or client within his automobile.

**DRIVEWAY** — A portion of a lot which is designed for vehicular access to a garage, or off-street parking or loading space.

**DWELLING** — A privately or publicly owned permanent structure constructed pursuant to the provisions of the Massachusetts State Building Code, which is occupied in whole or in part as the home residence or sleeping place of one (1) or more persons. This term shall not include tents, trailers, campers or mobile homes. The terms "one-family," "two-family," or "multi-family" dwelling shall not include

hotel, motel, lodging house, hospital, membership club, mobile home or dormitory.

**DWELLING, MULTI-FAMILY** — A building or group of buildings containing four (4) or more dwelling units and including apartment house, garden apartment house and townhouse. Each unit may be owned by a separate owner.**[Amended 10-4-1984 ATM by Art. 14, approved 1-8-1985]**

**DWELLING UNIT** — One (1) or more living and sleeping rooms providing complete living facilities for the use of one (1) or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation; but not including mobile homes or trailers, however mounted, or commercial accommodations offered for transient occupancy.

**EMISSION** — Energy and/or matter issued into the environment as a direct consequence of any activity or use.

**ERECT** — To construct or reconstruct or excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot. The word "erect" shall include "building," "constructing," "reconstructing," "altering," "enlarging" and "moving."

**ESSENTIAL SERVICES** —

- (1) Services provided by public or private utility, or governmental agencies through erection, construction, alteration, removal, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply or disposal systems whether underground or overhead.
- (2) Facilities necessary for the provision of essential services including poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith.
- (3) Specifically excluded from this definition are buildings necessary for the furnishing of adequate services by such public or private utility, or governmental agencies for the public health, safety or general welfare.

**FAMILY** — An individual, or two (2) or more persons living together as a single housekeeping unit.

**FINDING** — See "decision."

**GRADE, FINISHED** — The average elevation of the ground at the conclusion of construction.

**GROSS FLOOR AREA** — The sum of the areas of the several floors of a building as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics, or any floor space intended and designed for the parking of motor vehicles in order to

meet the parking requirements of this Zoning Bylaw. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

**HEIGHT** — The vertical distance from the average finished grade of the adjacent ground to the highest point on the highest roof of the structure.

**HOSPITAL** — A building providing twenty-four-hour in-patient services for the diagnosis, treatment or other care of human ailments, including a sanitarium, sanatorium, clinic, rest home, nursing home and convalescent home.

**HOTEL** — A building or any part of a building containing rooming units for transient occupancy including an inn, motel, motor inn and tourist court, but not including a boardinghouse, lodging house or rooming house.

**HOUSE TRAILER** — A mobile home.

**JUNK** — Any worn out, cast off, or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**JUNKYARD** — The use of more than two hundred (200) square feet of the area of any lot, whether inside or outside a building, or the use within ten (10) feet of the street lot line of any lot for the storage, keeping or abandonment of junk.

**LANDSCAPING** — Improvements to land to enhance its attractiveness and facilitate its use and enjoyment by planting or removal of vegetation, application of pavement, surface materials or ground cover and minor grading which does not alter the overall surface drainage pattern.**[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

**LIGHT MANUFACTURING** — Fabrication, processing or assembly employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or bright lights, refuse matter, electromagnetic radiation, heat or vibration.

**LOADING SPACE** — An off-street space of at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area of not less than six hundred (600) square feet plus access and maneuvering space used exclusively for loading and unloading of goods and materials from one (1) vehicle.

**LODGING HOUSE** — A building containing rooms for the semi-permanent use of one (1) or more individuals not living as a single family.

LOT — A parcel of land used or available for use as the site of one (1) or more buildings and buildings accessory thereto in the same ownership throughout, as shown or defined on a recorded instrument or as otherwise defined by metes and bounds. A lot for the purpose of this Zoning Bylaw may or may not coincide with a lot of record title.

LOT, CORNER — A lot at the point of intersection of and abutting on two (2) or more intersecting streets, the interior angle of intersection of the street lot lines, or in case of a curved street, extended street lot lines, being not more than one hundred thirty-five (135) degrees.

LOT DEPTH — The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE — The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line. Frontage for purposes of this Zoning Bylaw shall be only continuous frontage and shall be measured only by one (1) front lot line for the purposes of corner lots.

LOT, INTERIOR — A lot, the side lines of which do not abut on a street.

LOT LINE, FRONT — The property line dividing a lot from a street right-of-way.

LOT LINE, REAR — The lot line opposite from a front lot line and which does not intersect a front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

LOT, THROUGH — A lot, the front and rear lot lines of which abut streets; or a corner lot, two (2) opposite lines of which abut streets.

LOT, WIDTH — The horizontal distance between the side lot lines as measured at the minimum front yard depth required by this Zoning Bylaw, and parallel to the street line.

MASSAGE ESTABLISHMENT — Any establishment or place of business wherein massage, as defined hereafter, for hire or reward, is administered or used as the primary use of the premises. "Massage" shall mean the practice of a massage of a person by hand or by any mechanical apparatus or both, including, without limitation, nonspecific stretching techniques, oil rubs, heat lamps, salt glows, hot or cold packs, tubs, showers, cabinet baths, steam and dry heat baths, and mineral water. "Massage" is also defined to include, without limitation, stroking, touching, kneading, vibration, friction and percussion, solely, or in combination or by means of any mechanical apparatus. **[Added 4-23-1979 ATM by Art. 22, approved 5-18-1979]**

MEMBERSHIP CLUB — A social, sports or fraternal association or organization which is used exclusively by members and their guests and is not conducted as a gainful business.

MIXED USES — The use of a building, structure, lot or portion thereof for more than one (1) permitted use.

MOBILE HOME — Any vehicle except a camping trailer, travel trailer, self-contained motor home or other vehicles designed for similar purposes, used or so constructed as to permit its being used as a dwelling or sleeping place for one (1) or more persons and adaptable for running water and sanitary facilities whether or not such vehicle is actually immobile because of temporary or permanent utilities, connections, foundations or other features attached to a fixed site. Any such vehicle greater than eight (8) feet in width shall be considered a mobile home.**[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

MUNICIPAL FACILITY — A physical facility, such as a parcel of real estate, a building or other structure, owned by the Town, where the activities conducted thereon are operated by Town employees or under a management agreement, lease or other contractual arrangements with the Town.**[Added 1-19-1988 STM by Art. 6, approved 2-2-1988]**

MUNICIPAL FACILITY - GOLF COURSE — A nine-hole or eighteen-hole golf course, including golf driving range, pro shop, swimming facilities, clubhouse, eating, drinking and dining facilities, function hall, other accessory buildings and parking areas incidental thereto, but not including miniature golf facilities. Excluded herein is the use of any motorized recreational vehicles except those used in conjunction with the operation of the golf course.**[Added 1-19-1988 STM by Art. 6, approved 2-2-1988]**

MUNICIPAL FACILITY - INDOOR AND OUTDOOR RECREATION — Indoor and/or outdoor recreation facilities, including physical fitness facilities and related pro shops, and accessory uses, but not including miniature golf facilities.**[Added 1-19-1988 STM by Art. 6, approved 2-2-1988]**

NOTICE AND ORDER — A document issued by the Building Inspector pursuant to the provisions of § 200-21A of this Zoning Bylaw and requiring termination of zoning violations.

NURSING HOME — See "hospital."

OVERLAY DISTRICT — A zoning district such as the Floodplain District which is superimposed on other zoning districts and whose regulations are supplementary to those of the affected zoning districts so overlaid. Where there is a conflict between the Zoning Bylaw and an overlay district regulation or restriction, the more restrictive shall apply.**[Added 11-6-1978 ATM by Art. 12, approved 2-6-1979; amended 10-8-1987 ATM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

PARKING SPACE — An off-street space at least nine (9) feet in width and twenty-one (21) feet in length on its shortest side for angle parking, or ten (10) feet in width and twenty (20) feet in length for other parking, having an area of not less than one hundred eighty-nine (189) square

feet, plus access and maneuvering space, whether inside or outside a structure for use as a parking stall for one motor vehicle.

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

**PRINCIPAL USE** — The main or primary purpose for which s structure or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this Zoning Bylaw.

**SERVICE STATION** — A building or part thereof whose chief activity is the selling of gasoline, oil and related products for motor vehicles.

**SPECIAL PERMIT** — A permit allowing the use of a structure or lot or any action upon a premises which may be permitted under this Zoning Bylaw only upon application to and the approval of the Zoning Board of Appeals or the Community Planning Commission in accordance with the provisions of § 200-28A and B.

**SPECIAL PERMIT GRANTING AUTHORITY** — The Zoning Board of Appeals shall act as the special permit granting authority in all cases except those relating to special permits granted pursuant to Articles X and XI of this Zoning Bylaw in which case the Community Planning Commission shall act as the special permit granting authority.**[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

**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 shall be deemed to be a story when its ceiling is six (6) or more feet above the finished grade. An attic shall not be deemed a story if unfinished and without human occupancy.

**STORY, HALF** — A story under a gable, hipped or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

**STREET****[Amended 10-10-1985 ATM by Art. 19, approved 2-4-1986; 10-5-1995 ATM by Art. 36, approved 12-22-1995; 4-7-1997 ATM by Art. 22, approved 8-1-1997]: —**

- (1) A public way; or
- (2) A way shown on a plan approved and endorsed under the Subdivision Control Law; or
- (3) A way in existence on or before September 19, 1944, having in the opinion of the Community Planning Commission sufficient width [which is at least twenty-one (21) or more feet in right-of-way width], suitable grades and adequate construction to provide for the need of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE — A combination of materials for occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, shelters, piers, wharves, bin, fence, sign, swimming pool or the like.

TOWNHOUSE — Three (3) or more attached single dwelling units whose sidewalls are separated from other dwelling units by a fire wall or walls. Each unit in the row may be owned by a separate owner.

TRAVEL TRAILER, CAMPING TRAILER, CAMPER and SELF-CONTAINED MOTOR HOME — A recreational vehicle or camper (pick-up coach) which is immediately portable, and is arranged, intended, designed or used for sleeping and/or eating but which is not designed as a permanent dwelling unit and is eight (8) feet wide or less. **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

USE — The purpose for which a structure or land is used or intended to be used.

USED CAR LOT — An open lot on which motor vehicles, either exclusively or predominantly used, and in running condition, are displayed for sale.

USE, SUBSTANTIALLY DIFFERENT — A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

YARD, FRONT — The area extending the full width of the lot between the street lot line and the front wall line of the nearest building.

YARD, REAR — The area between the rear lot line and the nearest wall of the principal building or structure.

YARD, SIDE — The area between the side lot line and the nearest wall of the principal building or structure.



ARTICLE III  
**Interpretation and Application**

**§ 200-5. Interpretation.**

The provisions of this Zoning Bylaw shall be interpreted to establish minimum standards adopted for the promotion of the purposes enumerated in § 200-2 of this Zoning Bylaw and shall supersede all prior Zoning Bylaws of the Town of North Reading. The provisions of this Zoning Bylaw are not intended to amend, abrogate, annul, repeal or in any way impair or interfere with any lawfully adopted bylaw, rules or regulations. Whenever the provisions of this Zoning Bylaw differ from those prescribed by any conflicting statute, bylaw or other regulation of any governmental authority, that provision which imposes the greater restriction or the higher standard shall govern.

**§ 200-6. Application.**

Except as hereinafter provided, the provisions of this Zoning Bylaw shall apply to the erection, construction, reconstruction, relocation, alteration and use of buildings, structures, land, wetlands and bodies of water. It shall further apply to any change or substantial extension of such use or structure and to building and special permits.

**§ 200-7. Mixed uses.**

In case of mixed uses, the regulation for each use shall apply to the portion of the building or land so used. Where mixed uses of the same space exist, the more restrictive regulations shall apply.



## ARTICLE IV

**Nonconforming Uses, Structures and Lots****§ 200-8. Nonconforming uses and structures.**

Except as provided in §§ 200-10D and E, 200-12, 200-17 and 200-20, neither this Zoning Bylaw nor any amendment thereto shall apply to uses or structures lawfully in existence, or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on said Zoning Bylaw or amendment. Such structures and uses shall hereinafter be called "nonconforming uses and structures." The lawful use of any structure or land existing at the time of enactment of this Zoning Bylaw may continue, except as otherwise provided.

**§ 200-9. Intent and interpretation; definitions.**

- A. It is the intention of this Zoning Bylaw that this article shall be construed against the perpetuation, extension, increase or change of nonconforming uses and structures.
- B. An increase in the nonconforming nature of a structure for the purposes of this article will result when the portion added to the structure violates any provision of this Zoning Bylaw applicable at the time of application for the building permit required for such addition. An increase will not result from a mere replacement, without undue delay, of a nonconforming portion. (Example: Any extension to an existing porch, which porch is totally beyond the permissible side lot line requirement before said proposed extension, would constitute an increase in the nonconforming nature of a structure whether the extension was toward the side lot line or parallel to the side lot line, although the closest point of the porch would be no closer to the lot line.)
- C. Definitions.

ALTERATION — Shall be defined as any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of land, a building or other structure.

EXTENSION — Shall include without limitation the following: any increase in physical size, intensity of use or hours or periods of operation. **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

NONCONFORMING STRUCTURE, BUILDING OR LOT — Shall be defined as a structure, building or lot that does not conform to a dimensional regulation prescribed by this Zoning Bylaw for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure, building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

NONCONFORMING USE — Shall be defined as a use of a structure, building or lot that does not conform to a use regulation prescribed by this Zoning Bylaw for the district in which it is located, but which use was in existence at the time the use regulation became effective and was lawful at the time it was established.

SUBSTANTIALLY MORE DETRIMENTAL — Shall be defined as observable and definably more objectionable to the neighborhood.

**§ 200-10. Reconstruction, alteration, increase, extension or change.**

- A. A special permit by the Zoning Board of Appeals shall be required for any reconstruction, alteration, increase, extension or change of a nonconforming use or structure except as provided in Subsection D.
- B. No special permit required by Subsection A pertaining to a nonconforming structure shall be granted unless there has been a finding by the Zoning Board of Appeals that the contemplated reconstruction, alteration, increase, extension or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Such reconstruction, alteration, increase, extension or change shall be in conformity with dimensional and density requirements not previously violated.
- C. No special permit required by Subsection A with respect to nonconforming use shall be granted unless there has been a finding by the Zoning Board of Appeals that the use to be substituted will be less objectionable than the prior use.
- D. Single- or two-family residential buildings may be reconstructed, altered, extended or structurally changed for continued single- or two-family use providing there is a determination by the Building Inspector that such reconstruction, alteration, extension or structural change in no way increases the nonconforming nature of said structure.
- E. Any nonconforming structure, or portion thereof, which has been reconstructed, altered, extended or structurally changed so as to become conforming shall thereafter be subject to all the provisions of this Zoning Bylaw.
- F. Any nonconforming use which has been changed to a permitted use shall thereafter be subject to all the provisions of this Zoning Bylaw.
- G. Reconstruction of unsafe structures shall be governed by Subsections A and B and § 200-12A.

**§ 200-11. Nonconforming lots.**

Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

**§ 200-12. Abandonment.**

- A. A nonconforming structure, or portion thereof, which has been declared to be unsafe by the Building Inspector may be considered abandoned unless an application for a building permit to reconstruct is filed within one (1) year of said determination.
- B. Nonconforming uses or structures which have not been used for a period of two (2) years or more, or which have been abandoned shall thereafter be subject to all the provisions of this Zoning Bylaw.

**§ 200-13. Restoration.**

Restoration of any nonconforming structure damaged by fire, explosion or other catastrophe shall be governed by § 200-10A, B and D unless the Building Inspector makes a determination that the restoration is only to repair or replace the damaged areas.

**§ 200-14. Reduction or increase in lot size.**

A part of a lot shall not be added to another lot so as to result in a nonconformity or increase in nonconformity of the lot reduced in size.

**§ 200-15. Reduction of parking or loading spaces.**

Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.



ARTICLE V  
**Administration and Enforcement**

**§ 200-16. Enforcement.**

This Zoning Bylaw shall be enforced by the Building Inspector who may require the submission of plans, specifications and other information which he deems to be necessary to determine compliance with its provisions.

**§ 200-17. Building permit required.**

- A. No structure shall be constructed, reconstructed, enlarged, altered, moved, removed or demolished without obtaining a building permit. The Building Inspector shall withhold such building permit if the building or structure as constructed, reconstructed, enlarged, altered or moved would be in violation of any provision of this Zoning Bylaw.
- B. Any amendment to this Zoning Bylaw shall apply to building permits issued after the first notice of public hearing on such amendment.

**§ 200-18. Certificate of compliance.**

- A. No building hereafter erected shall be used or occupied in whole or in part until a certificate of compliance has been issued by the Building Inspector. The certificate of compliance shall not be issued until all work has been completed in accordance with the provisions of the approved permits and of the applicable sections of this Zoning Bylaw.
- B. No use of a structure, a lot or a portion of a structure or a lot shall be commenced or changed without the issuance by the Building Inspector of a certificate of compliance. The certificate of compliance shall not be issued unless the Building Inspector is satisfied that the proposed use will be in conformity with the applicable sections of this Zoning Bylaw.

**§ 200-19. Other approvals required.**

- A. The Building Inspector shall not issue a building permit until he is satisfied that all necessary variances, special permits or extensions, modifications or renewals thereof have been granted.
- B. The Building Inspector shall not issue a building permit for any lot that falls within a subdivision until advised in writing by the Community Planning Commission that said lot has been released from the covenant imposed by said Commission in connection with the approval of the subdivision plan.

**§ 200-20. Permit time limits.**

- A. Any building permit issued by the Building Inspector shall become invalid unless the work authorized by it shall have been commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended for a period of one (1) year after the time

the work is commenced; provided that, for cause, one (1) or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed in writing by the Building Inspector.

- B. Construction or operations under a building or special permit shall conform to any subsequent amendment of this Zoning Bylaw unless the use or construction is commenced within six (6) months after the issuance of the building permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- C. Preliminary work by way of preparation of the site for new construction such as excavating or removal of old buildings does not constitute the commencement of construction.

**§ 200-21. Notice and order.**

- A. If the Building Inspector is informed, or has reason to believe that any provision of this Zoning Bylaw or of any permit or certificate of compliance is being, or is about to be violated, he shall make or cause to be made an investigation of the facts, including an inspection of the property where the violation may exist, and, if he finds any violation, he shall immediately issue to the owner of the premises, or his duly authorized agent, and to the occupant of the premises, a written notice and order describing each violation found and ordering immediate discontinuance thereof. Such notice and order shall be sent by certified mail, return receipt requested.
- B. If, after such notice and order, any violation continues, or if any owner, agent or occupant fails to obey any lawful order of the Building Inspector with respect to any violation or any use contrary to the provisions of this Zoning Bylaw, the Building Inspector shall immediately revoke all permits and certificates issued with respect to said premises and shall make complaint to the Superior Court seeking injunctive relief restraining the further use of the premises, and shall take such other action as is necessary to enforce the provisions of this Zoning Bylaw.
- C. If the Building Inspector is requested in writing to enforce the provisions of this Zoning Bylaw against any person allegedly in violation of the same and after investigation he acts or declines to act, he shall notify the party requesting such enforcement of any action taken, or refusal to act, stating the reasons therefor. Such notification shall be made in writing within fourteen (14) days of receipt of such request.
- D. Any person who has been served with a notice and order shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health or general welfare.

**§ 200-22. Violations and penalties; noncriminal disposition.  
[Amended 4-24-1989 ATM by Art. 24, approved 6-20-1989]**



- A. Violations. The provisions of this Zoning Bylaw shall be enforced by noncriminal complaint pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. The Building Inspector taking cognizance of a violation of a specific Zoning Bylaw which he is empowered to enforce, as an alternative to initiating criminal proceedings, shall 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. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offenses charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.
- B. Penalties. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense beginning with the date of receipt of the notice and order issued pursuant to § 200-21A of this Zoning Bylaw. The penalty for violation of any provision of this Zoning Bylaw shall be as follows:
- (1) First offense: written warning.
  - (2) Second offense: \$50.
  - (3) Third offense: \$100.
  - (4) Fourth and subsequent offenses: \$200.



ARTICLE VI  
**Appeals, Variances and Special Permits**

**§ 200-23. General provisions.**

- A. Zoning Board of Appeals, Board of Selectmen and Community Planning Commission. Appeals, applications for variances and applications for special permits shall be heard and decided by the Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission, as applicable, pursuant to the powers enumerated in §§ 200-24B, 200-25B, and 200-25.1 of this Zoning Bylaw. **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979; 10-6-2014 OTM by Art. 13, approved 1-20-2015]**
- B. Adoption of rules. The Zoning Board of Appeals, Board of Selectmen and the Community Planning Commission shall adopt and from time to time may amend rules for conducting business and otherwise carrying out the purposes of this Zoning Bylaw. A copy of such rules shall be filed in the office of the Town Clerk. **[Amended 10-6-2014 OTM by Art. 13, approved 1-20-2015]**
- C. Public hearings. **[Amended 10-6-2014 OTM by Art. 13, approved 1-20-2015]**
- (1) The Zoning Board of Appeals, Board of Selectmen and the Community Planning Commission shall hold hearings under this article within sixty-five (65) days of receipt of any appeal, application for variance or application for special permit.
  - (2) Hearings under this article shall be advertised and conducted in accordance with Sections 9, 11 and 15 of the Zoning Act and shall be open to the public. Hearings shall be held at the call of the Chairman or when called in such other manner as the Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission shall determine in their rules.
- D. Notice of public hearing.
- (1) The Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission shall cause notice of hearings under this article to be sent to parties in interest as provided for in Section 11 of the Zoning Act; shall cause notice to be published in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing; and shall cause such notice to be posted in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of such hearing. **[Amended 10-6-2014 OTM by Art. 13, approved 1-20-2015]**
  - (2) "Parties in interest" as used in this article shall mean the petitioner, abutters, owners of land directly opposite on any public or private

street or way and owners of land within three hundred (300) feet of the property line, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another town, the Planning Board of every abutting town and the Community Planning Commission of the Town of North Reading.

- E. Record of proceedings. There shall be kept a detailed record of all proceedings under this article indicating the vote of each member upon each question, or if absent or failing to vote indicating such fact. Such record shall set forth clearly the reason or reasons for the decision reached or action taken. Copies of such record shall, within fourteen (14) days, be filed in the office of the Town Clerk and shall be a public record.
- F. Notice of decision. Copies of the decision or finding shall be mailed to parties in interest as defined in Subsection D(2) above and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify that appeals, if any, shall be made pursuant to Section 17 of the Zoning Act and shall be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk.
- G. Repetitive application. Except as provided in Section 16 of the Zoning Act, no appeal or application which has been denied by the Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission shall be acted favorably upon within two (2) years after the date of final unfavorable action. **[Amended 10-6-2014 OTM by Art. 13, approved 1-20-2015]**
- H. Withdrawal of application or appeal. Any appeal, application for a variance or application for a special permit which has been transmitted to the Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of the public hearing thereon but thereafter may be withdrawn without prejudice only with the approval of the Board or Commission to which application was made. **[Amended 10-6-2014 OTM by Art. 13, approved 1-20-2015]**
- I. Other requirements.
  - (1) The granting of any appeal, variance or special permit by the Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission shall not exempt the applicant or the subject property from any provision of this Zoning Bylaw not specifically ruled upon by the Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission and specifically set forth in its findings. Construction, reconstruction, alteration, change and use of structures and premises which are the subject of an appeal, variance or special permit shall be in conformity with the provisions of this Zoning Bylaw except where specifically exempted in said findings and shall be in conformity with any restrictions,

limitations, or special conditions imposed therein unless the applicant shall file a subsequent application seeking to modify the initial findings. **[Amended 10-6-2014 OTM by Art. 13, approved 1-20-2015]**

- (2) Where authorization of a use of land or of a structure is required by the Zoning Board of Appeals, a copy of such authorization shall be sent by the Clerk of the Board to the Building Inspector, within ten (10) days of granting of approval and shall be received by the Building Inspector prior to the issuance of a permit.

J. Appeal to Superior Court. **[Amended 10-6-2014 OTM by Art. 13, approved 1-20-2015]**

- (1) Any person aggrieved by a decision or finding of the Zoning Board of Appeals or the Community Planning Commission, or any municipal officer or board, or by a special permit decision for registered marijuana dispensaries issued by the Board of Selectmen, may appeal to the Superior Court for Middlesex County or the Land Court by bringing an action within twenty (20) days after the decision or finding has been filed in the office of the Town Clerk.
- (2) The Town may provide any officer or board of the Town with independent legal counsel for appealing a decision or finding of the Zoning Board of Appeals, Board of Selectmen or the Community Planning Commission and for taking such other subsequent action as parties are authorized to take, all as provided in Section 17 of the Zoning Act.

**§ 200-24. Zoning Board of Appeals.**

A. Membership.

- (1) The Zoning Board of Appeals shall consist of three (3) members appointed by the Board of Selectmen. Appointment shall be for three-year terms, so arranged that the term of one (1) member shall expire each year. The Zoning Board of Appeals shall annually elect a Chairman and a Clerk.
- (2) The Board of Selectmen shall also appoint, in like manner and for like terms, three (3) associate members who may be designated by the Chairman of the Zoning Board of Appeals to sit on the Board in case of absence, inability to act or conflict of interest on the part of any member thereof or in the event of a vacancy on the Board until said vacancy is filled by the Board of Selectmen.
- (3) Any member or associate member may be removed for cause by the Board of Selectmen upon written charges and after a public hearing.

B. Powers. The Zoning Board of Appeals shall have the following powers:

- (1) To hear and decide appeals pursuant to § 200-26 and Article XVII of this Zoning Bylaw; **[Amended 10-17-1991 ATM by Art. 21, approved 2-4-1992]**
  - (2) To hear and decide upon applications for variances from the applicable provisions of this Zoning Bylaw pursuant to § 200-27 of this Zoning Bylaw;
  - (3) To hear and decide upon applications for special permits pursuant to § 200-10A; and
  - (4) To hear and decide upon applications for special permits pursuant to § 200-28 of this Zoning Bylaw except those applications for cluster and planned unit developments which are to be acted upon by the Community Planning Commission pursuant to § 200-25B of this Zoning Bylaw.
- C. Unanimous vote required. All of the powers vested in the Zoning Board of Appeals must be exercised pursuant to a unanimous vote of that Board.

#### **§ 200-25. Community Planning Commission.**

A. Membership.

- (1) The Community Planning Commission shall consist of five (5) members elected for three-year overlapping terms. The Community Planning Commission shall annually elect a Chairman, Vice Chairman and a Clerk. **[Amended 4-4-1994 ATM by Art. 19, approved 7-26-1994]**
- (2) The Community Planning Commission may appoint associate members who shall serve only in an advisory capacity.

B. Powers and duties. The Community Planning Commission shall have the following powers and duties:

- (1) Those powers and duties specified in Chapter 3, Section 8 of the North Reading Town Charter;
- (2) Those powers and duties specified in Massachusetts General Laws Chapter 41 concerning municipal planning and subdivision control; and
- (3) Those powers and duties specified in the Zoning Act including, but not limited to, the following:
  - (a) To hear and decide upon applications for special permits pursuant to § 200-28 of this Zoning Bylaw pertaining to planned unit and cluster developments;

- (b) To review and hold a public hearing on the adoption or amendment of a Zoning Bylaw and to submit a report to Town Meeting with recommendation thereon;
- (c) To issue a report to the Town Meeting containing recommendations relating to repetitive petitions for changes in the Zoning Bylaw;
- (d) To consent or withhold consent to a repetitive application as provided in Section 16 of the Zoning Act; and
- (e) To hear and decide upon applications for site plan review pursuant to Article XVII of this Zoning Bylaw. **[Added 10-17-1991 ATM by Art. 21, approved 2-4-1992]**
- (f) To hear and decide upon applications for special permits pursuant to § 200-46 of this Zoning Bylaw. **[Added 10-12-2000 ATM by Art. 32, approved 3-29-2001]**

C. Vote required.

- (1) A concurring vote of three (3) of the five (5) members shall be required for the exercise by the Community Planning Commission of its powers enumerated under Subsection B(1), (2) and (3)(b), (c) and (e). **[Amended 10-17-1991 ATM by Art. 21, approved 2-4-1992]**
- (2) A concurring vote of four (4) of the five (5) members shall be required to exercise the powers conferred by Subsection B(3)(a) and (d) and (f). **[Amended 10-12-2000 ATM by Art. 32, approved 3-29-2001]**

**§ 200-25.1. Board of Selectmen. [Added 10-6-2014 OTM by Art. 13, approved 1-20-2015]**

In addition to the powers enumerated in § 5 of the Code of the Town of North Reading, the Board of Selectmen shall also be the special permit granting authority for registered marijuana dispensaries.

**§ 200-26. Appeals.**

- A. An appeal to the Zoning Board of Appeals may be taken by the person aggrieved by reason of his inability to obtain a permit or enforcement action from the Building Inspector. An appeal to the Zoning Board of Appeals may be taken by the Metropolitan Area Planning Council, or by any person including an officer or board of the Town, or of an abutting town aggrieved by an order or decision of the Building Inspector in violation of any provision of this Zoning Bylaw or of the Zoning Act.
- B. Any appeal shall be taken within thirty (30) days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk who shall, within

two (2) business days, transmit copies of the notice of appeal to such officer or board whose order or decision is being appealed, and to the Zoning Board of Appeals. Such officer or board shall, within seven (7) days, transmit to the Zoning Board of Appeals copies of all documents and papers constituting the record of the case in which the appeal is taken.

- C. The Zoning Board of Appeals, in exercising the powers granted under this section, may make orders or decisions, reverse, affirm or modify, in whole or in part, any order or decision, may issue or direct the issuance of a permit and shall have all the powers of the Building Inspector.
- D. The decision of the Zoning Board of Appeals shall be rendered within one hundred (100) days of the filing of an appeal with the Town Clerk. Failure of the Zoning Board of Appeals to act within said one hundred (100) days shall be deemed to be the grant of the relief sought subject to an applicable judicial appeal as provided for in the Zoning Act. **[Amended 10-2-2000 ATM by Art. 16, approved 3-29-2001]**

#### **§ 200-27. Variances.**

- A. After a public hearing upon an appeal pursuant to § 200-26 of this Zoning Bylaw or upon an application for a variance the Zoning Board of Appeals may grant a variance from the terms of any applicable section of this Zoning Bylaw. However, the Zoning Board of Appeals shall not grant a variance relating to the use of land or structures.
- B. An application for a variance shall be filed with the Town Clerk, who shall, within two (2) business days, transmit a copy of such application to the Zoning Board of Appeals.
- C. The decision of the Zoning Board of Appeals shall be rendered within seventy-five (75) days of the filing of the application with the Town Clerk. Failure of the Zoning Board of Appeals to act within said seventy-five (75) days shall be deemed to be the grant of the relief sought in the application, subject to an applicable judicial appeal as provided for in the Zoning Act.
- D. The Zoning Board of Appeals shall not grant a variance unless it specifically finds that each of the following conditions are fulfilled:
  - (1) That owing to the circumstances relating to the soil conditions, shape or topography of the land or structure involved and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Zoning Bylaw would involve substantial hardship, financial or otherwise, to the applicant; and
  - (2) 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 Zoning Bylaw.



- E. The Zoning Board of Appeals may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structure, but excluding any condition, safeguard or limitation based upon continued ownership.
- F. Upon the granting of a variance, extension, modification or renewal thereof, the Zoning Board of Appeals shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the Zoning Board of Appeals, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such variance and certifying that copies of the decision and all plans referred to in the decision have been filed with the Community Planning Commission and the Town Clerk.
- G. No variance or extension, modification or renewal thereof shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if an appeal has been filed, it has been dismissed or denied, is recorded in the Middlesex South District Registry of Deeds and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title. The recording or registration shall be the responsibility of the owner or applicant who shall, thereafter, provide the Zoning Board of Appeals with a copy of the decision bearing the stamp of the Registry of Deeds or Land Court indicating the date and time of recording or registration and the book and page number assigned the document. **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**
- H. The rights authorized by a variance shall lapse unless construction is commenced within one (1) year of the grant of the variance and is continued through to completion as continuously and expeditiously as is reasonable. In the event of such a lapse, the variance may be re-established only after notice and a new hearing.
- I. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the Zoning Board of Appeals in authorizing a variance without making new application to the Zoning Board of Appeals for approval of such action.

#### **§ 200-28. Special permits.**

- A. Zoning Board of Appeals as special permit granting authority. The Zoning Board of Appeals shall have the power, upon written application, to grant special permits for the following exceptions, activities and uses: **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979; 10-4-1984 ATM by Art. 14, approved 1-8-1985; 10-17-1991 ATM by Art. 21, approved 2-4-1992]**

- (1) Uses requiring special permits pursuant to Articles VIII and IX of this Zoning Bylaw;
  - (2) Exceptions to parking space requirements pursuant to § 200-75 of this Zoning Bylaw;
  - (3) Reconstruction, alteration, increase or change in a nonconforming use or structure pursuant to § 200-10A of this Zoning Bylaw;
  - (4) Special permits for alternate screening methods pursuant to § 200-64A of this Zoning Bylaw; and
  - (5) Special permits for other activities and uses requiring a special permit pursuant to the terms of this Zoning Bylaw except in connection with cluster residential developments, multi-family residential developments and planned unit developments, and personal wireless service facilities. **[Amended 10-12-2000 ATM by Art. 32, approved 3-29-2001]**
  - (6) Special Permits for Historical Preservation pursuant to XIX § 200-101 of this Zoning Bylaw. **[Added 4-4-2005 ATM, by Art. 7, approved 7-19-2005]**
- B. Community Planning Commission as special permit granting authority. The Community Planning Commission shall have the power, upon written application, to grant special permits for the following uses:
- (1) Open space residential developments pursuant to Article X of this Zoning Bylaw; **[Amended 4-7-2008ATM by Art. 27, approved 6-27-2008]**
  - (2) Planned unit developments pursuant to Article XI of this Zoning Bylaw;
  - (3) Multi-family residential developments pursuant to § 200-90 of this Zoning Bylaw; **[Added 10-4-1984 ATM by Art. 14, approved 1-8-1985]**
  - (4) Special permits relating to signs issued pursuant to § 200-84; and **[Added 10-17-1991 ATM by Art. 21, approved 2-4-1992]**
  - (5) Special permits relating to activity in the floodplain district pursuant to § 200-44.
  - (6) Special permits relating to personal wireless service facilities pursuant to § 200-46 of this Zoning Bylaw. **[Added 10-12-2000 ATM by Art. 32, approved 3-29-2001]**
  - (7) In any zoning district, the Community Planning Commission shall be the Special Permit Granting Authority for all special permits in a Priority Development Site designated by Town Meeting pursuant to M.G.L. c. 43D. **[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]**

- (8) Special permits relating to the Affordable Housing Overlay District.  
**[Added 4-7-2008 ATM by Art. 26, approved 6-27-2008]**

B.1. Board of Selectmen as special permit granting authority. The Board of Selectmen shall have the power, upon written application, to grant special permits for the following use: registered marijuana dispensaries. **[Added 10-6-2014 OTM by Art. 13, approved 1-20-2015]**

C. Procedural requirements for the grant of a special permit. The grant of a special permit shall be accomplished pursuant to the general provisions contained in § 200-23 of this Zoning Bylaw and pursuant to the following procedural requirements:

- (1) An application for a special permit shall be filed with the special permit granting authority and a copy of such application shall forthwith be given to the Town Clerk by the applicant. The application shall be accompanied by a site plan prepared in accordance with the requirements of Subsection D of this section unless the special permit granting authority waives or modifies said requirements.
- (2) Whenever an application for a special permit is filed with the Community Planning Commission, the Commission shall submit a copy of such application to the Board of Health, the Building Inspector, the Conservation Commission, the Town Engineer, the Police Department, the Fire Department and the School Department for their review. The application forwarded to each reviewing party shall be accompanied by all supportive materials filed with the application which may be necessary to an adequate review by that reviewing party. Each reviewing party may make such recommendations as it deems appropriate and shall send a report of such recommendations to the Community Planning Commission. A copy of such report shall be forwarded to the applicant. Failure of any reviewing party to make recommendations within thirty-five (35) days of receipt by the reviewing party of a copy of the application for special permit shall be deemed a lack of opposition to such application.
- (3) Whenever an application for a special permit is filed with the Zoning Board of Appeals, the Zoning Board of Appeals shall submit a copy of such application to the Community Planning Commission and the Building Inspector for their review. The application shall be accompanied by all supportive materials filed with the application which may be necessary to an adequate review by each of the reviewing parties. The Zoning Board of Appeals shall also submit copies of the application and supportive materials to all other boards, departments or officers of the Town whose area of responsibility relates to the subject matter of the special permit for which application is being made. Failure of any reviewing party to make recommendations within thirty-five (35) days of receipt by

the reviewing party of a copy of the application for special permit shall be deemed a lack of opposition to such application.

- (4) The special permit granting authority shall not render a decision on the application for a special permit until such time as the reviewing parties have all responded to the application or until thirty-five (35) days have elapsed from the receipt by each of the boards, departments or officers of the application and supportive materials.
  - (5) The special permit granting authority shall act within ninety (90) days after the public hearing. Failure of the special permit granting authority to take final action upon an application for a special permit within the ninety-day period following the date of the public hearing shall be deemed to be a grant of the permit applied for.
  - (6) Upon the grant of a special permit, or any extension, modification or renewal thereof, the special permit granting authority shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the special permit granting authority, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of a special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Community Planning Commission and the Town Clerk.
- D. Minimum site plan requirements. Site Plans shall be submitted on twenty-four-inch by thirty-six-inch sheets. Plans shall be prepared by a registered professional engineer and a registered land surveyor. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. Except for plans relating to planned unit developments, cluster developments, and floodplain districts, which shall have a minimum scale of one (1) inch equals forty (40) feet, all plans shall have a minimum scale of one (1) inch equals two hundred (200) feet. Unless waived or modified by the special permit granting authority, all plans shall indicate at least the following items: **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979; 10-8-1987 ATM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**
- (1) A location plan at a scale of one (1) inch equals one thousand (1,000) feet;
  - (2) All property lines;
  - (3) All adjacent public streets;
  - (4) All existing and proposed buildings, structures, parking areas and service areas;
  - (5) All facilities for sewage, refuse and other waste disposal;

- (6) Facilities for surface water drainage, both temporary and permanent;
- (7) Landscaping, walls, screening, fencing, buffering and walks;
- (8) Off-street parking spaces and loading areas;
- (9) Front, side and rear yards;
- (10) Lateral support for all adjacent properties as required;
- (11) Water supply;
- (12) Lighting plan;
- (13) Proper provision for vehicular traffic, service roads and control of entrances and exits to highways;
- (14) Future expansion areas;
- (15) Endorsement of approval by Board of Health on all matters relative to facilities for sewage, refuse and other waste disposal; and
- (16) All other features required by the section of this Zoning Bylaw authorizing the grant of the special permit sought.
- (17) For a Chapter 43D Priority Development Site, the site plan submission requirements shall be in accordance with this section and the Community Planning Commission's rules and regulations.  
**[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]**

E. Conditions for approval of special permit.

- (1) The special permit granting authority shall not approve any such application for a special permit unless it finds that all the following conditions are met:
  - (a) The subject land is located in a district where the use requested is permitted by special permit as a special exception pursuant to the provisions of this Zoning Bylaw;
  - (b) The specific site is an appropriate location for such a use, structure or condition;
  - (c) The requested use will not create undue traffic congestion or unduly impair pedestrian safety;
  - (d) The requested use will not overload any public water, drainage, or sewer system, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare, directly caused by the requested use, and non-preventable by any condition of approving the special permit;

- (e) There will be compliance with any special regulations for the use set forth in Articles IX, X, XI, XIV, XV and XVII;
  - (f) The requested use will not impair the integrity or character of the district, neighborhood or adjoining districts nor be detrimental to the public health, safety, convenience or welfare.
- (2) Special permits may be granted only for uses which are in harmony with the general purpose and intent of this Zoning Bylaw and shall be subject to general or specific provisions as set forth therein. In order to further the objectives of this Zoning Bylaw, such permits may impose conditions, safeguards and limitations on time or use and may also impose such other conditions, safeguards and limitations as the special permit granting authority shall deem appropriate including but not limited to the following:
  - (a) Requirements of front, side or rear yards greater than the minimum required by this Zoning Bylaw;
  - (b) Requirements of screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, plantings or other devices as specified by the special permit granting authority;
  - (c) Modification of the exterior features or appearances of the structure;
  - (d) Limitation of size, number of occupants, method or time of operation, or extent of facilities;
  - (e) Regulation of number, design and location of access drives or other traffic features;
  - (f) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable bylaw; and
  - (g) Provision for open and maintained fire and access lanes.
- F. Recording of decision. No special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have lapsed and no appeal has been filed or that, if an appeal has been filed, it has been dismissed or denied, is recorded in the Middlesex South District Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The recording or registration shall be the responsibility of the owner or applicant who shall, thereafter, provide the special permit granting authority with a copy of the decision bearing the stamp of the Registry of Deeds or Land Court indicating the date and time of

recording or registration and the book and page number assigned the document.

- G. Conformity with terms of special permit required. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the special permit granting authority in authorizing a special permit without making new application to the special permit granting authority for approval of such action.
- H. Application of amendments to Zoning Bylaw. Any amendment to this Zoning Bylaw shall apply to any special permit issued after the first notice of public hearing on such amendment.
- I. Special permit time limit. Except for good cause, a special permit granted pursuant to this Zoning Bylaw shall lapse at the expiration of one (1) year from the grant thereof unless a substantial use has commenced or construction has begun.





ARTICLE VII  
**Establishment of Districts**

**§ 200-29. Designation of districts.**

- A. The Town of North Reading is hereby divided into fourteen (14) zoning districts to be designated as follows: **[Amended 10-1-1984 ATM by Art. 12, approved 1-11-1985; 10-4-1984 ATM by Art. 14, approved 1-8-1985; 10-8-1987 ATM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992; 10-5-1995 ATM by Art. 35, approved 11-22-1995]**

|            | <b>Full Name and<br/>Class</b> | <b>Short Name</b> |
|------------|--------------------------------|-------------------|
| Residence  | Residence A District           | RA                |
|            | Residence R District           | RR                |
|            | Residence B District           | RB                |
|            | Residence C District           | RC                |
|            | Residence D District           | RD                |
|            | Residence E District           | RE                |
|            | Residence M District           | RM                |
| Business   | Local Business District        | LB                |
|            | General Business District      | GB                |
|            | Highway Business District      | HB                |
| Industrial | Industrial A District          | IA                |
|            | Industrial B District          | IB                |
|            | Industrial C District          | IC                |
|            | Industrial/Office District     | I/O-1             |

Any of the above-named districts may also be designated as Floodplain District.

B. Residential districts, as a group, are herein referred to as "R" districts. Business districts, as a group, are herein referred to as "B" districts. Industrial districts, as a group, are herein referred to as "I" districts. The general purpose of the districts and areas are as follows:

- (1) Residence districts are so designated to provide satisfactory areas for persons to reside, away from the unhealthy aspects of commercial development. For purposes of this bylaw, any property placed within the Affordable Housing Overlay District shall be deemed to be in a Residence District regardless of the underlying zoning. The districts in this category provide for a variety of population densities; **[Amended 4-7-2008 ATM by Art. 26, approved 6-27-2008]**
- (2) Business districts are so designated to provide for adequate areas for establishments which provide goods and services for the public convenience and welfare;
- (3) Industrial districts are so designated to provide for adequate areas for establishments for research, fabrication, assembly, and distribution of goods; and for extraction of raw materials; and
- (4) The Floodplain District is so designated to provide protection for persons and property both at the site and elsewhere within the same watershed. If indiscriminate changes in the surface of the earth are permitted, the attendant risks to the public health and safety are obvious. If areas of land which are now, or have been since the era of the last glacier, natural basins to collect and hold surface water and flood tides are to be changed without careful engineering studies, it could, and in all probability would, result in a transfer of the water which was formerly retained into or onto other areas. (See § 200-44.) **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

#### **§ 200-30. Zoning Map.<sup>26</sup>**

A. The district boundaries shall be as shown on the Zoning Map of the Town of North Reading dated May 8, 1973, as amended at the October 1974 and October 1977 Town Meetings (see also § 200-44B) and as hereinafter may be amended. (The current revision date is June 1, 2015.) **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-1-1984 OTM by Art. 12, approved 1-11-1985; 10-2-2000 OTM by Art. 16, approved 3-29-2001; 4-7-2003 ATM by Art. 10, approved 4-25-2003; 10-5-2015 OTM by Art. 21, approved 1-14-2016]**

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26. Editor's Note: The Zoning Map is on file in the Town Clerk's office and Community Planning Office.

- B. Any change in the location of boundaries of a district hereafter made through amendments of this Zoning Bylaw shall be indicated by the alteration of such map, and the map thus altered is declared to be part of the Zoning Bylaw thus amended.

**§ 200-31. Interpretation of district boundaries. [Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**

- A. Where the boundary lines are shown upon said map within the right-of-way lines of public and private ways, the center lines of such way shall be the boundary lines.
- B. Boundary lines located outside of such side lines of public or private ways and shown approximately parallel thereto shall be regarded as parallel to such side lines, and dimensions shown in figures placed upon said map between such boundary lines and side lines of public and private ways are the distance in feet of such boundary lines from such side lines, such distance being measured at right angles to such side lines unless otherwise indicated.
- C. Where the boundary lines shown are approximately on the location of property or lot lines, and the exact location of the district or area boundary lines are not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- D. In all cases which are not covered by other provisions of this article, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of the map.
- E. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portion(s) of such lot may apply for not more than thirty (30) feet into the more restricted portion, provided the lot has frontage in the less restricted district and such frontage is sufficient to meet the dimensional requirements of that district.



ARTICLE VIII  
Use Regulations

**§ 200-32. Applicability.**

Except as otherwise provided in this Zoning Bylaw, no building, structure or land shall be used for a purpose other than one permitted in the district as prescribed in this article. Any use not permitted by this article shall be construed to be prohibited.

**§ 200-33. Permitted uses. [Amended 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

In the following Table of Principal Use Regulations, the uses permitted by right in the district shall be designated by the letter "P." Those uses that may be permitted as an exception by special permit in the district, in accordance with Article VI, shall be designated by the letter "S." Uses designated "-" shall not be permitted in the district. Areas in a Floodplain District are also subject to the use regulations of the districts which it overlies and to the special provisions and conditions of § 200-44.

**§ 200-34. Buildings in floodway. [Amended 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

No building shall be erected in the Floodplain District nor shall any use of land occur in the Floodplain District except in conformance with § 200-44 of this Zoning Bylaw.

**§ 200-35. Table of Principal Use Regulations. [Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979; 4-23-1979 ATM by Art. 22, approved 5-18-1979; 10-23-1980 ATM by Art. 21, approved 2-5-1981; 10-6-1983 ATM by Art. 9, approved 12-7-1983; 4-9-1984 ATM by Art. 24, approved 6-15-1984; 4-12-1984 ATM by Art. 25, approved 6-15-1984; 10-1-1984 ATM by Art. 9, approved 1-11-1985; 10-4-1984 ATM by Art. 14, approved 1-8-1985; 10-8-1987 ATM by Art. 19, approved 12-3-1987; 1-19-1988 STM by Art. 6, approved 2-2-1988; 10-17-1991 ATM by Art. 22, approved 2-4-1992; 4-7-2008 ATM by Art. 27, approved 6-27-2008]**

(See § 200-33 for explanation of "P," "S" and "-")

|                                 | Residence |    |    | Business |    |    | Industrial |    |    |    |    |
|---------------------------------|-----------|----|----|----------|----|----|------------|----|----|----|----|
|                                 | RA        | RR | RB | RD       | RE | RM | LB         | GB | IA | IB | IC |
| Residential                     |           |    |    |          |    |    |            |    |    |    |    |
| 1. One-family detached dwelling | P         | P  | P  | P        | P  | -  | P          | -  | -  | -  | -  |

|  | <b>Residence</b> |           |           | <b>Business</b> |           |           | <b>Industrial</b> |           |           |           |           |
|--|------------------|-----------|-----------|-----------------|-----------|-----------|-------------------|-----------|-----------|-----------|-----------|
|  | <b>RA</b>        | <b>RR</b> | <b>RB</b> | <b>RD</b>       | <b>RE</b> | <b>RM</b> | <b>LB</b>         | <b>GB</b> | <b>IA</b> | <b>IB</b> | <b>IC</b> |
| 2. Multi-family dwelling containing four (4) or more dwelling units  | -                | -         | -         | -               | -         | S         | -                 | -         | -         | -         | -         |
| 3. Apartments containing three (3) or fewer independent dwelling units, owned and operated by the North Reading Housing Authority (see § 200-89) | S                | S         | S         | S               | S         | -         | -                 | -         | -         | -         | -         |
| 4. Open space residential development (see Article X)  | S                | S         | -         | -               | S         | -         | -                 | -         | -         | -         | -         |
| 5. Planned unit development (See Article XI)   | -                | -         | -         | -               | S         | -         | S                 | S         | -         | -         | -         |
| 6. Lodging house, but excluding motels, trailers, or mobile homes  | -                | -         | -         | -               | -         | -         | S                 | S         | -         | -         | -         |
| 7. Motels  | -                | -         | -         | -               | -         | -         | -                 | -         | -         | S         | -         |
| 8. Mobile home   | -                | -         | -         | -               | -         | -         | -                 | -         | -         | -         | -         |
| 9. Mobile home park  | -                | -         | -         | -               | -         | -         | -                 | -         | -         | -         | -         |
| 10. Place of divine worship  | P                | P         | P         | P               | P         | -         | S                 | S         | P         | P         | P         |
| 11. Educational purpose which is religious, sectarian, denominational or public  | S                | S         | S         | S               | S         | -         | S                 | S         | P         | P         | P         |
| 12. Educational use which is not religious, sectarian, denominational or public  | -                | -         | -         | -               | -         | -         | S                 | S         | P         | P         | P         |

|  | Residence |    |    | Business |    |    |    | Industrial |    |    |    |
|--|-----------|----|----|----------|----|----|----|------------|----|----|----|
|  | RA        | RR | RB | RD       | RE | RM | LB | GB         | IA | IB | IC |
| 13. Non-profit private club, civic or fraternal organization provided any sleeping rooms shall not number more than four (4) | S         | S  | S  | S        | -  | -  | S  | S          | -  | -  | -  |
| 14. Country club   | S         | S  | S  | S        | -  | -  | -  | -          | -  | -  | -  |
| 15. Non-profit day camp or other non-profit camp   | S         | S  | S  | S        | -  | -  | S  | -          | -  | -  | -  |
| 16. Cemetery, including any crematory therein  | S         | S  | S  | S        | -  | -  | S  | S          | -  | -  | -  |
| 17. Town or non-profit outdoor recreational facility   | S         | S  | S  | S        | S  | -  | S  | S          | S  | S  | S  |
| 18. Municipal facility golf course   | S         | -  | -  | -        | -  | -  | -  | -          | -  | -  | -  |
| 19. Municipal facility indoor and/or outdoor recreation  | S         | -  | -  | -        | -  | -  | -  | -          | -  | -  | -  |
| 20. Hospital, nursing home, sanitarium, or medical center  | -         | -  | -  | -        | -  | -  | S  | S          | -  | -  | -  |
| 21. Essential services   | P         | P  | P  | P        | P  | -  | P  | P          | P  | P  | P  |
| Community Facilities   |           |    |    |          |    |    |    |            |    |    |    |
| 22. Utility transmission line, substation or similar facility or building  | S         | S  | S  | S        | S  | -  | S  | S          | S  | S  | S  |
| 23. Government use   | S         | S  | S  | S        | -  | -  | S  | S          | S  | S  | S  |
| 24. Place of indoor amusement, recreation or assembly  | -         | -  | -  | -        | -  | -  | S  | S          | S  | S  | S  |
| 25. Outdoor commercial recreation or amusement facility  | -         | -  | -  | -        | -  | -  | -  | S          | -  | -  | -  |
| 26. Inland marina  | S         | S  | S  | S        | -  | -  | S  | S          | S  | S  | S  |

|  | <b>Residence</b> |           |           | <b>Business</b> |           |           |           | <b>Industrial</b> |           |           |           |
|--|------------------|-----------|-----------|-----------------|-----------|-----------|-----------|-------------------|-----------|-----------|-----------|
|  | <b>RA</b>        | <b>RR</b> | <b>RB</b> | <b>RD</b>       | <b>RE</b> | <b>RM</b> | <b>LB</b> | <b>GB</b>         | <b>IA</b> | <b>IB</b> | <b>IC</b> |
| 27. Any woodland, grassland or wetland use of land or water  | P                | P         | P         | P               | P         | -         | P         | P                 | P         | P         | P         |
| 28. Farm, including agriculture, horticulture and floriculture, subject to restriction that any dwelling house be a one-family detached dwelling   | P                | P         | P         | P               | P         | -         | P         | P                 | P         | P         | P         |
| 29. Year-round greenhouse or stand for wholesale or retail sale of agricultural or farm products   | -                | -         | -         | -               | -         | -         | S         | S                 | P         | P         | P         |
| 30. Temporary [not to exceed use for a period of six (6) months in any one (1) year] greenhouse or stand for sale of agricultural or farm products raised primarily on the same premises | S                | S         | S         | S               | S         | -         | S         | S                 | P         | P         | P         |
| Retail, Service and Commercial   |                  |           |           |                 |           |           |           |                   |           |           |           |
| 31. Raising and keeping of livestock, horses and poultry, and only in connection with operation of a farm  | S                | S         | S         | S               | S         | -         | S         | S                 | S         | S         | S         |
| 32. The raising of swine or furbearing animals for commercial use  | -                | -         | -         | -               | -         | -         | -         | -                 | -         | -         | -         |



|   | Residence |    |    | Business |    |    |    | Industrial |    |    |    |
|---|-----------|----|----|----------|----|----|----|------------|----|----|----|
|   | RA        | RR | RB | RD       | RE | RM | LB | GB         | IA | IB | IC |
| 40. Establishment for retail sale of commodities except motor vehicles  | -         | -  | -  | -        | -  | -  | S  | S          | -  | -  | -  |
| 41. Eating and drinking places where consumption is primarily intended to be within the building  | -         | -  | -  | -        | -  | -  | S  | S          | S  | S  | S  |
| 42. Drive-in eating and drinking establishment  | -         | -  | -  | -        | -  | -  | S  | S          | S  | S  | S  |
| 43. Mortuary, undertaking or funeral establishment  | -         | -  | -  | -        | -  | -  | S  | S          | -  | -  | -  |
| 44. Motor vehicle, machinery or other junkyard  | -         | -  | -  | -        | -  | -  | -  | -          | -  | -  | -  |
| 45. Establishment selling automobiles, trucks, aircraft, boats, motorcycles, trailers and other vehicles and their accessories (excluding used car lot) | -         | -  | -  | -        | -  | -  | -  | S          | -  | -  | -  |
| 46. Personal and consumer service establishment (excluding massage establishment)   | -         | -  | -  | -        | -  | -  | S  | S          | -  | -  | -  |
| 47. Communications/ personal wireless service facilities<br><b>[Amended 10-12-2000 ATM by Art. 32, approved 3-29-2001]</b>                              | S         | S  | S  | S        | S  | S  | S  | S          | S  | S  | S  |
| 48. Broadcasting studio   | -         | -  | -  | -        | -  | -  | S  | S          | S  | S  | S  |

|  | <b>Residence</b> |           |           | <b>Business</b> |           |           |           | <b>Industrial</b> |           |           |           |
|--|------------------|-----------|-----------|-----------------|-----------|-----------|-----------|-------------------|-----------|-----------|-----------|
|  | <b>RA</b>        | <b>RR</b> | <b>RB</b> | <b>RD</b>       | <b>RE</b> | <b>RM</b> | <b>LB</b> | <b>GB</b>         | <b>IA</b> | <b>IB</b> | <b>IC</b> |
| 49. Membership club operated for profit (not a country club)   | -                | -         | -         | -               | -         | -         | S         | S                 | -         | -         | -         |
| 50. Miscellaneous professional and business offices and services including, but not limited to, medical, legal and other professional services and finance, insurance and real estate offices            | -                | -         | -         | -               | -         | -         | S         | S                 | P         | P         | P         |
| 51. Automotive repair, automobile service station, self-service gasoline service station or garage (excluding a junkyard or open storage of abandoned automobiles or other vehicles) (see also § 200-43) | -                | -         | -         | -               | -         | -         | S         | S                 | -         | -         | -         |
| 52. Truck terminal or motor freight station  | -                | -         | -         | -               | -         | -         | -         | -                 | -         | -         | -         |
| 53. Commercial kennel or veterinary hospital in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures  | -                | -         | -         | -               | -         | -         | S         | S                 | -         | -         | -         |
| 54. Massage establishment  | -                | -         | -         | -               | -         | -         | -         | -                 | -         | -         | -         |
| 55. Used car lot   | -                | -         | -         | -               | -         | -         | -         | -                 | -         | -         | -         |
| Wholesale, Transportation and Industrial   |                  |           |           |                 |           |           |           |                   |           |           |           |

|  | Residence |    |    | Business |    |    |    | Industrial |    |    |    |
|--|-----------|----|----|----------|----|----|----|------------|----|----|----|
|  | RA        | RR | RB | RD       | RE | RM | LB | GB         | IA | IB | IC |
| 60. Removal of sand, earth, gravel, or other raw material (see §§ 200-41 and 200-87)   | -         | -  | -  | -        | -  | -  | -  | -          | S  | S  | S  |
| 61. Processing and treating of raw materials including operations such as grading, drying, sorting, crushing grinding and milling (see §§ 200-41 and 200-87) | -         | -  | -  | -        | -  | -  | -  | -          | S  | S  | S  |
| 62. Construction industry including suppliers  | -         | -  | -  | -        | -  | -  | -  | S          | S  | S  | S  |
| 63. Manufacturing (See § 200-87)   | -         | -  | -  | -        | -  | -  | -  | -          | S  | S  | S  |
| 64. Plant for packaging food products  | -         | -  | -  | -        | -  | -  | -  | -          | S  | S  | S  |
| 65. Wholesale sale of commodities  | -         | -  | -  | -        | -  | -  | -  | S          | P  | P  | P  |
| 66. Storage warehouse  | -         | -  | -  | -        | -  | -  | -  | -          | P  | P  | P  |
| 67. Open storage of raw materials and finished goods   | -         | -  | -  | -        | -  | -  | -  | -          | P  | P  | P  |
| 68. Open storage, or daytime or overnight parking of construction equipment  | -         | -  | -  | -        | -  | -  | -  | -          | -  | -  | -  |
| 69. Printing or publishing establishment   | -         | -  | -  | -        | -  | -  | -  | S          | P  | P  | P  |
| 70. Research offices or establishments devoted to research and development activities  | -         | -  | -  | -        | -  | -  | -  | S          | S  | S  | S  |
| 71. Light manufacturing  | -         | -  | -  | -        | -  | -  | -  | S          | S  | S  | S  |

|   | Residence |    |    | Business |    |    |    | Industrial |    |    |    |
|---|-----------|----|----|----------|----|----|----|------------|----|----|----|
|   | RA        | RR | RB | RD       | RE | RM | LB | GB         | IA | IB | IC |
| 72. Transportation services (excluding truck terminal or motor freight station) | -         | -  | -  | -        | -  | -  | -  | -          | S  | S  | S  |

Highway Business (HB): see § 200-39 of this Zoning Bylaw.

Industrial/Office (I/O-1): See § 200-40 of this Zoning Bylaw. **[Added 10-5-1995 ATM by Art. 35, approved 11-22-1995]**

**§ 200-36. Accessory uses. [Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

- A. Uses accessory to the principal use are permitted in all districts subject to all the following restrictions:
- (1) An accessory use must be customarily incidental and subordinate to the principal use;
  - (2) If a lot is in two (2) or more districts, the accessory use must be confined to that part of the lot where the principal use is allowable;
  - (3) No accessory use of a lot is permitted unless a principal use is conducted thereon;
  - (4) If the accessory use is neither permitted as a principal use nor allowed by special permit, the accessory use shall not be conducted for profit independent of the principal use;
  - (5) Walls, fences or similar enclosures shall not interfere with the safe operation of motor vehicles; and in a residence district, they shall not be more than seven (7) feet in height unless used as a retaining wall;
  - (6) Outside storage is permitted only if clearly necessary to the operation and conduct of the principal use;
  - (7) Except where the principal use is for a farm, the storage or regular daytime or overnight parking of more than one (1) commercial motor vehicle is not permitted in any residence district, and such vehicle shall not be more than one-ton rated in size;
  - (8) Storage of vehicles or boats in any residence district shall be within a building or not less than ten (10) feet from any boundary line of the lot; and
  - (9) A trailer shall not be used for dwelling or sleeping purposes except in accordance with § 200-88.

B. The following accessory uses are permitted only as an exception by special permit in accordance with Article VI:

- (1) Home occupations (see § 200-42);
- (2) The outside storage of vehicles or boats in any residence district less than ten (10) feet away from any boundary line of the lot;
- (3) The keeping and housing of horses, livestock or fowls as defined in Massachusetts General Laws, Chapter 140, Section 136A, if authorized by the Board of Health;
- (4) Accessory retail or consumer service use in a multi-family dwelling and provided that all activities are located on the first floor or basement floor levels and all materials, goods and activities in connection with said uses shall be confined completely within the building;
- (5) Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not the accessory use is on the same parcel as the activity permitted as a matter of right, provided that the Zoning Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good;
- (6) The storage of commercial motor vehicles in a residence district not otherwise permitted in this article;
- (7) Any use accessory to a principal use permitted only as an exception by special permit shall be permitted only if provided by special permit; and
- (8) If a lot is located partially within a Floodplain District and partially without, accessory uses on that part of the lot which is within may be permitted as an exception, subject to the restrictions of § 200-44. **[Amended 10-8-1987 ATM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

**§ 200-37. Limitation on grant of permits.**

No permit granting authority, special permit granting authority or other licensing authority shall grant a permit or license for a use of a building, structure or land which use would be in violation of this Zoning Bylaw.

**§ 200-38. Aquifer Protection District. [Added 10-1-1984 ATM by Art. 12, approved 1-11-1985; amended 4-9-1987 STM by Art. 1, approved 8-24-1987; 10-8-1987 ATM by Art. 20, approved 11-27-1987; 10-5-1989 ATM by Art. 18, approved 1-8-1990; 10-5-1995 ATM by Art. 34, approved 11-22-1995]**

- A. Purpose. The purpose of the Aquifer Protection District is to protect the public health by preventing contamination of groundwater resources providing public water supply.
- B. Definitions pertaining to an Aquifer Protection District.
- (1) Aquifer Protection District Map: The Aquifer Protection District Map dated September 29, 1995, drawn by Applied Geographics, Inc.
  - (2) Special permit granting authority: The special permit granting authority shall be the Zoning Board of Appeals (SPGA).
  - (3) Aquifer Protection District Zones I, II and III: Aquifer Protection District Zones I, II and III are as defined by the Massachusetts Department of Environmental Protection in 310 CMR 22.00.
- C. Establishment of districts.
- (1) Overlay districts. The Aquifer Protection District is herein established as an overlay district. The Aquifer Protection District includes the Town of North Reading well fields and surrounding drainage basins. The Aquifer Protection District is described on the Aquifer Protection District Map. The Aquifer Protection District Map is hereby made a part of this Zoning Bylaw and is on file in the office of the Town Clerk.
  - (2) Boundary disputes. Where the bounds of the Aquifer Protection District are in dispute, as delineated on the Aquifer Protection District Map, the burden of proof shall be upon the owners of the land in question to show where they should properly be located. Resolution of boundary disputes shall be through a special permit application to the Zoning Board of Appeals. Any application for a special permit under this Subsection C shall be accompanied by documentation prepared by a person who meets the following two requirements:
    - (a) Is experienced in delineating hydrogeologic zones in Massachusetts; and
    - (b) Has one of the following credentials:

| <b>Title</b>                               | <b>Conferring Entity</b>                                 |
|--|--|
| Registered Professional Hydrogeologist     | American Institute of Hydrology                          |
| Certified Professional Geologic Scientist  | American Institute of Professional Geological Scientists |
| Registered Professional Engineer, Sanitary | Commonwealth of Massachusetts                            |

| <b>Title</b>                          | <b>Conferring Entity</b>   |
|---------------------------------------|--|
| Certified Ground Water Professional   | Association of Ground Water Scientists & Engineers                             |
| Certified Professional Soil Scientist | American Registry of Certified Professionals in Agronomy, Crops and Soils Ltd. |

- (3) The Zoning Board of Appeals shall not grant a special permit under this Subsection C unless the applicant demonstrates that the provisions governing the Aquifer Protection District(s), under this § 200-38, may be waived without detrimental effect to groundwater quality as specified in Subsection F. Whenever an application for a special permit is filed with the Zoning Board of Appeals under this Subsection C, the Zoning Board of Appeals and the applicant shall fulfill the requirements of Subsection E(2) herein.

**D. Use regulations.**

- (1) Permitted and prohibited uses. Within an Aquifer Protection District the requirements of the underlying districts continue to apply except that uses are prohibited where indicated by "-" in the following schedule, and require a special permit where indicated by "S," even where the underlying district requirements are more permissive. Uses permitted in an Aquifer Protection District are subject to the prohibitions set forth in the following schedule as well as to the design criteria set forth in Subsections F and G and are indicated by "P."
- (2) Lots partially within the Aquifer Protection District. Where a portion of the lot is located partially within and partially without the Aquifer Protection District, site design shall, to the extent feasible, locate potential pollution sources outside the district boundaries.

**Use Regulations Schedule**

|   | <b>Aquifer<br/>Protection<br/>District</b> |
|---|--|
| 1. Landfills and open dumps, as defined in 310 CMR 19.006.              | -  |
| 2. Landfilling of sludge and septage, as defined in 310 CMR 32.05.      | -  |
| 3. Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1. | -  |

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Protection  
District**

4. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the district, that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal. -
5. Treatment or disposal works for non-sanitary wastewaters that are subject to 314 CMR 5.00, except the following: -
  - a. The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and P
  - b. Treatment works approved by DEP designed for the treatment of contaminated ground or surface waters.
6. Facilities that generate, treat, store or dispose of hazardous waste that are subject to MGL c. 21C and 310 CMR 30.000, except for the following:
  - a. Very small quantity generators, as defined by 310 CMR 30.00; P
  - b. Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390; P
  - c. Waste oil retention facilities required by MGL c. 21, § 52A; and P
  - d. Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for treatment of contaminated ground or surface waters. P
7. Storage of sludge and septage, as defined in 310 CMR 32.05. Such storage must be in compliance with 310 CMR 32.30 and 310 CMR 32.31.
8. Storage of sodium chloride, chemically treated abrasives or other chemicals for the removal of ice and snow on roads. Such storage must be within a structure designed to prevent the generation and escape of contaminated runoff or leachate. S



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9. Storage of commercial fertilizers, as defined in MGL c. 128, § 64. Such storage must be within a structure designed to prevent the generation and escape of contaminated runoff or leachate. S
10. Storage of animal manures. Such storage must be covered or contained in accordance with the specifications of the United States Soil Conservation Service. S
11. Storage of liquid hazardous materials, as defined in MGL c. 21E. Such storage must be either in a freestanding container, approved by the North Reading Fire Department and within a building or in a freestanding covered container, approved by the North Reading Fire Department, which is above ground level with protection adequate to contain a spill 110% the size of the container's total storage capacity.
12. The removal of soil, loam, sand, gravel, or any other mineral substances within four feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey). The substances removed must be redeposited within 45 days of removal on site to achieve a final grading greater than four feet above the historical highwater mark. (Excavations for the construction of building foundations or the installations of utility works are permitted). S
13. Storage of liquid petroleum products of any kind. (Replacement of pre-existing tanks or systems for the keeping, dispensing or storing of gasoline is allowed consistent with state and local requirements.) -

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Protection  
District**

However, storage of liquid petroleum products incidental to the following uses is permitted, provided that such storage must be either in a freestanding container approved by the North Reading Fire Department and within a building or in a freestanding container approved by the North Reading Fire Department which is above ground level with protection adequate to contain a spill 110% the size of the container's total storage capacity.

- |     |  |   |
|-----|--|---|
| a.  | Normal household use and outdoor maintenance or the heating of the structure;  | P |
| b.  | Waste oil retention facilities required by MGL c. 21, § 52A;   | P |
| c.  | Emergency generators required by statute, rule or regulation; or   | P |
| d.  | Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.   | P |
| 14. | Land uses that result in the rendering impervious of more than 15% or 2,500 square feet of any lot, whichever is greater. A system for artificial recharge of precipitation must be provided that will not result in the degradation of groundwater quality. | S |

**E. Special permit granting authority.**

- (1) Establishment. A special permit shall be granted if the SPGA determines that the intent of this section including the specific criteria of Subsection G are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measure failed.
- (2) Application.
  - (a) Whenever an application for a special permit is filed with the SPGA under this § 200-38, the SPGA shall transmit within six (6) working days of the filing of the completed application,

copies of the application, accompanying site plan, and all other documentation submitted with the application to the Community Planning Commission, Board of Health, Conservation Commission, Building Inspector, Fire Chief and the Town Engineer for their consideration, review and report. The reports shall contain the proposed conditions which the officials or boards may determine to be appropriate if the special permit is to be granted and shall include a draft of the specific language of the conditions. The copies necessary to fulfill this requirement shall be furnished by the applicant. An application shall not be deemed complete until all copies of all required information and documentation have been filed with the SPGA.

