

Chapter 1
GENERAL PROVISIONS

ARTICLE I

Adoption of Code; Editorial Revisions

[At the 4-30-1998 ATM by Art. 24, the Town voted to accept and approve the codification of bylaws of the Town of Wayland, to be known as the "Code of the Town of Wayland," in the format presented by General Code Publishers Corp., which is on file in the Office of the Town Clerk, said codification being a renumbering, recaptioning and repositioning of the present bylaws, with no substantive changes.]

§ 1-1. Editing. [Added 4-13-2009 ATM by Art. 21¹]

The Town Clerk, after consultation with Town Counsel, may make nonsubstantive editorial revisions to the Town Code to insure consistent and appropriate sequencing of numbering of sections, subsections, paragraphs and subparagraphs, provided that all such editorial revisions shall be referenced by a footnote which describes the revision and the reason therefore.

1. Editor's Note: This article also provided that former §§ 1-1 and 1-2 be renumbered as §§ 2-1 and 2-2, respectively.

ARTICLE II

Violations and Penalties**[Adopted 3-12-1973 ATM by Art. 14 as Art. 20 of the 1973 Bylaws]****§ 2-1. General penalty. [Amended 4-15-1980 ATM by Art. 11; 11-18-1982 STM by Art. 12]**

Whoever shall breach or violate any provision of these bylaws, the Zoning Bylaws, the Building Code, the Electrical Code and/or any of the rules and regulations duly adopted by any board, committee or commission of the Town of Wayland, as the same may have been amended from time to time, shall be punished by a fine of not exceeding \$300 for each offense or for each day of a continued offense, in the absence of an express provision of another penalty.

§ 2-2. Noncriminal disposition of violations; enforcement. [Added 5-2-1991 ATM by Art. 17]

As an alternative to the foregoing penalty, violations of the following bylaws and sections thereof, codes, rules and regulations duly adopted by the Town or any of its boards, committees or commissions may be enforced in the manner provided in MGL c. 40, § 21D. For the purposes of this section, the specific penalty which is to apply for violations of each such bylaw, code, rule or regulation shall be as listed below. Each day on which a violation exists shall be deemed to be a separate offense. The municipal officers or employees whose titles are listed under each bylaw, code, rule or regulation shall be deemed to be enforcing officers for each such provision.

A. Zoning Bylaws.**(1) Penalty:**

- (a) Twenty-five dollars for the first offense.
- (b) Fifty dollars for the second offense.
- (c) One hundred dollars for the third offense.
- (d) Three hundred dollars for the fourth and each subsequent offense.

(2) Enforcing persons: Building Commissioner/Zoning Enforcement Officer and his/her assistants. [Amended 4-28-1997 STM by Art. 2]**B. Rules and regulations of the Board of Health.**

- (1) Penalty: fifty dollars for each violation.
- (2) Enforcing person: Director of Public Health.

C. Failure to license dog(s) by March 31. [Added 11-14-1991 STM by Art. 10]

- (1) Penalty: fifty dollars per dog for each violation.
- (2) Enforcing person: Dog Control Officer.
- D. Rules and regulations of the Chief of the Wayland Fire Department. **[Added 5-1-1995 ATM by Art. 15]**
 - (1) Penalty:
 - (a) Twenty-five dollars for the first offense.
 - (b) Fifty dollars for the second offense and for each subsequent offense.
 - (2) Enforcing persons: Fire Chief and his designees.
- E. Rules and regulations of the Board of Health for restrictions on the use, sale, vending and distribution of tobacco. **[Added 5-5-1997 ATM by Art. 21]**
 - (1) Penalty:
 - (a) Smoking in prohibited area in any 12-month period:
 - [1] Twenty-five dollars for the first offense.
 - [2] Fifty dollars for the second offense.
 - [3] One hundred dollars for the third or subsequent offense.
 - (b) Failure to comply by owner: \$200 for the first offense and each subsequent day a violation occurs.
 - (c) Tobacco for sale without permit: \$50 per day.
 - (d) Sales to minors: \$300 for each offense. **[Amended 4-13-2009 ATM by Art. 32]**
 - (e) Failure to post notices: \$50 per day.
 - (f) Failure to comply with Section 10 in any 12-month period.
 - [1] One hundred dollars for the first offense.
 - [2] Two hundred dollars for the second offense.
 - [3] Three hundred dollars for any third or subsequent offense.
 - (2) Enforcing persons: Board of Health, its staff or other officials designated by the Board of Health as its agent(s).
- F. Chapter 163 of the Code of the Town of Wayland, Swimming Pools. **[Added 4-30-2001 ATM by Art. 40]**
 - (1) Penalty: \$300 per day.
 - (2) Enforcing person: Building Commissioner and his/her assistants.

- G. Rules and regulations of the Board of Health for body art establishments and practitioners. **[Added 4-29-2002 STM by Art. 4]**
- (1) Failure to comply with the regulations by practitioner and/or owner of establishment: \$150 per violation per day.
 - (2) Practitioner practicing without a license: \$300 per day. **[Added 4-3-2003 ATM by Art. 28]**
 - (3) Enforcing person: Board of Health, its staff or other officials designated by the Board of Health as its agent(s).
- H. Chapter 194 of the Code of the Town of Wayland - Wetlands and Water Resource Protection. **[Added 4-29-2002 STM by Art. 7]**
- (1) Penalty: \$300 per day.
 - (2) Enforcing persons: Town police officer, other officers having police powers, and agents of the Conservation Commission.
- I. Chapter 191 of the Code of the Town of Wayland - Lawn Irrigation Systems. **[Added 4-3-2003 ATM by Art. 24]**
- (1) Penalty:
 - (a) A fine of \$250 per day for the first offense.
 - (b) Termination of water services for a subsequent offense.
 - (2) Enforcing persons: the Director of Public Works or other person(s) designated in writing by the Director of Public Works. **[Amended 5-13-2010 ATM by Art. 18]**
- J. Chapter 193 of the Code of the Town of Wayland - Stormwater and Land Disturbance. **[Added 4-10-2008 ATM by Art. 26]**
- (1) Penalty: \$300 per day.
 - (2) Enforcing persons: Town police officer, other officers having police powers, and agents of the Conservation Commission.
- K. Violation of rules and regulations of the Conservation Commission relative to the use of lands under the care, management, and control of the Conservation Commission. **[Added 11-12-2008 STM by Art. 17; amended 4-13-2009 ATM by Art. 20]**
- (1) Penalty: \$100 per day.
 - (2) Enforcing persons: Town police officers, other officers having police powers, and agents of the Conservation Commission.
- L. Rules and Regulations of the Board of Health or the Board of Public Works for the illegal or improper dumping of solid waste at the Town Landfill-Transfer Station **[Added 4-13-2009 ATM by Art. 33²]**

- (1) Penalty:
 - (a) Fifty dollars for the first offense.
 - (b) One hundred dollars for the second offense.
 - (c) Two hundred dollars and revocation of Transfer Station privilege for any third or subsequent offense.
 - (2) Enforcing persons: Board of Health, its staff or other officials designated by the Board of Health as its agent(s) or the Board of Public Works, the Director of Public Works or his designee(s).
- M. Violation of the Plastic Bag Reduction Bylaw. **[Adopted 4-2-2017 ATM by Art. 24]**
- (1) Penalty:
 - (a) First offense — warning;
 - (b) Second offense — \$50 per day;
 - (c) Third and each subsequent offense — \$100 per day.
 - (2) Enforcing persons: Board of Selectmen or its designee.
- N. Violation of the Polystyrene Food Container Bylaw. **[Added 4-2-2017 ATM by Art. 24]**
- (1) Penalty:
 - (a) First offense — warning;
 - (b) Second offense — \$50 per day;
 - (c) Third and each subsequent offense — \$100 per day.
 - (2) Enforcing persons: BOH.

2. Editor's Note: This article included Subsection L(1)a., b., and c. Said subsection was redesignated as Subsection L(1)(a), (b) and (c) to maintain the organizational style of the Code with the permission of the Town Clerk pursuant to § 1-1 of the Code.

Chapter 6**BOARDS, COMMISSIONS AND COMMITTEES****GENERAL REFERENCES**

Finances — See Ch. 19.

Disposal of surplus property — See Ch. 62.

Reports — See Ch. 53.

§ 6-1. Vacancies.

Whenever a vacancy occurs in any appointed office, board, commission, committee or other appointed body established by law or by vote of the town, the body with power of appointment shall give public notice thereof within one month of said vacancy by posting the open position and the date of vacancy at the Town Building and shall not fill such vacancy until the open position has been publicly posted for not less than one week. The notice of vacancy shall remain publicly posted at the Town Building until the vacancy has been filled. As used in this chapter, the terms "vacancy" and "open position" both include the expiration of term of an appointed office.

§ 6-2. Publication of notice of public hearing. [Added 5-1-2000 ATM by Art. 18]

Whenever notice of a public hearing is required by law to be given by publication, at least one such notice shall be published in the Wayland Town Crier or a successor newspaper.

§ 6-3. Residency requirement for voting members of appointed governmental bodies. [Added 4-3-2003 ATM by Art. 34]

No person shall serve as a voting member of any appointed board, commission, committee, or other appointed governmental body of the Town of Wayland who is not a registered voter and resident thereof. Nonvoting members, if any, shall not be considered in determining the presence of a quorum.

Chapter 12**COUNCIL ON AGING****§ 12-1. Establishment; purpose; statutory authority.**

There shall be established a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging pursuant to the provisions of MGL c. 40, § 8B.

§ 12-2. Membership; salaries and compensation; appointment; terms of office; vacancies. [Amended 5-5-1988 ATM by Art. 31]

The Council on Aging shall consist of nine members, who shall serve without pay, to be appointed by the Board of Selectmen for three-year terms, except as follows:

- A. Effective July 1, 1988, the Board of Selectmen shall appoint or reappoint, as the case may be, three members for three years and one member for two years. The remaining five members shall be appointed or reappointed, as the case may be, upon the expiration of the incumbent's term.
- B. Whenever a vacancy shall occur in the membership of the Council on Aging by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Board of Selectmen for the remainder of the unexpired term.

§ 12-3. Officers. [Amended 4-29-2002 ATM by Art. 15; 4-3-2003 ATM by Art. 15]

The Council on Aging shall, at its first meeting and thereafter annually in June of each year, elect from its membership a Chairperson, first Vice Chairperson and Secretary. Each officer shall hold office until the next annual election or until his successor shall have been elected and qualified. In the event that a vacancy shall occur in any of the offices above, the Council shall hold a special meeting for the purpose of electing one of its members to fill such vacancy.

§ 12-4. Annual report. [Amended 4-28-1997 STM by Art. 2]

The Council shall prepare and submit an annual report to the Town and shall send a copy thereof to the Executive Office of Elder Affairs.

§ 12-5. Employees.

The Council may appoint such clerks and other employees as it may require, subject, always, to the availability of funds appropriated for this purpose.

Chapter 19

FINANCES

GENERAL REFERENCES

Disposal of surplus property — See Ch. 62.

Treasurer and Collector — See Ch. 72.

§ 19-1. Finance Committee. [Amended 5-6-1992 ATM by Art. 19; 5-10-1999 ATM by Art. 25]

There shall be a committee called the "Finance Committee" appointed by the Board of Selectmen as hereinafter provided. Such committee shall consist of seven registered voters who shall serve without pay and none of whom during his or her service on such Committee shall hold elective or appointive Town office having to do with the appropriation or expenditure of Town money. Members shall serve terms of three years, such that the terms of two or three members shall expire each year. Appointment to fill unexpired terms shall be made by the Board of Selectmen as vacancies occur.

§ 19-2. Budget; capital improvement program. [Amended 5-6-1992 ATM by Art. 20]

The Finance Committee shall prepare the omnibus operating budget of the Town and submit it at the annual Town meeting. It shall also prepare and present to the annual Town meeting a five-year capital improvement program for the Town, which shall include the construction and reconstruction of capital assets (such as municipal buildings, recreational facilities, roads and landfills) and acquisition of land, equipment and vehicles and other personal property, and shall make recommendations to the appropriate authorities proposing such improvements.

§ 19-3. Finance Committee reports. [Amended 5-5-1983 ATM by Art. 21; 5-1-2000 ATM by Art. 17]

The Board of Selectmen, after drawing a warrant for a Town meeting, shall immediately forward a copy thereof to each member of said Finance Committee, which shall consider all articles in the warrant and make such report, in print or otherwise, to the Town meeting as it deems for the best of the Town. In gathering information to prepare its report, if any, relative to an article, the Finance Committee shall meet with the party or parties that proposed the article and concurrently with others who want to comment thereon, and shall publicly post notice thereof on the Town's principal official bulletin board at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meeting. However, if the Finance Committee's report on any article exceeds 30 words in length, excepting an article which requests approval of the Town's itemized, omnibus operating budget for the ensuing fiscal year, then that report on said article shall conclude with a summary of reasons favoring the article that were considered by the Finance Committee in its deliberations and a separate summary of reasons disfavoring the article that were considered by the Finance Committee in its deliberations. The Committee shall also make an annual report which shall be published as part of the Annual Town Report and which shall include recommendations for appropriations for the ensuing year, a budget and such further recommendations regarding the finances of the Town and action in regard thereto as seems to such Committee to be necessary and appropriate.

§ 19-4. Estimates of expenses and income. [Amended 4-3-2003 ATM by Art. 37; 5-3-2004 ATM by Art. 11]

The various Town boards, officers and committees charged with the expenditure of Town money shall, not later than the 15th of December in each year, file with the Clerk of the Finance Committee detailed estimates of the amounts deemed necessary for the administration of their respective board, office or committee for the ensuing fiscal year, with explanatory statements of the reasons for any changes from the amounts appropriated for the same purpose in the preceding year. They shall also file estimates of all probable items of income which may be received by them during the ensuing year in connection with the administration of their board, office or committee. One month prior to the 15th of December in each year, for all Town boards, officers and committees under the jurisdiction of the Board of Selectmen, the Town Administrator shall submit to the Board of Selectmen detailed estimates of the amounts deemed necessary for the administration of all such boards, offices, or departments for the ensuing fiscal year, including both capital and expense items. The Town boards, officers and committees under the Board of Selectmen's jurisdiction shall be defined as those boards, officers and committees appointed by the Board of Selectmen in accordance with the Town's by-laws and/or state law. The budget submission should include explanatory statements of the reasons for any changes from the amounts appropriated for the same purpose in the preceding fiscal year. For each such Town board, officer, committee and department under the Board of Selectmen's jurisdiction, the Town Administrator shall also, as part of the submission, file estimates of all probable items of income which may be received by them during the ensuing year in connection with the administration of each such board, office, committee or department. For the Town boards, officers, committees and departments under the Board of Selectmen's jurisdiction, the Town Administrator shall submit preliminary budgets to the Finance Committee by December 15th of each year. Prior to January 15 of each year, unless another date is agreed to, the Town Administrator shall review and make recommendations to the Board of Selectmen with respect to the budget requests, including both capital and expense items, and income estimates of all other Town boards, committees, offices and departments. except for the School Committee. In addition, the Board of Selectmen shall, no later than the 15th of January in each year, unless another date is agreed to, make both a capital and expense budget recommendation to the Finance Committee for the ensuing fiscal year for each Town board, officer and committee under its jurisdiction.

§ 19-5. Warrant articles involving appropriations or expenditures.

- A. Any person presenting an article for insertion in the warrant for any Town meeting which involves the appropriation or expenditure of money by the Town shall also submit an estimate of the expected amount of money to be expended or appropriated to carry out the purpose of the article. Said estimate, together with the name of the

person or persons submitting such article, shall be transmitted by the Board of Selectmen to the Finance Committee.

- B. In order for funds to be made available by the Town for contribution to the Other Postemployment Benefits Trust Fund ("OPEB Trust Fund"), such funds must be appropriated by Town Meeting pursuant to a specific Town Meeting warrant article other than the omnibus budget article. **[Added 10-3-2012 STM by Art. 5]**

§ 19-6. Salaries and compensation.

No Town officer, no salaried employee of the Town or member of any committee appointed to act for the Town and no agent or employee of such officer, employee or committee shall sell materials or supplies to a board or committee of which he/she is a member or receive any compensation or commission for work done by him/her as such officer, employee or member of a committee, except his official salary and the fees provided by law, without permission of the Board of Selectmen expressed in a vote which shall appear in its records, together with a statement of the reasons therefor.

§ 19-7. Acquisition of vehicles. [Added 5-13-1999 ATM by Art. 43]

No vote at any Town meeting to appropriate funds for the acquisition of any vehicle valued at \$10,000 or more for the Park and Recreation, Highway or Water Departments shall be in order unless the Town's procurement officer has prepared a description of the vehicle suitable for inclusion in an invitation for bids for a procurement contract under MGL c. 30B, the Uniform Procurement Act, and placed such vehicle description on file with the Town Clerk for public inspection at least seven days before the annual meeting and at least 14 days before any special Town meeting.