- (b) The SPGA may notify applicants by registered mail, within fourteen (14) days of submittal of the application, that the application or documentation is incomplete, specifying the deficiencies, and the applicant shall have fourteen (14) days from the date of the mailing of such notice to correct the deficiencies. Failure to correct the deficiencies after having been so notified within such time shall be used as the basis for denial of the application without prejudice.
  - (c) Reports shall be submitted by the date of the public hearing, but in any case within thirty-five (35) days of receipt by the reviewing party of all of the required materials, otherwise failure of any reviewing party to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.
  - (d) In the event that the public hearing by the SPGA is held prior to the expiration of the thirty-five-day period, the SPGA shall continue the public hearing to permit the formal submission of reports and recommendations within the thirty-five-day period.
- (3) Applicability. Any special permit required under this § 200-38 shall be in addition to, and separate from, any other special permit required under § 200-28 of this Zoning Bylaw.
- F. Special permit criteria; standards. Special permits under Subsection E shall be granted only if the SPGA determines, after reviewing the recommendations of the reviewing parties delineated in Subsection E(2), that groundwater quality resulting from on-site wastewater disposal or other operations on-site shall not fall below the more restrictive of federal or state standards for drinking water or, if existing groundwater quality is already below those standards, on-site disposal or operations shall result in no further deterioration.
- G. Submittals.
  - (1) Required information. In applying for a special permit under this section, the applicant shall furnish and the SPGA shall require the

information listed in this subsection, unless waived or modified by the SPGA with reasons stated in writing to each of the reviewing parties identified in Subsection E(2) above, contemporaneous with the transmittal to the reviewing party of its copy of the application, site plan and other required documentation.

(2) Site plans.

- (a) General requirements. Where called for in Subsection G(2)(a) through (d), site plans shall be submitted on twenty-four-inch by thirty-six-inch sheets, on a minimum scale of one (1) inch equals forty (40) feet, and prepared by a registered professional engineer and a registered land surveyor, and shall include, at a minimum, items in § 200-28D(1) through (16) of the North Reading Zoning Bylaws.
- (b) Impervious areas. For any proposed activity on a lot, other than a single-family dwelling and structures and uses accessory thereto, which will render more than fifteen (15) percent of the total lot area impervious, the application or site plan shall contain the items specified in this Subsection G(2) and also an addenda prepared by a registered professional engineer containing drainage calculations, utilizing U.S. Soil Conservation Service methodology, demonstrating that any increase in the volume of runoff shall be recharged on-site and diverted towards areas with vegetation for surface infiltration to the maximum extent possible. The application or site plan shall be accompanied by a narrative statement explaining the use of dry wells, which shall be allowed only upon a showing that other methods are infeasible, and that dry wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.
- (c) Maintenance of vegetative cover. For any use, other than a single-family dwelling and structures and uses accessory thereto, retaining less than twenty (20) percent of lot area in its natural vegetative state, the application or site plan shall contain the items specified in this Subsection G(2) and also contain a narrative statement by a registered professional engineer certifying that such removal of vegetative cover will likely not result in decreased recharge of the groundwater aquifer, or increased sedimentation of surface waters. The application or site plan shall indicate any restoration proposals or erosion control measures proposed on the premises.
- (d) Disposal of snow/earth removal. For disposal of snow from outside the district; removal of earth, loam, sand, gravel or any other mineral in excess of ten (10) yards and/or grading resulting in creation of exterior grades less than five (5) feet above maximum groundwater elevation, the application or site plan shall contain the items specified in this Subsection G(2)

and a narrative statement prepared by a registered professional engineer assessing the impacts, if any, of the proposed activity on groundwater and surface water quality on the premises, adjacent to the premises and on any well field(s) of the Town of North Reading, or the well field(s) of any town adjoining the Town of North Reading, downgradient from the proposed activity or use.

(3) Hazardous materials and wastes.

- (a) Disclosure of hazardous material storage. A complete list of all chemicals, pesticides, fuels or other potentially hazardous materials to be used or stored on the premises in quantities greater than associated with normal household use.
- (b) Description of hazardous wastes. A description of all potentially hazardous wastes to be generated in quantities greater than associated with normal household use.
- (c) Protective measures. A description of the measures proposed to protect all storage containers from vandalism, corrosion and leakage and to provide for control of spills.
- (d) Certification of adequacy of protective measures. An emergency preparedness plan shall be designed for aboveground storage of hazardous materials or waste, along with certification by a registered professional engineer that such storage facilities or containers are:
  - [1] In compliance with all applicable federal or state regulations; and
  - [2] In compliance with design specifications prepared by a registered professional engineer; and
  - [3] Approved by the North Reading Fire Department.

H. Decision. The decision of the SPGA shall approve, approve with conditions or deny the application. It shall contain an explanation of any departure from the recommendations or proposed conditions of any reviewing party. The decision shall:

- (1) Describe in detail those aspects of the application disapproved or approved with deletions or modifications;
- (2) Set out in detail, and expressed as condition of approval, the action of the SPGA as to information submitted pursuant to Subsection G(2)(a) through (d) and (3).

I. Nonconforming structures and uses. The provisions of Subsections E, F, G and H above, as applicable, shall govern the application for and grant of a special permit required by §§ 200-10A and 200-28A(3) of this Zoning Bylaw relating to the nonconforming nature of structures or

uses to the extent such nonconformance is the result of the application of this § 200-38. It is the intention of this Subsection I relative to such structures and uses that this § 200-38 be construed against the perpetuation, extension, increase or change of nonconforming uses and structures.

**§ 200-39. Highway Business (HB) District. [Added 10-17-1991 OTM by Art. 22, approved 2-4-1992]**

A. Purpose and general regulations.

(1) Purpose.

- (a) The Highway Business District (HB) is designed to provide for business involved in retailing, services, amusement and recreation activities, and mixed-use development. These facilities range in degree of intensity from neighborhood services to regional commercial centers. **[Amended 10-17-2016 OTM by Art. 12, approved 2-27-2017]**
- (b) The HB District is intended to encourage unique design and site planning solutions for intensive or mixed uses, and to require quality site design which incorporates desirable amenities as an integral part of each development.

(2) General regulations.

- (a) All proposed retail, service, commercial, wholesale, transportation and industrial developments, redevelopments or expansions within the HB District shall be subject to site plan review pursuant to Article XVII. **[Amended 10-8-1998 OTM by Art. 19, approved 1-27-1999]**
- (b) A combination of two (2) or more permitted uses shall be permitted to occupy the same lot. **[Amended 10-17-2016 OTM by Art. 12, approved 2-27-2017]**
- (c) Permitted uses shall include accessory uses and buildings which are customarily incidental to, and located on the same lot as, the permitted principal use.
- (d) No space needed to meet the frontage, yard, area, coverage, parking or other requirements of this Zoning Bylaw for a lot or building may be sold or leased away from such lot or building.
- (e) No parcel of land which has less than the minimum frontage and area requirements for the HB District may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.
- (f) All uses shall comply with the following additional restrictions: **[Amended 10-17-2016 OTM by Art. 12, approved 2-27-2017<sup>27</sup>]**

[1] All uses are restricted to closed buildings, except for driveup windows where specifically approved by the Community Planning Commission through site plan review.

[2] Outdoor storage of materials and supplies is prohibited unless specifically approved by the Community Planning Commission through site plan review.

**B. Supplemental regulations. [Amended 10-17-2016 OTM by Art. 12, approved 2-27-2017]**

(1) Bulk and coverage controls. The bulk and coverage controls for the HB District are as follows:

- a. Minimum lot area = 20,000
- b. Minimum frontage = 125 feet
- c. Setbacks = 20 feet front \*\*  
= 20 feet side and rear
- d. Maximum height = 60 feet \*\*\*
- e. Maximum building area = 70%

\* FAR may be increased per Subsection B(1) of this section.

\*\* No pavement, other than pedestrian or vehicular accessways shown on an approved site plan, shall be located ten (10) feet from the front lot line.

\*\*\* Parking garages and similar structures which are an integral part of a structure and intended for use by the general public, as well as occupants of said structure, shall not be considered in these calculations up to a maximum of one and one-half (1.5) stories.

**C. Prohibited uses. No use classification as listed in the 1997 North American Industry Classification System is permitted in the HB District which is not listed in Subsection D or E below. In addition, the following uses are expressly prohibited in the HB District: [Amended 4-30-1992 ATM by Art. 23, approved 8-26-1992; 4-6-2000 ATM by Art. 26, approved 6-28-2000; 10-17-2016 OTM by Art. 12, approved 2-27-2017]**

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27. Editor's Note: This article also repealed former Subsection A(2)(f), regarding the maximum permissible FAR for any lot in the HB District, and renumbered former Subsection A(2)(g)[1] and [2] as Subsection A(2)(f)[1] and [2], respectively.

|         |   |
|---------|---|
| 453930- | Mobile home dealers   |
| 445210- | Butchering of live animals  |
| 445210- | Slaughter of live animals   |
| 441120- | Used car dealers  |
| 531130- | Lessors of miniwarehouses and self-storage units  |
| 531190- | Operators of residential mobile home sites  |
| 721211- | Camps and recreational vehicle parks  |
| 721110- | Organization hotels and lodging houses on membership basis  |
| 721310- | Rooming and boarding houses   |
| 812199- | Massage parlors, tattoo parlors, turkish baths, topless-bottomless-nude dancing, buyer's clubs, comfort stations, porter services, steambaths, except by special permit as specified in § 200-45, Adult uses, of the Zoning Bylaw |
| 812990- | Escort service  |
| 541850- | Billboard advertising   |
| 532412- | Heavy construction equipment rental and leasing   |
| 532411- | Airplane rental and leasing   |
| 213111- | Oil field equipment rental and leasing  |
| 213112- | Oil well drilling equipment rental and leasing  |
| 56299 - | Toilets, portable rental and leasing  |
| 493110- | Field warehousing; exhibits, building of; salvaging of damaged merchandise  |
| 561491- | Automobile repossession services  |
| 561910- | Textile folding and packaging services  |
| 711212- | Racetracks  |
| 713290- | Gambling establishments primarily operating coin-operated machines; gambling machines, coin-operated; slot machines   |
| 713990- | Gun clubs; shooting clubs   |
| 488119- | Flying fields   |
| 713290- | Bookies; bookmakers; gambling establishments, not primarily operating coin-operated machines; gambling machines except, coin-operated   |
| 713990- | Trapshooting facilities   |
| 812199- | Bath houses   |
| 561210- | Correctional facilities, jails  |

- D. Uses permitted by special permit. The following use classifications as listed in the 1997 North American Industry Classification System are



permitted in the HB District only upon authorization of a special permit by the Zoning Board of Appeals pursuant to § 200-28 of the Zoning Bylaw: **[Amended 4-30-1992 ATM by Art. 24, approved 8-26-1992; 10-8-1998 OTM by Art. 24, approved 1-27-1999; 10-4-1999 OTM by Art. 11, approved 12-14-1999; 4-6-2000 ATM by Art. 26, approved 6-28-2000; 10-12-2000 OTM by Art. 32, approved 3-29-2001; 10-17-2016 OTM by Art. 12, approved 2-27-2017]**

- 541940 - Veterinary services for animal specialties
- 812910 - Animal specialty services, except veterinary
- 485991\* - School buses (amended)
- 541690 - Landscape and horticultural services
- 541320 - Landscape and horticultural services
- 561730 - Landscape and horticultural services
- 444110 - Lumber and other building material dealers
- 444190 - Lumber and other building material dealers
- 444110 - New and used car dealers
- 4471 - Gasoline service stations
- 44121 - Recreational vehicle dealers
- 441221 - Motorcycle dealers
- 441229 - Automotive dealers, not elsewhere classified
- 722410 - Drinking places (alcoholic beverages)
- 722330 - Direct selling establishments
- 454390 - Direct selling establishments
- 45431 - Fuel dealers
- 522298 - Pawnshops
- 453998 - Auction rooms, sales barns
- 52239 - Functions related to deposit banking, not elsewhere classified, check cashing agencies
- 7211 - Hotels and motels
- 721310 - Rooming and boarding houses
- 8123 - Laundry, cleaning and garment service
- 81299 - Tanning salons
- 541922 - Commercial photography
- 5617 - Services to buildings
- 56161 - Dogs, rental of: for protective services
- 81292 - Photo finishing labs

- 56199 - Bronzing baby shoes; drive away automobile service; filling pressure containers; race track cleaning; liquidators of merchandise; solvents recovery service; repossession service
- 561990 - Auctioneering service
- 5321 - Automotive rentals, no drivers
- 81293 - Automobile parking
- 8111 - Automotive repair shops
- 811198 - Automotive services, except repair
- 811412 - Refrigeration and air conditioning service and repair shops
- 8113 - Miscellaneous repair shops and related services
- 512132 - Drive-in motion picture theaters
- 7112 - Commercial sports
- 71312 - Coin-operated amusement devices
- 71119 - Amusement concessions; amusements rides; animal shows in circuses, fairs and carnivals; billiard parlors; carnival operation; circus companies
- 623 - Nursing and personal care facilities
- 62151 - Medical and dental laboratories
- 339116 - Medical and dental laboratories
- 62221 - Psychiatric hospitals
- 623 - Residential care
- 7121 - Arboreta and botanical or zoological gardens
- 813 - Bars and restaurants owned and operated for members of organizations only
- 54171 - Commercial physical and biological research
- 54138 - Testing laboratories
- 54194 - Testing laboratories

Adult uses as specified in § 200-45, Adult uses, of the Zoning Bylaw

\*Establishments primarily engaged in operating vehicles to transport special needs pupils to and from schools with some transportation of the elderly, provided that outside parking of motor vehicles on site shall be limited to 15 vehicles, all of which must be registered and none of which shall be larger than a Class B vehicle (fifteen-passenger van).

- E. Permitted uses. All uses listed in the 1997 North American Industry Classification System under the following major group headings unless otherwise listed in Subsection C or D above shall be permitted:

**[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000;  
10-17-2016 OTM by Art. 12, approved 2-27-2017]**

1. 44-45 Retail Trade

- 444 - Building materials, hardware, garden supply, and mobile home dealers
- 452 - General merchandise stores
- 445 - Food stores
- 447 - Automotive dealers and gasoline service stations
- 448 - Apparel and accessory stores
- 337 - Home furniture, furnishings and equipment stores
- 722 - Eating and drinking places
- 44 - Miscellaneous retail
- 45 - Testing laboratories

2. 52 Finance and Insurance

- 521 - Depository institutions
- 522 - Non-depository credit institutions
- 523 - Security and commodity brokers, dealers, exchanges and services
- 524 - Insurance carriers
- 524 - Insurance agents, brokers, and service
- 531 - Real estate
- 525 - Holding and other investment offices

3.

- [812 - Personal services
- 541 - Business services
- 811 - Miscellaneous repair services
- 512 - Motion pictures
- 711 - Amusement and recreation services
- 621 - Health services
- 622 - Health services
- 623 - Health services
- 5411- Legal services
- 611 - Educational services
- 624 - Social services
- 712 - Museums, art galleries, and botanical and zoological gardens
- 813 - Membership organizations

- 541 - Engineering, accounting, research, management, and related services
- 711 - Services not elsewhere classified
- 512 - Services not elsewhere classified
- 541 - Services not elsewhere classified
- 512 - Services not elsewhere classified

**§ 200-40. Industrial/Office (I/O-1) District. [Added 10-5-1995 OTM by Art. 35, approved 11-22-1995]**

A. Purpose and general regulations.

(1) Purpose.

- (a) The Industrial/Office District (I/O-1) is designed to provide for administrative and research industries, offices and limited light manufacturing and assembling of building materials, machinery and other commodities to provide opportunities for employment for surrounding residential areas and protection to underground water supplies.
- (b) The I/O District is intended to encourage medium-rise land development emphasizing service oriented or light manufacturing uses while maintaining green space and providing protection to the environment and underground aquifers.

(2) General regulations.

- (a) All proposed commercial, service, and industrial developments, redevelopments or expansions within the I/O District shall be subject to site plan review pursuant to Article XVII. **[Amended 10-8-1998 OTM by Art. 19, approved 1-27-1999]**
- (b) A combination of two (2) or more permitted uses shall be permitted to occupy the same lot under circumstances specifically approved by the Community Planning Commission through site plan review or as approved through the relevant special permit.
- (c) Permitted uses shall include accessory uses and buildings which are customarily incidental to, and located on the same lot as, the permitted principal use.
- (d) No space needed to meet the frontage, yard, area, coverage, parking or other requirements of this Zoning Bylaw for a lot or building may be sold or leased away from the ownership of such lot or building.

- (e) No parcel of land which has less than the minimum frontage and area requirements for the I/O District may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.
- (f) The maximum permissible floor area ratio (FAR) for any lot in the I/O District shall be 2.0 unless otherwise provided for in Subsection B below.
- (g) All uses shall comply with the following additional restrictions:
  - [1] All uses are restricted to closed buildings, except for drive-up windows where specifically approved by the CPC through site plan review.
  - [2] Outdoor storage of materials and supplies is prohibited unless specifically approved by the CPC through site plan review.

B. Supplemental regulations.

- (1) Parking bonus. The permissible floor area ratio (FAR) may be increased to 3.5 for any lot within the I/O District on which surplus off-street parking spaces are provided in excess of twenty (20) percent of the number of spaces normally required under Article XIII of this Zoning Bylaw, the use of which spaces by the general public is guaranteed through recordable easements, covenants or other restrictions running to the benefit of the Town.
- (2) Bulk and coverage controls. The bulk and coverage controls for the I/O District are as follows:
  - a. Minimum lot area = 40,000 square feet
  - b. Minimum frontage = 200 feet
  - c. Floor area ratio = 2.0 \*
  - d. Setbacks = 40 feet \*\*  
front  
= 25 feet side  
= 50 feet rear
  - e. Maximum stories (I/O-1) = 4 \*\*\*
  - f. Maximum height (I/O-1) = 50 feet \*\*\*
  - g. Maximum building area = 50%

- \* FAR may be increased per Subsection B(1) of this section.
- \*\* No pavement, other than pedestrian or vehicular accessways shown on an approved site plan, shall be located within the minimum front setback.
- \*\*\* Parking garages and similar structures which are an integral part of a structure and intended for use by the general public, as well as occupants of said structure, shall not be considered in these calculations up to a maximum of one and one-half (1.5) stories.

C. Prohibited uses. No use classification as listed in the 1997 North American Industry Classification System is permitted in the I/O District which is not listed in Subsection D or E below. In addition, operations for the production of or conduct of the following uses is expressly prohibited in the I/O District: **[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000]**

- 44521 - Slaughtering plants: except animals not for human consumption
- 44521 - Poultry slaughtering and processing
- 44521 - Slaughtering of animals except for human consumption
- 31611 - Leather tanning and finishing
- 33299 - Ordnance and accessories, except vehicles and guided missiles
- 339942 - Pencil lead; pencils, except mechanical
- 31611 - Pelts: scraping, currying, tanning, bleaching, dyeing
- 42152 - Coal and other minerals and ores
- 4218 - Machinery, equipment and supplies
- 42193 - Scrap and waste materials
- 4225 - Farm product raw materials
- 4543 - Petroleum and petroleum products
- 4227 - Petroleum and petroleum products
- 44422 - Farm supplies
- 42291 - Farm supplies
- 447 - Automotive dealers and gasoline service stations
- 451211 - Adult book stores
- 45431 - Fuel dealers
- 52239 - Check cashing agencies
- 531110 - Operators of apartment buildings
- 531110 - Operators of dwellings other than apartment buildings
- 531190 - Operators of residential mobile home sites

- 531190 - Brokers of manufactured homes, on site
- 53131 - Condominium managers; cooperative apartment manager
- 81222 - Cemetery subdividers and developers
- 541850 - Billboard advertising
- 5617 - Services to dwellings and other buildings
- 532412 - Heavy construction equipment rental and leasing
- 532411 - Airplane rental and leasing; oil field equipment rental and leasing; oil well drilling equipment renting and leasing
- 56161 - Dogs, rental of: for protective service
- 81292 - Photofinishing laboratories
- 493110 - Automobile recovery service; automobile repossession service; automobile shows; driveaway automobile service; field warehousing; salvaging of damaged merchandise, not engaged in sales; scrap steel cutting on a contract or fee basis; solvents recovery service on a contract or fee basis.
- 8113 - Miscellaneous repair shops and related services
- 512132 - Drive-in motion picture theaters
- 71395 - Bowling centers
- 711 - Commercial sports
- 713290 - Gambling establishments primarily operating coin-operated machines; gambling machines, coin-operated
- 713990 - Amusement parks
- 711 - Membership sports and recreation clubs
- 71399 - Aerial tramways; archery ranges; betting information service; boat rental; boats, party fishing; bookies; bookmakers; bowling instruction; canoe rental; day camps; fishing piers and lakes; gambling establishments; gambling machines; horse shows; houseboat rentals; moped rental; motorcycle rental; off track betting; rental of rowboats and canoes; rental of saddle horses; riding academies and schools; riding tables; rodeo animal rental; rodeos; scenic railroads for amusement; shooting galleries; shooting ranges; skeet shooting facilities; ski instruction; ski lifts, cable lifts and ski tows; trapshooting facilities; waterslides; wave pools
- 623 - Residential care
- 813 - Bars and restaurants owned and operated for members of organizations only
- 561210 - Correctional facilities; jails
- 81411 - Private households

- D. Uses permitted by special permit. Operations for the production of or conduct of the following use classifications as listed in the 1997 North American Industry Classification System are permitted in the I/O District only upon authorization of a special permit by the Zoning Board of Appeals pursuant to § 200-28 of the Zoning Bylaw: **[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000; 10-12-2000 ATM by Art. 32, approved 3-29-2001; 10-6-2014 OTM by Art. 13, approved 1-20-2015]**

|         |   |
|---------|---|
| 311711- | Canned and cured fish and seafoods  |
| 311712- | Prepared fresh and frozen fish and seafoods   |
| 313 -   | Broadwoven fabric mills, wool (including dyeing and finishing)                        |
| 313 -   | Dyeing and finishing textiles, except wool fabrics and knit goods                     |
| 31321 - | Miscellaneous textile goods   |
| 322231- | Die-cut paper and paperboard and cardboard  |
| 322291- | Sanitary paper products   |
| 322232- | Envelopes   |
| 322233- | Stationery, tablets, and related products   |
| 3222 -  | Converted paper and paperboard products, not elsewhere classified                     |
| 323122- | Platemaking and related services  |
| 334 -   | Computer and office equipment   |
| 333311- | Refrigeration and service industry machinery  |
| 333312- | Refrigeration and service industry machinery  |
| 336391- | Refrigeration and service industry machinery  |
| 333415- | Refrigeration and service industry machinery  |
| 333913- | Refrigeration and service industry machinery  |
| 333319- | Refrigeration and service industry machinery  |
| 325992- | Photographic chemicals, packaged  |
| 339943- | Dies, hand seal; printing dies, rubber  |
| 339944- | Carbon paper and inked ribbons  |
| 339999- | Tear gas devices and equipment; treating clock and watch dials with luminous material |
| 42269 - | Chemicals and allied products   |
| 42295 - | Paints, varnishes and supplies  |
| 7211 -  | Hotels and motels   |



- 71119 - Amusement concessions; amusement rides; animal shows in circuses, fairs and carnivals; carnival operation; circus companies; concession operators, amusement devices and rides
- 62151 - Medical and dental laboratories
- 339116- Medical and dental laboratories
- 54171 - Commercial physical and biological research
- 54138 - Testing laboratories
- 54194 - Testing laboratories
- 235990- Antenna installation, except household type contractors
- 513322- Radio telephone communications
- 513310- Telephone communications, except radio telephones
- 513310- Telegraph and other message communications
- 513112- Radio and television broadcasting stations
- 513120- Television broadcasting stations
- 513210- Cable and other pay television services
- 513390- Communication services, not elsewhere classified

In addition, the following use is permitted by special permit:  
registered marijuana dispensary.

- E. Permitted uses. Operations for the production of or conduct of all uses listed in the 1997 North American Industry Classification System under the following headings unless otherwise listed in Subsection C or D above shall be permitted in the I/O District: **[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000]**

1.

- 311 - Food and kindred products
- 313 - Textile mill products
- 315 - Apparel and other finished products made from fabrics and similar materials
- 337 - Furniture and fixtures
- 511 - Printing, publishing and allied industries
- 323 - Printing, publishing and allied industries
- 512 - Printing, publishing and allied industries
- 316 - Leather and leather products
- 332 - Fabricated metal products, except machinery and transportation equipment
- 335 - Electronic and other electrical equipment and components, except computer equipment
- 333 - Measuring, analyzing, and controlling instruments;

334 - photographic, medical and optical goods; watches and clocks

339 - Miscellaneous manufacturing industries

2.

56151 - Travel agencies

56152 - Tour operators

513 - Communications

3.

421 - Wholesale trade - durable goods

441 - Wholesale trade - durable goods

442 - Wholesale trade - durable goods

453 - Wholesale trade - durable goods

446 - Wholesale trade - durable goods

422 - Wholesale trade - nondurable goods

4.

All uses or combinations of uses within this division (G) must occupy a minimum 50,000 square feet of building space. No shopping centers or malls with less than said 50,000 square feet are permitted in the I/O District.

444 - Building materials, hardware, garden supply, and mobile home dealers

452 - General merchandise stores

445 - Food stores

448 - Apparel and accessory stores

337 - Home furniture, furnishings, and equipment stores

722 - Eating and drinking places

44 - Miscellaneous retail

45 - Miscellaneous retail

5.

521 - Depository institutions

522 - Nondepository institutions

523 - Security and commodity brokers, dealers, exchanges, and services

524 - Insurance carriers

524 - Insurance agents, brokers, and service

531 - Real estate

525 - Holding and other investment offices

6.

- 541 - Business services
- 811 - Miscellaneous repair services
- 512 - Motion pictures
- 711 - Amusement and recreation services
- 621 - Health services
- 622 - Health services
- 623 - Health services
- 5411 - Legal services
- 611 - Educational services
- 624 - Social services
- 712 - Museums, art galleries and botanical and zoological gardens
- 813 - Membership organizations
- 541 - Engineering, accounting, research, management, and related services



ARTICLE IX  
**Special Permit Conditions**

**§ 200-41. Removal, processing and treating of raw materials.**

- A. Removal of sand, earth, gravel or other raw materials and the processing and treating of raw materials shall be conducted only by special permit of the Zoning Board of Appeals. This section shall not apply to such operations which are incidental to and in connection with the construction of a building on a lot.
- B. Any application for a special permit for the removal of sand, earth, gravel or other raw materials or for the processing and treating of raw materials shall be accompanied by a site plan depicting the land to be affected by such operation. In addition to complying with the minimum site plan requirements of § 200-28D, the site plan shall indicate the following:
- (1) Contours at intervals of not more than ten (10) feet;
  - (2) A placement of at least four (4) inches of compacted topsoil over all excavated, filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization;
  - (3) Finished grades not to exceed a slope of one (1) foot vertical to two (2) feet horizontal; and
  - (4) Existing removal area(s) and the proposed area(s) for removal in the immediate future.
- C. Any special permit granted for the removal of sand, earth, gravel or other raw materials or for the processing and treating of raw materials shall contain the following mandatory conditions:
- (1) Removal and processing operations shall not be conducted closer than fifty (50) feet to a public street or to any property line;
  - (2) All equipment, except mobile equipment, for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than one hundred (100) feet from any public street or from any adjoining property line; **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**
  - (3) Any access to excavated areas or areas in the process of excavation shall be adequately posted with "Keep Out - Danger" signs;
  - (4) Any work or bank that slopes more than thirty (30) degrees downward adjacent to a public street shall be adequately fenced at the top;

- (5) Fencings. A substantial fence shall be provided enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of ten (10) feet or more and create a slope of more than one (1) foot vertical to two (2) feet horizontal. Such fence shall be located ten (10) feet or more from the edge of the excavation or quarry, and shall be at least six (6) feet in height;
- (6) Adequate provision is to be made for drainage during and after the completion of operations;
- (7) Adequate lateral support shall be maintained for all adjacent properties;
- (8) The use of explosives shall be done in accordance with the regulations for storage and handling of explosives as published by the Massachusetts Department of Public Safety and the North Reading Fire Department;
- (9) Provision shall be made for the adequate control of dust during operation;
- (10) There shall be replacement of at least four (4) inches of compacted topsoil over all excavated, filled or otherwise disturbed acres. There shall also be seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization;
- (11) Finished grades shall not exceed a slope of one (1) foot vertical to two (2) feet horizontal;
- (12) The special permit shall be conditioned upon compliance with applicable provisions of the environmental performance regulations of this Zoning Bylaw pursuant to § 200-87; and
- (13) It is recognized that the land reuse of a removal site is in the public interest. Therefore, land reuse plan(s) must be submitted to the Zoning Board of Appeals for approval subject to the regulations set forth in the following subsections:
  - (a) The Zoning Board of Appeals may require that up to three (3) approved alternative future land reuse plans be submitted for such land as is used for the extraction of earth, sand, gravel, rock and associated raw materials;
  - (b) Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and erosion control. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future [zero (0) to five (5) years], and be revised as necessary as the existing physical character of the removal area changes;

- (c) The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one (1) year of the abandonment of said operation. Abandonment for the purpose of this subsection shall be defined as the visible or otherwise apparent intention of the owner or user of the land to abandon the use of the land; and
- (d) A bond in an amount stated by the Zoning Board of Appeals shall be posted to insure the satisfactory implementation of the reuse plan.

**§ 200-42. Home occupations.**

- A. No special permit for the use of a dwelling for a home occupation shall be granted unless the Zoning Board of Appeals makes a finding that the buildings or premises occupied will not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, traffic, emission of odor, gas, smoke, dust, noise or electrical disturbance, or due to any other incident of the home occupation. In the case of a multi-family dwelling, the Zoning Board of Appeals must find that the use will in no way become objectionable or detrimental to any residential use within the multi-family structure.
- B. A special permit for the use of a dwelling for a home occupation shall contain the following mandatory conditions:
  - (1) No person other than the residential occupant(s) shall be employed therein;
  - (2) Not more than three hundred (300) square feet shall be devoted to such use; and
  - (3) There shall be no display of goods, wares or signs related to the home occupation visible from the exterior.

**§ 200-43. Gasoline service stations.**

A special permit for the operation of a gasoline service station, including self-service gasoline stations, shall include the following mandatory conditions:

- A. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that access to or egress from a gasoline service station at such a location will create hazardous conditions;
- B. The maximum width of driveways and sidewalk openings measured at the street lot line shall be thirty (30) feet; the minimum width shall be twenty (20) feet;
- C. The minimum distance of driveways, measured at a lot line, shall be as follows:

- (1) From corner lot line, twenty (20) feet;
  - (2) From interior lot line, ten (10) feet; and
  - (3) From other driveway on same lot, twenty (20) feet.
- D. The minimum setback of gasoline pumps from all street lines shall be twelve (12) feet;
- E. A raised curb at least twelve (12) inches in height shall be constructed along all lot lines except at driveway openings;
- F. The screening and buffering requirements of § 200-64D and F of this Zoning Bylaw shall be adhered to where applicable; and
- G. Any gasoline or oil facilities shall be at least twenty-five (25) feet from any lot line.

**§ 200-44. Floodplain District. [Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979; 10-10-1985 ATM by Art. 22, approved 2-4-1986; 10-8-1987 ATM by Art. 21, approved 11-30-1987; 10-5-1989 ATM by Art. 21, approved 1-8-1990; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

- A. Purposes. The purposes of this section are:
- (1) To provide the lands in the Town of North Reading subject to seasonal or periodic flooding as hereinafter described shall not be altered in such a manner as to endanger the health, safety or welfare of the occupants thereof or of the public.
  - (2) To protect, preserve and maintain the water table and water recharge areas within the town so as to preserve present and potential water supplies for the public health, safety and welfare of the residents of the Town of North Reading.
  - (3) To assure the continuation of the natural flow of the watercourses within the Town of North Reading; and to maintain adequate and safe floodwater storage capacity in order to protect persons and property against the hazards of flood inundation.
  - (4) To ensure that all new subdivisions are designed and constructed to minimize flood damage potential, that all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and that adequate drainage is provided to reduce exposure to flood hazards. **[Added 4-11-1996 ATM by Art. 20, approved 8-3-1996]**
- B. District locations. **[Amended 4-11-1996 ATM by Art. 20, approved 8-3-1996]**
- (1) The Floodplain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet



the following additional requirements as well as those of the Massachusetts State Building Code 780 CMR 120.G dealing with construction in floodplains. The Floodplain District includes all special flood hazard areas within the Town of North Reading designated as Zone A, AE, AO and AH on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of North Reading are panel numbers 25017C0282E, 25017C0284E, 25017C0292E, 25017C0301E, 25017C0302E, 25017C0303E, 25017C0304E, 25017C0306E, 25017C0308E, 25017C0309E, 25017C0311E and 25017C0312E dated June 4, 2010. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Community Planning Commission, Building Official, Conservation Commission. **[Amended 4-5-2004 ATM by Art. 3, approved 5-13-2004; 10-4-2004 OTM by Art. 7, approved 12-3-2004; 10-4-2010 OTM by Art. 16, approved 11-17-2010]**

- (2) These maps as well as the accompanying Flood Insurance Study are incorporated herein by reference.

C. District use regulations. **[Amended 4-11-1996 ATM by Art. 20, approved 8-3-1996]**

- (1) The Floodplain District is established as an overlay district superimposed on all other existing zoning districts. All uses and development in the Floodplain District, including structural and non-structural activities, whether permitted in the underlying district by right or by special permit shall be subject to all of the provisions of this section, and must also be in compliance with the following:

- (a) Chapter 131, Section 40 of the Massachusetts General Laws;
- (b) Those provisions of the Massachusetts State Building Code which address floodplain and coastal high hazard areas as they may be in effect from time to time, including but not limited to, 780 CMR 120.G of the Massachusetts State Building Code which addresses construction in floodplains and floodways; **[Amended 10-4-2010 OTM by Art. 16, approved 11-17-2010]**
- (c) Massachusetts Department of Environmental Protection (DEP), Wetland Protection Regulations, 310 CMR 10.00, as they are in effect from time to time;

- (d) 310 CMR 13.00, Inland Wetlands Restrictions, Department of Environmental Protection, as they are in effect from time to time; **[Amended 10-4-2010 OTM by Art. 16, approved 11-17-2010]**
  - (e) 310 CMR 12.00, Coastal Wetlands Restriction, Department of Environmental Protection, as they are in effect from time to time; **[Amended 10-4-2010 OTM by Art. 16, approved 11-17-2010]**
  - (f) DEP Minimum Requirements for the Subsurface Disposal of Sanitary Sewers, 310 CMR 15, Title 5, as they are in effect from time to time;
  - (g) Any variances of the above referenced state regulations granted in accordance with the required variance procedures established in said regulations.
- (2) Permitted uses. The following uses shall be permitted by right within the district:
- (a) Uses directly related to the conservation of water, plants and wildlife, including facilities for municipal water supply purposes;
  - (b) Outdoor recreation activities and facilities, such as unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted;
  - (c) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow patterns of any watercourse;
  - (d) Grazing and farming, including truck gardening and harvesting of crops;
  - (e) Forestry and nurseries;
  - (f) Small non-residential structures of less than one hundred (100) square feet of floor area in connection with recreation or the growing, harvesting, storage or sale of crops raised on the premises;
  - (g) Creation of ponds or detention areas, and associated structures, with a total water surface area at peak elevation not in excess of 40,000 square feet;
  - (h) Removal of silt and other accumulated debris from a watercourse which tends to interfere with the natural flow patterns of the watercourse;

- (i) Construction, alteration, repair and maintenance of municipal infrastructure including water system, sewer system, drainage, roadways and public utilities.
- (3) Special permit uses.
- (a) Except as specifically permitted in Subsection C(2), in the floodplain district no new building shall be erected or constructed, and no existing structure shall be altered, enlarged or moved; no dumping, filling or earth transfer or relocation shall be permitted without first obtaining a special permit from the Community Planning Commission.
  - (b) The Community Planning Commission may allow the permitted uses of the underlying district within the Floodplain District upon issuance of a special permit subject to the following conditions:
    - [1] That the applicant first obtain a permit from the North Reading Conservation Commission.
    - [2] That all encroachments including fill, new construction, substantial improvements to existing structures, earth transfer, and other development be certified by a registered professional engineer that such encroachments shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.
    - [3] That the lowest floor of all new structures including any substantial improvements are above the one-hundred-year flood elevation as shown on the FIRM maps or, in the absence of flood elevation information, are above the one-hundred-year flood elevation as determined and certified by a registered professional engineer.
    - [4] That all new construction and substantial improvements:
      - [a] Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
      - [b] Be constructed with materials resistant to flood damage.
    - [5] Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones. **[Added 4-11-1996 ATM by Art. 20, approved 8-3-1996]**

- (4) Prohibited uses. The following uses are prohibited within the Floodplain District.
  - (a) Structures located in or alterations to the flood channel or watercourse.
  - (b) Accessory buildings or accessory structures used for human abode.
- D. Regulations and application procedure. After public notice and public hearing the Commission shall promulgate regulations to effectuate the purposes of this bylaw. The regulations shall include the application procedure for a special permit. Failure by the Commission to promulgate such 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.
- E. Definitions. Except as otherwise provided in the regulations of the Commission, the definitions of the terms of this bylaw shall be as set forth in the National Flood Insurance Program and Related Regulations, revised as of October 1, 1990, as amended, prepared by the Federal Emergency Management Agency. **[Amended 4-11-1996 ATM by Art 20, approved 8-3-1996]**
- F. Review by other Town boards and agencies. Upon receipt of an application for a special permit for activity in the Floodplain District, the Community Planning Commission shall forward a copy of such application to the Conservation Commission and the Town Engineer with a request that they review the application and submit their comments thereon to the CPC prior to or at the public hearing on the application. Failure of the Conservation Commission and/or Town Engineer to make recommendations or comments at or prior to the public hearing shall be deemed lack of opposition to the application.
- G. Public hearing. Special permits shall only be issued following public hearings held as provided for in Section 9 of MGL c. 40A and in accordance with the procedure and timetable set forth therein.
- H. Permits and determinations.
  - (1) Conditional decisions. In granting a special permit the Community Planning Commission may impose additional specific conditions, safeguards and limitations on time or use as are deemed necessary to ensure compliance with the intent of this bylaw. The Community Planning Commission, in reaching its decision, will consider the simplicity, reliability and effectiveness of the proposed mitigating measures and the damage likely to result if these measures were to fail.
  - (2) Decision that area does not warrant protection. The Community Planning Commission may decide, after having reviewed the submitted material that although an area is included within the

Floodplain District, it does not warrant protection under the stated purpose and intent of this bylaw and as such the application warrants the grant of a special permit having no conditions imposed for the area which does not warrant protection. All such decisions shall require a FEMA letter of map revision as a condition of approval. **[Amended 4-11-1996 ATM by Art. 20, approved 8-3-1996]**

- (3) Expiration of special permits. Special permit granted under this section shall lapse within two (2) years. A substantial use under the special permit must have commenced within the two-year period, or the permit shall be deemed expired.
- (4) Previously authorized work. The special permit requirement established under this article shall not apply to any work which, prior to the effective date of this bylaw, had been authorized by all required orders of conditions under Massachusetts General Laws, Chapter 131, Section 40, and special permits under the former Section 9.4 of the Zoning Bylaw, provided that such work is performed in accordance with the terms of said orders and special permits, including any amendment or extension of said orders and special permits as may be granted by the issuing authority.
- I. Denial of permit. 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; and for failure to meet other requirements in regulations of the Commission.
- J. 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 increase existing floodplain elevations. 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.
- K. Appeals. A decision of the Commission shall be reviewable by the North Reading Zoning Board of Appeals in an action filed within 30 days thereof in accordance with Article VI of the Zoning Bylaw of the Town of North Reading, Massachusetts. **[Amended 10-2-2000 ATM by Art. 16, approved 3-29-2001]**
- L. Severability. The invalidity of any section or provisions 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.<sup>28</sup>

**§ 200-45. Adult uses. [Added 10-4-1999 ATM by Art. 10, approved 12-14-1999]**

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**28. Editor's Note: Former Sec. 9.5, Development in floodplain areas, which immediately followed this subsection, as amended 11-6-1978 ATM by Art. 12, approved 2-6-1979, was deleted 10-10-1985 ATM by Art. 22, approved 2-4-1986.**

- A. Purpose and intent. It is the purpose and intent of this section to address and mitigate the secondary effects of the adult uses and sexually oriented businesses referenced herein, since such secondary effects have been found by the Community Planning Commission, as a result of the studies relied upon by the Community Planning Commission and after other public input, to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town, all of which secondary impacts are adverse to the health, safety, and general welfare of the Town of North Reading and its inhabitants. The provisions of this section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this section to restrict or deny access by adults to adult uses and to sexually oriented matter or materials protected by the Constitutions of the United States of America and of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials. This bylaw is adopted pursuant to MGL c. 40A, § 9A and pursuant to the Home Rule Amendment to the Massachusetts Constitution.
- B. Definitions.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matter which are distinguished as characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement, as defined in MGL c. 272, § 31.

ADULT CLUB — An establishment having as a substantial or significant portion of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in MGL c. 272, § 31.

ADULT PARAPHERNALIA STORE — An establishment having a substantial or significant portion of its stock in devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT THEATER — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

## ADULT USE —

- (1) A use having as a substantial or significant portion of its stock in trade such as but not limited to, books, magazines or video tapes, which are distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.
- (2) A use having as a substantial or significant portion of its entertainment such as, but not limited to, cinematic, theatrical, or dance presentation of a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.
- (3) A use having as a substantial or significant portion of its manufactured items which are distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.
- (4) An adult bookstore, adult club, adult theater, adult video store, and adult paraphernalia store, as defined in this bylaw.

ADULT VIDEO STORE — An establishment having a substantial or significant portion of its stock in videos or other matters which are distinguished by emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

SUBSTANTIAL OR SIGNIFICANT PORTION — The term "substantial or significant portion" as used herein shall mean any of the following:

- (1) Ten (10) percent or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time; or
- (2) Ten (10) percent or more of the annual number of gross sales, rentals or other business transactions; or
- (3) Ten (10) percent or more of the annual gross business revenue; or
- (4) Ten (10) percent or more of the hours during which the establishment is open.

C. Special permits. Adult uses may only be permitted in the Highway Business District and only upon authorization of a special permit by the Zoning Board of Appeals subject to the following conditions:

- (1) An adult use shall not be located within:
  - (a) Five hundred (500) feet of a residential zone;
  - (b) One thousand (1,000) feet of a school;
  - (c) Five hundred (500) feet of a church or similar place of worship;

- (d) One thousand (1,000) feet of any other adult use;
  - (e) One thousand (1,000) feet of a park or playground.
  - (2) If the adult use allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All shall be clearly seen from the center of the establishment.
  - (3) If the adult use allows for personal dancing or massages within the premises, the areas in which these personal services occur shall not be closed off by curtains, doors, or screens. All shall be clearly visible from the center of the establishment.
  - (4) All adult uses shall be inaccessible to persons less than 18 years of age.
  - (5) Signs. All signs for any adult use must meet the requirements of Article XIV. In addition, no advertisement, display or other promotional material which is distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, shall be visible to the public from any public way including but not limited to sidewalks, pedestrian walkways, highways or railways.
  - (6) All special permits granted by the Town of North Reading for adult uses shall be subject to annual automatic renewal, based on compliance with the terms and conditions of approval, provided there have been no changes in the owner or manager of the use or in the use itself. Any findings of non-compliance shall be reason for non-renewal of said special permit.
  - (7) Any other condition that the Zoning Board of Appeals finds appropriate and consistent with the purposes and intent of this bylaw to protect the health, safety, general welfare and/or quality of life of the residents of North Reading. **[Amended 10-2-2000 ATM by Art. 16, approved 3-29-2001]**
- D. Application. The application for a special permit for an adult accessory use must include the following information:
- (1) Name and address of the legal owner of the proposed adult use establishment;
  - (2) Name and address of all persons having a lawful, equity or security interest in the adult use establishment;
  - (3) A sworn statement must be provided stating that neither the applicant nor any person having a lawful, equity or security interest in the adult use establishment has been convicted of violating the provisions of MGL c. 119, § 63 or MGL c. 272, § 28;
  - (4) Name and address of the manager of the adult use establishment;



- (5) Proposed provisions for security within and without the adult use establishment;
- (6) The number of employees; and
- (7) The present and proposed physical layout of the interior of the adult use establishment.

E. Amortization.

- (1) Any adult use which exists in North Reading at the time of the adoption of this bylaw shall cease and desist all adult use activities within five years (5) of the effective date of this bylaw.
- (2) Adult uses which apply for and are granted a special permit under the provisions of this bylaw shall be exempt from Subsection E(1) above.

F. No special permit for an adult accessory use shall be issued to any person convicted of violating MGL c. 119, § 63 or MGL c. 272, § 28.

G. Severability. If any section, subsection, sentence, clause, phrase or portion of this section is for any reason held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

**§ 200-46. Personal wireless service facilities. [Added 4-6-2000 ATM by Art. 25, approved 6-28-2000; amended 10-12-2000 ATM by Art. 32, approved 3-29-2001]**

A. Purpose and intent.

- (1) It is the express purpose of this section to minimize the visual and environmental impacts of personal wireless service facilities. The section enables the review and approval of personal wireless service facilities by the Town's Community Planning Commission in keeping with the Town's existing bylaws and historic development patterns, including the size and spacing of structures and open spaces. This section is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local bylaws designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in North Reading.
- (2) The regulation of personal wireless service facilities is consistent with the purpose of the planning efforts of the Town through its local Master Plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; protection of the natural

resources; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

B. Definitions.

ABOVE GROUND LEVEL (AGL) — A measurement of height from the natural grade of a site to the highest point of a structure.

ANTENNA — The surface from which wireless radio signals are sent and received by a personal wireless service facility.

CAMOUFLAGED — A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged."

CARRIER — A company that provides wireless services.

CO-LOCATION — The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

CROSS-POLARIZED (OR DUAL-POLARIZED) ANTENNA — A low mount that has three panels flush mounted or attached very close to the shaft.

ELEVATION — The measurement of height above sea level.

ENVIRONMENTAL ASSESSMENT (EA) — An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

EQUIPMENT SHELTER — An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

FALL ZONE — The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FUNCTIONALLY EQUIVALENT SERVICES — Cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio and paging.

GUYED TOWER — A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

LATTICE TOWER — A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

LICENSED CARRIER — A company authorized by the FCC to construct and operate a commercial mobile radio services system.

MONOPOLE — The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

MOUNT — The structure or surface upon which antennas are mounted, including the following four types of mounts:

- (1) Roof-mounted. Mounted on the roof of a building.
- (2) Side-mounted. Mounted on the side of a building.
- (3) Ground-mounted. Mounted on the ground.
- (4) Structure-mounted. Mounted on a structure other than a building.

OMNIDIRECTIONAL (WHIP) ANTENNA — A thin rod that beams and receives a signal in all directions.

PANEL ANTENNA — A flat surface antenna usually developed in multiples.

PERSONAL WIRELESS SERVICE FACILITY — Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

PERSONAL WIRELESS SERVICES — The three types of services regulated by this bylaw.

RADIOFREQUENCY (RF) ENGINEER — An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

RADIOFREQUENCY RADIATION (RFR) — The emissions from personal wireless service facilities.

SECURITY BARRIER — A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SEPARATION — The distance between one carrier's array of antennas and another carrier's array.

C. General regulations **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**

- (1) Use regulations. A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:
  - (a) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Subsection C(3)(e) below. Such installations shall require a special permit pursuant to Chapter 28 and a site plan review special permit pursuant to Chapter 95, unless subject to the Telecommunications Act of 1996, Section 704, 47 U.S.C.

§ 332(c)(7), as amended by Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 ("TCA").

- (b) A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a special permit pursuant to Chapter 28 and site plan approval pursuant to Chapter 95, unless exempted from local special permits by the TCA. Such facilities may locate by special permit in all zoning districts within the Town, provided that the proposed use complies with the height and setback requirements of Subsection C(3)(e), (f), and (g) and all of the special permit regulations set forth in Subsection D of this bylaw.
- (2) Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:
- (a) If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider the use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
  - (b) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.
  - (c) The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a special permit.
- (3) Dimensional requirements. Personal wireless service facilities shall comply with the following requirements:
- (a) Height, general. Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located. Personal wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.

- (b) Height, ground-mounted facilities. Ground-mounted personal wireless service facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.
- (c) Height, side- and roof-mounted facilities. Side- and roof-mounted personal wireless service facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.
- (d) Height, existing structures. New antennas located on any of the following structures existing on the effective date of this bylaw shall be exempt from the height restrictions of this bylaw provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: water towers, guyed towers, lattice towers, fire towers and monopoles.
- (e) Height, existing structures (utility). New antennas located on any of the following existing structures shall be exempt from the height restrictions of this bylaw provided that there is no more than a twenty-foot increase in the height of the existing structure as a result of installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in the Historic District.
- (f) Height, wireless facility overlay districts. Where the town establishes wireless facility overlay districts (as designated on the Town Zoning Map), personal wireless service facilities of up to 130 feet in height may be permitted by special permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and special permit regulations set forth in this bylaw.
- (g) Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

- [1] In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a "fall zone."
  - [2] In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any nonconformities, except as provided in Subsection C(3)(h) below.
  - (h) Flexibility. In reviewing a special permit application for a personal wireless service facility, the Community Planning Commission may reduce the required fall zone and/or setback distance of the zoning district by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Community Planning Commission shall consider both the visual and safety impacts of the proposed use.
- D. Performance standards. All personal wireless service facilities shall comply with the performance standards set forth in this section. **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**
- (1) Design standards.
    - (a) Visibility/camouflage. Personal wireless service facilities shall be camouflaged as follows.
      - [1] Camouflage by existing buildings or structures:
        - [a] When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
        - [b] Personal wireless service facilities which are side-mounted shall blend with the existing building's architecture and, if over 5 square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

- [2] Camouflage by vegetation: If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Community Planning Commission shall determine the types of trees and plant materials and depth of the needed buffer based site conditions.
- [3] Color:
  - [a] Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.
  - [b] To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a light gray or light blue hue which blends with sky and clouds.
- (b) Equipment shelters. Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:
  - [1] Equipment shelters shall be located in underground vaults; or
  - [2] Equipment shelters shall be designed consistent with traditional New England architectural styles and materials, with a roof pitch of a least 10/12 and wood clapboard or shingle siding; or
  - [3] Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building and/or wooden fence. The Community Planning Commission shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.
- (c) Lighting and signage.
  - [1] Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There

shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

- [2] Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.
- [3] All ground-mounted personal wireless service facilities shall be surrounded by a security barrier.

(d) Historic buildings and districts.

- [1] Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- [2] Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
- [3] Personal wireless service facilities within the Historic District shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

(e) Scenic landscape and vistas.

- [1] Personal wireless service facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required in the camouflage section above, all ground-mounted personal wireless service facilities which are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.
- [2] Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this bylaw will apply.

(2) Environmental standards.

- (a) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas



shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

- (b) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
  - (c) Stormwater runoff shall be contained on site.
  - (d) Ground-mounted equipment for wireless service facilities shall not generate noise in excess of 50 dB at the property line. **[Amended 10-4-2010 OTM by Art. 18, approved 11-17-2010]**
  - (e) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.
- (3) Safety standards.
- (a) Radiofrequency radiation (RFR) standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines).
- (4) Alternative technologies. All applications for personal wireless facilities shall provide documentation which demonstrates to the satisfaction of the Community Planning Commission that all alternatives to the proposed construction have been explored and the reasons for their rejection. Cost shall not be considered a satisfactory reason.

E. Application procedures.

- (1) Special permit granting authority (SPGA). The special permit granting authority (SPGA) for personal wireless service facilities shall be the Community Planning Commission.
- (1.1) In the case of facilities for which an approval may not be denied under the TCA, as amended, a building permit application shall be made to the Building Inspector who shall refer the application to the Community Planning Commission for review and recommendations. To the extent feasible, such proposed facilities should comply with Subsection D, Performance standards. **[Added 10-6-2014 OTM by Art. 19, approved 1-20-2015]**

- (2) Application filing requirements. The following shall be included with an application for a special permit for all personal wireless service facilities:

(a) General filing requirements.

- [1] Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- [2] Co-applicants shall include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.
- [3] A licensed carrier shall either be an applicant or a co-applicant.
- [4] Original signatures for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photoreproductions of signatures will not be accepted.

(b) Location filing requirements.

- [1] Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- [2] Tax map and parcel number of subject property.
- [3] Zoning district designation for the subject parcel (submit copy of Town Zoning Map with parcel identified).
- [4] A plan stamped by a registered licensed surveyor showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- [5] A Town-wide map showing all other existing personal wireless service facilities in the Town and outside the Town within one mile of its corporate limits.
- [6] The proposed locations of all existing and future personal wireless service facilities in the Town on a Town-wide map for this carrier.

(c) Siting filing requirements. A one-inch-equals-40 feet vicinity plan showing the following:

- [1] Property lines for the subject property.

- [2] Property lines of all properties adjacent to the subject property within 300 feet.
- [3] Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
- [4] Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
- [5] Proposed location of antenna, mount and equipment shelter(s).
- [6] Proposed security barrier, indicating type and extent as well as point of controlled entry.
- [7] Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
- [8] Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
- [9] Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
- [10] All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- [11] Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
- [12] Lines representing the sight line showing view-point (point from which view is taken) and visible point (point being viewed) from sight lines subsection below.
  - [a] Sight lines and photographs as described below:
    - [i] Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all

intervening tree and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

- [ii] Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.
  - [iii] Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.
- [b] Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
- [i] Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
  - [ii] Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
  - [iii] Any and all structures on the subject property.
  - [iv] Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
  - [v] Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.
- (d) Design filing requirements.
- [1] Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas,

mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

- [2] Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- [3] Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- [4] Dimensions of the personal wireless service facility specified for all three directions, height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- [5] Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- [6] Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- [7] Within 21 days of filing an application for a special permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time, and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days prior to the test.
- [8] If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaires proposed.

(e) Noise filing requirements.

- [1] The applicant shall provide a statement listing the existing and maximum future projected measurements of noise

from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

- [a] Existing, or ambient: the measurements of existing noise.
  - [b] Existing plus proposed personal wireless service facilities; maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
- [2] Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the noise standards of this bylaw.
- (f) Intentionally left blank. **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**
- (g) Federal environmental filing requirements.
- [1] The National Environmental Policy Act (NEPA) applies to certain applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. 1). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following: **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**
- [a] Wilderness areas.
  - [b] Wildlife preserves.
  - [c] Endangered species habitat.
  - [d] Historical site.
  - [e] Indian religious site.
  - [f] Floodplain.
  - [g] Wetlands.
  - [h] High-intensity white lights in residential neighborhoods.
  - [i] Excessive radiofrequency radiation exposure.
- [2] At the time of the application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such

an EA to be submitted to the FCC. **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**

- [3] The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.
- [4] The Community Planning Commission may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

F. Co-location.

- (1) Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a special permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:
  - (a) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
  - (b) Contact with all the other licensed carriers for commercial mobile radio services operating in the county; and
  - (c) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- (2) In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.
- (3) If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out unless the facility may not be denied under the TCA, as amended. **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**

- (4) If the Community Planning Commission approves co-location for a personal wireless service facility site, the special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit and site plan approval, unless such addition may not be denied under the TCA, as amended, in which case the provisions of Subsection E(1.1) shall be applicable. **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**
- G. Modifications. A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a special permit and site plan approval when the following events apply: **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**
- (1) The applicant and/or co-applicant wants to alter the terms of the special permit by changing the personal wireless service facility in one or more of the following ways:
- (a) Change in the number of facilities or structures permitted on the site, if such change substantially changes the physical dimensions of the existing tower or base station, as provided in the TCA, as amended;
- (b) Change in technology used for the personal wireless service facility, if such change substantially changes the physical dimensions of the existing tower or base station, as provided in the TCA, as amended.
- (2) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing, if such change substantially changes the physical dimensions of the existing tower or base station, as provided in the TCA, as amended.
- H. Monitoring and maintenance.
- (1) (Reserved)<sup>29</sup>
- (2) (Reserved)<sup>30</sup>
- (3) The applicant and co-applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping. Failure to do so shall constitute a violation of

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29. Editor's Note: Former Subsection H(1), regarding submission of measurements of RFR, was repealed 10-6-2014 OTM by Art. 19, approved 1-20-2015.

30. Editor's Note: Former Subsection H(2), regarding submission of measurements of noise, was repealed 10-6-2014 OTM by Art. 19, approved 1-20-2015.



the conditions of the special permit and shall be grounds for enforcement actions.

I. Abandonment or discontinuation of use.

- (1) At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- (2) Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - (a) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - (c) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (3) If a carrier fails to remove a personal wireless service facility in accordance with this section of this bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The Community Planning Commission may require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the Town must remove the facility.

J. Reconstruction or replacement of existing towers and monopoles. Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this bylaw may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the Community Planning Commission finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure; unless such reconstruction or replacement may not be denied under the TCA, as amended, in which case, the reconstruction or replacement shall be subject to Subsection E(1.1). In making such a determination, the Community Planning Commission shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and

environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet without obtaining a new special permit from the Community Planning Commission. **[Amended 10-6-2014 OTM by Art. 19, approved 1-20-2015]**

- K. Term of special permit. A special permit issued for any personal wireless service facility over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new special permit shall be required.

## ARTICLE X

**Open Space Residential Development**  
**[Amended 4-7-2008 ATM by Art. 27, approved 6-27-2008]****§ 200-47. Purposes and intent.**

The purposes of open space residential development are to:

- A. Protect open space, agricultural and forestry land, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources;
- B. Encourage creative, environmentally sensitive design in residential developments;
- C. Encourage a more efficient form of development that consumes less open land and respects existing topography and natural features better than a conventional or grid subdivision; and
- D. Provide a variety of housing choices.

**§ 200-48. Applicability.**

- A. In the RA, RR, or RE District, the Community Planning Commission may grant a special permit for the following uses of a tract of land as an open space residential development, subject to the provisions of this bylaw:
  - (1) Any development of six or more dwelling units; or
  - (2) One or more divisions of land that would cumulatively result in an increase of six or more residential lots above the number existing twenty-four months earlier on a parcel or contiguous parcels of land in common ownership as of the effective date of this bylaw. For purposes of this section, a subdivision or division of land shall mean any division of land subject to M.G.L. c. 41, Sections 81K-81GG.
- B. The Community Planning Commission may grant a special permit for an open space residential development that contains less than six dwelling units or six residential lots in the RA, RR or RE District, provided that such application conforms in all respects to this bylaw.
- C. This bylaw shall not apply to the conversion of an existing structure into six or more dwelling units.

**§ 200-49. Relationship to subdivision control.**

A subdivision plan is not required for an open space residential development, but an applicant who proposes a subdivision plan for an open space residential development shall submit the same to the Community Planning Commission in accordance with the Rules and Regulations

Governing the Subdivision of Land following approval of an open space residential development special permit.

**§ 200-50. Basic requirements.**

- A. Permitted uses. An open space residential development may include the following uses and may consist of any combination of the below uses:
- (1) Detached single-family dwellings.
  - (2) Townhouse dwellings, not to exceed four dwelling units per building.
  - (3) Open space and conservation areas.
  - (4) Passive recreation, including trails for walking, hiking, cross country skiing, and areas for other low-impact activities such as picnicking and wildlife observation.
  - (5) Agricultural, equestrian and horticultural uses.
  - (6) Accessory recreational uses, such as a tennis court or playground.
- B. Open space requirement.
- (1) An open space residential development must provide at least fifty percent (50%) of the total land area of the tract as permanently protected, usable, common open space that is functional for purposes intended by this bylaw.
  - (2) The common open space shall have no structures, parking, private yards, patios, or gardens that are restricted for the exclusive or principal use by residents of individual dwelling units. The open space land shall be perpetually kept in an open state, and shall be preserved exclusively for the purposes set forth herein, and it shall be maintained in a manner which will ensure its suitability for its intended purposes.
  - (3) The following standards apply to the common open space in an open space residential development:
    - (a) Use, shape, location of common open space. Wherever feasible, the open space shall be undisturbed, unaltered and left in its natural condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, or where appropriate, a recreational area, and serve as a visual and natural amenity for residents of the development and the Town.
    - (b) The open space shall be contiguous. "Contiguous" shall be defined as being connected and/or linked as a unit. Open space will still be considered connected if it is separated by a roadway or an accessory amenity. The Community Planning

Commission may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.

- (c) The majority of the open space shall not be in buffer strips, undeveloped fingers between house lots, or other narrow linear forms.
- (d) Common open space shall be usable for wildlife habitat, passive recreation, resource preservation, agriculture or equestrian uses and the following additional purposes: historic preservation, outdoor education, park purposes, horticulture, forestry, or a combination of any of these uses; and the open space shall be served by suitable access for such purposes. The Community Planning Commission may permit up to 5% of the open space to be paved (pervious paving materials are encouraged) or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths). Parking areas and areas used for vehicular access or egress shall not constitute open space.
- (e) The location(s) of the common open space shall be subject to approval by the Community Planning Commission.
- (f) Each parcel of common open space shall be to greatest extent practicable adequately accessible to the general public and not just for the exclusive use of a homeowners association or non-profit organization.
- (g) Land used for common or shared septic systems may be counted toward the minimum common open space requirement, but not land use for a septic system serving one dwelling.
- (h) Wastewater and stormwater management systems serving the open space residential development may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
- (i) The percentage of common open space consisting of floodplain and wetlands as defined in M.G.L. c. 131, Section 40 shall not exceed the percentage of wetlands in the open space residential development as a whole.
- (j) Unless approved by the Community Planning Commission, common open space shall not be considered usable if the slope of the finished grade exceeds twenty-five percent (25%).

- (k) Existing utility easements may not be counted as common open space.

(4) Ownership of open space.

- (a) The common open space shall, at the Community Planning Commission's determination, be conveyed to:

[1] A corporation or trust owned jointly or in common, or to be owned jointly and in common by the owners of lots or dwelling units in the open space residential development. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance; and shall grant the Town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days of written notice to the trust or corporation as to the inadequate maintenance, and if the trust or corporation fails to complete such maintenance, the Town may perform it. The cost incurred by the Town for this maintenance due to the failure of the corporation to provide said mandatory maintenance shall be paid for by the trust or corporation. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Community Planning Commission for approval, who will have Town Counsel review these documents at the expense of the applicant for the proposed open space residential development. After these documents have been approved by Town Counsel and the Community Planning Commission, the applicant is responsible for recording them in the Middlesex Registry of Deeds and providing proof of recording to the North Reading Community Planning Department;

[2] The Town or the North Reading Conservation Commission and accepted for park or open space use; or

[3] A non-profit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above.

- (b) In any case where the common open space is not conveyed to the North Reading Conservation Commission, a legally enforceable restriction under M.G.L. c. 184, §§ 31-33, shall be recorded with the Middlesex South Registry of Deeds, providing that such land shall be kept in an open or natural

state and not be built upon or developed for accessory uses such as parking or roadways.

- C. Dimensional standards. To maximize the amount of open space, reduce site disturbance and protect significant farmland or scenic landscapes, the Community Planning Commission may waive the minimum requirements for lot area, frontage, front yard setback, maximum building area, or minimum open space as a percentage of lot area that would normally apply in the zoning district, except as provided below.
- (1) Any open space residential development lot that relies on an existing public way for frontage shall conform to the dimensional requirements of the applicable zoning district.
  - (2) Any open space residential development lot that abuts an existing single-family dwelling shall comply with the minimum yard setback(s) of the applicable zoning district along the boundary of the abutting lot.
  - (3) The minimum distance between adjacent dwellings in an open space residential development shall be at least equal to the height of the taller dwelling, except that the Community Planning Commission may waive this requirement if it determines that a reduction in minimum distance between dwellings will further the goals of this bylaw.
  - (4) At least fifty percent (50%) of the required yard setbacks shall be maintained on interior lots in the open space residential development unless a reduction is authorized by the Community Planning Commission to accommodate "zero lot line" design.
- D. Maximum number of units. The maximum number of units shall not exceed 1.20 times the number of single-family house lots that could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.
- E. Stormwater management. The Community Planning Commission shall encourage the use of non-structural stormwater management techniques and other drainage systems that reduce impervious surfaces and enable infiltration where appropriate.
- F. Limitation of subdivision. No lot shown on a plan for which an open space residential development permit is granted under this section may be further subdivided, and a notation to this effect shall be shown on the plans.
- G. Pre-submission conference.

- (1) Applicants seeking an open space residential development special permit shall request a pre-submission conference with the Community Planning Commission to review the scope of the project and the site for which it is proposed. The Community Planning Commission shall invite other Town boards or officials with authority to issue permits for the project to the pre-submission conference. At a minimum, the intent of the pre-submission conference shall be to:
  - (a) Identify the key natural features of the proposed development site.
  - (b) Identify historic or culturally important features of the site.
  - (c) Identify any safety, traffic, or infrastructure issues directly related to the site.
  - (d) Identify existing trails on the site or on abutting parcels, and connections thereto. Every effort shall be made to preserve and improve existing trail networks.
  - (e) Identify areas that the Town prefers to see preserved for open space, viewshed, wildlife habitat, agricultural or agricultural buffer purposes.
  - (f) Discuss the proposed plan and any issues relative to the review criteria for the concept plan special permit.
  - (g) Discuss any issues relevant to open space residential development requirements.
  - (h) Assist the applicant in understanding all related permitting issues required for the project.
  - (i) Set a timetable for submittal of a formal application
- (2) Pre-submission conference plans and documents required.
  - (a) Applicants seeking an open space residential development special permit shall request a pre-submission conference with the Community Planning Commission to review the scope of the project and the site for which it is proposed. The Community Planning Commission shall invite other Town boards or officials with authority to issue permits for the project to the pre-submission conference. To facilitate the review and discussion of the open space residential development, applicants are required to submit the following information and materials:
    - [1] Site context map. This map illustrates the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it should show various kinds of major natural resources or features that



cross parcel lines or that are located on adjoining lands. This map enables the Community Planning Commission to understand the site in relation to what is occurring on adjacent properties.

[2] Existing conditions/site analysis map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map locates and describes noteworthy resources that should be left protected through sensitive subdivision layouts. These resources include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature un-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

[3] Other information. In addition, applicants are invited to submit the information set forth in § 200-51A.

(b) Site visit. Applicants are encouraged to request a site visit by the Community Planning Commission and/or its agents to facilitate pre-application review of the open space residential development. If a site visit is requested, the Community Planning Commission shall invite other Town boards and officials to attend.

(c) Design criteria. The design process and criteria set forth in §§ 200-50H(1) through (5) and 200-51A(7)(a)[1] through [9] and 200-51A(7)(b)[1] through [10] should be discussed by the parties at the pre-submission conference and site visit.

H. Design process. At the time of the application for a special permit for open space residential development, the applicant must demonstrate to the Community Planning Commission that the layout of open space, roads and dwelling units in the concept plan is based on a design analysis performed by a team that includes a registered landscape architect according to the following sequence of steps:

(1) Identification of conservation areas. The first step in the design process requires identification of conservation areas on the site, including wetlands, riverfront areas, and floodplains regulated by state or federal law; unprotected natural landscape features such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats for rare or endangered species and wildlife corridors or connections thereto; cultural features such as historic and archeological sites and scenic views; and recreational features

such as established trails used for horseback riding, walking and cross-country skiing. Wherever possible, conservation areas shall include areas identified by the Community Planning Commission during the pre-submission conference.

- (2) Identification and delineation of the proposed development area. The second step in the design process is to define and delineate the area that will contain buildings, roadways, other site improvements and amenities for residents of the development. To the maximum extent feasible, the proposed development area shall consist of land outside the identified conservation areas.
  - (3) Location of dwelling units. The third step in the design process is to identify and delineate the approximate location of dwelling units in the proposed development area. The location of dwelling units should account for proximity to common open space and other amenities, including community buildings for use by residents of the development. Toward this end, the number of dwelling units with direct access to the amenities of the development should be maximized.
  - (4) Roads and trails. The fourth step in the design process is to identify and delineate the approximate location of roads and trails. Roads should be aligned to access the dwelling units. The layout of new trails should anticipate internal and external connections to existing and/or potential future roads, trails and sidewalks.
  - (5) Lotting. The final step in the design process is to identify the approximate location of lot lines if the open space residential development will require a definitive subdivision plan.
- I. Site Disturbance. After an open space residential development special permit application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the site until the application has been reviewed and approved as provided by these regulations.

#### **§ 200-51. Application, review and decision procedures.**

- A. Open space residential development concept plan special permit.
  - (1) Procedures. A special permit may be issued by the Community Planning Commission pursuant to the notification, public hearing and decision procedures in Article VI of this bylaw.
  - (2) Site visit. Whether or not a site visit was conducted during the pre-submission stage, the Community Planning Commission may conduct a site visit during the public hearing process.