§ 19-8. Board of Assessors. [Added 5-8-2000 ATM by Art. 28]

A. Annual Report. The Board of Assessors shall:

- (1) Make an annual report of sales of properties sold in Wayland available to the public by submitting it to the local newspapers, having it posted on the Town's Internet Web site and providing copies at the Town Library. The report shall describe the semi-annual increase or decrease in the average sale price of residential properties in Wayland.
- (2) Prepare, as part of the reports to be heard under the annual Town meeting "Hear Reports" article and the Annual Town Report a report for the previous six calendar years that provides:
 - (a) The number of annual abatement requests filed with the Board of Assessors;
 - (b) The annual number of abatements granted by the Board of Assessors;

- (c) The annual average value of the abatements granted by the Board of Assessors;
 - (d) The number of annual abatement requests filed by Wayland property owners at the Appellate Tax Board with respect to Wayland properties;
 - (e) A list by property of the dollar changes in each assessment granted as a result of Appellate Tax Board decisions; and
- (3) Prepare, as part of the report to be heard under the annual Town meeting "Hear Reports" article and the Annual Town Report, a report for the previous calendar year that states the number of residential properties that were due for inspection, the number of properties actually inspected, the number of properties for which an internal inspection of the dwelling was conducted, the number of residential properties sold, the number of sold properties for which an internal inspection was conducted, the number of properties inspected in response to a grant of a building permit, and any other criteria requested by the Board of Selectmen or its designee that will provide guidance to the Town as to the effectiveness of the assessment process.
- B. Quarterly reports. The Board of Assessors shall prepare and provide to the Board of Selectmen quarterly reports detailing the progress in implementing the Recommendations of the Assessment and Valuation Study Committee contained in Article 27 of the Warrant for the 1999 Annual Town Meeting and shall submit these reports to the Board of Selectmen or its designee for posting on the Town's Internet Web site.
- C. Public hearing. The Board of Assessors shall hold a public hearing annually to listen to taxpayer concerns and questions regarding the assessment process and the services provided by the Assessors' Office. The Board of Assessors shall ensure that adequate time is provided for the hearing and that the agenda is set so that a hearing occurs where citizens are given a reasonable amount of time to voice their concerns.
- D. Increased valuation information. After each revaluation, the Board of Assessors shall send, within 30 days of the actual tax bill, a separate, reasonably detailed written explanation of the actual basis for the increased valuation for each residential property for which the new valuation percentage increase is eight percentage points or more above the Town-wide average residential increase in percentage points. Town-wide average residential increase shall be based on a data set that includes all those revalued residential properties for which no building permit has been issued between the current revaluation and the prior valuation.
- E. Change of assessed valuations. **[Added 5-12-2004 ATM by Art. 40]**
 - (1) After the Board of Assessors has made a decision concerning a taxpayer's abatement request of change of real property

assessment, included with the decision, on the form provided by the state that is sent to the taxpayer, will be notice of any change in the data on that property record card and the dollar effect in assessment for each change in the section that states "reason for abatement."

- (2) If the Board of Assessors deems appropriate a change in the property record card's market data, either as a result of a visit to a property in Wayland that takes place once every decade to be sure that information on the property record card is accurate, or the visit is the result of a sale of, or a renovation to a property, or as a result of sales since the last town-wide revaluation (such as, but not limited to a change in assessment neighborhood) that data change shall be reported to the real property owner at the time that the new data will cause a change in the assessed value of said property.

When the assessed valuation of a property changes, as occurs at an annual, biannual, or triannual town-wide revaluation, the town shall make the following information available at the Assessor's desk and on the Town website in table form: all of the influence factors that the Board of Assessors uses to value real property in Wayland such as, but not limited to: style of house, age, grade, value per square foot, CDU (condition/desirability/utility rating), heating type, fuel, heating system, finished basement living area, porches, open porches, wood decks, story height, swimming pool, barn, tennis court, traffic influence. All pertinent constants and coefficients shall be stated.

- (3) Additionally, available at the desk and on the Town website shall be: a general description of the valuation algorithm, definition of special terms, and a detailed description of the specific implementation.
 - (4) When the assessed valuation of a property changes as occurs at an annual, biannual, or triannual town-wide revaluation, the town shall make the following information available at the Assessor's desk and on the Town website: a table displaying the prior and new land valuation factors by assessment neighborhood with a map identifying and displaying all assessment neighborhoods.
- F. Community Preservation Act surcharge exemptions. Applications for exemptions from the Community Preservation Act surcharge pursuant to Massachusetts General Laws Chapter 44B, Section 3(e)(1), must be filed with the Office of the Board of Assessors no later than three months after the issuances of the actual real estate tax bill. **[Added 4-10-2008 ATM by Art. 24]**
 - G. Local Circuit Breaker Program. Applications for senior tax relief under the Town Circuit Breaker Program must be filed with the office of the Board of Assessors no later than December 31 of the year in which the original tax filing was due. **[Added 4-13-2009 ATM by Art. 13]**

§ 19-9. Public hearing on tax rate. [Added 4-9-2012 ATM by Art. 19]

Before the Town submits its proposed tax rate(s) for any fiscal year to the Commissioner of Revenue for approval pursuant to General Laws Chapter 59, § 23, all boards and officials whose names appear on the Tax Rate Recapitulation document as approving or certifying the information contained therein, or their representatives, shall collectively conduct a public hearing to give interested citizens an opportunity to be heard and to ask questions concerning the tax rate(s). Forty-eight hours at least before the hearing, the proposed Tax Rate Recapitulation, together with the date, time, and place of the hearing, shall be posted on the Town's website and in a conspicuous place in the Wayland Town Building.

§ 19-10. Revolving funds. [Added 4-2-2017 ATM by Art. 5]

- A. Pursuant to MGL c. 44, § 53E 1/2, as amended, the following revolving funds are authorized, shall be accounted for separately from all other monies in the Town, and each fund shall be credited with any fees, charges or other receipts from the programs or activities supported by the respective revolving fund:

	Revolving Fund	Authority to Spend Fund	Revenue Sources	Use of Funds
1	Transfer Station	Board of Public Works	Receipts including sticker fees paid for use of the Transfer Station, Pay as You Throw bags, recycling income	Payment of costs for the operation and improvement of the Transfer Station
2	Council on Aging	Council on Aging	Receipts including fees paid to participate in Council on Aging programs	Payment of costs for Council on Aging programs
3	School Department: Professional Development	School Committee	Fees paid for teacher training programs	Payment of costs for teacher training programs
4	School Department: Curriculum	School Committee	Fees paid for student instructional materials	Payment of costs for student instructional materials

	Revolving Fund	Authority to Spend Fund	Revenue Sources	Use of Funds
5	Recreation	Recreation Commission	Receipts including fees paid to participate in recreational and educational programs/events and building rental fees; receipts including fees paid for the use of the Town Beach and beach programs/events	Payment of costs for recreational and educational programs/events and facilities including Town Beach; and for athletic fields for costs paid from field user fees received prior to July 1, 2017, for major field maintenance on athletic fields not performed by DPW, and approved capital projects
6	Recreation: Athletic Fields	Recreation Commission	Receipts including fees paid for the use of athletic fields	Payment of costs from field user fees received on or after July 1, 2017, for athletic field equipment (such as nets, goals, porta potties, benches, tables and fences), utilities (electricity and water), major field maintenance not performed by DPW, and approved capital projects

- B. Any Town board authorized to administer a revolving fund shall approve user fees, calculated upon the cost of providing the service or program, which shall include, but is not limited to, costs for associated maintenance, capital improvements, wages and employee benefits and indirect costs.

- C. The Annual Town Report shall include, for each revolving fund, an accounting of the fiscal year-end revenues, expenses, balances and Town Meeting voted limit of expenditure.
- D. In connection with the annual Town budget cycle, the entity authorized to spend each fund shall submit to the Finance Committee an estimated end-of-year balance for the current fiscal year and a revenue and expense plan for the upcoming fiscal year.

Chapter 36

MEETINGS

ARTICLE I

Notice and Warrant; Moderator**[Adopted 3-12-1973 ATM by Art. 14 as Art. 1 of the 1973 Bylaws]****§ 36-1. Town meeting and election. [Amended 3-11-1974 ATM by Art. 11; 5-1-1991 STM by Art. 3; 5-12-2004 ATM by Art. 34; 4-13-2009 ATM by Art. 23]**

The annual Town meeting shall commence on a day between April 1 and May 15 inclusive ordered by the Selectmen. The election of Town officers and the determination of all matters placed on the official ballot at such election shall take place within seven days, but no fewer than two days, before the annual Town meeting. In addition to the warrant required by MGL c. 39, § 9A, the Selectmen shall cause notice of the time and place(s) of each annual and special Town meeting and each annual and special election (1) to be published in a newspaper of general circulation in Wayland no later than the date fixed by them for the closing of the warrant pursuant to § 36-3 below and (2) to be posted on the Town sign boards. Such notice shall be posted on the Town sign boards commencing at least two weeks prior to the election and Town meeting and shall remain posted until the election is held and Town meeting is concluded.

§ 36-2. Service of warrant. [Amended 10-30-1974 STM by Art. 3; 5-6-1982 ATM by Art. 33; 5-8-1989 ATM by Art. 21; 11-14-1991 STM by Art. 14; 11-13-1996 STM by Art. 2]

- A. Service of the warrant for the annual election and the annual Town meeting, and for any special election and any special Town meeting, shall be made by posting attested copies thereof at the Town Building and at the public library in Wayland Center, at the Cochituate Fire Station or Cochituate Post Office and at the Happy Hollow School and by mailing or delivering a copy thereof addressed to each residence in the Town not later than the time required under the Massachusetts General Laws for the giving of notice of such election or any such Town meeting.
- B. The front cover of the warrant for the annual election and the annual Town meeting, and for any special election and any special Town meeting, shall clearly identify the date, voting hours, and polling places for the election. **[Added 5-12-2004 ATM by Art. 35]**

§ 36-3. Submission of warrant articles. [Amended 5-6-1982 ATM by Art. 33; 5-7-1997 ATM by Art. 47; 5-7-1997 ATM by Art. 48; 5-14-1998 ATM by Art. 59; 4-3-2003 ATM by Art. 33; amended 5-10-2004 STM by Art. 11; 4-13-2009 ATM by Art. 24]

All articles for insertion in the warrant for the annual Town meeting must be presented in writing to the Board of Selectmen in accordance with law on or before January 15 or such earlier time as may be fixed by the Board of Selectmen, and all such articles for special Town meetings must

be so presented on or before the date fixed by the Selectmen for closing of the warrant for such meeting. In the event that January 15 is a Saturday, Sunday or legal holiday, all articles for insertion in the annual Town meeting warrant must be so presented by 4:30 p.m. on the next weekday following January 15 that the Wayland Town Building is open. The warrant for any special Town meeting shall remain open for at least seven days after it is called by the Board of Selectmen. Within 48 hours after calling any Town meeting, the Selectmen shall post notice of the warrant closing date at the locations specified in § 36-2 above.

- A. However, after an article for insertion in the warrant has been duly presented to the Board of Selectmen by registered voters in accordance with law, said article may be amended or withdrawn by a majority, but not fewer than 10, of said registered voters after the warrant closing date.
- B. Town Counsel shall be accessible to registered voters for consultation on presenting articles for insertion in the warrant or on making motions or amendments from the floor of Town meeting. Town Counsel shall be available for consultation at reasonable times in accordance with guidelines promulgated by the Board of Selectmen.
- C. No article, other than one submitted by the Moderator, Town Clerk, or the requisite number of petitioners, shall be inserted in the warrant for any Town meeting unless so voted by a board, commission, committee, or other governmental body of the Town of Wayland by 4:30 p.m. on the date fixed by the Board of Selectmen for closing of the warrant for such meeting.

§ 36-4. Resolutions. [Added 11-18-1982 STM by Art. 14]

- A. As used in this section, the term "resolution" means an expression of opinion or sense of the Town meeting on any matter relating to the municipal affairs of the Town or any other issue of public importance.
- B. When the Selectmen close a warrant for any annual or special Town meeting, they shall insert an article to see whether the Town will act on resolutions not within the scope of other articles. The article on resolutions shall be the last article in the warrant, and all resolutions which are submitted in accordance with Subsection C below shall appear under this article.
- C. Any resolution not exceeding 150 words in length shall be included by the Selectmen in the warrant for a Town meeting if the resolution is submitted by the close of the warrant and is signed by at least the number of registered voters required by law to submit any subject for insertion in the warrant. In addition, in the case of the annual Town meeting only, a resolution may be submitted after the close of the warrant but not later than 45 days prior to the date fixed for such annual Town meeting if such resolution is signed by at least the number of registered voters required by law to submit a subject for insertion in

the warrant for a special Town meeting. All resolutions submitted for any Town meeting shall also meet the same general standards which the Selectmen apply to other articles for the warrant.

- D. The Finance Committee shall consider the municipal aspects, if any, of each printed resolution and shall make such report, in print or otherwise, as the Committee deems for the best interest of the Town.
- E. Unless a Town meeting so votes before reaching the resolutions article, no other article in the warrant may be returned to once the resolutions article is taken up for consideration.
- F. If no resolutions are timely submitted, the Selectmen shall withdraw the resolutions article before the printing of the warrant.

§ 36-5. Quantum of vote; reports. [Added 5-5-1983 ATM by Art. 22]

- A. Each article appearing in the warrant for every Town meeting shall be accompanied therein by a printed statement, prepared by the Board of Selectmen, of the quantum of vote required for taking action under the article and a citation to the legal authority establishing said quantum of vote, except that where, in the opinion of the Board of Selectmen, the quantum of vote and citation are not yet known with reasonable certainty at the time the warrant is prepared, a printed statement to this effect shall suffice.
- B. If the Finance Committee prepares a printed report for an article in the warrant for any Town meeting, then the governmental body or group of petitioners that sponsors the insertion of that article in the warrant may do likewise. The sponsor's report, not to exceed 150 words, shall be printed in the warrant immediately following the article itself. **[Added 5-2-1988 ATM by Art. 13]**
- C. Every article appearing in the warrant for every Town meeting that proposes to amend the Code of the Town of Wayland shall be accompanied therein by a printed statement prepared by Town Counsel as to whether the proposed amendment is repugnant to Massachusetts or federal law and, if so, in what manner. **[Added 5-10-1999 ATM by Art. 24]**

§ 36-6. Moderator. [Added 5-6-1992 ATM by Art. 23]

The Moderator shall be chosen at an annual Town election and shall serve for a term of three years.

ARTICLE II

Procedure**[Adopted 3-12-1973 ATM by Art. 14 as Art. 2 of the 1973 Bylaws]****§ 36-7. Reports.**

All reports of Town officers, agents or committees which are to be considered at any Town meeting shall be reduced to writing and a copy thereof deposited with the Town Clerk before such report is presented for action.

§ 36-8. Motions.

All motions shall be reduced to writing if so requested by the presiding officer or any legal voter.

§ 36-9. Action on warrant articles.

Articles in the warrant shall be acted upon in the order in which they stand, unless the meeting shall direct otherwise by a two-thirds vote.

§ 36-10. Reconsideration. [Amended 12-5-1983 STM by Art. 2; 5-10-1999 ATM by Art. 23; 5-3-2006 STM by Art. 8; 4-6-2015 ATM by Art. 18]

If an article of the warrant has once been acted upon and disposed of, a motion to return to the article may be made at any time, if the Moderator determines that the person offering the motion discloses significant new factual information to the Town meeting concerning said article, which existed but had not been disclosed or made available to the meeting when the motion under that article was debated, and the Moderator thereupon explains why such information satisfies the foregoing criteria; provided, however, that debate and action on said motion shall be deferred until all other articles shall have been disposed of. In any event, a two-thirds vote shall be required for approval of a motion to return to an article.

§ 36-11. Motion to dissolve meeting.

No motion, the effect of which would be to dissolve a Town meeting, shall be in order until every article in the warrant has been duly considered and acted upon, but this shall not preclude the postponement of action on or consideration of any article to an adjournment of the meeting to a stated time.

§ 36-12. Quorum.

The presence of 100 voters at a Town meeting for the transaction of business shall constitute a quorum, except for a motion to adjourn, for which no quorum shall be required.

§ 36-13. Adjournment. [Added 4-16-1975 ATM by Art. 12]

Each session of a Town meeting shall be adjourned by the Moderator at 10:30 p.m. or as soon thereafter as the meeting has concluded action on or postponed action on the article then under consideration or in accordance with a vote of the particular session of Town meeting to adjourn at a different time, and a motion to that effect shall be in order at any time.

§ 36-14. Verification of wording. [Added 4-24-1985 ATM by Art. 22]

After a main motion has been made and seconded, it shall not be debated, amended or acted upon until the mover of said motion has declared to the Town meeting assembled that it is identical word-for-word with the substantive portion of the article then under consideration as printed in the warrant or, in the event that said motion and the substantive portion of the article are not identical, alerted the meeting to any and all such differences in wording. Failure to comply with any provisions of this section shall not invalidate any action taken under the subject warrant article.

§ 36-15. Subsidiary or procedural motions. [Added 4-24-1985 ATM by Art. 24]

If a two-thirds vote is required to carry a subsidiary or procedural motion at any Town meeting, such as a motion to terminate debate (move the previous question), the Moderator need not, in his or her discretion, take a count, even though the voice vote upon such motion was not unanimous, if the Moderator shall have perceived that more than two-thirds of the voters voted in the affirmative. The Moderator shall then declare that such motion has carried, and the Clerk shall record such declaration, together with a note that there was a "scattering of noes." This section shall not apply to substantive or main motions or to votes required by statute.

§ 36-16. Powers and duties of Moderator. [Added 11-13-1991 STM by Art. 3]

The Moderator shall neither disallow nor rule out of order any motion because the words "or take any action relative thereto," or their equivalent, were not included in the warrant article under which said motion was made.

§ 36-17. Procedures to be followed where attendance exceeds occupancy limits at facility in which meeting is being held. [Added 5-12-2004 ATM by Art. 36]

At any scheduled session of annual or special Town meeting where the total number of registered voters present in the facility would cause the occupancy limits of the facility to be exceeded, the Moderator shall immediately suspend the proceedings. Prior to continuing such session or adjourning, the Moderator, in consultation with the Board of Selectmen, shall first announce an alternate means or alternate location and time where all registered voters who wish to be present can enter and fully participate in the proceedings.

**§ 36-18. Attendance and participation of nonresident Town officials.
[Added 4-13-2009 ATM by Art. 25; amended 4-4-2013 ATM by Art.
12; 11-15-2016 STM by Art. 2]**

Notwithstanding their place of residence or voter registration status, the Town Administrator, Assistant Town Administrator, Town Counsel, Police Chief, Fire Chief, Finance Director, Director of Public Works, Public Buildings Director and Superintendent of Schools shall have the same right as registered voters of the Town to attend and sit on the floor of Town meetings and answer questions. Said Town officials shall not be considered in determining the presence of a quorum at Town meetings nor shall any of them be permitted to vote unless s/he is a registered voter of the Town.

Chapter 43**PERSONNEL****§ 43-1. Definitions.**

As used in this chapter, the following words and phrases shall have the following meanings, unless a different construction is clearly required by the context or by the laws of the commonwealth:

ACTING — Performing the duties and having the responsibilities of another position on a temporary basis without having been appointed to the position on a temporary basis.

APPOINTING AUTHORITY or EMPLOYING AGENCY — The official, board, committee, commission, council or other authority empowered by statute, special act or bylaw to make appointments.