- (3) Technical experts. The Community Planning Commission may engage technical, including legal, experts, at the applicant's expense, as reasonably necessary in connection with its review of the applicant's proposed plan(s) and associated reports.
- (4) Submittal requirements. An application for an open space residential development special permit shall include a concept plan and a yield plan. The size, form, number and contents of the concept plan and yield plan shall be set forth in the Community Planning Commission's Open Space Residential Development Regulations. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.
- (5) Concept plan. The concept plan shall be a schematic representation of the proposed development, with sufficient detail about existing and proposed conditions to enable the Community Planning Commission to understand what is being proposed and to be able to respond to the applicant's proposals in an informed manner. The concept plan shall incorporate the design process set forth in § 200-50H(1) through (5) and the design standards according to §§ 200-51A(7)(a)[1] through [10] and 200-51A(7)(b)[1] through [11], when determining a proposed design for the development. The concept plan shall consist of the following:
  - (a) The concept plan may be prepared from deed information, USGS topographical maps, FEMA floodplain maps, assessor's maps, orthophotos, soil maps, Department of Environmental Protection (DEP) wetland maps, and other existing data. The locations of wetlands, streams and forest limits or locations do not need to be verified during the special permit process unless the applicant has delineated the same in the field and applies to the North Reading Conservation Commission for review and determination under M.G.L. c. 131 Section 40 and the North Reading Wetlands Bylaw. For purposes of the concept plan, it is not necessary to verify these constraints, but these locations should be as accurate as possible in order to avoid significant changes at the definitive plan stage of permitting.
  - (b) The concept plan shall include scaled drawings prepared by a registered landscape architect or by a multidisciplinary team of which one member must be a registered landscape architect. The concept plan shall incorporate the open space residential development design process outlined in § 200-50H above. At minimum, a concept plan shall provide the following information:
    - [1] The location of the proposed development, the name of the proposed development, boundaries, North point, date, legend, title and scale.

- [2] The name of the record owner and the applicant, and the name of the registered landscape architect that prepared the plan.
- [3] The size of the site in acres.
- [4] An existing conditions inventory and description of conservation areas identified during the open space residential development design process.
- [5] The total number and approximate locations of the proposed buildings, dwelling units and/or lots, and the approximate size of each in square feet.
- [6] The acreage and proposed use(s) of permanent open space.
- [7] A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly delineated on the plan.
- [8] A narrative explanation detailing the percentage of floodplain and wetlands (if any) on the entire tract of land as well as the percentage of floodplain and wetlands (if any) included in the common open space, as well as being denoted on the concept plan.
- [9] The areas or approximate delineation of lots that will be used as building areas, and the areas or approximate delineation of lots that are to remain as permanent open space.
- [10] A narrative explanation prepared by a certified professional engineer describing proposed systems for stormwater drainage and its likely impacts on-site and to any abutting parcels of land. For example, this narrative will specify whether soft or hard engineering methods will be used and the number of any detention/retention basins or infiltrating catch basins; it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. A soils statement (soil conservation survey is acceptable) shall be submitted to accompany the narrative explanation. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.
- [11] Official soil percolation tests for the purpose of siting wastewater treatment options are not required for this concept plan. However, a narrative explanation shall be prepared by a certified professional engineer detailing the proposed wastewater systems that will be utilized by the

development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized.

[12] All existing and proposed features and amenities including trails, recreation areas, pedestrian and bicycle paths, community buildings, off-street parking areas (list any other parking areas as well) shall be shown on the plan and described in a brief narrative explanation where appropriate.

[13] The existing and proposed lines of streets, ways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.

[14] A narrative explanation prepared by a certified professional engineer, detailing the proposed drinking water supply system deemed adequate for fire protection and domestic use by the Water Superintendent and by the Fire Chief.

[15] Sufficient detail of proposed built and natural features to enable the Community Planning Commission to make the required determinations under § 200-51A(8) below.

[16] A list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and master deeds, with an accompanying narrative explaining their general purpose.

[17] A narrative indicating all requested waivers, reductions and/or modifications as permitted within the requirements of this bylaw; as well as a narrative indicating all waivers or variances required from other local and state regulations and bylaws required for the proposed open space residential development.

(6) Yield plan.

(a) The purpose of the yield plan is to demonstrate the maximum number of lots that could be developed on the site under a conventional plan. The yield plan must comply with the following criteria:

[1] Community Planning Commission's subdivision rules and regulations for a preliminary plan;

- [2] Full compliance with the Zoning Bylaw in effect at the time of yield plan submittal; and
  - [3] Require no zoning variances.
- (b) It is the applicant's burden to submit reasonable proof that the number of lots in the yield plan could meet the engineering and design specifications required for a conventional plan. The total number of lots in the open space residential development shall be determined by the Community Planning Commission, based upon its review of the applicant's yield plan, but in no event shall include more than a 20% increase over the number of lots that could be developed according to the yield plan, subject to the Commission's approval. In addition to the yield plan, the applicant shall also submit a narrative explanation detailing the results of the determination the yield plan.
- (7) Design standards. The following generic and site specific design standards shall apply to all open space residential development and shall govern the development and design process:
- (a) Generic design standards:
- [1] The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainageways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
  - [2] Streets 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 and vistas on or off the subject parcel.
  - [3] Building designs shall relate harmoniously to the terrain and use scale, building materials, colors and architecture that are compatible with other buildings of similar scale in the vicinity; and shall relate harmoniously to the architecture of existing buildings of similar scale in the vicinity that have functional or visual relationship to the proposed buildings.
  - [4] Variable lot sizes are encouraged as is a mix of housing types and house sizes to reduce monotony and repetition.

- [5] When townhouse or multi-family dwellings are proposed, the development shall a) provide for varied roofline articulation that stresses New England village-style architecture; and b) avoid unbroken building facades longer than sixty (60) feet, and regular spacings and building placements.
  - [6] Garages shall be recessed at least five (5) feet from the front building wall of the house. Side entry and detached garages are strongly encouraged.
  - [7] Developers are encouraged to provide outdoor living spaces, such as porches, on the front of residential structures, facing the street.
  - [8] All open space (landscaped and usable) 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.
  - [9] OSRD developments proposed on a parcel of land where there are existing buildings, dwellings or structures that are listed on the National or State (Commonwealth of MA) Register of Historic Places; or on the North Reading Historic Building Survey and are more than 50 years old as of the date of application for an OSRD special permit shall be required to meet a higher standard of compatibility with existing, historically recognized architectural styles. An OSRD development proposed on a parcel of land with existing historic buildings, dwellings or structures as defined above must preserve or generate the same number of buildings, dwellings or structures within the proposed OSRD development that were located on the parcel of land prior to the OSRD development application. For purposes of zoning compliance, buildings, structures or dwellings that will adhere to the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties will generally be presumed to maintain or promote such status.
  - [10] The Community Planning Commission may issue building form guidelines to clarify the design standards listed in this subsection.
- (b) Site specific design standards.
- [1] Residential structures shall be oriented toward the street serving the premises and not the required parking area. When the open space residential development will include a mix of housing types, the developer shall seek to place single-family houses towards the perimeter of the site, especially where it abuts residentially zoned and occupied properties.

- [2] Mix of housing type. An open space residential development may utilize a combination of the permitted uses listed in § 200-50A, as follows. The open space residential development shall consist of a minimum of 50% single-family dwellings and up to a maximum percentage of the following housing types: 100% single-family dwellings, 50% two-family townhouse dwellings and 25% multi-family townhouse dwellings (not to exceed four dwelling units per building). The Community Planning Commission may waive this requirement and allow an increased percentage of two-family or multi-family housing types where it is determined that allowing such an increase will promote the goals of this bylaw.
- [3] Multifamily structures shall be sited and screened to minimize any potential negative visual impact on abutting single-family structures, both on and off site.
- [4] Parking. Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. Resident parking for multifamily structures shall be placed to the side or rear of the building, and the primary pedestrian/visitor entrance shall face the street. All parking areas with greater than 6 spaces shall be screened from view.
- [5] Buffer areas. A buffer area of 50 feet shall be provided at the perimeter of the open space residential development boundary running the full length of the perimeter of the tract. The Community Planning Commission may also require a 50 foot buffer area in the following locations: a) certain resource areas on or adjacent to the parcel, such as ponds, wetlands, streams and riverfront areas, rock outcrops, ledge, agricultural or recreational fields, and land held for conservation purposes; and b) existing public ways. No vegetation in a designated buffer area may be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The buffer zone shall remain in its natural state except that trees or shrubs may be added to enhance the appearance of the buffer zone. Driveways necessary for access and egress to and from the tract may cross such buffer areas. The Community Planning Commission may waive this buffer requirement in these locations when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein. However, under no circumstances shall the Community Planning Commission be able to waive the 50-foot buffer requirement in its entirety for locations at the perimeter of the open space residential development



tract where it abuts residentially zoned and occupied properties. In these locations, the buffer requirement may only be reduced to a 30-foot buffer, and it may not be eliminated.

- [6] Drainage. The Community Planning Commission shall encourage the use of "soft" (non-structural) natural stormwater management techniques (such as rain gardens and open grass and bio-retention swales) and other drainage techniques that do not create impervious surface and that enable infiltration where appropriate. Stormwater should be treated at the source to limit non-point source pollution. Water conservation measures, including but not limited to the use of rainwater retention systems, such as rain barrels and cisterns for water irrigation purposes, are also strongly encouraged.
- [7] Screening and landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan. The landscape plan shall not include invasive plant species and shall include species that are drought tolerant and provide habitat value. Native plant species are strongly encouraged. In-ground sprinkler systems are strongly discouraged.
- [8] On-site pedestrian and bicycle circulation. Walkways and bicycle paths shall be provided to link residences with parking areas, and recreation facilities (including parkland and open space); walkways and bicycle paths shall also be provided to create pedestrian and bicycle links to off site land uses, including nearby key destinations (schools, neighborhood activity centers, recreational facilities) and existing or proposed segments of the Town's trail network.
- [9] Signage and parking for trails and passive recreational open space. Signage denoting the entrance to open space used for passive recreation, resource preservation, agriculture or equestrian uses, historic preservation, outdoor education, park purposes, horticulture, forestry shall be provided. In addition, parking spaces for access to the open space shall be constructed and provided, and the parking space areas shall indicate the purpose of these parking spaces is for access to the open space.
- [10] Disturbed areas. Not more than fifty percent (50%) of the total tract shall be disturbed areas. A disturbed area is any land not left in its natural vegetated state. The Community Planning Commission may allow a greater area of temporary disturbance to the extent it determines that doing so will substantially further the purposes and intent

of this bylaw and otherwise be in the best interests of the community.

- [11] Roadways. Developers shall balance the need to minimize the amount of paved surface on the site with the need to route roadways carefully in order to minimize environmental impact. Developers shall establish a right-of-way no greater than 50 feet. The Community Planning Commission will consider permitting reduction of roadway width or other roadway design requirements (outlined in the Rules and Regulations Governing the Subdivision of Land) in order to reduce environmental impacts of the development, so long as the applicant demonstrates that such reduction will not decrease pedestrian and vehicular safety and or impeded access for emergency vehicles.
- (8) Decision. The Community Planning Commission shall take one of the following actions within 90 days of the close of the public hearing:
- (a) The Commission may approve an open space residential development special permit with any conditions, safeguards, and limitations, if it determines that the proposed open space residential development has less detrimental impact on the tract and further advances the interests of the community than a conventional subdivision plan for the tract, after considering the following factors:
- [1] The degree to which the conceptual design and layout of the proposed open space residential development preserves open space for conservation and recreation, protects natural features of the land, and achieves efficient provision of streets, utilities and other public services;
- [2] The degree to which the open space residential development promotes permanent preservation of open space, agricultural land, forestry land, existing and proposed trails, natural resources including water bodies and wetlands, and historical and archeological resources;
- [3] The degree to which the open space residential development achieves sustainable design through a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- [4] The degree to which the open space residential development reduces the total amount of disturbance on the site;
- [5] The degree to which the open space residential development furthers the goals and policies of the Town

of North Reading Master Plan and Town of North Reading Open Space and Recreation Plan, as amended from time to time;

- [6] Whether the proposed construction of housing, landscape and streetscape is in harmony with the overall architectural heritage and historic character of the Town of North Reading;
  - [7] The degree to which the open space residential development facilitates the construction and maintenance of streets, utilities and public service in a more economical and efficient manner than in a conventional subdivision;
  - [8] Whether the concept plan and its supporting narrative documentation complies with all sections of this Zoning Bylaw; and
  - [9] The degree to which the open space residential development furthers the purposes of this bylaw.
- (b) The Commission may deny a special permit upon finding that the application does not comply with the provisions of this bylaw.
  - (c) If the Commission finds that the proposed location is better suited for a conventional division of land, the Commission shall deny the open space residential development special permit and provide written authorization to the applicant to submit a conventional subdivision plan for six or more lots in accordance with the Rules and Regulations Governing the Subdivision of Land.
- (9) Effect of special permit approval. Approval of the open space residential development special permit shall not be considered approval of any construction. The special permit is a preliminary approval, intended to give guidance to the applicant for the development of definitive subdivision plan or the site plan, and to determine whether the proposed concept meets the objectives of this bylaw. Any subdivision plan or site plan submitted for approval following issuance of the open space residential development special permit shall substantially conform to the special permit and any conditions imposed therein by the Community Planning Commission.
  - (10) Duration of special permit. The special permit shall lapse no later than two years from the date of issuance if substantial use or construction has not commenced by such date, except for good cause shown, and the applicant requests, before the date that the special permit would lapse, that the Community Planning Commission extend the special permit.

B. Open space residential development definitive plan.

- (1) Following issuance of an open space residential development special permit under Subsection A above, the applicant shall submit one of the following to the Community Planning Commission for review and approval:
  - (a) A site plan under Article XVII of this bylaw, subject to the decision standards in Subsection B(2) below, where the proposed open space residential development does not constitute a subdivision; or
  - (b) A definitive subdivision plan under the Rules and Regulations Governing the Subdivision of Land.
- (2) Site plan decision. The Community Planning Commission shall make one of the following decisions in acting upon the site plan under § 200-98:
  - (a) The Commission may approve an open space residential development Site Plan only upon its determination that the plan substantially complies with the concept plan special permit and satisfactorily addresses all of the following criteria:
    - [1] Adequate access to each structure for public safety equipment and personnel;
    - [2] Adequate utility service and drainage, consistent where applicable with the North Reading Subdivision Regulations in effect at the time of the submission of the site plan;
    - [3] Adequate measures to reduce the volume of cut or fill, soil erosion, and visual intrusion of parking areas viewed from public ways or abutting properties;
    - [4] Protection of pedestrian and vehicular safety within the site and egressing from it; and
    - [5] Compliance with all the other requirements of the Zoning Bylaw.
  - (b) The Commission may disapprove an open space residential development site plan that does not substantially comply with the concept plan special permit. An open space residential development site plan will be considered not to comply substantially with the concept plan special permit if the Commission determines that any of the following conditions exist:
    - [1] An increase in the number of buildings or dwelling units;
    - [2] A significant decrease in acres of open space;

- [3] A significant change in the development layout which adversely affects natural landscape features and open space preservation;
  - [4] Significant changes to the stormwater management facilities approved as part of the special permit decision; and/or
  - [5] Significant changes in wastewater management systems.
- (c) The Commission may conditionally approve an open space residential development site plan that does not substantially comply with the concept plan special permit, provided that such conditional approval shall identify where the site plan does not substantially comply and/or contains significant changes from the approved open space residential development special permit; and shall require that the special permit be amended to be in compliance with the changes identified by the Commission.
- (3) Subdivision plan. An open space residential development that involves a subdivision of land shall be submitted to the Community Planning Commission for approval under the Subdivision Control Law and the North Reading Rules and Regulations Governing the Subdivision of Land. The Commission's approval of an open space residential development special permit shall neither oblige the Commission to approve any related definitive plan nor substitute for such approval. The subdivision plan shall substantially comply with the open space residential development concept plan special permit.

**§ 200-52. Severability.**

If any portion of this bylaw is declared to be invalid, the remainder shall continue to be in full force and effect.



ARTICLE XI  
**Planned Unit Development**

**§ 200-53. Special permit required.**

The Community Planning Commission may grant a special permit for the utilization of a tract of land in a Residential "E" (RE) District as a planned unit development subject to all requirements and conditions contained in this article.

**§ 200-54. Definition. [Amended 10-23-1980 ATM by Art. 9, approved 1-8-1981]**

A planned unit development is development of a tract of land for mixed use which land is developed as an entity by the landowner and which land is not subject to the Table of Dimensional and Density Regulations but which is governed instead by the requirements of this article.

**§ 200-55. Purpose.**

The particular intent of this article is to provide for a mixture of housing types at certain locations and in certain districts in the Town at somewhat greater densities than would normally be allowed in the district without detracting from the livability and aesthetic qualities of the environment, but, rather, encouraging:

- A. The general purpose of this Zoning Bylaw as contained in § 200-2;
- B. The preservation of open space and the promotion of more efficient use of the land in harmony with its natural features;
- C. A more creative approach to land development;
- D. Land use which is harmonious with the environment and which conserves natural resources and scenic qualities;
- E. The provision of more desirable, aesthetic and functional open space, both public and private and its efficient allocation, distribution, use and maintenance;
- F. Diversity and variety in the development pattern of the community;
- G. Better design and land planning resulting in economical and efficient street utility and public facility installation, construction and maintenance; and
- H. The development of real property values for the long-range future.

**§ 200-56. Permitted uses.**

The following uses shall be permitted:

- A. Residential (one-family and multi-family dwellings);

- B. Community facilities (religious or education institutions, charitable or philanthropic institutions, public utilities and service uses, public recreation or open space, hiking and riding trails);
- C. Commercial [retail or service establishment not exceeding five thousand (5,000) square feet in gross floor area]; and
- D. Appropriate accessory uses as allowed and regulated in § 200-36.

**§ 200-57. Dimensional and density requirements.**

For a proposed planned unit development not to be subject to the Table of Dimensional and Density Regulations of Article XII of this Zoning Bylaw, the following criteria must be met:

- A. Minimum area. The tract of land shall be at least one hundred (100) contiguous acres in single ownership.
- B. Provision of usable open space. At least twenty (20) percent of the total tract area shall be set aside as common land and shall consist of usable open space. At least seventy-five (75) percent of the usable open space shall be neither wetlands nor over five (5) percent slope land.
  - (1) For purposes of this article, the term "usable open space" shall mean the land area in a planned unit development to be used for scenic, landscaping or recreational purposes within the development and includes the following:
    - (a) Land area of the site not covered by buildings, parking facilities or accessory structures, except recreational structures; and
    - (b) Land which is accessible and available to all occupants of dwelling units for whose use the space is intended.
  - (2) Usable open space shall not include:
    - (a) Proposed street rights-of-way;
    - (b) Open parking areas and driveways for the dwellings;
    - (c) Commercial areas and buildings, accessory buildings and parking and loading facilities therefor;
    - (d) Surface area of any pond or lake;
    - (e) Required yards, setbacks, or other such dimensional requirements of this section; and
    - (f) Easements for above-ground utilities.
- C. Maximum residential density. The maximum residential net density for the planned unit development shall be one (1) dwelling unit per gross acre.



- D. Maximum land coverage. Not more than twenty (20) percent of the gross land area shall be covered by dwellings.
- E. Percentage of dwellings of one type. Not more than seventy (70) percent of the total number of dwelling units shall be of either single-family detached dwellings or multi-family dwellings.
- F. Dimensional requirements:
  - (1) Buildings shall be at least fifty (50) feet from any property line not coincident with a street line, at least twenty-five (25) feet from any street line or parking area, and at least twenty-four (24) feet apart, or apart by a distance at least equal to the sum of their heights, whichever is greater;
  - (2) The maximum allowable height shall be thirty-five (35) feet for all permitted uses;
  - (3) No building of more than thirty-five (35) feet shall be erected within one hundred and twenty-five (125) feet of any zoning boundary line of a planned unit development; and
  - (4) No commercial establishment shall exceed five thousand (5,000) square feet in gross floor area.
- G. Maximum percentage of commercial development. A maximum of five (5) percent of the total residential gross floor area at one time may be devoted to commercial gross floor area.

**§ 200-58. Mandatory provisions of special permits.**

- A. This special permit shall contain the following mandatory conditions with respect to common land:
  - (1) Insuring the continued existence of common land. Provisions shall be made so that all common land shall be:
    - (a) Restricted to recreational, agricultural, conservation and/or park uses;
    - (b) Open to such uses by at least the owners and occupants of the lots whom the common land is designed to serve; and
    - (c) Restricted so that no structure shall be erected thereon except as an incident to the above uses.
  - (2) Insuring the maintenance of common land. The continued maintenance of common land shall be insured by one or more of the following methods:
    - (a) The sale of individual lots or parts of the planned unit development shall include in the deed a requirement obligating purchasers to participate in a homeowners' association and to support maintenance of the common land, accessible to the

purchasers or their guests only, by paying assessments to the association. The organization of such homeowners' association shall be on file with the Town Clerk along with an annual report including the names and addresses of officers, to be submitted to the Town Clerk by February 15 of each year.

- (b) Public maintenance only after dedication in fee to the Town of North Reading of open space such as, but not limited to, parks, playgrounds, trails or public building sites. This shall not preclude the Town from refusing to accept such land subsequent to a report from the Community Planning Commission.
  - (c) In cases of cooperative ownership, management by a membership association. The organization of such membership club shall be on file with the Town Clerk along with an annual report including the names and addresses of officers, to be submitted to the Town Clerk by February 15 of each year.
  - (d) In cases of rented property, the owner shall retain common land maintenance responsibilities.
  - (e) Leaseholds on lands under a single ownership, with common land maintenance provided for in the long-term lease.
- (3) Insuring the availability of common land. Common land shall have street access suitable for all occupants of dwelling units for whose use the space is intended.
  - (4) Plan for insuring usable open space. Approval of the site plan shall also be conditioned on a provision for insuring the continued existence of common land in accordance with Subsection A(1), and for the maintenance of such land, the buildings thereon, and all other improvements pursuant to Subsection A(2). Such provision shall be the posting of an annual maintenance bond to cover the annual cost of such maintenance in the case of a single owner or the formation of an automatic homeowners' association with the obligation of maintenance, in the case of individual owners. The requirements regarding assessments and the filing of an annual report shall be the same as in Subsection A(2).
- B. The special permit shall also include the following mandatory conditions:
- (1) Street acceptance. The principal streets shall be offered for acceptance as public ways. Where retained as private ways, they shall be posted as such by standard street signs.
  - (2) Construction in phases. If the planned unit development is to be constructed in phases, each phase after the first must be constructed contiguous and adjacent to a preceding phase or phases. Phases separated by streets or ways shall be considered

contiguous. A deviation of thirty-three (33) percent from the required amount of open space in any phase may be permitted if that deviation is fully restored in the next constructed phase.

- (3) Circulation. Within the planned unit development, vehicular and pedestrian circulation shall be provided in accordance with the rules and regulations of the Community Planning Commission.
- (4) Environmental compatibility. The plan for a planned unit development shall preserve a unified and organized arrangement of buildings and service facilities and improvements, such as landscaping, fencing, screening and buffering, to insure compatibility with adjacent development, and to insure conformance with the regulations in § 200-87.
- (5) Boundary fencing. No perimeter security fencing, walls or similar barriers to prevent access to and egress from the planned unit development shall be erected.

**§ 200-59. Site plan requirements.**

Any application for a special permit for a planned unit development shall be accompanied by a site plan depicting the land to be affected. In addition to complying with the minimum site plan requirements of § 200-28D, the site plan shall conform to the following specifications.

- A. The plan shall indicate reasonable periods for the phasing of the development and the reasonable time of completion of each phase and include hydrological, soil and subsurface studies evaluating the site for development;
- B. Accompanying each copy of the plan shall be a typical architectural plan showing the types of buildings, preliminary architectural plans and elevations of typical buildings and structures, indicating the general height, bulk, general appearance and number of dwelling units. Perspective drawings of the development may be required. The architectural plan hereby required may be varied during construction provided that the Community Planning Commission finds the new architectural plan to be compatible with previous construction.
- C. The applicant shall submit a general circulation plan indicating the proposed movement and relative volumes of vehicles, goods and pedestrians within the area and to and from public thoroughfares;
- D. The applicant shall also submit a plan drawn to scale and showing any areas proposed to be dedicated or reserved for interior circulation, public parks, school sites, public buildings or otherwise dedicated or reserved and usable open spaces to which development rights are proposed to be dedicated to private groups or to the public; and
- E. Accompanying each copy of the site plan shall be:

- (1) Tables showing the total number of acres and their distribution by use, the percentage designated for each dwelling type and for non-residential uses, including off-street parking, streets, parks, playgrounds, schools and usable open space;
- (2) Tables showing the overall density of proposed residential development and showing density by dwelling types; and
- (3) Tables showing the total commercial gross floor area and showing how such total commercial gross floor area relates, as a percentage, to the total residential gross floor area.

**§ 200-60. Application of Subdivision Control Law.**

Approval by the Community Planning Commission of the site plan shall not constitute approval under the Subdivision Control Law for those portions of the tract which are governed by the Rules and Regulations Governing the Subdivision of Land for the Town of North Reading, dated March 20, 1973, and as revised.<sup>31</sup>

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**31.Editor's Note: See Ch. 350, Subdivision of Land.**

ARTICLE XII  
**Dimensional and Density Regulations**

**§ 200-61. Table of Dimensional and Density Regulations.**<sup>32</sup>

The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum front yard, minimum side yard, minimum rear yard, maximum height of buildings, maximum number of stories, maximum building area and minimum open space shall be as set forth in the Table of Dimensional and Density Regulations.

**§ 200-62. Exceptions.**

A fence, wall or other enclosure is not regulated except as otherwise provided herein. The Table of Dimensional and Density Regulations shall not apply to fences, walls or other enclosures or to utility poles.

**§ 200-63. Accessory structures.**

In residential, industrial and business districts a detached accessory structure shall conform to the following provisions: it shall not occupy more than twenty-five (25) percent of the required rear yard; it shall not be less than twenty (20) feet from the front street line or less than ten (10) feet from any other lot line; and it shall not exceed twenty (20) feet in height.

**§ 200-64. Screening and buffers.**

- A. Screening or buffers shall be required, erected and properly maintained in order to be environmentally protective according to the regulations set forth in § 200-87, to provide for safety, to attenuate noise and to conceal business, industrial, agricultural or public uses of land and buildings when such uses abut the side or rear lot of any property in any residential district or any residential property in any other district.
- B. Screening shall consist of a strip of land, natural or landscaped, equal in width at least to the minimum side yard requirement. It shall contain a screen of plantings of vertical habit planted so as to provide a dense strip not less than three (3) feet in width and not less than eight (8) feet in height at the time of occupancy of such lot. The quality of denseness shall begin at or near ground level and continue to the required height. Individual trees and shrubs shall not be planted more than three (3) feet on center and shall thereafter be maintained by the owner or agent so as to maintain a dense screen year-round. At least fifty (50) percent of the plantings shall consist of evergreens and they shall be evenly spaced along the full length of the screened section.

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**32. Editor's Note: The Table of Dimensional and Density Regulations is included at the end of this chapter.**

- C. Upon an application for a special permit, the Zoning Board of Appeals may allow alternate forms of screening such as a solid wall or fence complemented by suitable plantings and not exceeding six (6) feet in height, provided, however, that any such special permit shall contain conditions consistent with the intent of this section.
- D. Screening shall be required for the following uses:
- (1) All outdoor areas or facilities for the storage of fuel, material, products or utility installations;
  - (2) Any principal use not conducted wholly within a building;
  - (3) Any service yard, outdoor storage or utility installation required by a governmental service facility or public utility; and
  - (4) Any refuse disposal system such as but not limited to a dumpster, not wholly or partly contained in a building.
- E. Buffering shall meet all the requirements, makeup and conditions of screening except that it shall contain a screen of plantings of vertical habit planted so as to provide a dense strip not less than ten (10) feet in width.
- F. Buffering shall be required for the following uses:
- (1) Any required off-street parking or loading area, except for off-street parking required to serve a single-family dwelling;
  - (2) Any commercial parking lot;
  - (3) Any lubrication, washing, repairing, storage or disposal not conducted entirely within a building at a service station;
  - (4) Any industrial building use or required parking and loading areas in an industrial district within three hundred (300) feet of any adjoining residence district;
  - (5) Any special permit use except when such use is specifically exempted by the Zoning Board of Appeals; and
  - (6) Any multi-family dwelling, except those contained in a planned unit development, and its attendant uses when it abuts the side or rear lot lines of any single-family residence.
- G. Barbed wire shall not be installed as part of any screening or buffering, including alternate forms of screening as provided for under Subsection C, unless deemed necessary by the Building Inspector for public safety.  
**[Added 10-1-1984 ATM by Art. 10, approved 1-11-1985]**

#### **§ 200-65. Additional regulations.**

In addition to the regulations in §§ 200-61 through 200-64 and the Table of Dimensional and Density Regulations, the following regulations shall apply:

- A. The minimum distance between principal buildings shall be twice the minimum side yard or side setback required in the district but no less than the sum of the heights of the buildings;
- B. A corner lot shall have minimum front yards with depths which shall be the same as the required front yards for the adjoining lots. No structure, fence or planting shall be placed or maintained between a plane two and one-half (2 1/2) feet above the curb level and a plane seven (7) feet above the curb level so as to interfere with the traffic visibility across the corner within that part of the lot which is within a triangle bounded by the street lot lines and a straight line drawn between points on each such line twenty-five (25) feet from the intersection of said lot lines or extension thereof;
- C. On a through lot, there shall be a front yard setback depth required which is equal to the front yard depth required for the district in which each street frontage is located;
- D. The following projections into required yards or other required open spaces are permitted subject to the following stated limitations:
  - (1) Balcony or bay window, limited in total length to one-half (1/2) the length of the building and not projecting more than two (2) feet;
  - (2) Open terrace or steps or stoop, under four (4) feet in height, as much as one-half (1/2) the required yard setback; and
  - (3) Steps or stoop over four (4) feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features not projecting more than two (2) feet.
- E. The provisions of this Zoning Bylaw governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, electronic equipment, elevator shafts and other necessary appurtenances usually carried above roofline, nor domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than twenty (20) percent of the ground floor area of the building, nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae and other like structures, which do not occupy more than twenty (20) percent of the lot area;
- F. The maximum gross floor area for a building in an LB District shall be ten thousand (10,000) square feet;
- G. Yard and setback requirements shall not apply to fences, hedges or walls not over seven (7) feet high measured from finished grade;
- H. Any gasoline or oil facilities shall be at least twenty-five (25) feet from any lot line; and
- I. Any swimming pool or enclosure for animals shall be at least ten (10) feet from any lot line.

**§ 200-66. Reduction of lot or yard areas.**

The lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provision of this Zoning Bylaw, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this Zoning Bylaw if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

**§ 200-67. Limited frontage lots. [Added 10-10-1985 ATM by Art. 18, approved 2-4-1986]**

In all residential districts limited frontage lots may be permitted provided the following safeguards and conditions for each particular site are established at the time of an application for a building permit and are approved by the Building Inspector:

- A. Each limited frontage lot in the Residential A, C, E and R Districts shall contain a minimum area of one hundred twenty thousand (120,000) square feet.
- B. Each limited frontage lot in the Residential D District shall contain a minimum area of two hundred thousand (200,000) square feet.
- C. Each limited frontage lot in the Residential B District shall contain a minimum area of sixty thousand (60,000) square feet.
- D. Each limited frontage lot in a residential district shall have a minimum continuous lot frontage of fifty (50) feet on a street, and if a corner lot, the frontage shall be measured by only one (1) front lot line. In addition, such lot shall have a width of not less than fifty (50) feet at any point between the street and the site of the dwelling or the proposed dwelling.
- E. No more than two (2) limited frontage lots shall have contiguous frontages.
- F. Each limited frontage lot shall contain an area in the following respective residential districts within the prescribed minimum diameter circle which shall include a compact area of buildable land suitable for the site of a dwelling and its accompanying septic system.

**Minimum Diameter Circle**

| <b>District</b>         | <b>(feet)</b> |
|-------------------------|---------------|
| Residence A, C, E and R | 250           |
| Residence B             | 200           |
| Residence D             | 300           |

- G. The setback requirements for a principal use on a limited frontage lot for each residential district shall be the same as those set forth in

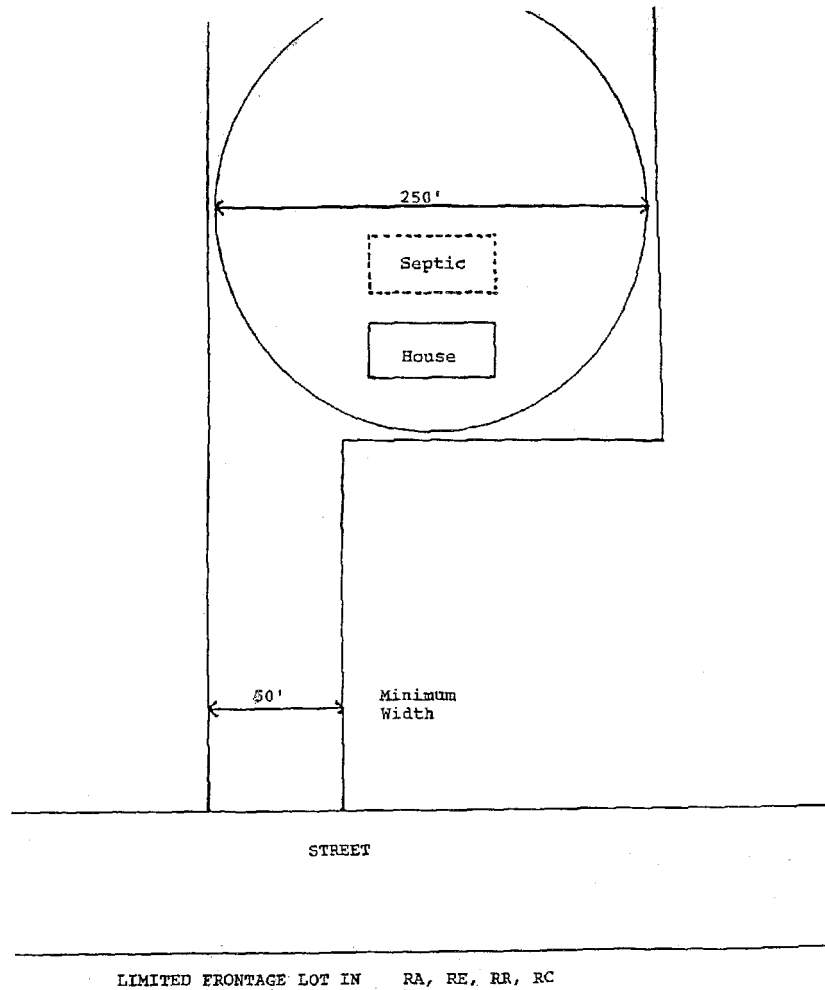


the Table of Dimensional and Density Regulations of this Zoning Bylaw except that in no case shall a dwelling be located closer to any lot line than the minimum setback required for that district.

- H. The setback requirements for an accessory use on a limited frontage lot for each residential district shall be the same as those set forth in this article of this Zoning Bylaw except that in no case shall any accessory use be located closer to any lot line than the minimum setback required for that district.
- I. Any subsequent subdivision of a limited frontage lot shall be under the Subdivision Rules and Regulations of the Community Planning Commission.<sup>33</sup>
- J. The maximum length of driveway serving the dwelling site on a limited frontage lot shall not be (except as described in the next sentence), greater than one thousand (1,000) feet measured from the side line of the street on which the lot has legal frontage to the front building line of the dwelling. Any driveway in excess of one thousand (1,000) feet shall require a special permit by the Board of Appeals which shall be governed by the provisions of Article VI of this Zoning Bylaw and in addition, the Fire Chief's recommendations shall be incorporated into said special permit.
- K. The existence of a dwelling on a limited frontage lot shall be clearly identified at the entrance of the driveway from the street on which the lot fronts and the identification sign shall be so located, sized and lighted to be visible at any time of day or night from the street for emergency service and all other vehicles.
- L. All information and plans submitted with an application for a limited frontage lot shall be drawn and endorsed by a registered land surveyor and registered professional engineer.
- M. A copy of each application for a limited frontage lot accompanied by all supporting documentation shall be forwarded by the Building Inspector to the Community Planning Commission, the Fire Department and the Police Department for review and recommendations; said review and report to the Building Inspector to be made within thirty (30) days of the date of referral. In the review process due consideration shall be given to the following:
  - (1) That the limited frontage lot does not utilize or block any possible future access into any back land; and
  - (2) That the proposed driveway access to the dwelling on the lot is adequate for public safety, welfare and convenience.

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**33. Editor's Note: See Ch. 350, Subdivision of Land.**



ARTICLE XIII  
**Off-Street Parking and Loading**

**§ 200-68. Applicability.**

After the effective date of this Zoning Bylaw, off-street parking and loading spaces shall be provided for every new building, the enlargement of an existing building, the development of a new land use or any change in an existing use in its entirety in accordance with the Table of Off-Street Parking and Loading Requirements. These regulations shall be considered additive.

**§ 200-69. Table of Off-Street Parking and Loading Requirements.**

A. Off-street parking requirements. **[Amended 10-17-2016 OTM by Art. 13, approved 2-27-2017]**

| <b>Use</b>  | <b>Minimum Number of Off-Street Parking Spaces Per Unit</b>   |
|---|---|
| 1. Dwelling, single   | Two (2) per unit  |
| 2. Dwelling, multi-family   | Two (2) per dwelling unit   |
| 3. Theater, restaurant, gymnasium, stadium, auditorium, church or similar place of public assembly with seating facilities  | One (1) for each four (4) seats of seating capacity   |
| 4. Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor, which are unusually extensive in relation to customer traffic | One (1) per one thousand (1,000) square feet of gross floor space. In the case of outdoor display areas, one for each one thousand (1,000) square feet of lot area in such use. |
| 5. Hotel, motel, tourist court or lodging house   | One (1) for each sleeping room  |
| 6. Medical office   | Four (4) for each one thousand (1,000) gross square feet of floor space   |
| 7. Other retail, service, finance, insurance or real estate establishments  | One (1) per each three hundred (300) square feet of gross floor space   |
| 8. Wholesale establishment, warehouse or storage establishment  | One (1) per each one thousand (1,000) square feet of gross floor space  |

| <b>Use</b>   | <b>Minimum Number of Off-Street Parking Spaces Per Unit</b>  |
|--|--|
| 9. Manufacturing or industrial establishment                             | One (1) per each six hundred (600) square feet of gross floor space or 0.75 per each employee of the combined employment of the two (2) largest successive shifts, whichever is larger           |
| 10. Hospital   | Two (2) per bed at design capacity   |
| 11. Nursing home   | One (1) per bed at design capacity   |
| 12. Business, trade or industrial school, college or university          | One (1) for each two hundred (200) square feet of gross floor area in classrooms and other teaching stations, plus space for gymnasium or auditorium, whichever has the larger seating capacity  |
| 13. Other school   | Two (2) per classroom in an elementary and junior high school; four (4) per classroom in a senior high school, plus space for auditorium or gymnasium, whichever has the larger seating capacity |
| 14. Community facility (town building, recreation, etc.)                 | One (1) per each four hundred (400) square feet of gross floor space   |
| 15. Public utility   | One (1) for each four hundred (400) square feet of gross floor area devoted to office use  |
| 16. Transportation terminal establishment                                | One (1) for each eight hundred (800) square feet of gross floor area per other use   |
| 17. Mixed use  | One (1) for each six hundred (600) square feet of gross floor area. Sum of various uses computed separately.   |
| 18. Any use permitted by this Zoning Bylaw not interpreted to be covered | Closest similar use as shall be determined by the Zoning Board of Appeals  |

B. Loading requirements:

| Use  | Minimum Loading Spaces   |
|--|--|
| 1. Retail trade, manufacturing and hospital establishment with over five thousand (5,000) square feet of gross floor area  | One (1) per twenty thousand (20,000) square feet or fraction thereof of gross floor area up to two (2) spaces; one (1) additional space for each sixty thousand (60,000) square feet or fraction thereof of gross floor area over forty thousand (40,000) square feet; space used for ambulance receiving at a hospital is not to be used to meet these loading requirements |
| 2. Business services, other services, community facility (school, church, town building, recreation, etc.) or public utility establishment with over five thousand (5,000) square feet of gross floor area | As above except one (1) additional space for each two hundred thousand (200,000) square feet or fraction thereof of gross floor area over one hundred fifty thousand (150,000) square feet   |

#### **§ 200-70. Computation of spaces.**

When the computation of required parking or loading results in the requirement of a fractional space, any fraction over one-half (1/2) shall require one (1) space.

#### **§ 200-71. Existing spaces.**

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this Zoning Bylaw shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of § 200-69.

#### **§ 200-72. Spaces acquired by town.**

Required off-street parking or loading spaces which, after development of the lot, are later acquired by the Town, for off-street parking or loading purposes, shall continue to be applied towards the requirements of this article for the use of the lot.

#### **§ 200-73. Location of loading spaces.**

The loading spaces required for the uses listed in the Table of Off-Street Parking and Loading Requirements, pursuant to § 200-69, shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this Zoning Bylaw.

**§ 200-74. Parking and loading space standards.**

All parking and loading areas containing over five (5) parking or loading spaces shall be either contained within structures or subject to the following:

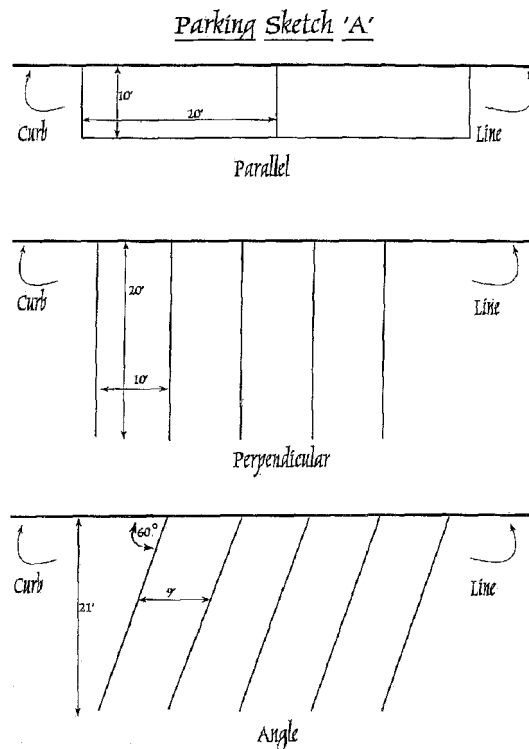
- A. The area shall be effectively screened with suitable planting or ornamental fencing on each side which adjoins or faces the side or rear lot line of a lot situated in any R District (see also § 200-64);
- B. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices;
- C. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks;
- D. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes;
- E. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of construction operations pursuant to a building permit;
- F. Parking shall not be located within applicable setback requirements in any district except for single-family residence use. Exception: Parking may be permitted within the side and rear setback areas in the Highway Business District subject to specific site plan approval by the Community Planning Commission or Zoning Board of Appeals, whichever is acting as the permit granting authority. **[Amended 10-3-1994 OTM by Art. 21, approved 1-18-1995]**
- G. Any portion of any entrance or exit driveway shall not be closer than fifty (50) feet to the curbline of an intersecting street;
- H. Any two (2) driveways leading to or from a street, or to or from a single lot shall not be within thirty (30) feet of each other at their intersections with the front lot line for an interior lot and forty (40) feet for a corner lot; and
- I. Any entrance or exit driveway shall not exceed twenty-four (24) feet in width at its intersection with the front lot line except for automotive service stations, in which case the width may be increased to forty (40) feet.

**§ 200-75. Exceptions.**

- A. The Zoning Board of Appeals may, by special permit, allow the substitution of space within municipal parking lots in lieu of the parking

requirements of this article, provided they are located within one thousand (1,000) feet of the building or use which is intended to be served.

- B. The Zoning Board of Appeals may grant a special permit to allow the reduction of the parking space requirements to eighty (80) percent of that required in the Table of Off-Street Parking and Loading Requirements where conditions unique to the use will reasonably justify such a reduction.







## ARTICLE XIV

**Signs**

**[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979;  
10-17-1991 ATM by Art. 21, approved 2-4-1992; 4-4-1994 ATM by  
Art. 18, approved 7-26-1994; 10-3-1994 ATM by Art. 22, approved  
1-18-1995]**

**§ 200-76. Purpose.**

The sign regulation section is designed to provide standards for the installation of signs so as to further the objectives of the Master Plan; promote the general welfare of the community; protect public health, safety and welfare; reduce traffic hazards; protect property values; and promote economic development. This is accomplished by encouraging the creation of an aesthetic appearance throughout the Town, through the use of attractive and appropriate signing.

**§ 200-77. Definitions.**

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

**ADDRESS SIGN** — A sign consisting of numerals and letters identifying a property address.

**ADVERTISING COPY** — Copy that includes, but is not limited to phone numbers, prices, announcements of sales, business hours, meeting times, individual or specific products or merchandise, and directional information. A business name and street address are not considered advertising copy.

**ADVERTISING SIGN** — A sign which includes advertising copy and/or graphics relating to any service, product, person, business, place, activity or organization in addition to simple identification.

**AWNING/CANOPY SIGN** — A sign which is printed, painted, or affixed to an awning or canopy.

**BANNER SIGN** — A sign which is painted or displayed upon cloth or other flexible material.

**BILLBOARD** — An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign and that is subject to the provisions of Massachusetts General Laws Chapter 93, Sections 29-33 or Massachusetts General Laws Chapter 93D.

**FASCIA SIGN** — A sign which is permanently affixed to the horizontal piece covering the joint between the top of a wall and the projecting eaves of the roof.

**FLAG-MOUNTED SIGN** — A sign which projects from the roof or wall of a building perpendicular to a wall surface.

**FREESTANDING SIGN** — A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as "sandwich sign," is also a freestanding sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

**IDENTIFICATION SIGN** — A sign that includes as copy only the name of the business, place, organization, building, or person it identifies.

**ILLUMINATED EXTERNALLY SIGN** — Sign where the source of the illumination is outside the sign and light is reflected off the surface of the sign.

**ILLUMINATED INTERNALLY SIGN** — Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that:

- A. Are filled with neon or some other gas that glows when an electric current passes through it; and
- B. Are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

**ILLUMINATED SIGN** — A sign whose surface is lighted, internally or externally, and which identifies, advertises or attracts attention to a use or activity on the premises.

**MASTER SIGNAGE PLAN** — A detailed description, including, but not limited to number, type, size, color, and location of all signage.

**MULTI-TENANT SIGN** — A sign that includes as copy, only the names of two (2) or more businesses, places, organizations, buildings or persons it identifies.

**NONCONFORMING SIGN** — A sign lawfully erected prior to July 28, 1994 which does not conform to all of the requirements of this bylaw.

**OFF-PREMISES SIGN** — A sign that is not located on the premises that it advertises or identifies.

**ON-PREMISES SIGN** — A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

**POLITICAL SIGN** — Election campaign signs.

**READER BOARD SIGN** — A permanent sign where the lettering is designed to be changed.

ROOF-MOUNTED SIGN — A sign which projects above the highest point of the roofline, parapet or fascia of a building.

SIGN —

- A. Any permanent or temporary structure or device providing identification, advertising or directional information, or which is designed to attract the eye by intermittent repeated motion or illumination, for a specific business, service, product, person, organization, place or building.
- B. Included in this definition of signs are graphic devices such as logos, attention attracting media such as logo sculpture and obtrusive colored fascia or architectural elements, banners, balloons, streamers, search lights, strobe lights, flags, inflatable structures, merchandise displays, accessory lights and other attention attracting media and devices.

SOFFITT SIGN — A sign which is suspended from the underside of a lintel, arch or other overhead spanning member and is hung perpendicular to a vertical wall surface.

TEMPORARY SIGN — Any outdoor sign, banner, pennant, valance or advertising display constructed of paper, cloth, canvas, fabric, cardboard, wallboard or other light material with or without frames not permanently affixed to any structure on a site or permanently ground mounted.

WALL MOUNTED SIGN — A sign which is permanently affixed to any vertical portion of a building for which the sign is intended to identify or advertise.

WINDOW SIGN — A sign or signage placed in windows so as to attract the attention of persons outside of the building where such sign or signage is placed.

#### **§ 200-78. Sign height and area.**

A. Sign height.

- (1) Freestanding sign. Height shall be measured as the distance from the top of the sign structure to the top of curb, or crown of road if no curb exists. The height of any structure erected to support or ornament the sign shall be measured as part of the sign height.
- (2) Wall or fascia mounted sign. Height shall be measured as the distance from the top of the sign structure to the top of the curb, or crown of road if no curb exists.

B. Sign area.

- (1) For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or closed, on which they are displayed, but not including any

supporting framework and bracing which are incidental to the display itself.

- (2) For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle or circle which encompasses all of the letters, design and symbols.
- (3) For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any backing different in color or material from the finish material of the building face.
- (4) Where there are a number of sign faces on a sign:
  - (a) One (1): Area of the single face only.
  - (b) Two (2): If the interior angle between the two (2) faces is forty-five (45) degrees or less, the area will be the area of one (1) face only; if the angle between the two (2) sign faces is greater than forty-five (45) degrees, the sign area will be the sum of the areas of the two (2) faces.
  - (c) Three (3) or more sides: The sign area will be the sum of the areas of each of the faces.
- (5) Spherical, free-form, sculptural, other non-planar signs. Sign area will be the sum of the areas using only the four (4) vertical sides of the smallest cube that will encompass the sign.

#### **§ 200-79. Permit requirements.**

- A. Sign permit required. Except as provided in Subsection B, no sign shall be erected unless a sign permit has been issued by the Building Inspector. No sign permit shall be issued unless the Building Inspector has first determined that the applicant has obtained all applicable special permits and/or site plan approvals for the development and use of the property for which the sign is intended.
- B. Signs not requiring a permit. The following types of signs shall be authorized by right without the necessity of a permit:
  - (1) Signs bearing the name of the occupant of a dwelling, not to exceed two (2) square feet in area;
  - (2) Real estate signs, located on-site, not to exceed six (6) square feet in area in a residential district or twenty (20) square feet in a business or industrial district. Such signs shall be removed forthwith upon sale or rental of the premises advertised;
  - (3) Signs accessory to the use of the premises by a religious, non-profit or educational institution, or by a governmental authority, not to exceed sixteen (16) square feet in area;

- (4) Street name signs and signs erected by the Town, County or Commonwealth for the direction and control of traffic;
- (5) Signs on or adjacent to the entry of a multiple occupancy building listing the occupants thereof, provided that the size of such sign shall not exceed one (1) square foot for each occupant or a total of twenty (20) square feet, whichever is smaller and provided further that there shall be only one (1) such sign per building;
- (6) Signs designating historical places or points of interest, erected by governmental authority or by a duly chartered historical association, or the like, not to exceed (6) square feet in area;
- (7) Signs indicating "Entrance," "Exit," "Parking" or the like, erected on a premises for the direction of persons or vehicles not to exceed two (2) square feet in area. Such signs shall not carry the name of the business or any product;
- (8) One (1) contractor's sign not exceeding twelve (12) square feet in area maintained on the premises while construction is in progress and containing information relative to the project. Such signs shall be set back at least (15) feet from the street lot line and shall be removed promptly after the completion of construction;
- (9) One (1) identification sign not exceeding twelve (12) square feet at any public entrance to a subdivision or multi-family development;
- (10) Political signs not exceeding sixteen (16) square feet provided that such signs are placed on private property and do not create a safety hazard. Such signs shall be removed not later than seven (7) days after the election;
- (11) One (1) sign not to exceed six (6) square feet in area designating an official motor vehicle inspection station and located at the Building Inspector's discretion so as not to create a safety hazard.
- (12) Temporary yard sale signs and real estate "open house" signs for a period of time not to exceed forty-eight (48) hours.
- (13) Temporary "grand opening" signs not to exceed forty (40) square feet and for a period of time not to exceed fourteen (14) days.

#### **§ 200-80. Prohibited signs.**

Except as provided in § 200-81, signs that are not specifically authorized are expressly prohibited. These prohibited signs include, but are not limited to the following:

- A. Moving or flashing signs; signs illuminated by or including any flashing or oscillating light; electronic billboards and reader boards; strings of pennants or so-called "whirlygigs" and the like. A sign which is designed, for structural reasons, to align itself with the direction of the

wind shall not be considered a moving sign. Flashing or animated signs of any color shall not be permitted;

- B. All portable signs, except as otherwise provided. Portable signs shall include, but are not limited to, signs which are mounted, attached, or painted on trailers, boats or vehicles when used as additional signage on or near the business premises. Business vehicles displaying signage or advertising shall be parked in an assigned parking space which is not immediately adjacent to a street frontage;
- C. Temporary signs except as provided in § 200-79B;
- D. More than two (2) exterior permanent signs for any one (1) business or industrial establishment or residential premises;
- E. More than one (1) freestanding sign;
- F. All signs mounted on, or applied to trees, utility poles, rocks, or town owned property, except as otherwise provided;
- G. All banners, pennants, streamers, balloons, flags, search lights, strobe lights, beacons, inflatable signs, except as otherwise provided;
- H. Service or bay door mounted sign banners or advertising;
- I. Any sign imitating or obscuring an official traffic control sign or signal;
- J. Any sign placed on private property without the property owner's written approval;
- K. Any non-public signs in a public right-of-way or on public property, except approved banner signs installed pursuant to the North Reading Banner Program Guidelines. Further, the Town may install signs on its own property to identify public buildings and uses, and to provide necessary traffic control. Any non-public sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation.
- L. Billboards or other off-premises signs;
- M. Roof signs;
- N. Neon signs, or other direct-lighted signs are not permitted in residential districts and the local business and general business zoning districts. **[Amended 4-7-2008 ATM by Art. 25, approved 6-27-2008]**
- O. Internally and externally illuminated signs wherein such sign shall have any animation, flashing or intermittent image or illumination that includes an electronic, video, fixed, floating or moving text and/or picture that includes, but is not limited to the use of television, plasma, digital screens and/or light emitting diodes, liquid crystal displays, fiber optics, holograph or hologram displays; other than those erected by a

public entity for public safety and/or traffic control purposes. **[Added 4-7-2008 ATM by Art. 24, approved 6-27-2008]**

**§ 200-81. Signs in business and industrial districts.**

- A. The following signs shall be permitted in business and industrial districts provided a permit is obtained from the Building Inspector pursuant to § 200-79A.
- (1) Wall sign. Each sign shall be attached in its entirety and parallel to any wall of a building. No such sign shall project horizontally more than fifteen (15) inches from said wall or beyond the roof or sidewall lines. The surface area of the sign shall not aggregate more than ten (10) percent of the area of the wall on which it is displayed, or one-hundred fifty (150) square feet, whichever is the lesser;
  - (2) Projecting signs. Each sign shall be attached to any wall of the building. Such sign shall be set back a minimum of fifteen (15) feet from the street lot line. Projecting signs shall not exceed forty (40) square feet; and
  - (3) Freestanding signs. No freestanding sign shall exceed forty (40) square feet in surface area. No portion of such sign shall be set back less than twenty (20) feet from any street curblin or fifteen (15) feet from any front property line where no curb exists. The top of the sign shall not be more than twenty-five (25) feet in height.
- B. Shopping or business centers. For the purposes of this section, this shall mean any number of businesses greater than one (1) which share the same lot using common points of ingress and egress, and/or common parking facilities. Such centers shall be bound by the following restrictions on signs:
- (1) Master signage plan.
    - (a) For any center in which the business owner proposes to erect one (1) or more signs requiring a permit, the property owner at his/her option, may submit for special permit approval by the Community Planning Commission, a master signage plan specifying the standards for consistency among all signs in the center subject to and containing the following:
      - [1] An accurate plot plan of the lot(s) at such scale as the Community Planning Commission may reasonably require;
      - [2] Location of buildings, parking lots, driveways, and landscaped areas;
      - [3] Computation of the maximum total sign area, the maximum area for individual signs, the height of signs

and the number of freestanding signs allowed on the lot(s) included in the plan under this bylaw;

- [4] An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not;
  - [5] Signage details to include: color scheme, lettering or graphic style, lighting, location of each sign on the buildings, material and sign proportions;
  - [6] Other provisions: The master signage plan may contain such other restrictions as the owners of the lots may reasonably determine.
- (b) Any center with an approved master signage plan conforming with the provisions of this section may be permitted up to a twenty-five-percent increase in the maximum total sign area. This bonus may be allocated within the center as the owner elects. This bonus is subject to a special permit pursuant to § 200-84.
  - (c) Amendment. A master signage plan may be amended by filing a new master signage plan that conforms with all requirements of the ordinance then in effect.
  - (d) Existing signs not conforming to master signage plan. If any new or amended signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance within three (3) years all signs not conforming to the proposed amended plan or to the requirements of this bylaw in effect on the date of submission.
  - (e) Binding effect. After approval of a master signage plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this bylaw. In case of any conflict between the provisions of such a plan and any other provision of this bylaw, the bylaw shall control.
- (2) There may be one (1) wall or freestanding multi-tenant sign facing each street on which the premises have frontage, identifying the plaza or center name and the names of individual businesses, such signs having a maximum size of forty (40) square feet.
  - (3) In addition, each individual business within the plaza or shopping center shall be allowed a wall sign having a total sign area not to exceed fifteen (15) percent of the wall area assigned to that business or one hundred fifty (150) square feet, whichever is less. Each sign shall be attached in its entirety and shall be parallel to the wall of the building. No such sign shall project horizontally



more than fifteen (15) inches from said wall or beyond the roof or sidewalk lines.

**§ 200-82. Business signs in residential districts.**

In addition to the signs permitted pursuant to § 200-79, signs accessory to nonconforming business or commercial uses and not exceeding ten (10) square feet shall be permitted in residential districts provided a permit is obtained from the Building Inspector.

**§ 200-83. Nonconforming signs.**

- A. Any nonconforming sign, except a billboard, legally erected prior to the adoption of this section, or any amendment thereof, may continue to be maintained, provided that no such sign shall be redesigned, replaced or altered in any way or manner whatsoever unless in conformity with all the provisions of this Zoning Bylaw.
- B. Any nonconforming sign shall be removed if the sign:
  - (1) Advertises or calls attention to any product, business or activity which has not been traded, carried on, sold or dealt with at the particular premises for at least sixty (60) days; and
  - (2) Has not been repaired or properly maintained within sixty (60) days after notice of disrepair has been given by the Building Inspector.
- C. Any nonconforming sign which is destroyed, damaged or otherwise made unusable, shall be repaired, rebuilt or altered only in conformity with this article.

**§ 200-84. Standards for granting special permits.**

All applications for special permits shall be subject to site plan review.

- A. In reviewing applications for special permits pursuant to this article, the Community Planning Commission shall apply the following standards:
  - (1) The sign(s) will not cause visual confusion, glare or offensive lighting in the neighborhood;
  - (2) The sign(s) will not be a detriment to the surrounding area;
  - (3) The sign(s) will not significantly alter the character of the zoning district;
  - (4) The sign(s) will not interfere with traffic safety in the area;
  - (5) Each sign shall be considered on its own merits and shall not be considered a precedent;

- (6) The sign(s) conform to the provisions of any valid master signage plan;
- (7) All zoning nonconformities and general bylaw violations must be removed or corrected.
- B. The CPC may impose any reasonable conditions on any special permit issued pursuant to this article.
- C. Where a sign in a Priority Development Site requires a special permit under this article, the sign application shall be incorporated within the special permit application submitted to the Community Planning Commission under § 200-28B. **[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]**

**§ 200-85. Sign content; maintenance.**

- A. Protection of First Amendment rights. Any sign permitted under this article may, in lieu of any specified copy, contain any otherwise lawful, noncommercial message that does not direct attention to a business or to a service or commodity for sale.
- B. Maintenance. Every permanent sign, including any sign exempted from the permit requirements of this article shall be maintained in good structural condition and shall be kept painted and/or clean at all times. The Building Inspector shall have the authority to order the repair or removal of signs which have become dilapidated or which, in his opinion, constitute a physical hazard to public safety.

**§ 200-86. Exemptions by special permit.**

In business and industrial districts, for lots having frontage of not less than three hundred (300) feet, having area of not less than six (6) acres, the following provisions may be varied by special permit of the Community Planning Commission, provided that the sign in question will be used in connection with one (1) or more commercial buildings on the premises having a total of not less than twenty-five thousand (25,000) square feet of floor space:

- A. Setback requirements;
- B. Number of signs. The number of signs allowed in business and industrial districts may be increased provided that the total area of the signs does not exceed the following:
  - (1) Freestanding signs may not exceed a total of one-half (1/2) square foot per foot of lot frontage; and
  - (2) Wall and roof signs may not exceed twenty (20) percent of front wall area.
- C. Size of sign. The area of freestanding and wall signs in business and industrial districts may be increased as follows:

- (1) The area of wall signs may be increased to a maximum of twenty (20) percent of the area of the wall on which they are displayed; and
  - (2) The area of freestanding signs may be increased to a maximum of one-half (1/2) square foot per foot of lot frontage.
- D. Roof signs. Roof signs may be allowed by special permit, provided that:
- (1) No such sign shall exceed one hundred (100) square feet or ten (10) percent of the area of the wall facing the direction of the sign, whichever is smaller; and
  - (2) No such sign shall project above the roof ridge except in the case of a flat roof, in which case the top of the sign shall not extend more than four (4) feet above the building.



ARTICLE XV  
**Special Provisions and Restrictions**

**§ 200-87. Environmental performance regulations.**

- A. Any use permitted by right or by special permit in any district shall not be conducted in a manner as to cause any dangerous, noxious, injurious or otherwise objectionable emissions. These include but shall not be limited to: fire, explosion, radioactivity or other hazard; noise or vibration; smoke, dust, odor or other such forms of environmental pollution; electrical or electromagnetic disturbances; glare; liquid or solid refuse or wastes. Neither shall they cause to be emitted any energy and/or matter in such an amount as to adversely affect the public health, safety, welfare or convenience.
- B. In addition, no use permitted by right or by special permit in any district shall be conducted so as to provide conditions conducive to the breeding of microorganisms capable of causing disease, or of their vectors, such as insects and rodents.
- C. The following shall also govern:
  - (1) All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment in accordance with the current requirements of the Town of North Reading;
  - (2) Activities that emit dangerous radioactivity, at any point, shall be controlled in accordance with all regulations of the Nuclear Regulatory Commission, and with pertinent state and federal laws and regulations;
  - (3) No electrical, electromagnetic, and/or mechanical disturbances adversely affecting the operation, at any point, of any equipment necessary for the public health, safety or welfare, shall be permitted;
  - (4) No discharge, at any point, of any material in such a way, nature or temperature as can contaminate or elevate the water temperature in any season more than two (2) degrees Fahrenheit above normal in the immediate area of discharge into any body of water, running stream, groundwater supply or wetland area, shall be permitted. Neither shall such discharges cause the emission of dangerous or objectionable matter, and/or the accumulation of wastes conducive to the breeding of microorganisms capable of transmitting disease, or of their vectors, such as insects or rodents. Nor shall such discharges or emissions be detrimental to flora or fauna, except in conformance with the standards approved by the State Department of Public Health;

- (5) No emission of visible smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines shall be permitted, except:
  - (a) For a period or periods aggregating four (4) minutes in any thirty (30) minutes when No. 2, but not darker, is allowed; and
  - (b) For a period or periods aggregating three (3) minutes in any fifteen (15) minutes of No. 3, but not darker, when cleaning, when building a new fire, or when breakdown of equipment occurs;
- (6) No emission which can cause any damage to health, of animals or vegetation, or which can cause excessive soiling, at any point, and in no event any emission of any solids, liquids, or vapors in concentrations exceeding 0.3 grains per cubic foot of conveying gas or air shall be permitted;
- (7) No objectionable odor greater than that caused by 0.001202 grain per thousand cubic feet of hydrogen sulfide shall be permitted;
- (8) All other discharges or releases of air contaminants into ambient air space not governed by the above regulations shall be subject to the standards set forth in the latest edition of Regulations for the Control of Air Pollution in the Metropolitan Air Pollution Control District, as published by the Massachusetts Department of Health, Division of Environmental Health;
- (9) Maximum permissible sound pressure levels at specified points of measurement for noise radiated continuously from a facility between 9 p.m. and 7 a.m. shall be as follows:

**Maximum Permissible SPL Table [Amended 10-2-2000 ATM  
by Art. 16, approved 3-29-2001]**

| <b>Frequency Band</b>      | <b>Sound Pressure Level</b>                    |
|----------------------------|--|
| <b>(cycles per second)</b> | <b>(Decibel re 0.0002 dyne/cm<sup>2</sup>)</b> |
| 20 - 75                    | 69   |
| 75.1 - 100                 | 54   |
| 100.1 - 300                | 47   |
| 300.1 - 600                | 41   |
| 600.1 - 1,200              | 37   |
| 1,200.1 - 2,400            | 34   |
| 2,400.1 - 4,800            | 31   |
| 4,800.1 - 10,000           | 28   |

- (a) For either of the two conditions described below {Subsection C(9)(a)[1] or [2]} one, and only one, of the corresponding

adjustments to each of the actual decibel levels given above shall be allowed:

[1] Daytime (7 a.m. to 9 p.m.) operation only: +5.

[2] Noise source, emitting sound that is not smooth and continuous and operating less than twenty (20) percent of any hour period: +5.

(b) The sound pressure level shall be measured at any point along the property line with a sound level meter and octave analyzer that conforms to the latest specifications published by the American Standard Association, New York, NY.

(c) Noise-making devices which are maintained and utilized strictly to serve as warning devices are excluded from these regulations;

(10) No direct or reflected electromagnetic radiation, whether from floodlights, from high-temperature processes such as welding, or from other such sources, shall be permitted when it is determined that it will be hazardous or obnoxious; and

(11) No lighting shall be permitted that is not installed in a manner that will prevent direct light from shining onto any street or adjacent property.

(a) Direct or indirect lighting shall not cause total illumination in excess of 1.0 foot candles when measured at any point vertically above the boundary of a residence district or any residential property or right-of-way line of any public way.

(b) The above regulations shall not apply to municipal street lights.

#### **§ 200-88. House trailers, camping trailers and mobile homes.**

A. House trailers, camping trailers and mobile homes shall be permitted only for the following uses and only in accordance with the regulations set forth in this section and § 200-36: **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

(1) Storage.

(a) A travel trailer, camping trailer, camper or self-contained motor home owned by a property owner or lessee may be stored or parked on the premises of said owner or lessee during periods of non-use in any residential district;

(b) A house trailer or mobile home owned by a property owner or lessee may be stored or parked on the premises of said owner or lessee for a period of non-use not to exceed ninety (90) days provided that notification is furnished to the Building

Inspector within seventy-two (72) hours after arrival of the house trailer or mobile home. Such notification may be given orally or in writing and the Building Inspector shall enter it upon his records. During this ninety-day period it shall not be hooked up to any utilities. The Building Inspector shall be notified upon the removal of a house trailer or mobile home.

- (2) Guest stationing. Any property owner or lessee in any residential district may accommodate one (1) house trailer or mobile home of a non-paying guest for a period not to exceed thirty (30) days in any one (1) calendar year, provided that:
  - (a) Notification of guest stationing is furnished to the Building Inspector with seventy-two (72) hours after arrival of the house trailer or mobile home. Such notification may be given orally or in writing, and the Building Inspector shall enter it upon his records and if requested shall issue a permit to the guest. The notification shall include name of guest, full home address, period for which guest stationing is desired and proposed location. No extension of a permit for guest stationing may be granted;
  - (b) Emergency use. The Building Inspector may approve a temporary use of a house trailer or mobile home for commercial or residential purposes on the site where a need for rebuilding has been created by a need for major renovation or reconstruction, natural catastrophe, fire, flood or explosion. A permit for such emergency use must be acquired from the Building Inspector. A permit for the use of a house trailer or mobile home for commercial rebuilding shall be valid for a period of sixty (60) days and may be extended upon request if the Building Inspector is satisfied that the rebuilding is proceeding in good faith. A permit for temporary emergency use of a house trailer or mobile home by an owner and occupier of a residence shall be valid for a period not to exceed twelve (12) months while the residence is being rebuilt. Upon completion of the rebuilding, the permitted emergency use is no longer permitted; and **[Amended 4-4-1994 ATM by Art. 21, approved 7-26-1994]**
- (3) Temporary business use. The Building Inspector may approve the temporary use of a house trailer or mobile home for office, storeroom or shop use in connection with construction work in any zoning district provided that:
  - (a) A permit for such temporary use shall be required from the Building Inspector. To obtain said permit, the construction firm or its representatives shall file a statement which shall include the name of the firm, its home office address, the estimated period of stationing requested and the proposed use of the house trailer or mobile home. Said permit shall be valid for a



period of sixty (60) days and may be extended upon request for sufficient reason;

- (b) The Building Inspector shall be notified upon the removal of a house trailer or mobile home.

B. Additional regulations.

- (1) Any house trailer, camping trailer or mobile home not registered to operate on public highways must be located so as to comply with the dimensional and density regulations for an accessory building situated in the zoning district where the house trailer, camping trailer or mobile home is located; and
- (2) Any sanitary facilities to be used shall be connected to a disposal system approved by the Plumbing Inspector and the Board of Health.

**§ 200-89. North Reading Housing Authority multi-family housing. [Amended 10-6-1983 ATM by Art. 24, approved 12-7-1983; 4-9-1984 ATM by Art. 24, approved 6-15-1984]**

A building or group of buildings operated by a public agency, having three (3) or fewer independent dwelling units, each having a room or suite of rooms with its own bathroom and toilet facilities, for occupancy by a family unit consisting of one (1) or more persons, such building or group of buildings having separate kitchen facilities for the preparation and serving of meals to residents thereof and their guests (but not to the public), and at the option of the owner, lounge rooms for the common use of the residents thereof, and their guests, also in connection therewith, the parking of automobiles and such other accessory uses as are customary, all subject to conformity with the following Subsections A and B of this section:

- A. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area.
- B. In all other respects, the dimensional and density regulations for the district in which the use is proposed shall apply. (See the Table of Dimensional and Density Regulations.)<sup>34</sup>

**§ 200-90. Multi-family residential. [Added 10-4-1984 ATM by Art. 14, approved 1-8-1985]**

A building or group of buildings having four (4) or more independent dwelling units, each having a room or suite of rooms with its own bathroom and toilet facilities and kitchen and cooking facilities, for occupancy by a family unit consisting of one (1) or more persons and in connection therewith, the parking of automobiles in accordance with Article XIII and

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**34. Editor's Note: The Table of Dimensional and Density Regulations is included at the end of this chapter.**

such other accessory uses as are customary, all subject to conformity with the following Subsections A through I of this section.