BOARD — The Personnel Board as defined in § 43-2.

CIVIL SERVICE LAW — Chapter 31 of the Massachusetts General Laws, as amended, and all rules and regulations made thereunder and any special law enacted by the General Court regulating the classification, compensation and conditions of employment of officers and employees of the Town under MGL c. 31.

CLASS — A group of positions in the Town service sufficiently similar in respect to duties and responsibilities so that:

- A. The same descriptive title may be used to designate each position allocated to the class;
- B. The same qualifications shall be required of the applicants and incumbents;
- C. The same tests of fitness may be used to choose qualified employees; and
- D. The same scale of compensation can be made to apply with equity.

COMPENSATION GRADE — An alphanumeric designation for a salary or wage range.

CONTINUOUS EMPLOYMENT — Employment uninterrupted except for required military service and for authorized vacation leave, sick leave, bereavement leave, court leave or other leave of absence.

DEPARTMENT — Any department, board, committee, commission or other agency of the Town subject to this chapter and the Wage and Salary Classification Plan.

DEPARTMENT HEAD — The officer or employee having immediate supervision and control of a department. **[Amended 5-5-2005 ATM by Art. 32]**

EMPLOYEES IN BENEFIT STATUS — Employees working at least 20 hours per week.

EMPLOYMENT ANNIVERSARY DATE — The official employment start date of an employee's regular service to the Town.

FLAT RATE — A rate of compensation for personal services that does not appear in a range.

FULL-TIME EMPLOYEE — An employee retained in full-time employment.

FULL-TIME EMPLOYMENT — Employment for not less than 7 hours per diem for 5 days a week for 52 weeks per annum, less legal holidays and authorized military leave, vacation leave, sick leave, bereavement leave, court leave and leaves of absence. **[Amended 5-5-2005 ATM by Art. 32]**

HOLIDAY PAY — Extra pay authorized pursuant to § 43-10.

HUMAN RESOURCES DIRECTOR — The Assistant Town Administrator or other comparable position as determined by the Board of Selectmen. **[Amended 5-5-2004 ATM by Art. 13]**

INCREMENT — The dollar difference between step rates.

INTERIM — Performing the duties and having the responsibilities of a vacant position on a temporary basis after having been appointed to the vacant position until the position is filled.

INTERMITTENT SERVICE — Personal service rendered by an employee in a position calling for part-time employment, which service, although constituting continuous employment, is not rendered during prescribed working hours, daily, weekly or annually, but is rendered as required, according to the demands for such service as determined by the appropriate supervisory authority.

JOB SHARING — The holding of one position by more than one incumbent who do not perform the duties and responsibilities of the position. **[Amended 5-5-2005 ATM by Art. 32]**

LEAVE OF ABSENCE — A form of leave authorized pursuant to § 43-12.

MAXIMUM RATE — The highest rate in a range which an employee normally is entitled to attain.

MIDPOINT RATE — The rate which is midway between the minimum rate and the maximum rate.

MINIMUM RATE — The lowest rate in a range which is paid to an employee.

OVERTIME — Time in excess of the normal number of hours or days of working time in the work week of the department.

PART-TIME EMPLOYMENT — Employment for less than full-time employment, as further defined above.

POSITION — An office or post of employment in the Town service with duties and responsibilities calling for the full-time or part-time employment of one person in the performance and exercise thereof.

PROBATIONARY EMPLOYEE — Any newly hired employee whose tenure of service in the Town has not exceeded 6 months. Such employees have limited rights during this stage of their employment and may be discharged at any point.**[Amended 5-3-1999 ATM by Art. 9; 5-5-2005 ATM by Art. 32]**

PROMOTION — A change from a position of lower class and compensation grade to a position with greater responsibilities in a higher class and compensation grade.

RANGE — The dollar difference between minimum and maximum rate.

RATE — A sum of money designated as compensation for hourly, weekly or annual personal services.

REGULAR EMPLOYEE or REGULAR APPOINTEE — **[Amended 5-1-2000 ATM by Art. 15]:**

- A. Any employee retained on a continuing basis in a regular position, as defined below.
- B. Any employee holding an appointment under the Civil Service Law to a position deemed permanent within the meaning of said law.

REGULAR PART-TIME POSITION — Any regular position in the Town service in which the incumbent works at least 20 hours per week but less than 35 hours per week.**[Amended 5-1-2000 ATM by Art. 15]**

REGULAR POSITION — Any position in the Town service which has required or which is likely to require the services of an incumbent without interruption for a period of more than 6 calendar months, either on a full-time or part-time employment basis.**[Amended 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]**

STEP RATE — A preestablished, incremental rate in a range between the minimum and maximum rates.

SUPERVISORY AUTHORITY — The official, board, agency, committee, council, commission or other authority empowered by law to supervise, direct and control the activities of employee(s).

TEMPORARY EMPLOYEE —

- A. Any employee retained in a temporary position as defined below.
- B. Any employee holding a temporary appointment under the Civil Service Law who does not also have permanent status thereunder.
- C. Any employee retained in a position in a class the title of which contains the adjective "temporary."
- D. Any employee hired on a temporary basis in a regular position.**[Amended 5-5-2005 ATM by Art. 32]**

TEMPORARY POSITION — Any position in the Town service which is not regular but which requires the services of one incumbent for a period not

exceeding 1 of the 4 seasons of the year. **[Amended 5-5-2005 ATM by Art. 32]**

TOWN — The Town of Wayland.

WAGE AND SALARY CLASSIFICATION PLAN — The schedule of hourly, weekly, annual and flat rates appearing in the Town's annual Town meeting warrant or special Town meeting warrant, pursuant to § 43-3A.

§ 43-2. Personnel Board.

- A. There shall be a Personnel Board of 5 members appointed by the Selectmen. The Selectmen shall also have the power to fill Personnel Board vacancies. The term of appointment shall be for 5 years, except where the appointment is to fill a vacancy, and then it shall be to fill the unexpired term. No member of the Personnel Board shall be an employee of the Town or hold Town office. Members of the Personnel Board shall serve without compensation. **[Amended 5-5-2005 ATM by Art. 32]**
- B. The Personnel Board shall have the following powers and duties:
 - (1) To develop and administer this chapter and the Wage and Salary Classification Plan (hereinafter called "this chapter" and "the plan") and personnel policies and procedures in cooperation with the Town boards and departments affected.
 - (2) To approve all pay or classification changes of Town employees, including all hiring rates and classifications.
 - (3) To negotiate collective bargaining agreements for the Town, after having met in advance with the Board of Selectmen and the Finance Committee to discuss the forthcoming negotiations.
 - (4) To establish such central personnel files for all employees as it deems useful in the administration of this chapter and the plan.
 - (5) To review the operation of the plan annually, including minimum and maximum wage and salary brackets, and to recommend to the Town any appropriate changes.
- C. In the case of any dispute concerning the interpretation or administration of this chapter and the plan, the decision of the Personnel Board shall be final, subject to an appeal to the Town at the next Town meeting.
- D. The Personnel Board shall meet as necessary to consider such business as may be presented by Town officials, Town employees or other interested persons, but not less often than quarterly. Three members of the Board shall constitute a quorum, and all action shall be taken by a majority of the members present at the Board meeting, provided that the Board may delegate to the Chairman power to act at any time on routine matters, subject to appeal to the full Board.

§ 43-3. Wage and Salary Classification Plan.

- A. The positions of all nonelected Town employees are classified under the following job titles with the wage and salary rates set forth. (Refer to § 43-4.)
- B. The Personnel Board may prepare such additional job descriptions to supplement the foregoing job titles as it deems necessary. Upon classification of said job description, the employing agency shall submit a funding request to the Finance Committee for subsequent budget action by Town meeting and shall comply with policies and procedures established from time to time by the Personnel Board.
- C. If it becomes necessary during any year for any Town board, commission, committee, department or official (hereinafter referred to as an "employing agency") to hire a regular employee to do work not covered by an existing classification, the Personnel Board may establish a temporary new classification, but the same shall be submitted to the Town as a proposed amendment to the plan in the next warrant for a regular Town meeting.
- D. Upon request of an employing agency, the Personnel Board is authorized, for cause shown, to convert an hourly rate shown in the foregoing schedule into a salary, or a salary into an hourly rate, provided that no change shall be made which will increase or reduce the average earnings of any employee.
- E. The wages and salaries of Town employees shall be fixed in strict accordance with this plan. No employing agency shall pay or employ any person at a salary or wage not fixed in accordance with this plan and approved by the Personnel Board hereunder, nor shall the Personnel Board approve a salary or wage that was not previously proposed by or reviewed with the employing agency. In administering this section, the Personnel Board shall take into consideration any and all employee fringe benefits.
- F. Longevity pay.
 - (1) Each full-time regular employee of the Town shall be awarded longevity pay in accordance with the following table:

Years of Service	Longevity Pay
After 5	\$100 per year
After 10	An additional \$50 (\$150 total)
After 15	An additional \$50 (\$200 total)
After 20	An additional \$50 (\$250 total)
After 25	An additional \$50 (\$300 total)
After 30	An additional \$50 (\$350 total)

- (2) Payments will be made twice a year, on May 31 and November 30, and each payment will consist of 1/2 of the yearly amount. To qualify for the additional payments under this section, the employees must have completed the required years of service before the payment date. Part-time employees will be given consideration under this section.
 - (3) The Personnel Board will be responsible for determining the equivalency of longevity in each case.
 - (4) Administrative and professional employees hired after January 1, 1979, shall not be awarded longevity pay.
- G. The Personnel Board shall establish a system/method of nonmonetary recognition for exceptional performance or contribution by one or more employees.

§ 43-4. Wages and classification. [Amended 5-5-2005 ATM by Art. 32]

Non-union employees whose positions are classified on the G, SG, S, Nurse and Non-union Police wage scales will be transferred to a newly established Non-union N wage scale during Fiscal Year 2006, effective upon each non-union employee's employment or reclassification anniversary date.

§ 43-5. Hours of work. [Amended 5-1-2000 ATM by Art. 15]

- A. The regular work week for office and clerical employees shall be 35 hours. For Fire Department personnel, it shall be 42 hours. For Police Department personnel, it shall be 37.5 hours. The regular work week for all other Town employees shall be 40 hours, unless otherwise provided by union contract.
- B. Nonexempt employees, other than members of collective bargaining units, required to work more than 8 hours in any day or 40 hours in any week shall be compensated for such overtime at a rate based on 1 1/2 times their regular hourly rates of pay or may with permission of the supervisor take time off equal to 1 1/2 times the amount of overtime. Employees, other than members of collective bargaining units, whose regular work week is less than 40 hours shall receive straight-time pay up to 40 hours per week and time and 1/2 for all hours worked in excess of 40 hours per week or may with permission of the supervisor take time off equal to 1 1/2 times the amount of overtime. **[Amended 5-5-2005 ATM by Art. 32]**
- C. Nothing in this section shall apply to exempt employees under the Fair Labor Standards Act. **[Amended 5-5-2005 ATM by Art. 32]**

§ 43-6. Rates of pay for new employees. [Amended 5-5-2004 ATM by Art. 13]

- A. An individual newly hired, promoted, reclassified or permanently transferred from one job to another shall be paid the minimum salary or wage rate for his classification, except as hereinafter provided. The employing agency shall report all transfers and, so far as practicable, all proposed hirings to the Personnel Board in advance of appointment for approval of the employee's classification and salary or wage rate. When prior consultation is impractical, the appointing agency may hire an individual, with the approval of the Human Resources Director, but subject to ratification of the employee's classification and salary or wage rate by the Personnel Board.
- B. The starting pay rate for all positions will normally be the minimum step of an assigned classification. Exceptions to this rule may be considered by the Personnel Board and/or the Human Resources Department. All starting pay rates must be approved by the Human Resources Department, and any proposed starting rate above the fourth step of a classification must receive Personnel Board approval.

§ 43-7. Reclassification.

- A. The duties of any position may be reviewed by an employing agency upon request of the employee, on its own initiative or on the initiative of the Personnel Board. If it appears to the employing agency that such position belongs in a different job classification because of changes in the nature of duties and/or responsibilities, the employing agency may recommend reclassification and shall submit a revised job description to the Personnel Board, which shall then review the facts and approve or deny the proposed reclassification. If approved, the employing agency shall submit a reclassification funding request for approval by the Finance Committee. A reclassified employee shall be paid in accordance with the provisions of § 43-6.
- B. Where, in the judgment of the Personnel Board and the employing agency, unfairness would otherwise result, a Town employee temporarily assigned to work in a higher classification for at least 1 week shall be paid the minimum rate for that classification for as long as he/she does such work, provided that he/she is paid at a rate at least one step higher than his present rate. **[Amended 5-5-2005 ATM by Art. 32]**
- C. Any employee who is promoted to a higher job classification will receive at least the equivalent of one periodic step increase under the previously assigned classification at the time of promotion. **[Amended 5-5-2005 ATM by Art. 32]**

§ 43-8. Increases within established rate ranges.

- A. Upon satisfactory completion of probationary employee status, as determined by the supervisory authority, an employee may be eligible to receive a 1-step increase within the assigned classification. Increases will be granted only upon the written recommendation of the

supervisory authority with the approval of the Personnel Board. Employees may continue to be eligible for step increases upon completion of each employment year, as determined by the employment anniversary date and as prescribed by Subsection B of this section. Step increases will not be granted beyond the maximum step of the assigned classification. **[Amended 5-5-2005 ATM by Art. 32]**

- B. The intent of this section is to enable the Town to reward good and faithful service. It is intended that step increases will be granted for merit, and such increases will be withheld in any case where the employee has not performed satisfactorily enough to earn an increase that may be allowable within the assigned wage and classification schedule.

§ 43-9. Annual leave.

- A. Paid annual leave. **[Amended 4-30-1998 ATM by Art. 4; 5-5-2005 ATM by Art. 32; 4-7-2016 ATM by Art. 12]**

- (1) Paid annual leave for all full-time nonunion nonprofessional or nonadministrative employees in benefit status hired before April 7, 2016, shall be as follows:

- (a) 0 but less than five years employment: 13 working days.
- (b) 5 but less than 15 years employment: 19 working days.
- (c) 15 years to severance: 25 working days.

- (2) Paid annual leave for all full-time nonunion, nonprofessional or nonadministrative employees in benefit status hired after April 7, 2016, shall be as follows:

- (a) 0 but less than five years employment: 10 working days.
- (b) 5 but less than 15 years employment: 15 working days.
- (c) 15 years to severance: 20 working days.

- (3) Leave days will start accruing at the conclusion of the probationary period and be retroactive to the date of hire.

- B. Schedule for earning leave days. **[Amended 5-3-1999 ATM by Art. 9; 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32; 4-29-2007 ATM by Art. 15; 4-10-2008 ATM by Art. 20; 4-7-2016 ATM by Art. 12]**

- (1) The schedule for earning leave days for all full-time nonunion, nonprofessional or nonadministrative employees in benefit status hired before April 7, 2016, is as follows:

- (a) For 13 leave days per year: 7.5833 hours/month.
- (b) For 19 leave days per year: 11.0834 hours/month.

- (c) For 25 leave days per year: 14.5834 hours/month.
 - (2) The schedule for earning leave days for all full-time nonunion, nonprofessional or nonadministrative employees in benefit status hired after April 7, 2016, is as follows:
 - (a) For 10 leave days per year: 5.8333 hours/month.
 - (b) For 15 leave days per year: 8.7500 hours/month.
 - (c) For 20 leave days per year: 11.6666 hours/month.
 - (3) This full-time earning schedule is based on 260 working days per year and a 5-day week.
 - (4) Regular part-time employees will earn days at the same rate, i.e., calculated on the number of hours worked divided by the full-time schedule, provided that they work at least 20 hours per week.
 - (5) While out of work on leave for more than 20 days due to, but not limited to, on-the-job injury for which the employee is collecting workers' compensation, long-term disability, sick leave, family medical leave or leave of absence, employees shall not be eligible to earn annual leave.
- C. Use of annual leave. **[Amended 5-1-2000 ATM by Art. 15; 5-5-2004 ATM by Art. 13; 5-5-2005 ATM by Art. 32]**
- (1) Annual leave may be taken as follows: Leave may be taken 1/2 day at a time, with permission of the supervisory authority, and may be used for personal business and family emergencies.
 - (2) For purposes of this section, a leave year is defined as January 1 to December 31. Up to 10 accumulated leave days may be carried forward to the next leave year. Such leave days must be used within the next leave year. Any accumulated leave time over 10 days not taken by December 31 of each leave year will be forfeited. However, the Personnel Board may grant an additional carryover of 5 leave days, for a maximum of 15 leave days, to the next leave year by considering a written appeal by an employee who is contemplating an extended leave prior to April 1 of the next following leave year. In all cases, any carryover leave days which exceed 10 and which are not utilized by April 1 of the next following leave year will be forfeited. Appeals must be filed by December 1 of each leave year with the Personnel Board/Human Resources.³
[Amended 5-5-2004 ATM by Art. 13]
- D. Any employee whose service is severed with the Town during the leave year shall be compensated for any earned and unused annual leave.

3. Editor's Note: Former Subsection C(3), regarding use of leave for regular part-time employees, as amended, which immediately followed this subsection, was repealed 4-29-2007 ATM by Art. 15.

- E. Full-time employees on the N schedule shall receive 2 personal days each January 1st. Unused days will be forfeited each December 31st. Days may be used in one-half-day increments. Part-time employees in the above schedules shall earn personal days on a pro-rated basis. **[Amended 5-5-2005 ATM by Art. 32; 4-10-2008 ATM by Art. 20]**

§ 43-10. Holidays with pay. [Amended 5-1-2000 ATM by Art. 15; 4-10-2008 ATM by Art. 20]

All regular employees in benefit status shall be allowed the following 12 holidays with pay: New Year's Day, Martin Luther King Day, Presidents Day, Patriots Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. When one of the foregoing holidays falls on a Sunday, the holiday will be observed on the following Monday. When one of the foregoing holidays falls on a Saturday, the holiday will be observed on the preceding Friday. If a holiday falls on a regularly scheduled day off, or when a regular Town employee is scheduled to work on a holiday, he/she shall be given an additional day off with pay or shall receive straight-time pay for the hours actually worked in addition to his regular pay.