- A. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area;
- B. There shall be provided a land area of not less than three thousand five hundred (3,500) square feet located within the RM District for each dwelling unit;
- C. Each lot shall have a frontage of at least seventy-five (75) feet on a street. Said frontage shall be on a street as defined under Chapter 41, Section 81L as follows:
  - (1) A public way or a way which the Town Clerk certifies is maintained and used as a public way; or
  - (2) A way shown on a plan approved and endorsed under the Subdivision Control Law; or
  - (3) A way in existence on or before September 19, 1944, having, in the opinion of the Community Planning Commission, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon;
- D. No building or addition to any building, including accessory buildings, shall be erected or placed on a lot which will result in the covering of that portion of the lot located within the RM District by buildings of more than twenty (20) percent of the portion of the lot in the RM District;
- E. No building shall exceed two and one-half (2 1/2) stories in height;
- F. No building or structure shall be located within thirty (30) feet of any property boundary line abutting a street or within twenty (20) feet of any other property boundary line;
- G. Screening and buffering shall be provided in accordance with the provisions of § 200-64 and the provisions of § 200-87 as applicable to multi-family development, except that the area between a property boundary line abutting a street and a line thirty (30) feet from and parallel thereto shall be kept open and in lawn or landscaped, unparked on and unbuilt upon except for driveways and walks. Any other provision to the contrary notwithstanding, the area between any other property boundary line and a line ten (10) feet from and parallel thereto shall be kept open and in lawn or landscaped, unparked on and unbuilt upon;
- H. All parking and loading facilities shall be suitably landscaped. Such landscaping shall be designed to minimize the impact of the parking

area upon adjacent property and within the lot by the use of existing vegetation to the extent practicable and new trees, shrubs, walls, fences and other landscape elements. In the case of parking facilities for more than forty (40) spaces, at least five (5) percent of the area within the limits of the parking facilities shall be set aside for landscaped areas and such areas shall be provided with a minimum width of ten (10) feet, curbing and shade trees;

- I. No provision of this Zoning Bylaw concerning height regulations or area regulations shall apply to this use except as set forth in this section.



ARTICLE XVI  
**Amendments; Severability**

**§ 200-91. Amendment to Zoning Bylaw or Zoning Map.**

- A. Article submission. Amendments to this Zoning Bylaw may be initiated by submission in writing of a proposed amendment to the Board of Selectmen by the Community Planning Commission, the Zoning Board of Appeals, the Metropolitan Area Planning Council, the Board of Selectmen, an individual owning the land to be affected by said amendment or by the number of registered voters required for a citizens' petition pursuant to MGL c. 39, § 10.
- B. Proposed Zoning Map changes. **[Added 11-6-1978 ATM by Art. 12, approved 2-6-1979]**
- (1) If the proposed amendment concerns a change to the Zoning Map, the petitioner shall, at the time of submittal to the Board of Selectmen, also submit a copy of the proposed article to the Community Planning Commission accompanied by the following:
    - (a) Two (2) copies of applicable Assessors' maps delineating in color the proposed change(s). If the proposed change does not entirely follow property lines as depicted on the Assessors' map, it shall be prepared and certified by a registered professional engineer or registered land surveyor and shall set forth bearings and distances (metes and bounds) sufficient to identify the property involved and the change in the district boundary; and
    - (b) Four (4) copies of the Zoning Map delineating in color the proposed district change(s). Said copies shall be prepared by a registered professional engineer or a registered land surveyor and shall set forth bearings and distances (metes and bounds) sufficient to identify the district boundary change. Unless specifically waived by the Community Planning Commission, each Zoning Map shall contain a locus.
  - (2) If the petitioner for a proposed amendment to the Zoning Map is other than the Board of Selectmen, Community Planning Commission, Board of Appeals or the Metropolitan Area Planning Council, the cost of legal advertising shall be paid for by the petitioner and a receipted bill shall be submitted to the Community Planning Commission at least seven (7) days prior to the public hearing.
- C. Public hearings and recommendations of Community Planning Commission. The provisions of MGL c. 40A, § 5 shall govern the procedures to be employed for public hearings and reports of the Community Planning Commission on proposed zoning amendments. **[Amended 11-6-1978 ATM by Art. 12, approved 2-6-1979]**

- D. Town Meeting action. The Town Meeting may adopt, reject or amend and adopt a proposed amendment only by a two-thirds (2/3) vote and only within six (6) months after the public hearing on any proposed zoning amendment.
- E. Repetitive petition. No proposed amendment to this Zoning Bylaw which has been unfavorably acted upon by the Town Meeting shall be considered again by the Town Meeting within two (2) years after the date of such unfavorable action unless the Community Planning Commission in its report to Town Meeting on the initial submission recommended favorable action.

**§ 200-92. Effective date of amendments.**

The effective date of any amendment to this Zoning Bylaw or to the Zoning Map shall be the date of favorable action by Town Meeting on such amendment.

**§ 200-93. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Zoning Bylaw is for any reason held invalid, illegal or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

## ARTICLE XVII

**Site Plan Review****[Added 10-17-1991 ATM by Art. 21, approved 2-4-1992]**

**§ 200-94. Purpose; legislative authority; applicability. [Amended 10-8-1998 ATM by Art. 19, approved 1-27-1999; 10-4-2010 OTM by Art. 17, approved 2-7-2011]**

- A. The purpose of this section is to protect the health, safety, morals, convenience, aesthetics and general welfare of the inhabitants of the Town by establishing standards of performance and design and providing for a review of plans for uses and structures for future retail, service, commercial, wholesale, transportation and industrial development which may have significant impacts, both within the site and in relation to adjacent properties and streets; on pedestrian and vehicular traffic. This review considers the impact on public services and infrastructure; environmental, unique and historic resources; abutting properties; and community character and ambiance.
- B. This section of the Zoning Bylaw is adopted pursuant to Chapter 40A, Section 9. All site plan review applications submitted under the provisions of this section shall be reviewed by the Community Planning Commission as a special permit.
- C. Sites and developments to which this section applies shall comply with the regulations of this section as well as those of other applicable Town bylaws, or the requirements of the Commonwealth of Massachusetts, prior to any construction being undertaken in the Town of North Reading.

**§ 200-95. Developments which require site plan review; exemptions; waivers. [Amended 10-4-2010 OTM by Art. 17, approved 2-7-2011]**

- A. Site plan review is required for:
  - (1) Any new building(s) or construction which contains more than two thousand (2,000) square feet of gross floor area which is undertaken on land within the Town of North Reading or results in the requirement of five (5) or more new or additional parking spaces;
  - (2) Any construction which results in the addition of more than two thousand (2,000) square feet of gross floor area to an existing structure; or results in the requirement of five (5) or more new or additional parking spaces;
  - (3) Any construction, site modifications, new uses in existing structures or developments which contain new processes not normally associated with the existing use or which result in changes in the potential nuisance to adjacent property; traffic circulation; stormwater drainage onto or off of the site; and/or the

application of the parking standards of Article XIII indicate the need for five (5) or more new or additional parking spaces.

- (4) The construction of any new wireless service facility on a previously permitted facility as set forth in § 200-46, personal wireless service facilities regulations.

B. The following development(s) are exempt from site plan review:

- (1) Single family dwelling(s) and two family dwelling(s);
- (2) Small structures or additions which do not exceed two thousand (2,000) square feet of gross floor area and do not require five (5) or more parking spaces.
- (3) Maintenance and in-kind repairs of existing buildings.
- (4) Interior work affecting less than 2,000 gross square feet.
- (5) Work involving internal electrical, plumbing or mechanical systems.

C. Waiver of site plan review.

- (1) When in the opinion of the Community Planning Commission, the alteration or reconstruction of an existing structure or new use or change in use will not have a significant impact both within the site and in relation to adjacent properties and streets; on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties; and community needs, the Community Planning Commission may determine, without a public hearing, that submission of a site plan review application is not required.
- (2) The applicant must request a waiver from site plan review in writing and may be required to submit supporting documentation that site plan review is not required. The waiver request will be discussed at a regular session of the Community Planning Commission.

**§ 200-96. Standards.**

- A. Site plans reviewed under this article shall conform to the purposes, standards and requirements specified herein and to the site plan review regulations adopted by the Community Planning Commission pursuant to § 200-97 of this article.
- B. Site plans submitted for review under this article shall, at a minimum:
  - (1) Provide for the safe and attractive development or change or expansion of development of the site and guard against such conditions as would involve danger or injury to public health, safety or welfare;



- (2) Provide adequate drainage to prevent flooding of the site or of property of another;
  - (3) Provide protection for the quality of groundwater;
  - (4) Minimize elements of pollution, such as noise, smoke, soot, particulates or any other discharge into the environment which might prove harmful and/or detrimental to persons, structures or adjacent properties;
  - (5) Provide adequate provision for fire safety, prevention and control;
  - (6) Provide for the harmonious and aesthetically pleasing development of the Town and its environs; and
  - (7) Provide for open spaces and green spaces of adequate proportions.
  - (8) Provide for adequate traffic control.
- C. With the concurring vote of four members, the Community Planning Commission shall either A) approve, B) approve with conditions, or C) deny a site plan submitted for review. **[Amended 10-4-2010 OTM by Art. 17, approved 2-7-2011]**
- (1) The Community Planning Commission shall approve a site plan when the following conditions are met:
    - (a) The site plan complies with all current bylaw requirements of the Town, and;
    - (b) The site plan has been submitted in accordance with the regulations and procedures as outlined in this section and § 200-28E.
  - (2) The Community Planning Commission shall conditionally approve a site plan when the following conditions are met:
    - (a) The application needs to go to any Town board/departments or commission for approvals, or requires approvals by any state, and/or federal agency and;
    - (b) The site plan generally complies with Town bylaw requirements, but requires minor changes in order to be completely in compliance with the Town bylaw regulations.
  - (3) The Community Planning Commission may deny approval of a site plan for the following reasons:
    - (a) The plan does not include all the materials or information required in this section, or has failed to adhere to the procedures for site plan review as outlined in this section, and § 200-28D or;

- (b) The plan as presented is not in compliance with Town bylaws, or;
  - (c) The plan has been drawn incorrectly or in such form that the Planning Board is unable to determine what information is being presented for review, or;
  - (d) The applicants have failed to incorporate and adhere to any condition(s) for approval granted by any Town board, department or commission, or requirements called for by any state or federal agency, which has proper authority upon which to place conditions on a matter before the Community Planning Commission.
- (4) The Community Planning Commission shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office and other appropriate parties in accordance with the provisions of MGL Ch. 40A.
- (5) The applicant shall be responsible for filing a copy of the decision at the Registry of Deeds. Prior to the issuance of a building permit, the applicant shall present evidence of such recording to the Community Planning Administrator and Building Inspector.
- D. Revisions to approved site plan. **[Added 10-4-2010 OTM by Art. 17, approved 2-7-2011]**
- (1) Any revisions to a development that has secured site plan approval shall be submitted to the Community Planning Administrator for review. No revisions shall be approved until the Community Planning Administrator receives three (3) copies of the revised plan and the revisions placed on the plan fall into the following categories:
    - (a) A change of location and layout of any parking area(s), signs, storage or accessory buildings, provided that no Town bylaws are violated by the change;
    - (b) The change in the proposed landscaping plan which does not violate any Town bylaw;
    - (c) A change of egress and ingress provided the same is in compliance with Town bylaws and the requirements of the Commonwealth.
  - (2) The revisions cited above may be completed without further review by Planning Board, upon approval by the Community Planning Administrator. The Community Planning Administrator may determine that the revisions as shown do not fall into the categories outlined in this subsection, and that the proposed revisions are in fact substantial and call for materially different site plan than approved by the Community Planning Commission in

that changes are called for in the type, location and manner of the facilities and site improvements to be constructed and shown in the approved site plan.

- (3) If the revisions are determined to be substantial and materially different by the Community Planning Administrator, the Community Planning Administrator shall direct the applicant to resubmit the site plan to the Community Planning Commission in accordance with the provisions of this section.

**§ 200-97. Adoption of regulations.**

A. The Community Planning Commission shall adopt site plan review regulations pursuant to this article which shall:

- (1) Provide procedures which the North Reading Community Planning Commission shall follow in reviewing site plans;
- (2) Further define the purposes of site plan review;
- (3) Specify the general standards and requirements with which the proposed development shall comply, including appropriate reference to accepted codes and standards for construction;
- (4) Include provisions for guarantees of performance, including bonds or other security;
- (5) Include provisions for waivers of any portion of the regulations in such cases where, in the opinion of the North Reading Community Planning Commission, strict conformity would pose an unnecessary hardship to the applicant and provided such waiver would not be contrary to the spirit and intent of the regulations.
- (6) Include such provisions as will tend to create conditions favorable for health, safety, convenience and property.
- (7) Provide for involvement and participation in transportation management organizations.
- (8) Provide for incorporation of the goals and objectives set forth by regional and state planning agencies.
- (9) Provide that, in lieu of the completion of street work and utility installations prior to the final approval of a plan, the North Reading Community Planning Commission shall accept a performance security as shall be specified in the site plan review regulations. The North Reading Community Planning Commission shall have the discretion to prescribe the type and amount of the bond or other security, and specify a period for completion of the improvements and utilities to be expressed in the bond or other security, in order to secure for the Town the actual construction and installation of such on or off site improvements and utilities.

The Town shall have the power to enforce such bonds or other securities by all appropriate legal and equitable remedies.

- (10) Require an applicant to pay all costs for notification of abutters.
- (11) Provide for submission requirements, procedures and decision standards that apply to Site Plan Review for uses in a Priority Development Site designated by Town Meeting pursuant to M.G.L. c. 43D. **[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]**

B. In addition, said site plan Review regulations may:

- (1) Provide for the assessment of reasonable fees to cover the Commission's administrative expenses, the costs of special investigative or other consulting services, and the review of documents and other materials which may be required due to the nature of a particular site plan.
- (2) Stipulate, as a condition precedent to the approval of the plan, the extent to which and the manner in which streets within the development, or immediately adjacent thereto, shall be graded and improved and in which water, sewer, and other utility mains, piping, connections or other facilities shall be installed.
- (3) Provide for the conditional approval of the plan before said improvements and installations have commenced.

#### **§ 200-98. Administration.**

When exercising its powers of site plan review under this article, the North Reading Community Planning Commission shall hold a public hearing on any complete site plan review application within thirty (30) days of its submission. Public notice of said hearing shall be given in accordance with the requirements of Massachusetts General Laws Chapter 40A, Section 11. The North Reading Community Planning Commission shall make a final decision regarding a site plan within ninety (90) days after the date of its public hearing closing. The required time limits for public hearing and North Reading Community Planning Commission action may be extended by written agreement between the applicant and the North Reading Community Planning Commission. Failure of the North Reading Community Planning Commission to act within said ninety (90) days or extended time, if applicable, shall be deemed an approval of the site plan.

#### **§ 200-99. Appeals.**

An appeal may be taken to the Zoning Board of Appeals, pursuant to General Law Chapter 40A, Section 8 and Article XV and § 200-26 of this Zoning Bylaw, by any person aggrieved by a decision of the Community Planning Commission to approve, conditionally approve, or deny a site plan submitted under this article. Said appeal shall be taken within thirty (30) days of the decision being appealed.

## ARTICLE XVIII

**Unaccepted Streets****[Added 4-4-2002 ATM by Art. 9,<sup>35</sup> approved 6-11-2002]****§ 200-100. Adequate access.**

1. Intent and purpose. This by-law shall govern the use of unaccepted ways, excluding those ways approved under the Subdivision Control Law, for access to building lots in the Town of North Reading.
2. Unaccepted ways shall meet the Community Planning Commission's street standards in order to be judged adequate.
  - A. The Community Planning Commission may grant a certificate of waiver from the standards in cases where the unaccepted way meets acceptable construction standards at the time of the occupancy permit application.
3. All new buildings, excluding accessory structures, additions and alterations, shall have frontage on ways which provide adequate access for the entire length of the way up to and including the minimum lot frontage required under zoning.
  - A. No building permits shall be issued until plans for the construction or upgrading of the way have been approved by the Community Planning Commission.
  - B. The way shall be improved from the nearest way in existence which meets standards acceptable to the Community Planning Commission.
4. The layout and design of the way shall be stamped by a professional engineer and shall demonstrate compliance with the Community Planning Commission street standards.
5. All necessary wetland approvals shall be obtained for road construction prior to issuance of any road opening permits as applicable.
6. No occupancy permit shall be issued until the way, which a lot fronts on is complete and in full compliance with the Community Planning Commission standards.
  - A. A bond or other form of security cannot act as a substitute for completion of the way.
7. Ways approved under the Subdivision Control Law are exempt from Section 3.

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**35. Editor's Note: The text of this article was originally adopted 4-2-2001 ATM by Art. 20 as a General Bylaw and subsequently approved by the Attorney General as a Zoning Bylaw. This Art. 9 relocated the text from Ch. 158 of the Code to Ch. 200.**

8. When exercising its powers of review under this General By-law, the North Reading Community Planning Commission shall hold a public hearing within 30 days of the submission of a complete application. Public notice of said hearing shall be given at least seven and fourteen days prior to the date of the public hearing by posting said notice in a newspaper of general circulation and by a certified mailing to every property owner with frontage on the subject street. All expenses for notification shall be borne by the applicant.
9. If a request for a certificate of waiver is denied, the Community Planning Commission will issue a denial letter.

## ARTICLE XIX

**Historic Preservation****[Added 4-4-2005 ATM by Art. 7, approved 7-19-2005]****§ 200-101. Dimensional Special Permit - Historic Preservation.**

- A. Purpose and intent. The purpose of this by-law is to encourage the preservation of buildings, structures, sites and settings of historic significance, by allowing such buildings or features to remain in place, or be moved to another location rather than be demolished or otherwise compromised. The by-law gives the Board of Appeals the authority to issue a special permit modifying certain dimensional standards for the creation of new lots, or for the use of existing lots for purposes of the preservation of historic structures or buildings as defined herein.
- B. Historic structures defined: For purposes of a dimensional special permit for historic preservation the historic building or structure must be listed on one of the following:
- (1) The National Register of Historic Places;
  - (2) The State (Commonwealth of Massachusetts) Register of Historic Places;
  - (3) The North Reading Historic Building Survey.
- C. Parent parcel defined: A parent parcel is the parcel of land that is to be divided.
- D. Standards and regulations: The following specific standards shall be applied to a dimensional special permit for historic preservation:
- (1) The lot must be located in a Residential Zoning District.
  - (2) (a) Any new lot created under this by-law shall contain not less than 1/2 the minimum lot area for the Residential zoning district in which it is proposed.
    - (a) The original lot being subdivided (Parent Lot) shall, under no circumstances, be permitted to be made nonconforming to the frontage and area requirements of the Residential zoning district in which it is located.
    - (b) Any new lot created shall have a minimum contiguous upland area, free of wetlands, of 5,000 sq. ft.
  - (3) Lot frontage and building setbacks on new lots created under this by-law shall be as follows:

| Full Name            | Short Name | Frontage | Setbacks |      |      |
|----------------------|------------|----------|----------|------|------|
|                      |            |          | Front    | Side | Rear |
| Residence A District | RA         | 80       | 25       | 10   | 20   |
| Residence R District | RR         | 80       | 25       | 10   | 20   |
| Residence B District | RB         | 65       | 10       | 10   | 20   |
| Residence D District | RD         | 80       | 25       | 10   | 20   |
| Residence E District | RE         | 80       | 25       | 10   | 20   |
| Residence M District | RM         | 50       | 10       | 10   | 20   |

- (4) Any new lot created under this by-law shall have its required frontage on a public way as measured at the street line.
  - (5) Any new lot created under this by-law shall meet the requirements of Title 5.
  - (6) No new lot may be created that would render the parent parcel of land nonconforming with regard to dimensional requirements, including but not limited to area and frontage. **[Amended 4-9-2007 ATM by Art. 21, approved 8-8-2007]**
  - (7) A vacant existing nonconforming lot need not meet the standards set forth in Subsections 1 through 3 above; however, the provisions of Subsections 4 will apply.
  - (8) The special permit granting authority shall determine whether or not an historic structure or building can be placed on a lot without detrimental effect to abutting properties or the street on which the lot has its frontage.
- E. Findings required: Priority in granting a dimensional special permit for historic preservation shall, in all cases, be placed upon keeping buildings and structures in place, rather than moving them to other locations, provided that the existing site can be shown to represent valid historical setting and context. Moving of structures or buildings to other locations shall be considered only if no other preservation measures are practical or reasonable on the existing site, or if the proposed removal is to return a building or structure to an original or more historically accurate location. In addition to the findings required under Section 200-23 of the Zoning By-law and the foregoing standards and regulations, the permit granting authority shall consider the following specific items:



- (1) That the modification of dimensional requirements is necessary to protect, preserve or maintain an historic structure or building;
  - (2) That the proposed work, including any relocation or reconstruction, preserves, to the maximum extent feasible, the historical and architectural features of the structure or building;
  - (3) That in the absence of a special permit, destruction of an historic structure or building will result.
- F. Conditions to be imposed: If the Zoning Board of Appeals grants the special permit, it shall impose, as minimum conditions, the following:
- (1) In the event of a catastrophic event which results in damage to the historic structure such that the historic structure cannot be repaired, the owner may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure and meets one of the following requirements:
    - (a) The new dwelling is placed in the existing footprint; or
    - (b) The new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding.
  - (2) Prior to the move, the Board of Selectman of the Town of North Reading shall approve the route and the timing of the move of the building or structure.
  - (3) In the event that the owner of the lot wishes to make changes to the historic structure after it is relocated, the owner must seek a modification of the special permit from the Zoning Board of Appeals. The Zoning Board of Appeals shall request that the Historical Commission review the proposal and provide a recommendation prior to their decision.
  - (4) Upon the appeal applicable period expiring, the applicant shall submit the approved plan to the Community Planning Commission for an Approval Not Required endorsement pursuant to Chapter 41, Section 81P of the Massachusetts General Laws. Such an endorsement shall be a condition of the special permit approval.
  - (5) The owner shall record at the Middlesex South District Registry of Deeds an historic preservation restriction in the form approved by the Zoning Board of Appeals, and approved and endorsed by the Massachusetts Historical Commission in accordance with Chapter 184, Section 32, of the Massachusetts General Laws, which shall at a minimum provide for conditions under which alterations, additions or modifications may be made, and in the event of damage to the historic structure such that the historic structure cannot be repaired, the owner may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure and meets one of the following

requirements: (i) the new dwelling is placed in the existing footprint; or (ii) the new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding. Any mortgagee shall subordinate its mortgage to this restriction.

- (6) When the decision of the Board of Appeals on the application for a dimensional special permit for historic preservation has become final, the applicant shall submit the plan upon which the decision is based to the Community Planning Commission for certification as an approval not required plan pursuant to Chapter 81, Section 41P, of the Massachusetts General Laws. The notice of decision of the Board of Appeals, the approved and endorsed historic preservation restriction with any required mortgagee subordination, and the approval not required plan certified by the Planning Board shall be recorded concurrently at the Middlesex South District Registry of Deeds.

- G. Application requirements and procedure: Ten copies of an application for a dimensional special permit for historic preservation shall be filed with the Board of Appeals. Copies of the application will be distributed to, and a review shall be conducted involving but not limited to staff representatives of, Planning, Historical Commission, Building, Health, Conservation, School, Public Works, Police and Fire. Comments from the reviews shall be submitted to the Zoning Board of Appeals.

The application shall include the following information:

- (1) A plan prepared by a registered land surveyor and/or professional engineer showing the lot proposed to be created or used for the preservation of an historic structure or building. The plan shall be suitable for purposes of submission as an Approval Not Required plan. The plan shall be at a scale of one inch equals 20 feet, on a sheet size of 24 inches by 36 inches. And shall show the following information:
  - (a) All existing and proposed property lines with bearings and distances;
  - (b) If the application is for the creation of a new lot, then the parent parcel from which the lot is being taken shall also be shown in its entirety at the same scale;
  - (c) The location and size of all existing structures or buildings on and adjacent to the proposed lot, and the distances between all existing and proposed structures or buildings;
  - (d) The public way on which the existing or proposed lot will have its frontage;
  - (e) Proposed front, side and rear building setback lines;

- (f) Existing and proposed topography (grading);
  - (g) Significant trees or other natural features;
  - (h) The location and type of utilities serving the lot;
  - (i) Wetlands delineation;
  - (j) The name of the owner and all parties having any interest in the lot, including book and page numbers of the documents at the Registry of Deeds which describe such an interest;
  - (k) A copy of the deed of ownership shall be included with the application; and
  - (l) All easements on the lot.
- (2) If the historic structure is going to be relocated, a map showing the route over which the historic structure or building will be moved;
  - (3) If the historic structure is going to be relocated, a letter from the Police Chief, Fire Chief, Tree Warden of the Town and the Director of Public Works approving the route. It is the responsibility of the applicant to contact and obtain approvals (if needed) from utility companies having overhead cables, lines or wires along the route, and from the Massachusetts Highway Department if a state roadway is involved and from the Director of Public Works, Police Chief and Fire Chief of any city or town included on the route. The applicant is responsible for any costs associated with police supervision along the route;
  - (4) A letter from the Historical Commission, certifying that the structure is an historic structure, as defined in this by-law and any recommended conditions for the special permit;
  - (5) A statement of any changes to be made to the historic structure;
  - (6) The provisions of Sections 200-23. through 200-28 of the Zoning By-law shall apply to the application, hearing, decision, conditions and lapse of a dimensional special permit for historic preservation;
  - (7) A dimensional special permit issued under this by-law shall contain an account of all required findings and considerations made by the permit granting authority in its decision to allow such exception to the by-laws.



## ARTICLE XX

**Berry Center Residential Smart Growth Overlay District (SGA)  
[Added 4-3-2006 ATM by Art. 3, approved 6-27-2006]****§ 200-102. Purpose.**

It is the purpose of this section to establish a Berry Center Residential Smart Growth Overlay District and to encourage smart growth pursuant to and in accordance with the purposes of G. L. Chapter 40R and the regulations promulgated thereunder at 760 CMR 59.00 et seq., and to foster a broader range of housing opportunities within the Town of North Reading, and, when coupled with the existing Industrial/Office zoning for the Berry Center area, to foster mixed use development, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to nearby recreational land, and to adjacent land already zoned for future employment for industrial and commercial purposes and a full-service family restaurant. Other objectives of this section are to:

- A. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities in the Town of North Reading by adding to the currently underprovided multi-family housing stock of the Town;
- B. Provide for a full range of housing choices in the Town of North Reading, consistent with market demands, for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
- C. Increase the production of housing units to meet existing and anticipated housing needs;
- D. Provide a mechanism by which residential development can contribute directly to increasing the supply and Town-wide diversity of housing;
- E. Establish requirements, standards, and guidelines, and ensure predictable, prompt, fair and cost-effective development review and permitting;
- F. Establish development standards to allow context-sensitive design and creative site planning, and also provide for consistency in site planning;
- G. Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with G. L. Chapter 40R and 760 CMR 59.06 arising from the development of housing in the Berry Center Residential Smart Growth Overlay District; and
- H. Enable the Town to receive Smart Growth Educational Aid payments for school children living in residential developments at the Berry Center Residential Smart Growth Overlay District pursuant to G.L. Chapter 40S, which are available only for new developments in 40R Smart Growth Zoning Overlay Districts.

**§ 200-103. Definitions.**

- A. For purposes of this Article XX, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this § 200-103. To the extent that there is any conflict between the definitions set forth in this § 200-103 and the Enabling Laws, the terms of the Enabling Laws shall govern. For the purpose of this Article XX, certain words or phrases shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural, words used in the present tense include the future tense, the word "person" includes corporations, limited partnerships, limited liability companies and other legal entities, as well as an individual, the word "lot" includes the word "plot" or "parcel," the words "used" or "occupied" include the words "designed, arranged, intended or offered to be used or occupied," the words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof," and the word "shall" is always mandatory and not merely directory.
- B. Terms and words not defined in this article, but defined in the Massachusetts State Building Code as amended, shall have the meanings given therein, unless a contrary intention clearly appears from the context. Words not defined in the State Building Code, the Enabling Laws or this article shall have the meaning given in Webster's Unabridged Dictionary, 3rd Edition.

**ABANDONMENT** — The purposeful discontinuation of a use of a building or lot for two (2) years or more; or the removal of the characteristic equipment or furnishings used in the performance of a nonconforming use, without its replacement by similar equipment or furnishings within two (2) years thereafter.

**ACCESSORY BUILDING** — A detached building, the use of which is customarily subordinate and incidental to that of the principal building or buildings, whether or not located on the same lot.

**ACCESSORY USE** — A use of a lot customarily subordinate and incidental to the principal use of the lot, or a neighboring lot in the case of a use pursuant to an easement, or to a structure on the lot, or on a neighboring lot in the case of a structure erected and maintained pursuant to an easement.

**AFFORDABLE HOMEOWNERSHIP UNIT** — An Affordable Housing unit required to be sold to an Eligible Household.

**AFFORDABLE HOUSING** — Housing that is affordable to and occupied by Eligible Households.

**AFFORDABLE HOUSING RESTRICTION** — A deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, Section 31 and the requirements of § 200-103 of this Bylaw.

**AFFORDABLE RENTAL UNIT** — An Affordable Housing unit required to be rented to an Eligible Household.

**APPLICANT** — A person which files an application for Plan Approval pursuant to this Article XX. If the Applicant is not the owner of the lot in question, then the Applicant, as part of the application or notice shall obtain the owner's written authorization to file such application or notice. Such written authorization may take the form of pre-existing agreements or instruments including, without limitation, signed purchase and sale agreement(s) and signed easement(s) (whether or not yet recorded).

**AS-OF-RIGHT PROJECT OR PROJECT** — Means a project proposed or developed for Multifamily Residential Use and one or more related amenities and accessory uses, structures and buildings commonly associated with a multi-family residential development including without limitation, associated clubhouse(s), private recreational facilities (e.g. swimming pools, tennis courts, lawns, open areas, walking paths and other active and passive recreational areas), private sewage treatment facilities and associated treated effluent disposal facilities including without limitation all associated buildings, piping, structures and disposal fields, landscaping, concierge facilities, driveways and drive lanes, surface parking, parking garages, garages under one or more buildings, and/or structured parking garages; all of which shall be permitted by this article without recourse to or requirement for any special permit, variance, zoning amendment, or other form of zoning relief. A development or project that requires Plan Approval pursuant to this Article XX shall be considered an As-of-Right Project.

**BASE INCOME** — See definition embedded in the definition of Eligible Household.

**BUILDING** — A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, processes or property. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed, where the context requires, as though followed by the words "or part of parts thereof."

**BUILDING AREA** — The aggregate of the maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces.**[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**

**BUILDING INSPECTOR** — The duly appointed officials of the Town of North Reading charged, among other things, with enforcement of the Zoning Bylaw including, without limitation, this article.

**BUILDING PERMIT** — A permit issued by the Building Inspector for the construction, reconstruction, alteration or change of a structure as required by the Massachusetts State Building Code.

**CPI** — The consumer price index for all urban workers, all items (1982-1984=100) as published by the US Department of Labor from time to time or any equivalent successor index.

**DEP** — The Department of Environmental Protection of the Commonwealth of Massachusetts, and any successor agency.

**DHCD** — The Department of Housing and Community Development of the Commonwealth of Massachusetts, and any successor agency.

**DETACHED BUILDING** — A building having open areas on all sides.

**DRIVEWAY or DRIVE LANE** — A portion of a lot designed for vehicular access to off-street parking or loading space or to a garage, whether or not located on the same lot.

**DWELLING UNIT** — One (1) or more living, kitchen and sleeping room(s) providing complete living facilities for the use of one (1) or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation, but not including mobile homes or trailers, however mounted, or commercial accommodations offered for transient occupancy of less than one month's duration.

**ELIGIBLE HOUSEHOLD** — An individual or household whose annual income is no more than eighty percent (80%) of the area-wide median household income for the Boston Primary Metropolitan Statistical Area, as published from time to time by the United States Department of Housing and Urban Development (HUD), or successor agency, adjusted for household size ("Base Income"). Eligible Household assets shall be consistent with the standards for inclusion on the Subsidized Housing Inventory maintained by DHCD.

**ENABLING LAWS** — G.L. Chapter 40R and 760 CMR 59.00.

**ERECT** — To construct or reconstruct or excavate, fill, drain or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot. The word "erect" shall include "building," "constructing," "reconstructing," "altering," "enlarging" and "moving."

**FAMILY** — An individual, or two (2) or more persons living together as a single housekeeping unit.

**GRADE, FINISHED** — The average elevation of the ground at the conclusion of construction.

**LANDSCAPED BUFFER** — A planted area intended to provide, when mature, a visual screen between uses. Landscaped buffers may include existing vegetation, new plantings and/or lawn areas. Fencing may form a part of the landscaped buffer or screening where appropriate or dictated by topography or other consideration.



**LANDSCAPING** — Improvements to land to enhance its attractiveness and facilitate its use and enjoyment. Landscaping may include walks, terraces and the like, fencing, stone walls or other decorative walls, site furnishings, grading and reshaping of earth contours, planting, and lawn areas. Landscaping may also include existing natural areas indicated to remain and/or be renovated.

**LOT** — A parcel of land used or available for use as the site of one (1) or more Principal Buildings and Accessory Buildings, as shown or defined on a recorded instrument or as otherwise defined by metes and bounds. A lot for the purpose of this article may or may not coincide with a lot of record title.

**MULTI-FAMILY RESIDENTIAL SUBDISTRICT** — See § 200-104, below.

**MULTI-FAMILY RESIDENTIAL USE** — Apartment or condominium dwelling units in one or more buildings, each of which buildings contains or will contain more than three (3) such units.

**PAA** — See Plan Approval Authority.

**PARKING SPACE** — An off-street space for use as a parking stall for one (1) motor vehicle, meeting the applicable requirements of this article, whether inside or outside a garage or structure.

**PLAN APPROVAL** — The site plan review approval issued by the PAA for a Project pursuant to an application submitted by an Applicant, under the standards and procedures set forth in this article.

**PLAN APPROVAL AUTHORITY** — For purposes of reviewing Project applications and issuing Plan Approval and other decisions on development Projects within the SGA, the Zoning Board of Appeals, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and is authorized to issue Plan Approvals to implement a Project.

**PRINCIPAL BUILDING** — Any detached building in which is conducted the principal use of the lot on which it is located. Garages, parking structures, mail box kiosks, and the like shall not be treated as Principal Buildings, but rather as Accessory Buildings.

**PRINCIPAL USE** — The main or primary purpose for which a structure or lot is designed, arranged or intended or which it may be used, occupied or maintained under this article.

**PROJECT** — See As-of-Right Project.

**SGA** — The smart growth area, also known as the Berry Center Residential Smart Growth Overlay District, established and located by this article, including all subdistricts established within such Overlay District by this article.

**SGA-DISPOSAL FIELD SUBDISTRICT** — See § 200-104, below.

**SGA-EMERGENCY AND TOWN ACCESS DRIVE SUBDISTRICT** — See § 200-104, below.

SGA FUTURE OPEN SPACE — If and to the extent voluntarily offered by an Applicant, a future area, permanently restricted by a restriction recorded at the registry of deeds running in favor of the Town of North Reading acting by and through its Board of Selectmen, up to 1.4 acres in size for all such areas in the aggregate and located entirely within the Multi-Family Residential Subdistrict, which may not be used in any part for any Building or any Parking Space, but which may be used, in the Applicant's discretion from time to time, for detention and retention basins, drainage pipes and structures, other utilities, landscaping, walks, benches, signage and the like. Any such SGA Future Open Space shall be shown on a plan recorded at the registry of deeds with such restriction and, notwithstanding any other provision of this Bylaw to the contrary, the area thereof shall be deducted from the area of the Multi-Family Residential Subdistrict in determining the maximum allowable number of Dwelling Units in the SGA.

SGA-MAIN DRIVE SUBDISTRICT — See § 200-104, below.

SGA ZONING MAP — The zoning map for the SGA, more particularly described in § 200-104, below.

STRUCTURE — A combination of materials for occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, shelters, piers, bin, fence, sign, swimming pool or the like.

UNDERLYING ZONING — The zoning otherwise established by the Zoning Bylaw for the SGA without regard to this article.

USE — The purpose for which a structure or land is used or intended to be used.

USE, SUBSTANTIALLY DIFFERENT — A use which by reason of its normal operation would cause readily observable, material differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

ZONING BYLAW — The Zoning Bylaw of the Town of North Reading.

#### **§ 200-104. Establishment of Overlay District.**

- A. The Berry Center Residential Smart Growth Overlay District, herein referred to as the SGA, is an overlay district having a land area of approximately forty-six (46) acres in size that is superimposed over all underlying zoning districts, including without limitation all other overlay districts, established by the Zoning Bylaw now or hereafter applicable to that certain portion of the property known as the J.T. Berry Center, and is shown on the Zoning Map as set forth on the map entitled "Berry Center Residential Smart Growth Overlay District," dated March 13, 2006, prepared by Symmes Maini & McKee Associates. This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk (the "SGA Zoning Map"). The SGA contains approximately fourteen and one-half (14.5) acres of land which are

Environmentally Constrained Land, being land within wetlands, within the 12-foot wetlands no-disturb buffer established by this article, and/or within so-called Zone A floodplains (also known as 100-year floodplains), and other Non Developable Land, being land the use of which is or will be limited to a principal driveway or drive lane [approximately one and two-tenths (1.2) acre], or limited to use as private sewage treatment disposal field areas [approximately seven and nine-tenths (7.9) acres], or limited to emergency, town access and secondary access drives and areas [approximately seven tenths of one (0.7) acre]. The SGA thus contains approximately twenty-one and seven tenths (21.7) acres of Developable Land, subject to reduction by up to 1.4 acres of SGA Future Open Space. **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**

- B. The SGA contains four (4) subdistricts, all hereby established and all in the locations shown on the SGA Zoning Map: (a) the SGA-Main Drive Subdistrict (aka Main Shared Drive Lane), containing approximately one and two tenths of one (1.2) acres; (b) the SGA-Disposal Field Subdistrict (aka Residential Disposal Field and Commercial Parking Subdistrict), containing approximately seven and nine-tenths (7.9) acres; (c) the Multi-Family Residential Subdistrict, containing approximately twenty-one and seven tenths (21.7) acres; and (d) the SGA-Emergency and Town Access Drive Subdistrict, containing approximately seven tenths of one (0.7) acre.
- C. The SGA will contain all or portions of two or more separate legal lots.

**§ 200-105. Relationship to underlying zoning and other permitting requirements.**

- A. Relationship to Underlying Zoning. The SGA is an overlay district superimposed on all underlying zoning districts, including without limitation all other overlay districts, now or hereafter established by the Zoning Bylaw. The use, dimensional, parking and other regulations governing the underlying zoning district(s) shall remain in full force, and are not amended or modified by this article. A development or project shall comply either (a) completely with underlying zoning, or (b) completely with the overlay zoning for the SGA created by this article and the Enabling Laws, but shall not be required to comply with both. In order to provide for the harmonious development and use of land within the SGA and abutting land not located within the SGA, the use of the SGA-Main Drive Subdistrict, the SGA-Emergency and Town Access Drive Subdistrict and the SGA-Disposal Field Subdistrict (which are anticipated to be used in whole or in part both by Projects proceeding under this article, and developments proceeding under Underlying Zoning), are restricted to particular uses by any Project electing to proceed under this article.
- B. Applicability. In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the SGA may, as a complete alternative to complying with underlying zoning and/or

seeking relief from underlying zoning, elect to proceed in compliance with this article by applying for or giving notice for Plan Approval in accordance with the requirements of this Article XX. In such case, then notwithstanding anything to the contrary in this Zoning Bylaw, such application and Project shall not be subject to any other provisions of this Zoning Bylaw, but shall be governed exclusively by this article, the Enabling Laws and any Plan Approvals issued hereunder.

- C. Explicit harmonizing with this article of all other bylaws that would otherwise be applicable to development of an As-of-Right Project in the SGA. A Project electing to be governed by this article and the Enabling Laws shall not be required to seek, obtain or comply with any other permitting, review, approval, site plan approval, determination of applicability, order of conditions, or other, equivalent requirements or process pursuant to any other bylaw of the Town of North Reading, other than Plan Approval and one or more building permits and certificates of occupancy, with respect to any development occurring within the SGA. Such other bylaw requirements which shall not be applicable to such a Project shall include, without limitation, any local wetlands bylaw, any local septic bylaw, any local earth moving bylaw, and any local rule, regulation, policy or guideline promulgated in connection therewith. The development of such a Project shall be governed exclusively by applicable state law and the provisions of this article, the Enabling Laws and any Plan Approval. To the extent such a body, board, agency, commission or other authority of the Town of North Reading is the applicable regulatory authority for implementing state law, such body, board, agency, commission or other authority shall continue to have the authority conferred on it by state law, but it is the intent and goal of this article that such body, board, agency, commission or other authority should grant waivers or other relief to the maximum extent possible to further the development of such Projects in the SGA consistent with the requirements of state law.

#### **§ 200-106. Permitted uses.**

- A. Subject to restriction in certain Subdistricts as provided in the next two paragraphs, the following uses are permitted as of right in the SGA for each Project electing to be governed by this article and the Enabling Laws: all uses included in the definition of an As-of-Right Project. Uses not specifically permitted in this SGA by this article are prohibited for Projects electing to be governed by this article.
- B. Uses in the SGA-Main Drive Subdistrict shall be limited to driveways and drive lanes providing a principal means of access to any Project governed by this article, as well as to any other development or project, on the same or other land, governed by Underlying Zoning, and utilities, signage and landscaping.
- C. Uses in the SGA-Disposal Field Subdistrict shall be limited to disposal fields for treated wastewater effluent from the private sewage treatment facility serving any Project(s) which elect to be governed

by this article, and utilities, signage and landscaping, provided that this limitation shall not preclude simultaneous use of such Subdistrict for surface parking by other developments or projects governed by Underlying Zoning.

- D. Uses in the SGA-Emergency and Town Access Drive Subdistrict shall be limited to driveways and drive lanes providing emergency and other secondary access to any Project governed by this article, as well as to any other development or project, on the same or other land, governed by Underlying Zoning, and to use as a school bus drop off and pick up area, and landscaping and facilities related to any of the foregoing, and utilities and signage.

**§ 200-107. Project phasing.**

A Project Applicant may request a Project to be phased. For Projects that are approved and developed in phases, subject to reasonable rounding, the proportion of Affordable units and the proportion of market rate units shall be consistent across all phases. In no event shall any Project contain less than twenty Dwelling Units or otherwise be segmented to avoid the affordability requirements of this article.

**§ 200-108. Housing and housing affordability.**

A. Marketing plan.

- (1) Prior to granting Plan Approval within the SGA, an Applicant for such approval shall submit a narrative marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with a Plan Approval application, shall include details about the number and features of units that will be designed to be accessible to the disabled. There shall be provision for affirmative fair marketing. Notwithstanding the foregoing, no Project shall ever be required to have a component which is not multi-family residential in nature or to provide both rental and homeownership opportunities.

- B. Number of Affordable Housing Units. For all Projects, twenty percent (20%) of Dwelling Units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit. Twenty-five percent (25%) of rental Dwelling Units constructed in a rental Project must be Affordable Rental Units.

C. Requirements.

- (1) Affordable Housing shall comply with the following requirements:

- (a) For any Affordable Rental Unit, the monthly rent payment, including any applicable utility allowances shall not exceed 30 percent of the maximum gross monthly income permissible for an Eligible Household or, if greater for tenants who are participants under any governmental rent subsidy program in which the Project owner chooses to participate, the maximum rent permitted under such program. For so long as the Affordable Housing unit is used for rental housing during the term of the Affordable Housing Restriction called for by Subsection E, below, the administering agency shall annually determine or review the determination of the income of each tenant of an Affordable Rental Unit. This income determination shall be reported to the municipality by the administering agency on an annual basis. Any Affordable Rental Unit occupied by a certified Eligible Household at the commencement of occupancy shall be deemed an Affordable Unit so long as (x) such unit continues to be rent restricted, (y) the household continues to occupy the unit, and (z) the household's income does not exceed 125% of the Base Income at the time of annual income determination. If the tenant's income exceeds 125% of the Base Income at the time of the annual income determination, then the Project owner or manager thereafter shall be free to charge market rent for such unit, and such unit shall still be deemed to be an Affordable Unit until the next available unit in the Project with the same or greater number of bedrooms which is not then managed as an Affordable Unit is rented, provided the Project owner and administering agency rent such next available unit to a qualified Eligible Household for the affordable rent provided herein, in order to substitute such next available unit as a replacement Affordable Rental Unit.
- (b) For any Affordable Homeownership Unit the initial purchase price shall be set such that the monthly housing payment, including mortgage principal and interest (based on 30-year, fixed-interest rates at the time of sale or resale), private mortgage insurance, property taxes, condominium and/or homeowner's association fees and insurance, and assuming a down payment of five percent (5%), shall not exceed 30 percent of the maximum gross monthly income permissible for an Eligible Household with a number of members equal to the number of bedrooms in the unit multiplied by 1.5 and rounded up; and the maximum resale price shall be the greater of (x) the initial purchase price, or (y) the initial purchase price increased by the percentage increase, if any, in the Boston area-wide household median income, as such area-wide median household income is determined by HUD or its successor agency, since the time of the initial sale; and the procedures to be followed by a seller desiring to sell or resell an Affordable Homeownership Unit shall be specified in the

Affordable Housing Restriction called for by Subsection E, below. Such Restriction may permit an adjustment in selling price on account of closing costs and brokers' fees.

- (c) Subject to the foregoing, Affordable Housing to be offered for rent or sale shall be rented or sold to Eligible Households which must thereafter occupy the housing.
- D. Design and construction. Units of Affordable Housing shall be finished, but unfurnished, housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and have exteriors that are equivalent in design and materials to the exteriors of other housing units in the Project. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be generally proportionate to the total number of bedrooms in all the units in the Project of which the Affordable Housing is part.
- E. Affordable Housing Restriction. Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court prior to initial occupancy of the Project and which contains the following:
  - (1) Specification of the term of the affordable housing restriction which shall be no less than thirty years;
  - (2) The name and address of the administering agency required by Subsection F, below, with a designation of its power to monitor and enforce the affordable housing restriction; **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**
  - (3) A description of the Affordable Homeowner Units, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms (and number of bedroom types) of Affordable Rental Units in those portions of a Project which are rental (such Restriction applying individually to specifically identified Affordable Homeowner Units, but applying generally to a percentage of rental units of the rental portion of a Project, without specific unit identification, for so long as it remains a rental development),
  - (4) Reference to an operational housing marketing and resident selection plan (to be developed between the Project Applicant and the administering agency under Subsection F prior to initial occupancy of the Project, and to be consistent with those used for similar developments governed by General Laws Chapter 40B), to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the PAA in consultation with other Town boards shall determine the types of local

preference consistent with fair housing requirements prior to the time the Affordable Housing Restriction is executed; individuals who have a financial interest in the Project shall not be eligible to participate in local preference Affordable Housing resident selection. The plan shall designate the household size appropriate for a unit with respect to bedroom size. The plan shall also provide that determinations of rent and sale prices shall be made with respect to a household with a number of members equal to the number of bedrooms multiplied by 1.5 and rounded up.

- (5) A requirement that residents will be selected at the initial sale or initial rental, and upon all subsequent sales and rentals, from a list of Eligible Households compiled by the administering agency in accordance with such housing marketing and selection plan;
- (6) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set, consistent with Subsection C, above;
- (7) Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;
- (8) A requirement that, subject to Subsection C, above, only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the administering agency;
- (9) Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;
- (10) Provision that the Restriction on an Affordable Homeownership Unit shall run with only such Unit, and shall run in favor of the administering agency and/or the municipality, in a form reasonably approved by municipal counsel, and shall limit initial sale and resale to and occupancy by an Eligible Household, consistent with Subsection C, above;
- (11) Provision that the restriction on Affordable Rental Units in the rental portion of a Project shall run generally with such entire rental portion of the Project for so long as it remains a rental development during the term of the Restriction, shall run in favor of the administering agency and/or the municipality, in a form reasonably approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household, consistent with Subsection C, above;



- (12) Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the administering agency, in a form specified by such administering agency, certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
  - (13) A requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability;
  - (14) Provision that each owner of a restricted Affordable Housing Unit shall have the right to receive notice of any and every alleged default, violation or breach of the applicable Restriction respecting such owner's unit(s), and an opportunity to cure the same for least sixty (60) days thereafter; and
  - (15) Provision that each Project mortgagee shall have right to receive such notice of alleged default, violation or breach, and the option at its sole discretion (but not the obligation) to cure any default, violation or breach of any affordability Restriction applicable to its mortgage collateral for a further period of sixty (60) days after the end of the 60-day period provided in Subsection E(14) above.  
**[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**
- F. Administering agency. An administering agency shall be designated by the PAA. Prior to occupancy of the Project, the Project Applicant shall enter into a monitoring services agreement with such administrative agency. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified state or regional non-profit housing entity designated by the the PAA or, in the absence of such timely designation, by such an entity designated by the DHCD. In any event, such agency shall ensure the following, all in accordance with this article:
- (1) Prices of Affordable Homeownership Units are properly computed and rental amounts of Affordable Rental Units are properly computed;
  - (2) Income eligibility of households applying for Affordable Housing is properly and reliably determined.
  - (3) The housing marketing and resident selection plan conforms to all requirements and is properly administered;
  - (4) Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;

- (5) Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds;
- G. Administering agency fees. The monitoring services agreement between the administering agency and the Project Applicant may make provision for payment by the Project Applicant of reasonable and customary costs to the administering agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. In the case of Affordable Rental Units, such payment shall not be required to exceed a one-time initial fee of \$7,500, plus \$200 per year per Affordable Rental Unit. In the case of Affordable Homeownership Units, such payment shall not be required to exceed one-half one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable, and, in the case of payments due upon resale, shall be due and payable only by the selling homeowner and not by the original Project Applicant, or its corporate successors or assigns.
- H. Age restrictions. The District shall not include the imposition of restrictions on age upon the entire District, but an Applicant may voluntarily determine, the development of a Project within the SGA may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and that twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing units. Any Project which includes age-restricted dwelling units shall comply with applicable federal and state fair housing laws and regulations.
- I. Phasing. For a Project that is approved and developed in phases, which an applicant may voluntarily elect to do, insofar as practicable the proportion of Affordable Housing Units [and the proportion of Existing Zoned Units to Bonus Units as described in 760 CMR 59.04 1(h)] shall be consistent across all phases (subject to reasonable rounding).
- J. Computation. Prior to the granting of any certificate of occupancy (aka certificate of compliance) for the housing component of a Project, the applicant for such building permit must demonstrate, to the satisfaction of the PAA, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to North Reading.
- K. No waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this § 200-108 shall not be waived.

#### **§ 200-109. Dimensional and density requirements.**

- A. Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGA are as follows:  
**[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**

**Minimum Lot Area** **Five (5) acres**

Minimum Lot Frontage on a Public Way 250 feet  
(access may, but is not required to be,  
over such frontage; access may, in  
whole or in part, be via easement)

Maximum Building Height (measured 60 feet  
from the average ground height  
adjoining at the exterior walls of a  
building to highest point on the roof of  
the building, exclusive of decorative  
cupolas, weather vanes, chimneys and  
vent structures, antennas, satellite  
dishes, mechanical penthouses and  
other structures or enclosures not  
intended for human habitation)

Minimum Front Setback of any Building 40 feet  
(measured from and perpendicular to  
that one public way existing as of  
January 1, 2006 and providing the  
Minimum Required Frontage for a  
Project; driveways, drive lanes and  
landscaping -- but not parking -- may be  
located within Minimum Front Setback  
areas)

Minimum Rear Yard Setback of any 25 feet  
Building (measured from and  
perpendicular to that one lot line for the  
Project which is fundamentally opposite  
the one public way providing Minimum  
Required Frontage for the Project;  
accessory buildings, structures and  
uses, including without limitation  
parking and private sewage treatment  
facilities, may be located within  
Minimum Rear Yard Setback areas)

|   |                       |
|---|-----------------------|
| <b>Minimum Lot Area</b>   | <b>Five (5) acres</b> |
| Minimum Side Yard Setback of any Building (measured from and perpendicular to all those lot lines, or SGA district lines where different from lot lines, which are neither the one lot line providing Minimum Required Frontage or that one lot line from which Minimum Rear Yard Setback is measured; accessory buildings, structures and uses, including without limitation parking and private sewage treatment facilities, may be located within Minimum Side Yard Setback areas) | 5 feet                |
| Minimum Open Space (being the portion of a Project lot within the SGA not occupied by buildings, parking, garages, driveways and drive lanes, but which shall include, among other areas, all landscaped areas, all unbuilt areas, all sidewalks and walkways, and all swimming pools, tennis courts and other recreational facilities primarily open to the sky, whether or not hardscaped)  | 20%                   |
| Allowable Dwelling Units/Acre in the Multi-family Residential Subdistrict (determined after deduction of the area of any SGA Future Open Space from the area of the Multi-Family Residential Subdistrict)   | 20                    |
| Minimum Setback between Principal Buildings (measured at the closest point between any two Principal Buildings)   | 25 feet               |
| Minimum Setback between either (a) Accessory Buildings, or (b) Principal Buildings and Accessory Buildings  | 5 feet                |

**Minimum Lot Area**

Minimum Dimensional Requirements/  
Locational Requirements for Private  
Wastewater Disposal Facilities (i.e.  
disposal fields) serving a project

**Five (5) acres**

None except as follows: May  
be located anywhere within  
the SGA Disposal Field  
Subdistrict, subject to  
compliance with applicable  
state law, and may also be  
located on permanent  
easement area(s) provided  
such permanent easement  
area(s) is/are located within  
the SGA Disposal Field  
Subdistrict; the use of such  
an easement area for such  
wastewater disposal  
facilities shall not preclude  
the use of the surface of  
such area for parking, either  
for the Project or for any  
other development or  
project electing to remain  
governed by Underlying  
Zoning

Multiple Buildings on One Lot

Allowed

**Minimum Lot Area**

No Improvements in Zone A Flood Areas

**Five (5) acres**

No Project improvements other than creation of ponds or stormwater detention or retention areas, and associated structures, filling for landscaping and open space areas, and other creation of compensatory flood storage, not in excess of 40,000 square feet, shall be located within any federally- designated Zone A Flood Area shown on the Flood Insurance Rate Map for the Town of North Reading, dated June 16, 2004 and further described in the Flood Insurance Study (FIS) for the Town of North Reading dated April 3, 1978, and revised June 16, 2004, as the location of such flood area may be altered by a Project Applicant pursuant to provisions of applicable law.

No Improvements in Wetlands or 12 Foot Buffer to Wetlands

No Project improvements shall be located in (a) any wetland resource area governed by General Laws Chapter 131, Section 40, or (b) within a buffer area, twelve (12) feet in width, on the upland side of such wetland resource areas (other than in the case of any 200-foot riverfront areas, which shall have no additional buffer).

**Minimum Lot Area****Five (5) acres**

Maximum impervious area within 100 feet of any wetland resource area governed by General Laws Chapter 131, Section 40 (other than any riverfront areas, which have no buffer under such law). Impervious area shall mean only areas permanently covered by buildings, concrete, asphalt pavement and the like; without limitation, lawns, other vegetated areas, mulched or graveled areas and other areas landscaped with pervious or semi-pervious surfaces, shall never be considered to be impervious.

25% of such area

Maximum alteration of land within 100 feet of any wetland resource area governed by General Laws Chapter 131, Section 40 (other than any riverfront areas, which have no buffer under such law).

75% of such area

- B. Interpretation of table. All dimensional requirements shall be computed on a Project by Project basis. The front setback within the SGA shall apply only to front yards abutting a public way existing on January 1, 2006; and for any other street, way, driveway or drive lane not so laid out and accepted, there shall be no front setback requirement, and thus no mirroring rear yard setback either.

**§ 200-110. Parking requirements.**

- A. Notwithstanding anything to the contrary in this Zoning Bylaw, the parking requirements applicable to each entire Project in the SGA are as follows:

Residential Use     1.5 spaces per unit  
(minimum)

Residential Use     2.0 spaces per unit  
(maximum)

- B. Interpretation of table. In no event shall any separate parking be required for, or attributed to, clubhouses, swimming pools, tennis courts or other recreational facilities, private sewage treatment facilities, or other accessory buildings, structures or uses.

**§ 200-111. Design Standards.**

In order to ensure high-quality development within the SGA and to ensure design that respects the built and natural character of North Reading, the

following design standards are established. These standards are intended to be applied flexibly by the Plan Approval Authority as appropriate to the Project as part of the site plan review process to enable the purpose of this District to be realized, and in recognition of the as-of-right nature of Projects proceeding under this article. These standards apply to all site improvements and buildings and structures to enhance the appearance of the built environment within an SGA.

A. Building and structure placement/appearance.

- (1) Where Project buildings abut lots outside the SGA that include residential or public recreation uses per Underlying Zoning, and substantial natural vegetation does not remain, provide a landscaped buffer between Project buildings and such abutting lots.
- (2) Where practicable and desired by the PAA, preserve attractive views from publicly accessible major vantage points along public streets or on Town-owned open space.
- (3) Building facades fronting public streets shall be of similar or greater quality and design as compared to the remaining facades of the same building.
- (4) Rooftop equipment, building mechanical equipment, garbage management equipment and maintenance work areas shall be visibly screened from public streets and abutting lots that include residential or public recreational uses.
- (5) Building and structure placement shall not prevent access to open space in the project.
- (6) Buildings shall not be longer than 300 feet. Facades shall not continue unbroken for longer than 75 feet.
- (7) Buildings should be constructed as part of a single architectural plan that is consistent throughout the project, whether buildings are constructed in phases or not.

B. Landscaping.

- (1) All open areas, exclusive of areas to remain in an existing natural state shall be landscaped utilizing both natural and man-made materials such as grasses, trees, shrubs, paving materials and outdoor furniture that are appropriate to the local climate and anticipated uses of the project.
- (2) Deciduous street trees (typically growing to no more than 30 feet in height) shall be placed along both sides of new drive lanes. All street trees along drive lanes or around parking lot perimeters shall be placed at a maximum spacing of 75 feet on center. In parking lots with greater than six spaces, street trees shall be placed at parking lot perimeters and/or on parking lot islands, such



that no parking space is more than 75 feet from the nearest street tree.

- (3) A minimum of four different species of street trees shall be used. Below is a list of Town recommended street trees:

Acer Rubrum - Red Maple

Fraxinus Americana - White Ash

Fraxinus Pennsylvanica - Green Ash cultivars

Gleditsia Triacanthos inermis - Thornless Honeylocust

Plantanus Acerifolia - London Planetree

Pyrus Calleryana - Bradford Pear cultivars

Quercus Rubra - Red Oak

Tilia Cordata - Littleleaf Linden

Tilia Tomentosum - Silver Linden

- (4) Outdoor lighting shall be provided in drive lanes and parking areas. Outdoor lighting shall be located and designed to prevent direct light from shining onto any abutting lot used for residential or public recreational uses per Underlying Zoning. Direct or indirect lighting shall not cause total illumination in excess of 1.5 footcandles when measured at any point vertically above the boundary of an abutting public street or an abutting lot that includes residential or public recreational uses per Underlying Zoning. **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**

- (5) Landscaped buffer shall consist of natural or landscaped area at least ten feet wide. Where natural or existing plantings are not present, new plantings shall provide a visual screen that begins at or near ground level and, when mature, will provide a minimum height of at least eight feet. At least fifty percent of the plantings shall consist of evergreens. Buffers may be interrupted to provide for the entrance and exit of vehicular and pedestrian traffic. New shrub plantings in buffer areas shall be a minimum of four feet in height at time of planting. New evergreen trees shall be a minimum of six feet in height at time of planting.

- (6) All required landscaping shall be maintained in good condition at all times.

C. Pedestrian amenities and recreation.

- (1) All buildings and on-site open spaces shall be connected by pedestrian routes. Pedestrian routes may include, but are not limited to, paved sidewalks, paved parking lots and unpaved paths.
- (2) Pedestrian routes shall connect to existing public pedestrian walkways and existing public sidewalks abutting the Project site.

- (3) Where practicable and desired by the PAA, pedestrian routes shall connect the project site to existing abutting public recreational areas, provided that (a) no wetlands crossings, and (b) no paths or pedestrian routes in other locations subject to other regulatory approval beyond Plan Approval under this article, shall ever be required by the PAA to be provided by or as part of the Project.
- (4) Passive and/or active private recreational areas shall be provided at a size, type and scale appropriate for the number of units proposed. Nearby existing public recreational facilities connected to the site via a pedestrian path may accommodate all or part of this requirement.

D. Signage.

- (1) The following signage is permitted within the SGA, all other signs are prohibited without the special permit of the PAA.
  - (a) Two identification signs, not exceeding twenty-four square feet each, at each public entrance to a multi-family development;
  - (b) Signs bearing the name and/or address of a building, not to exceed four square feet in area each;
  - (c) Real estate signs, located on-site, not to exceed six square feet in area, and real estate sale or rental banners attached to buildings on site, each not more than four feet in width and 100 feet in length. Such signs shall be removed forthwith upon sale or rental of the premises advertised;
  - (d) Reflecting street name signs and signs erected for the direction, convenience and control of vehicular and pedestrian traffic; each of said signs shall be no more than three (3) square feet in area per side, or as allowed and/or required by Massachusetts General Law;
  - (e) Signs on or adjacent to the entry of a multiple occupancy building listing the occupants thereof, provided that the size of such sign shall not exceed one square foot for each occupant or a total of twenty square feet, whichever is smaller and provided further that there shall be only one such sign per building;
  - (f) One contractor's sign and one lender's sign, each not exceeding twelve square feet in area maintained on the premises while construction is in progress and containing information relative to the project. Such signs shall be set back at least feet from the street lot line and shall be removed promptly after the completion of construction;
  - (g) Temporary "grand opening" signs not to exceed 40 square feet each and for a period of time not to exceed 14 days.

- (h) All permanent signs, except traffic signs, shall be made of natural materials or have a natural appearance.
- (i) Neon signs and similarly styled signage with interior illumination is prohibited; as are any facade components (e.g. trim) that feature neon or similar illumination. Moving or flashing signs; signs illuminated by or including any flashing or oscillating light; electronic billboards and reader boards; strings of pennants or so-called "whirligigs" and the like are not permitted. Flashing or animated signs of any color shall not be permitted.

E. Private parking lots, driveways and drive lanes.

- (1) The Project may include private parking lots and driveways, which provide unenclosed paved spaces for parking and the direct vehicular access to said parking spaces.
- (2) The Project may include private drive lanes, which provide access from the public street system and provide vehicular circulation through the project. Drive lanes do not provide for the parking of vehicles.
- (3) All private parking lots, driveways and drive lanes shall remain privately owned. All deeds conveying any portion of the land or structure containing private parking lots, driveways or drive lanes, shall specify that they are and shall remain private.
- (4) The maintenance of private parking lots, driveways and drive lanes, including, but not limited to snowplowing, patching and repaving, shall remain the responsibility of the owner. All deeds conveying any portion of the land or structure containing private parking lots, driveways or drive lanes shall note this private responsibility of maintenance.
- (5) Where project parking areas with more than six parking spaces abut lots outside the SGA District that include residential or public recreational uses per Underlying Zoning, provide a landscaped buffer between such parking area and such abutting lot.
- (6) Parking lots shall comply with the following:
  - (a) Min. aisle width for two-way traffic: 22 feet.
  - (b) Min. aisle width for one-way traffic: 12 feet.
  - (c) Min. centerline curve radius: 25 feet.
  - (d) Min. intersection curb corner radius: 5 feet.
  - (e) Min. grade: 1%.
  - (f) Max. grade: 5%.

- (g) Min. parking space length: 18 feet.
  - (h) Min. parking space width: 9 feet.
  - (i) Compact space length: 16 feet.
  - (j) Compact space width: 8 feet.
  - (k) Max. number of compact spaces: 20% of total parking.
- (7) Drive lanes shall comply with the following:
- (a) Min. pavement width for two-way traffic: 24 feet.
  - (b) Min. pavement width for one-way traffic: 14 feet.
  - (c) Min. centerline curve radius: 100 feet.
  - (d) Min. tangent between reverse curves: 100 feet.
  - (e) Min. intersection curb corner radius: 15 feet.
  - (f) Min. cross slope grade: 1.5%.
  - (g) Max. cross slope grade: 3%.
  - (h) Min. centerline profile: 1%.
  - (i) Max. centerline profile grade: 9% (4% within 25 feet of an intersection).
- (8) Any change in centerline profile grade greater than 1% shall be made with a vertical curve.

F. Storm drainage.

- (1) Storm water runoff shall comply with the Massachusetts DEP (Department of Environmental Protection) Stormwater Management Policy.
- (2) Peak flows and run-off at the boundaries of the Project shall be no higher following development than before development, for the 10 and 25 year storm events using either the SCS TR-55 or TR-20 methods. Stormwater recharge to groundwater is encouraged where practicable.
- (3) Capacity of drainage systems shall be adequate to carry all storm water run-off presently flowing through the proposed Project area, as well as to dispose of any additional run-off generated by the proposed Project up to and including the run-off from a one hundred year storm using the following methods:
  - (a) The flow from storms of up to a twenty-five year frequency and a twenty-four hour duration shall be conveyed through the storm drain system on the developed site. Storm drain piping and grate inlets shall be designed for a 25 year storm event;

- (b) Detention facilities and culverts shall be provided to accommodate all run-off, up to and including the run-off generated by the one hundred year, twenty-four hour storm. As a minimum, detention basin routing calculations shall be prepared for the ten, twenty-five and one hundred year storm events.
- (4) Drainage pipe systems shall be designed to provide self-cleaning flow velocities.
- (5) Maximum total depth of detention/retention area shall be six feet as measured from the lowest outlet point to the lowest point of the emergency overflow.
- (6) Outlet control structures shall be designed to minimize required maintenance for proper operation.
- (7) Each storm water detention/retention area shall be provided with a method of emergency overflow in the event of a storm in excess of the one hundred year frequency type.
- (8) Drainage system may discharge to an existing, adjacent Town drainage system if the Applicant can show that the Town drainage system provides sufficient excess capacity to accommodate both the existing runoff and the proposed additional runoff from the project during a twenty-five year frequency and a twenty-four hour duration storm event.
- (9) Hydraulic calculations, prepared by a registered professional engineer, shall note the specific engineering and/or computer program to be used. Hydraulic calculations shall be submitted to substantiate all design features of any proposed or existing drainage system utilized by the project. Computations for run-off shall be made in accordance with standard engineering practice. Hydraulic calculations shall include the following:
  - (a) Runoff area boundaries shown on a plan.
  - (b) Methodology used.
  - (c) Soil/land use characterization and design storm parameters.
  - (d) Soil conditions / ground water.
  - (e) Pipe size calculation.
  - (f) Detention / retention pond and outlet control calculations as applicable.
  - (g) Total suspended solid (TSS) removal rates and calculations.
  - (h) Infiltration calculations as applicable.
  - (i) Culvert analysis and calculation as applicable.

- (10) A continuous design element (i.e. railing or hedge) shall border any detention/retention basin area with interior side slopes greater than 3:1. Drainage basins shall be designed to facilitate access for maintenance vehicles and personnel.
- (11) If it is necessary to carry drainage across lots within the development, storm drainage easements shall be provided, of such width and construction as will be adequate to accommodate the volume and velocity of the run-off. However, no such easement shall be less than twenty feet (20') in width.
- (12) If a proposed drainage system will carry water across land outside the development boundaries to an approved outfall, appropriate drainage rights shall be secured by the applicant at the applicant's expense, and shall be referenced on the 40R Plan.
- (13) Retention and detention ponds, and methods of overland flow may be used to retain, detain and treat any increased and accelerated runoff which the development may generate.
- (14) There shall be a minimum of two feet of naturally occurring soils between the detention basin bottom and the maximum annual ground water table;
- (15) Intermittent surface water courses and such as swales, forebays, detention/retention basins shall be vegetated and appropriately reinforced along the low flow channel.
- (16) The use of drainage facilities coordinated with landscaped buffers, open space and conservation areas is encouraged.
- (17) Neighboring properties shall not be negatively impacted by flooding due to excessive runoff caused by the development within the SGA.

G. Utilities - basic requirements.

- (1) Utilities shall include potable water supply, sanitary sewerage, electricity distribution, electronic communications (not to include satellite or antenna type communications) and natural gas distribution.
- (2) All utility conduits shall be installed underground. All utilities installed beneath paved surfaces shall be installed prior to the placement of subbase.
- (3) Installation: All utility lines, and/or other subsurface facilities within the street rights-of-way shall be installed prior to the placement of the roadway subbase materials. All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to, telephone and community antenna television cable.