§ 43-11. Sick leave. [Amended 4-30-1998 ATM by Art. 4; 5-3-1999 ATM by Art. 9; 5-1-2002 ATM by Art. 11; 5-5-2005 ATM by Art. 32]

- A. Each regular employee in benefit status shall accumulate sick leave for personal illness at the rate of 7.5840 hours per month for a total of 13 days per year, unless otherwise provided in a collective bargaining agreement. Sick leave will not be accumulated by an employee when absent due to illness, injury or leave of absence for more than 20 consecutive working days. Sick leave is for the protection of employees against loss of pay because of illness and shall not be taken into account in figuring termination pay. Probationary employees are allowed to accrue sick leave from the first day of employment but are not permitted to utilize these leave days until the probationary employee status has been completed. Sick leave may be used in hourly increments with a minimum of 2 hours. **[Amended 4-29-2007 ATM by Art. 15; 4-10-2008 ATM by Art. 20]**
- B. If on sick pay, an employee may be compensated at his regular rate of pay for absences of not more than 5 consecutive working days, provided that the supervisory authority is satisfied that the absence was caused by the employee's illness. Sick leave with pay will be allowed for more than five consecutive working days only upon submission of a doctor's certificate satisfactory to the supervisory authority. Such certificate will also be filed with the employing agency. Such payment for sick leave may not exceed the employee's accrued sick leave benefit.
- C. Up to the limit of the dollar amount accrued, an employee may request that his/her sick leave and accrued annual leave be used to supplement

worker's compensation payments in each pay period, as long as said payments do not exceed his/her regular after-tax income.

- D. When an employee is on sick leave and his accrued leave expires or he/she is receiving benefits under workers' compensation and his accrued leave expires, he/she will fall under the provisions of § 43-12, Leave of absence; that is, no provision of this plan will apply, and seniority, sick leave and annual leave will not accrue during this absence.
- E. When a regular employee retires, or dies, he/she or his beneficiary shall receive pay equal to the employee's most recent daily straight-time rate multiplied by 60% of his unused accumulated sick leave days in effect as of his retirement or death. Such severance pay shall not exceed an amount as follows: **[Amended 4-10-2008 ATM by Art. 20; 4-7-2016 ATM by Art. 12]**
 - (1) Less than 20 years of service: not to exceed \$7,500.
 - (2) 20 years or more of service: not to exceed \$10,000.
- F. Employees hired after April 7, 2016, shall have accrued sick leave capped at a maximum of 125 days. Employees hired prior to April 7, 2016, shall continue to accrue sick leave and shall not be subject to the cap. **[Added 4-7-2016 ATM by Art. 12]**

§ 43-12. Leave of absence.

Any employee may apply for a leave of absence without pay. The application must be approved by both the employing agency and the Personnel Board and will be granted only under unusual conditions. If a leave of absence is granted, no provision of this plan will apply, and seniority, sick leave and annual leave will not accrue during this absence. An employee may remain covered by the Town's group insurance plan if he/she pays 100% of the monthly premium. This section does not apply to short-term military leave.

§ 43-13. Bereavement leave. [Amended 5-5-2005 ATM by Art. 32]

- A. Each regular employee in benefit status may be eligible to receive an absence with pay not to exceed 3 days which may be granted at the discretion of the supervisory authority in case of death of a member of an employee's immediate family. For purposes of this section, the term "immediate family" shall mean an employee's spouse, child, father, mother, sister, brother, grandparents, father-in-law, mother-in-law, brother-in-law or sister-in-law.
- B. Employees may be granted up to 2 additional days absence with pay, at the discretion of the supervisory authority, in the event of the death of a spouse, child or parent.

§ 43-14. Jury duty.

If an employee is called to serve on jury duty, he/she shall be paid the difference between compensation for serving on jury duty and his regular (base) pay. Employees serving on jury duty should make every reasonable attempt to report for work on the days on which they serve. Reasonable documentary proof of actual service of jury duty must be presented to the supervisory authority in order for this compensation to be paid.

§ 43-15. Military leave. [Amended 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]

An employee called to Reserve or National Guard duty will be compensated for the difference between his military pay and his/her regular (base) pay for the training period, not to exceed 17 days in any year, upon satisfactory evidence of completion of the training period. Military pay shall be considered to be all pay received for the entire 17-day period, including Saturdays and Sundays. Military leave shall not be charged to vacation time.

§ 43-16. Maternity leave.

- A. A regular full-time female employee, after having successfully completed her probationary period, shall be granted an 8-week maternity leave without pay, for the purpose of giving birth to a child, adopting a child who is under 18 years of age or adopting a person under the age of 23 who is mentally or physically disabled. The employee must give at least 2 weeks' notice of her anticipated departure date and intention to return to her job. **[Amended 4-30-1998 ATM by Art. 4; 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]**
- B. Such employee, provided that she has complied with Subsection A above, shall be entitled, at the conclusion of her maternity leave, to return to work at her previous or similar position with the same status she held as of the date her maternity leave commenced, unless other employees with equal length of service and status in the same or similar positions have been laid off due to changes in economic or operating conditions during the period of her maternity leave. **[Amended 5-1-2000 ATM by Art. 15]**
- C. An employee on maternity leave may use her earned sick leave or annual leave. If she has no accrued leave available or her accrued leave expires, she will fall under the provisions of § 43-12, Leave of absence; that is, no provision of this plan will apply, and seniority, sick leave and annual leave will not accrue during this absence.

§ 43-17. Physical examinations. [Amended 5-1-2000 ATM by Art. 15; 5-5-2005 ATM by Art. 32]

All new employees are required to have a physical examination completed after an employment offer has been made and prior to beginning work to ensure that they are capable of performing the essential functions of the job with or without a reasonable accommodation. Physical examinations shall be done by a physician designated by the town, at town expense. The town physician is responsible for making recommendations to the Human Resources Department and for maintaining confidential medical records on the individuals.

§ 43-18. Grievance procedure.

- A. Any employee who feels aggrieved by the administration of any provision of this plan may take the matter up with his immediate supervisor.
- B. If the matter is not cleared up following a discussion with the immediate supervisor, the employee may submit a complaint to the employing agency in writing, which shall then give the employee an informal hearing and attempt to reach a mutually satisfactory adjustment.
- C. If the matter is not satisfactorily settled within 2 weeks after a written complaint is made, either party may submit the question to the Personnel Board. The Personnel Board shall take the matter under advisement, may hold a public or private hearing and shall render a final and binding decision within 30 days. **[Amended 5-5-2005 ATM by Art. 32]**

§ 43-19. Equal employment opportunity. [Amended 11-17-1999 STM, Art. 2; 5-5-2005 ATM by Art. 32]

The Town of Wayland is an equal opportunity employer. This means that it pledges that all candidates for positions and all officials and employees of the town's agencies will be treated equally in all actions affecting them. It also means that the town has a policy of nondiscrimination which guarantees that all applicants for employment and all employees are not to be discriminated against because of race, color, age, sex, religion, ethnicity, national origin, sexual orientation, veteran status, political affiliation or disability.

§ 43-20. Americans with Disabilities Act. [Amended 5-1-2000 ATM by Art. 15]

As of July 1992, all provisions of this chapter must conform to the requirements of the Americans with Disabilities Act (ADA). In keeping with the recommendation of the Report of the House Committee on Education and Labor (Report No. 101-485), the Town shall take all action necessary to comply with the Act.

§ 43-21. Family Medical Leave Act.

The Personnel Board shall establish a policy consistent with the Family Medical Leave Act of 1993.

§ 43-22. Small Necessities Leave Act. [Added 5-1-2000 ATM by Art. 15]

The Personnel Board shall establish a policy consistent with the Small Necessities Leave Act of 1998.

Chapter 47**PLANNING BOARD OF APPEALS****§ 47-1. Membership; powers and duties; associate members.**

There shall be a Planning Board of Appeals consisting of three members and three associate members. Such board shall have the duties and authority provided for it by law or given to it by vote of the town. Associate members may be designated by the Chairman of the Board to sit on the Board whenever, for any reason, fewer than three regular members are available. The members and associate members of such board shall be the members, respectively, of the Zoning Board of Appeals.

Chapter 53**REPORTS****§ 53-1. Annual reports. [Amended 11-18-1982 STM by Art. 15]**

- A. All boards, commissions, committees, officers and agents of the Town shall submit to the Selectmen, not later than September 30 after the end of each fiscal year, a written report giving an account of the business transacted during the preceding fiscal year. The Selectmen shall prepare such reports for publication each December in the Annual Town Report.
- B. Every Annual Report shall contain a section entitled "Current Debt," which shall provide the following information for the debt funded by the Town, with debt remaining and/or with as yet unfunded grants from the commonwealth or the federal government: (1) name of the debt; (2) funds appropriated by identified Town meeting article(s); (3) cumulative funds expended at fiscal year-end; (4) cumulative interest paid at fiscal year-end; and (5) anticipated final cost to the Town, including principal and interest after receipt of funded grants, if any, and date when all financing will have been paid off or otherwise completed. **[Added 5-12-2004 ATM by Art. 39]**

§ 53-2. Notice of deadline. [Amended 11-18-1982 STM by Art. 15]

The Selectmen shall notify all officers and agents of the Town and the Chairmen of all boards, commissions and committees of the final date for submitting such reports for publication. This notice shall be given by letter mailed in May of each year.

§ 53-3. Failure to report.

If an appointed board, commission or committee of the Town, other than those created under the General Laws of the commonwealth, does not submit its written report on or before such final date for publication in the Annual Town Report, it shall be dissolved, except in such instances where the creating vote specifically provides that it is to report at longer given intervals, or unless the Town at the next annual Town meeting, by vote naming the board, commission or committee, continues it in existence.

§ 53-4. Inclusion of report in minutes. [Added 11-12-1975 STM by Art. 11]

Whenever a report required by law is submitted to a Town meeting, it shall be included in the minutes of said meeting set forth in the Annual Town Report.

Chapter 58

SELECTMEN, BOARD OF

§ 58-1. Commencement, prosecution and defense of suits. [Amended 5-3-2004 ATM by Art. 11; 4-3-2014 ATM by Art. 27]

The Board of Selectmen shall have full authority as agents of the Town to employ counsel to commence, prosecute and defend suits in the name of the Town, unless otherwise especially ordered by vote of the Town. Said authority shall not extend to employing counsel to the School Committee.

§ 58-2. Town reports; service of warrant. [Amended 4-16-1975 ATM by Art. 11; 11-14-1991 STM by Art. 15]

The Board of Selectmen shall cause an adequate supply of the full Town report to be available in the Town offices at Wayland Center and in the public library in Wayland Center from which to furnish a copy to any interested person, and it shall cause the warrant and Finance Committee's report with recommendations to be served as provided in § 36-2 of this Code.

§ 58-3. States of emergency. [Added 12-5-1983 STM by Art. 3]

The Board of Selectmen shall have the authority to declare a state of emergency in the Town of Wayland upon the occurrence of any disaster, catastrophe, fire, flood, earthquake, storm or other natural calamity. Any

state of emergency proclaimed by the Board of Selectmen shall, unless sooner terminated by proclamation of the Board of Selectmen, terminate five days from the day it takes effect.

§ 58-4. Use of vehicles for Town business. [Added 5-8-1989 ATM by Art. 19]

The Board of Selectmen shall have full authority to establish rules and regulations, binding upon all boards, commissions, committees, councils, authorities, officials and employees of the Town of Wayland, governing:

- A. The use of Town-owned vehicles during a state of emergency in the Town declared by the Board of Selectmen pursuant to § 58-3 of this chapter.
- B. The marking of Town-owned vehicles.
- C. Recordkeeping and reporting requirements pertaining to the operation and maintenance of Town-owned vehicles.
- D. Personal use of Town-owned vehicles and fuel, such as for commuting travel, by officials and employees of the Town.
- E. Reimbursement for the use of privately owned vehicles by employees and officials while on Town business.

Chapter 60

TOWN ADMINISTRATOR

GENERAL REFERENCES

Boards, commissions and committees — See Ch. 6.

Personnel — See Ch. 43.

Finances — See Ch. 19.

Board of Selectmen — See Ch. 58.

Treasurer and Collector — See Ch. 72.

§ 60-1. Appointment and qualifications.

60.1.1 The Board of Selectmen, by a majority vote of its full membership then serving, may appoint a Town Administrator for a term of one or three years or the Town Administrator may serve the Town at will at the pleasure of the Board of Selectmen. The Town Administrator shall receive such aggregate compensation and benefits, not exceeding the amount appropriated, as the Board of Selectmen may determine. The Board of Selectmen may, but is not required to, establish a written employment contract with the Town Administrator pursuant to Massachusetts General Laws Chapter 41, Section 108N, to provide for the salary, fringe benefits, and other conditions of employment. The Town Administrator position shall be a non-union position.

60.1.2 The Town Administrator shall be appointed on the basis of educational, management and administrative qualifications and experience, including at least a bachelor's degree in a related field of study from an accredited four-year college or university. The Town Administrator shall have considerable professional experience, consisting of compensated service in municipal administration or an equivalent combination of education and business management experience.

60.1.3 The Town Administrator shall devote full-time to the responsibilities of the office. The Town Administrator shall hold no elective Wayland Town office. The Town Administrator may be appointed by the Board of Selectmen to any other compatible Town office or position, but s/he/she shall engage in no other business or occupation without advance written authorization by the Board of Selectmen.

§ 60-2. Authority and responsibilities.

60.2.1 The Town Administrator shall be responsible for executing all of the activities noted in the Town Administrator's job description in compliance with federal and state laws and the Town's bylaws and Town policies. The Town Administrator shall be responsible for the management of all affairs of the Town and Town departments under the supervision and control of the Board of Selectmen and shall act by and for the Selectmen in any matter relating to the administration and operations of the affairs of the Town which they may assign to the position.

The Town Administrator shall be responsible for overseeing, coordinating, and making recommendations that may impact multiple Town boards and committees, broadly or in detail, regarding Town financial, personnel and legal activities. The Town Administrator will not set Town policy, but will ensure there is appropriate coordination in the implementation of Town policy working across all Town departments in conjunction with all elected and appointed boards and committees.

Certain department heads and elected boards and committees have state statutory authority or responsibility over specific job-related activities resulting in the implementation of technical decisions, as defined in Town bylaws or Town policies. The technical knowledge necessary to execute the specific job-related activities is held by the applicable department heads and elected boards and committees. The Town Administrator shall understand and have a working knowledge of the statutory authority and responsibility held by certain department heads and elected boards and committees so s/he/she can effectively support these officers in the execution of their duties. Nothing in this bylaw is intended to reassign state statutory authority or responsibility over specific job activities, as defined in Town bylaws or Town policies to the Town Administrator.

60.2.2 The Town Administrator shall, unless otherwise directed by the Board of Selectmen, manage and supervise all affairs of Town departments and committees under the jurisdiction of the Board of Selectmen.

With respect to all other affairs of the Town government, the Town Administrator shall:

- (a) With respect to Town policies and programs that impact multiple areas of Town government, working with all elected and appointed boards and committees and Town department heads, be accountable for ensuring there is appropriate administration and coordination both
 - (i) in the implementation and on-going adherence to Town policies; and
 - (ii) in the development and execution of programs;
- (b) Be accountable for ensuring that all Town boards and committees and employees under the jurisdiction of these Boards:
 - 1) Comply with the Town's financial, personnel and legal policies and procedures;
 - 2) Comply with votes of Town meeting and Town bylaws and federal and state laws;
 - 3) With respect to the development, implementation and execution of policies and programs affecting various Town departments:
 - i. Coordinate the setting of priorities with the rest of the Town government;
 - ii. Communicate activities, including projects, plans and studies, so that necessary input is received from all areas of Town government that should be involved in those initiatives;
 - iii. Coordinate efforts so that cross-functional services to residents and others are effectively and consistently delivered, and
 - 4) Prepare, file and maintain the appropriate records and reports on behalf of the Town; but, in no event shall the Town Administrator be responsible for making policy decisions or implementing technical decisions provided for by state statute, Town bylaws or Town policies;

- (c) Work with the Finance Director and Finance Committee to:
 - 1) Develop long-term financial strategies for the Town;
 - 2) Establish set budgetary guidelines to be used in the development of annual budgets;
 - 3) Review budgets of all Town departments and make recommendations to the affected boards and committees and to the Finance Committee about priorities important to budget development; and
 - 4) Evaluate actual expenditures and receipts against budgets and coordinate with affected department heads, boards and committees the development of plans to manage to the budget or obtain Finance Committee approval for Reserve Fund transfers, in advance of spending, when possible;
- (d) Maintain an inventory of all Town-owned real and personal property;
- (e) Serve as the Town's chief procurement officer under the provisions of Massachusetts General Laws Chapter 30B;
- (f) Working with the Town's Human Resource Director, be responsible for the daily administration of the Town-wide personnel system, including the maintenance of personnel records and the enforcement of personnel policies, rules and regulations and managing personnel costs to ensure maximum efficiency and fairness across Town departments;
- (g) Oversee crisis intervention in emergency situations, working with other key Town department heads, and address any systemic problems impacting multiple areas of the Town as they arise, being accountable for ensuring priority items are properly attended to and for bringing concerns about problem resolution to related boards and committees, and ultimately, to the Board of Selectmen for assistance in resolution, if necessary;
- (h) Annually evaluate the job performance of all Town officers and department heads under the jurisdiction of the Board of Selectmen after seeking input and recommendations from any appointed committees served by any such officers and department heads;
- (i) For department heads under the jurisdiction of elected boards, the Town Administrator will provide input to the elected board on the department head's job performance, at a minimum, as part of the annual performance evaluation process and will provide input to the elected board on personnel hiring and removal. Evaluation feedback will address the Town Administrator's interaction with the department head relating to areas addressed under Subsections (a) through (g) above, and other similar interactions. Authority for hiring, evaluating, disciplining and removal of such department heads will remain with the elected board, with input provided by the Town Administrator;
- (j) At least annually, provide input to the office of the Town Clerk about his/her performance.

60.2.3 The Town Administrator shall have the power and authority to:

- (a) Appoint, on the basis of merit and fitness alone, without the ratification by the Board of Selectmen, and evaluate, discipline or, for cause, remove, without the ratification of the Board of Selectmen:
 - 1) An Information Technology Director;
 - 2) A Town Surveyor or a Town Engineer;
 - 3) All other administrative and clerical employees in the Offices of the Board of Selectmen and the Town Administrator; and
 - 4) Such other Town officers, department heads and employees under the jurisdiction of the Board of Selectmen, except for members of appointed boards or committees, as authorized by order of the Board of Selectmen, bylaw or state law; and
- (b) Appoint, on the basis of merit and fitness alone, subject to ratification by a majority vote of the full membership of the Board of Selectmen then serving, and, evaluate, discipline and, for cause, remove, without the ratification of the Board of Selectmen, a Human Resource Director;
- (c) (Reserved)⁴
- (d) Upon enactment of a special act approved by the General Court of the Commonwealth of Massachusetts, appoint, on the basis of merit and fitness alone, with ratification by a majority vote of the full membership of the Board of Selectmen then serving, and evaluate, discipline and, for cause, remove, without the ratification of the Board of Selectmen:
 - 1) A Police Chief;
 - 2) A Fire Chief;
 - 3) A Finance Director, who shall have the authority and responsibilities of a Town accountant; and
- (e) Upon enactment of a special act approved by the General Court of the Commonwealth of Massachusetts, appoint, on the basis of merit and fitness alone, without ratification by the Board of Selectmen, and evaluate, discipline and, for cause, remove, without the ratification of the Board of Selectmen:
 - 1) A Building Commissioner;
 - 2) One or two Directors of the Council on Aging;
 - 3) A Conservation Administrator; and
 - 4) A Town Treasurer and Collector.

4. Editor's Note: Former Section 60.2.3(c), regarding appointment of Town Counsel and special counsel, was repealed 4-3-2014 ATM by Art. 27.

60.2.4 The Town Administrator will consult with relevant primary boards and committees working with the department heads enumerated in Subsections (a) through (e) above, prior to implementing personnel related actions.

§ 60-3. Removal of the Town Administrator.

The Town Administrator may be removed by a majority vote of the full membership of the Board of Selectmen then serving.

§ 60-4. Acting Town Administrator.

The Board of Selectmen may designate a qualified person to serve as the Acting Town Administrator and to perform the duties of the Office of the Town Administrator during the period of any vacancy caused by the Town Administrator's absence, illness, suspensions, removal or resignation. The appointment shall be for a period not to exceed six months, but such appointment may be extended by an additional two months by majority vote of the Board of Selectmen.

Chapter 62

SURPLUS PROPERTY, DISPOSAL OF

§ 62-1. Authority; procedures.

Any town board, committee, commission, council, officer or department head may dispose of surplus property within his or its control and custody in accordance with the procedures for disposal of surplus property established in MGL c. 30B.

§ 62-2. Approval of Town Administrator. [Amended 5-3-2004 ATM by Art. 11; 11-12-2008 STM by Art. 7]

Prior to disposing of any surplus property valued at less than the amount of the estimated net value set forth in Massachusetts General Laws Chapter 30B, Section 15(f), the designated procurement officer for a Town board, committee, commission, council, office or department shall first obtain approval from the Town Administrator.

§ 62-3. Approval of Board of Selectmen and Finance Committee. [Amended 11-12-2008 STM by Art. 7]

Prior to disposing of any surplus property valued at more than the amount of the estimated net value set forth in Massachusetts General Laws Chapter 30B, Section 15(f), the designated procurement officer for a Town board, committee, commission, council, officer or department shall first obtain approval from Town Meeting. In an emergency or unforeseen circumstance, however, Board of Selectmen and Finance Committee approval may substitute for Town Meeting approval.

Chapter 68**TRAFFIC COMMISSION****§ 68-1. Membership; powers and duties. [Amended 4-9-2012 ATM by Art. 26]**

There shall be a Traffic Commission consisting of the Selectmen, duly elected and serving as such, which shall have all the duties and responsibilities conferred upon Traffic Commissions by the General Laws, and especially including the authority conferred upon such Commissions by MGL c. 90, §§ 18 and 18A, and upon towns by MGL c. 40, § 22, as such provisions may be from time to time amended, except for jurisdiction over traffic calming measures, including but not limited to the placement and replacement of speed bumps, speed humps, speed tables and speed cushions within Town ways, which measures may be implemented by the Board of Public Works without the issuance of an order or the adoption of a rule or regulation by the Selectmen.

Chapter 72**TREASURER AND COLLECTOR****GENERAL REFERENCES**

Finances — See Ch. 19.

§ 72-1. Sale of property.

The Treasurer/Collector shall have the authority as to any property now owned or hereafter acquired through the foreclosure of tax titles held by the town, subject to the approval of the Board of Selectmen, to sell such property, after first giving notice of the time and place of sale by posting such notice of sale in some convenient and public place in the town, 14 days at least before the time fixed for such sale, and shall be authorized, subject to the approval of the Board of Selectmen, to reject any bid which he/she may deem inadequate, and pending such sale, the custodian of such property shall have the authority, with the approval of the Board of Selectmen, to cause to be demolished any buildings or structures on such tax title land which he/she believes for the benefit of the town are in need thereof.

§ 72-2. Collection of accounts. [Amended 4-7-2011 ATM by Art. 16]

- A. The Treasurer/Collector of Taxes shall collect, under the title of "Town Collector," all accounts due the Town of Wayland and, in the collection of such accounts, shall have all the remedies provided by the General Laws for the collection of taxes on personal estate. This section shall

not apply to the collection of interest on investments of sinking or trust funds. All bills for accounts due the Town of Wayland shall state that all checks, drafts or money orders shall be made payable to, or to the order of, the Town of Wayland and not to, or to the order of, any officer, board or commission.

- B. The Treasurer/Collector of Taxes may include in the envelope or electronic message in which property tax bills are sent notices for rates, fees or charges assessed by the Town of Wayland for water use, wastewater management system or sewer use or solid waste collection or disposal, provided that the bills or notices shall be separate and distinct from the property tax bills.

§ 72-3. Interest; unpaid accounts.

All municipal charges and bills issued by the Town of Wayland shall be due and payable 30 days after rendering, and if such charges remain unpaid after such due date, they shall accrue interest at the same rate at which interest may be charged on real and personal property tax bills under the applicable provisions of the General Laws. The Treasurer/Collector shall collect all unpaid accounts, including interest thereon.

§ 72-4. Denial, revocation or suspension of licenses and permits for failure to pay taxes or other municipal charges. [Added 5-6-1998 ATM by Art. 20]

- A. The Town Collector shall annually furnish to each department, board, commission or official, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.
- B. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Town Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Town Collector; provided, however, that written notice is given to the party and the Town Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The 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 licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder is given notice and a hearing as required by applicable provisions of law.
- D. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1 in the business or activity conducted in or on said property.
- E. This section shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; bicycle permits, MGL c. 85, § 11A; sales of articles for charitable purposes, MGL c. 101, § 33; children work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. ;140, § 137; fishing, hunting, trapping license, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.

Chapter 75

COMMUNITY PRESERVATION COMMITTEE

GENERAL REFERENCES

**Boards, commission and committees — See
Ch. 6.**

§ 75-1. Creation of Committee; composition; term. [Amended 5-13-2010 ATM by Art. 18]

There is hereby established a Community Preservation Committee, consisting of nine members, including: one member of the Conservation Commission as designated by the Conservation Commission; one member of the Historical Commission as designated by the Historical Commission; one member of the Planning Board as designated by the Planning Board; one member of the Recreation Commission as designated by the Recreation Commission; one member of the Board of Public Works as designated by the Board of Public Works; one member of the Housing Authority Board of Commissioners as designated by the Housing Authority Board of Commissioners; and three members appointed by the Board of Selectmen. Appointees shall serve three-year terms. There shall be no limit on the number of terms served by any individual.

§ 75-2. Meetings.

The Committee shall not meet or conduct business without the presence of a quorum, which shall be a majority of members of the Committee. The Committee shall approve its actions by majority vote.

§ 75-3. Committee to undertake study. [Amended 5-13-2010 ATM by Art. 18]

The Committee shall study the needs, possibilities and resources of the town regarding community preservation. The Committee shall consult with the Conservation Commission, Board of Public Works, Historical Commission, Planning Board, Recreation Commission and Housing Authority Board of Commissioners in conducting such study. The Committee may consult with other town boards, committees, and commissions, and may utilize previous studies, findings, and other materials from other town boards, committees, and commissions. The Committee shall hold at least one public informational hearing each year on the needs, possibilities, and resources of the town regarding community preservation, for which it will publicly post notice in the Town Building as designated by the Town Clerk and publish such notice in a newspaper of general circulation in the town for each of two weeks preceding the hearing.

§ 75-4. Recommendations to Town Meeting.

- A. The Committee shall make recommendations in proper form to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition and preservation of historic resources; for the acquisition, creation, and preservation of land for recreational use; for the creation, preservation, and support of community housing; and for rehabilitation or restoration of such open space, historic resources, land for recreational use, and community housing that is acquired or created with funds received in accordance with the Community

Preservation Act, Massachusetts General Laws Chapter 44B, Sections 3-7.

- B. The Committee shall engage in public discussion of all proposed acquisitions prior to the Town Meeting at which such acquisitions will be considered.
- C. In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space (not including land for active recreation purposes), historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee's administrative and operating expenses.
- D. The Committee may recommend to Town Meeting that funds be set aside for later spending for specific purposes consistent with the Community Preservation Act, when sufficient revenues are not then available in the Community Preservation Fund, or for general purposes consistent with community preservation.
- E. Recommendations to Town Meeting shall include the anticipated costs of the proposed acquisition, creation, preservation, and support. In addition to approving appropriations from the Community Preservation Fund, Town Meeting may approve such additional appropriations as it deems appropriate to carry out the recommendations of the Committee.
- F. With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

Chapter 77

MUNICIPAL AFFORDABLE HOUSING TRUST FUND

§ 77-1. Establishment; purpose.

There shall be a trust to be known as the Municipal Affordable Housing Trust Fund, referred to in this chapter as the Trust. The purpose of the Trust is to provide for the creation and preservation of affordable housing in the Town of Wayland for the benefit of low and moderate income households.

§ 77-2. Board of Trustees; appointment; terms.

The Trust shall be governed by a board consisting of seven trustees (the Board). At least one trustee shall be a member of the Board of Selectmen. In making appointments to fill the remaining positions, the Board of Selectmen shall give preference to the following: (i) a member of the Wayland Housing Authority; (ii) a member of the Planning Board; (iii) a member of the Housing Partnership; (iv) a real estate law specialist licensed to practice

law in the Commonwealth of Massachusetts; and (v) two residents. The Trustees shall be appointed by the Board of Selectmen and shall serve for terms of two years beginning on July 1 and expiring on June 30, except as hereinafter provided. The initial terms of four of the Trustees shall be for one year and three of the Trustees shall be for two years. The Board of Selectmen shall strive for geographical diversity for the benefit of the entire Town. Thereafter, the terms of all Trustees shall be for two years, except for Trustees who are appointed to fill the unexpired term of a Trustee whose position has become vacant before the end of the term. There shall be no limit on the number of terms served by an individual.

§ 77-3. Powers; authority.

The Board shall have the powers set forth herein for the Trust which is on file in the office of the Town Clerk, and the following powers, all of which shall be carried out as fiduciaries through the exercise of due diligence and prudence and in furtherance of the purposes of MGL c. 44, § 55C:

- A. To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any by-law or any general or special law or any other source, including money from said Chapter 44B, except that transfers of Town-owned real property to the Trust shall be approved by a two-thirds supermajority vote of a Town Meeting pursuant to MGL c 40, § 15A;
- B. To purchase and retain real or personal property, including, without restriction, investments that yield a high rate of income or no income;
- C. To sell, lease, exchange, transfer or purchase real property. The purchase and/or development of more than two dwellings must be approved jointly by the Board of Selectman and Planning Board;
- D. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- E. To employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
- F. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
- G. To apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

- H. To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- I. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- J. To carry property for accounting purposes other than acquisition date values;
- K. To borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral, except that (i) the Board shall not mortgage or pledge as security an amount greater than the total current assets of the Trust, unless such greater amount is approved by the Board of Selectmen and by the Planning Board by a majority vote and (ii) no money borrowed and no debt issued by the Board shall be an obligation of the Town of Wayland.
- L. To make distributions or divisions of principal in kind;
- M. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Board may deem appropriate;
- N. To manage or improve existing real property; and to abandon any property which the Board determined not to be worth retaining;
- O. To hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate; and
- P. To extend the time for payment of any obligation to the Trust.

Chapter 83

ALARMS

§ 83-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the following meanings:

ALARM SYSTEM — Any assembly of equipment and/or devices that are designed to be activated either manually or automatically for the purpose of drawing attention to the presence of a hazard or situation, criminal or otherwise, to which the Police or Fire Department is expected to respond.

ALARM USER — Any person or business on whose premises an alarm system is installed and maintained within the Town of Wayland, except for alarm systems that are installed in or on motor vehicles.

FALSE ALARM —

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of the alarm system or his/her employees or agents.
- B. Any signal or communication transmitted to the Police Department requesting, requiring or resulting in a response from the Police Department when, in fact, there has been no unauthorized entry or intrusion into the premises and there has been no attempted robbery or burglary at the premises. Excluded from this definition shall be the activation of an alarm system by power outages, utility companies or other outside sources, hurricanes, severe storms and similar conditions. **[Amended 4-28-1997 STM by Art. 2]**
- C. Any signal or communication transmitted to the Wayland Public Safety Dispatch Center requesting, requiring or resulting in response from the Fire Department when, in fact, there has been no fire. Excluded from this definition shall be the activation of an alarm system by power outages, utility companies or other outside sources, hurricanes, severe storms and similar conditions.

§ 83-2. False alarms.

- A. After the Police and Fire Departments have recorded three separate false alarms in the aggregate within the calendar year, the alarm user shall be assessed the following fees:
 - (1) Twenty-five dollars for the fourth false alarm.
 - (2) Fifty dollars for the fifth false alarm, and \$100 for the sixth and each subsequent false alarm. **[Amended 5-10-2004 STM by Art. 13]**
- B. Failure to pay the fee within the prescribed time period will result in court action for violation of a Town bylaw or a municipal charges lien being placed on the real property pursuant to MGL c. 40, § 58, in the Middlesex County Registry of Deeds, South District, until the fee is paid.

§ 83-3. Time limit for audible alarms.

All alarm systems that emit an audible signal on the exterior of a building shall be equipped with a device for limiting the length of the audible signal

to 10 minutes. Any user of an alarm system that either does not have such a device or has a malfunction that allows the audible signal to continue for more than 10 minutes shall, after the Police or Fire Department has recorded two separate violations, be assessed for the third and subsequent violations a fee of \$50. Failure to pay such fee within the prescribed time will result in either court action for violation of a Town bylaw or the placement of a municipal charges lien on the real property pursuant to MGL c. 40, § 58, in the Middlesex County Registry of Deeds, South District, until the fee is paid.

§ 83-4. Exemptions.

All federal, state and municipal buildings and property shall be exempt from the provisions of this chapter.

Chapter 91

ANIMALS

GENERAL REFERENCES

Hunting and trapping — See Ch. 120.

ARTICLE I
Regulation of Dogs
[Adopted 4-30-2001 ATM by Art. 24⁵]

§ 91-1. Definitions.

- A. As used in this article, the following words and terms have the following meanings:

BANISHMENT — An order that a vicious dog may no longer reside or visit in the Town of Wayland.

DCO — The Dog Control Officer.

DESTRUCTION — An order that a vicious dog be destroyed in accordance with Massachusetts General Laws, Chapter 140, and Massachusetts Society for the Prevention of Cruelty to Animals guidelines.

EFFECTIVE VOICE CONTROL — To be under effective voice control, the dog must be within the keeper's sight and the keeper must be carrying a leash and the dog must refrain from illegal activities.

KEEPER — Any person having charge of a dog within the Town of Wayland, including but not limited to the dog's owner, dog walkers, dog sitters, members of the dog owner's household or family.

KENNEL — Four or more dogs, six months of age or older, kept on a single property, whether for breeding, sale, training, hunting, companionship, or any other purpose.

KENNEL LICENSE — A special license issued to a kennel, which allows payment of a single fee covering all dogs in the kennel; with the kennel license, the kennel owner receives a special kennel tag for each dog in the kennel.

LICENSE — A dog's registration, evidenced by a tag issued annually by the Town Clerk to the owner of each dog residing in Wayland and worn by the dog securely fixed to its collar or harness.

LICENSE, TRANSFER — The registration issued to a dog already licensed in another US jurisdiction, after the dog moves into the Town of Wayland.

LICENSE PERIOD — Annually, from January 1 through December 31.

MUZZLING — Using a device that fits over a dog's mouth and prevents it from biting, but that does not cause any injury or interfere with the vision or respiration of the dog that wears it.

NUISANCE DOG — A dog that repeatedly violates § 91-5 of this article.

5. **Editor's Note: This article also repealed former Article I, Dogs and Kennels, adopted 3-12-1973 ATM by Art. 14 as Art. 7 of the 1973 Bylaws, as amended.**

PERMANENT RESTRAINT — An order issued by the Board of Selectmen under § 91-6D(1), requiring a vicious dog's keeper to restrain it.

RESTRAINT — Limiting, restricting, or keeping a dog under control by means of a physical barrier (e.g., a leash, substantial chain or line, visible or invisible fence).

RUNNING AT LARGE — A dog is running at large if it is not on the private property of its keeper, or on private property with the express permission of that property's owner, or on a leash, or under effective voice control (i.e., within the keeper's sight and the keeper is carrying a leash).

TEMPORARY RESTRAINT — An order issued by the DCO under § 91-3C(5), requiring the dog's keeper to restrain a nuisance dog or suspected vicious dog for 30 days.

VICIOUS DOG — A dog that, without provocation, bites a human being or kills or maims a domestic animal.

- B. Any word or term defined in Massachusetts General Law, Chapter 140, § 136A, and not otherwise defined here, is incorporated by reference.

§ 91-2. Vaccination, licensing and fees.

- A. Three or fewer dogs.