- (a) Identification: The Applicant shall provide and install utility identification in accordance with the applicable specifications and standards of each applicable utility company providing service to the project.
- (b) If it is necessary to provide utility connections across lots within the development, utility easements shall be provided, of such width and construction as will be adequate to accommodate the required utility infrastructure. However, no such easement shall be less than twenty (20) feet in width, whether for an individual utility or accommodating two or more utility lines.
- (c) Submitted utility plans shall include the location of all utilities and include the following:
  - [1] Hydrant locations;
  - [2] Water valve and gate locations;
  - [3] Connections to water supply;
  - [4] Sanitary sewage collection, treatment and disposal system;
  - [5] Sanitary sewage pumps if applicable;

#### H. Water facilities.

- (1) The applicant shall be responsible for installing water facilities, including, but not limited to water supply, pipes, hydrants, hydrant markers, gates, valves, and all other related appurtenances. Any extension of an existing pipe and construction of new pipes requires approval from the North Reading Water Department.
- (2) Fire hydrants shall be required. Fire hydrants, with hydrant markers, shall be located not more than five hundred feet apart.
- (3) Reasonable provisions shall be made for extension of the water system and pipes to adjoining property, including installation of water gates. Appropriate easements may be required.
- (4) If the municipal water supply is available, but the minimum required flow is not available, the Applicant shall propose either (a) to extend the municipal water system or (b) provide an alternative system for providing water supply and fire protection.

#### I. Sewer.

- (1) If there is not existing adequate public or private sewage capacity available for the first Project electing to be governed by this article and the Enabling Laws, then the Applicant for such Project shall (a) commence construction of a private sewage treatment facility providing all necessary sewage treatment capacity for such Project

no later than three (3) years after the date the Town of North Reading receives the Zoning Incentive Payment provided by the Enabling Laws, and (b) complete such facility no later than March 15, 2011. Both such dates shall be subject to extension for any period during which such Project is subject to any legal or administrative appeal, and during all periods when such Applicant is actively pursuing other required permits, and during all other periods when there is other good cause for the failure to meet such dates, as determined by DHCD. To the extent that (x) the sewage flows that could be generated by full buildout of the SGA (i.e., the maximum allowable number of units in the SGA -- determined after deducting any SGA Future Open Space actually restricted for such purposes from the area of the Multi-Family Residential Subdistrict, times an assumed-average of 1.72 bedrooms per unit, times the per-bedroom sewage flow rates established by DEP) exceeds (y) the sewage treatment capacity constructed by the Applicant for the first Project, then (z) the Town of North Reading shall complete construction of a sewage treatment facility for such potential excess sewage flows no later than March 15, 2014.

- (2) Without limiting the generality of the foregoing, such sanitary sewage system or systems shall be designed to comply with applicable state DEP standards and permitting under all applicable state environmental laws and DEP regulations.

J. Electric and communication lines.

- (1) All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to telephone, television cable and computer broadband.
- (2) Electric transformers shall be constructed above ground and screened from view.

**§ 200-112. Application for plan approval.**

- A. Pre-application. Prior to the submittal of a site plan, a "Concept Plan" may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:
  - (1) Overall building envelope areas;
  - (2) Open space and natural resource areas;
  - (3) General site improvements, groupings of buildings, and proposed land uses.
- B. The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the design standards and other requirements of the SGA.



- C. Full buildout required to be shown for Plan Approval. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fees which shall be as set forth in the PAA Regulations. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.
- D. Required submittals. The application for Plan Approval shall be accompanied by the following plans and documents. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA. The required plans and documents are:
- (1) Architectural ground and/or first floor plans and major elevations of each building type proposed.
  - (2) Architectural rendering of typical building appearance that accounts for topography. **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**
  - (3) Sample of materials proposed for the construction of building facades.
  - (4) Signage master plan, to include overall design, sign locations, and size and materials of signs.
  - (5) Site layout plan, including all easements and dimensions necessary to verify compliance to design standards.
  - (6) Drainage and grading plan with construction details.
  - (7) Site utility plan with construction details and limits of work.
  - (8) Photometric calculation plan.
  - (9) Drainage calculations.

### **§ 200-113. Procedures.**

- A. PAA Regulations. The Permit Approval Authority has adopted limited, procedural rules and regulations entitled "Rules and Regulations of the North Reading Permit Approval Authority, Chapter 40R," dated February 6, 2006, as approved by the Department of Housing and Community Development (the "PAA Regulations"). Such rules and regulations are on file in the Office of the Town Clerk. Any amendment to such rules and regulations must be approved by the Department of Housing and Community Development and filed in the office of

the Town Clerk. **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**

- B. Filing. An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be delivered forthwith to the PAA by the Town Clerk.
- C. Circulation to other boards, commissions and agencies. Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Community Planning Commission, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, and other municipal officers, agencies or boards as determined by the PAA for comment, and any such board, agency, commission or officer shall provide any written comments within 30 days of its receipt of a copy of the application.
- D. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan and shall constitute a Plan Approval under this article.
- E. Peer review. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant forthwith. Peer review under this Section shall be conducted, and fees therefor shall be charged, only and strictly in compliance with Guideline II.C of the "Local 40B Review and Decision Guidelines" dated November, 2005, issued by the Massachusetts Housing Partnership. **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**
- F. Expedited hearing in certain cases. If an Applicant for a Project electing to be governed by this article and the Enabling Laws has, at any time after the date of application to DHCD for approval of this article and the Berry Center Residential SGA, obtained a Comprehensive Permit for a residential project located within the area of the SGA from the Zoning Board of Appeals of the Town of North Reading (which is also designated to be the PAA under this article), or has already undergone

substantial review of an application for a Comprehensive Permit for such a project by the Zoning Board of Appeals of the Town of North Reading, then it is the intention and goal of this article that such Applicant and such Project shall have the benefit of expedited review of the Project by the PAA for a Plan Approval under this article. The PAA and all other boards, commissions, officers and authorities of the Town of North Reading shall endeavor to waive requirements and to avoid requests which would have the effect of requiring resubmission or duplication of previously submitted information and plans. The PAA shall endeavor to avoid revisiting design, site plan and mitigation determinations already reached, and shall endeavor to issue a Plan Approval for such Project within forty-five (45) days after application therefor. In no event shall such Applicant who has elected to develop its Project under this article rather than developing pursuant to the Comprehensive Permit as such, ever be required to comply with any provisions of the Comprehensive Permit, but shall instead be governed solely by this article, the Enabling Laws and the Plan Approval. **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**

**§ 200-114. Decision.**

- A. Waivers. Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Article XX, including the design standards of § 200-111, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGA, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Article XX, or if failure to grant the requested waiver would Unduly Restrict the proposed Project . **[Amended 10-7-2013 OTM by Art. 19, approved 11-12-2013]**
- B. Plan review. An application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such plan review shall be construed and conducted as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. Accordingly, the PAA shall not unreasonably withhold, condition or delay any requested Plan Approval for an As-of-Right Project in the SGA.
- C. Plan Approval. Plan Approval shall be granted where the PAA finds that:
  - (1) The applicant has submitted the required fees and information as set forth in the Regulations; and
  - (2) The Project and site plan meet the requirements and standards set forth this Article XX, or a waiver has been granted therefrom; and
  - (3) Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

## D. Plan disapproval.

- (1) A requested Plan Approval may be disapproved, but only where the PAA reasonably finds in writing, with particularity, that:
  - (a) The applicant has not submitted the reasonably required fees and information as set forth in the Regulations; or
  - (b) The Project and site plan do not meet the reasonable requirements and standards set forth this Article XX, and a waiver cannot be granted therefrom; or
  - (c) It is not possible to adequately mitigate significant adverse project impacts on abutting properties by means of suitable conditions.

E. Form of decision. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application or notice. A copy of the decision or application or notice bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

F. Freeze during process; effectiveness and validity of final plan approval after process.

- (1) An application to the PAA for Plan Approval shall be governed by the applicable provisions of this article in effect at the time of the submission of the application or notice, while the plan or notice is being processed, during the pendency of any appeal, and for three (3) years after approval. If an application is denied, such provisions in effect at the time of the application shall continue in effect with respect to any further application filed within two (2) years after the date of the denial, except as the Applicant may otherwise choose.
- (2) A Plan Approval and any and all minor changes thereto sought by an Applicant, shall remain valid and shall run with the land indefinitely, and a Project shall be governed by the applicable provisions of this article in effect at the time of the submission of the original application or notice for such original Plan Approval (without regard to applications for minor changes) indefinitely,

provided that construction of the Project covered by such Plan Approval has commenced within the meaning of the Enabling Laws within two (2) years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be further extended as provided in a Plan Approval for a multi-phase Project. Such commencement of construction of the first phase of a Project covered by such Plan Approval within such two (2) year period, as so extended, shall constitute the timely commencement of construction of all phases of the entire Project for the purposes of this Section. The PAA may impose, but shall not be required to impose, such outside time limits for the commencement of the final phase of a phased Project as it sees fit, provided that the earliest date for such commencement of such final phase shall not be earlier than five (5) years after the Plan Approval decision is issued, as extended as provided above, nor later than fifteen (15) years after the Plan Approval decision is issued, as extended as provided above, and further provided that any failure to meet such outside time limits shall only affect the right to construct the unbuilt phase(s) and shall not affect the previously constructed phase(s) or the respective rights of the same. In the event of a casualty affecting a building or structure which itself, or the use thereof, would be nonconforming with the provisions of this article but for the grandfathering provided by this Section, such structure may be repaired, rebuilt and/or reconstructed, as necessary, provided that any such repair, rebuilding or reconstruction shall be commenced within two (2) years after the date of such casualty, and shall thereafter be diligently and continuously prosecuted to completion. Except as provided in any one or more of the preceding sentences of this paragraph, any amendment to this article shall apply to building permits applied for after the first notice of public hearing on such amendment.

- (3) The owner of a Project, or applicable portion thereof, may choose to waive the benefit of the provisions of this Section in writing.
- (4) No further Plan Approval, special permit, variance or the like shall ever be required to reconstruct a Project, or portion thereof, following any casualty.
- (5) On the other hand, any Alteration or Extension of a Project which would not conform to the then-existing provisions of this article shall require a further Plan Approval or deemed Plan Approval.
- (6) For purposes of this Section: "Alteration" means any construction resulting in a material change in the structural parts or height of, or number of stories or size of, a building or other structure, or to permit a Substantially Different Use of such building or other

structure; and "Extension" means any material increase in physical size or a Substantially Different Use.

**§ 200-115. Change in plans after approval by PAA.**

- A. Minor changes. After Plan Approval an Applicant may from time to time apply to make changes involving utility or building orientation adjustments, adjustments to parking, landscaping, massing and/or other adjustments to site details that do not materially affect the overall buildout or building envelope(s) on the Project or overall provision of open space, do not increase the number of dwelling units by more than five percent of the previously described number of housing units included in the previous Plan Approval and/ or affordability percentages or features, all of which shall be considered to be minor changes. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision issued within thirty (30) days after the Applicant has filed its application therefor, and the PAA shall provide a copy to the Applicant for filing with the Town Clerk.
- B. Major changes. Those changes not included in the preceding description of minor changes, which changes are also found by the PAA to constitute a major change because of the nature of the change in relation to the prior Plan Approval, shall be processed by the PAA as a new application for Plan Approval pursuant to this article.

**§ 200-116. General administration and enforcement.**

- A. This article shall be enforced by the Building Inspector, who may require the submission of plans, specifications and other information which he deems to be necessary to determine compliance with its provisions. No building shall be constructed, reconstructed, enlarged, altered, moved, removed or demolished as part of a Project governed by this article without obtaining a building permit. The Building Inspector shall withhold such building permit if such building or such activity included in such a Project governed by this article, would be in violation of this article. No actual use and occupancy (as opposed to construction and/or break-in period testing) of a building, a lot, or a portion of either of them shall be commenced or changed without the issuance by the Building Inspector of a certificate of compliance. The Building Inspector shall withhold such certificate of compliance unless the Building Inspector is satisfied that all work has been completed in accordance with the provisions of the applicable approved permits and of the applicable provisions of this article, and that the proposed use will be in conformity with the applicable provisions of this article. The Building Inspector shall not issue a building permit for a Project until he is reasonably satisfied that a Plan Approval has issued for the Project.

Any building permit issued by the Building Inspector shall become invalid unless the work authorized by it shall have been commenced within the meaning of the Enabling Laws within six (6) months after its issuance, which shall be automatically extended for the duration of any appeal or challenge to such building permit and which may be further extended, as allowed in writing by the Building Inspector pursuant to the State Building Code.





## ARTICLE XXI

**Affordable Housing Overlay District****[Added 4-7-2008 ATM by Art. 26, approved 6-27-2008]****§ 200-117. Purposes.**

The purposes of the Affordable Housing Overlay District are to create affordable housing opportunities in the Town of North Reading; to provide for a diverse, balanced and inclusive community, with housing for persons of all income levels as a matter of basic fairness and social responsibility; to assure that affordable housing is made available on an equal basis to all eligible households without regard to race, religion, age, sex or other class status as defined in the federal Fair Housing Act of 1968, as amended; to provide a mechanism for parcels to be used for affordable or mixed-income housing; and to assist the Town of North Reading in creating affordable housing units eligible for the Chapter 40B Subsidized Housing Inventory.

**§ 200-118. Applicability.**

This bylaw applies to any property to be placed within the Affordable Housing Overlay District and shall include the following parcels that are listed below and are shown in the North Reading Affordable Housing Overlay District Map on file in the Community Planning Department.

| <b>Area</b> | <b>Map and Parcel</b> | <b>Street Name</b> | <b>Street No.</b> |
|-------------|-----------------------|--------------------|-------------------|
| 9,418       | 08-020                | Algonquin Rd       | 25                |
| 6,484       | 08-030                | Brooksdale Rd      | 22                |
| 69,008      | 08-056                | Old Andover Rd     | 23                |
| 3,016       | 08-224                | Edgewood Ter       | 13                |
| 3,661       | 08-237                | Homestead Ter      | 14                |
| 4,621       | 08-238                | Homestead Ter      | 16                |
| 3,364       | 08-239                | Homestead Ter      | 18                |
| 13,562      | 08-240                | Homestead Ter      | 20                |
| 53,768      | 13-101                | Saint Theresa St   | 7                 |
| 11,048      | 14-088                | Patley Rd          | 9                 |
| 2,059       | 18-032                | West St            | 6                 |
| 2,052       | 18-033                | West St            | 8                 |
| 8,580       | 18-034                | West St            | 10                |
| 4,082       | 18-035                | West St            | 14                |
| 4,301       | 18-036                | West St            | 16                |
| 30,622      | 18-037                | West St            | 18                |
| 63,016      | 18-038                | West St            | 19                |
| 2,153       | 18-039                | West St            | 13                |

| <b>Area</b> | <b>Map and Parcel</b> | <b>Street Name</b> | <b>Street No.</b> |
|-------------|-----------------------|--------------------|-------------------|
| 38,477      | 18-040                | West St            | 5                 |
| 231,449     | 40-067                | Haverhill St       | 57                |
| 12,980      | 42-063                | Bliss Rd           | 21                |
| 17,255      | 43-031                | Oakdale Rd         | 44                |
| 3,590       | 43-032                | Oakdale Rd         | 46                |

Additional properties may be placed within the Affordable Housing Overlay District by amendment to the Zoning Map in accordance with the procedures set forth in M.G.L. c. 40A, Section 5 but only if the parcel, alone or in combination with one or more contiguous parcels under common ownership, meets all of the following requirements:

- A. Includes at least 10,000 square feet of contiguous upland;
- B. Has access to public water or access can be provided with development of the parcels; and
- C. Is not located in any Industrial District or the Highway Business District.

#### **§ 200-119. Effect of Affordable Housing Overlay District.**

The Affordable Housing Overlay District regulations of this article apply in addition to the underlying zoning district regulations. In case of conflict between the regulations of this article and other regulations in this bylaw, the regulations of this article shall control. Where no Affordable Housing Overlay District regulation is stated in this article, the regulations of the underlying zoning district and all other applicable provisions of this bylaw shall apply.

#### **§ 200-120. Use regulations.**

- A. The following uses shall be permitted in the Affordable Housing Overlay District:
  - (1) One-family detached dwelling.
  - (2) Two-family dwelling.
- B. The following uses require a special permit from the Community Planning Commission:
  - (1) One-family attached dwelling, up to four units per dwelling.
  - (2) Multi-family dwelling; new construction, up to eight units per dwelling.
  - (3) Municipal building reuse for multi-family housing.

#### **§ 200-121. Dimensional and density regulations.**

- A. Uses and structures in the Affordable Housing Overlay District shall comply with the following requirements:

| Use   | Minimum<br>Lot Area | Minimum<br>Lot<br>Frontage | Minimum Yards |      |      |
|---|---------------------|----------------------------|---------------|------|------|
|   | (square<br>feet)    | (feet)                     | Front         | Side | Rear |
| One-family detached dwelling                | 10,000              | 100                        | 25            | 20   | 25   |
| Two-family dwelling                         | 12,500              | 100                        | 25            | 20   | 25   |
| One-family attached dwelling                | 20,000              | 125                        | 25            | 25   | 40   |
| Multi-family dwelling (see Subsection B)    | 30,000              | 125                        | 25            | 25   | 40   |
| Municipal building reuse (see Subsection C) | ----                | ----                       | ----          | ---- | ---- |

| Use   | Maximum |           |               | Minimum    |
|---|---------|-----------|---------------|------------|
|   | Height  | Height    | Building Area | Open Space |
|   | (feet)  | (stories) | (%)           | (%)        |
| One-family detached dwelling                | 35      | 2.5       | 20%           | 40%        |
| Two-family dwelling                         | 35      | 2.5       | 25%           | 40%        |
| One-family attached dwelling                | 35      | 2.5       | 25%           | 40%        |
| Multi-family dwelling (see Subsection B)    | 35      | 2.5       | 30%           | 50%        |
| Municipal building reuse (see Subsection C) | ---     | ---       | ---           | ---        |

- B. In addition to the requirements under Subsection A above, for a one-family attached dwelling or a multi-family dwelling, maximum density shall be one unit per 5,000 square feet of lot area.
- C. For a municipal building reuse project, Subsection A shall apply except where modified by the following dimensional and density regulations:
- (1) The minimum front, side and rear yard setbacks shall be the lesser of a) the minimum setbacks in Subsection A or b) the setbacks of the existing building.

- (2) A municipal building may be altered or expanded for reuse as multi-family housing, but in no event shall an expansion project exceed 1.25 times the gross floor area of the existing building.
- (3) The minimum lot area per dwelling unit shall be 5,000 square feet.
- (4) The maximum height shall not exceed the height of the existing building, except that the Community Planning Commission may grant a special permit for one additional story above the number of stories in the existing building.

**§ 200-122. Affordable housing regulations.**

- A. An affordable housing unit shall be affordable to a low- or moderate-income household, i.e., a household with income at or below 80% of area median income (AMI), adjusted for household size, for the metropolitan area that includes the Town of North Reading, as determined by the United States Department of Housing and Urban Development (HUD).
- B. Affordable units shall meet the requirements of the Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) for inclusion on the Chapter 40B Subsidized Housing Inventory.
- C. The minimum affordable housing requirement is as follows:
  - (1) One-family detached dwelling: in a single-unit development, the one-family dwelling shall be an affordable unit. In a development of two dwellings, at least one dwelling shall be an affordable unit. In a development of three or more dwellings, at least one out of every three dwellings shall be an affordable unit.
  - (2) Two-family dwelling: at least one unit shall be an affordable unit.
  - (3) One-family detached dwelling or multi-family dwelling: at least one out of every three units shall be an affordable unit.
  - (4) At least 10% of the multi-family housing units shall be affordable in accordance with this section. The maximum affordable purchase price shall be determined in accordance with the Community Planning Commission's Rules and Regulations and LIP Guidelines in effect when the proponent applies for a building permit.
  - (5) A development that includes more than five affordable units shall provide a range of affordability, with units priced for households between 65% and 80% of AMI.
  - (6) If the requirements of this section result in a fraction of a dwelling unit, the fraction shall be rounded to the nearest whole number.
- D. Location of affordable units. The affordable units shall be dispersed throughout the site or, in the case of one-family attached or multi-family dwellings, throughout the floors and buildings, such that affordable

units are not concentrated on one part of the site or in one building or floor. This requirement shall not apply to a one-family detached dwelling.

- E. Comparable units. The affordable units shall be comparable to market-rate units in exterior building materials and finishes; overall construction quality; and energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems. The affordable units may differ from market-rate units in gross floor area, provided the bedroom mix in the affordable units is generally proportional to the bedroom mix in market-rate units.
- F. Marketing. For the affordable units, the selection of eligible purchasers or renters shall be carried out under an affirmative marketing plan approved by the Community Planning Administrator. The affirmative marketing plan shall describe how the applicant will accommodate local preference requirements, if any, established by the Town.
- G. No building permit shall be issued until a regulatory agreement or other form of affordable housing restriction has been recorded at the Registry of Deeds, executed by the applicant, the Town and DHCD, where applicable, to restrict sale, rental and occupancy of affordable housing units to low- or moderate-income households and to provide for administration, monitoring and enforcement of the agreement during the term of affordability. The regulatory agreement shall run with the land in perpetuity or for the maximum period of time allowed by law, and shall be enforceable under the provisions of G.L. c. 184, Sections 26 or 31-32.
- H. The proponent shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify the affordable units for listing on the Chapter 40B Subsidized Housing Inventory.
- I. The proponent shall be responsible for preparing a monitoring and enforcement plan acceptable to the Planning Board and providing the funds necessary for an independent monitoring agent to carry out the approved plan on behalf of the Town.
- J. A certificate of occupancy for an affordable homeownership unit shall not be issued until the proponent submits documentation that an affordable housing deed rider previously approved by the Community Planning Administrator has been executed by the proponent/seller and the affordable unit homebuyer and recorded at the Registry of Deeds.

**§ 200-123. Special permits.**

- A. The Community Planning Commission shall be the special permit granting authority for uses in the Affordable Housing Overlay District.
- B. Special permit application, review and decision procedures shall be in accordance with §§ 200-25B and 200-28 of this bylaw.

- C. The Commission's decision shall be based upon the criteria set forth in § 200-28 and the degree to which the proposed development:
- (1) Addresses the purposes of the Affordable Housing Overlay District;
  - (2) Accommodates the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets;
  - (3) Is considerate of scenic views from public ways and developed properties, given the proposed site arrangement and building design;
  - (4) Minimizes visibility of parking and service areas from public streets through site arrangement, and provides appropriate screening for such areas from abutting premises;
  - (5) Maintains domestic scale in building design through massing devices, such as breaks in wall and roof planes and through the design of architectural features;
  - (6) Provides for safe and convenient pedestrian and vehicular movement to, from and within the site, arranged so as not to disturb abutting properties; and
  - (7) Complies with the Design Standards in § 200-124.
- D. Conditions: The Commission shall impose conditions in its decision as necessary to ensure compliance with the purposes of this bylaw. Approval of a project shall be conditioned to provide that no further division of land which increases the number of lots or units or results in any alteration of the area to be set aside as open space may occur without a modification of the special permit.

**§ 200-124. Minimum design standards.**

- A. Mandatory requirements. Unless modified by special permit from the Planning Board, the following design standards shall apply to any new dwelling in the Affordable Housing Overlay District.
- (1) The front facade and main entrance of the dwelling shall face the street and must be clearly articulated through the use of architectural detailing.
  - (2) Rooflines shall be pitched or gabled.
  - (3) Except for a basement-level garage below grade under a one-family detached dwelling, any garage, carport or other accessory structure, attached or detached, shall be located at least 15 feet behind the front of the principal building facing the front property line. The Community Planning Commission may grant a special permit to waive this requirement when it is infeasible to comply

due to physical or other constraints on the lot, subject to the following:

- (a) No garage shall be located closer to the front lot line than the foremost facade of the principal building facing the front property line, and
  - (b) No garage shall occupy more than 40% of the front facade of the building.
- B. Design preferences (optional). The following design standards should be addressed for any new dwelling in the Affordable Housing Overlay District.
  - (1) The front entrance of the dwelling facing the street should be defined by at least one of the following: a porch of at least eight feet in width and depth, pent roof, roof overhang, hooded front door or similar architectural element.
  - (2) A building should incorporate architectural styles, building materials, and colors used in surrounding buildings or that are compatible with the neighborhood.
  - (3) A building greater than one story should clearly delineate the boundary between each floor of the structure through belt courses, cornice lines, or similar architectural detailing.
  - (4) There should be overhanging eaves.

**§ 200-125. Off-street parking.**

- A. The minimum required off-street parking shall be two spaces per dwelling unit, except that for a studio or one-bedroom unit, one parking space per unit shall be required; and for age-restricted units, an average of 1.5 spaces per unit.
- B. The required parking spaces may be located in an accessory garage, in a dedicated parking area on the lot, or stacked within the driveway serving the development. When the parking spaces are located outside, the area used for parking shall be graded and drained so as to prevent surface water accumulation within the parking area and to prevent surface water runoff to an adjoining property or the public way.
- C. No off-street parking space shall be located within the minimum front yard setback.
- D. There shall be a landscaped buffer of not less than four feet between any driveway and the nearest side lot line, and no paved surface areas and no off-street parking shall be permitted within the buffer zone.

**§ 200-126. Severability.**

In the event that one or more of the provisions of this article are determined to be illegal or unenforceable by a court of competent jurisdiction, then the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this article which remains in full force and effect.



## ARTICLE XXII

**Lot Slope Requirements****[Added 10-4-2010 OTM by Art. 19, approved 2-7-2011]****§ 200-127. General provisions.**

Lot/slope requirements: In the residential zoning districts the provisions of this article shall apply:

- A. Purpose: The purpose of this section is to preserve and enhance the landscape by encouraging the maximum retention of natural topographic features, such as drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations and trees; to minimize water runoff and soil-erosion problems incurred in grading of steep slopes; to encourage innovative architectural, landscaping, circulation and site design. For the purposes of this subsection, the term "natural" shall be defined as the condition of the ground surface as it exists at the time a subdivision or development is proposed including any man-made alterations such as grading, excavation or filling which may have occurred prior to the time such subdivision or development is submitted. No land intended for subdivision or development may be regraded or filled in such manner as to circumvent this section.
- B. Provisions not applicable: The provisions of this section shall not apply to building lots in a definitive subdivision plan submitted before the effective date of this section in accordance with MGL Chapter 41 in order to obtain the protections afforded by MGL c. 40A, § 6.
- C. Slope defined: The slope of land at any point, stated as a percentage, shall be defined as the change in elevation over a horizontal distance measured perpendicular to the contours divided by the distance over which the change occurs multiplied by 100. The slope of land at any point, may be stated as a ratio (2:1, 3:1, 4:1, etc.). The first number of the ratio indicates the horizontal distance and the second number indicates the vertical rise. **[Amended 10-7-2013 OTM by Art. 17, approved 11-12-2013]**
- D. Protected slopes: All natural slopes exceeding 33% (3:1) over a horizontal distance of 30 feet as measured perpendicular to the contour on a tract or parcel of land intended or proposed for subdivision or on a building lot first shown on a plan recorded or endorsed after the effective date of this section are protected and shall remain undisturbed.
- E. Slopes excluded from minimum lot area calculation: All areas with natural slopes exceeding 33% (3:1) over a horizontal distance of 30 feet as measured perpendicular to the contour on a tract or parcel of land intended or proposed for subdivision or development, or on a lot intended for building purposes shall be excluded from the calculation of the minimum lot area required for the applicable zoning district.

- F. Special permit for exemption. The Community Planning Commission may grant a special permit for exemption from the provisions of this section if, in the Commission's opinion, the proposal satisfies the purposes of § 200-127A above.
- (1) In cases where the proposal includes disturbing or creating slopes exceeding 33%, the request for special permit must be accompanied by:
    - (a) A geotechnical report prepared by a registered professional civil engineer in the Commonwealth of Massachusetts that recommends methods for slope stabilization.
    - (b) A commitment from the applicant to fund construction inspection services of a geotechnical engineer;

## ARTICLE XXIII

**Wind Energy Facilities Bylaw****[Added 10-4-2010 OTM by Art. 21, approved 2-7-2011]****§ 200-128. Purpose.**

- A. The purpose of this bylaw is to accommodate distributed wind energy conversion facilities in appropriate land-based locations, while protecting the public's health, safety and welfare and minimizing any adverse visual, safety and environmental impacts of the facilities; and to provide adequate financial reassurance for the eventual decommissioning of such facilities. In addition, this bylaw provides a permitting process for wind energy conversion facilities to ensure compliance with the provisions of the requirements and standards established herein.
- B. The provisions set forth in this bylaw shall take precedence over all other bylaws when considering applications related to the construction, operation, and/or repair of land-based wind energy facilities.

**§ 200-129. Definitions.**

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

**CLEAR AREA** — The distance from the lowest point of the blade tip to the ground.

**HEIGHT** — Height is measured from the grade at the base of the wind energy facility tower to its highest point, which shall include the tip of the rotating blade at its highest point.

**MODIFICATION** — Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

**RATED NAMEPLATE CAPACITY** — The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

**SHADOW FLICKER** — The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

**SMALL WIND ENERGY FACILITY** — A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated nameplate capacity of 60 kilowatts or less and will be used primarily for onsite consumption.

**SPECIAL PERMIT GRANTING AUTHORITY (SPGA)** — The special permit granting authority for permission to install a WEF shall be the Community Planning Commission of the Town of North Reading for this section of the Zoning Bylaw.

UTILITY SCALE WIND ENERGY FACILITY — A commercial wind energy facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

WIND ENERGY FACILITY (WEF) — A wind energy facility (WEF) is any utility scale wind energy facility, wind energy conversion system (windmill), small wind energy facility, or wind monitoring or meteorological tower (test or met tower), including all related infrastructure, equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, electrical lines and substations, and accessory structures, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy facility may consist of one or more wind turbines.

WIND MONITORING OR METEOROLOGICAL (TEST OR MET) TOWER — A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind energy facility can be expected to generate. Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

WIND TURBINE — A device that converts kinetic energy of the wind into rotational energy to drive an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

#### **§ 200-130. District regulations.**

##### **A. Use regulations.**

- (1) Special permit required: All wind energy facilities and meteorological towers shall require a building permit and may be permitted only by special permit from the Community Planning Commission provided the proposed use complies with all dimensional and special permit criteria set forth in these regulations (unless waived by the SPGA). Any subsequent modification of wind energy equipment shall be subject to review by the Building Inspector and Community Planning Administrator, provided that the Building Inspector and Community Planning Administrator shall have no authority to vary the terms of this bylaw or any special permit issued thereunder.
- (2) Zoning districts permitted: The construction of any WEF shall be permitted by special permit, as set forth above, in all zoning districts.

##### **B. Dimensional regulations.**

- (1) Type: Tilt-up towers, freestanding towers or other designs may be considered for approval by the Community Planning Commission, provided that any wind energy facility tower shall be a monopole or tubular structure (no guy wiring support). Towers may not be attached to any residence or habitable structures.
- (2) Setback:
  - (a) The base of any WEF shall be set back from any property line by not less than 120% of the proposed height of the tower if abutting residentially zoned properties and 110% of the proposed height of the tower, if abutting nonresidential zoned properties. The base of any WEF shall be set back from any road layout line no less than 120% of the height of the tower. All WEF related construction not wholly below grade, as may be required by the proposed design, shall be set back at least 20 feet from property lines, and 30 feet from road layout lines if located on, or adjacent to, residentially zoned property.
  - (b) In all other respects a WEF shall conform to the yard setbacks of the zoning district in which the subject property is located. The SPGA may reduce the required setback for a WEF if the project proponent can demonstrate that no danger would be posed to persons or property should the WEF fall or otherwise fail.
  - (c) A wind energy facility shall not be located closer to an inhabited dwelling than one and one tenth (1.1) times the total height of the facility.

#### **§ 200-131. Application.**

A special permit application for a WEF must include the following information:

- A. Pre-application conference. Prior to the submission of an application for a special permit under this regulation, the applicant is strongly encouraged to meet with the SPGA at a public meeting in an informal capacity to discuss the proposed WEF in general terms and to clarify the filing requirements.
- B. Pre-application conference filing requirements. The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed WEF. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed WEF facility, as well as its scale and overall design.
- C. General filing requirements. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.

## D. Required documents:

- (1) The project proponent shall provide the following documents:
  - (a) Original signatures are required for the applicant and all co-applicants applying for the special permit. If an agent represents the applicant or co-applicant, an original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted. All other filing requirements in the Town of North Reading Zoning Bylaw and the Town of North Reading Site Plan and Subdivision Rules and Regulations as applicable must be complied with.
  - (b) Signature, license number, and/or seal of the preparer of the plan, and of every engineer, architect, land surveyor, and soil scientist whose professional seal appears on the plan.
  - (c) Project name, description of project (including existing and proposed uses); the project location, the date the plan was prepared, each revision date with notation of what the revision was; north arrow, scale of the plan.
  - (d) Names and addresses of abutting land owners and of every holder of conservation, preservation, or agricultural restriction affecting the site or land abutting the site.
  - (e) Zoning district for the site and for abutting properties.
  - (f) Schedule of zoning requirements, such as lot area, frontage, setbacks, etc.
- (2) Location filing requirements:
  - (a) Identify the subject property by including the name of the nearest road or roads, street address, and Assessors Map and Parcel Number of subject property.
  - (b) Identify the zoning district designation for the subject parcel. Submit a copy of Town Zoning Map with parcel identified.
  - (c) A locus map at a scale of 1" = 1500' showing the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
  - (d) A map showing the other preexisting and approved WEFs in North Reading and outside of North Reading within one mile of its boundary.
- (3) Siting filing requirements. A one-inch-equals-40 feet plan prepared by a registered professional engineer in the State of Massachusetts showing the following:

- (a) Property lines for the subject property.
- (b) Property lines of all properties within 300 feet of the proposed location.
- (c) Tree cover on the subject property and all properties directly abutting the subject property, by dominant species and average height.
- (d) Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all properties adjacent to the subject property.
- (e) Proposed location of WEF, antenna, mount and equipment shelter(s).
- (f) Proposed security barrier, indicating type and extent as well as point of controlled entry.
- (g) Location of all roads, public and private, on the subject property and within 300 feet of the subject property, including driveways.
- (h) Distances, at grade, from the proposed WEF to each building on the vicinity plan.
- (i) Contours at each 2 feet AMSL for the subject property and adjacent properties within 300 feet.
- (j) All proposed changes to the subject property, including grading, vegetation removal and temporary or permanent roads and driveways.
- (k) Representations, dimensioned and to scale, of the proposed WEF, including mount antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the WEF.
- (l) Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "sight lines" subsection below.
- (m) Location of all wetlands on the subject property and within 100' of the proposed facility as approved by the Conservation Commission.
- (n) WEFs that will be connected to the power grid shall include a copy of the approval for interconnection issued by the electric utility provider. **[Amended 10-7-2013 OTM by Art. 18, approved 11-12-2013]**

- (o) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the MA State Building Code.
- (4) Sight lines and photographs as described below:
  - (a) Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the WEF. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet scale. The profiles shall show all intervening trees and buildings.
  - (b) Preexisting condition photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road and any residential building within 300 feet.
  - (c) Proposed condition photographs. Prepared by superimposing the proposed WEF on each of the preexisting condition photographs. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth. **[Amended 10-7-2013 OTM by Art. 18, approved 11-12-2013]**
  - (d) Siting elevations or views at-grade from the north, south, east and west for a 50-foot radius around the proposed WEF plus from all preexisting public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following: **[Amended 10-7-2013 OTM by Art. 18, approved 11-12-2013]**
    - [1] Antennas, mounts and equipment shelter(s), with total elevation dimensions and average ground level (AGL) of the highest point. All future proposed antennas, mounts and equipment shelters if any must be shown in order to be included in the special permit.
    - [2] Security barrier. If a security barrier is proposed and will block views of the WEF, the barrier drawing shall be cut away to show the view behind the barrier.
    - [3] Any and all structures on the subject property.
    - [4] Preexisting trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.



[5] Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours AMSL.

(5) Design filing requirements:

- (a) Equipment brochures for the proposed WEF such as manufacturer's specifications or trade journal reprints shall be provided for the WEF, antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any. Specifications shall include manufacturer, model, rotor diameter, tower height, tower type, and nameplate generation capacity, as applicable.
  - (b) Materials of the proposed WEF specified by generic type and specific treatment. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any. **[Amended 10-7-2013 OTM by Art. 18, approved 11-12-2013]**
  - (c) Colors of the proposed WEF represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
  - (d) Dimensions of the WEF specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
  - (e) Landscape plan including preexistent trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
  - (f) During the public hearing process the applicant shall schedule with the SPGA a balloon or crane test at the proposed site, at the expense of the applicant, to illustrate the height of the proposed WEF.
  - (g) If lighting on the site is required by the FAA, the applicant shall submit a manufacturer's computer generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and twenty-five (25) feet beyond property lines. The printout shall indicate the locations and types of luminaries proposed.
- (6) Noise filing requirements: The applicant shall provide a statement listing the preexisting and maximum future projected measurements of noise from the proposed WEF, measured in decibels Ldn (common logarithmic scale, accounting for greater sensitivity at night), for the following:
- (a) Preexisting or ambient: the measure of preexisting noise.

- (b) Preexisting plus proposed WEF facilities: maximum estimate of noise from the proposed WEF plus the preexisting noise environment.
  - (c) Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the requirements of this section of the Zoning Bylaw.
- (7) Federal environmental filing requirements:
  - (a) At the time of application filing, a copy of each environmental assessment (EA) required and approved by the FCC.
  - (b) The applicant shall list location, type and amount (including radiation trace elements) of any materials proposed for use within the WEF that are considered hazardous by the federal, state or local government.
- (8) Waiver. The SPGA may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a small WEF.

#### **§ 200-132. Special permit criteria.**

An applicant must comply with the below criteria in order to obtain a WEF special permit, in addition to those criteria set forth in § 200-28 of this bylaw, as those criteria may be amended from time to time:

##### **A. Design standards.**

- (1) Visual impact. The proponent shall demonstrate through project siting and proposed mitigation that the wind energy facility minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering, and lighting. All electrical conduits shall be underground. All applicants shall use measures to reduce the visual impact of WEFs to the maximum extent possible. WEFs shall use tubular towers.
- (2) Color. The color of the WEFs shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
- (3) Equipment shelters. All equipment necessary for monitoring and operation of the WEF should preferably be contained within the turbine tower. If this is infeasible, ancillary equipment may be located outside the tower, provided it is contained either within an underground vault, or enclosed within a separate structure or behind a year-round landscape or vegetated buffer.

- (4) Lighting and signage. WEFs shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure. **[Amended 10-7-2013 OTM by Art. 18, approved 11-12-2013]**
- (5) Lighting of equipment structures and any other facilities on site (except lighting required by the FAA) shall be shielded from abutting properties.
- (6) No signage allowed. No advertising signs, lettering, company insignia, advertising or graphics are allowed on any part of the WEF, including fencing and support structures.
- (7) Guy wires are prohibited.

B. Environmental standards.

- (1) Noise: Except during short term events such as high windstorms or utility outages, noise from the proposed wind turbine shall not exceed 60 dba as measured from the nearest property line. This standard must be demonstrated by the applicant through scientific analysis to the satisfaction of the SPGA.
  - (a) Upon complaint of an abutter once a WEF is in operation, the Building Inspector may require the permit holder to obtain and submit appropriate sound measurements. In the event of an appeal of the Building Inspector's decision concerning compliance with the sound requirements, the Board of Appeals may engage an engineer to review the measurements taken by the permit holder, and to take such other sound measurements as are appropriate, with the costs of such work on behalf of the Board being borne by the permit holder in the event the measurements indicate non-compliance.
- (2) Shadowing/flicker: WEFs shall be sited in a manner that does not result in shadowing or flicker impacts with a significant adverse impact on neighboring or adjacent uses. The proponent has the burden of demonstrating no such adverse impact either through siting or mitigation.
- (3) Safety standards.
  - (a) No hazardous materials or waste shall be discharged on the site of any WEF. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste;
  - (b) Climbing access to tower shall be limited by placing climbing apparatus no lower than 10 feet from the ground.
  - (c) The clear area shall be no less than 10 feet.

- (d) The wind turbine shall conform to FAA safety standards, as amended.

**§ 200-133. Maintenance and removal.**

- A. The applicant shall maintain the WEF in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and emergency medical services. The permit holder shall be responsible for the cost of maintaining the WEF and adequate access to the facility from a public way, and the cost of repairing any damage occurring as a result of operation and construction. The applicant shall submit a maintenance plan as part of its special permit application.
- B. As a condition of approval, the SPGA shall require the applicant to provide a form of surety (which shall be either a bond or escrow account) at the time of construction to cover costs of removal of the WEF. The amount of such surety shall be equal to 150% of the estimated cost of removal. As part of the special permit application the applicant shall submit a fully inclusive estimate performed by a licensed engineer of the costs associated with removal. The amount shall take into account expected price inflation over the anticipated life of the WEF.
- C. As a condition of approval, the SPGA shall require the applicant to submit a decommissioning plan outlining (1) the anticipated life of the WEF; and (2) the manner in which the WEF will be decommissioned and the site restored.
- D. A small residential use WEF may be exempted from the surety posting required in the above section at the SPGA's discretion.

**§ 200-134. Discontinuance.**

- A. At such time as the site owner or special permit holder intends to discontinue a WEF, that person shall notify the building inspector by certified U.S. Mail of the proposed date of discontinuation of operations.
- B. The WEF may be considered discontinued if it is out-of-service for a continuous 12-month period. After 12 months of inoperability, the building inspector shall issue a notice of discontinuance to the permit holder and to the owner of the site. Any duly-authorized person shall have the right, within 30 days from notice receipt date, to provide evidence to the building inspector that the WEF has not been discontinued. After review of such evidence, the building inspector shall determine if the WEF has been discontinued. Failure to timely provide such evidence shall be conclusive evidence that the wind energy facility has been discontinued. If it is determined that the WEF has not been discontinued, the building inspector shall withdraw the notice of discontinuance and notify the site owner and the permit holder of the withdrawal.

- C. Upon discontinuation of use, the permit holder and the site owner of the WEF shall cause the WEF to be removed from the site within 90 days from the date of discontinuance at their expense. This period may be extended for good cause upon request of the owner/permit holder and at the discretion of the building inspector.
- (1) "Physically remove" shall include, but not be limited to:
- (a) Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property;
  - (b) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations;
  - (c) Restoration of the location of the WEF to its natural condition, except that any landscaping, grading or below-grade foundation may remain.
- (2) If the owner/permit holder fails to remove the WEF after a final determination of discontinuance has been made, the building inspector may pursue legal action to have the WEF removed at the owner/permit holder's expense.
- D. Upon finding that a WEF has been left in disrepair or not maintained in accordance with the approved maintenance plan, the building inspector shall notify the permit holder and the site owner in writing by certified mail that the WEF must be repaired and brought up to standard. If required repairs or maintenance are not accomplished within 45 days of such notice, the WEF shall be deemed discontinued and the owner/permit holder shall remove the WEF from the site within 90 days thereafter at the owner/permit holder's expense. The aforementioned periods of time may be extended for good cause at the request of the owner/permit holder and at the discretion of the SPGA.
- E. If an owner/permit holder fails to remove a WEF in accordance with this section of this bylaw, the Town shall have the right, to the extent it is otherwise duly authorized by law, to enter the site and remove the WEF at the expense of the site owner or permit holder.

### **§ 200-135. Violation.**

It is unlawful for any person to construct, install, or operate a WEF that is not in compliance with this bylaw. WEFs installed prior to the adoption of this bylaw are exempt from this bylaw, provided that any change, extension, reconstruction, or alteration of such WEF shall be subject to this bylaw.

**§ 200-136. Penalties.**

Any person who fails to comply with any provision of this bylaw or a building permit issued pursuant to this bylaw shall be subject to enforcement and penalties as allowed by MGL c. 40A, § 7.

## ARTICLE XXIV

**Registered Marijuana Dispensaries****[Added 10-6-2014 OTM by Art. 13,<sup>36</sup> approved 1-20-2015]****§ 200-137. Purpose.**

The purpose of this article is to provide for the placement of registered marijuana dispensaries in accordance with Chapter 369 of the Acts of 2012, An Act for the Humanitarian Use of Marijuana for Medical Purposes, and 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana; to minimize the adverse impacts of registered marijuana dispensaries on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said registered marijuana dispensaries; and to regulate the siting, design, placement, security, safety, monitoring, modification, and removal of registered marijuana dispensaries.

**§ 200-138. Authority.**

The special permit granting authority is empowered to review and take action on special permit applications for registered marijuana dispensaries consistent with the procedures established in subsection § 200-143 of this article. The special permit granting authority may deny, grant, or grant with conditions all such applications.

**§ 200-139. Definitions.**

Terms used herein not defined within this article shall be as defined in 105 CMR 725.004.

**MARIJUANA** — The same substance defined as "marihuana" under MGL c. 94C, and in Chapter 107 of the Code of North Reading.

**REGISTERED MARIJUANA DISPENSARY (RMD)** — A not-for-profit entity, as defined by Massachusetts law only, registered under this article, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.

**§ 200-140. Applicability.**

- A. The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted as a registered marijuana dispensary under this Article XXIV.

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**36. Editor's Note: This article also repealed former Art. XXIV, Medical Marijuana Treatment Centers, added 6-3-2013 ATM by Art. 33, approved 9-16-2013**

- B. No registered marijuana dispensary shall be established except in compliance with the provisions of this Article XXIV.
- C. Nothing in this article shall be construed to supersede federal or state laws governing the sale and distribution of narcotic drugs.
- D. If any provision of this Article XXIV or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Article XXIV, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Article XXIV are severable.

**§ 200-141. Eligible locations.**

- A. A registered marijuana dispensary may be allowed by special permit granted by the special permit granting authority, provided it meets the requirements in this Article XXIV and is:
  - (1) Located entirely within the Industrial Office (IO) Zoning District;
  - (2) In a stand-alone, single-use building or structure;
  - (3) At least 1,000 feet from any school, park or playground.
  - (4) At least 500 feet from any residential zoning district, including the Berry Center Residential Smart Growth Overlay District; church, temple or similar place of worship; child-care facility; library; or any other facility where children commonly congregate not listed above, including but not limited to dance schools, gymnastics schools, facilities offering tutoring or school instruction, and commercial establishments that host children's parties. The distances referred to in this subsection are measured in a straight line from the nearest point of the property line of the protected uses identified above to the nearest point of the property line of the proposed registered marijuana dispensary.
- B. The commencement of one or more of the above uses (i.e., schools, child care, and the like) within 500 feet of a proposed RMD location, or the creation of a new residential zoning district within 1,000 feet of a proposed RMD location, during the review of a special permit application for an RMD (beginning on the date of submittal), following the issuance of a special permit, or following the commencement of the RMD use shall not invalidate the RMD use, the special permit issued therefor, or the authority to renew any unexpired or unrevoked special permit.
- C. A registered marijuana dispensary shall not be located in a building that contains any medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.



- D. No registered marijuana dispensary shall be located inside a building containing a dwelling unit, multifamily dwelling or any other residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck or a mobile home.

**§ 200-142. General regulations.**

- A. All registered marijuana dispensaries shall be contained within a building or structure.
- B. No registered marijuana dispensary shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
- C. The hours of operation of registered marijuana dispensaries shall be set by the special permit granting authority, but in no event shall said facilities be open for business to qualified patients and caregivers, as authorized by 105 CMR 725.000, between the hours of 8:00 p.m. and 8:00 a.m.
- D. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a registered marijuana dispensary, except for teaching and demonstration purposes as provided by 105 CMR 725.105(N)(8). The term "premises" includes all buildings, accessory structures, parking lots or parking areas, walks and/or other immediate surroundings located on the same lot/parcel as the registered marijuana dispensary.
- E. All registered marijuana dispensaries shall be ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere, and so that no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the registered marijuana dispensary or at any adjoining use or property.
- F. Registered marijuana dispensaries shall provide the North Reading Police Department, Building Commissioner and the special permit granting authority with the names, phone numbers and email addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the RMD.
- G. Drive-through windows are prohibited. All transactions with customers are to be handled internally.
- H. All publicly accessible entrances shall be visible from a public way.
- I. No person under the age of 18 shall be permitted on the premises of the registered marijuana dispensary unless he or she is accompanied by a parent or legal guardian, or unless he or she is a qualifying patient, as defined by 105 CMR 725.004.

- J. Pursuant to 105 CMR 725.105, Operational Requirements for Registered Marijuana Dispensaries, Section (P), Access to the Department, Emergency Responders, and Law Enforcement, "authorized law enforcement personnel" shall mean the North Reading Chief of Police or his designee.
- K. Signage:
- (1) All signage associated with the registered marijuana dispensary shall comply with 105 CMR 725.000 and Article XIV, Signs.
  - (2) For every publicly accessible entrance there shall be at least one sign that includes the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.
  - (3) Temporary signs, as defined in Article XIV, Signs, shall be prohibited.

**§ 200-143. Special permit requirements and procedures.**

- A. A registered marijuana dispensary shall only be allowed by special permit from the North Reading Board of Selectmen in accordance with MGL c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- B. A special permit for a registered marijuana dispensary shall be limited to one or more of the following uses that shall be prescribed by the special permit granting authority:
- (1) Cultivation of marijuana for medical use (horticulture);
  - (2) Processing and packaging of marijuana for medical use, including marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
  - (3) Retail sale or distribution of marijuana for medical use to qualifying patients.
- C. In addition to the application requirements set forth in Article IV, § 200-28, Special permits, a special permit application for a registered marijuana dispensary shall include the following:
- (1) The name and address of each owner and/or executive of the registered marijuana dispensary;
  - (2) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the registered marijuana dispensary;
  - (3) Evidence of the applicant's right to use the site for the registered marijuana dispensary, such as a deed, or lease;

- (4) If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
  - (5) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the Town and certified by the Town Assessor;
  - (6) Proposed security measures for the registered marijuana dispensary, including lighting, fencing, gates and alarms, and the like, to ensure the safety of persons and to protect the premises from theft;
  - (7) Proposed emergency procedures; policies and procedures for patient or personal caregiver home delivery; policies and procedures for the transfer, acquisition, or sale of marijuana; proposed waste disposal procedures and any waivers from the Department of Public Health regulations approved by the Department of Public Health for the registered marijuana dispensary.
  - (8) A proposed exterior sign package, which may be included as a condition of issuance of the special permit.
- D. Within seven days of receipt of an application, the special permit granting authority shall provide copies of the application and related materials to the Police Department, Fire Department, Board of Health, Community Planning Commission, Engineering Department, Conservation Commission, School Department and Building Department for comment. The special permit granting authority shall not take action on the application prior to receipt of comments from the departments, or before 35 days have passed, whichever comes first. Failure to comment within 35 days shall be deemed lack of opposition.

**§ 200-144. Mandatory findings.**

The special permit granting authority shall not issue a special permit for a registered marijuana dispensary unless it finds that:

- A. The registered marijuana dispensary is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11;
- B. The registered marijuana dispensary demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;

- C. The applicant has satisfied all of the conditions and requirements of this Article XXIV; and
- D. The registered marijuana dispensary provides adequate security for patients and staff, including in drop-off, pick-up and waiting areas.

**§ 200-145. Further criteria.**

In addition to any criteria required by 105 CMR 725.000, as such may be amended from time to time, the following criteria shall be required for issuance of a special permit under this Article XXIV: No permit shall be granted hereunder to any applicant, principal officer, agent, owner or manager of the registered marijuana dispensary who has been convicted of a felony in the Commonwealth of Massachusetts. The application shall include proof of the foregoing by sworn statement and including submission to a CORI check from the Chief of Police for each of the aforementioned individuals. The Chief of Police shall report to the special permit granting authority prior to the close of the public hearing whether or not the applicant complies with this criterion.

**§ 200-146. Special permit conditions.**

The special permit granting authority may impose conditions reasonably appropriate to improve site design, traffic flow, and public safety; protect water quality, air quality, and significant environmental resources; preserve the character of the surrounding area and otherwise serve the purpose of this article. In addition to any specific conditions applicable to the applicant's registered marijuana dispensary, the special permit granting authority may include the following conditions in any special permit granted under this bylaw:

- A. A special permit granted under this Article XXIV shall have a term limited to the duration of the applicant's ownership of the premises as a registered marijuana dispensary. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this Article XXIV.
- B. The special permit granting authority shall require the applicant to post a bond at the time of application for a building permit to cover costs for the removal of the registered marijuana dispensary in the event the Town must remove the facility. The value of the bond shall be based upon the cost to completely remove all material, plants, equipment and other paraphernalia and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the special permit granting authority with three written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the Town to complete removal and cleaning at prevailing wages.

- C. The applicant shall file a copy of any incident report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the special permit granting authority within 24 hours of creation by the registered marijuana dispensary. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
- D. The applicant shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by the Department of Public Health or the Division of Administrative Law Appeals, as applicable, regarding the registered marijuana dispensary with the Zoning Enforcement Officer and special permit granting authority within 48 hours of receipt by the registered marijuana dispensary.
- E. The special permit shall lapse upon the expiration or termination of the applicant's registration by the Department of Public Health.
- F. The permit holder shall notify the Zoning Enforcement Officer and special permit granting authority, in writing, within 48 hours of the cessation of operation of the registered marijuana dispensary or the expiration or termination of the permit holder's registration with the Department of Public Health.

**§ 200-147. Annual reporting.**

Each registered marijuana dispensary permitted under this Article XXIV shall, as a condition of its special permit, file an annual report to and appear before the special permit granting authority no later than January 31 of each year, providing a copy of all current applicable state licenses for the registered marijuana dispensary and/or its owners and/or executives, and demonstrate continued compliance with the conditions of the special permit.

**§ 200-148. Abandonment or discontinuance of use.**

- A. A special permit granted for a registered marijuana dispensary shall lapse if not exercised within one year of issuance.
- B. A registered marijuana dispensary shall be required to remove all material, plants equipment and other paraphernalia:
  - (1) Prior to surrendering its state-issued licenses or permits; or
  - (2) Within six months of ceasing operations, whichever comes first.

**§ 200-149. Site plan review.**

Registered marijuana dispensaries are subject to § 200-95, Site plan review.

**Chapter 300**  
**GENERAL PROVISIONS**

## ARTICLE I

**Acceptance of Regulations by Community Planning Commission  
[Adopted 9-5-2000]****§ 300-1. Acceptance of renumbering of regulations.**

The Rules and Regulations for Site Plan Review and the Rules and Regulations Governing the Subdivision of Land of the Town of North Reading, Massachusetts, adopted by the Community Planning Commission of the Town of North Reading, as renumbered, revised and codified by General Code Publishers Corp., and consisting of Chapter 340, Site Plan Review, and Chapter 350, Subdivision of Land, of the Code of the Town of North Reading, are hereby approved.

**§ 300-2. Continuation of existing provisions.**

The provisions of Chapter 340 and Chapter 350, insofar as they are substantively the same as those of regulations in force immediately prior to this acceptance of Chapter 340 and Chapter 350, are intended as a continuation of such regulations and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior regulation. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Community Planning Commission of the Town of North Reading, and it is the intention of said Community Planning Commission that each such provision contained in Chapter 340 and Chapter 350 of the Code is hereby reaffirmed as it appears in the Code.

**§ 300-3. Changes in previously adopted regulations.**

- A. In compiling and preparing the site plan and subdivision regulations for renumbering and revision as part of the Code, certain grammatical and other minor changes were made in said regulations. It is the intention of the Community Planning Commission that all such changes be accepted as part of the regulations as if the regulations so changed had been previously formally adopted to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this enactment. (Chapter and section number references are to the regulations as they have been renumbered and appear in the Code.)
  - (1) All references to the "Board of Appeals" are amended to read "Zoning Board of Appeals."
  - (2) All references to the "Wetland and Floodplain Protection District" or "Wetland and Floodplain Resource Protection District" are amended to read "Floodplain District."

- (3) In Chapter 340, Site Plan Review, § 340-6A is amended to change "5' from the building wall" to "two feet from the building wall" in the last sentence thereof.
- (4) In Chapter 350, Subdivision of Land:
  - (a) The definition of "certified by" in § 350-3 is amended to change the phrases "a planning board" and "a planning board (planning commission)" to read "the Community Planning Commission."
  - (b) In the definition of "subdivision" in § 350-3, Subsection B is amended to change the phrase "the town in which the land lies" to read simply "the town."
  - (c) Section 350-7F is added to read as follows: "There shall be a fee of \$50 for each requested waiver of these rules and regulations."
  - (d) Section 350-12A(3) is amended to revise the phrase "sixty-day period permitted by statute" to read "forty-five-day period permitted by statute."



**Chapter 340**  
**SITE PLAN REVIEW**

**GENERAL REFERENCES**

**Zoning — See Ch. 200.**

**Subdivision of land — See Ch. 350.**



ARTICLE I  
**General Information**

**§ 340-1. Title and purpose.**

- A. Title: Site Plan Review Regulations of the Town of North Reading.
- B. Purpose. These regulations of the Community Planning Commission of the Town of North Reading, Massachusetts, are hereby adopted for the following purposes:
- (1) Imposing regulations, prohibitions and restrictions for the promotion of health, safety, morals, convenience, aesthetics and welfare; establishing standards of performance and design; defining the powers and duties of the Community Planning Commission; describing procedures; describing penalties for violations of said regulations.
  - (2) In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of a Comprehensive Plan for the protection of the citizens of North Reading.
  - (3) The purpose of these regulations is to allow for review of all aspects of any proposal and future development of a commercial, industrial or mixed-use nature including, but not limited to, present and projected growth of the town, site planning and the relationship of the development to the surrounding environment and the community. The Community Planning Commission recognizes the interdependence of land values, aesthetics and good site planning by promoting harmonious, safe, attractive and compatible development, that is therefore considered to be in the best interest of health, safety and general welfare.

**§ 340-2. Interpretation and enforcement.**

- A. Planning Commission responsibilities.
- (1) The Community Planning Commission is charged with the responsibility of interpretation and enforcement of these regulations. Interpretation of the regulations include, but is not limited to, clarification of intention, determination of classifications of land uses not specified in these regulations and the delegation of processing procedures and requirements.
  - (2) There is hereby established the position of Site Plan Administrator who shall be the North Reading Planning Administrator and who shall act as the Community Planning Commission's authorized representative in the daily performance of these responsibilities.

- B. The enforcement of the provisions of these regulations shall be the duty of the Building Inspector or his authorized representative at the request of the Community Planning Commission.
- C. Project review fees; reimbursement to town.
- (1) When reviewing an application for, or when conducting inspections in relation to site plan review under the provisions of the North Reading Zoning Bylaws,<sup>37</sup> the Community Planning Commission may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the town lacks the necessary expertise to perform the work related to a site plan review under the provisions of the North Reading Zoning Bylaws. The Community Planning Commission may require that applicants pay a "project review fee" consisting of the reasonable costs incurred by the Community Planning Commission for the employment of outside consultants engaged by the Community Planning Commission to assist in the review of a proposed project.
  - (2) In hiring outside consultants, the Community Planning Commission may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Community Planning Commission in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Community Planning Commission's decision or regulations, or inspecting a project during construction or implementation.
  - (3) Prior to any expense being incurred, which would be chargeable to the developer, the Community Planning Commission shall provide the developer with an estimate of the expected costs. The developer shall deposit, with the town, a cash amount equal to 1/3 the total estimated cost of review and inspection of the proposal.
  - (4) Funds received by the Community Planning Commission pursuant to this section shall be deposited with the Municipal Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the discretion of the Community Planning Commission without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. These funds will be disbursed by the Community Planning Commission to the reviewing/inspecting party until expended. At that time the developer shall deposit a second amount equal to 1/3 the total estimated cost upon being so directed by the Community

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37. Editor's Note: See Ch. 200, Zoning.

Planning Commission. These funds will be disbursed as before until expended. The developer shall then deposit a third amount equal to 1/3 the total estimated cost upon being directed by the Community Planning Commission to do so. These funds will be disbursed by the Community Planning Commission as before.

- (5) Upon completion of all review and inspection services, the Community Planning Commission shall examine all records to ensure that all payments have been made. In the case of an estimate being too low the developer shall make a final deposit to the town in the amount of the shortfall. In the case of an estimate being too high the Community Planning Commission shall refund to the developer any unused funds. The failure of the developer to provide funds for all outstanding costs shall be cause for denial of the proposal. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Community Planning Commission with documentation establishing such succession in interest.
- (6) Any applicant may make an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and must be made within 20 days after the Community Planning Commission has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Community Planning Commission shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within 30 days following the filing of the appeal, the selection made by the Community Planning Commission shall stand.

### **§ 340-3. Application and fees.**

- A. Applications for site plan approvals shall be made in the office of the Community Planning Department on the proper application forms provided by the Community Planning Department.
- B. All requests for approval shall be accompanied by the following:
  - (1) Location map. A map drawn to scale, at least 8 1/2 inches by 11 inches, showing the dimensions of the property and its location within the Town of North Reading.

- (2) Vicinity ownership map. A map drawn to scale, at least 8 1/2 inches by 11 inches, showing all parcels in the vicinity adjacent to and surrounding the property described in Subsection B(1) above, within a radius of 300 feet from the exterior boundaries of the subject property. Each such parcel shall be designated by number to correspond with the abutter list described next below.
- (3) Abutter list. A list of all property owners, who are "parties in interest." Parties in interest are: the petitioner, all direct abutters, all owners of land directly opposite on any public or private way and abutters to the abutters within 300 feet of the petitioner's perimeter. This list is compiled and certified in the North Reading Assessor's office.
- (4) Legal description. An accurate description of the perimeter boundaries of the subject parcel(s).
- (5) Letter of explanation. A letter explaining the nature and intent of the proposed development and reasons justifying the request. References to effects produced by the request upon surrounding neighborhoods and the town at large should be included.
- (6) Additional materials. Extra development plans, elevations, traffic impact analyses, environmental impact analyses, hazardous waste studies or any other supporting documentation the Community Planning Commission deems necessary for the purposes of making an informed decision may be required by the Community Planning Commission. Any such materials shall be procured and submitted prior to the Community Planning Commission's final decision. All costs related to any additional submittal material shall be borne by the applicant.
- (7) Seven sets of plans to include:
  - (a) Complete development plans (1:40 scale).
  - (b) Architectural elevations (front, rear, both sides).
  - (c) Landscape/drainage plans.
  - (d) Details of all signage.
- (8) Fee. Cash or check payable to the Town of North Reading in accordance with the fee schedule in effect at the time of this application.
- (9) Application for waiver of site plan regulation. If the applicant desires a waiver of one or more of these regulations a request for such waiver must be submitted in writing prior to the Community Planning Commission making a final decision. Any request for waiver not so submitted will not be considered.

ARTICLE II  
**General Regulations**

**§ 340-4. Introduction.**

- A. All developments must fully conform to the requirements of the North Reading Zoning Bylaw<sup>38</sup> in effect at the time of the application submittal. If this is not the case, the applicant must receive appropriate relief from the North Reading Zoning Board of Appeals prior to submitting an application to the Community Planning Commission. The Community Planning Commission shall not approve, in any way, any nonconforming use which has not received the appropriate relief.
- B. All new developments or expansions of existing developments of a commercial, industrial or mixed-use nature must receive site plan approval from the Community Planning Commission prior to the issuance of a building permit for such activity. Likewise, prior to the issuance of a certificate of occupancy, as-built drawings must be submitted and all conditions of the site plan approval must be met.
- C. Prior to the Community Planning Commission granting approval of a site plan, all other Town of North Reading regulatory boards or commissions must have either approved the areas of the plan under their jurisdiction or notified the Community Planning Commission within 30 days of receipt that the plan need not appear before them. For the purposes of this regulation the following boards and commissions shall receive copies of proposed plans: Conservation Commission, Board of Health and the Zoning Board of Appeals. Additionally, the following town departments shall receive copies of proposed plans and respond with requirements or suggestions within 30 days of receipt: Planning, Public Works/Engineering, Fire, Police, School and Building Inspector. The Community Planning Commission will not grant final approval of a site plan that has not completed the above requirements.
- D. All developments must connect to Town of North Reading municipal water and sewer systems if available within 1,000 feet.

**§ 340-5. Classification of uses.**

- A. For the purposes of these regulations, uses shall be defined as follows:
  - (1) Commercial: retailing and services supplying daily needs of the community, entertainment facilities, professional and general offices, restaurants or any use which is similar and not more detrimental than those listed as determined by the Planning Administrator.

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**38. Editor's Note: See Ch. 200, Zoning.**

- (2) Industrial: research facilities, assembling and manufacturing, warehousing, wholesaling, trucking, storage or any use which is similar as determined by the Planning Administrator.
  - (3) Mixed use. A combination of two or more of the above uses, or one or more of the above uses in combination with residential units.
- B. The Planning Administrator/Building Inspector may reference the Standard Industrial Classification Manual when making a determination regarding land use for the purposes of these regulations.

**§ 340-6. General regulations.**

- A. Separation of buildings. In the event that a lot is to be occupied by a group of two or more related buildings, the minimum open space or court between all such buildings shall be in accordance with § 200-65A of the Zoning Bylaw. [NOTE: Projections (i.e., balconies, overhangs or other similar architectural features) into the minimum open space or courtyard shall be limited to two feet from the building wall.] **[Amended 9-5-2000]**
- B. Accessory buildings. Accessory buildings shall conform to all regulations of the district wherein they exist and shall conform to the following:
- (1) All detached accessory buildings shall be placed in the rear half of the lot.
  - (2) On a through lot the accessory building(s) shall not be located closer to the rear property line than the distance required for front yard setback.
  - (3) On a corner lot the accessory buildings shall not be located closer to the street side property line than that required for the main building.
  - (4) No accessory buildings shall occupy more than 25% of the area lying between the rear of the main building and the rear property line.
- C. Building design.
- (1) No part of any ordinary projections of window sills, belt courses, cornices, chimneys, eaves and other architectural features shall be closer than 10 feet to any property line of the lot upon which such structure is erected.
  - (2) Any and all mechanical equipment ancillary to the use or function of a building and/or structure, including, but not limited to, heating/cooling equipment, electrical equipment, pool pumps and filter, satellite dishes and antennas, solar heating/cooling devices, shall be restricted from use in the front and street side yards.



- (3) All uses regulated by these terms are restricted to closed buildings, except for pass-through windows where specifically permitted.
- (4) Design of the primary building(s) and the site shall be compatible with the type of development in or anticipated in the nearby areas. The anticipated development of an area is shown on the future land use map in the Master Plan.
- (5) Overhead bay doors shall not front on or be visible from any public street.
- (6) All building elevations, floor plans or other displays designed to display the architectural features must bear the stamp of a registered licensed professional architect.
- (7) Roof-mounted mechanical equipment shall be screened by parapet walls or other screening devices to be no lower in height than six inches below the height of the mechanical equipment on side, front, or rear walls, whichever are adjacent to public streets or residential districts.

D. Site design.

- (1) A site plan submittal must contain the following:
  - (a) Stamp of a registered licensed professional surveyor;
  - (b) All perimeter boundaries and controls;
  - (c) Bearings and distances;
  - (d) North arrow;
  - (e) Locus map;
  - (f) Date, scale, legend and title;
  - (g) Signature block;
  - (h) All existing and proposed buildings, their dimensions and distances from lot lines, as well as each other;
  - (i) All existing and proposed streets, ways, easements or any other public area;
  - (j) Locations and widths of all streets and driveways within 200 feet of the subject parcel;
  - (k) Topography (existing and proposed) with two-foot contours;
  - (l) Complete profiles of all streets and parking areas;
  - (m) Landscaping, drainage and exterior lighting plans;
  - (n) Drainage calculations; zero rate of runoff as in Subdivision Rules and Regulations § 350-13B(2)(o);

- (o) All filing fees;
  - (p) Zoning district boundaries;
  - (q) Floodplain and wetlands boundaries.
- (2) Outdoor storage of materials and supplies and outdoor displays shall be fully screened from view by a wall or fence a minimum of six feet in height with a fastenable gate which must be closed during nonworking hours.
  - (3) All trash receptacles (i.e., dumpsters, compactors, etc.) must be placed on a concrete pad and fully screened from view by a wall or fence a minimum of six feet in height and which has a fastenable gate at its front. The location of all trash receptacles must be approved by the Department of Public Works, the Fire Department, the Board of Health and the Building Inspector.
  - (4) All parking lots, driveway, road, drainage and utility calculations and/or specifications must be stamped by a registered licensed professional engineer and approved by the North Reading Town Engineer.
  - (5) All areas designated as parking areas shall be paved. Material composition and profiles must be approved by the North Reading Town Engineer.
  - (6) Vehicles and other obstructions may not be parked on any corner lot within the triangular area formed by the curb lines and a line connecting them at points 30 feet from the intersection of the street lines.
  - (7) Landscaping requirements:
    - (a) Landscaping may include trees, shrubs, ground cover, vines, walkways, ponds, fountains, sculpture and other organic and inorganic materials used for creating an attractive appearance.
    - (b) Standards of design and development
      - [1] Each parcel to be developed shall be required to provide landscaped areas, on site, equal to the following minimum amounts:
        - [a] Ten percent of the total footprint of buildings located on the property, in all industrial districts.
        - [b] Ten percent of the net site area of the property, in all other districts.
        - [c] Landscaping in street rights-of-way shall be required in addition to the minimum on-site requirements in Subsection D(7)(b)[1][a] and [b] above.