- (1) License and vaccination requirements. All dogs six months and older, while residing in the Town of Wayland, must have a license. To obtain or renew the license, each dog owner must annually present proof of a current rabies vaccination. When a veterinarian determines that vaccination is inadvisable, the owner may present a veterinarian's certificate exempting an old or sick dog from vaccination for a stated period of time.
- (2) New dogs. Within 30 days of acquiring a dog six months of age or older, each dog owner in Wayland must present proof of that dog's current rabies vaccination and obtain a license and dog tag from the Town Clerk.
- (3) New puppies. Within six months of a puppy being born, each dog owner in Wayland must present proof of that puppy's current rabies vaccination and obtain a license and dog tag from the Town Clerk.
- (4) New residents. A new resident who owns a dog six months of age or older must license it within 30 days after moving into Wayland. The Town Clerk will issue each dog a transfer license, upon the owner's surrender of a current license from another US jurisdiction and proof of current rabies vaccination. The transfer license is valid until the next regular licensing period.

- (5) Lost tags/replacement tags. Dog owners must replace a lost tag within three business days of the loss, by obtaining a replacement tag from the Town Clerk.
- (6) Tag exemptions for dog events and medical reasons.
 - (a) A dog while actually participating in an official dog sporting or dog fancy event (if the event sponsors do not allow participants to wear tags) is exempt from the requirement that its license tag be affixed to its collar, provided that its keeper has the tag at the event and available for inspection by the DCO.
 - (b) When a veterinarian determines that a dog cannot wear a collar for medical reasons, the dog is exempt until it recovers from the requirement that its license tag be affixed to its collar, provided that its keeper has the tag in his or her possession and available for inspection by the DCO.
- (7) Annual renewal. Dog owners must renew each dog license annually. The annual licensing period runs from January 1 through December 31.
- (8) License due date/late fee. The application form for obtaining, renewing or transferring a license shall be distributed to each household no later than December 1 each year. Dog owners must return forms and fees to the Clerk by January 15 (or the first business day thereafter, if the 15 falls on Saturday, Sunday, or legal holiday). Any license renewed after this date is overdue, and the owner must pay a late fee in addition to the license renewal fee. The overdue license fee and the late fee may be added to the owner's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the dog owner, pursuant to Massachusetts General Laws Chapter 40, § 58.
- (9) Distribution of article and rabies symptoms list. At the first licensing period after this article becomes effective, the Town Clerk shall send a copy of the article to each household in Wayland. Thereafter, the Clerk shall give each new applicant or transfer applicant a copy of the article and shall have copies available at the Clerk's Office. The Clerk shall distribute a list of the symptoms of rabies with each dog license issued, as required under Massachusetts General Laws, Chapter 140, § 145.
- (10) License fees. The fees for licensing each dog are: **[Amended 11-12-2008 STM by Art. 16]**
 - (a) Annual license fee for each neutered or spayed dog over six months old: \$15.
 - (b) Annual license fee for each unaltered dog over six months old: \$20.

- (c) License fee for any dog younger than six months: none.
- (d) Fee to replace lost dog tag: \$5.
- (e) Fee for transfer license: \$5.
- (f) Late fee: \$25.

After a public hearing, notice of which is posted for at least two weeks in a conspicuous place in Town Building and published at least once, not less than two weeks prior to the time specified for the hearing, in a newspaper of general circulation within the Town, the Board of Health may change the foregoing license fees pursuant to Massachusetts General Laws Chapter 40, Section 22F. Any such changes shall take effect upon the filing of notice thereof in the Office of the Town Clerk.

B. Four or more dogs.

- (1) License and vaccination requirements. Anyone who owns or boards four or more dogs within the Town of Wayland must apply for and obtain a kennel license from the Town Clerk. (This requirement shall not apply to medical boarding by any licensed veterinarian practicing in the Town of Wayland.) To obtain or renew the license, the kennel licensee must present proof of current rabies vaccinations for each dog in the kennel older than six months. When it is off the kennel property, each dog in the kennel must wear a kennel tag, issued by the Town Clerk, affixed to its collar or harness.
- (2) New dogs and new puppies. The kennel licensee must report to the Town Clerk each new dog in the kennel within 30 days of its acquisition, show proof of current vaccination, and obtain a kennel tag for that dog. The kennel licensee must show proof of current vaccination and obtain a tag for each puppy when it reaches six months old.
- (3) Application process. Every applicant for a new kennel license must first obtain a special permit from the Zoning Board of Appeals, pursuant to Wayland Town Bylaws Chapter 198, Zoning, § 198-203.1. The applicant may then submit an application to the Town Clerk on a form prescribed by the Clerk.
- (4) Inspection process. Before the Town Clerk can issue the kennel license, the Dog Control Officer must inspect the proposed kennel, file a report on the inspection, and favorably recommend that the kennel meets all the following requirements:
 - (a) The location of the kennel is appropriate for housing multiple dogs.

- (b) The location of the kennel on the property will have no significant adverse effect on the peace and quiet or sanitary conditions of the neighborhood.
 - (c) The area provided for housing, feeding, and exercising dogs is no closer than 20 feet to any lot line.
 - (d) The area provided for housing, feeding, and exercising dogs is no closer than 50 feet to any existing dwelling on an abutting lot.
 - (e) The kennel will be operating in a safe, sanitary, and humane condition.
 - (f) Records of the numbers and identities of the dogs are properly kept.
 - (g) The operation of the kennel will be consistent with the health and safety of the dogs and of the neighbors.
- (5) Periodic inspections. Before a kennel license is renewed, and at any time the Board of Selectmen or the Dog Control Officer believe it necessary, the DCO may inspect any kennel. If the DCO determines that it is not being maintained in a safe, sanitary, and humane condition, or if the kennel records on the numbers and identities of the dogs are not properly kept, the DCO will report the violations to the Dog Control Appeals Board for a hearing on whether to recommend to the Board of Selectmen that the Board of Selectmen impose fines or revoke the kennel license.
- (6) Petitions to revoke kennel licenses. Any group of 25 residents over the age of 18 may file a revocation petition with the Town Clerk, who will forward it promptly to the Dog Control Appeals Board, when they are aggrieved or annoyed to an unreasonable extent by an existing kennel, due to conditions, including (but not limited to) excessive barking or unsanitary conditions at the kennel.
- (7) Kennel review hearings. Within seven business days after receiving the DCO's report from the DCO or the residents' petition, the Dog Control Appeals Board will notify all interested parties of a public hearing to be held within 14 days after the notice date.
- (a) Within seven business days after the public hearing, the Dog Control Appeals Board shall recommend to the Board of Selectmen that it either dismiss the petition, revoke the kennel license, suspend the kennel license, or otherwise regulate the kennel.
 - (b) Any person maintaining a kennel after the kennel license has been denied, revoked, or suspended will be subject to the penalties in § 91-7 of this article.

- (8) Annual renewal. Each kennel licensee must renew the license annually, at the Town Clerk's Office. The annual licensing period runs from January 1 to December 31.
- (9) License due date. Kennel license renewal forms will be sent to each licensed kennel, no later than December 1 each year. Kennel licensees must return forms and fees to the Town Clerk by January 15 (or the first business day thereafter, if the 15th falls on Saturday, Sunday, or legal holiday). Failure to pay on time will result in a late fee, due in addition to the license fee. The overdue license fee and the late fee may be added to the licensee's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the kennel licensee, pursuant to Massachusetts General Laws, Chapter 40, § 58.
- (10) Fees. The fees for licensing each kennel are: **[Amended 11-12-2008STM by Art. 16]**
 - (a) Annual kennel license fee for four dogs: \$75.
 - (b) Annual kennel license fee for 5-10 dogs: \$100.
 - (c) Annual kennel license fee for 11 or more dogs: \$125.
 - (d) Fee to replace lost dog tag: \$5.
 - (e) Late fee: \$25.

After a public hearing, notice of which is posted for at least two weeks in a conspicuous place in Town Building and published at least once, not less than two weeks prior to the time specified for the hearing, in a newspaper of general circulation within the Town, the Board of Health may change the foregoing license fees pursuant to Massachusetts General Laws Chapter 40, Section 22F. Any such changes shall take effect upon the filing of notice thereof in the Office of the Town Clerk.

- (11) Incorporation. The following provisions of Massachusetts General Laws Chapter 140 are expressly incorporated herein: § 137B, Sale or other delivery of unlicensed dog by kennel licensee; § 137D, Licensee convicted of violation of statutes relating to offenses against animals; and § 138A, Importation of dogs and cats for commercial resale, etc.

§ 91-3. Dog Control Officer.

- A. Appointment. The Board of Selectmen shall annually appoint a Dog Control Officer (DCO) under the provisions of Massachusetts General Laws Chapter 140, §§ 151 and 151A to carry out the provisions of this article and to perform such other duties and responsibilities as the Board may determine. The Selectmen shall determine hours and

conditions of work for the DCO. Compensation for persons appointed under this article shall be consistent with other bylaws dealing with salaries for appointed officials. No DCO shall be a licensed or unlicensed animal dealer, registered or unregistered with the United States Department of Agriculture. No DCO, either privately or in the course of carrying out official assignments as an agent for the town, shall give, sell, or turn over any animal, whether alive or dead, which comes into the DCO's custody, to any business or institution operating as a research facility or animal dealer, whether it is licensed or unlicensed, registered or unregistered. Whoever violates the provision of this subsection shall be subject to prosecution as provided in Massachusetts General Laws Chapter 140, § 151.

- B. Location and coverage. The DCO shall be housed within the Public Safety Building under the daily supervision of the Chief of Police and shall wear an appropriate uniform while performing official duties. The DCO shall make suitable arrangements for adequate coverage of his or her assigned duties whenever the DCO is temporarily unavailable. This coverage may take the form of a Wayland police officer temporarily filling in; an answering machine for receiving messages; a pager or cellular telephone; an agreement for cross-coverage with dog control officers from adjoining towns, or a combination of any of the arrangements above. **[Amended 5-12-2004 ATM by Art. 30]**
- C. Duties. The DCO's duties shall include the following:
- (1) Bylaw enforcement. The DCO shall enforce the provisions of this article, using the following enforcement actions: issuing findings; assessing fines; making written warnings; performing inspections; confining; issuing orders of temporary restraint; restraining; muzzling; appearing before the Dog Control Appeals Board; making recommendations to the Board of Selectmen concerning vicious dogs, orders of permanent restraint, banishment, or destruction; and other powers that the Board of Selectmen may set from time to time to accomplish the article's purposes.
 - (2) Explanation of bylaw violations. Whenever the DCO issues a finding, assesses a fine, makes a written warning, issues an order of temporary restraint, or confines, restrains, or muzzles a dog, the DCO shall meet with the dog's keeper, provide a copy of this article (Chapter 91, Article I), explain the violation, and suggest corrective behaviors.
 - (3) Unlicensed dogs. The DCO shall notify all owners of dogs within the Town of Wayland that have not been licensed by the license due date and shall seek out, catch, and confine any dogs within the Town that remain unlicensed after a reasonable grace period.
 - (4) Dogs running at large. The DCO shall seek out, catch, and confine any dog within the Town found running at large on public property,

or on private property where the property owner or person in control of the property wants the dog removed.

- (5) Temporary restraint orders. The DCO shall issue an order of temporary restraint to the keeper of any dog that is a nuisance or that is awaiting a decision under § 91-6 as to whether it is vicious. An order of temporary restraint is an order that the dog must be confined to its keeper's property when not on a 6-foot or shorter leash; muzzling will be at the DCO's discretion. It shall be in force for no more than 30 days unless the DCO renews it in writing for subsequent thirty-day periods. The DCO shall rescind or stop renewing the order when, in the DCO's judgment, restraint is no longer required. The dog's keeper can petition the Dog Control Appeals Board under § 91-4B to rescind the order of temporary restraint.
 - (a) Nuisance dog. A dog is a nuisance if it repeatedly violates any subsection of § 91-5, particularly if it continues to chase motor vehicles, pedal vehicles, or animals carrying or drawing a person, or continues to damage property after its keeper has been fined for the dog running at large.
 - (b) Awaiting a decision on a vicious dog hearing. The DCO must order a dog restrained and (when off the keeper's property) muzzled pending the outcome of a vicious dog hearing under § 91-6.
- (6) Confinement. The DCO shall make arrangements for the temporary housing of any dog who is to be confined under the provisions of this article. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns, or within dog crates located in a suitable location in the Public Safety Building.
- (7) Complaint resolution. The DCO shall investigate all complaints arising within the Town pertaining to violations of this article and try to mediate disputes between Town residents pertaining to the behavior of a dog maintained or located within the Town. If the mediation fails, the DCO will decide on a solution and inform the dog owner and any resident that brought a complaint or problem to the DCO's attention. Any party aggrieved by or disagreeing with the DCO's decision may appeal that decision to the Dog Control Appeals Board; the DCO must attend the meetings of that Board or of any subsequent appeals hearings held by the Board of Selectmen on the matter.
- (8) Emergency licensing. In emergency situations, the DCO can issue a license when the Office of the Town Clerk is closed. Any fees and fines collected under such circumstances shall be turned over to the Town Clerk at the earliest opportunity.
- (9) Recordkeeping. The DCO shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody and

of all bite cases reported, and the results of investigations of the same. The DCO shall maintain a telephone log of all calls regarding dogs and submit a monthly report summarizing the log to the Board of Selectmen.

§ 91-4. Dog Control Appeals Board.

- A. Composition of the Appeals Board. The Dog Control Appeals Board is comprised of three Wayland residents, none of whom can be employees of the Town, appointed to three-year overlapping terms by the Board of Selectmen. The Appeals Board will annually select a member to serve as the chair. The Board of Selectmen will also appoint an associate member, who cannot be an employee of the Town, to a three-year term. The associate member shall attend Appeals Board hearings but may vote only when a regular member is unavailable due to absence or conflicts of interest. Two of the four members must be dog owners.
- B. Right to appeal. When the Dog Control Officer has investigated a complaint regarding a dog's behavior and has issued a finding or an order of temporary restraint with which either the dog's keeper or the complainant disagrees, then either party may appeal by sending a written request to the Town Clerk within 10 business days after issuance of the DCO's decision. Following the Clerk's receipt of a written appeal, the Appeals Board shall hold a public hearing on the appeal within 10 business days, at which the dog owner, the complainant, and the DCO must appear.
- C. Findings and further appeals. The Appeals Board shall vote at the public hearing on whether to uphold, reverse, or modify the DCO's decision and shall mail its ruling to the dog owner, complainant, and DCO within three business days after the public hearing. Should the dog owner or complainant disagree with the Appeals Board's ruling, then either party may appeal to the Board of Selectmen within 10 business days. The Board of Selectmen shall issue its ruling within 30 days thereafter.
- D. Hearings on kennel petitions or vicious dogs. The Appeals Board shall hold public hearings and make recommendations to the Board of Selectmen on any petition filed under § 91-2B(6) and any vicious dog declaration under § 91-6B.

§ 91-5. Conduct of dogs.

- A. Endangering safety. No dog keeper shall allow the dog to bite, menace, or threaten, all without provocation, so as to endanger the safety of any person. This section is not meant to preclude a dog from acting as a watchdog on its keeper's property.
- B. Disturbing the peace. No dog keeper shall allow the dog to disturb the peace of any neighborhood by making excessive noise without provocation. Noise is excessive if it is uninterrupted barking, yelping,

whining, or howling for a period of time exceeding 15 minutes. This section is not meant to preclude a dog from acting as a watchdog on its keeper's property.

- C. Damaging property. No dog keeper shall allow the dog to damage public or private property or realty.
- D. Running at large. When not on the private property of its keeper, or on private property with the express permission of that property's owner, a dog must be on a leash or under effective voice control. To be under effective voice control, the dog must be within the keeper's sight and the keeper must be carrying a leash and dog must refrain from illegal activities.
 - (1) Voice control (in place of leash control) allowed. Unless the spaces are listed in any subsection below, a dog may be under effective voice control while on Town owned open spaces.
 - (2) Public gatherings and municipal buildings: leash control only. A dog may be in any municipal building and at any public gathering not otherwise specified in this article only if it is on a six-foot or shorter leash, and the dog must refrain from illegal activities.
 - (3) Cemeteries: dogs not allowed except under specified circumstances. Dogs are not allowed in any Town owned cemetery, except that a dog may attend the funeral of a member of its keeper's family and may accompany family members to visit the grave site of a deceased family member. Under these circumstances, the dog must be kept on a six-foot or shorter leash. The dog may not urinate or defecate on grave sites or gravestones. Persons allowing or bringing dogs into Town-owned cemeteries other than as service dogs, or to attend the funeral of a member of its keeper's family or accompanying family members to visit a grave site shall be subject to a fine not to exceed \$100. **[Amended 4-3-2014 ATM by Art. 26]**
 - (4) Numbered highways: leash control only. A dog must be on a six-foot or shorter leash when it is on the pavement or within 20 feet of the edge of any numbered highway in Wayland.
 - (5) School grounds: dogs not allowed during school/leash control only at other times. Unless the school principal gives permission in advance, no dog may be on school grounds from 30 minutes before classes begin until 30 minutes after classes end. At all other times, the dog may be on school grounds only if it is on a six-foot or shorter leash. A dog is not violating this prohibition if it remains within a vehicle.
 - (6) Town beaches: dogs not allowed. A dog may not be on any beach during the posted swimming season.

- (7) Exception for assistance dogs. Section 91-5D does not apply to any properly trained assistance dog while performing its duties.
- E. Chasing. No dog keeper shall allow the dog to chase a person, motor-powered vehicle, human-powered vehicle, or animal drawing or carrying a person.
- F. Dog litter. Every dog keeper is responsible for expeditiously removing any dog feces the dog deposits anywhere except on its keeper's private property, on other private property with the property owner's permission, or on undeveloped land. The keeper must remove the feces from any trail on undeveloped land and from anywhere on posted undeveloped land. This provision does not apply to any assistance dog while it is performing its duties.

§ 91-6. Vicious dogs.

- A. Declaring a dog vicious. Any dog that, without provocation, bites a human being or kills or maims a domestic animal may be declared vicious by the Board of Selectmen. An exception may be made for a puppy that draws blood or for a dog that attacks or bites an unaccompanied domestic animal on the dog keeper's property.
- B. Procedure for declaring a vicious dog. Upon the written complaint of the DCO, any other public safety agent, or any individual, the Dog Control Appeals Board must hold a public hearing, after which it must recommend to the Board of Selectmen whether the Board of Selectmen should declare a dog vicious and, if so declared, what remedy is appropriate. The Board of Selectmen may take additional testimony from the dog's keeper, the DCO, and any other interested parties at a further public hearing.
- C. Exceptions. A dog shall not be declared vicious if the Board of Selectmen determines any of the following:
 - (1) The person's skin was not broken.
 - (2) The person who was bitten was willfully trespassing, committing a crime, or attempting to commit a crime on the premises occupied by the dog's keeper.
 - (3) The dog was being teased, tormented, abused, or assaulted by the injured person or animal prior to attacking or biting.
 - (4) The dog was protecting or defending a human being in its immediate vicinity from attack or assault.
- D. Remedies. Upon its finding that the dog is vicious, the Board must order one of the following remedies: permanent restraint; banishment; or destruction in accordance with MSPCA guidelines.
 - (1) Permanent restraint order is an order that the dog must at all times while on its keeper's property be kept within the keeper's house or

an enclosure determined by the DCO to be adequate; whenever the dog leaves its keeper's property, it must be muzzled and restrained on a lead no longer than six feet or confined in an escape-proof enclosure.

- (2) Banishment is an order that a vicious dog may no longer reside or visit in the Town of Wayland. (A vicious dog that is confined to a vehicle while passing through Wayland is not "visiting" and therefore is not in violation of the order of banishment.)
- (3) Destruction is an order that the dog be destroyed in accordance with Massachusetts General Laws, Chapter 140, and Massachusetts Society for the Prevention of Cruelty of Animals guidelines.

§ 91-7. Penalties.

- A. Fines. Any dog keeper who maintains a kennel after the kennel license has been denied, revoked, or suspended, or who fails to obtain a kennel license; and any dog keeper who fails to comply with § 91-5, Conduct of dogs, shall be subject to the following penalties:
 - (1) First violation of a subsection: written warning.
 - (2) Second violation of the same subsection: \$20.
 - (3) Third violation of the same subsection: \$50.
 - (4) Fourth and all subsequent violations of the same subsection: \$100.
- B. Reimbursement of costs. If the Dog Control Officer confines a dog, the dog's keeper must reimburse the Town of Wayland for any expenses incurred in boarding that dog. If the dog has not been licensed, the keeper must obtain a license and pay any applicable late fee before the dog can be released.
- C. Penalties for violating restraint orders.
 - (1) Each violation of an order of temporary restraint: \$100.
 - (2) First violation of an order of permanent restraint: \$500.
 - (3) Second violation of an order of permanent restraint: banishment.

§ 91-8. Miscellaneous provisions.

- A. Use of monies. All funds collected under this article shall be turned over to the Town Treasurer and deposited in the town's General Fund. The Dog Fund created under the previous Dog Control By-Law, § 91-8.6, is hereby abolished and the funds therein shall be deposited in the town's General Fund.
- B. Noncriminal disposition of violations. The DCO may, as an alternative to initiating criminal proceedings, initiate and pursue proceedings for

the noncriminal disposition of any violation of this article, in accordance with the provisions of Massachusetts General Laws, Chapter 40, § 21D, to the extent of the specific penalty provided therefor.

- C. Incorporation of state law. The provisions of Massachusetts General Laws Chapter 140, Sections 136A through 156 and 158 through 174D, inclusive, as may be amended from time to time and except as modified herein, are hereby incorporated into this article.
- D. Severability. The invalidity of one or more sections, subsections, paragraphs, sentences, clauses, or provisions of this article shall not invalidate or impair any other part of this article nor invalidate the article as a whole.

ARTICLE II

Hooved Animals

[Adopted 5-6-1982 ATM by Art. 34 (Art. 6, Sec. 13 of the 1973 Bylaws)]

§ 91-9. Control.

Hooved animals shall be controlled as follows:

- A. The owner or other keeper of a hooved animal shall keep such animal securely confined in a building used as a barn or stable or in a paddock, pasture or similar enclosed area or by tethering, except when the animal is controlled by rein, or halter and lead line.
- B. No person shall take or allow a hooved animal upon the private property of another person or on a playground, recreation field or other land of the Town (including school property), except on areas or trails designated for the purpose or where the property owner or appropriate Town department has given permission.

§ 91-10. Violations and penalties.

- A. The owner or keeper of a hooved animal who fails to comply with this article shall be subject to the following costs and penalties:
 - (1) First offense: warning.
 - (2) Second offense: fine of \$25.
 - (3) Third and subsequent offenses: fine of \$10 more than previous fine.
- B. In addition, for each offense the owner or keeper of the animal shall reimburse the Town for the actual cost of catching and restraining the animal until its owner or keeper can take control of it (minimum of \$10).

Chapter 97**BILLBOARDS AND ADVERTISING SIGNS****GENERAL REFERENCES**

Zoning — See Ch. 198.

§ 97-1. Location restricted.

- A. No billboard, sign or other advertising device, if within public view of any highway, public park or reservation, shall be erected or maintained within 300 feet of any cemetery, public playground, public building, hospital or church.
- B. No billboard, sign or other advertising device within public view of any highway, public park or reservation shall be erected or maintained within 300 feet of any railroad or railway crossing or of any bridge.
- C. No billboard, sign or other advertising device within public view of any highway, public park or reservation shall be erected or maintained within 300 feet of any part of a curve on any highway.

§ 97-2. Height regulations.

No billboard, sign or other advertising device within public view of any highway, public park, reservation, cemetery, public playground, public building, hospital or church, except those which are fastened to a building, shall be so located that the lowest part of the same shall be less than one foot or more than three feet above the highest ground directly over which any part of such billboard, sign or other advertising device is erected.

§ 97-3. Special permits.

Notwithstanding the prohibitions of the preceding sections, the Selectmen may, from time to time, grant a special permit to any person or persons to install, erect and/or display one or more signs or advertising devices at one or more locations in the town for any of the purposes set forth in MGL c. 180, §§ 2 and 4; provided, however, that each permit granted pursuant to this section shall conform to the provisions of § 198-501 of Chapter 198, Zoning, and shall expire after seven days. A copy of each such special permit shall be filed with the Town Clerk.

Chapter 101

BOATS AND BOATING

GENERAL REFERENCES

Dudley Pond — See Ch. 109.

ARTICLE I

Sudbury River**[Adopted 3-12-1973 ATM by Art. 14 as Art. 15 of the 1973 Bylaws]****§ 101-1. Operation of motor boats.**

No motor boat shall be operated upon any portion of the Sudbury River or its tributaries within the town in a manner which endangers the safety of the public or is detrimental or injurious to the neighborhood or to the value of property thereon.

§ 101-2. Evidence of violation.

It shall be prima facie evidence of the violation of this article if such boat is operated:

- A. By a motor not having an underwater exhaust;
- B. In a noisy or obnoxious manner;
- C. At any unreasonable rate of speed;
- D. Without slowing down and exercising due caution while approaching and passing persons bathing or any other watercraft; or
- E. At any speed in excess of 10 miles per hour.

§ 101-3. Enforcement; cooperation with other towns.

The town may join with any other town through which said Sudbury River or any of its tributaries flows in the enforcement of this article or a similar bylaw adopted by such other town, insofar as such bylaws relate to said river or its tributaries, and may appropriate money for the enforcement in whole or in part of any and all such bylaws.

Chapter 109

DUDLEY POND

GENERAL REFERENCES

Boats and boating — See Ch. 101.

§ 109-1. Purpose; liability. [Amended 5-6-1992 ATM by Art. 22]

These rules are adopted in order to promote the public health, safety and welfare in the area of Dudley Pond. However, persons using Dudley Pond and adjacent town property do so at their own risk. These rules make no affirmation, whether expressed or implied, that the Town of Wayland protects and guarantees the safety, health and welfare of the public using the pond and adjacent town property.

§ 109-2. State regulations.

These rules are intended to supplement all present or future boating and safety regulations of the Commonwealth of Massachusetts. Pamphlets explaining the state regulations, which must also be observed, should be obtained from the Massachusetts Environmental Police, Department of Fisheries, Wildlife and Environmental Law Enforcement.

§ 109-3. Prohibited acts.

The following are prohibited on the pond and on town property adjacent to the pond:

- A. Depositing brush, litter, trash or waste, except into receptacles placed for that purpose.
- B. Igniting or using a fire, including but not limited to cooking devices.
- C. Possessing or consuming alcoholic beverages.

§ 109-4. Emergencies.

If the Police Chief or his designee determines that an emergency condition exists, he/she may temporarily limit or suspend recreational use of the pond and adjacent town property, pending further action by the Board of Selectmen.

§ 109-5. Curfew.

A nightly curfew prohibiting any use or occupancy of all town property adjacent to the pond shall be observed between the hours of 10:00 p.m. and 4:00 a.m.

- A. Upon written application, the Selectmen may issue a permit to an individual or identifiable organization for use or occupancy of town property between the hours of 10:00 p.m. and 4:00 a.m.
- B. If, on the written report of two households neighboring town property or of the Police Department, the Selectmen determine that an extended curfew is necessary for the public safety or welfare, the Selectmen may extend the curfew to the hours from sunset to sunrise or otherwise by causing notice of such extension to be posted on the premises.
- C. With reference to both Subsections A and B above, the Selectmen:
 - (1) May limit their action to specified areas or include all town property adjoining the pond;
 - (2) Shall provide the Police Department with copies of any special permits or posted notices; and
 - (3) Shall state the duration of any permit or curfew extension, neither of which may exceed one year.

§ 109-6. Definitions.

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

HEADWAY SPEED — The slowest speed at which a vessel or recreational vehicle may be operated and maintain steerageway, in no case to exceed six miles per hour.

RECREATIONAL VEHICLE — Automobiles, trucks, ice boats and other conveyances.

VESSEL — All types of boats, skis and other conveyances which can be used on or in the pond, including but not limited to canoes, kayaks, sailboats, catamarans and sailboards.

§ 109-7. Regulations.

- A. All vessels and recreational vehicles using Dudley Pond and town-owned portions of its shoreline must be certified and registered in accordance with the laws of the Commonwealth of Massachusetts, if applicable.
- B. No vessel or recreational vehicle shall be powered by motor or engine on or beneath the surface of the pond for commercial or recreational purposes unless:
 - (1) The vessel is a boat and the motor is an outboard having 10 horsepower or less;
 - (2) The motor is electric; or

- (3) The vessel or recreational vehicle is being used for purposes of protecting the safety, health and environment of the public or written permission has first been obtained from the Board of Selectmen.
- C. Motorized vessels or recreational vehicles shall not exceed a speed of 10 miles per hour, except for purposes of law enforcement or rescue being performed by police or fire agencies.
- D. All vessels and recreational vehicles shall have the required lighting and shall conform respectively to MGL c. 90B, §§ 5 and 24.
- E. Personal flotation devices shall be carried aboard all vessels in accordance with the requirements for recreational boats as established by the United States Coast Guard and Massachusetts Environmental Police.
- F. Any person aboard a canoe or kayak between January 1 and May 15 and between September 15 and December 31 shall wear at all times a Coast Guard approved personal flotation device of Type I, II or III, except persons aboard vessels excluded by MGL c. 90B, § 5A.
- G. Any person under 12 years of age aboard any vessel on the waters of the commonwealth shall wear at all times a Coast Guard approved personal flotation device of Type I, II or III.
- H. No person shall operate any vessel or recreational vehicle while he/she or she is under the influence of intoxicating liquor, barbiturates, narcotics or other controlled substances, including marijuana.
- I. No person shall operate any vessel or recreational vehicle in a negligent manner so that the lives or safety of the public might be endangered.
- J. All vessels or recreational vehicles must always be operated safely, courteously and at a safe distance to prevent their wash from being thrown into or causing excessive rocking to swimmers, floats, rafts and other vessels.
- K. In any event, no vessel or recreational vehicle shall travel faster than a speed that is safe, reasonable and proper under existing conditions.
- L. After March 15 and before November 15 each year, no craft shall be launched into or removed from Dudley Pond by trailer. Nothing herein shall be construed to preclude hand carrying of any craft into and out of Dudley Pond. **[Added 5-1-1995 ATM by Art. 10; amended 5-8-1996 ATM by Art. 30]**
- M. No motor-powered boat shall tow anything, except in an emergency, as defined in Chapter 109, except that licensed fishermen may tow fishing lines and lures while under power. **[Added 5-13-1999 ATM by Art. 31]**

§ 109-8. Particular areas of caution.

Beyond 150 feet of shore is primarily for use by vessels and recreational vehicles. Within 150 feet of shore is primarily for use by swimmers and waders. Those in areas not designated primarily for their use should exercise special caution.

- A. Swimmers should proceed with extreme caution beyond 150 feet from shore.
- B. Motorboats shall not be operated:
 - (1) Within 150 feet of shoreline which is being used as a swimming area, whether public or private; or
 - (2) Within 75 feet of the seaward boundary of a public bathing beach if designated by markers, floats or otherwise.
- C. Swimming buoys and flagged buoy markers 150 feet from shore may be placed per authorization of the Selectmen.
- D. A motorboat shall not be operated at more than headway speed when the motorboat is operated within 300 feet of a public bathing beach.

Chapter 116**GAS PIPING AND GAS APPLIANCES****§ 116-1. Inspector. [Amended 4-28-1997 STM by Art. 2]**

The Board of Selectmen shall, in each year after its organization, appoint an Inspector of Gas Piping and Gas Appliances in buildings, whose duty shall be the enforcement of the rules and regulations adopted by the Board.

Chapter 120**HUNTING AND TRAPPING****GENERAL REFERENCES**

Firearms — See Ch. 139, § 139-8.

§ 120-1. Leghold or conibear traps.

No person shall use, set, place or maintain any type or modification of a steel-jaw leghold or conibear trap, either padded or unpadded, within the limits of any highway, park or other public property in the Town of Wayland. Trapping on posted or unposted private property, other than those types prohibited by this section, shall only be permitted if written permission is obtained from the owner or legal occupant or person having the right or

control thereof. First offenders shall be fined not less than \$150. Second or subsequent offenders shall be fined not less than \$300.

Chapter 126

JUNK DEALERS AND COLLECTORS

GENERAL REFERENCES

Sales — See Ch. 149.

Solid waste — See Ch. 153.

§ 126-1. Junk dealers.

The Board of Selectmen shall have the authority to license suitable persons to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or secondhand articles, may make rules and regulations relative to their business and may provide for the supervision thereof. The Board of Selectmen may make additional rules, regulations and restrictions which shall be expressed in all licenses. Said licenses may be revoked at pleasure and shall be subject to MGL c. 140, §§ 202 to 205, inclusive, relating to the issuing of certain licenses provided in MGL c. 140, § 54, except that societies, associations or corporations organized solely for religious or charitable purposes and their agents shall not be required to pay a fee for such licenses.

Chapter 139

PEACE AND GOOD ORDER

GENERAL REFERENCES

Alarms — See Ch. 83.

Hunting and trapping — See Ch. 120.

Animals — See Ch. 91.

Sales — See Ch. 149.

§ 139-1. Construal of provisions. [Added 4-10-1979 ATM by Art. 22]

Nothing in these regulations shall be construed to limit town officials and employees from exercising their official duties.

§ 139-2. Definitions. [Added 4-10-1979 ATM by Art. 22]

For the purposes of this chapter, the following words and phrases shall have the following meanings:

ALCOHOLIC BEVERAGE — As defined in MGL c. 138, § 1.

LITTER — Filth, rubbish, debris or waste materials or the act of depositing such materials other than into a receptacle provided by the town for this purpose.

NOISE — Loud shouting, clamor, din or other audible disturbance caused by one or more persons or by a source which is or which should be under their control and which interferes with the peace and tranquillity of the surrounding neighborhood.

PUBLIC PROPERTY — All real and personal property and bodies of water belonging to the Town of Wayland and/or within its custody, management or control, including all public ways, ways to which the public has a right of access, sidewalks, walkways, bikeways and bike paths, all being paths used for both walking and bicycling and hereafter called "bicycle paths," and property under the jurisdiction of the Metropolitan District Commission.

§ 139-3. Littering. [Amended 4-10-1979 ATM by Art. 23]

No person shall litter on public property or on the property of others.

§ 139-4. Obstructing free passage. [Amended 4-10-1979 ATM by Art. 24]

No person shall, without the prior written consent of the Board of Selectmen, obstruct or impede any person or persons from entering, departing from or passing freely within public property, and no person shall continue to obstruct or impede the free passage of any other person after having been directed by a police officer to move on.

§ 139-5. Use of bicycle paths. [Amended 4-10-1979 ATM by Art. 25]

No driver of a horse or a motorized vehicle shall allow the same to be on any bicycle path, as previously defined under § 139-2.

§ 139-6. Posting notices. [Amended 4-23-1979 ATM by Art. 26]

No person shall, without the prior written permission of the Board of Selectmen, post, affix or apply in any manner any notice, advertisement, bill, picture or drawing upon any public property.

§ 139-7. Destruction of public property. [Amended 4-23-1979 ATM by Art. 26]

No person shall destroy, deface or remove any public property, including any notice or document posted pursuant to law.

§ 139-8. Explosives and firearms. [Amended 4-23-1979 ATM by Art. 27]

No person shall carry uncased or unholstered firearms or discharge explosives or firearms on public property without the prior written permission of the Board of Selectmen or on private property without the

prior written permission of its owner. This section shall not apply to the lawful defense of life or property.

§ 139-9. Spying. [Amended 4-23-1979 ATM by Art. 28]

No person shall enter upon the premises of any person with the intention of peeping into a dwelling or spying upon any person therein.

§ 139-10. Noise. [Added 4-23-1979 ATM by Art. 29; amended 5-27-1981 ATM by Art. 12]

No person shall permit or cause both unreasonable and unnecessary noise to emanate beyond the premises from which it originates.