- [2] Landscaping shall be established along the street frontages in the area lying between the public sidewalk and any buildings, parking areas, loading areas, or actual storage areas on the property except for necessary driveways.
- [3] Provision shall be made for water service to all landscaped areas requiring water.
- (c) Street trees shall be required along all arterial streets.
  - [1] Street trees shall be a minimum of 12 feet in height and be two inches in caliper measured at four feet above the ground.
  - [2] Street trees shall be planted in the amount of one tree for every 30 feet of lineal arterial street frontage.
  - [3] Trees (maple, cedar, oak or other approved screening trees) 15 feet on center shall be planted along any property lines of parcels developed for commercial, industrial or mixed uses which are adjacent to or separated only by an alley or road from a residential development or district.
- (d) Required front and street side yards shall be entirely landscaped, except for necessary driveways.
- (e) No landscaping materials greater than two feet in height may be installed on any corner lot within the triangular area formed by the curblines and a line connecting them at points 30 feet from the intersection of the street lines.
- (f) Maintenance.
  - [1] Landscaped areas shall be reasonably maintained by the owner or the lessee of the property as to pruning, trimming, watering or other requirements to create an attractive appearance for the development.
  - [2] Any plant materials not surviving shall be replaced within 30 days of their demise.
- (g) Parking areas shall be screened from street view to a minimum height of three feet above the highest finished grade of the parking area.
  - [1] Lots shall be screened by the use of walls, berms, landscaping, fences or any combination of the four. Such screening may be supplemented by up to 25% intermittent landscaping. All loading, delivery and service bays shall be screened from street view by a wood, brick, slump block or masonry fence or wall.

(h) Walls and screening devices.

[1] Definitions.

- [a] "Walls or fences" are any structure intended for the use of confinement, prevention of intrusion, boundary identification or screening of an activity.
- [b] "Screening devices" are any structures installed to conceal areas used for refuse, mechanical equipment, parking, service/loading bays or lanes, multifamily habitation, and commercial or industrial activities, from adjacent residential districts and from street views.
- [c] Height of screening devices shall be measured from the highest finished adjacent grade of the element to be screened.
- [d] Height of walls and fences in all districts shall be measured from the lowest of the two grades adjacent to the wall or fence; except when the wall or fence is adjacent to an alley or street right-of-way which has a higher grade than that on the adjacent site. For such situations, the height of the fence or wall shall be measured from the top of the curb or top of crown of road or alley where no curb exists.
- [e] All outdoor lighting shall be directed down and screened away from adjacent properties and streets.

ARTICLE III  
**Main Street Overlay Districts**

**§ 340-7. Design goals.**

- A. It is the goal of the Town of North Reading to preserve the rural, small-town character of our community. The following design and development standards have been adopted for the purpose of assisting applicants for building, zoning or planning approval to understand our goals.
- B. We wish to preserve the blossom of springtime, the green landscape of summer, the changing colors of fall, the snowy cover of wintertime, and the celestial display of nighttime. We also want to retain the distinctive quality of regional New England design, the natural form of the land, our habitat, and the ability to travel by auto, bike or foot.
- C. The architecture of New England is defined by steep gable rooflines and natural building materials. Each new building should have a clearly articulated heritage which builds on the historic forms. This does not mean that all buildings must be in a historic style. Innovative design is encouraged when it is developed in a manner which is compatible with the design goals.
- D. All construction activity within any Main Street Overlay District shall be subject to site plan review and approval by the Community Planning Commission.

**§ 340-8. Building design.**

- A. Primary articulated facade to face Main Street.
- B. At least one primary entry visible from Main Street.
- C. Unglazed concrete block, plywood, plywood siding, plastic siding and other industrial materials are not to be used on structures or construction which is visible from the road or adjacent properties. Vinyl and aluminum siding should only be used in applications which replicate historic building materials including use of window trim, corner boards and cornices. Asphalt shingles should be of architectural design.
- D. Designs should not include long stretches of unrelieved roof or wall.
- E. Follow the requirements of each design district.

**§ 340-9. Site planning.**

- A. Site design.
  - (1) At least 25% of street frontage is to be faced by a building or a green space (which is a minimum of 25 feet in depth) beyond which paving is not visible.

- (2) Plan for snow removal.
- (3) Provide appropriate areas for special events and holiday decorating.
- (4) Site buildings to take advantage of existing topography. No change of grade at property line is allowed. Retaining walls are not to exceed three feet in height; retaining walls to be separated by a minimum of 20 feet. All retaining walls over 18 inches in height must have a stone facing.

B. Pedestrian and bicycle access.

- (1) A walkway from the existing or future public sidewalk to each business's public entrance is to be provided.
- (2) Properties with multiple entries are to include a sidewalk within 25 feet of the front of the building to connect each entry with other property entrances and with the public walk.
- (3) Parking for bikes, one for every 20 auto parking spaces, is to be provided.
- (4) Provide bike access to the site by providing connections to existing or future paths and secondary (or service) roads.

C. Lighting standards.

- (1) Require shielding of all fixtures over 50 watts incandescent or four watts of other light source to limit light pollution.
- (2) Restrict intensity of parking area lighting to a maximum of two to four footcandles at grade.
- (3) Limit height of light fixtures to 12 feet.

**§ 340-10. Landscape design.**

A. Trees.

- (1) Provide a preservation plan for trees with six inches or greater trunk diameter. Plan must show all such trees. Where there is a compelling reason for removing large trees, mitigation must be proposed.
- (2) Shade trees of the type described in the overlay district guidelines are to be planted at an average of 30 feet on center along streets.

B. Green space.

- (1) Provide a minimum five-foot planting area around 60% of the perimeter of the building.
- (2) Five percent of the site is to be landscaped green space at the roadway (in front of any building and parking).

- (3) A minimum of 50% of the site is to be landscaped green space. Green space can be reduced to 20% of site if a permanent easement across the property has been provided for a pedestrian/bikeway and the site plan provides for automobile access and bike/pedestrian access to adjacent properties.
- (4) Retain undisturbed habitat or restore native plants on at least 10% of all sites. This will facilitate retention of songbirds, butterflies, and other wildlife as well as native plants which are considered part of the amenity of living in a rural area.
- (5) Fencing or a stone wall with landscape conforming to the overlay district's standard is to be provided between any parking and the street.

C. Fencing and walls.

- (1) Chain link fence and concrete block walls are not allowed.
- (2) Buffers between residential and commercial uses are required. A stone or brick wall six feet in height with gates is to be provided whenever there is construction or parking within 50 feet of the property line. All buffers are to include evergreen trees planted at a minimum of 15 feet on center and staggered deciduous trees at the same spacing. Buffers which do not include a wall or fence are to include plantings which will block a minimum of 80% of the view between grade and eight feet in height.

D. Signs.

- (1) The maximum height of freestanding signs is 25 feet.
- (2) Street addresses are to be included on all freestanding signs.
- (3) Wall signs are required to follow building design.
- (4) A Master Signage Plan is to be provided for all multi-tenant buildings.
- (5) Bright or primary colors, are limited to one per property, to be used as part of a comprehensive color scheme which includes subdued tones and which complements surrounding architecture; use of day-glow colors is prohibited.

**§ 340-11. Enumeration of districts and specifications.**

- A. Lowell Corner. The design goal of this district is to preserve the suburban/rural character of the historic residential and public buildings of the community. Buildings should be of a residential scale and include proportions, materials, colors and forms of traditional architecture in the area. Landscaping should be prominent and include lawns, specimen trees, shrubs and flowering plants. Paving should be minimized and heavily screened.

- (1) Building form: sloped roof (minimum 1:2 rises), maximum forty-foot-by-eighty-foot building segments, double-hung windows and porches are appropriate; as are cupolas, arbors, and weather vanes.
  - (2) Preferred materials: clapboard, shingle, or brick siding with slate or architectural shingles.
  - (3) Colors: white siding with dark green, red or other appropriate accents.
  - (4) Fencing: stone wall or picket fencing
- B. North Crossing. The design goal of this district is to reflect the traditional small town centers of the region. Buildings should be retail in character and include prominent display windows on all primary facades. The proportions, materials, colors and forms of traditional downtown architecture in the region should be utilized. Landscape should include street trees and planters.
- (1) Building form: sloped roof (minimum 1:2 rises) or an articulated cornice on buildings of two or more stories, maximum sixty-foot-by-one-hundred-foot building segments.
  - (2) Preferred materials: brick, stone, steel, and glass, or plaster.
  - (3) Colors: earth tones and deep colonial colors with contrasting accents.
  - (4) Fencing: stone walls or cast iron.
- C. Park and Trail Crossing. The design goal of this district is to reflect the historic character of North Reading established in the commercial areas surrounding the Town Common. Buildings should be institutional or retail in character with prominent first-floor display windows.
- (1) Building form: sloped roof (minimum 1:2) or an articulated cornice on buildings of over two stories. Storefronts to include 70% glass on primary elevations. Maximum sixty-foot-by-one-hundred-foot building segments.
  - (2) Preferred materials: clapboard, shingles, brick and stone siding. Roofs of slate, architectural shingles or standing seam painted metal.
  - (3) Colors: white or light-colored siding with dark green, red or other appropriate accents.
  - (4) Fencing: detailed white picket or finished stone walls.
- D. Country Road. The design goal of this district is to preserve the rural character of the community. Buildings should be of a residential/agricultural scale and include proportions, materials, color and forms of traditional rural architecture in the area. Landscape should be natural



or agricultural in appearance consisting predominantly of undisturbed vegetation, native plants, and/or large-scale naturalized plantings. Paving should be minimized and heavily screened.

- (1) Building form: sloped roof (minimum 1:2 rises), maximum forty-foot-by-eighty-foot building segment, double-hung windows and porches are appropriate; as are cupolas and weather vanes. The extended New England farm house is a possible visual image as is a roadside inn or barn.
- (2) Preferred materials: clapboard, shingle, brick, barn siding with slate or architectural shingles.
- (3) Color: barn red, forest green, and similar deep colonial colors with contrasting accents.
- (4) Fencing: split rail, board and post, or field stone.

**Chapter 350**  
**SUBDIVISION OF LAND**

**GENERAL REFERENCES**

**Zoning — See Ch. 200.**

**Site plan review — See Ch. 340.**

ARTICLE I  
**Purpose and Authority**

**§ 350-1. Purpose.**

- A. These subdivision regulations are adopted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of North Reading by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and, in proper cases, parks and open areas. The powers of the Community Planning Commission and of the Zoning Board of Appeals under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger of life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable Zoning Bylaws;<sup>39</sup> for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police and other similar municipal equipment, and streetlighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the town and with the ways in neighboring subdivisions.
- B. It is the intent of the Subdivision Control Law (under which these regulations are adopted) that any subdivision plan filed with the Community Planning Commission shall receive the approval of such Commission if said plan conforms to the recommendation of the Board of Health and to the reasonable rules and regulations of the Community Planning Commission pertaining to subdivisions of land; provided, however, that such Commission may, when appropriate, waive, as provided for in Section 81-R, such portions of the rules and regulations as is deemed advisable (Section 81-M of Chapter 41, G.L.).

**§ 350-2. Authority; effective date.**

Under the authority vested in the Community Planning Commission of the Town of North Reading by Section 81-Q of Chapter 41 of the General Laws, said Commission hereby adopts these amended "Rules and Regulations Governing the Subdivision of Land in the Town of North Reading." These regulations shall be effective on and after March 20, 1973.

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**39. Editor's Note: See Ch. 200, Zoning.**



ARTICLE II  
**General Provisions**

**§ 350-3. Definitions.**

APPLICANT — A person (as hereinafter defined) who applies for the approval of a plan of a subdivision or a person who applies under § 350-4. "Applicant" shall include an owner or his agent or representative or his assigns.

BASE FLOOD (100-YEAR FLOOD) — The flood having a one-percent chance of being equaled or exceeded in any given year.**[Added 2-28-1980]**

CERTIFIED BY — "Certified by" (or endorsed by) the Community Planning Commission, as applied to a plan or other instrument required or authorized by the Subdivision Control Law to be recorded, shall mean bearing a certification or endorsement signed by a majority of the members of the Community Planning Commission, or by its Chairman or Clerk or any other person authorized by it to certify or endorse its approval or other action and named in a written statement to the Register of Deeds and recorder of the Land Court signed by a majority of the Commission (Section 81-L of Chapter 41 of the General Laws).**[Amended 9-5-2000]**

COMMISSION or COMMUNITY PLANNING COMMISSION — "Community Planning Commission" shall mean a planning board established under Section 81-A.

COMMUNITY PLANNING COMMISSION AGENT — Town employee or consultant authorized by the Community Planning Commission to review subdivisions and administer regulations.

DEVELOPER — A person (as hereinafter defined) who develops a subdivision under a plan of a subdivision approved under Article III of these rules and regulations.

GENERAL LAWS (abbreviated G.L.) — The General Laws of Massachusetts. In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections in the new codifications.

LOT — An area of land in one ownership, with definite boundaries and used, or available for use, as the site of one or more buildings.

LOT FRONTAGE — The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line. Frontage for purposes of these rules and regulations shall be only continuous frontage.

LOT LINE, FRONT — The property line dividing a lot from a street right-of-way.

LOT LINE, REAR — The lot line opposite from a front lot line and which does not intersect a front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

MUNICIPAL SERVICES — Sewers, water drains, water pipes, gas pipes, electrical lines, telephone lines, communication lines and their respective appurtenances.

OWNER — As applied to real estate, the person holding the fee simple title to a parcel, tract, or lot of land.

PERSON — An individual, or two or more individuals or a group or association of individuals, a trust, a partnership or corporation, having common or undivided interests in a tract of land.

PLAN or DEFINITIVE PLAN — The plan of a subdivision as submitted (with appropriate application) to the Commission for approval, to be recorded in the Registry of Deeds or filed with the Land Court when approved by the Commission and such plan when approved and recorded; all as distinguished from a preliminary plan.

PRELIMINARY PLAN — A plan of a proposed subdivision or resubdivision of land prepared in accord with Article III to facilitate proper preparation of a definitive plan.

RECORDED — "Recorded" shall mean recorded in the Registry of Deeds of Middlesex County in which the land in question is situated, except that, as affecting registered land, it shall mean filed with the recorder of the Land Court (Section 81-L of Chapter 41 of the General Laws).

REGISTERED LAND SURVEYOR (RLS) — A person who is certified by the Massachusetts Board of Registration as a registered land surveyor. All plans bearing the stamp of a registered land surveyor shall have been prepared by him or in his office under his immediate and responsible supervision. All plans, specifications, plats and reports stamped with the seal of either a registered professional engineer or a registered land surveyor shall be signed by the registrant named thereon.**[Added 7-16-1984]**

REGISTERED PROFESSIONAL ENGINEER (RPE) — A civil engineer whose discipline is normally and customarily associated with subdivision development and who is certified by the Massachusetts Board of Registration as a registered professional engineer. All plans bearing the stamp of a registered professional engineer shall have been prepared by him or in his office under his immediate and responsible supervision.**[Added 7-16-1984]**

REGISTRY OF DEEDS — "Registry of Deeds" shall mean the Registry of Deeds of Middlesex County in which the land in question is situated, and, when appropriate, shall include the Land Court (Section 81-L of Chapter 41 of the General Laws).

ROADWAY — That portion of a way which is designed and constructed for vehicular travel.

STREET, PRINCIPAL — A street which, in the opinion of the Commission, is being used or will be used as thoroughfare within the Town of North Reading or which will otherwise carry a heavy volume of traffic.

STREET, SECONDARY — A street which, in the opinion of the Commission, is being used or will be used primarily to provide access to abutting lots and which will not be used for through traffic.

SUBDIVISION —

- A. "Subdivision" shall mean the division of a tract of land into two or more lots and shall include a resubdivision and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law, if, at the time when it is made, every lot within the tract so divided has a frontage on (a) a public way, (b) a way shown on a plan theretofore approved in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the town, having, in the opinion of the Community Planning Commission, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by Zoning<sup>40</sup> or other bylaw. **[Amended 3-31-1987]**
- B. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the town into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision (Section 81-L of Chapter 41 of the General Laws). **[Amended 9-5-2000]**

SUBDIVISION CONTROL — The power of regulating the subdivision of land granted by the Subdivision Control Law, Chapter 41, Sections 81-K through 81-GG inclusive, as hereinafter amended.

SUBMITTED PLAN — A plan shall be officially submitted to the Community Planning Commission as of the date said plan and forms necessary under these rules and regulations are duly filed with the Clerk or Secretary of the Commission at a regularly scheduled business meeting of the Commission and the fact of such submission is entered in the minutes of the meeting. Such plan shall nevertheless be considered duly submitted even though not entered in the minutes of the meeting if otherwise properly submitted and such failure of entry into the minutes is due to the inadvertence or unwarranted refusal of the Clerk or Secretary to make such entry. Such plan and forms may also be submitted by registered mail to the Community Planning Commission, care of the Town Clerk. If so mailed, the date of mailing shall be the date of submission of the plan.

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**40. Editor's Note: See Ch. 200, Zoning.**

TOWN — Town of North Reading, unless otherwise specified.

**§ 350-4. Approved plan required.**

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the town or proceed with the improvement for sale of lots in a subdivision, or the construction of ways, or preparation therefor or the installation of utilities and municipal services thereof, unless and until a definitive plan of such subdivision has been submitted and approved by the Community Planning Commission as hereinafter provided.

**§ 350-5. Source of information required.**

In those cases in which the land shown on the plan is abutted by land of an owner not the owner of the land as shown, the Commission may require a statement from the person who prepared the plan as to the source or sources of the information about the location of boundaries. A separate form for such statement will be furnished by the Commission (Form D, Designer's Certificate).

**§ 350-6. More than one building for dwelling purposes on a lot.**

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lots in a subdivision, or elsewhere in the town, without the consent of the Community Planning Commission. Such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision.

**§ 350-7. Fees.**

- A. Every application for approval of a definitive subdivision plan shall be accompanied by a nonrefundable fee payable to the Town of North Reading in the amount of \$500, regardless of size, plus \$5.50 per lineal foot of roadway, including all cul-de-sacs, measured along the center line of the road. **[Amended 2-28-1980; 11-19-1985; 8-8-1989]**
- B. Every application for a preliminary plan shall be accompanied by a nonrefundable fee payable to the Town of North Reading in the amount of \$250 plus \$75 for each lot. **[Amended 2-28-1980; 11-19-1985]**
- C. Every application for an "approval not required" plan shall be accompanied by an application fee of \$100. **[Amended 11-19-1985]**
- D. All expenses for advertising, recording and filing of documents shall be borne by the applicant.
- E. There shall be a fee of \$1,000 for any requests for bond extensions. **[Added 8-8-1989]**



- F. There shall be a fee of \$50 for each requested waiver of these rules and regulations. **[Added 9-5-2000]**

**§ 350-8. Application by a corporation.**

A vote from the clerk of the corporation shall accompany submission of definitive subdivision plans certifying authorization of individual(s) to act for the corporation.

**§ 350-9. Ownership of property.**

A copy of the deed(s) of property shall accompany submission of definitive subdivision plans.

**§ 350-10. Project review fees; reimbursement to town. [Added 9-3-1991]**

- A. When reviewing an application for, or when conducting inspections in relation to, a preliminary subdivision, a definitive subdivision, or a special permit under the provisions of the North Reading Zoning Bylaws,<sup>41</sup> the Community Planning Commission may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the town lacks the necessary expertise to perform the work related to a preliminary subdivision, a definitive subdivision, or a special permit under the provisions of the North Reading Zoning Bylaws. The Community Planning Commission may require that applicants pay a "project review fee" consisting of the reasonable costs incurred by the Community Planning Commission for the employment of outside consultants engaged by the Community Planning Commission to assist in the review of a proposed project.
- B. In hiring outside consultants, the Community Planning Commission may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Community Planning Commission in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Community Planning Commission's decision or regulations, or inspecting a project during construction or implementation.
- C. Prior to any expense being incurred, which would be chargeable to the developer, the Community Planning Commission shall provide the developer with an estimate of the expected costs. The developer shall deposit, with the town, a cash amount equal to 1/3 the total estimated cost of review and inspection of the proposal.

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**41. Editor's Note: See Ch. 200, Zoning.**

- D. Funds received by the Community Planning Commission pursuant to this section shall be deposited with the Municipal Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the discretion of the Community Planning Commission without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. These funds will be disbursed by the Community Planning Commission to the reviewing/inspecting party until expended. At that time the developer shall deposit a second amount equal to 1/3 the total estimated cost upon being so directed by the Community Planning Commission. These funds will be disbursed as before until expended. The developer shall then deposit a third amount equal to 1/3 the total estimated cost upon being directed by the Community Planning Commission to do so. These funds will be disbursed by the Community Planning Commission as before.
- E. Upon completion of all review and inspection services, the Community Planning Commission shall examine all records to ensure that all payments have been made. In the case of an estimate being too low, the developer shall make a final deposit to the town in the amount of the shortfall. In the case of an estimate being too high, the Community Planning Commission shall refund to the developer any unused funds. The failure of the developer to provide funds for all outstanding costs shall be cause for denial of the proposal. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Community Planning Commission with documentation establishing such succession in interest.
- F. Any applicant may make an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and must be made within 20 days after the Community Planning Commission has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Community Planning Commission shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within 30 days following the filing of the appeal, the selection made by the Community Planning Commission shall stand.

## ARTICLE III

**Procedure for Submission and Approval of Plans****§ 350-11. Plan believed not to require approval. [Amended 3-31-1987]**

- A. Submission of plan. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan and eight contact prints and one copy of a properly executed Form A, to the Community Planning Commission accompanied by the necessary evidence to show that the plan does not require approval. In addition to the above eight contact prints, the applicant should provide a duplicate Mylar of the plan if the subject property is located on a way in a subdivision that has not been accepted by Town Meeting as a public way. Said person shall file by delivery or registered or certified mail a notice with the Town Clerk stating the date of submission for such determination accompanied by a copy of said application and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor. Applications shall be accompanied by a fee of \$100, payable to the Town of North Reading, and shall also include a copy of deed identifying record owner of property.
- (1) All lots shown on a plan presented to the Community Planning Commission for endorsement under this section must have reasonably feasible driveway access across the legal frontage on the street to the building site. Determination as to feasibility of access via legal frontage shall be made based on steepness of topography, presence/absence of ledge, and presence/absence of wetland or FEMA Zone A floodplain along the proposed driveway route from legal frontage to building site. The applicant shall document compliance with this access via legal frontage requirement on the plan. If compliance cannot be demonstrated, submission as a definitive plan under these rules and regulations is an alternative for the applicant.
  - (2) Said plan shall be of minimum dimensions of 8 1/2 inches by 11 inches or a maximum size not to exceed 24 inches by 36 inches and shall contain the following information:
    - (a) Identification of the plan by name and address of owner of record and location of the land in question, cross-referenced to page and parcel number of the Assessor's Maps.
    - (b) The statement "Approval Under Subdivision Control Law Not Required" and sufficient space for the date and the signatures of all five members of the Commission.

- (c) Zoning classification and location of any zoning district boundaries that may lie within the locus of the plan, including identification of the Floodplain District and the Aquifer Protection Districts.
- (d) In the case of the creation of a new lot, the remaining land area and frontage of the land in the ownership of the applicant shall be shown.
- (e) Notice of any decision of the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any buildings thereon. Said notation shall identify the date of decision, the book and page of recording, along with a brief description of the decision.
- (f) Abutters from latest available Assessor's records unless the applicant has knowledge of any changes subsequent to the latest available Assessor's records (see Form E, Certified List of Abutters).
- (g) Distance to the nearest road or to other permanent monument.
- (h) Location of all existing buildings, including setback and side and rear yard designations.
- (i) A locus plan at 1,000 feet to the inch shall be included on the plan.
- (j) Identification of all wetlands, based on a field survey, as defined in M.G.L. Chapter 131, Section 40, including all of the four subsets comprising "inland wetlands."
- (k) In the case of a limited frontage lot, the plan shall contain the following information:
  - [1] Frontage distance of each abutting lot;
  - [2] Identification of the required minimum diameter circle pursuant to § 200-67F of the Zoning Bylaw.
- (l) All property lines not abutting the applicant's property and not directly related to the lot(s) being subdivided, which may be shown on the plan, shall not be drawn as a continuous solid line but rather with broken lines. Additionally, when an existing lot line is being changed, the existing line shall be drawn with a shaded, broken line and the new lot line shall be drawn with a solid line. All existing and proposed lot lines shall be so labeled.
- (m) Certification by a registered land surveyor pursuant to the requirements of M.G.L., Chapter 112.

- B. Endorsement of plan not requiring approval. If the Community Planning Commission determines that the plan does not require approval, it shall, without a public hearing, and within 21 days of formal submission, endorse the plan.
- (1) The Community Planning Commission may add to such endorsement a statement of the reason approval is not required. The plan shall be returned to the applicant.
  - (2) Community Planning Commission endorsement of a plan under this section shall not be construed as a determination of compliance with the Zoning Bylaw<sup>42</sup> or with state and local land use regulations.
- C. Determination that plan requires approval. If the Community Planning Commission determines that the plan does require approval under the Subdivision Control Law, it shall, within 21 days of the formal submission of the plan, so inform the applicant in writing and return the plan. The Community Planning Commission shall also notify the Town Clerk in writing of its action.
- D. Failure of Commission to act. If the Community Planning Commission fails to act upon a plan submitted under this section or fails to notify the Town Clerk and the person submitting the plan of its action within 21 days after its formal submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

### **§ 350-12. Preliminary plan.**

- A. General. A preliminary plan of a subdivision may be submitted by the applicant and eight prints of it shall be filed with the Community Planning Commission, with properly executed application and the necessary fee.
- (1) The applicant shall file by delivery or registered or certified mail a notice with the Town Clerk stating the date of formal submission (submitted plan) for such approval of a preliminary plan, accompanied by a copy of a properly executed application Form B. The submission of such a preliminary plan will enable the applicant, Community Planning Commission, the Board of Health, the Public Works Department, the Police Department, the Fire Department, the agent to the Community Planning Commission and other town agencies and owners of property abutting the subdivision to discuss and clarify the details of such subdivision before a definitive plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in each case. A

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**42. Editor's Note: See Ch. 200, Zoning.**

properly executed application Form B shall be filed with the preliminary plans submitted to the Community Planning Commission.

- (2) At least 14 days prior to the first meeting scheduled to discuss the preliminary plan, the applicant shall notify all owners of property abutting the proposed subdivision that a preliminary plan has been filed. The Community Planning Commission will supply the applicant with notification form. **[Added 11-19-1980]**
  - (3) The Community Planning Commission may extend the forty-five-day period permitted by statute between submission of a preliminary plan and action thereon upon written request of the applicant. **[Amended 9-5-2000]**
  - (4) Until all required information and materials are submitted, no legal subdivision submission will have taken place and the applicant and the Town Clerk will be so notified in writing within 14 days of the date of filing. **[Added 2-21-1980]**
- B. Contents. The preliminary plan may be drawn on tracing paper with pencil at a suitable scale, preferably 40 feet to the inch. The plan shall be designated as a "preliminary plan" and shall provide sufficient information to form a clear basis for discussion of the details of the subdivision and for preparation of the definitive plan; the plan shall contain the following:
- (1) The subdivision name, if any, boundaries, North point, date, scale, legend and title "Preliminary Plan."
  - (2) The names and addresses of the record owner of the land and the subdivider and the name and address of the designer, engineer, and surveyor who made the plan, which shall appear in the lower right-hand corner.
  - (3) The names of all abutters, as determined from the last assessment, unless the applicant shall have more recent knowledge of such abutters (Form E, Certified List of Abutters).
  - (4) The existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision, in a general manner.
  - (5) Major features of the land such as existing walls, fences, monuments, buildings, wooded areas, outcroppings, ditches, swamps, water bodies and natural waterways. **[Amended 3-31-1987]**
  - (6) The proposed system of sewage disposal, water installation and of drainage, including adjacent existing natural waterways.
  - (7) The approximate boundary lines of proposed lots, with approximate areas and dimensions.

- (8) The names, approximate location and widths of adjacent streets approaching or within reasonable proximity of the subdivision.
  - (9) The topography of the land with a five-foot contour interval; or, in flat areas, of a two-foot contour interval. Water bodies and their elevations shall be shown with the date of measurement.
  - (10) The proposed names of the proposed streets and a number on each lot on each proposed street.
  - (11) The profiles of existing grades and approximate proposed finished grades of the roadway and drain and other utilities.
  - (12) Area of adjoining land and water of the applicant not presently being subdivided.
  - (13) The zoning classification of land shown on the plan, including identification of the Floodplain District and Aquifer Protection District Zones as overlays on the plan. **[Amended 3-31-1987]**
  - (14) Necessary engineering calculations to provide information to the Community Planning Commission that fire protection, vehicular traffic flow, and all other safety precautions are being provided.
  - (15) Show by shading or other methods the areas on all lots that are to be excavated or filled.
- C. Approval. During the discussion of the preliminary plan, the complete information required for the definitive plan, and the financial arrangements will be developed.
- (1) The Community Planning Commission may give such preliminary plan approval, with or without modification or suggestions, after the Commission's review of data and comments from the Board of Health, Public Works Department, Police Department, Fire Department, and the Community Planning Commission agent. Such approval does not constitute approval of the subdivision but facilitates the preparation of the definitive plan and the securing of final approval thereof. One copy of the preliminary plan will be returned to the applicant. In the event of disapproval, the Community Planning Commission shall state the reasons for its disapproval in accord with Section 81-S of Chapter 41. It shall be the applicant's responsibility to submit or obtain enough data or material to obtain meaningful comments from all parties reviewing said plan.

### **§ 350-13. Definitive plan.**

#### **A. General. [Amended 2-28-1980]**

- (1) Any person who submits a definitive plan of a subdivision (submitted plan) to the Community Planning Commission for approval shall file with the Commission the following: All items

required in Subsection A(1)(a) and (b) and Subsection B of this section and the minimum filing fee (see § 350-7) shall be submitted for a definitive plan to be "duly submitted" in accord with the General Laws of Massachusetts. Until all required information and materials are submitted, no legal submission will have taken place, and the applicant and the Town Clerk will be so notified in writing within 14 days of the date of filing.

- (a) Two original Mylar or linen drawings of the definitive plan and eight contact prints thereof, dark line on white background. One original drawing will be returned after approval or disapproval.
  - (b) A properly executed application Form C, Application for Approval of a Definitive Plan, including the time within which the applicant agrees to complete the ways and install the public utilities in the subdivision; Form D, Designer's Certificate; and Form E, Certified List of Abutters. Approval of all plans shall be upon the condition that all ways shown thereon and public utilities required by the Commission shall be completed and installed within the time so specified. The Commission may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two years of the date of approval. If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed to by the applicant or so required by the Commission, no such way shall thereafter be laid out, constructed, completed or opened for public use unless and until a new application is filed with and approved by the Commission. Ways or portions thereof not completed within two years from the date of approval by the Commission shall thereafter be completed in accordance with the then-in-force construction standards of the Community Planning Commission contained herein.
- (2) The applicant shall file by delivery or registered or certified mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed Form C, Application for Approval of Definitive Plan.

B. Contents.

- (1) The definitive plan shall be prepared by a professional engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn in black India ink upon tracing cloth. The plan shall be at a scale of one inch equals 40 feet or such other scale as the Community Planning Commission may accept to show details clearly and adequately, and shall include plans and profiles of each individual street at a scale of one inch equals 40 feet horizontal and one inch equals four feet vertical. All elevations shall refer



to the United States Coast and Geodetic Datum. Sheet sizes shall be 24 by 36 inches including a one-inch border. All plans shall be accompanied by an index sheet at a scale of one inch equals 100 feet or one inch equals 200 feet showing the entire subdivision and adjacent streets and dimensions of the lots and streets and lot numbers. This plan shall indicate the Assessor's Map and parcel number on the land in question.

- (2) The definitive plan shall contain the following information [Subsections B(2)(l) through (s) may be submitted on the same sheet as the definitive plan or on separate sheets]:
  - (a) A title, appearing in the lower right-hand corner of the plan, showing the name of the subdivision, if any, the date, scale, the names and addresses of the applicant, and the names of the designer, engineer and surveyor who made the plan, their seals and signatures.
  - (b) North arrow, benchmark, and boundaries of the subdivision.
  - (c) Location and ownership of abutting property as it appears on Form E, Certified List of Abutters, unless the applicant shall have more recent knowledge of such abutters, including all abutting land owned by the applicant not presently being subdivided. A copy of the deed of the land in question shall also be submitted.
  - (d) Major features of the land, such as existing waterways, swamp and water bodies, natural drainage courses, walls, fences, buildings, wooded areas, outcroppings and ditches which exist on or near the site at the time of survey. **[Amended 3-31-1987]**
  - (e) Lines of existing and proposed streets, ways, lots, lot numbers or other designation of each lot, easements, and public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Community Planning Commission.) If the subdivision consists of more than one section, all lot numbers shall be consecutive.
  - (f) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. This shall include the lengths and bearings of plan and boundary lines, of all subdivision lot lines including lot frontage on the streets, of the boundary lines of all streets and easements, and the length, radii, tangents and central angles of all curves in lot lines and street lines. All angle points or intersections of tangents along the street lines shall be shown. Adjoining lands of the applicant not included in the subdivision will be shown.

- (g) Location of all permanent monuments properly identified as to whether existing or proposed.
- (h) Location, names and present widths of streets, or private ways bounding, approaching or within reasonable proximity of the subdivision, showing both roadway widths and right-of-way widths.
- (i) Indication of all easements, covenants or restrictions applying to the land and their purposes, whether or not within the subdivision, including any decision on appeal or variances or exceptions made by the Zoning Board of Appeals applicable to the subdivision of the land or any buildings thereon.
- (j) If the property that comprises the subdivision or any part or boundary thereof has been examined, approved, and confirmed by the Massachusetts Land Court, such information shall be noted on the plat with case numbers and other pertinent references to Land Court procedure, and the same requirement shall apply to any adjoining parcels of land of the applicant.
- (k) Suitable space to record the action of the Community Planning Commission and the signatures of the five members of the Community Planning Commission.
- (l) Existing profiles on the exterior lines drawn in fine black line, dotted for left and dashed for right side, and proposed profile on the finished center line drawn in fine black solid line of proposed streets at a horizontal scale of one inch equals 40 feet and vertical scale of one inch equals four feet or such other scales acceptable to the Community Planning Commission. At least two benchmarks are to be shown on plans and profiles, and grade elevations at every fifty-foot station except in vertical curves which shall be at every twenty-five-foot station. All existing and proposed intersections, and sidewalks, shall be shown with all proposed grade elevations calculated. Elevations are to be referred to U.S. Coast and Geodetic Survey. Gradient shall be shown by figures expressed in percent. The plans and profiles of all proposed roadways, at their interface with existing ways, shall be sufficiently detailed to ensure proper and consistent mate-up of proposed with existing facilities such as gutterline grades, berms, sidewalks, grass strips, and off-road grading. **[Amended 3-31-1987]**
- (m) Existing and proposed topography at two-foot contour intervals and, by symbols, the highest known high water mark. There shall also be indicated by differentiating symbols the contour line four feet above said high water mark.

- [1] In a subdivision or similar proposal larger than 50 dwelling units or larger than five acres, whichever is less, the applicant shall supply base flood elevation data. **[Amended 2-28-1980]**
- [2] The topographic plans shall clearly indicate the town's Floodplain District as defined in § 200-44 of the Zoning Bylaw. The town's Aquifer Protection District shall also be identified, if applicable, as defined in § 200-38 of the Zoning Bylaw. Additionally, clearly distinguishable boundaries shall outline the following: **[Amended 7-8-1986; 3-31-1987]**
  - [a] All unnumbered A and A1-A30 flood zones as shown on the latest flood insurance rate map for the Town of North Reading prepared by the Federal Emergency Management Agency.
  - [b] The wetland boundaries as shown on the Town of North Reading Wetlands Map prepared by Habitat Institute in 1976 and filed with the Town Clerk on September 5, 1985.
  - [c] Calculated areas of the one-hundred-year flood level for postdevelopment conditions if different from that for existing conditions as identified in Subsection B(2)(m)[2][a] above.
  - [d] Actual wetland boundary, as defined in Chapter 131 and as determined by an appropriate qualified botanist, if different from that identified in Subsection B(2)(m)[2][b] above, with appropriate supporting documentation.
- (n) Size and location of existing and proposed water supply mains and their appurtenances, hydrant, sewer pipes and their appurtenances and/or sewage disposal systems, storm drains and their appurtenances, and easements pertinent thereto, and dimensions of gutters, including data on borings and percolation tests made, and method of carrying water to the nearest watercourse or easements for drainage as needed, whether or not within the subdivision. If surface water drains will discharge onto adjacent existing streets or onto adjacent properties not owned by the applicant, he shall clearly indicate what course the discharge will take, and shall present evidence to the Commission that the discharge is satisfactory and permitted by public or private ownership of adjacent street or property and does not cause any detrimental effects to public or private property. Where surface or subsurface drainage is proposed to discharge into an existing drainage system, the adequacy of existing drain system shall be evaluated for

adverse impact down to the ultimate point of discharge to a significant natural watercourse such as Martin's Pond or the Ipswich River. **[Amended 7-8-1986]**

- (o) Calculations prepared by a registered engineer to substantiate proposed drain pipes sizes. The computations shall be based on the current standard of design used by the Department of Public Works and conform with the Master Plan on Drainage. All surface runoff computations shall be formulated using the modified soil cover complex method of the Soil Conservation Service. Design storm frequencies of two, five, 10, 25, 50, and 100 years shall be evaluated for both existing and postdevelopment conditions. A zero increase in the peak rate of runoff for all storms analyzed shall be maintained by utilizing measures such as retention, detention or, preferably, by induced infiltration where soil conditions permit. Additionally, every attempt should be made to sustain existing runoff volumes by either minimizing the creation of impervious areas or by increasing postdevelopment times of concentration. Runoff volumes for each analysis conducted shall be clearly reported in the drainage calculations for Community Planning Commission consideration. **[Amended 7-8-1986]**
- (p) Proposed street trees shall be indicated on the profile sheets and shall be planted in at least 1/2 cubic yard of loam in the front grass strip at a spacing to be determined by the Community Planning Commission depending upon the tree species. A list of acceptable trees is available in the Community Planning Commission office. The developer will be responsible for ensuring survival of said trees for a period of 18 months after street acceptance. **[Amended 7-8-1986]**
- (q) Cross-sections typical of each street, roadway and sidewalk to be constructed.
- (r) Location of proposed streetlights and sidewalks.
- (s) Necessary engineering calculations to provide information to the Community Planning Commission that fire protection, vehicular traffic flow, and all other safety precautions are being provided.
- (t) In tabular form as follows for each sheet of the subdivision plan as submitted:
  - [1] The total area which is being subdivided on each sheet.
  - [2] The total number and area of lots included on each sheet.
  - [3] The total of areas dedicated for street purposes, drainage, sewer or utility easements on each sheet.

- [4] The total of areas reserved for parks, schools, and other public use on each sheet.

SUBDIVISION NAME:

SECTION NO. \_\_\_\_\_ SHEET NO. \_\_\_\_\_

1. Total area of original tract shown on this plan equals \_\_\_\_.

a. Area in lots (Nos. 1 through 6, etc.) equals \_\_\_\_.

b. Area in streets (A-B-C, etc.) equals \_\_\_\_

c. Area reserved for parks, schools, \_\_ etc., equals \_\_\_\_.

Total area of subdivision (should equal No. 1 above) \_\_\_\_.

d. Street-Station \_\_\_\_ to Station \_\_\_\_ equals \_\_\_\_.

e. Street-Station \_\_\_\_ to Station \_\_\_\_ equals \_\_\_\_.

f. Street-Station \_\_\_\_ to Station \_\_\_\_ equals \_\_\_\_.

Total area of streets (should equal "b" above) \_\_\_\_.

g. Sewer Easement:

Station \_\_\_\_ to Station \_\_\_\_ equals \_\_\_\_.

h. Drainage Easement:

Station \_\_\_\_ to Station \_\_\_\_ equals \_\_\_\_.

i. Utility Easement:

Station \_\_\_\_ to Station \_\_\_\_ equals \_\_\_\_.

j. (other):

Station \_\_\_\_ to Station \_\_\_\_ equals \_\_\_\_.

- (u) As a part of the definitive plans, there will be submitted an overall drainage plan with topographic details for the subdivision and all areas within the total drainage area plus the area of ultimate disposal drawn with India ink on tracing cloth (or another method suitable for reproduction). A separate plan, or as part of the above plan, shall be included for the water system as it pertains to the Master Water Plan. The above requirements may be on one plan or on two separate plans, with complete details of the drainage and the water system. Approval by the Department of Public Works must be obtained for their concurrence on the overall water system plan.

- C. Review by Board of Health as to suitability of the land. At the time of filing of the definitive plan with the Community Planning Commission, the applicant shall also file with the Board of Health one contact print of the definitive plan, dark line on white background, together with such information in the nature of percolation tests and deep test holes

as the Board of Health may require, plus the information required on Schedule B, Board of Health Review.<sup>43</sup> Proof of submittal of definitive plan to the Board of Health shall accompany the definitive plan filing with the Community Planning Commission. The Board of Health shall within 45 days after the filing of the plan report to the Community Planning Commission, in writing, approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specified findings as to which, if any, of the lots shown on such plan cannot be used for building sites without detriment to the public health, and include such specific findings and the reasons therefor in such report, and, where possible, shall make recommendations for the adjustment thereof. Every lot shall be provided with a sewerage system or sewer connection satisfactory to the Board of Health.

- D. Review by other town officials. The Community Planning Commission may transmit copies of the definitive plan to town officials other than the Board of Health as follows: one copy each to the Town Counsel for review of easements and agreements; the Department of Public Works; the Building Inspector; the Fire Department; the Police Department and the Community Planning Commission agent.
- (1) Before the definitive plan is approved, the Community Planning Commission may request written statements from the above officials with regard to the proposed improvements in the following respect:
- (a) Town Counsel as to the form of easements, covenants and performance guarantees.
  - (b) Department of Public Works and/or the Community Planning Commission agent as to the design of the street system, location of easements, monuments, drainage system, water system, and, if applicable, the sewage system.
  - (c) The Fire Department as to location of hydrants, and with regard to safety requirements.
  - (d) The Police Department as to street safety.
- E. Soil survey and percolation tests. Where appropriate, the Community Planning Commission may require, at the expense of the applicant, soil surveys and/or test borings to establish the suitability of the land for the proposed storm drainage system and proposed street construction. Such soil surveys and tests must be filed with all plans for nonresidential subdivisions or multifamily residences.
- F. Public hearing. Before taking action to approve, approve with modifications, or disapprove a definitive plan, the Community Planning Commission shall hold a hearing at which parties in interest shall have an opportunity to be heard, in person or by agent or attorney. Notice of

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**43.Editor's Note: Schedule B is included at the end of this chapter.**

the time and place of such hearing and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than 14 days before the date of the hearing and by mailing a copy of such advertisement to the applicant and to all owners of land abutting the land shown on the plan and shown on the most recent tax list.

- (1) The procedure that the Community Planning Commission will follow with regard to approval, disapproval or modification of the final plan submitted by the applicant will be that as set forth in Chapter 41, Section 81-U, of the General Laws, as amended. In summary, the Commission, after receiving the final plan and profiles, will review the same to determine whether they are in compliance with its adopted rules and regulations and the Zoning Bylaw.<sup>44</sup>
- (2) Before final approval of the plan, the applicant shall comply with all applicable regulations and rules of the Department of Public Works and the Board of Health not otherwise covered by these rules and regulations. Specific reference is made to the specifications for sewerage systems, which shall conform with the rules and regulations of the Board of Health.
- (3) Before final approval of the plan, the applicant shall establish that the lots in the definitive plan are in conformity with the North Reading Zoning Bylaws, and failure of the lots to comply will be adequate grounds for disapproval of the definitive plan (Chapter 41, Section 81-Q, of the General Laws, and amendments thereto). The Commission may, as a condition of granting a permit under Section 81-Y, impose reasonable requirements designed to promote the health, convenience, safety and general welfare of the community and to benefit the town. In such event, the Commission shall endorse such conditions on the plan to which they relate; or set forth a separate instrument, attached thereto, to which reference is made on such plan and which shall, for the purpose of the Subdivision Control Law, be deemed to be a part of the plan.
- (4) Before final approval of the plan, all necessary permits under Chapter 131 of the General Laws as written or revised, and from the Massachusetts Department of Public Works, and any other state agency shall be obtained and copies forwarded to the Community Planning Commission.
- (5) Notations shall be made on the plans of any revisions and the date revisions were made. A letter shall also accompany the plans fully describing all revisions in detail.

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**44. Editor's Note: See Ch. 200, Zoning.**

- (6) Following endorsement by the Community Planning Commission, the applicant shall supply a duplicate Mylar of the sheets to be recorded and the original Mylar of all other sheets and nine prints of the signed plan. All legal documents shall be marked for return to the Community Planning Commission by the Registry of Deeds. Additionally, the applicant shall provide a copy of the approved definitive plan on computerized floppy disk using either AutoCad-12 or a compatible drafting program. In the event an applicant cannot provide said disk, funds sufficient to cover the costs of digitization of said definitive plan shall be provided in lieu thereof. **[Added 3-31-1987; amended 5-24-1994]**
- G. Certificate of approval. The action of the Community Planning Commission in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by special delivery, registered or certified mail, return receipt requested, to the applicant.
- (1) If the Community Planning Commission modifies or disapproves such plan it shall state in its vote the reasons for its action and shall rescind such disapproval when the plan has been amended to conform to the rules and regulations and recommendations of the Community Planning Commission.
  - (2) Final approval, if granted, shall be subject to the construction specifications contained herein and shall be endorsed on the original drawings of the definitive plan by the signatures of a majority of the Community Planning Commission after the Town Clerk has notified the Community Planning Commission that no notice of appeal has been filed with that office.
  - (3) After the definitive plan has been approved and endorsed, the Commission shall return one original to the applicant. The applicant in turn shall provide the Commission with nine full sets of the signed plans (dark line on white background contact prints).
  - (4) The Community Planning Commission may extend the time period permitted by statute between submission of a definitive plan and action thereon upon written request of the applicant (Form S, Extension of Time).
  - (5) Approval of the definitive plan does not constitute the laying out or acceptance by the town of streets within a subdivision and does not signify that the subdivision may be constructed before all safety and health standards have been met.
  - (6) The original copy of the recorded covenant shall be returned, following recording, by the Registry of Deeds to the Community Planning Commission. Upon receipt thereof, the Commission will mail a copy of said covenant to the applicant.



H. Performance guarantee. Before endorsement of the Commission's approval of a definitive plan of subdivision, the applicant shall agree to complete the required improvements specified in Article V for any lots in a subdivision, such construction and installation to be secured by one, or in a part by one and part by the other, of the following methods which may, from time to time, be varied by the applicant with the written consent of the Community Planning Commission:

(1) Approval with satisfactory security.

(a) The applicant shall either file a tripartite agreement, a deposit of money, negotiable securities or a bank passbook, in an amount determined by the Community Planning Commission to be sufficient to cover the cost of all or any part of the improvements specified in Article V not covered by a covenant under Subsection H(2) hereof. Such bond, security or passbook, if filed or deposited, shall be accompanied by an appropriate and properly executed agreement prepared in the manner of Form F, G, and H or such other form as the Commission may require, and approved as to form and manner of execution by the Town Counsel and shall be contingent on the completion of such improvements within two years of the date of the approval of the definitive plan.

(b) The tripartite agreement may be forfeited or the term may be extended at the discretion of the Community Planning Commission. If extended, the Community Planning Commission may, at its discretion, request an increase or decrease of the amount deposited to ensure sufficient bonding to cover the costs to complete the improvements, including all costs associated with providing a clerk-of-the-works to oversee said completion. **[Amended 3-31-1987; 6-18-2002]**

(2) Approval with covenant. The applicant shall file a Form I, Approval with Covenant Contract, or such other form of covenant as the Community Planning Commission requires, approved as to form and manner of execution by the Town Counsel, properly executed and duly recorded in the Registry of Deeds by the owner of record, running with the land, whereby such ways and services as specified in Article V, not covered by bond or deposit under Subsection H(1) hereof, shall be provided to any lot before such lot may be built upon or conveyed, other than by mortgage deed.

(3) Additional conditions. Notwithstanding any of the aforementioned provisions to guarantee performance, the Community Planning Commission may require prior to endorsement of a definitive plan and incorporate into its conditional approval of such plan additional specific conditions, including, but not necessarily limited to, the following: **[Added 3-31-1987]**

- (a) Applicant shall submit proper and acceptable deed for utility and drain easements. The grants of easements shall contain a provision that the Town of North Reading shall not be responsible for extensive landscaping such as replacement of trees and shrubs in connection with maintenance of water mains, drainage facilities, and/or utilities.
- (b) No lot shall be released from the statutory covenant without first obtaining Board of Health approval for a sewage system on the lot. Copies of all approved septic designs shall be submitted by the applicant to the Planning Administrator for grading approval. If, in order to obtain a permit for an approved disposal system from the Board of Health, fill or grading is required to the extent that, in the opinion of the Planning Administrator, the drainage pattern would be adversely affected, then the Planning Administrator may require an amended plan and revised drainage calculations. This condition shall be included in the statutory covenant and a note shall be placed on a recordable plan sheet. **[Amended 5-24-1994]**
- (c) All drainage facilities and associated structures (including iron pipe monumenting, loaming, and seeding) shall be completed to the satisfaction of both the Conservation Commission and the Planning Administrator prior to any lot releases. This condition shall be included in the statutory covenant and a note shall be placed on a recordable plan sheet. **[Amended 5-24-1994]**
- (d) Any and all plans which may be approved by the Conservation Commission pursuant to an Order of Conditions shall be made a part of the definitive subdivision plan. The applicant may substitute the Conservation Commission drainage/topo plans for the definitive subdivision drainage/topo plans providing that the substituted plans contain all information, drawings, and notes as are contained on both the definitive subdivision submittal and the Conservation Commission submittal. If there is any inconsistency between the submitted subdivision plan and the plans as may be approved by the Conservation Commission, the applicant shall submit an amended plan to the Community Planning Commission for approval. Said amended plan shall be accompanied by a cover letter setting forth any and all changes from the submitted subdivision plan and shall include four sets of revised drainage calculations, if applicable. A plan sheet to be recorded shall contain a note that the applicant/developer shall comply with this item prior to commencement of work within the jurisdiction of the Conservation Commission.
- (e) In the event that any portion of the covenant described in Subsection H(3)(c) above is waived by the Community

Planning Commission, a certificate of compliance pursuant to M.G.L., Chapter 131, Section 40, from the Conservation Commission shall be required of the applicant prior to release of drainage bond money. Said certificate requires compliance with all items contained in any Order of Conditions that pertain to work involved in construction of roads and entire drainage system and any lot grading necessary to conform to the approved plans.

- (f) The as-built and acceptance plans shall be accompanied by a certificate of compliance from a registered professional engineer certifying that the grades on all the lots have been established in general compliance with the drainage/topo plan as they may have been revised by the approved septic system design plan, and that said grades have been established so as not to create adverse drainage patterns onto adjoining lots or streets and a note placed on the plan.
- (g) Deeds of conveyance shall contain and be subject to a condition that the lot owner shall not cut any hardwood trees within 15 feet of the street layout line without the owner/developer's approval or until such street is accepted by the Town of North Reading as a public way. This condition shall be contained in the supplementary restrictive covenant and a note shall be placed on a recordable plan sheet.
- (h) Every lot in the subdivision shall be served by its own driveway. No common driveways will be allowed. Access to the lot must be provided from the frontage on the proposed way shown on the endorsed plan unless subsequently waived by the Community Planning Commission. This condition shall be contained in the supplementary restrictive covenant and a note shall be placed on a recordable plan sheet.
- (i) Deeds of conveyance for all lots subject to drain easements shall contain and be subject to a condition prohibiting any structure, including a driveway, from being built on the easements unless a waiver is granted by the Community Planning Commission. This condition shall be included in the supplementary restrictive covenant and included as a note on the plan.
- (j) The applicant shall submit a lighting proposal and electrical distribution plan for the Community Planning Commission's approval. Said plan shall be accompanied by a letter from the Reading Municipal Light Department indicating the proposed lighting scheme and level of illumination.

[1] Additionally, the electrical distribution and lighting scheme should be shown on the plan consistent with the lighting proposal. The electrical distribution plan,

streetlight locations, and appropriate easements shall be applied to the plan and shall indicate at what point the wiring will be brought underground.

- [2] All electrical, telephone and cable lines shall be brought into the subdivision underground from the nearest supply feed, as identified by the Reading Municipal Light Department.
  - [3] Streetlight stanchions shall be placed within the subdivision so as to accommodate street signs to be affixed thereon. The Community Planning Commission may require additional street signs and sign poles if it deems necessary.
- (k) Any deed conveying out a lot shall contain a description reserving the fee in the roadways to the owner/developer. This condition shall be contained in the supplementary restrictive covenant and included as a note on a recordable plan.
  - (l) Any deed conveying out a lot shall contain and be subject to a condition that there shall be no driveways where stone bounds are proposed. This condition shall be contained in the supplementary restrictive covenant and a note shall be placed on a recordable plan sheet.
  - (m) Approval by the Community Planning Commission of a plan shall not be treated as, nor deemed to be, approval by the Board of Health for a permit for the construction and use on any lot of an individual sewage system. No building or structure shall be built or placed on any lot without the consent of the Board of Health.
  - (n) Deeds of conveyance for all lots shall reserve for the developer/owner or his successors in title, and/or the Town of North Reading, a construction easement superimposed on all lots intended to accommodate completion of all grading and of the entire drainage system including but not limited to drainage structures, lot grading, roadway sideslope stabilization, iron pipe monumenting, loaming and seeding. Upon acceptance of the roadways and utilities by the Town of North Reading, the easements will be terminated. This condition shall be contained in the supplementary restrictive covenant and a note shall be placed on a plan sheet.
  - (o) Deeds of conveyance for any lots containing any detention areas shall contain and be subject to a restriction prohibiting altering or filling within the drainage easement areas beyond the approved contours of the detention areas. This condition shall be contained within the supplementary restrictive covenant and included as a note on the plan sheet.

- (p) Applicant shall document compliance with Subsection H(3)(a), (b) and (c) contained in the July 26, 1984, generic letter from the Police Department (on file at the CPC office). Applicant shall forward copy of letter sent to Police Department with respect to fulfilling these items.
- (q) No lot will be released from the statutory covenant unless the Planning Administrator is satisfied that the entire septic system accessory to the principal dwelling is located entirely on the principal use lot, including any slope grading as may be required by Title 5 of the State Environmental Code (310 CMR 15.00). A plan sheet to be recorded shall contain a note that the entire septic system, including any required grading, shall be located entirely on the same lot as the principal dwelling.  
**[Amended 5-24-1994]**

(4) Lot releases. **[Added 5-24-1994]**

- (a) The Planning Administrator shall act as the Community Planning Commission's agent in determining the eligibility of and execution of any lot release request. The Planning Administrator shall apply only those conditions imposed by the Community Planning Commission in a conditional approval, covenant or supplementary restrictive covenant.
  - (b) No lot shall be released from the statutory covenant or supplementary restrictive covenant unless the Planning Administrator is satisfied that all conditions of said release have been met.
  - (c) Any decision by the Planning Administrator denying a request for lot release may be appealed to the Community Planning Commission. Any such appeal must be submitted on forms provided by the Planning Office and must be accompanied by an application fee of \$100 to be considered complete. Appeals hearings will be scheduled within 30 days of receipt of a complete application.
- I. Reduction of bond surety. The penal sum of any such bond, or the amount of any deposit held under Subsection H(1) above may, from time to time, be reduced by the Community Planning Commission and the obligations of the parties thereto released by said Commission in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required by the Commission.
- J. Release of performance guarantee. Upon completion of improvements required and the submission of approved reproducible as-built drawings under Article V, security for the performance of any covenant with respect to any lot, the applicant may send by registered or certified mail to the Town Clerk and the Community Planning Commission a written statement that the said construction or installation in

connection with which such bond, deposit or covenant was posted has been completed in accordance with the requirements contained under Article V, such statement to contain the address of the applicant. If the Community Planning Commission determines that said construction or installation has been completed, it shall notify the Town Treasurer and the Town Accountant on a properly executed release form that it releases the interest of the town in such bond or deposit and that it shall be returned to the person or persons who furnished same; or, in the case of covenant, it shall issue a written release of the covenant on a properly executed release form.

- (1) However, 10% of the value of the bond shall be held by the town to ensure maintenance of streets and municipal services for 18 months after completion of construction and installation or until the streets are accepted by the town, whichever comes first; after which date the town shall return the remainder of the bond, if any, to the applicant.
- (2) Approximately 60 days before the expiration of the 18 months, the Community Planning Commission shall request an inspection of said street or way or portion thereof to determine whether or not defects have developed therein, and determine whether or not it should recommend same to the Board of Selectmen for the laying out of said street or way or portion thereof as a public way. If the recommendation is in the affirmative, the Commission shall so advise the Board of Selectmen forthwith, including in such recommendation, notification that the 18 months for which the developer is responsible for maintenance of said way or portion thereof will expire on a certain date and said way may be laid out as a public way.
- (3) Upon the expiration of the period for which the applicant is responsible for maintenance of said way, and if said developer has complied with all the requirements of the Subdivision Control Law and the Community Planning Commission rules and regulations as set forth in an inspection report of said way and the Commission has recommended to the Board of Selectmen that said way should be laid out as a public way, any moneys held by said Commission for the maintenance of said way shall be returned forthwith to the applicant.
- (4) Prior to releasing the town's interest in a performance bond or deposit or releasing the covenant, the Community Planning Commission shall receive from the applicant an acceptance plan (see Subsection K).
- (5) If the Community Planning Commission determines that said construction or installation has not been completed, it shall specify to the applicant, in writing by registered or certified mail, return receipt requested, the details wherein said construction and installation shall have failed to comply with requirements

contained under Article V. Upon failure of the Community Planning Commission to act on such application within 45 days after the receipt of the application by the Town Clerk and the Community Planning Commission, all obligations under the bond shall cease and terminate by operation of law; any deposit shall be returned and any such covenant shall become void.

- (6) In the event that said forty-five-day period expires without such specification or without the release and return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.
- (7) Prior to release of security for performance which was given by bond, tripartite agreement, deposit or covenant, the applicant shall submit, at the following construction stages, a statement stamped and certified by either a registered professional engineer or a registered land surveyor (as delineated under § 350-3, Definitions) that the required improvements are built in conformity with the rules and regulations and the approved subdivision plan. **[Added 7-16-1984]**
- (8) If the as-built certification of Subsection J(8)(a) or (b) below is performed by a registered land surveyor and if any of the requirement improvements are not in conformity with the approved subdivision plan or the rules and regulations, then said RLS certification and other appurtenant information shall be accompanied by a statement stamped and certified by a registered professional engineer describing the nonconforming construction and a statement, if appropriate or applicable, that in his opinion the described nonconforming construction and/or installation is equal to or better than what is required by the rules and regulations and the approved subdivision plan. **[Added 7-16-1984]**
  - (a) Underground utilities and drainage.

[1] Prior to any backfilling, the applicant's registered professional engineer or registered land surveyor shall observe and certify that the as-built location and elevation of all underground utilities including, but not limited to, drainage, water and electrical, conform to the rules and regulations and the approved subdivision plan. In addition, the registered professional engineer or registered land surveyor shall observe and certify that the location, elevation and grading of the entire drainage system, including drainage easements, swales, retention/detention areas and all visual drainage appurtenances are in conformity with the rules and regulations and approved subdivision plan (see §§ 350-23H for as-built plan contents). In any instance where the as-built construction is not in conformity, the registered professional engineer

or registered land surveyor shall list the exceptions and attach a "red-lined, marked-up print" which shall consist of a print of the approved subdivision plan identifying those areas marked in red pencil, wherein the construction and/or installation is inconsistent with either the rules and regulations or the approved plan.

[2] This "red-lined, marked-up print" shall also include location ties for all individual lot water service curb boxes within the subdivision. **[Added 3-31-1987]**

- (b) Binder application. Following the binder application and prior to any further roadway construction, the applicant shall submit an as-built certification signed and stamped by either a registered land surveyor or a registered professional engineer. Said certification shall certify the roadway location, width, elevation and that the center line of all roadways coincide with the center line of the street right-of-way and that the preceding items conform to the rules and regulations and the approved subdivision plan.
  - (c) Upon completion of required improvements, applicant shall submit as-built and acceptance plans as delineated under § 350-23G and H.
- K. Acceptance by the town. The applicant shall file with the Community Planning Commission a final plan (acceptance plan) drawn with India ink on Mylar and suitable for reproduction, of completed street or streets and any easements together with proper legal descriptions for initiating an article in the Town Meeting warrant pursuant to the acceptance of the ways by the Town Meeting (see § 350-23G), and upon acceptance by the Town shall grant a deed or easement to the Town of the streets as contained in the definitive plan; said deed or easement to be recorded by the Town Clerk upon acceptance of the streets by the Town Meeting. Additionally, the applicant shall provide a copy of the as-built plan on computer disk pursuant to Subsection F(6). **[Amended 5-24-1994]**



ARTICLE IV  
**Design Standards**

**§ 350-14. Streets.**

A. Location.

- (1) All streets in the subdivision shall be designed so that, in the opinion of the Community Planning Commission, they will provide safe vehicular travel; natural drainage with no drainage pockets; and an attractive street layout in order to obtain the maximum safety and amenity for future residents of the subdivision; and they shall be in accord with the rules and regulations of the Community Planning Commission.
- (2) The proposed streets shall conform in location, so far as practicable, to any existing plans of the Community Planning Commission; to the Master Plan or parts thereof adopted by the Community Planning Commission; and, where required by the Community Planning Commission, to the existing street system. Where proposed streets are to intersect with existing streets, due consideration shall be paid to the location of existing hydrants and to provide additional hydrants to avoid potential fire protection apparatus hose hookup lengths in excess of 250 feet in emergency situations. **[Amended 3-31-1987]**
- (3) Provision satisfactory to the Community Planning Commission shall be made for the proper projection of streets or for access to adjoining property, whether or not subdivided.
- (4) Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the opinion of the Community Planning Commission, such strips shall be in the public interest.

B. Alignment.

- (1) Street jogs with center-line offsets of less than 125 feet shall be avoided.
- (2) The minimum center-line radii of curved streets shall be 150 feet for secondary streets and 500 feet for principal streets.
- (3) A tangent at least 150 feet in length shall separate all reverse curves on principal and secondary streets.
- (4) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60°.
- (5) Property lines at street intersection shall be rounded or cut back to provide for a radius of not less than 30 feet which shall be tangent to both the existing and proposed street layout lines. However,

when the intersection of two streets varies more than 10° from a right angle, the radius of the curve at the obtuse angle may be less and the acute angle may be greater than 30 feet to the extent approved or required by the Community Planning Commission.  
**[Amended 3-31-1987]**

- (6) Streets shall be laid out so as to intersect at intervals in a range of 600 feet to 1,200 feet in length, unless otherwise specified by the Community Planning Commission. In special instances, the Community Planning Commission may approve an easement for a future street, in lieu of actual construction of a cross street.

C. Width.

- (1) The minimum width of right-of-way shall be 50 feet.
- (2) Alleys will not be approved in subdivision of land in districts designated as residential under the Zoning Bylaws.<sup>45</sup> Alleys with a minimum width of 40 feet may be required by the Commission at the rear of any lots designated or zoned for nonresidential use.

D. Grade.

- (1) The center-line grade for any street shall not be less than 1%.
- (2) The maximum center-line grade for streets shall be as follows:
  - (a) Secondary streets: 9%.
  - (b) Principal streets: 6%.
- (3) Where changes in grade exceed 1%, vertical curves as required by the Commission will be provided; and where a grade is 5% or greater within 150 feet of the intersection of street right-of-way lines, there shall be provided in a residential subdivision a leveling area of at least 75 feet, with a maximum grade of 3%, and in all other subdivisions, a leveling area of at least 200 feet, with a maximum grade of 2%, and at all other intersections there shall be a leveling area of at least 50 feet.

E. Dead-end streets. **[Amended 10-5-1982; 12-5-2000]**

- (1) For the purposes of this section, a dead-end street shall be any street with a single common ingress and egress.
- (2) Any new proposed street which intersects solely with a dead-end street shall be deemed to be an extension of the dead-end street.
- (3) Dead-end streets and their extensions, if any, shall not be longer than 500 feet unless the water is looped, in which case the maximum shall be 1,000 feet unless, in the opinion of the Commission, a greater length is necessitated by topography or

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45. Editor's Note: See Ch. 200, Zoning.

other local conditions. An extension of a water line to the boundary of the land within a subdivision for the purpose of providing a physical loop at a later date shall not be considered "water looping" for the purpose of this section.

- (4) Dead-end streets shall be classified as one of two types. They shall be either a cul-de-sac or a looped road.
  - (a) Culs-de-sac shall be provided at the closed end with a vehicular turnaround having an outside roadway diameter of at least 100 feet and a property line diameter of at least 120 feet unless otherwise specified by the Community Planning Commission. The Community Planning Commission may, when potential volume warrants, require a minimum outside roadway diameter of 140 feet, a property line diameter of 160 feet and the placement of a circular landscaped island with minimum radius of 20 feet at the center of the turnaround, if the dead-end street is not intended to connect with another street at some future point in time. The Commission may require a roadway easement from the end of the turnaround to adjacent property. Under no circumstances shall a cul-de-sac have a property line diameter greater than 200 feet.
  - (b) Looped roads shall be any dead-end street which is not a cul-de-sac.
- (5) The length of dead-end streets shall be measured along the roadway center line as follows:
  - (a) Cul-de-sac length shall be measured from the side line of the intersecting street to the center of the turnaround. (See Figure 1.)<sup>46</sup>

Formula: (length = A @ B)
  - (b) Looped road length shall be measured from the side line of the intersecting street to the point at which a choice in direction is provided (A @ B), plus half the distance around the looped roadway from the point of choice in direction to the point of reintersection. (C @ D) (See Figure 2.)
 

Formula:  $(A \rightarrow D) = \text{length}$   
 $B) + (C \rightarrow D) = \frac{\text{length}}{2}$

#### § 350-15. Curb cuts.

- A. Driveways shall be at least 10 feet wide and have a curb return at the roadway of two feet in radius and shall have an opening of at least 16 feet and no greater than 24 feet at the gutter line.

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46. Editor's Note: Figures 1 and 2 are included at the end of this chapter.

- B. Any two driveways leading to or from a street to or from a single lot shall not be within 30 feet of each other at their intersections with the front lot line for an interior and 40 feet for a corner lot.
- C. If driveways slope from the edge of the street right-of-way to the edge of the pavement, there shall be a grade of not less than 1% but not more than 8%, but the grade between the sidewalk and the right-of-way shall be only as shown on the typical cross-section (see Schedule A<sup>47</sup>).

#### **§ 350-16. Easements.**

- A. Where utilities cross lots or are centered on rear or side lot lines, easements shall be provided with a width of at least 20 feet.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Community Planning Commission shall require a stormwater easement or drainage right-of-way of adequate width (a minimum of 30 feet) and proper side slope to conform substantially to the lines of such watercourse, drainageway, channel or stream and to provide for construction or other necessary purposes.
- C. Access easements to park and conservation land shall be provided, if required by the Community Planning Commission, and shall be at least 20 feet wide.

#### **§ 350-17. Open space.**

- A. Before approval of a plan, the Community Planning Commission may also, in proper cases, require the plan to show a park or parks, suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Community Planning Commission may, by appropriate endorsement on the plan, require that no building be erected upon such park or parks without its approval for a period of three years. Pedestrian ways, bikeways, or bridle paths of not less than 20 feet in width may be requested where deemed desirable to provide circulation or access to schools, playgrounds, parks, shops, transportation, open spaces and/or community facilities. Each area reserved for such purpose shall be of suitable area, dimensions, topography and natural character for the purposes of a park and/or playground. The area or areas shall be so located as to serve adequately all parts of the subdivision as approved by the Community Planning Commission.
- B. The Community Planning Commission may require that the area or areas reserved shall be located and laid out so as to be used in conjunction with similar areas of adjoining subdivisions or of probable subdivisions. Any land so reserved shall be graded to dispose properly of surface water and shall be left in condition for the purpose intended,

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47. Editor's Note: Schedule A is included at the end of this chapter.

as required by the Community Planning Commission. Land acquired in this manner shall be compensated as provided in Section 81-Q of Chapter 41 of the General Laws.

**§ 350-18. Protection of natural features.**

Due regard shall be shown for all natural features, such as trees, wooded areas, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.

**§ 350-19. Lot drainage.**

- A. Lots shall be prepared and graded in such a manner that development of one shall not cause detrimental drainage on another; if provision is necessary to carry drainage to or across a lot, an easement or drainage right-of-way of minimum width of 30 feet and proper slope shall be provided. Storm drainage shall be designed in accord with the requirements outlined in § 350-13B of these rules and regulations and with the town's Comprehensive Drainage Plan as last revised. **[Amended 7-8-1986]**

- B. Where required by the Community Planning Commission or the Board of Health, the applicant shall furnish evidence as to any lot or lots that adequate provision has been made for the proper drainage of surface and underground waters from such lot or lots.

**§ 350-20. Fire hydrants.**

Hydrants shall be provided at least every 500 running feet on one side of each street. A hydrant may be required at the end of a dead-end street. They shall be of a style approved by the Department of Public Works.

**§ 350-21. Sidewalks, grass plots and trees.**

See typical cross-sections, Schedule A.<sup>48</sup>

**§ 350-22. Utilities.**

All utilities shall be placed underground at the time of initial construction, including electric and telephone.

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**48. Editor's Note: Schedule A is included at the end of this chapter.**



## ARTICLE V

**Required Improvements for Approved Subdivision****§ 350-23. General provisions. [Amended 7-16-1984; 7-8-1986; 3-31-1987]**

- A. It is the intent that no street or way through private property shall be accepted by the town unless the same be previously constructed and completed in accordance with the approved plans, these rules and regulations, and the following specifications.
- B. Unless otherwise specified, all the work and the materials used in the work to be done shall conform to the requirements of the Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways and Bridges 1973 Edition, as amended or revised, hereinafter referred to as the Standard Specifications, as amended, and the special provisions included hereinafter. Under no circumstance shall the physical construction of any improvements pursuant to the approved subdivision plans be conducted between the dates of December 1 and March 15 of the year.
- C. Supplementing the aforesaid Standard Specifications, certain specifications or special provisions shall apply particularly to the work to be done hereunder. References in the following specifications, unless otherwise stated, are to the aforesaid Standard Specifications, amendments or addenda. These specifications and special provisions shall take precedence and shall govern when they are stricter.
- D. To facilitate reference, each paragraph in these specifications where appropriate is noted with the paragraph number of the particular section as contained in the Standard Specifications.
- E. Wherever in the Standard Specifications or other contractual documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted by substitution as follows:  
COMMONWEALTH — Town of North Reading.  
DEPARTMENT — Department of Public Works, Town of North Reading.  
ENGINEER — The Community Planning Commission of the Town of North Reading acting directly or through an authorized representative; such representative acting within the scope of the particular duties entrusted to him.
- F. As each construction operation, as outlined in § 350-37C of these rules and regulations, is completed, it shall be inspected by the Community Planning Commission agent for subsequent approval by the Community Planning Commission. Under no circumstance shall subsequent logically consecutive construction stages be initiated until the required inspection of the one previously completed is made. Failure to comply with this inspectional procedure shall be remedied by an uncovering

and proper reconstruction of all uninspected stages of the work at the expense of the applicant.

- G. To facilitate acceptance by the Town of North Reading, the applicant shall have prepared and certified by a registered land surveyor an acceptance and street layout plan drawn with India ink on linen or Mylar material, size 24 inches by 36 inches, showing widths, lengths, bearings of all boundary lines of streets and easements, and radii, tangents and central angles of all curves in street lines. It shall show that all stone bounds are set. A blank space four inches by eight inches shall be provided on the lower right-hand corner on the plan for a title block to be filled in by the applicant. The surveyor shall place a certification on the plan stating, "The street (or way or portion thereof) is laid out and the bounds are set as shown on this plan"; which shall be dated, signed and the surveyor's stamp affixed thereon. (See sample of typical title block which is incorporated into these rules as Schedule C.<sup>49</sup>) One original Mylar and four prints shall be submitted to the Community Planning Commission. Following endorsement of original Mylar by the Community Planning Commission and the Board of Selectmen, the applicant shall supply one duplicate Mylar and four prints to the Community Planning Commission. Deed to town for streets shall accompany submission of original Mylar plan.
- H. The applicant shall submit as-built plans drawn with India ink on linen or Mylar material certified by his registered professional engineer (as defined under definitions) to show actual locations and grades of all utilities and improvements, roadway profile, and any changes authorized by the Community Planning Commission. As-built "on-the-ground" conditions at time of acceptance shall include as a minimum the following items to be shown on the as-built plan:
- (1) Rims and inverts of all drainage structures as they would appear on the profile section of the plan.
  - (2) Location, size and type of material for the water main. Indicate spot elevations every 200 feet on the water main to verify vertical installation.
  - (3) Location of gas mains (and house services if installed).
  - (4) All underground electrical installations.
  - (5) Underground cable installation.
  - (6) Fire alarm wiring, if applicable.
  - (7) Underground telephone wiring.
  - (8) Show water services to each individual lot with linear ties to a permanent structure or monument.

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**49. Editor's Note: Schedule C is included at the end of this chapter.**



- (9) Line water gates and ties.
- (10) Electrical services to lots.
- (11) Telephone services to lots.
- (12) Cable services to lots.
- (13) Curbing-berms and indicate type (vertical or Cape Cod).
- (14) Granite curbs.
- (15) Sidewalks and indicate width.
- (16) Granite headers.
- (17) Grass plots and indicate width.
- (18) Indicate any encroachments on private property.
- (19) Driveway curb cuts.
- (20) Hydrants and water gates.
- (21) Utility (telephone/electric) poles and any guys.
- (22) Streetlights.
- (23) Electric transformers.
- (24) All drainage, drainage structures, drainage easements; off-site drainage, appurtenances, pipe sizes and materials. All of this information shall be shown both within the right-of-way and any easement. If a drainage channel, swale or brook is part of the drainage, then top and bottom of bank elevations shall be given every 50 feet. If a retention basin is constructed, then enough elevations shall be given to indicate that the retention basin will have the proper staging called for in the approved plan (includes "detention" areas).
- (25) Any and all other utility appurtenances.
- (26) Handicap ramps, width and locations.
- (27) Location of survey monuments.
- (28) Trees.
- (29) Landscaping and plantings if required by approved plan.
- (30) Center-line profile (fifty-foot stations with high and low points).
- (31) Side slopes and lot grading certification.
- (32) Center-line stationing. Indicate on plan portion of the as-built plan.
- (33) Indicate benchmark.

- (34) Indicate width of roadway layout.
- (35) Indicate width of roadway pavement.
- (36) Location of street signs.
- (37) Typical title block (see sample of same which is incorporated into these rules as Schedule D<sup>50</sup>).
- (38) Location ties shall be indicated for all water service curb boxes to each individual lot and shall be sufficient to allow expeditious location of the service gate.

#### **§ 350-24. Street and roadway.**

##### **A. Preparation for pavement.**

- (1) The roadway shall be graded and prepared for pavement as follows:
  - (a) 101. Clearing and grubbing of the entire area of such street or way shall be performed to remove all stumps, brush, roots, boulders over six inches in diameter, and like material which may exist upon the surface. **[Amended 7-8-1986]**
  - (b) 120. Roadway earth excavation shall remove all materials encountered down to the true surface of the subgrade, or to suitable material in areas where unsuitable material exists, in preparation for foundation of roadway, sidewalks, driveways and berms. Approved materials obtained from the excavation may be used in fills as required if, in the opinion of the Community Planning Commission, they are suitable.
  - (c) 150. When in the opinion of the Community Planning Commission suitable material is not available within the limits of the highway location to form the subgrade or subbase, the contractor shall obtain such additional material as may be approved by the Community Planning Commission from other sources in accordance with this section.
  - (d) 170. The subgrade surface, 16 inches below the finished surface grade, shall be prepared true to the lines, grades and cross sections given and properly rolled. All soft and spongy material below the subgrade surface shall be removed to a depth determined by the Community Planning Commission and the space thus made shall be filled with special gravel borrow, containing no stones over six inches in their largest diameter. **[Amended 7-8-1986]**
  - (e) 401. Gravel subbase or foundation containing no stones having any dimensions greater than two inches shall be spread on the

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**50. Editor's Note: Schedule D is included at the end of this chapter.**

surface of the subgrade to a minimum depth of eight inches in conformity with the requirements of Section M1.03.0, Type c of the Standard Specifications for furnishing gravel borrow. A final four-inch layer of subbase material shall be placed on top of the eight inches compacted M1.03.0, Type c subbase material in accordance with the procedure outlined in Section 402.61 of the Standard Specifications which shall conform to the material requirements of M2.01.7 of the Standard Specifications for Dense Graded Crushed Stone for Subbase. **[Amended 7-8-1986]**

- (f) 401.60. Final grading, rolling and finishing, including the shaping, trimming, rolling and finishing of the surface of the subbase prior to application of gravel for surfacing of the roadway and base courses for walks or loam for berms, shall be in accordance with this section, except as specifically modified in Subsection A(1)(e) above, and as directed by the Community Planning Commission.
- (2) At the conclusion of this step, the roadway shall be staked in all locations where permanent monuments are to be installed as provided in § 350-30, Monuments, of these rules and regulations.
- B. Dimensions. Roadways shall be constructed for the full length of all streets within the subdivision and shall have the same curb radius required in § 350-14B above. The center line of all roadways shall coincide with the center line of the street right-of-way unless a deviation is approved by the Community Planning Commission. The minimum and maximum widths of roadway pavements shall be 30 feet for a principal street and 28 feet for a secondary street on a fifty-foot right-of-way. Should the CPC deem the street to have the potential of being a major connecting artery, it may require a width of 32 feet on a principal street. **[Amended 10-5-1982]**
- C. 460. The wearing surfaces of roadways shall be of Class I Bituminous Concrete Pavement, Type I-1, paved in two courses as follows: The binder course shall be 2 1/2 inches thick and the finish course shall be 1 1/2 inches thick making a total of four inches of pavement after having been completely rolled and compacted. This type of pavement shall be composed of mineral aggregate, mineral filler and bituminous material, plant mixed and laid hot. The pavement shall be constructed upon the prepared surface and in conformity with lines, grades and typical cross-section shown on plans. Material and construction methods shall conform to all other requirements of Section 460 of the Standard Specifications except that no such construction shall be undertaken unless the temperature is at least 32° Fahrenheit in the shade, and rising. **[Amended 7-8-1986]**
- D. 685. Embankments outside the right-of-way shall be evenly graded and pitched at a slope of not greater than four horizontal to one vertical in cuts and fills. Where cuts are made in ledge, other slopes may be

determined with the approval of the Community Planning Commission. Where terrain necessitates greater slopes, retaining walls, terracing, fencing, or riprap may be used either alone or in combination to provide safety and freedom from maintenance, but must be done in accordance with plans filed with and approved by the Community Planning Commission. Whenever embankments are built in such a way as to require approval by the Community Planning Commission, the applicant must furnish to the town duly recorded access easements free of encumbrances for maintenance of the slopes, terraces or retaining walls. All such slopes shall be grassed in accordance with the specifications for the area between the roadway and sidewalk or roadway and boundary of the right-of-way. **[Amended 10-5-1982]**

### **§ 350-25. Utilities.**

- A. 140. Excavation for structures, including foundations for drains, sewers and water pipes, walls and other structures shall be made to the depth as indicated on the definitive plan or established by the Community Planning Commission agent as appropriate. Rock excavation designated as Class B encountered in trench excavation shall be removed as directed. **[Amended 7-8-1986]**
- B. 200. All drain, sewer, gas and water pipes, underground utilities and other structures shall be installed upon the completion of the rough grading of the roadway subgrade and before the placing of the subbase, gravel base course, sidewalks or pavement. **[Amended 7-8-1986]**
  - (1) Water.
    - (a) Public water mains shall be Class 150 cement-lined ductile iron pipe of such size as approved by the Public Works Department and shall not be less than eight inches in diameter. A hydrant shall be located at each street intersection and not more than 500 feet apart. A hydrant may be required at the end of a dead-end street.
    - (b) Each hydrant shall be served directly from the water main through a six-inch lateral connection. It shall be gated with a valve box with a six-inch valve and shall have two two-and-one-half-inch hose outlets and one five-inch pump outlet. Water main valves shall be located in such number and locations that lines by individual blocks may be isolated for maintenance purposes.
    - (c) The applicant shall provide adequately sized water pipes to connect to the public water system in accordance with the Master Water Plan as last revised. All water lines shall be designed and installed with a minimum of five feet of cover to proposed finished grade. Prior to laying the water mains in trenches, a layer of clean, washed sand shall be laid in the trench and thoroughly compacted to a depth of not less

than six inches. After placement of the main(s), an additional twelve-inch layer of thoroughly compacted, clean, washed sand shall be placed over the main(s). Subsequent backfill operations shall be effected as outlined in the Standard Specifications. This entire operation shall be inspected by the Community Planning Commission inspection agent. **[Amended 3-31-1987]**

- (d) All sections of the proposed water main shall be hydrostatically tested, disinfected, and analyzed pursuant to Section 301.60 of the Standard Specifications under the supervision of the Community Planning Commission inspection agent. Satisfactory results of both testing and analysis shall be indicated in a written report to the Community Planning Commission prior to release of security. **[Added 3-31-1987]**
- (e) Wherever proposed mains are to tie-in to existing water mains, the physical connection shall be made using three approximately sized gate valves (two on the existing main and one on the proposed) to ensure proper isolability and maintainability. **[Added 3-31-1987]**
- (2) Gas mains may be installed if gas connection is available.
- (3) Telephone lines shall be installed in underground conduits. **[Amended 7-8-1986]**
- (4) Electric lines shall be installed underground in accord with the regulations of the Reading Light Department. The Community Planning Commission may permit transformers, switches and other such equipment to be placed on the ground in approved locations.
- (5) Sewerage.
  - (a) If a public sewerage system is located within 1,000 feet of the subdivision, the applicant shall connect all lots to the public sewerage system in accordance with the town's Comprehensive Sewer Plan as last revised.
  - (b) If a public sewerage system is planned by the town but not yet constructed, the applicant shall be required to design and install at his cost in the street and to every lot, sewerage laterals which can be connected later to the public sewerage system. In order for the applicant to design and install properly such laterals, the town shall be responsible for establishing and providing the applicant, at the applicant's expense, with the necessary plan, specifications and design standards of the proposed public sewerage system.
  - (c) If Subsection B(5)(a) and (b) above do not apply, the applicant shall design an acceptable sewerage system but may install

private on-lot systems in conformance with Board of Health regulations.

(d) Where public sewers are required, the following design standards shall apply:

[1] Public sewers shall be designed according to professional engineering practices.

[2] Public sewers shall be not less than eight inches in diameter, with six-inch house laterals.

[3] Manholes shall be located at every change in grade or horizontal alignment but not more than 300 feet apart. Sewer ejector pumps may be permitted at the discretion of the Board of Health.

C. 200, 220, 230 Drainage. Adequate disposal of surface and subsurface water shall be provided and pipes, manholes and catch basins shall be provided according to the sizes and depths as indicated on the plans and in conformity with the requirements of Sections 200, 220, 230 of the Standard Specifications, and shall be built on both sides of the roadway at intervals not to exceed 300 feet unless otherwise approved by the Community Planning Commission, and at such other places as deemed necessary by the Community Planning Commission to assure the unimpeded flow of all natural watercourses, to assure adequate drainage of all low points and to provide proper runoff of stormwater. In no instances shall catch basins be located along a driveway cut.

(1) The standard depth of catch basins shall be two feet six inches below the invert of lowest drain. Manholes shall be constructed to the required depth at each junction point and as shown on the plan. Pipe culvert and pipe drains shall be in conformity with the requirements of Section 230 for installation of pipes.

(2) Reinforced concrete pipe shall be used for all drainage in the subdivision (with the exception of subdrains) and shall be installed in accordance with the approved plans. All RCP drain lines shall be of rubber gasket or O-ring construction. No backfilling of pipes shall be done until the installation has been inspected by the Community Planning Commission agent. All drainage trenches shall be filled with clean gravel borrow in accordance with specification 760. **[Amended 7-8-1986]**

(3) Trench backfill material in areas under roadways shall be thoroughly compacted as outlined in the Standard Specifications. Catch basins shall not be tied to one another under any circumstances but should rather be manifolded into a drain manhole. **[Added 7-8-1986; amended 3-31-1987]**

(4) Standard of design for drainage. **[Added 1-21-1992]**

- (a) General. Drainage design shall be based on the Massachusetts Department of Public Works "Highway Design Manual" Chapter 10, Drainage and Erosion Control.
- (b) Closed system - conduit drainage.
  - [1] Peak rates of runoff shall be calculated for each catch basin or receiving structure. Design capacities for conduit flow shall meet or exceed the twenty-five-year storm event based on the SCS TR-55 or TR-20 methods.
  - [2] Design velocities for conduit flow shall be at least 2.0 FPS based on a five-year storm event and shall not exceed 15.0 FPS based on a twenty-five-year storm event.
  - [3] Roughness coefficients used for RCP pipe shall be at least  $n=0.012$ . Storm damage prevention shall be provided for storms above the twenty-five-year event.
  - [4] Adequate removal of surface water from all paved areas shall be provided. Catch basins shall be installed on both sides of the roadway on continuous grades at intervals of not more than 300 feet, at low points and sags in the roadway and near the corners of the roadway at intersecting streets.
  - [5] Catch basins and grates shall be designed and located so that surface water does not cross the roadway. Stormwater flow into catch basins via subsurface drainage pipes is not permitted.
- (c) Cross culverts.
  - [1] Where natural or man-made drainage courses are obstructed, cross drains, culverts or other structures shall be installed to restore drainage. Cross drains and culverts shall be reinforced concrete pipe, Class III, Wall "B" or SDR 35 PVC pipe as a minimum and shall have a minimum of 2.5 feet of cover over the pipe.
  - [2] The minimum culvert pipe diameter shall be 18 inches. Where cross drains or culverts are proposed under roadways or other areas subject to motorized traffic, calculations shall be submitted showing that the cross drains or culverts can withstand H-20 loading conditions under ordinary bedding conditions.
  - [3] Two feet minimum of freeboard shall be provided above the maximum headwater depth as calculated during the one-hundred-year storm event.
  - [4] Where side slopes at either end of culverts or cross drains are steeper than two feet horizontal to one foot vertical

and overall distance from the road shoulder to the existing ground surface exceeds four feet or at all headwalls within the road right-of-way, guard rails or railings of a type approved by the Community Planning Commission shall be installed.

- (d) Erosion control. Where water velocities discharged from drain pipes or culvert outlets may cause scour or erosion, flared end sections and rip-rap or other appropriate protection shall be designed and installed on the maximum expected design velocity to resist movement.
  - (e) Manholes. Manholes shall be provided at intervals of no greater than 300 feet, at changes in vertical and horizontal alignment and at all junctions. There shall be a 0.10 foot minimum hydraulic drop through the manhole or the crowns of the inlet and outlet pipes shall be matched, whichever provides for a greater hydraulic difference. Any transition between pipe materials, reinforced concrete and plastic (pvc) shall be accomplished via a standard manhole.
  - (f) Detention basins. Detention and retention basins, when proposed, shall not have side slopes steeper than two feet horizontal to one foot vertical. The top of the berm shall be flat and at least six feet in width. Detention and retention basins shall be capable of controlling the one-hundred-year storm event capacity of the basin. An emergency spillway or other structure proposed for emergency use shall be provided in the event of failure of the normal outlet structures. A trickle/low-flow channel lined with rip-rap or formed out of concrete shall be provided in the bottom of all detention basins. The pipe inlet inverts discharging into the basin shall be at or above the twenty-five-year storm event capacity of the basin.
- D. 260. Where subdrains are required by the Community Planning Commission, they shall conform to Section 260 of the Standard Specifications.
- E. On-site systems. On-site sewage disposal facilities shall be installed and constructed in conformity with the rules, regulations and requirements of the Board of Health. On-site septic tanks and leaching fields shall be located in so far as possible in the front or side yard of the building(s) served, unless surface and subsurface soil conditions, drainage and topography in the location of such on-site facilities require their placement in the rear yard.
- F. Extensions of utility systems. Where adjacent property is not subdivided or where all the property of the applicant is not being subdivided at the same time, provisions shall be made for the extension of the utility system by continuing the mains the full length of streets to the exterior limits of the subdivision, at such grade and size which will,



in the opinion of the Community Planning Commission, permit their proper extension at a later date.

**§ 350-26. Sidewalks.**

- A. Sidewalks shall be constructed within the subdivision, separated from the pavement area by a seeded strip, as provided in § 350-28.
- B. The sidewalk shall extend the full length of each side of the street and shall be a minimum width of five feet. Streets which are considered and will remain dead-end streets shall require only one sidewalk. **[Amended 10-5-1982]**
- C. 700. Bituminous concrete sidewalks, having a minimum thickness of 2 1/2 inches after compression, shall be constructed on an eight-inch gravel foundation (M1.03.0, type c) to the required lines and grades in accordance with these specifications. **[Amended 7-8-1986]**
- D. 700. If concrete sidewalks are desired, they shall be constructed as directed by the Community Planning Commission in conformity with this section of the Standard Specifications. **[Amended 7-8-1986]**

**§ 350-27. Curbs and berms. [Amended 7-8-1986]**

Vertical granite curbs shall be provided (six inches in height) throughout each subdivision. A six-foot granite catch basin curb inlet shall be installed at each catch basin.

**§ 350-28. Grass plots.**

- A. A grass plot shall be provided on each side of each roadway between the pavement and sidewalk areas, and shall occupy all the remaining area.
- B. The slope of the grass plot shall be as shown on the profiles and Typical Cross-Section, Schedule A.<sup>51</sup>
- C. Streetlight stanchions and streetlights shall be located in the grass plot but shall not be nearer than 25 feet from the intersection of two streets, measured from the intersection of the tangents of the intersecting street curb lines. **[Amended 7-8-1986]**

**§ 350-29. Trees. [Amended 10-5-1982; 7-8-1986; 3-31-1987; 8-20-1996]**

- A. Street trees species approved by the Community Planning Commission shall be planted on each side of each street in a subdivision at least five feet behind the right-of-way. Such trees shall be located approximately at seventy-five-foot intervals and shall be at least 12 feet in height, two inches in caliper measured from four feet above the approved grade,

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**51. Editor's Note: Schedule A is included at the end of this chapter.**

and each tree shall be planted each in at least 1/2 cubic yard of topsoil, unless otherwise required by the Community Planning Commission. All trees are to be protected by a maintenance easement for a period of three years. A list of approved species is to be obtained from the Tree Warden. At least three different species of trees are to be planted unless otherwise approved by the Community Planning Commission.

- B. All deciduous street trees shall be clear of any branches from the approved grade level to a point seven feet above ground level.
- C. The developer will be liable for all trees so planted as to their erectness and good health for 18 months after acceptance.
- D. All street trees are to be planted so as not to conflict with streetlights, hydrants, or underground electrical systems. A minimum horizontal clearance of 20 feet is required.
- E. Root barriers of a style and design acceptable to the Department of Public Works shall be installed in all locations where street trees are closer than 10 feet to a roadway or sidewalk.
- F. All cut and fill bankings must be planted with low growing shrubs and wood chipped to a minimum depth of six inches where side slopes are between one on four and two on four or seeded with a deep-rooted perennial grass to prevent erosion where a side slope is one on four or milder.

### **§ 350-30. Monuments.**

- A. Granite monuments shall be installed on street lines at all points of curvature and at all points of change in direction.
- B. Monuments shall be installed at all other points where, in the opinion of the Community Planning Commission, permanent monuments are necessary.
- C. Monuments shall be a standard permanent granite of not less than four feet in length and not less than six inches in width and breadth and shall have a one-half-by-two-inch drill hole in the center of the top surface. Said monuments shall be installed at the time of the final grading with the top flush with the top final graded surface.
- D. The placement and accurate location of these markers shall be certified by a registered land surveyor and properly located on the street acceptance plans.

### **§ 350-31. Street signs and names.**

- A. Upon commencement of any construction, reflective street signs shall be installed at each intersection to conform to the standard established by the Department of Public Works. **[Amended 6-18-2002]**

- B. Street names shall be approved by the Community Planning Commission to prevent duplication and to provide names in keeping with the character of the town.
- C. From the time of final grading until such time as each street is accepted by the town as a public way, the sign posts at the intersection of such street with any other street shall have affixed thereto a sign designating such street as a private way.

**§ 350-32. Streetlights.**

- A. Streetlights shall be installed to conform to the type and style as required by the Department of Public Works.
- B. Streetlight stanchions shall be located at such intervals as required by the Community Planning Commission in the grass plot, as provided in § 350-28 and shall be installed in accord with the procedure required by the Reading Light Department. **[Amended 7-8-1986]**

**§ 350-33. Maintenance of improvements.**

For the purpose of protecting the safety, convenience and welfare of the town's inhabitants, for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for reducing the danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic, and other emergencies; under the authority of Chapter 41, Section 81M, as amended, the applicant or his successor shall provide for the proper maintenance and repair of improvements under this section of the rules and regulations during the construction of said improvements or until the town votes to accept such improvements, whichever comes first.



ARTICLE VI  
**Administration**

**§ 350-34. Variation.**

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Community Planning Commission, such action is in the public interest and not inconsistent with the Subdivision Control Law.

**§ 350-35. Statutory reference.**

For matters not covered by these rules and regulations, reference is made to Sections 81-K to 81-GG, inclusive, of Chapter 41 of the General Laws.

**§ 350-36. Building permits.**

- A. No building shall be erected within a subdivision without written permission from the Planning Administrator (Lot Release Form) pursuant to § 350-13H(4). **[Amended 5-24-1994]**
- B. The Building Inspector shall not issue any permit for the erection of a building until he is first satisfied that the lot on which the building is to be erected is not within a subdivision or that a way furnishing the access to such lot as required by the Subdivision Control Law is shown on a plan recorded or entitled to be recorded under Chapter 41 of Section 81-X, as amended, and that any condition endorsed thereon limiting the right to erect or maintain buildings on such lot had been satisfied or waived by the Commission, and in the event that more than one building for dwelling purposes be erected or placed or converted to use as such on any lot, that the Building Inspector is satisfied that consent has been obtained from the Community Planning Commission in accord with § 350-6 of these rules and regulations, Chapter 41, Section 81-Q, and amendments thereto.

**§ 350-37. Inspections. [Amended 3-31-1987]**

- A. Inspections shall be arranged by the applicant with the Community Planning Commission agent for that purpose prior to the construction of streets and the installation of utilities and during construction as specified herein at each significant construction stage.
- B. Inspection shall be requested in writing at least 48 hours in advance of each inspection to the Community Planning Commission.
- C. Inspections shall be made by the Community Planning Commission agent, unless otherwise indicated, for each of the following:
  - (1) Satisfactory excavation.
  - (2) Satisfactory laying and testing of water and sewer mains, hydrants, and related equipment.

- (3) Satisfactory locations of gas mains and related equipment (by the gas company).
  - (4) Satisfactory installation of surface and subsurface drainage system and related equipment.
  - (5) Satisfactory filling.
  - (6) Satisfactory compaction.
  - (7) Satisfactory installation of electric lines and related equipment (by the Reading Municipal Light Company).
  - (8) Satisfactory location of telephone lines and related equipment (by the telephone company).
  - (9) Satisfactory completion of the pavement.
  - (10) Satisfactory placing of curbs and gutters.
  - (11) Satisfactory construction of sidewalks.
  - (12) Satisfactory finish grading of grass plots.
  - (13) Satisfactory installation of monuments.
  - (14) Satisfactory grading of lots.
  - (15) Satisfactory planting of street trees.
  - (16) Satisfactory final cleanup.
- D. The Community Planning Commission may establish the order of the required inspection and may require satisfactory completion of one step before the applicant proceeds to the next. It may require tests to be done by the applicant as a condition for approval when, in the opinion of the Community Planning Commission, it is advisable.
- E. Failure to comply with the inspection procedure may necessitate removal of improvements at the expense of the applicant or rescission of the approval of the plan in accord with Chapter 41, Section 81-W, of the General Laws of Massachusetts.

### **§ 350-38. Severability.**

If, in any respect, any provision of these rules and regulations in whole or in part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision which shall be invalid and in all other respects these rules and regulations shall stand as if such invalid provisions had not been made, and they shall fail to the extent, and only to the extent, of such invalid provision, and no other provision of these rules and regulations shall be invalidated, impaired or affected thereby.

**Chapter 500****ACTS ACCEPTED BY TOWN****§ 500-1. List of acceptances.**

| <b>MGL c.</b> | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b> | <b>Subject</b>   |
|---------------|-----------------------------|------------------------------------|--|
|               | 238/1857                    | 1857/2                             | To change the boundary line between North Reading and Lynnfield                                    |
|               | 158/1871                    | 1872/8                             | Election of Road Commissioners   |
|               | --/1908                     | 1909/19                            | Protection of forest or sprout land from fire  |
|               | 624/1910                    | 1913/11                            | Appointment of Town Accountant   |
|               | 807/1913                    | 1914                               | Workmen's compensation for town employees  |
|               | 153/1916                    | 1922/33                            | Fees for slaughterhouse licenses   |
|               | 271/1916,<br>Sec. 1         | 1916                               | Ratifying Annual Town Meeting  |
|               | 560/1916,<br>Sec. 359       | 1916/9                             | Method of choosing Moderator   |
|               | 288/1918                    | 1919/1                             | Contributions toward the cost of the North Reading branch line                                     |
|               | 247/1920                    | 1920/1                             | Operation of the railroad  |
|               | 655/1920,<br>Secs. 1 to 3   | 1920/1                             | Regulation of building construction  |
|               | --/1945                     | 1946                               | Equal pay for men and women teachers   |
|               | 9/1945                      | 1945/9                             | Board of Public Works  |
|               | 723/1945                    | 1946/22                            | Assistance to veterans   |
|               | 638/1949                    | 1952/63                            | Appointment of RSD Planning Committee  |
|               | 798/1951,<br>Sec. 5         | 3-10-1952 ATM/<br>59               | Set working hours and days of employees  |
|               | 21/1952                     | 3-3-1952                           | Placing the office of Chief of Police under the Civil Service Laws                                 |
|               | 624/1952                    | 3-8-1954 ATM/11                    | Amount of pensions, retirement allowances and annuities payable to certain former public employees |

| <b>MGL c.</b> | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b> | <b>Subject</b>   |
|---------------|-----------------------------|------------------------------------|--|
|               | 297/1954;<br>511/1954       | 10-18-1954 STM/<br>4               | Industrial Development<br>Commission created   |
|               | 223/1957                    | 4-11-1960 ATM/<br>10               | Establish Conservation<br>Commission   |
|               | 647/1960                    | 4-3-1961 ATM/80                    | Increase amount of pensions and<br>retirement allowances payable to<br>certain former public employees |
|               | --/1962; --<br>/1963        | 1963 Election,<br>Question 1       | Establish regional school district   |
|               | --/1965                     | 1966 Election,<br>Question 1       | Remove the office of<br>Superintendent of Public Works<br>from civil service                           |
|               | 7/1965                      | 3-14-1966 ATM/<br>11               | Consolidate the offices of the<br>Town Engineer and<br>Superintendent of Public Works                  |
|               | 494/1965                    | 10-11-1965 STM/<br>20              | Payment to Shahmoon Industries   |
|               | 670/1974                    | 5-5-1975 ATM/20                    | Rights and responsibilities of<br>public secondary school students                                     |
|               | 308/1985                    | 1986 ATM/11                        | Dog licensing  |
| <b>MGL c.</b> | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b> | <b>Subject</b>   |
|               | 10/1988                     | 4-1992 ATM/6<br>and 7              | Method for selecting Regional<br>School Committee members  |
|               | 245/1988                    | 4-5-1993 ATM/5                     | --   |
|               | 561/1989                    | 4-26-1990 ATM/<br>24               | Mobile home park rent control  |
|               | 653/1989,<br>Sec. 40        | 4-2-1990 ATM/6                     | Assessment date changes for new<br>growth  |
|               | 653/1989,<br>Sec. 41        | 4-2-1990 ATM/7                     | Quarterly tax bills  |
|               | 291/1990                    | 4-11-1991 ATM/<br>14               | Enhanced 911 service   |
|               | 71/1993,<br>Sec. 83         | 7-19-1993 STM/1                    | Early retirement incentive<br>program  |
|               | 181/1995,<br>Sec. 1         | 4-7-1997 ATM/10                    | Increase exemptions under<br>certain clauses of c. 59, § 5   |
|               | 170/1999                    | 4-2-2001 ATM/5                     | Additional compensation to<br>Municipal Treasurer/Collector<br>and/or Municipal Clerk                  |



| <b>MGL c.</b>               | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b>       | <b>Subject</b>  |
|-----------------------------|-----------------------------|--|---|
|                             | 369/2002                    | 4-7-2003 ATM/5                           | Dog license fees for senior citizens  |
|                             | 184/2002,<br>Sec. 51        | 4-7-2003 ATM/7                           | Adjusting qualifications for a property tax exemption   |
| 31, § 48                    |                             | 1974 Election,<br>Questions 2 and 3      | Placing Fire Department members and Fire Chief under § 48   |
| 31,<br>§§ 61A<br>and<br>61B |                             | 10-8-1998 OTM/<br>23                     | Age requirement for police officer or fire fighter  |
| 32, §§ 1<br>to 28           |                             | 1946                                     | Retirement system   |
| 32,<br>§ 4(2)(b<br>1/2)     |                             | 10-4-2004 OTM/4                          | Crediting service time towards retirement to include call and permanent- intermittent fire service, for Public Works and Police Departments |
| 32, § 99                    |                             | 5-2-1977 ATM/21                          | Advance payment of certain retirement funds   |
| 32B                         |                             | 1960 Election,<br>Question 2             | Provide insurance for certain town employees  |
| 32B,<br>§ 7A                |                             | 10-15-1974 OTM/<br>30                    | Contributions to life and health insurance for active employees   |
| 32B,<br>§ 16                |                             | 7-12-1982 - Board<br>of Selectmen        | Town may seek alternatives in health care insurance   |
| 32B,<br>§ 18                |                             | 4-5-2010 ATM/22                          | Require eligible retirees to enroll in a Medicare equivalent health insurance program   |
| 32B,<br>§ 20                |                             | 10-4-2010 OTM/<br>14; 6-3-2013<br>ATM/36 | Other Post Employment Benefits Liability Trust Fund (transfer balance from OPEB Stabilization Fund)   |
| 39, § 23                    |                             | 1933/20                                  | Election of town officers   |
| 39,<br>§ 23D                | 79/2006                     | 10-16-2006/2                             | Voting regulations for members of municipal boards holding adjudicatory hearings  |
| 40, § 5B                    |                             | 3-10-1952 ATM/<br>31                     | Stabilization fund  |
| 40, § 6B                    |                             | 3-15-1954 STM/3                          | Purchase uniforms for Police and Fire Department members  |

| <b>MGL c.</b>           | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b> | <b>Subject</b>  |
|-------------------------|-----------------------------|------------------------------------|---|
| 40, § 6C                |                             | 1980 Election,<br>Question 4       | Removal of snow and ice from<br>private ways  |
| 40, § 6E                | 538/1950;<br>299/1951       | 3-10-1952 ATM/<br>19               | Town may repair private ways  |
| 40,<br>§ 6H             |                             | 3-26-1962 ATM/<br>38               | To permit the town to make<br>repairs on private ways   |
| 40, § 6J                |                             | 10-11-1965 STM/<br>22              | Purchase of storm clothing for<br>employees   |
| 40,<br>§ 6N             |                             | 10-6-1980 OTM/7                    | Temporary repairs of private<br>ways  |
| 40, § 8D                |                             | 4-8-1974 ATM/9                     | Establish Historical Commission   |
| 40, § 8E                |                             | 10-20-1969 STM/<br>31              | Establish Youth Commission  |
| 40, § 8G                |                             | 10-6-2003 OTM/2                    | Agreements for mutual aid police<br>programs  |
| 40,<br>§ 8H             |                             | 4-1991 ATM/18                      | Recycling   |
| 40, § 8J                |                             | 4-11-1996 ATM/8                    | Establish Commission on<br>Disabilities   |
| 40,<br>§ 21D            |                             | 10-6-1980 OTM/6                    | Noncriminal disposition   |
| 40,<br>§ 21E            |                             | 10-7-1996 OTM/3                    | Interest on overdue water<br>accounts   |
| 40,<br>§ 22D            | 322/1961                    | 9-11-1961 STM/6                    | Towing of vehicles  |
| 40,<br>§ 22F            |                             | 4-7-2003 ATM/6                     | Authorizing certain Town<br>departments to increase fees set<br>by statute and to charge fees<br>which would be competitive with<br>other communities |
| 40,<br>§ 39K            |                             | 4-24-1989 ATM/<br>21               | Enterprise fund   |
| 40,<br>§§ 42A<br>to 42F |                             | 1938/1                             | Collection of water rates   |
| 40,<br>§§ 42G<br>to 42K |                             | 4-4-1966 ATM/62<br>10-6-2003 OTM/3 | To charge abutters a portion of<br>costs  |
| 40, § 57                |                             | 4-2-1990 ATM/8                     | Denial, revocation or suspension<br>of permits for failure to pay local<br>charges  |

| <b>MGL c.</b>                    | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b> | <b>Subject</b>  |
|----------------------------------|-----------------------------|------------------------------------|---|
| 40A                              | 808/1976                    | 10-13-1977 STM/<br>1               | Zoning Act  |
| 40A, § 8                         |                             | 10-20-1969 STM/<br>11              | Basis for appeals by persons aggrieved  |
| 41, 1                            |                             | 1941/6                             | Election of Board of Health   |
| 41, 31                           |                             | 1945/20                            | Board of Selectmen to act as Board of Public Welfare  |
| 41, § 73                         |                             | 1937/2                             | Selection of Board of Survey  |
| 41,<br>§ 81A                     |                             | 1944/7                             | Planning Board  |
| 41, §<br>81U,<br>paragraph<br>12 |                             | 6-16-2016 ATM/<br>37               | Use of security funds for Town completion of subdivisions   |
| 41,<br>§§ 100<br>and<br>100A     |                             | 1937/7                             | Pay for police officers and fire fighters   |
| 41,<br>§ 100A                    | 108/1965                    | 3-28-1966 ATM/<br>21               | Indemnification of officers and employees   |
| 41,<br>§ 100B                    |                             | 10-4-1982 OTM/<br>12               | Indemnification of retired police officers and fire fighters  |
| 41,<br>§ 100G1/<br>4             |                             | 4-3-2000 ATM/8                     | Payment of funeral and burial expenses for fire fighters and police officers killed in the line of duty |
| 41,<br>§ 108                     |                             | 1954/51                            | Salaries for town officers  |
| 41,<br>§ 108D                    |                             | 3-11-1963 ATM/5                    | Minimum compensation for fire fighters  |
| 41,<br>§ 108L                    |                             | 4-16-1987 ATM/<br>23               | Police career incentive pay program   |
| 41,<br>§ 110A                    |                             | 6-3-2013 ATM/34                    | Office hours on Saturdays   |
| 43D                              |                             | 4-9-2007 ATM/23                    | Expedited permitting (104 Lowell Road, Map 7, Lot 2)  |
| 43D                              |                             | 10-6-2014 OTM/<br>11               | Expedited permitting (102 Lowell Road, Map 14, Parcel 148)  |
| 44                               |                             | 1934/4                             | Accounting system   |

| <b>MGL c.</b>                     | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b> | <b>Subject</b>   |
|-----------------------------------|-----------------------------|------------------------------------|--|
| 44,<br>§ 53C                      |                             | 3-19-1973 STM/6                    | Compensation for off-duty or special detail work   |
| 44,<br>§ 53F1/<br>2               |                             | 10-10-1991 OTM/<br>12              | Enterprise fund  |
| 45,<br>§ 17A                      |                             | 1940/10                            | Closing section of Haverhill Street during school hours  |
| 48,<br>§§ 42,<br>43 and<br>44     |                             | 6-1-1949 STM/4                     | Establish Fire Department  |
| 48, § 43<br>48,<br>§§ 45 to<br>55 |                             | 3-19-1951 ATM/<br>30 1928/5        | Chief of Fire Department to act as Forest Warden Fire company  |
| 54,<br>§ 16A                      |                             | 4-24-1972 ATM/<br>34               | Appointments to fill vacancies   |
| 54,<br>§ 103A                     |                             | 10-18-1954 STM/<br>16              | Absentee voting  |
| 59, § 5,<br>cl. 17D               |                             | 4-11-1988 ATM/<br>10               | Tax relief for widows and minor children   |
| 59, § 5,<br>cl. 17E               |                             | 10-1-2001 OTM/7                    | Increase in maximum amount of assets for senior citizens to qualify for exemption  |
| 59, § 5,<br>cl. 37A               |                             | 4-3-2000 ATM/7                     | Increase in tax exemption for property owners who are blind  |
| 59, § 5,<br>cl. 41B               | 653/1982                    | 4-17-1986 ATM/<br>22               | Tax relief for persons 70 or older   |
| 59, § 5,<br>cl. 41C               |                             | 4-11-1988 ATM/<br>11               | Tax relief for elderly homeowners  |
| 59, § 5,<br>cl. 41D               |                             | 10-1-2001 OTM/8                    | Increase in maximum amount of income and assets for senior citizens to qualify for exemption                                     |
| 59, § 5K                          |                             | 4-3-2000 ATM/5                     | Property tax reduction for senior citizens exempt from state withholding taxes, unemployment insurance and workers' compensation |
| 59,<br>§ 59A                      |                             | 10-4-1999 STM/3                    | Brownfields Tax Agreements   |

| <b>MGL c.</b>                      | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b> | <b>Subject</b>  |
|------------------------------------|-----------------------------|------------------------------------|---|
| 60, § 3D                           |                             | 4-8-1999 ATM/11                    | Elderly and disabled taxation fund  |
| 60A, § 1                           |                             | 4-9-1984 ATM/19                    | Excise tax on motor vehicles  |
| 64L,<br>§ 2(a)                     |                             | 10-5-2009 OTM/3                    | Local option meals tax  |
| 71,<br>§ 71E                       |                             | 10-1981/4                          | Adult education fund  |
| 78, § 32                           | 150/1964                    | 3-22-1965 ATM/<br>25               | Leaves of absence for library staff                                       |
| 80, §§ 1<br>to 17                  |                             | 1955/3 10-6-2003<br>OTM/3          | Betterment Act  |
| 80A,<br>§§ 1 to<br>16              |                             | 10-6-2003 OTM/3                    | Eminent domain takings and betterment assessments by judicial proceedings |
| 82,<br>§§ 22 to<br>24              |                             | 1937/4                             | Taking land by eminent domain   |
| 83,<br>§§ 14 to<br>29              |                             | 10-6-2003 OTM/3                    | Sewers, drains and sidewalks  |
| 85, § 6                            |                             | 10-5-2015 OTM/<br>19               | Snow removal on streets and sidewalks                                     |
| 85,<br>§ 11A                       |                             | 3-10-1952 ATM/<br>30               | Bicycle registration and operation  |
| 90,<br>§ 20A                       |                             | 10-5-1981 OTM/<br>13               | Parking regulations   |
| 90,<br>§ 20C                       |                             | 10-6-1980 ATM/4                    | Nature of proceedings under §§ 20A and 20A1/2                             |
| 91,<br>§§ 11<br>and 29             |                             | 1955/15                            | Town assumes damages for state work on waterways                          |
| 111,<br>§§ 31<br>and 31A           |                             | 1937/3                             | Formation of Board of Health  |
| 114,<br>§§ 22,<br>23, 24<br>and 26 |                             | 1933/15                            | Cemeteries and burials  |
| 121,<br>§ 26K                      |                             | 1948/27                            | Formation of Housing Authority  |

| <b>MGL c.</b>                | <b>Chapter/<br/>Acts of</b> | <b>Adoption Date/<br/>Art. No.</b>        | <b>Subject</b>  |
|------------------------------|-----------------------------|---|---|
| 121,<br>§§ 26K<br>and 26L    |                             | 3-1962 ATM/26                             | Housing Authority   |
| 129,<br>§ 15                 |                             | 1946/8                                    | Inspector of Animals  |
| 136,<br>§ 4B                 |                             | 5-15-1961 STM/4                           | Licensing bowling alleys  |
| 138,<br>§ 33B                |                             | 6-3-2013 ATM/35                           | Sale of alcoholic beverages by on-<br>premises licensees on Sundays |
| 143,<br>§§ 6 to<br>12        |                             | 1944/6                                    | Building Inspector's duties   |
| 147,<br>§§ 13A<br>and<br>13C |                             | 4-7-1997 ATM/5                            | Reserve police officer program                                      |
| 147,<br>§ 17B                |                             | 3-11-1963 ATM/4                           | Work week for police  |
| 148,<br>§ 13                 |                             | 10-1985 ATM                               | Fees for underground storage of<br>flammables                       |
| 148,<br>§ 26C                |                             | 4-14-1980 ATM/<br>12                      | Automatic smoke or heat<br>detectors                                |
| 148,<br>§ 26G                |                             | 10-7-1985 ATM/8                           | Automatic sprinklers  |
| 148,<br>§ 26H                |                             | 4-16-1987 ATM/<br>22                      | Automatic sprinkler devices in<br>boarding and lodging houses       |
| 148,<br>§ 26I                |                             | 10-1-1990 ATM/<br>11 10-10-1991<br>ATM/15 | Automatic sprinklers in<br>multifamily housing                      |
| 258, § 9                     |                             | 1980 Election,<br>Question 2              | Indemnification of employees  |
| 258,<br>§ 13                 |                             | 1980 Election,<br>Question 3              | Indemnification of officers   |

## **Chapter 525**

### **SPECIAL ACTS**

#### **§ 525-0. Chapter 71, Acts of 1853.**

An Act to incorporate the Town of North Reading.

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

SECT. 1. All that portion of the town of Reading, lying northerly of a line commencing at Wilmington, on Ipswich River; thence down the thread of said river to Bear Meadow Brook; thence southerly, up the thread of said brook to a stone monument at a maple stump; thence in a straight line to a stone monument on Bear Meadow Causeway; thence eastwardly in a straight line, to a stone monument north of Tolman's Island, then eastwardly in a straight line to a stone monument at the north west corner of Israel A. Parson's land; thence southerly in a straight line to a stone monument on said Parson's land; thence easterly, in a straight line to a stone monument at Lynnfield line; is hereby incorporated into a town by the name of North Reading; and the said town of North Reading is hereby vested with all the powers, privileges, rights and immunities, and made subject to all the duties and regulations, to which other towns are entitled and subjected by the constitution and laws of this commonwealth.

SECT. 2. The said towns of Reading and North Reading shall be respectively liable for the support of all persons who shall hereafter become paupers, whose legal settlement had been gained within their respective limits at the time of the passage of this act, or whose legal settlement was derived or gained from a settlement which had been gained or derived within their respective limits, at the time of the passage of this act, unless such persons so becoming paupers as aforesaid, shall have acquired a legal settlement in either of said towns since the passage of this act; in which event, the town in which such legal settlement has been so gained, shall be liable for their support upon their becoming paupers.

SECT. 3. The town of North Reading shall be entitled to and receive from the Town of Reading, one-third only of the surplus revenue of the United States, deposited with said last named town, by virtue of the laws of this commonwealth, and shall pay to said town of Reading the one-third part thereof so received, whenever the town of Reading shall be called upon to repay said surplus revenue, deposited with said town by authority of law, which right to receive and obligation to repay may be enforced by an action at law, in any court competent to try the same.

SECT. 4. The town of North Reading shall be holden to pay to the town of Reading its proportion of all debts and liabilities, for which the town of Reading may be liable when this act takes effect, and shall be holden to pay all arrearages of taxes legally assessed upon its inhabitants, and also its proportion of all such state and county taxes as may be legally required of said town of Reading, before the taking of the next state valuation. Said proportion of said debts and liabilities and said state and county taxes to be ascertained and determined by the last decennial valuation of the town of Reading. And the town of North Reading is hereby authorized and required to assess such proportion of the state and county taxes required to be raised by the town of Reading, determined and ascertained as aforesaid, upon the polls and estates of the inhabitants of said North Reading, and pay the same on demand to the said town of Reading.

SECT. 5. The town of Reading, at the first meeting of the inhabitants after the passage of this act, shall choose one disinterested person; and the town of North Reading, at the first meeting of the inhabitants after the passage of this act, another, and these two shall choose a third, as soon as may be, who shall constitute a board to hear both said towns, and determine the sum that shall be awarded to North Reading for the relinquishment of the name of Reading; and to determine the sum that shall be awarded to said North Reading in consideration of its roads and bridges; to make a division of the paupers between said towns, and a just and equitable division of all the property of said town of Reading, except the surplus revenue of the United States deposited with said town; and to adjust all differences arising from the division of said town of Reading; and the decision of said board, or a majority of it, shall be final and binding on each of said towns. And said board shall have power to divide any real estate or other property, except said surplus revenue, now owned by the town of Reading, between said towns of Reading and North Reading, in such proportions as they shall deem just, having regard to the polls and estates of the inhabitants of said towns; and said board, or a majority of the members thereof, shall reduce their award concerning the premises to writing, which shall be signed by the members making the same, and shall deliver a duplicate original of the same to the town clerk of each of said towns, for the use of said towns; and either of said towns may enforce the provisions and requirements of said award, by an action at law or by a bill in equity before any of the courts of this commonwealth competent to try the same. And if either of said towns shall unreasonably neglect or refuse to appoint a disinterested person as a member of said board, as heretofore provided for, then and in that event, the other of said towns, who shall have appointed a member of said board as aforesaid, may apply to the court of common pleas, at any term thereof, holden for the county of Middlesex; giving to the town so neglecting or refusing, seven days of notice of said application, to appoint one member of said board; and said court shall appoint some disinterested person as a member of said board, who shall have the same power and authority as if he had been appointed by either of said towns in the manner aforesaid.

SECT. 6. The town of North Reading shall, — for the purpose of electing a representative to the General Court, to which the territory now comprised in the town of Reading is entitled at the present time, until the next decennial census, or until another apportionment of representatives be made, — remain a part of said town of Reading; and the inhabitants of said town of North Reading shall vote for a person for representative, at the meetings when by law a representative can be elected, who may be an inhabitant of either of said towns; and it shall be the duty of the selectmen of North Reading, to preside at such meetings, and receive and count the votes, — and a certificate of said votes shall be made by said selectmen and town clerk of said town of North Reading, and returned to the selectmen of the town of Reading, within forty-eight hours after the day of election, and the votes so returned shall be counted by the selectmen of Reading as a part of the votes of said town of Reading: — and if no choice is thus made of representative at the first day of election therefor, then it shall be the duty of the selectmen of both towns, to issue a warrant for another meeting of



the inhabitants, for the choice of representative, whenever the selectmen of one of said towns may be required by law to issue such warrant, — and at such second meetings of the inhabitants of North Reading and Reading, the same proceedings are to be had, as to receiving, counting and certifying the votes for representative, as at said first meeting as aforesaid by both said towns.

SECT. 7. Any justice of the peace for the county of Middlesex is hereby authorized to issue his warrant to any principal inhabitant of the town of North Reading, requiring him to warn the inhabitants of said town, qualified to vote in elections, to meet at the time and place therein appointed, for the purpose of choosing all such town officers, and the transaction of such other business, as towns are by law authorized and required to choose or transact, at their annual meetings, by posting up attested copies of the warrant, in the same manner as town meetings are now called in the town of Reading: and said justice, or said principal inhabitant in his absence, shall preside at said meeting, until a moderator is chosen.

SECT. 8. This act shall take effect from and after its passage.

[Approved by the Governor, March 22, 1853.]

#### **§ 525-1. Chapter 21, Acts of 1952.**

AN ACT AUTHORIZING THE PLACING OF THE OFFICE OF CHIEF OF POLICE OF THE TOWN OF NORTH READING UNDER THE CIVIL SERVICE LAWS.

Be it enacted, etc., as follows:

Section 1. The office of chief of police of the town of North Reading shall, upon the effective date of this act, become subject to the civil service laws and rules relating to police officers in towns and the tenure of office of any incumbent thereof shall be unlimited, subject, however, to said laws and rules. The incumbent of said office on January first, nineteen hundred and fifty-two, shall be subjected to a qualifying examination for said office by the division of civil service. If said incumbent passes said examination, he shall be certified for said office and shall be deemed to be permanently appointed thereto without serving any probationary period, and his tenure of office shall be unlimited, subject, however, to the provisions of said laws and rules.

Section 2. This act shall be submitted to the voters of said town at the annual town meeting or a special town meeting in the current year in the form of the following question, which shall be placed, in the case of an annual meeting, upon the official ballot to be used for the election of town officers at said meeting, or in case of a special town meeting, upon the ballot to be used at said meeting: -- "Shall an act passed by the General Court in the year nineteen hundred and fifty-two, entitled 'An Act Authorizing the Placing of the Office of Chief of Police of the Town of North Reading under the Civil Service Laws' be accepted"? If a majority of the votes in answer to said question is in the affirmative, this act shall take full effect, but not otherwise.

Approved January 30, 1952

**§ 525-2. Chapter 31, Acts of 1962.**

AN ACT PLACING THE OFFICES AND POSITIONS IN THE PUBLIC WORKS DEPARTMENT OF THE TOWN OF NORTH READING UNDER THE CIVIL SERVICE LAWS.

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 offices and positions in the public works department of the town of North Reading shall, upon the effective date of this act, be subject to the civil service laws and rules, and the tenure of office of any incumbent thereof shall be unlimited, subject, however, to said laws. The incumbent on said effective date of each such office or position classified in the official service of the civil service classification shall be subjected to a qualifying examination for such office or position by the division of civil service, and, if he passes said examination, shall be certified for said office or position and shall be deemed to be permanently appointed thereto without being required to serve any probationary period.

SECTION 2. This act shall be submitted for acceptance to the voters of the town of North Reading at the annual town meeting in the current year in the form of the following question, which shall be placed upon the official ballot to be used for the election of town officers at said meeting:- "Shall an act passed by the General Court in the year nineteen hundred and sixty-two, entitled, 'An Act placing the offices and positions in the public works department of the town of North Reading under the civil [sic] service laws,' be accepted?" If a majority of the votes in answer to said question is in the affirmative, this act shall thereupon take full effect, but not otherwise.

Approved January 30, 1962

**§ 525-2.1. Chapter 108, Acts of 1967.**

AN ACT ESTABLISHING THE ESSEX COUNTY, CITY OF REVERE AND TOWNS OF WINTHROP AND NORTH READING MOSQUITO CONTROL PROJECT.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 516 of the acts of 1958 is hereby amended by striking out the first paragraph, as amended by section 1 of chapter 638 of the acts of 1965, and inserting in place thereof the following paragraph: -

The area in Essex county not including any city or town already a member of an organized mosquito control project, the city of Revere and the towns of Winthrop and North Reading are hereby constituted a mosquito control project under section five A of chapter two hundred and fifty-two of the General Laws, to the same extent as if so constituted by the state reclamation board acting under said section five A and the improvements herein authorized shall be undertaken under the identifying name of the Essex County, City of Revere and Towns of Winthrop and North Reading Mosquito Control Project.

SECTION 2. Said chapter 516 of the acts of 1958 is hereby further amended by striking out section 2, as amended by section 2 of said chapter 638, and inserting in place thereof the following section: -

Section 2. The funds appropriated and deposited as aforesaid shall be expended by the Essex County, City of Revere and Towns of Winthrop and North Reading Mosquito Control Project for the investigation of mosquito control works, and the construction and maintenance thereof, in said county, city and towns under the direction and supervision of the state reclamation board in accordance with such known methods as in its opinion will effect the greatest measure of relief.

Approved April 4, 1967.

### **§ 525-3. Chapter 719, Acts of 1970.**

AN ACT validating the acts and proceedings at the Annual Town Meeting of the Town of North Reading held in the year nineteen hundred and seventy.

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 acts and proceedings of the town of North Reading at the annual town meeting held on March the seventh, nineteen hundred and seventy, and at the adjourned sessions held on March the ninth, the sixteenth, the twenty-third and the thirtieth and April the sixth, nineteen hundred and seventy, and all acts done in pursuance thereof, are hereby in all respects ratified, validated and confirmed to the same extent as though the warrant for said meeting and the attested copies thereof which were posted in five public places had not been incorrect as to the date for holding the election of town officers, all other notices and advertisements of said meeting having been correct and in accordance with law.

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

House of Representatives August 17, 1970

In Senate, August 17, 1970

Approved August 21, 1970

**§ 525-3.1. Chapter 295, Acts of 1974.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO ACQUIRE LAND IN THE TOWN OF ANDOVER TO PROTECT ITS PUBLIC WATER SYSTEM.

Be it enacted, etc, as follows:

SECTION 1. For the purpose of protecting its public water system, the town of North Reading is hereby authorized to take by eminent domain or acquire by purchase, gift or otherwise, to lease or contract for the use of the following described parcels of land situated in the town of Andover and shown on a Plan of Land dated September 7, 1971 drawn by Robert E. Anderson Inc., as Parcels 11 and 12, located in the office of the department of public works in said town.

Parcel 11 consists of the land located and adjacent to the Andover-Wilmington-North Reading town boundaries in the town of Andover and is bounded and described as follows: --

Northerly by land now or formerly of Ernest Sciarappa; Easterly by land now or formerly of Michael Benevento; Westerly by the Andover-Wilmington, Mass. Town line; said parcel containing 27,508+/- square feet and believed to be owned by Ernest Sciarappa.

Parcel 12 consists of land located adjacent to state highway route 125 in the town of Andover and is bounded and described as follows: --

Northerly by land now or formerly of Michael Benevento; Easterly by Route 125; Southerly by land of owner unknown; Westerly by land now or formerly of Ernest Sciarappa; said parcel containing 116,914+/- square feet and believed to be owned by Michael Benevento.

SECTION 2. For the purposes provided for in section one, the town of North Reading may appropriate by transfer from the water surplus fund the sum of fifteen hundred dollars.

Approved June 4, 1974

**§ 525-3.2. Chapter 104, Acts of 1975.**

AN ACT PROVIDING FOR CIVIL SERVICE STATUS FOR CERTAIN FIRE FIGHTERS IN THE FIRE DEPARTMENT OF THE TOWN OF NORTH READING.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, Richard F. Nash, Francis P. Driscoll and Steven E. Pepper, incumbents in the position of fire fighters of the fire department of the town of North Reading, shall be subject to the provisions of chapter thirty-one of the General Laws, provided that each of such incumbents shall pass a qualifying examination to which they shall be subjected by the director of civil service. Each incumbent who passes said examination shall be certified for such position and shall be deemed to be permanently appointed thereto subject to serving a probationary period from the date of such appointment. Each incumbent who fails to pass said examination may continue to serve in such position, but shall not otherwise be subject to the provisions of said chapter thirty-one.

Approved April 7, 1975.

**§ 525-4. Chapter 188, Acts of 1976.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO GRANT TO NEW ENGLAND POWER COMPANY CERTAIN EASEMENTS OVER, ACROSS AND UPON

CERTAIN PARK LAND IN SAID TOWN FOR THE TRANSMISSION OF ELECTRIC POWER.

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

The town of North Reading is hereby authorized to grant to New England Power Company, an electric company organized and existing under the laws of the commonwealth, an easement for the construction, maintenance and operation of towers, poles and wires for the transmission of electricity over, across and upon the two following described parcels of land in the town of North Reading held by it for conservation purposes and land held by it for sanitary land fill purposes:

Parcel 1. A strip of land 250 feet in width which was taken by the Town of North Reading for conservation purposes and sanitary land fill purposes under an instrument of taking dated December twelfth, nineteen hundred and sixty-eight, and recorded with the southern district registry of deeds in Middlesex county in Book 11626, Page 364. Said strip to commence at land now or formerly of Gary E. Slade and land now or formerly of Alvin W. Scott and extend to other land of the Town of North Reading and land now or formerly of Daniel J. and Josephine M. Doherty, crossing the intervening Ipswich River and is located as is shown on a plan entitled: "Plan of Land in North Reading, Mass. Scale 100 feet to an inch - July 8, 1968 Robert E. Anderson Inc. Reg. Professional Engineers Reg. Land Surveyors, 178 Park Street, North Reading, Mass.," recorded with said southern district registry of deeds at the end of Book 11646.

Parcel 2. A more or less triangular shaped parcel of land which contains 2800 square feet of land, more or less, and is bounded and described as follows:

Beginning at a point at land of the Town of Reading on the Reading-North Reading Town line;

thence running in a general westerly direction by said land of the Town of Reading by said Reading-North Reading Town line, 120 feet, more or less, to a point at other land of the Town of North Reading;

thence turning and running in a general northerly direction by said other land of the Town of North Reading, 140 feet, more or less, to a point at other land of the Town of North Reading held by it for conservation purposes;

thence turning and running in a general southeasterly direction by said other land of the Town of North Reading held by it for conservation purposes, 146 feet, more or less, to the point of beginning.

The deed granting said easements shall be in such form and on such terms as the selectmen of said town may approve and deem proper.

House of Representatives, June 7, 1976

In Senate, June 8, 1976

Approved June 18, 1976

#### **§ 525-5. Chapter 560, Acts of 1981.**

AN ACT VALIDATING AND CONFIRMING THE PROCEEDINGS AT AN ANNUAL TOWN MEETING OF THE TOWN OF NORTH READING IN THE YEAR NINETEEN HUNDRED AND EIGHTY-ONE.

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 actions taken by the town of North Reading at its annual town meetings held October fifth, eighth and fifteenth, nineteen hundred and eighty-one, and all actions subsequently taken pursuant thereto are hereby validated and confirmed notwithstanding that the warrant for the said annual town meeting was not posted in the manner required by law.

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

House of Representatives, November 16, 1981

In Senate, November 16, 1981

Approved November 19, 1981

#### **§ 525-6. Chapter 10, Acts of 1988.**

AN ACT RELATIVE TO THE ELECTION OF REGIONAL DISTRICT SCHOOL COMMITTEES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the election of regional district school committees, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 50 of the General Laws, as appearing in the 1986 Official Edition, is hereby amended by inserting after the word "officer," in line 101, the words:- or a regional district school committee member elected district-wide.

SECTION 2. Section 2 of chapter 53 of the General Laws, as so appearing, is hereby amended by inserting after the word "provides," in lines 2 and 3, the words:- and in the case of nominations to regional district school committees elected district-wide.

SECTION 3. Section 6 of said chapter 53, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- Nominations of candidates for offices to be filled at a city or town election, except where city charters or general or special laws provide otherwise and nominations of candidates for the office of regional district school committee members elected district-wide, may be made by like nomination papers, signed in the aggregate by not less than such number of voters as will equal one per cent of the entire vote cast for governor at the preceding biennial state election in the electoral district or division for which the officers are to be elected, but in no event by less than twenty voters in the case of an office to be filled at a town election or election to a regional district school committee elected district-wide; provided, however, that no more than fifty signatures of voters shall be required on nomination papers for such town office or regional district school committee elected district-wide.

SECTION 4. Section 8 of said chapter 53, as so appearing, is hereby amended by inserting after the word "elections," in line 5, the words:- and elections for the office of regional school committee member elected district-wide.

SECTION 5. Said section 8 of said chapter 53, as so appearing, is hereby further amended by inserting after the words "town offices," in line 37, the words:- and the office of regional district school committee member elected district-wide.

SECTION 6. Said chapter 53 is hereby further amended by adding the following section:-

Section 122. The following provisions shall apply to regional school district-wide elections:

(a) Any person who is a resident of a member community and is a registered voter in the community in which he resides shall be entitled to have his name printed on the ballot to be used in the district-wide election if he shall file with the district Clerk nomination papers signed by the number of voters as provided in section six who are registered and qualified to vote in the regional school district in which he resides.

(b) The state secretary shall supply candidates with a certificate of nomination and nomination papers through the district Clerk.

(c) Other provisions of this chapter and chapters fifty-four and fifty-six relative to state elections shall apply to regional school district elections.

(d) Every nomination paper of a candidate shall be submitted to the registrars of the city or town where the signers appear to be voters on or before five o'clock post meridian of the twenty-eighth day preceding the day on which it must be filed with the district Clerk. Nomination papers shall be filed by the candidate with the district Clerk on or before the eleventh Tuesday preceding the day of election. The district Clerk shall certify a correct list of candidates to the state secretary on or before the tenth Tuesday preceding the day of election. If the state secretary does not receive said certified list of candidates, on or before said date, the names of candidates for the regional district school committee shall not be printed on the ballot. The district Clerk shall receive the election results from the city and town clerks, tabulate the results and certify the winners.

SECTION 7. Section 42 of chapter 54 of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

The names and addresses of the candidates for regional district school committees elected district-wide at state elections who are elected incumbents shall be placed first on the ballot in alphabetical order according to their surnames; and the names and addresses of all other such candidates shall follow in like order. No political or other designation shall appear on the ballot. There shall be printed such directions as shall instruct the voter to vote for the appropriate number of candidates from each community. If the state secretary cannot accommodate all the names on the ballot in a particular community, he may in his discretion print a separate paper ballot for candidates for regional district school committees.

SECTION 8. Said chapter 54 is hereby further amended by adding the following section:

Section 162. At the biennial state elections, members of regional district school committees elected at district-wide elections shall be chosen by the voters in each such district. The length of such terms of office shall be determined by the regional school districts; provided, however, that such terms shall not exceed four years.



SECTION 9. Section 24 of chapter 55 of the General Laws, as appearing in the 1986 Official Edition, is hereby amended by inserting after the word "involved," in line 5, the words:- and if the statement required to be filed by a candidate, treasurer or other person relates to a nomination or election for the office of regional district school committee member elected district-wide, the statement shall be filed with the Clerk of the city or town where the candidate is a registered voter.

SECTION 10. Chapter 71 of the General Laws is hereby amended by inserting after section 14D the following section:-

Section 14E. A regional school district may, by amendment to its regional school district agreement, provide for one of the following options concerning the members of its regional district school committee: (1) electing committee members by voters in member communities with each community's representation apportioned according to population; (2) electing members in district-wide elections to be held at the biennial state elections; (3) electing members with residency requirements in district-wide elections to be held at the biennial state elections; (4) weighing the votes of committee members according to the population they represent; and (5) appointing committee members by locally elected officials such as school board members. Each regional school district shall designate an individual to serve as district Clerk.

If a regional school district decides to elect members in district-wide elections to be held at the biennial state elections or if any vacancy is to be so filled, the district Clerk shall notify the state secretary by April fifteenth of the year of the biennial state election of that fact and also of his name and mailing address.

SECTION 11. Section 1 of chapter 268B of the General Laws, as appearing in the 1986 Official Edition, is hereby amended by inserting after the word "congress," in line 131, the words:- and the office of regional district school committee member elected district-wide.

SECTION 12. The commonwealth shall, subject to appropriation, reimburse the towns of East Bridgewater, Easton, Foxborough, Mansfield, Norton, Sharon, Stoughton, and West Bridgewater for the additional costs incurred as a result of the regional district election held in November, nineteen hundred and eighty-seven.

Approved March 29, 1988

**§ 525-7. Chapter 32, Acts of 1988.**

AN ACT RELATING TO THE ISSUE OF CERTAIN BONDS BY THE TOWN OF NORTH READING.

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. Any indebtedness incurred by the town of North Reading for acquiring the Hillview Country Club and for purchasing necessary equipment and furnishings therefor, including but not limited to the four million seven hundred thousand dollars gold [sic] course acquisition bonds approved under Article 1 of the warrant for the January nineteenth, nineteen hundred and eighty-eight special town meeting and the one hundred thousand dollars golf course equipment bonds approved under Article 2 of said warrant, shall be subject to the applicable provisions of chapter forty-four of the General Laws; provided, however, that the maturities of bonds or notes issued for these purposes shall be arranged so that for each issue the combined payments of principal and interest shall be as nearly equal as practicable in the opinion of the town treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal.

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

House of Representatives, May 3, 1988

In Senate, May 3, 1988

Approved May 10, 1988

**§ 525-8. Chapter 33, Acts of 1988.**

**AN ACT ESTABLISHING A SPECIAL ACCOUNT FOR THE HILLVIEW FACILITY IN THE TOWN OF NORTH READING.**

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 the provisions of section fifty-three of chapter forty-four of the General Laws or any other provision of law to the contrary, the town of North Reading is hereby authorized to establish a special account to be known as the Hillview Special Account into which account shall be deposited all receipts, revenues and funds from any source derived from any activity of the Hillview facility formerly known as the Hillview Country Club. For the purpose of acquiring, operating, maintaining and improving the facility, said town, may, at any time during the fiscal year appropriate monies into said account. Donations from private sources also may be received and placed into said account, as well as monies from other sources authorized by law.

SECTION 2. Said account shall be maintained by the town treasurer of said town. Said treasurer may invest the monies in said account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four of the General Laws. The interest accruing upon said Account shall inure solely to the benefit of the Hillview facility. The books and records of the facility pertaining to said Account shall be maintained in accordance with generally accepted principles of accounting. Said Account shall be audited annually by an independent certified public account. Such audit reports shall be submitted to the Hillview commission, the board of selectmen and the town administrators of said town.

SECTION 3. The town treasurer of said town, upon written request of the Hillview commission with the approval of the board of selectmen of said town, may advance funds from the general fund of the town, in anticipation of the receipt of revenues of the Hillview facility for the same fiscal year. Such advances outstanding at one time in any fiscal year shall not exceed twenty-five percent of the annual expenses of the current fiscal year as certified by said commission unless a larger amount shall be approved by said board of selectmen. All sums so advanced shall be deposited into said account established under section one and said facility shall, prior to the end of the fiscal year in which advances were made from the general fund, repay said advances from said Account. Said repayment shall include an amount equal to the interest as determined by the town treasurer of said town, allocable to any debt incurred by said town in anticipation of revenue, in order to make such advances to said facility during the same fiscal year.

SECTION 4. The Hillview commission shall file with the board of selectmen, the town administrator, the town treasurer and the bureau of accounts a written report of the special account established under the provisions of section one within one hundred and twenty days after the books are closed for the fiscal year. Such report shall include financial statements relating to the operations, maintenance, capital and real and personal properties of the Hillview facility.

SECTION 5. This act shall take effect upon its passage.

SECTION 6. This act shall become inoperative on July first, nineteen hundred and eighty-nine.

House of Representatives, May 3, 1988

In Senate, May 3, 1988

Approved May 10, 1988

**§ 525-9. Chapter 223, Acts of 1990.**

AN ACT ESTABLISHING THE ESSEX-MIDDLESEX SANITARY DISTRICT.

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 water pollution abatement district, to be known as the Essex-Middlesex Sanitary District, hereinafter called the district, is hereby established upon acceptance by vote of the town meetings of the towns of Boxford, Topsfield, Hamilton, Middleton, North Reading, and Wenham and shall include the territory of each town so voting.

SECTION 2. The district shall be a body politic and corporate. There shall be a commission to be known as the district commission. An executive director and treasurer shall be appointed by the district commission.

The district commission upon formation shall consist of one member from each of the towns in the district and one additional member from the host town in which the facility is located, when established, said members to be residents of their respective towns and appointed for a term of three years by a vote of the board of selectmen; provided, however, that in a town where the members of the board of health are elected, such appointment shall be by joint vote of the board of selectmen and the board of health. The initial appointments shall be: two members for one year, two members for two years and two members for three years. The membership of the district commission may be expanded by a two-thirds vote of the members of the commission.

The district commission shall employ qualified persons to serve as executive director and treasurer and fix their salaries. Said director shall administer the affairs and direct the work of the district as approved by the commission. The powers and duties of the director shall be set forth in the by-laws of the district.

The executive director may, with the approval of the district commission, employ such other persons as he shall deem necessary and fix their salaries.

The commission shall, within thirty days of initial appointment of all members and thereafter annually in the month of June select a chairperson, a vice chairperson, and a secretary from among the membership who shall also act as an executive committee.

SECTION 3. The district commission:

(A) May act by a majority vote on all matters except that a two-thirds majority vote shall be required for the following four items:

- (1) the undertaking of any capital outlay project costing more than twenty-five thousand dollars;
- (2) the issuance of bonds or notes;
- (3) the removal of the executive director;
- (4) the exercise of the power of eminent domain.

(B) Shall adopt, and may amend or repeal, by-laws, regulations and rules for the conduct of its affairs.

(C) Shall adopt a corporate seal.

(D) May sue and be sued.

(E) May enter into contracts and other instruments necessary or convenient to the exercise of its powers.

(F) May incur expenses in order to carry out the purpose of this act.

(G) May issue bonds and notes as hereinafter provided and to secure the payment thereof may pledge or assign, or provide for a lien upon or security interest in, any or all property of the district or any or all revenues, including without limitation assessments, grants or taxes or rates, fees or charges derived from the operation of any or all facilities or projects of the district.

(H) May acquire, dispose of, lease, as lessee or lessor, transfer, sell and encumber real and personal property, including intangible property, or interests therein, for the purposes of the district, as it deems appropriate in the exercise of its powers.

(I) May manage, control and supervise abatement facilities.

(J) May construct, acquire, transfer, sell, improve and maintain and operate abatement facilities.

(K) Shall provide revenues to carry out the purposes of the district, in accordance with clauses I and J.

(L) May apply for, accept and receive grants, loans or other financial assistance from the federal government, the commonwealth or any other public or private source.

(M) May invest available funds as provided by law.

(N) Shall adopt regulations and rules as to the quality and character of any sewage derived from septic systems and other wastes received by the district's facilities or projects.

For the purposes of this act abatement facilities shall include facilities for the purpose of treating, neutralizing or stabilizing sewage derived from septic systems and other wastes as are disposed of by means of the facilities, including treatment or disposal plants, the necessary intercepting, outfall and outlet pipelines, pumping stations and force mains integral to such facilities and pipelines, equipment and furnishings thereof and their appurtenances, and

(O) May provide for the insurance, including self-insurance, of any property or operations of the district, its members, commissioners, officers and employees, against any risk or hazard, and may indemnify its members, commissioners, officers and employees against any risk or hazard.

(P) May create and fund reserves for the purpose of planning, constructing, reconstructing, financing, acquiring, owning, managing, insuring, leasing, equipping, extending, improving, operating, maintaining, repairing and closing any of its facilities or projects.

(Q) May establish rates, fees and charges for the use of any of its facilities or projects.

(R) May request any member, for the purposes of the district, to exercise the power of eminent domain available to such member and reimburse such member for the cost of the acquisition and other expenses related to such exercise of eminent domain. Each and every member shall have the right to exercise the power of eminent domain, in accordance with the provisions of law governing such right, for the purposes of the district upon such a request from the district commission.

(S) May enforce whether through the courts or otherwise any of its duly adopted regulations or rules or the payment or collection of any assessments provided under section seven hereof or any amounts to be received pursuant to the provisions of section nine hereof. In cases determined appropriate by the district commission, the district commission may seek injunctive relief of any kind available through the courts.

(T) May exercise such other powers as are necessary or incidental to carrying out the purposes of this act.

SECTION 4. The district may apply to the appropriate state and federal authorities for grants, loans or other financial assistance for the purpose of assisting the district in developing a comprehensive water pollution abatement project for such district. In no case shall such financial assistance exceed the reasonable and necessary cost of such projects, after subtracting therefrom any federal grants, loans or other financial assistance made to such district for the same purposes.

SECTION 5. The district commission, or its agents, may enter upon any lands or waters for the purpose of making surveys, test pits and borings, and may take by eminent domain or acquire by purchase or otherwise, the right to temporarily occupy any lands necessary for the carrying out of the said purposes.

SECTION 6. No lands, rights-of-way, or other easements, property, structures, or rights acquired by the district, as herein provided, and located in a member community, shall be taxed or assessed by the municipality if yielding no rent, but the district may annually on July first pay to the municipality, an amount in lieu of taxes, said amount to be established by the district commission.

SECTION 7. It is the intent of the district to be self-supporting; provided, however, that the district commission may assess any and all costs of operation of the district among the members using a formula based on the estimated or actual gallonage of sewage derived from septic systems contributed to the system by each member. Said assessments shall annually, no later than sixty calendar days prior to the earliest annual town meeting of any member, be filed with the board of selectmen of each member who shall incorporate the amount in the warrant for approval at the next annual town meeting. Approval by a two-thirds vote of the member communities shall be binding on the entire membership.

SECTION 8. The district, by vote of the commissioners, is authorized to issue, from time to time, general obligation or revenue bonds or notes of the district to pay for the costs of operating and maintaining the facilities and projects of the district and the costs of capital outlay required in connection with the facility or facilities or the project or projects contained in an approved plan, in such amount or amounts as the district commissioners may determine and may refund any such bonds or notes with general obligation or revenue bonds. Such bonds or notes may be callable with or without premium, shall contain such terms and conditions, bear such rate or rates of interest, including variable rates and rates established by reference to an index or formula, be sold in such manner, at public or private sale, at such time or times and at such price or prices, be secured by such pledges, assignments, liens, security interests, reserves, guarantees, letters of credit, insurance and similar documents, and mature at such times and in such amounts as the district commission shall determine; provided, however, that any bonds or notes issued under this section that are not temporary shall be payable not later than thirty years from their date.

If the district votes to issue bonds or notes, the district commission may authorize the issuance, in the name of the district, of general obligation or revenue temporary notes for a period of not more than two years in anticipation of the money to be received from the sale of such bonds or notes; but the time within which such bonds or notes shall become payable shall not be extended by reason of the issuance of such temporary notes beyond the time fixed in the vote authorizing such bonds or notes.

The district, by vote of the commissioners, is authorized to issue, from time to time, general obligation or revenue temporary notes of the district in anticipation of assessments and other revenues of the district of the year in which such notes are issued. Temporary notes in anticipation of assessments or other revenues shall be payable not more than one year from their dates. If at any time any principal or interest is due or about to become due on any bond or note issued by a district and funds to pay the same are not available, the district may temporarily borrow money and issue temporary general obligation notes of the district, payable not more than one year from their dates, to pay such principal and interest.

Temporary notes issued under this section for a shorter period than the maximum permitted may be renewed by the issuance of other temporary notes maturing within the required period; provided, that the period from the date of issue of the original temporary note to the date of maturity of the renewal note shall not exceed the maximum period for which the original temporary note may have been issued. Such temporary notes or renewal notes may be sold at discount or with interest payable at or at and before maturity.

Bonds and notes of the district shall be signed by the treasurer and countersigned by the executive director of the district and shall have the district seal affixed. Sections sixteen B and sixteen C of chapter forty-four of the General Laws shall be applicable to such bonds and notes.

The term "costs of operating and maintaining" as used herein shall include any or all costs or expenses incurred or to be incurred in connection with the operation or maintenance of any of the district's facilities or projects, including without limitation the cost of maintaining, repairing or servicing any facilities or projects of the district, the cost of acquiring, maintaining or repairing offices owned or leased by the district or acquiring, maintaining, servicing or repairing equipment or furnishings owned or leased by the district, any salaries or expenses of any commissioner, officer or employee of the district while acting in the performance of their duties on behalf of the district, insurance, utilities, any fees and charges of any independent consultants for engineering, financial or legal services and any similar cost or expense necessary or incidental to the district in carrying out its purposes hereunder.

The term "capital outlay" as used herein shall mean the cost of construction, acquisition, extension or improvement of facilities included in the project or projects contained in an approved plan, the cost of acquisition of all the land or interest therein of any nature or description, for such construction, extension, acquisition or improvement, and any legal appraisal or surveys, fees or services with relation thereto, the cost of demolition or the removal of any buildings or structures on land so acquired, the cost of furnishings and equipment, financing charges, costs of issuance of bonds and notes, including any premium on any insurance obtained in connection therewith or the cost of any guarantees, letters of credit or similar documents purchased in connection therewith, insurance during construction, cost of architectural, engineering, legal or other expenses, plans, specifications, estimates and costs and such other expenses, acquisition or improvement of such facilities, and the placing of such facilities in operation.

The term "improvement" as used in this section shall include the cost of acquiring more equipment, the cost of converting the existing facility into a new condition of completeness or efficiency from a worn, damaged or deteriorated condition whenever the plans for such improvement have been approved.

Any bonds or notes issued under this section shall not be included in computing the limit of indebtedness of any city or town any portion of which is included in the district.



SECTION 9. The district commission shall annually determine the amounts required for the payment of principal and interest and premium, if any, on such bonds and notes issued or to be issued by the district which will be due during the ensuing calendar year and may apportion the amounts so determined among the municipalities in the district in accordance with the provisions of section seven. The district commission shall also annually determine the amounts necessary to be raised to maintain and operate the district during said year, for capital outlay items the cost of which is not to be funded, and for all other matters for which the district is required to raise money, and shall apportion among the municipalities the amounts so determined, in accordance with the provisions of said section seven, reduced by the amounts of revenues of funds which are available or are to be received by the district during said year and are applicable to costs of maintenance and operations. All amounts apportioned hereunder shall be subject to the provisions of section seven, including the approval procedures therein. Amounts apportioned or assessed under this act shall be subject to the provisions of section twenty B of chapter fifty-nine of the General Laws.

House of Representatives, August 27, 1990

In Senate, August 27, 1990

Approved September 5, 1990

**§ 525-10. Chapter 112, Acts of 1991.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO IMPLEMENT AN INCREASE IN AN EXISTING INTERBASIN TRANSFER OF WATER FOR THE PURPOSE OF MUNICIPAL WATER SUPPLY.

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

The town of North Reading may, with the approval of the water resources commission, implement an increase in the existing transfer of water from the Merrimack river basin to the Ipswich river basin.

House of Representatives, June 19, 1991

In Senate, June 29, 1991

Approved July 8, 1991

**§ 525-11. Chapter 185, Acts of 1996.**

AN ACT RELATIVE TO RECALL ELECTIONS IN THE TOWN OF NORTH READING.

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. Chapter 6 of the charter of the town of North Reading, which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out section 3 and inserting in place thereof the following section:-

Section 6-3-1. Any elective officer of the town may be recalled and removed from public office by the voters of the town as herein provided. Any voter of the town may file with the town Clerk an affidavit containing the name and title of the elective officer whose removal is sought, together with a statement of the grounds for his removal. No recall petition may be filed against any officer until he has held office for at least six months.

Section 6-3-2. The town Clerk shall thereupon deliver to said voter or voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms shall be available. Such forms shall be issued by the town Clerk with his signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the 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 have been signed by qualified voters of the town, who shall add to their signatures the street and number, if any, of their residences, equal in number to at least fifteen percent of the voters registered at the last regular municipal election.

Section 6-3-3. The town Clerk shall within twenty-four hours of receipt submit the petition to the registrars of voters in the town, and the registrars shall within seven working days certify thereon the number of signatures which are names of registered voters of the town.

Section 6-3-4. If the petition shall be found and certified by the town Clerk to be sufficient he 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 seventy-five and not 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 ninety 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 6-3-5. Any officer sought to be removed may be a candidate to succeed himself, and unless he 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 all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

Section 6-3-6. The incumbent shall continue to perform the duties of his office until the recall election. If then reelected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in this act. If not reelected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of this election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 6-3-7. Ballots used in the 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)

For the election of (name)

Each proposition shall be marked in accordance with the procedures for voting according to the electronic voting system used by the town. Under the propositions shall appear the word "Candidates," 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 are in the affirmative, the candidate receiving the highest number of votes shall be declared elected.

Section 6-3-8. No recall petition shall be filed against an officer within six months 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 of the town.

Section 6-3-9. 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 any office in the town within two years after such recall or such resignation.

SECTION 2. This act shall be submitted to the voters of the town of North Reading at the annual election to be held in the year nineteen hundred and ninety-seven in the form of the following question which shall be placed on the official ballot:- "Shall an act passed by the general court in the year nineteen hundred and ninety-six entitled 'An act relative to recall elections in the town of North Reading' be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, said act shall take effect, but not otherwise.

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

House of Representatives, July 8, 1996

In Senate, July 16, 1996

**§ 525-11.1. Chapter 321, Acts of 1996.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO CONVEY A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of North Reading, acting by and through its board of selectmen, is hereby authorized to convey a portion of a certain parcel of open space and recreational land to an individual or entity abutting said parcel and to convey the remainder of said parcel to the conservation commission of said town for conservation purposes. Said conveyance shall be subject to the provisions of section sixteen of chapter thirty B of the General Laws. Said parcel is shown on a plan of land entitled, "Plan of Land in North Reading, MA" dated March twenty-sixth, nineteen hundred and ninety-six prepared by JJR Engineering, which is on file in the office of the town Clerk.

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

Approved August 9, 1996.

**§ 525-11.2. Chapter 410, Acts of 1996.**

AN ACT RELATIVE TO A CERTAIN MOSQUITO CONTROL DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 1 of chapter 516 of the acts of 1958, as most recently amended by section 1 of chapter 108 of the acts of 1967, is hereby further amended by striking out, in line 4, the word "project" and inserting in place thereof the following word:- district.

SECTION 2. Said first paragraph of said section 1 of said chapter 516, as most recently amended by said section 1 of said chapter 108, is hereby further amended by striking out, in lines 8 and 9, the words "Essex County, City of Revere and Towns of Winthrop and North Reading Mosquito Control Project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

SECTION 3. Section 2 of said chapter 516, as most recently amended by section 2 of said chapter 108, is hereby further amended by striking out, in line 2, the words "Essex County, City of Revere and Towns of Winthrop and North Reading Mosquito Control Project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

SECTION 4. Section 3 of said chapter 516 is hereby amended by striking out, in lines 1 and 2, the words "mosquito control project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

SECTION 5. Said section 3 of said chapter 516 is hereby further amended by striking out, in lines 3 and 10, the word "project" and inserting in place thereof, in each instance, the following word:- district.

SECTION 6. Section 4 of said chapter 516 is hereby amended by striking out, in lines 5 and 6, the words "mosquito control project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

Approved October 31, 1996.

**§ 525-12. Chapter 83, Acts of 1997.**

AN ACT VALIDATING THE PROCEEDINGS OF A SPECIAL ELECTION HELD IN THE TOWN OF NORTH READING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, all acts and proceedings of the town of North Reading at a special town election held on November 19, 1996, and all actions taken pursuant thereto are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the calling or holding of said special town election.

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

Approved August 28, 1997

**§ 525-12.1. Chapter 204, Acts of 1997.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO GRANT CERTAIN EASEMENTS IN CERTAIN CONSERVATION LAND.

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

The town of North Reading, acting by and through its board of selectmen, is hereby authorized to grant easements in certain parcels of conservation land located in said town to MediaOne of Massachusetts, Inc. or their successors to construct, upgrade, install, operate and maintain the necessary cables, wires, anchors, guys, supports and fixtures thereon for the transmission of cable communication services. Said parcels are shown as parcels 20, 23, and 33 on said town of North Reading Assessor's Map 72 and as parcel 2 on said Assessor's Map 73. Such easements being more particularly described as the exclusive right to attach or otherwise affix cables, wire or optical fibers comprising the cable communications systems to the existing poles or conduits on and along said easements, provided, however, that said MediaOne of Massachusetts, Inc., or its successor obtains the permission of the public utility companies to affix the cables and wires to their poles and conduit facilities, with the right to make service connections to subscribers, and the right to cut down or trim trees and bushes as the grantees may from time to time deem necessary, not to exceed a width of 30 feet.

Approved November 28, 1997.

**§ 525-12.2. Chapter 57, Acts of 1998.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO LEASE A CERTAIN BUILDING.

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 the provisions of chapter 30B of the General Laws or any other general or special law to the contrary, the town of North Reading, acting by and through its board of selectmen, is hereby authorized to lease the Weeks Building/Damon Tavern, hereinafter called the Damon Tavern, for a term not to exceed 25 years to The North Reading Historical and Antiquarian Society Inc. for the preservation and protection of the historical resources of said town.

SECTION 2. Any funds derived from the use, operation, or subleasing of any portion of the Damon Tavern by said society shall be deposited into a special account known as the Damon Tavern Revolving Trust Fund which shall be kept separate and apart from all other accounts of the town. The town may appropriate in any year monies from said Fund for the maintenance and upkeep of said Damon Tavern and grounds. Said society shall select an independent certified public accountant to perform an annual audit of the society's books and accounts and to make a report of such accountant's findings and opinions to the board of selectmen of said town.

SECTION 3. If at any time the Damon Tavern ceases to be used for the purposes specified in section 1, the lease shall terminate and the control of the property shall revert to the town.

SECTION 4. The consideration for any sublease of any portion of the Damon Tavern shall be the full and fair market value of said leasehold interest and any such sublease shall require the approval of the board of selectmen of the town of North Reading.

Approved March 20, 1998.

**§ 525-13. Chapter 215, Acts of 1998.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO CONVEY CERTAIN CONSERVATION LAND.

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 town of North Reading, acting by and through its board of selectmen, is hereby authorized to sell and convey a certain parcel of conservation land to an abutting entity or person. Said parcel is a portion of assessor's Map 72, parcel 35 containing 0.41 acres. Said sale price shall not be less than \$5,000.<sup>52</sup>

SECTION 2. No deed conveying by or on behalf of the town of North Reading the property described in section 1 shall be valid unless such deed prohibits the construction of a residential structure on said parcel.

Approved August 5, 1998

**§ 525-13.1. Chapter 271, Acts of 1998.**

AN ACT RELATIVE TO CERTAIN STATE LAND IN THE TOWN OF NORTH READING AND THE TOWN OF WILMINGTON.

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. As used in this act, the following words shall, unless the content clearly indicates otherwise, have the following meanings:-

"Commissioner," the commissioner of the division of capital asset management and maintenance.

"Committee," the J. T. Berry reuse committee.

"Developer," the entity or entities, to which the commissioner may convey all or part of the commonwealth's interest in the property located at the John T. Berry Rehabilitation Center.

"Division," the division of capital asset management and maintenance.

"J. T. Berry center" or "site," all land owned by the commonwealth as of January 1, 1998 located upon the John T. Berry Rehabilitation center located in the towns of North Reading and Wilmington.

SECTION 2. The commissioner of the division of capital asset management and maintenance is hereby authorized and directed, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to convey by deed, approved as to form by the attorney general, or to lease for a period not to exceed 99 years, all or parts of the commonwealth's interest in all or portions of the land and buildings located at the J. T. Berry center to a developer or developers, selected in accordance with the provisions of this act. Said land is shown on a "Plan of Land in North Reading owned by the Commonwealth of Massachusetts," dated September 2, 1992, prepared by Robert E. Anderson, Inc., which plan is on file with said division. Said deeds and leases shall be consistent with the policies set forth in this act.

SECTION 3. Within 90 days of the effective date of this act, the division of capital asset management and maintenance shall issue a Memorandum of Agreement between said division and the towns of North Reading and Wilmington concerning the reuse of the site. Said division shall negotiate the terms of said agreement with the town administrator of the town of North Reading and the town manager of the town of Wilmington with the advice of the state senator and state representatives representing said towns of North Reading and Wilmington in the general court. Said agreement shall incorporate the requirements of existing zoning regulations and the provisions of this act, including, but not limited to, a commitment by said division to undertake predevelopment studies of the site, to resurvey the site, to fund site assessment sufficiently to adequately determine the nature and extent of oil or hazardous materials on the site and the cost of remediation, in accordance with applicable laws and regulations and to market the site to potential developers; provided, however, that said agreement shall exclude the use of any portion of the site for an incinerator, landfill, or other means of permanent disposal of solid or hazardous waste, house of correction, jail or prison. Said agreement shall include a timetable within which said division shall complete said surveys, evaluations and assessments of oil and hazardous materials.

SECTION 4. Within 180 days following the approval of the Memorandum of Agreement and pursuant to sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of the division of capital asset management and maintenance shall issue requests for proposals for the reuse of all or a portion of the site. Said requests for proposals shall be based on the provisions of the Memorandum of Agreement and this act, and shall include, but not be limited to, the following:--

(a) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered, and the maximum time for proposal acceptance by the division;

(b) a description of the property offered;

(c) a description of evaluation criteria that will be utilized for the evaluation of proposals, together with a statement that evaluations shall be based solely on the criteria set forth in the request for proposals;

(d) a list of all items or categories of information which must be included in each development proposal, and a format for submitting such information.



SECTION 5. The commissioner of the division of capital asset management and maintenance shall, 90 days before the execution of any land disposition agreement authorized by section 3 or any subsequent amendment thereto, submit the land disposition agreement or amendment and a report thereon to the inspector general who shall review and comment upon said land disposition agreement or amendment within 15 days of the receipt thereof. Said commissioner shall submit the land disposition agreement and any subsequent amendments thereto, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means, the committee on state administration, the house and senate committees on post audit and oversight, the J. T. Berry reuse committee, and the state senator and state representatives representing said towns of North Reading and Wilmington in the general court at least 75 days prior to execution. Said land disposition agreement shall include conditions adopted in the Memorandum of Agreement including, but not limited to, the provision that the developer or developers consult with the J. T. Berry reuse committee during the planning, development, construction and management of said development on a schedule established by said committee.

SECTION 6. Within 30 days of the effective date of this act, there shall be established a J. T. Berry reuse committee, hereinafter referred to as the committee, to consist of not more than 13 members to be appointed by the division of capital asset management and maintenance, in consultation with state and local officials; provided, however, that one member shall be a member of the Wilmington board of selectmen or its designee, one member shall be the town manager for the town of Wilmington or his designee, one member shall be the town administrator for the town of North Reading or his designee, one member shall be the planning director for the town of North Reading or his designee, one member shall be a member of the North Reading Community planning commission or its designee, one member shall be from the North Reading Business Association, and the remaining members shall be residents of the town of North Reading, the names of whom shall be submitted by the town administrator to the commissioner of said division. The state senator and state representatives representing said towns of North Reading and Wilmington in the general court shall serve as ex-officio, nonvoting members of the committee. Said committee may review, comment and make recommendations concerning the implementation of the Memorandum of Agreement.

SECTION 7. The commissioner of the division of capital asset management and maintenance is hereby authorized to retain or grant rights-of-way or easements for access, egress, utilities and drainage across property described in section 2 and across other commonwealth property contiguous to said property, and the commonwealth may accept from the developer rights-of-way or easements in roadways or across property to be conveyed by deed or leased pursuant to said section 2 for purposes of access, egress, drainage and utilities.

SECTION 8. The amount of consideration for the sales, lease, sublease, granting of easements or other conveyances authorized by the provisions of this act shall be equal to the fair market value of any portion thereof, as established by taking the averaged appraised fair market value from three independent appraisals from three independent appraisers selected by the commissioner of the division of capital asset management and maintenance throughout the competitive bidding process and with a methodology approved by the inspector general. Said commissioner shall, in like manner, conduct an appraisal of such property, or any portion thereof, every ten years to determine the current fair market value; provided, however, that such appraisal shall not include any privately constructed building thereon. Any subsequent sale, lease, sublease or other conveyance shall be adjusted based upon subsequent appraisals. Consideration for parcels within the site, portions thereof, easements, or other conveyances at less than fair market value shall be allowed if said commissioner, in consultation with the J. T. Berry reuse committee, determines that a direct public benefit is provided to the citizens of the commonwealth and approves such lesser consideration; provided, however, that if said commissioner selects a developer who did not offer the highest price, said commissioner shall include a justification for such decision in the notification required by section 40H of chapter 7 of the General Laws. Said commissioner shall maintain a written record in reasonable detail of evaluations and negotiations undertaken pursuant to this act and shall retain such record with the proposals in accordance with said section 40H. All funds derived from the sale, lease, sublease, granting of easements or other conveyances related to parcels within the site shall be credited to the General Fund.

Approved August 10, 1998.

**§ 525-13.2. Chapter 419, Acts of 1998.**

**AN ACT AUTHORIZING THE TOWN OF NORTH READING TO ESTABLISH A CERTAIN FUND.**

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

Notwithstanding the provisions of any general or special law to the contrary, the town of North Reading is hereby authorized to appropriate in any given year money to establish a fund to be known as the North Reading Town Employee Retirement Fund, which shall be kept separate and apart from all other monies by the treasurer of said town and which together with any interest shall be used for the purposes of paying costs associated with the retirement of town employees such as accrued vacation and sick leave. Any expenditures from said fund shall require a majority vote of any regular or special town meeting.

Approved December 23, 1998.

**§ 525-14. Chapter 149, Acts of 2000.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO GRANT AN EASEMENT IN CERTAIN RECREATIONAL LAND.

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 town of North Reading, acting by and through its board of selectmen, may grant an easement to New England Telephone and Telegraph Company for the purpose of placing telecommunication equipment which would provide for the transmission of intelligence, telecommunications and electricity in, on and over a certain portion of a parcel of land owned by the town currently used for recreational purposes. The parcel is shown on a plan of land as a proposed 25' x 25' easement area "Compiled Plan of Land in No. Reading, Mass., Scale: 1" = 200', Date: September 13, 1986, Revised: 10/6/86, Hayes Engineering, Inc., Civil Engineers & Land Surveyors" which plan is filed with the board of selectmen of the town and recorded at the Middlesex south district registry of deeds as Plan No. 1484, dated 10/24/86.

SECTION 2. This act shall take effect upon its passage

Approved July 27, 2000.

**§ 525-15. Chapter 173, Acts of 2001.**

AN ACT AUTHORIZING THE TRANSFER OF A CERTAIN PARCEL OF LAND IN THE TOWN OF NORTH READING.

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 commissioner of the division of capital asset management and maintenance may, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey by deed approved as to form by the attorney general, a certain parcel of land currently used for open space, forest and recreation purposes and located in the town of North Reading to the town of North Reading subject to the terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. The land is located southerly of conservation land on the Ipswich River owned by the town and is to be used for conservation, recreational open space or bikeway purposes and is designated as abandoned railroad bed land on Assessor's Map 41 parcel 52, a copy of which is on file in the engineer's office in the town hall.

SECTION 2. The sale price paid by the town of North Reading for the parcel shall be the full and fair market value of the property determined by independent appraisal, for its use as described in this act. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section 5.

SECTION 3. The town of North Reading or its designee shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the parcel, or for any costs and liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel. In the event the parcel of land ceases to be used at any time for the purposes contained herein, the parcel shall revert to the care and control of the division of capital asset management and maintenance and any further disposition of the parcel shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

SECTION 4. The sale price paid under section 2 shall be deposited in the General Fund of the commonwealth.

SECTION 5. The commissioner of the division of capital asset management and maintenance shall, 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector shall issue his review and comment within 15 days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the chairmen on the joint committee on state administration at least 15 days prior to execution.

Approved November 30, 2001.

**§ 525-16. Chapter 50, Acts of 2002.**

AN ACT RELATIVE TO A CERTAIN PARCEL OF CONSERVATION LAND IN THE TOWN OF NORTH READING.

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 of chapter 215 of the acts of 1998 is hereby amended by striking out the second and third sentences and inserting in place thereof the following 2 sentences:- The parcel is shown as Parcel II, containing 6,100 square feet, more or less, on a subdivision plan of Swan Pond road owned by the town of North Reading, prepared by O Neill Associates, Civil Engineers and Land Surveyors, 234 Park Street, North Reading, MA 01864, Assessor's Map 72, Parcel 35 dated April 23, 2001. The sale price shall not be less than \$2,500.

Approved March 7, 2002.

**§ 525-17. Chapter 110, Acts of 2003.**

AN ACT AUTHORIZING THE SALE OF CERTAIN CONSERVATION LAND IN THE TOWN OF NORTH READING.

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 town of North Reading may sell and convey, acting by and through its town meeting, and in accordance with chapter 30B of the General Laws, certain town-owned conservation land. Said land is shown as parcel 10 on the town of North Reading Assessors Map 50. The proceeds of the sale of parcel 9, which is currently held for general municipal purposes, and parcel 10 shall be used to provide all or a portion of the funding to purchase certain private property for the purpose of creating Eisenhaures Pond Park as outlined on a plan of survey dated February 28, 2003 and on file in the office of the town Clerk.

SECTION 2. This act shall take effect as of October 1, 2003.

Approved November 19, 2003.

**§ 525-18. Chapter 179, Acts of 2005.**

AN ACT RELATIVE TO TOWN MEETINGS IN THE TOWN OF NORTH READING.

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. Chapter 2 of the charter of the town of North Reading which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 2-4-1 and inserting in place thereof the following section: Section 2-4-1 The town meeting shall meet regularly on the first available Monday in April not in conflict with a religious or legal holiday to consider and adopt an annual operating and capital budget, and to act on other financial matters, as well as to consider and act upon such other business as may properly come before the meeting; and on the first available Monday in October not in conflict with a religious or legal holiday to consider and act on matters of planning, zoning, subdivision control, building codes, and all other matters of a by-law nature, as well as to consider and act upon such other business as may properly come before the meeting, including financial matters; said dates for the April and October town meetings shall be set by the selectmen at a public hearing held during a regularly scheduled meeting of the board annually in January.

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

Approved January 5, 2006.

**§ 525-19. Chapter 57, Acts of 2007.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO CONVEY AND ACQUIRE LAND.

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

Notwithstanding section 16 of chapter 30B of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of North Reading may convey a parcel of land owned and acquired by the town for park purposes and shown in an order of taking recorded with Middlesex south registry of deeds in Book 44544 at Page 223 and also shown as "Parcel B" on a plan entitled "Plan of Land in North Reading, Massachusetts Prepared for Town of North Reading" dated June 28, 2005, prepared by LeBlanc Survey Associates, Inc., a copy of which plan is on file with the town clerk, to Klaus and Brigitte Kubierschky in consideration of the exchange of "Parcel A" shown on said plan and on such other terms and conditions as the selectmen deem appropriate.

The board of selectmen of the town of North Reading may acquire from Klaus and Brigitte Kubierschky, in consideration of the exchange of "Parcel B", "Parcel A" as shown on said plan for park purposes, or related activities.

Approved June 27, 2007.

**§ 525-20. Chapter 58, Acts of 2007.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO CONVEY AND ACQUIRE LAND.

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

Notwithstanding section 16 of chapter 30B of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of North Reading may convey a parcel of land owned and acquired by the town for park purposes and shown in an order of taking recorded with Middlesex south registry of deeds in Book 44544 at Page 223 and also shown as "Lot B" on a plan entitled "Plan of Land 32-36 Maple Road, North Reading, Massachusetts Prepared for Town of North Reading", to Todd Ferrazanni in consideration of the exchange of "Lot A" shown on said plan and on such other terms and conditions as the selectmen consider appropriate.

The board of selectmen of the town of North Reading may acquire from Todd Ferrazanni in exchange of "Lot B", "Lot A" as shown on said plan for park purposes, or related activities.

Approved June 27, 2007.

**§ 525-21. Chapter 414, Acts of 2010.**

AN ACT CHANGING THE DATE OF THE ANNUAL TOWN MEETING IN THE TOWN OF NORTH READING.

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. Chapter 2 of the charter of the town of North Reading, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 2-4-1, as appearing in chapter 179 of the acts of 2005, and inserting in place thereof the following section:-

Section 2-4-1 The town meeting shall meet regularly on the first available Monday in June not in conflict with a religious or legal holiday to consider and adopt an annual operating and capital budget, and to act on other financial matters, as well as to consider and act upon such other business as may properly come before the meeting; and on the first available Monday in October not in conflict with a religious or legal holiday to consider and act on matters of planning, zoning, subdivision control, building codes, and all other matters of a by-law nature, as well as to consider and act upon such other business as may properly come before the meeting, including financial matters; said dates for the June and October town meetings shall be set by the board of selectmen at a public hearing held during a regularly scheduled meeting of the board annually in January.

SECTION 2. Section 2-5-1 of said chapter 2 of said charter is hereby amended by striking out the word "April" and inserting in place thereof the following word:- June.

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

Approved, January 5, 2011.

**§ 525-22. Chapter 62, Acts of 2015.**

AN ACT AUTHORIZING THE TOWN OF NORTH READING TO USE CERTAIN CONSERVATION LAND FOR PUBLIC WAY PURPOSES.

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 town of North Reading may transfer from the conservation commission for conservation purposes to the board of selectmen for public way purposes, the care, custody and control of a portion of the parcel of land shown on Assessors Map 73, as Lot 4, which portion consists of the roadway known as Swan Pond road and shown on a plan entitled "Street Acceptance Plan for a Portion of Swan Pond Road in North Reading, Massachusetts," dated September 8, 2014, prepared by LeBlanc Survey Associates, Inc., the roadway being a portion of the premises described in the order of taking recorded with the Middlesex south district registry of deeds in book 19999, page 367.

SECTION 1A. The town of North Reading shall transfer a parcel of land under the care, custody, management and control of the board of selectmen and dedicated for general municipal purposes to the conservation commission and the parcel shall be dedicated for conservation purposes. If no suitable parcel can be transferred to the conservation commission, the town shall acquire a parcel of land or a conservation restriction upon private or public land as defined in section 31 of chapter 184 of the General Laws. The land shall be dedicated or restricted to conservation purposes and under the jurisdiction of the conservation commission. The parcel dedicated pursuant to this section shall be of equal or greater size and value for conservation, park or water supply purposes when compared to the parcel described in section 1.

SECTION 1B. If the land conveyed pursuant to section 1 ceases to be used for the purposes described in said section 1 by a discontinuance vote of town meeting, the care, custody and control of the land shall transfer to the town of North Reading conservation commission for conservation, water supply or public park purposes upon a vote of the town meeting

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

Approved, August 5, 2015.



**§ 525-23. Chapter 64, Acts of 2015.**

AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN PARCELS OF LAND IN THE TOWN OF NORTH READING TO THE TOWN OF NORTH READING.

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 sections 32 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may convey to the town of North Reading the parcels of land located at 102 Lowell road and 104 Lowell road, which parcels are shown on North Reading Assessors' map 14 as lot 148, consisting of 2.49 acres, and on North Reading Assessors' map 7 as lot 2, consisting of 34.21 acres, respectively. The exact location and boundaries of the parcels to be conveyed shall be determined by the commissioner and agreed to by the town after the completion of a survey. The use of the parcels to be conveyed to the town shall not be restricted to use for general municipal purposes or other specific uses; provided, however, that the town may so restrict the parcels at a later date, in accordance with any applicable general and special laws. The parcels shall be conveyed by deed without warranties or representations by the commonwealth.

SECTION 2. As consideration for the conveyance of the parcels pursuant to section 1, the town of North Reading shall pay to the commonwealth certain costs incurred after the closure of the facility including, but not limited to, the cost of capital expenditures and operating expenditures incurred by the commonwealth to improve, maintain, replace or repair the parcels conveyed to the town, including land, infrastructure and improvements, but not including costs associated with the closure or demolition of the facility and the environmental remediation of the facility or parcel as determined by the commissioner of capital asset management and maintenance and agreed to by the town. The town may pay the amount so determined by the commissioner and agreed to by the town upon its purchase of the parcels pursuant to section 1 or the town may pay the amount so determined in 10 annual payments pursuant to section 20A of chapter 58 of the General Laws.

SECTION 3. If the town of North Reading sells or leases any portion of the parcels described in section 1, the net proceeds from such sale or lease as determined by the town and agreed to by the commissioner of capital asset management and maintenance shall be allocated between the town of North Reading and the commonwealth in equal shares; provided, however, that the commissioner may agree to reduce the share of the commonwealth's proceeds to not less than 30 per cent of the net proceeds in order to provide certain incentives to the town of North Reading to sell or lease some or all of the parcels described in said section 1 expeditiously or to facilitate the development of some or all of the parcels in accordance with smart growth principles promulgated from time to time by the governor and the secretary of energy and environmental affairs. In the event that the net proceeds as so determined are a negative amount, the commonwealth shall not be required to make any payments to the town of North Reading. If the town of North Reading sells or leases any portion of the parcels described in said section 1, the commissioner shall send a report to the inspector general detailing the terms of the sale or lease, any incentives authorized by the commissioner and the commonwealth's share of the net proceeds.

SECTION 4. Notwithstanding any general or special law to the contrary, the town of North Reading shall pay for all costs and expenses of the transactions authorized in sections 1 to 3, inclusive, as determined by the commissioner including, but not limited to, the costs of any surveys, appraisals, recording fees and deed preparation related to the conveyances and for all costs, liabilities and expenses of any nature and kind related to the town's ownership of the parcels; provided, however, that such costs may be included for the purposes of determining the net proceeds of the town's sale or lease of any portion of the parcels described in section 1. Amounts paid by the town of North Reading pursuant to section 2 shall not be included for the purposes of determining the net proceeds from a sale or lease.

SECTION 5. (a) If the town of North Reading does not complete a purchase of the property pursuant to section 1 on or before December 1, 2015, then notwithstanding sections 33 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may sell, lease for terms of up to 99 years, including all renewals and extensions, or otherwise grant, convey or transfer to purchasers or lessees an interest in the property described in said section 1 or portions thereof, subject to this section and on such terms and conditions that the commissioner considers appropriate. In making any such disposition pursuant to this section, the commissioner shall use appropriate competitive bidding processes and procedures. At least 30 days before the date on which bids, proposals or other offers to purchase or lease a property, or any portion thereof, are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive bidding process and other information that the commissioner considers relevant, including the time, place and manner for the submission of bids and proposals and the opening of the bids or proposals.

(b) Notwithstanding any general or special law to the contrary, the grantee or lessee of all or any portion of the property described in section 1 and subject to this section shall be responsible for costs and expenses including, but not limited to, costs, associated with deed preparation and recording fees related to the conveyances and transfers authorized in this section as such costs may be determined by the commissioner.

(c) The commissioner may retain or grant rights of way or easements for access, egress, utilities and drainage across any of the parcels described in section 1 and subject to this section and across other commonwealth property contiguous to any of the parcels, and the commonwealth may accept from the town or developer such rights of way or easements in roadways or across any of the parcels to be conveyed or transferred for access, egress, drainage and utilities as the commissioner considers necessary and appropriate to carry out this section.

(d) No deed or agreement for the sale, lease, transfer or other disposition of the property or any portion thereof subject to this section executed by or on behalf of the commonwealth shall be valid unless the deed or agreement contains the following certification, signed by the commissioner:

"I, the undersigned commissioner of capital asset management and maintenance, hereby certify under penalties of perjury that I have fully complied with the relevant provisions of general and special law in connection with the property described in these documents."

Approved, August 5, 2015.

**§ 525-24. Chapter 28, Acts of 2016.****AN ACT AUTHORIZING THE TOWN OF NORTH READING TO CONVEY CERTAIN PARK LAND**

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 chapter 30B of the General Laws or any other general or special law to the contrary, but subject to paragraphs (a), (b) and (g) of section 16 of said chapter 30B, the town of North Reading may transfer the care, custody and control of all or a portion of the parcel of land located on Magnolia road and identified on assessors' map 33, parcel 71, from the board of selectmen for park purposes to the board of selectmen for general municipal purposes and for the purpose of conveyance, and the board of selectmen may convey the parcel of land on such terms and conditions and for such consideration, which may be nominal consideration, as the board of selectmen deems appropriate.

SECTION 2. In consideration for the conveyance of the property described in section 1, the town of North Reading shall transfer a parcel of land, whether under the care, custody, management and control of the board of selectmen or another board, to the conservation commission or parks department and such parcel shall be dedicated for conservation or park purposes. If no suitable parcel may be transferred, the town shall acquire a parcel of land or a conservation restriction, as defined in section 31 of chapter 184 of the General Laws, upon private or public land. Such land shall be dedicated or restricted to conservation or park purposes and shall be under the jurisdiction of the conservation commission or parks department. The parcel dedicated or restricted pursuant to this section shall be of equal or greater size and value for conservation, park or water supply purposes when compared to the parcel described in section 1.

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

Approved, February 5, 2016.

**§ 525-25. Chapter 383, Acts of 2016.****AN ACT AUTHORIZING THE MASSACHUSETTS WATER RESOURCES AUTHORITY TO SUPPLY WATER TO THE TOWN OF NORTH READING**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize the Massachusetts Water Resources Authority to supply water to the town of North Reading, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health

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. Paragraph (d) of section 8 of chapter 372 of the acts of 1984, as most recently amended by section 1 of chapter 12 of the acts of 2009, is

hereby further amended by inserting after the word "Northborough", in line 7, the following words:-, North Reading.

SECTION 2. Notwithstanding section 1, the provision of water services by the Massachusetts Water Resources Authority to the town of North Reading shall commence only after the board of directors of the authority has voted approval after having first made the findings as required by clauses (1) to (6), inclusive, of paragraph (d) of section 8 of chapter 372 of the acts of 1984 and having made such other determinations in accordance with applicable policies of the authority and after all required approvals have been received including, as applicable, other regulatory bodies where required and the advisory board of the authority, but section 71 of said chapter 372 shall not apply.

Approved, January 11, 2017

**§ 525-26. Chapter 412, Acts of 2016.**

AN ACT EXEMPTING ALL POLICE OFFICER POSITIONS WITHIN THE POLICE DEPARTMENT OF THE TOWN OF NORTH READING FROM THE CIVIL SERVICE LAW.

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 any general or special law to the contrary, all police officer positions, including police chief, within the police department of the town of North Reading shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of a person holding a position as a police officer, including police chief, in the town of North Reading on the effective date of this act.

SECTION 3. Pursuant to memoranda of agreement between the town of North Reading and the respective unions representing the patrol officers, sergeants and lieutenants, hiring and promotions that occur after the effective date of this act shall be exempt from chapter 31 of the General Laws but shall be covered by this act, the town charter, the town by-laws and any applicable collective bargaining agreement covering the respective positions of: (1) patrol officers, (2) police sergeants, (3) police lieutenants, (4) police chief; and (5) all other police officer positions within the police department that are authorized to exercise police powers.

SECTION 4. This act shall take effect upon its passage.

Approved, January 12, 2017

**Chapter 550**

**VOCATIONAL REGIONAL SCHOOL DISTRICT AGREEMENT**

**§ 550-1. Terms of agreement.****AGREEMENT WITH RESPECT TO THE ESTABLISHMENT OF A VOCATIONAL REGIONAL SCHOOL DISTRICT 1994**

This agreement is entered into pursuant to Chapter 703 of the Acts of 1962 as amended by Chapter 682 of the Acts of 1963 by and among the cities of Chelsea, Malden, Melrose, Revere and Woburn, and the towns of North Reading, Reading, Saugus, Stoneham, Wakefield, Winchester and Winthrop (or by and among any two or more of said cities and any two or more of said towns as shall accept said Chapter 703).

In consideration of the mutual promises herein contained, it is hereby agreed as follows:

**SECTION I. The Regional District School Committee****(A) Composition. Reference to Non-Accepting Municipalities**

The powers and duties of the regional school district shall be vested in and exercised by a regional district school committee hereinafter sometimes referred to as the Committee. The Committee shall consist of one member from each member municipality. Members shall be elected except as provided in subsection I(B). All members shall serve until their respective successors are elected and qualified. Any references in this agreement to any municipality which does not accept the provisions of Chapter 703 of the Acts of 1962 as amended by Chapter 682 of the Acts of 1963 shall be deemed to be stricken from this agreement.

**(B) Initial Committee**

Within ten days after the establishment of the regional school district, the Mayor of each member city and the moderator of each member town shall appoint one member to serve on the Committee. Each of the members so appointed shall have been a member of the regional school district planning board which submitted this agreement if such a person is available and willing to serve. The members so appointed shall serve until their respective successors are elected as provided in subsection I(C) and qualified.

**(C) Elected Members**

1. At the next biennial state election (first election held November 1996) when the District qualifies on the ballot pursuant to state election law and every fourth year thereafter, members of the Northeast Metropolitan Regional Vocational School Committee shall be elected by all voters in said District at district-wide, at-large elections with residency requirements. One member shall be a resident of each city or town. The terms of such members shall commence on the third day of January following their election.

2. Nominations for membership on the Committee shall be made in accordance with all procedures prescribed by Massachusetts General Laws, Chapter 53, section 122 as from time to time amended and other pertinent provisions of law.

3. The names and addresses of the candidates shall be arranged on the ballot under separate heading according to the city/town in which they reside. There shall be printed such directions to instruct the voter to vote for one candidate from each city/town.

4. The members of the Committee, incumbent on the effective date of this provision, shall hold office until their successors have been elected and qualified at the biennial state election referred to in Section I(C)1.

(D) Vacancies

If there is a failure to elect or a vacancy occurs among the members elected by the District, the local school committee members and the selectmen from the town in which the member is required to reside, acting jointly, shall appoint a member to serve. If a vacancy occurs among the members elected by a city, the local school committee members and the members of the city council from the city involved, acting jointly, shall appoint a member to serve. The appointee filling such vacancy shall serve until the next biennial state election at which election a successor shall be elected to serve for the balance of the unexpired term, if any.

(E) Organization

Upon acceptance of the Amendment, the regional school district committee shall designate an individual to serve as district Clerk pursuant to Massachusetts General Laws, Chapter 71, section 14E.

Until the biennial election referred to in Section I(C) is held, the Committee shall meet on or about April 1 to organize and choose a chairman and a vice-chairman from amongst its own membership. At the same meeting or at any other meeting, the Committee shall appoint a treasurer, secretary, and Clerk who may be members of the Committee, choose such officers as it deems advisable, determine the terms of office of its officers (except the chairman and vice-chairman who shall be elected annually), prescribe the powers and duties of its officers, fix the time and place for its regular meetings and provide for the calling of special meetings.

After the biennial election referred to in Section I(C), the organizational meeting shall occur at the first regular meeting in January.

(F) Powers and Duties

The Committee shall have all the powers and duties conferred and imposed upon it by this agreement and such other additional powers and duties as are specified in Chapter 703 of the Acts of 1962 and any amendments thereof or additions thereto now or hereafter enacted, or as may be specified in any other applicable general or special law.

(G) Quorum

The quorum for the transaction of business shall be a majority of the Committee, but a number less than the majority may adjourn.

SECTION II. Type of Regional District School

The regional district school shall be a vocational technical high school consisting of grades nine through twelve, inclusive. The Committee is also hereby authorized to establish and maintain state-aided vocational education, acting as trustees therefor, in accordance with the provisions of Chapter 74 of the General Laws and acts amendatory thereof, in addition thereto or dependent thereon.

### SECTION III. Location of the Regional District School

The regional district school or schools shall be located within the geographical limits of the District and within a radius of five miles from the line where Main Street intersects the cities of Malden and Melrose.

### SECTION IV. Apportionment and payment of costs incurred by the District

#### (A) Classification of Costs

For the purpose of apportioning assessments levied by the District against the member municipalities, costs shall be divided into two categories: capital costs and operating costs.

#### (B) Capital Costs

Capital costs shall include all expenses in the nature of capital outlay such as the cost of acquiring land, the cost of constructing, reconstructing, and adding to buildings, and the cost of remodeling or making extraordinary repairs to a school building or buildings, including without limitation the cost of the original equipment and furnishings for such buildings or additions, plans, architects' and consultants' fees, grading and other cost incidental to placing school buildings and additions and related structures and premises in operating condition. Capital costs shall also include payment of principal of and interest on bonds, notes or other obligations issued by the District to finance capital costs.

#### (C) Operating Costs

Operating costs shall include all costs not included in capital costs as defined in subsection IV(B), but including interest on temporary notes issued by the District in anticipation of revenue.

#### (D) Apportionment of Capital and Operating Costs

Capital and operating costs for each fiscal year shall be apportioned to the member municipalities on the basis of their respective pupil enrollments in the regional district school. Each member municipality's share of capital and operating costs for each fiscal year shall be determined by computing the ratio which that municipality's pupil enrollment in the regional district school on October 1 of the year next preceding the fiscal year for which the apportionment is determined bears to the total pupil enrollment from all the member municipalities in the regional district school on the same date. In the event that enrollment in the regional district school has not been accomplished by October 1 of any such year, capital and operating cost shall be apportioned on the basis of enrollment in grades nine through twelve of member municipality and receiving education at such municipality's expense on October 1 of such year.



## (E) Times of Payment of Apportioned Costs

Each member municipality shall pay to the District in each year its proportionate share, certified as provided in subsection V(C), of the capital and operating costs. Except as otherwise provided in subsection V(A) the annual share of each member municipality shall be paid in such amounts at such time that at least the following percentages of such annual share shall be paid on or before the dates indicated, respectively:

|             |      |
|-------------|------|
| September 1 | 25%  |
| December 1  | 50%  |
| March 1     | 75%  |
| June 1      | 100% |

## SECTION V. Budget

## (A) Initial Budget

Within sixty days after the initial Committee is organized, it shall prepare a reasonably detailed operating and maintenance budget covering expenses, if any, for the balance of the then calendar year. Copies of such proposed budget shall be submitted to the chairman of the finance or advisory committee of each member town and to the Mayor of each member city for their consideration. A budget shall be adopted not earlier than fourteen days but within twenty-one days after the proposed budget has been so submitted. The amount of the said budget shall be apportioned among the member municipalities according to the provisions of Section IV herein. The regional district treasurer shall certify to the treasurer of each member municipality its respective share of said budget. The sums thus certified shall be payable by the member municipalities to the regional district school committee but only from funds which may be or may have been appropriated by the member municipalities for such purpose.

## (B) Tentative Operating and Maintenance Budget

Thereafter, the Committee shall annually prepare a tentative operating and maintenance budget for the ensuing fiscal year, attaching thereto provision for any installment of principal or interest to become due in such year on any bonds or other evidence of indebtedness of the District and any other capital costs to be apportioned to the member municipalities. On or before February 15 the said Committee shall submit to the Mayor of each member city and to the chairman of the finance or advisory committee of each member town a copy of such tentative operating and maintenance budget which shall be itemized as follows or be in such further detail as the Committee may deem advisable:

1. Administration
2. Instruction Day
3. Instruction Special Education
4. Other School Services
5. Operation and Maintenance

6. Fixed Changes - Insurance
7. Acquisition and Equipment
8. Debt Services

(C) Final Operating and Maintenance Budget

The Committee shall adopt an annual operating and maintenance budget, including debt and interest charges and any other current capital costs as separate items, all in conformity with the provisions of Massachusetts General Laws, Chapter 71, Section 16B.

(D) Incurring of Debt

Not later than seven days after the date on which the Committee authorizes the incurring of debt other than temporary debt in anticipation of revenue to be received from member municipalities, written notice of the date of said authorization, the sum authorized, and the general purpose or purposes for authorizing such debt shall be submitted to the city council of each member city and to the board of selectmen of each member town.

SECTION VI. TRANSPORTATION

School transportation shall be provided by the regional school district and the cost thereof shall be apportioned to the member municipalities as an operating cost.

SECTION VII. AMENDMENTS

(A) Limitations

This agreement may be amended from time to time in the manner hereinafter provided, but no amendment shall be made which shall substantially impair the rights of the holders of any bonds, notes or other obligations of the District then outstanding, or the rights of the District to procure the means for payment thereof, provided that nothing in this section shall prevent the admission of a new municipality or municipalities to the District and the reapportionment accordingly of capital costs of the District represented by bonds or notes of the District then outstanding and of interest thereon.

(B) Procedure

Any proposal for amendment, except a proposal for amendment providing for the withdrawal of a member municipality (which shall be acted upon as provided in Section IX), may be initiated by a majority vote of all the members of the Committee or by a petition signed by at least 10% of the registered voters of any one of the member municipalities. In the latter case, the said petition shall contain at the end thereof a certification by the town or city Clerk of such member municipality as to the number of registered voters in said municipality according to its most recent voting list and the number of signatures on the petition which appear to be the names of registered voters of said municipality and said petition shall be presented to the secretary of the Committee. In either case, the secretary of the Committee shall give notice in writing to the city council of each member city and to the board of selectmen of each member town that a proposal to amend this agreement has been made and shall enclose a copy of such proposal (without the signatures in the case of a proposal by petition). Such notice shall be given by mailing by registered or certified mail to the city or town Clerk of each member municipality. The selectmen of each member town shall include in the warrant for the next annual or a special town meeting called for the purpose an article stating the amendment or substance thereof. The city council of each member city shall vote on the question of accepting the proposal at a regular or a special meeting of the council within sixty days following receipt of such notice. Amendments shall take effect upon their acceptance by at least two thirds of all the member municipalities, acceptance by each member town to be by a majority vote at a town meeting as aforesaid and acceptance by each member city to be by a majority vote of all the members of its city council.

#### SECTION VIII. Admission of additional municipalities to the district

By an amendment of this agreement adopted under and in accordance with Section VII above, any other municipality or municipalities may be admitted to the regional school district upon adoption as therein provided of such amendment and upon acceptance by the municipality or municipalities seeking admission of the agreement as so amended and also upon compliance with such provisions of law as may be applicable and such terms as may be set forth in such an amendment.

#### SECTION IX. Withdrawal

##### (A) Limitations

The withdrawal of a member municipality from the District may be effected by an amendment to this agreement in the manner hereinafter provided by this section. Any member municipality seeking to withdraw shall, by vote at an annual or special town meeting in the case of a town or by vote of the city council in the case of a city, request the regional district school committee to draw up an amendment to this agreement setting forth the terms by which such municipality may withdraw from the District, provided (1) that the municipality seeking to withdraw shall remain liable for any unpaid operating costs which have been certified by the regional school district treasurer to the treasurer of the withdrawing municipality, including the full amount so certified for the year in which such withdrawal takes effect and (2) that the said municipality shall remain liable to the District for its share of the indebtedness of the District outstanding at the time of such withdrawal, and for interest thereon, to the same extent and in the same manner as though the municipality had not withdrawn from the District.

(B)

The Clerk of the municipality seeking to withdraw shall notify the Committee in writing that such municipality has voted to request the Committee to prepare an amendment to this agreement (enclosing a certified copy of such vote). Thereupon the Committee shall draw up an amendment to this agreement setting forth such terms of withdrawal as it seems advisable but subject to the limitations contained in subsection VII(A). The secretary of the Committee shall give notice in writing to the city council of each member city and to the board of selectmen of each member town that the Committee has drawn up an amendment to this agreement providing for the withdrawal of a member municipality (enclosing a copy of such amendment). Such notice shall be given by mailing by registered or certified mail to the city or town Clerk of each member municipality. The selectmen of each member town shall include in the warrant for the next annual or a special town meeting called for the purpose an article stating the amendment or substance thereof. The city council of each member city shall vote on the question of accepting such amendment at a regular or a special meeting of the council within sixty days following receipt of such notice. Such amendment shall take effect upon its acceptance by at least two thirds of all the member municipalities of which one shall be the member municipality seeking to withdraw, acceptance by each member town to be by a majority vote at a town meeting as aforesaid and acceptance by each member city to be by a majority vote of all the members of its city council.

(C) Cessation of Term of Office of Withdrawing Municipality's Member

Upon the effective date of withdrawal the term of office of the member serving on the Committee from the withdrawing municipality shall terminate and the total membership of the Committee shall be decreased accordingly.

(D) Payments of Certain Capital Costs Made by a Withdrawing Municipality

Money received by the District from the withdrawing municipality for payment of funded indebtedness or interest thereon shall be used only for such purpose and until so used shall be deposited in trust in the name of the District with a Massachusetts bank or trust company having a combined capital and surplus of not less than \$5,000,000.00.

(E) Apportionment of Costs After Withdrawal

The withdrawing municipality's annual share of any future installment of principal and interest on obligations outstanding on the effective date of its withdrawal shall be fixed at the percentage prevailing for such municipality at the last annual apportionment made next prior to the effective date of the withdrawal. The remainder of any such installment after subtracting the shares of any municipality or municipalities which have withdrawn shall be apportioned to the remaining member municipalities in the manner provided in subsection IV (D) or as may be otherwise provided in the amendment providing for such withdrawal.

SECTION X. Admission of pupils residing outside the District

The Committee may accept for enrollment in the regional district school pupils from municipalities other than the member municipalities on a tuition basis. Income received by the District from tuition pupils shall be deducted from the total operating costs in the next annual budget to be prepared after the receipt thereof, prior to apportionment under Section IV to the member municipalities.

SECTION XI. Advisory Committees

The regional district school committee may, to assist it in the construction of any regional school building, appoint a building committee to advise it with respect to plans, specifications, appointment of architects, engineers, the letting of contracts, the supervision of construction, and any other assistance which the regional district school committee may desire. The members of any such committee shall serve without compensation.

SECTION XII. Annual report

The Committee shall submit an annual report to each of the member municipalities containing a detailed financial statement and a statement showing the method by which the annual charges assessed against each municipality were computed, together with such additional information relating to the operation and maintenance of the regional school as may be deemed necessary by the Committee or by the city council of any member city or by the selectmen of any member town.

Amendment No. 1, which included Section V(A) and Section V(B), as amended by vote of the District School Committee meeting in special session on November 14, 1973, in accordance with the provisions of Chapter 1025 of the Acts of 1973.

Amendment No. 2, which included Section I(C), Section I(C)4, and Section I(E), as amended by vote of the District School Committee meeting in regular session on September 12, 1991, in accordance with the provisions of Section VII of said Agreement, including the ratification of more than the required two-thirds of the member municipalities.

Amendment No. 3, which included Section IV(D), Section IV(E), Section V(B) and Section V(C), as amended by vote of the District School Committee meeting in regular session on November 14, 1991, in accordance with the provisions of Section VII of said Agreement, including the ratification of more than the required two-thirds of the member municipalities.

## Chapter DL

### DISPOSITION LIST

#### § DL-1. Disposition list.

| <b>Enactment</b>              | <b>Adoption Date</b> | <b>Subject</b>                  | <b>Disposition</b>          |
|-------------------------------|----------------------|---------------------------------|-----------------------------|
| ATM, Art. 5                   | 4-2-2001             | General Law acceptance          | Ch. 500                     |
| ATM, Art. 19                  | 4-2-2001             | Town Meeting amendment          | Ch. 172                     |
| ATM, Art. 20                  | 4-2-2001             | Streets and sidewalks amendment | Ch. 158, Editor's Note only |
| OTM, Art. 7                   | 10-1-2001            | General Law acceptance          | Ch. 500                     |
| OTM, Art. 8                   | 10-1-2001            | General Law acceptance          | Ch. 500                     |
| Ch. 50, Acts of 2002          | 3-7-2002             | Special Acts amendment          | Ch. 525                     |
| ATM, Art. 8                   | 4-4-2002             | Streets and sidewalks amendment | Ch. 1, Art. I; Ch. 158      |
| ATM, Art. 9                   | 4-4-2002             | Zoning amendment                | Ch. 200                     |
| Community Planning Commission | 6-18-2002            | Subdivision of land amendment   | Ch. 350                     |
| OTM, Art. 2                   | 10-7-2002            | Recreational vehicles           | Ch. 1, Art. II; Ch. 139     |
| OTM, Art. 3                   | 10-7-2002            | Snow removal                    | Ch. 1, Art. II; Ch. 158     |
| OTM, Art. 16                  | 10-7-2002            | Zoning Map amendment            | NCM                         |
| ATM, Art. 5                   | 4-7-2003             | General Law acceptance          | Ch. 500                     |
| ATM, Art. 6                   | 4-7-2003             | General Law acceptance          | Ch. 500                     |

| <b>Enactment</b> | <b>Adoption Date</b> | <b>Subject</b>  | <b>Disposition</b>           |
|------------------|----------------------|---|------------------------------|
| ATM, Art. 7      | 4-7-2003             | General Law acceptance  | Ch. 500                      |
| ATM, Art. 8      | 4-7-2003             | Fire or medical aid alarms amendment                                | Ch. 11, Art. I               |
| ATM, Art. 9      | 4-7-2003             | Recreational vehicles amendment                                     | Ch. 139                      |
| ATM, Art. 10     | 4-7-2003             | Zoning amendment  | Ch. 200                      |
| OTM, Art. 2      | 10-6-2003            | General Law acceptance  | Ch. 500                      |
| OTM, Art. 3      | 10-6-2003            | General Law acceptances; assessments                                | Ch. 3; Ch. 500               |
| OTM, Art. 4      | 10-6-2003            | Hazardous materials amendment                                       | Ch. 80                       |
| OTM, Art. 5      | 10-6-2003            | Recreational vehicles amendment                                     | Ch. 1; Ch. 139; Ch. 185      |
| ATM, Art. 3      | 4-5-2004             | Zoning amendment  | Ch. 200                      |
| OTM, Art. 4      | 10-4-2004            | General Law acceptance  | Ch. 500                      |
| OTM, Art. 6      | 10-4-2004            | Zoning Map amendment  | NCM                          |
| OTM, Art. 7      | 10-4-2004            | Zoning amendment  | Ch. 200                      |
| ATM, Art. 6      | 4-4-2005             | Town Meeting amendment  | Ch. 172                      |
| ATM, Art. 7      | 4-4-2005             | Zoning amendment  | Ch. 200                      |
| OTM, Art. 3      | 10-17-2005           | Zoning Map amendment  | NCM                          |
| OTM, Art. 13     | 10-17-2005           | Charter amendment   | 2-4-1                        |
| ATM, Art. 3      | 4-3-2006             | Zoning amendment  | Ch. 200                      |
| ATM, Art. 26     | 4-3-2006             | Streets and sidewalks amendment                                     | Ch. 158                      |
| OTM, Art. 2      | 10-16-2006           | General Law acceptance  | Ch. 500                      |
| OTM, Art. 3      | 10-16-2006           | Disposition of fines and penalties amendment; stormwater management | Ch. 1, Art. Art. II; Ch. 156 |
| OTM, Art. 25     | 10-16-2006           | Zoning Map amendment  | NCM                          |

| <b>Enactment</b>     | <b>Adoption Date</b> | <b>Subject</b>                         | <b>Disposition</b>                  |
|----------------------|----------------------|--|-------------------------------------|
| OTM, Art. 27         | 10-16-2006           | Youth Services Committee               | Repealed<br>6-1-2015 ATM by Art. 24 |
| ATM, Art. 21         | 4-9-2007             | Zoning amendment                       | Ch. 200                             |
| ATM, Art. 23         | 4-9-2007             | General Law acceptance                 | Ch. 500                             |
| Ch. 57, Acts of 2007 | 6-27-2007            | Special Acts amendment                 | Ch. 525                             |
| Ch. 58, Acts of 2007 | 6-27-2007            | Special Acts amendment                 | Ch. 525                             |
| ATM, Art. 19         | 4-7-2008             | Youth Services Committee amendment     | Ch. 198                             |
| ATM, Art. 23         | 4-7-2008             | Zoning amendment                       | Ch. 200                             |
| ATM, Art. 24         | 4-7-2008             | Zoning amendment                       | Ch. 200                             |
| ATM, Art. 25         | 4-7-2008             | Zoning amendment                       | Ch. 200                             |
| ATM, Art. 26         | 4-7-2008             | Zoning amendment                       | Ch. 200                             |
| ATM, Art. 27         | 4-7-2008             | Zoning amendment                       | Ch. 200                             |
| OTM, Art. 3          | 10-5-2009            | General Law acceptance                 | Ch. 500                             |
| OTM, Art. 15         | 10-5-2009            | Hazardous materials: storage amendment | Ch. 80, Art. I                      |
| OTM, Art. 16         | 10-5-2009            | Marihuana: public consumption          | Ch. 107, Art. I                     |
| ATM, Art. 22         | 4-5-2010             | General Law acceptance                 | Ch. 500                             |
| OTM, Art. 10         | 10-4-2010            | Charter amendment                      | Sections 2-4-1 and 2-5-1            |
| OTM, Art. 14         | 10-4-2010            | General Law acceptance                 | Ch. 500                             |
| OTM, Art. 16         | 10-4-2010            | Zoning amendment                       | Ch. 200                             |
| OTM, Art. 17         | 10-4-2010            | Zoning amendment                       | Ch. 200                             |
| OTM, Art. 18         | 10-4-2010            | Zoning amendment                       | Ch. 200                             |
| OTM, Art. 19         | 10-4-2010            | Zoning amendment                       | Ch. 200                             |
| OTM, Art. 21         | 10-4-2010            | Zoning amendment                       | Ch. 200                             |
| OTM, Art. 22         | 10-4-2010            | Water supply conservation amendment    | Ch. 191, Art. II                    |
| OTM, Art. 23         | 10-4-2010            | Animals: dogs amendment                | Ch. 23, Art. I                      |



| <b>Enactment</b>      | <b>Adoption Date</b> | <b>Subject</b>  | <b>Disposition</b>                |
|-----------------------|----------------------|---|-----------------------------------|
| Ch. 414, Acts of 2010 | 1-5-2011             | Charter amendment; Special Acts amendment   | Sections 2-4-1 and 2-5-1; Ch. 525 |
| ATM, Art. 28          | 6-6-2011             | Animals: dogs amendment   | Ch. 23, Art. I                    |
| ATM, Art. 29          | 6-6-2011             | Town Meeting amendment  | Ch. 172                           |
| OTM, Art. 27          | 10-3-2011            | Administration amendment  | Ch. 5                             |
| OTM, Art. 28          | 10-3-2011            | Administration amendment  | Ch. 5                             |
| OTM, Art. 29          | 10-3-2011            | Town Meeting amendment  | Ch. 172                           |
| OTM, Art. 17          | 10-1-2012            | Licenses and permits: fingerprinting of applicants; criminal history checks           | Ch. 104, Art. II                  |
| ATM, Art. 33          | 6-3-2013             | Zoning amendment  | Ch. 200                           |
| ATM, Art. 34          | 6-3-2013             | General Law acceptance  | Ch. 500                           |
| ATM, Art. 35          | 6-3-2013             | General Law acceptance  | Ch. 500                           |
| ATM, Art. 36          | 6-3-2013             | General Law acceptance  | Ch. 500                           |
| OTM, Art. 17          | 10-7-2013            | Zoning amendment  | Ch. 200                           |
| OTM, Art. 18          | 10-7-2013            | Zoning amendment  | Ch. 200                           |
| OTM, Art. 19          | 10-7-2013            | Zoning amendment  | Ch. 200                           |
| OTM, Art. 11          | 10-6-2014            | General Law acceptance  | Ch. 500                           |
| OTM, Art. 13          | 10-6-2014            | Zoning amendment  | Ch. 200                           |
| OTM, Art. 14          | 10-6-2014            | Licenses and permits: registered marijuana dispensary (RMD) licenses                  | Ch. 104, Art. III                 |
| OTM, Art. 15          | 10-6-2014            | Licenses and permits: fingerprinting of applicants; criminal history checks amendment | Ch. 104, Art. II                  |

| <b>Enactment</b>         | <b>Adoption Date</b> | <b>Subject</b>   | <b>Disposition</b>                   |
|--------------------------|----------------------|--|--------------------------------------|
| OTM, Art. 18             | 10-6-2014            | Sex offenders:<br>residency restrictions   | Ch. 145, Art. I                      |
| OTM, Art. 19             | 10-6-2014            | Zoning amendment   | Ch. 200                              |
| ATM, Art. 22             | 6-1-2015             | Solid waste: junked<br>vehicles and other<br>waste material;<br>littering and dumping                | Ch. 152, Art. I;<br>Ch. 152, Art. II |
| ATM, Art. 24             | 6-1-2015             | Youth Services<br>Committee  | Ch. 198                              |
| ATM, Art. 25             | 6-1-2015             | Licenses and<br>permits:<br>fingerprinting of<br>applicants; criminal<br>history checks<br>amendment | Ch. 104, Art. II                     |
| ATM, Art. 36             | 6-1-2015             | Zoning Map<br>amendment  | NCM                                  |
| Ch. 62, Acts of<br>2015  | 8-5-2015             | Special Acts<br>amendment  | Ch. 525                              |
| Ch. 64, Acts of<br>2015  | 8-5-2015             | Special Acts<br>amendment  | Ch. 525                              |
| OTM, Art. 16             | 10-5-2015            | General provisions:<br>use and construction<br>amendment   | Ch. 1, Art. II                       |
| OTM, Art. 18             | 10-5-2015            | Cemeteries<br>amendment  | Ch. 41                               |
| OTM, Art. 19             | 10-5-2015            | Streets and<br>sidewalks<br>amendment; General<br>Law acceptance                                     | Ch. 158; Ch. 500                     |
| OTM, Art. 21             | 10-5-2015            | Zoning amendment   | Ch. 200                              |
| Ch. 28, Acts of<br>2016  | 2-5-2016             | Special Acts<br>amendment  | Ch. 525                              |
| ATM, Art. 37             | 6-6-2016             | General Law<br>acceptance  | Ch. 500                              |
| OTM, Art. 12             | 10-17-2016           | Zoning amendment   | Ch. 200                              |
| OTM, Art. 13             | 10-17-2016           | Zoning amendment   | Ch. 200                              |
| Ch. 383, Acts of<br>2016 | 1-11-2017            | Special Acts<br>amendment  | Ch. 525                              |
| Ch. 412, Acts of<br>2016 | 1-12-2017            | Special Acts<br>amendment  | Ch. 525                              |