§ 139-11. Alcoholic beverages. [Added 4-23-1979 ATM by Art. 30]

- A. No person shall consume alcoholic beverages upon public property except with the prior written consent of the town board, committee or authority having custody, management and control of the public property in question.
- B. Any person who is discovered by a police officer or special police officer in the act of violating the provisions of this section may be arrested without a warrant by such police officer or special police officer and held in custody, in jail or otherwise, until a complaint shall be made as soon as practicable and in any case within 24 hours.
[Added 4-28-1997 STM by Art. 2]

§ 139-12. Use of conservation land. [Added 11-18-1982 STM by Art. 11]

Except where specific exception is authorized or permission is granted in writing by the Conservation Commission, no person shall use town conservation land for purposes other than quiet nondestructive enjoyment or study or enter such land with any motor vehicle or alcoholic beverage or ignite a fire thereon. During the period from one-half hour after sunset to one-half hour before sunrise, all persons must exit the land, including the parking areas thereon, if directed to do so by the police.

Chapter 143

PESTICIDES

GENERAL REFERENCES

Board of Health regulations — See Ch. 256.

§ 143-1. Written permission required.

The spraying, spreading or otherwise applying of pesticides (including herbicides, insecticides and rodenticides) in such a manner that said substances come in contact with the person or property of another, including town property, shall be illegal, unless written permission is obtained from such other party in advance. Said written permission is to be valid for 90 days.

§ 143-2. Exceptions.

The following are exceptions to the provisions of this chapter:

- A. United States or Massachusetts governmental public health programs.
- B. Programs of the Park and Recreation Commission.
- C. Programs conducted by the East Middlesex Mosquito Control Project.

§ 143-3. Violations.

Each instance of a person or property being affected or impinged upon as described herein shall constitute a separate violation of this chapter, except that it shall not apply to persons, or to the personal property of persons, affected while on the premises of someone who has either given prior written permission for, or has himself undertaken, the application of pesticides on said premises as defined in this chapter. For purposes of this chapter, "property" shall mean either all contiguous real estate under the same ownership, with the buildings, trees, etc., and all personal property thereof, or, if no real estate, buildings, trees, etc., of a person are involved, then any or all of his or her personal property.

Chapter 145**PRIVATE FIRE HYDRANTS AND UNDERGROUND AND
EXPOSED PIPING**

ARTICLE I
Inspection, Testing, and Maintenance
[Adopted 4-6-2015 ATM by Art. 10⁶]

§ 145-1. Purpose.

The purpose of this article is to set requirements for the testing, inspection, and maintenance of privately owned fire hydrants and underground and exposed piping. It is the responsibility of the property owner to have all the hydrants and piping located on his/her property maintained, inspected, and tested in accordance with this regulation. This procedure is necessary in order to assure proper function of the fire hydrants located on the property.

§ 145-2. Referenced documents.

- A. NFPA Publication. National Fire Protection Association ("NFPA"), 1 Batterymarch Park, Quincy, MA 02169-7471.
- B. NFPA 25, the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2014 edition).
- C. Commonwealth of Massachusetts Regulation, 310 CMR 22. **[Added 4-7-2016 ATM by Art. 14]**

§ 145-3. Definitions.

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

FIRE HYDRANT — A water supply with a valve connection(s) having an outlet(s) to supply hose and fire department pumpers with water including standpipe connections.

PRIVATE FIRE HYDRANTS — Those hydrants not owned, rented, or maintained by the Town of Wayland or any other governmental entity.

UNDERGROUND AND EXPOSED PIPING — The supply piping connected to private fire hydrants.

§ 145-4. Responsibility.

The property owner or designated representative is responsible for compliance with this bylaw.

§ 145-5. Inspection, testing, and maintenance procedures.

- A. Fire hydrants shall be inspected, maintained, and tested in accordance with NPFA 25 (2014 edition).

6. Editor's Note: This article was originally adopted as Ch. 123 but was renumbered to maintain the organization of the Code.

- B. The Wayland Fire Department reserves the right to inspect private fire hydrants for compliance with this bylaw.
- C. Underground and exposed piping shall be inspected, maintained, and tested in accordance with NFPA 25 (2014 edition) and 310 CMR 22. **[Amended 4-7-2016 ATM by Art. 14]**
- D. Copies of all records related to the hydrants and piping shall be forwarded to the Wayland Fire Department within 30 days of the inspection, maintenance, and/or tests.
- E. The first round of inspection and maintenance procedures, which shall include flow tests of the hydrants (as specified by the Fire Department) and piping, shall be completed within the time period April 1, 2016 — November 1, 2016. All testing will be done in cooperation with, and conducted following procedures outlined by, the Department of Public Works Water Division. The records of the inspection, maintenance, and testing shall be filed with the Fire Chief at the Wayland Fire Department by December 1, 2016. **[Amended 4-7-2016 ATM by Art. 14]**
- F. All subsequent yearly procedures shall take place in the time period between April 1 and November 1 of each year and will be done in cooperation with the Department of Public Works Water Division. Reports of the procedures shall be filed with the Fire Chief at the Wayland Fire Department by December 1 each year. **[Amended 4-7-2016 ATM by Art. 14]**

§ 145-6. Violations.

- A. For any violation of this bylaw, the property owner will be assessed the following fines. Property owners will be notified of all fines assessed and such fines must be paid within 30 days of notification.
 - (1) \$50: first offense, for each violation. This applies to each private fire hydrant. For instance, a subdivision with three hydrants in noncompliance with this bylaw would be assessed a fine of \$150.
 - (2) \$200: An additional \$200 fine will be assessed if the same violation(s) has (have) not been remedied after notification by the Fire Department and after a thirty-day period.
 - (3) \$300: if the same violation(s) is (are) not remedied after notification by the Fire Department during the next April 15 - June 15 time period. Failure to pay the fine within the prescribed time period will result in court action for violation of a Town bylaw or a municipal charges lien being placed on the subject real property pursuant to MGL c. 40, § 58, in the Middlesex County Registry of Deeds, South District, until the fine is paid.
- B. As an alternative to the assessment of fines through criminal process, violations of this bylaw may be enforced through civil disposition in the

manner provided in MGL c. 40, § 21D. The Fire Chief or his designee shall be the enforcing person.

Chapter 149**SALES****GENERAL REFERENCES**

Junk dealers and collectors — See Ch. 126.

§ 149-1. License required; application.

- A. Every person who engages in a transient business selling goods, wares, periodicals or merchandise or who goes door to door for any commercial selling purposes, either as principal or agent, shall, before commencing business in the Town of Wayland, make written application, under oath, for a license to the Chief of Police stating his or her name and address, the name and address of the owner or parties in whose interest said business is to be conducted, their business address, a brief description of the business he/she wishes to conduct within the Town of Wayland and other pertinent data or information concerning the individual and/or the vehicles that they will be utilizing for business purposes. He/she shall also permit the Chief of Police or his/her agents to photograph him/her and to take a copy(s) of his/her fingerprints for the purpose of identification.
- B. Every person who engages in a temporary business selling goods, wares, periodicals or merchandise or who goes door to door for any commercial selling purposes, either as principal or agent, shall, before commencing business in the Town of Wayland, make written application, under oath, for a license to the Chief of Police stating his or her name and address, the name and address of the owner or parties in whose interest said business is to be conducted, their business address, a brief description of the business he/she wishes to conduct within the Town of Wayland and other pertinent data or information concerning the individual and/or the vehicles that they will be utilizing for business purposes. He/she shall also permit the Chief of Police or his/her agents to photograph him/her and to take a copy(s) of his/her fingerprints for the purpose of identification. **[Amended 4-28-1997 STM by Art. 2]**

§ 149-2. Letter of authorization. [Amended 4-28-1997 STM by Art. 2]

In addition, said persons shall receive a letter of authorization from the Building Commissioner for the Town of Wayland which shall indicate that said persons are in compliance with the Zoning Bylaws and other bylaws of the Town of Wayland, rules and regulations and policies of the Town of Wayland concerned with conducting a business and the Massachusetts General Laws.

§ 149-3. Issuance of license. [Amended 11-8-2007 STM by Art. 9]

Upon approval of said application, the Chief of Police shall, within 10 days, excepting Saturday, Sunday and legal holidays, issue to said person a license in the form of a badge or identification card showing the name and a photograph of the licensee authorizing him/her to do business as described and approved in his/her application subject to the bylaws of the Town of Wayland and the Commonwealth of Massachusetts. The fee for such a license shall be established by the Board of Selectmen pursuant to MGL c. 40, § 22F, and it shall expire 90 days from the date of issuance or on the day of its surrender or revocation or of the filing of a report with the Police Department concerning its loss. Said license shall be the property of the Town of Wayland and shall be surrendered to the Chief of Police or his/her agents upon revocation.

§ 149-4. Display of license.

Such license shall be affixed in a prominent place to the outer garment of the licensee whenever he/she shall be engaged in said business so that it may be seen by all prospective customers. Failure so to display the license shall be punishable by revocation thereof and a fine in accord with Chapter 1, Article II of this Code.

§ 149-5. Exceptions.

The provisions of this chapter shall not apply to any person conducting a garage sale nor to any person who goes door to door to sell goods, wares, periodicals or merchandise on behalf of any group organized for any of the purposes described in MGL c. 180, § 2.

Chapter 151**DIRECTOR OF PUBLIC WORKS****GENERAL REFERENCES**

Personnel — See Ch. 43.

§ 151-1. Appointment and qualifications.

151.1. The Town Administrator, in consultation with the Board of Public Works, may appoint a Director of Public Works for a term of one to three years or the Director of Public Works may serve the Town at will and at the pleasure of the Town Administrator. The Director of Public Works shall receive such aggregate compensation and fringe benefits, not exceeding the amount appropriated, as the Town Administrator may determine in accordance with the Town's Personnel Bylaws and Wage and Salary Classification Plan. The Town Administrator may, but is not required to, establish a written employment contract with the Director

of Public Works to provide for the salary, fringe benefits, and other conditions of employment of the Director of Public Works in accordance with the Town's Personnel Bylaws and Wage and Salary Classification Plan. The Director of Public Works position shall be a managerial and confidential employee as such is defined by Massachusetts General Laws Chapter 150E and relevant case law from the Massachusetts Labor Relations Commission.

151.1.2The Director of Public Works shall hold no elective Town office, but may be appointed by the Town Administrator to any other compatible Town office or position. The Director of Public Works shall devote full-time to the responsibilities of the department, and shall engage in no other business or occupation without advance written authorization by the Town Administrator.

§ 151-2. Authority and responsibilities.

151.2.1The Director of Public Works shall be responsible for the day-to-day management and operations of the Department of Public Works and shall act by and for the Board of Public Works in carrying out its responsibilities and in the exercise of its authority and powers established by general and special law, bylaw and vote of the Town. The Town Administrator will provide operational and administrative (including, but not limited to budget and financial management, procurement, employment relations, collective bargaining, personnel administration, insurance and risk management matters) direction to the Director of Public Works.

151.2.2Subject to ratification by the Town Administrator or his/her designee, the Director of Public Works shall have the power and authority to appoint, on the basis of merit and fitness alone, and discipline, suspend, demote, transfer or terminate supervisory or managerial personnel in the Department of Public Works. The Director of Public Works shall also have the authority to hire, promote, discipline, suspend, demote, transfer or terminate all other personnel in the Department of Public Works. All personnel actions taken by the Director of Public Works shall be taken in accordance with all applicable laws, provisions of any collective bargaining agreements, personnel bylaws and personnel practices and policies.⁷

151.2.3The Director of Public Works shall:

- (a) Manage and supervise all operations, affairs and personnel of the Department of Public Works;
- (b) Implement the goals and objectives established by the Town Administrator which shall be consistent with the policies of the Board of Public Works;

7. Editor's Note: See Ch. 43, Personnel.

- (c) Act as the liaison with and represent the Department of Public Works before state, federal and regional authorities;
- (d) Serve as the Department of Public Works' public information officer in responding to suggestions, complaints and criticisms;
- (e) Annually prepare and submit to the Board of Public Works for its review, and to the Town Administrator for his/her subsequent recommendation to the Finance Committee, a departmental budget showing proposed expenditures and revenues for the ensuing fiscal year; and
- (f) Perform such other duties as may be required by the Town Administrator, bylaw, state law or federal law, rules and regulations and the Director of Public Works' job description.

§ 151-3. Removal of Director of Public Works.

Section 151.3.1. Termination of employment of any director of public works shall be effected by order of the Town Administrator.

§ 151-4. Acting Director of Public Works.

Section 151.4.1. The Town Administrator may designate a qualified person to serve as the Acting or Interim Director of Public Works and to perform the duties of the Director of Public Works during the period of any vacancy caused by the Director of Public Works' absence, illness, suspension, termination or resignation.

Chapter 153

SOLID WASTE

ARTICLE I

Dumps**[Adopted 3-12-1973 ATM by Art. 14 as Art. 8 of the 1973 Bylaws]****§ 153-1. Use restricted.**

No person other than an inhabitant of the town shall use any public dump established by the town.

§ 153-2. Regulations. [Amended 11-13-1996 STM by Art. 4; 4-10-2008 ATM by Art. 5]

Except as otherwise provided by law, all public dumps shall be used only at such times and in such manner as may be permitted by regulations adopted by the Board of Public Works.

ARTICLE II

Recycling**[Adopted 5-4-1992 ATM by Art. 13 (Art. 33 of the 1973 Bylaws)]****§ 153-3. Separation of recyclable materials. [Amended 11-13-1996 STM by Art. 5; 4-10-2008 ATM by Art. 5]**

All residents of the Town of Wayland and all businesses having a principal place of business in the Town of Wayland and all businesses providing solid waste disposal services to residents and businesses of the Town of Wayland are prohibited from disposing of any recyclable materials in the containers or areas reserved for refuse only at the Town of Wayland Sandhill Sanitary Landfill or any other town landfill or solid waste transfer facility.

- A. Categories of recyclable materials may include paper, cardboard, glass, metals, plastics, batteries, tires, fabrics, wood and yard wastes and any other materials as may be designated by the Board of Public Works as recyclable materials consistent with state laws and regulations. The Wayland Board of Public Works shall at all times retain the sole authority for establishing or modifying the categorization of materials as recyclable or nonrecyclable, to the extent that these determinations do not conflict with applicable state laws and regulations governing the handling of solid waste.
- B. The Board of Public Works shall provide alternative areas or containers at operational landfill or waste transfer sites for the collection of materials designated as recyclable. The prohibition on the disposal of recyclable materials in designated refuse areas shall not prevent the Board of Public Works from entirely excluding certain materials from the landfill or any future landfill or waste transfer facility.

ARTICLE III
Plastic Bag Reduction
[Adopted 4-2-2017 ATM by Art. 23]

§ 153-4. Purpose and intent.

The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of aquatic and land animals through ingestion and entanglement; contributing to pollution of the natural environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture. The purpose of this bylaw is to protect the Town's unique natural beauty and its water and natural resources by eliminating single-use plastic checkout bags that are distributed in the Town of Wayland and to promote the use of reusable bags.

§ 153-5. Definitions.

CHECKOUT BAG — A carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

GROCERY STORE — A retail establishment where more than fifty percent (50%) of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers home care and personal care products.

RETAIL STORE — Any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

REUSABLE CHECKOUT BAG — A bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 4.0 mils in thickness.

THIN-FILM SINGLE-USE PLASTIC BAGS — Those bags typically with handles, constructed of high-density polyethylene (HDPE), low-density polyethylene (LDPE), linear low-density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and non-woven polypropylene fabric), if said film is less than 4.0 mils in thickness.

RECYCLABLE PAPER BAG — A paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

§ 153-6. Title.

This bylaw shall be known as the "Plastic Bag Reduction Bylaw."

§ 153-7. Use regulations.

- A. Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail store or grocery store within the Town of Wayland.
- B. If a retail store provides or sells checkout bags to customers, the bags must be one of the following: (1) recyclable paper bags, or (2) reusable checkout bags.
- C. Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

§ 153-8. When effective.

This bylaw shall take effect six (6) months following approval of the bylaw by the Attorney General or January 1, 2018, whichever is later. Upon application of the owner or the owner's representative, the Board of Selectmen or its designee may exempt a retail store from the requirements of this section for a period of up to six (6) months upon a finding by the Board of Selectmen that (1) the requirements of this section would cause undue hardship; or (2) a retail store requires additional time in order to draw down an existing inventory of checkout bags.

§ 153-9. Enforcement.

- A. Enforcement of this bylaw shall be the responsibility of the Board of Selectmen or its designee. The Board of Selectmen or its designee shall determine the monitoring process to be followed, which may be limited to responding to citizen reports, incorporating the process into other Town duties as appropriate.
- B. Any retail or grocery store distributing plastic checkout bags in violation of this bylaw shall be subject to a noncriminal disposition fine as specified in § 2-2 of the Bylaws, Noncriminal disposition of violations; enforcement. Any such fines shall be paid to the Town of Wayland.

§ 153-10. Severability.

If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

ARTICLE IV

Polystyrene Food Containers
[Adopted 4-2-2017 ATM by Art. 24]**§ 153-11. Purpose and intent.**

Polystyrene contains dangerous substances which when heated release toxic chemicals that may be carcinogenic. Eliminating polystyrene food and beverage containers is in the best interest of the health and welfare of the inhabitants of the Town of Wayland. Expanded polystyrene food containers form a significant portion of the solid waste going into our landfills. Polystyrene is not biodegradable; once buried in a landfill it will remain there for centuries.

§ 153-12. Definitions.

DISPOSABLE FOOD SERVICE CONTAINER — Single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition includes single-use disposable items such as straws, cup lids, or utensils.

FOOD ESTABLISHMENT — An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. "Food establishment" shall include any fixed or mobile place, structure or vehicle whether permanent, transient, or temporary, private, public or non-profit, routinely serving the public; or any other eating and drinking establishment or place in which food or drink is prepared for sale or for service to the public on the premises or elsewhere. School cafeterias are included in this article.

POLYSTYRENE — Includes blown polystyrene and expanded and extruded foams (sometimes called "Styrofoam," a Dow Chemical Co. trademarked form of EPS insulation) also referred to as "expanded polystyrene (EPS)," which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene); and in this bylaw is referenced as "foam polystyrene." Foam polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. The term also means and includes clear or solid polystyrene which is also known as "oriented," and referenced in this bylaw as "rigid polystyrene." Rigid polystyrene is generally used to make clear clamshell containers, and clear or colored straws, lids and utensils.

PREPARED FOOD — Any food or beverage prepared on the food establishment's premises for consumption on the premises or elsewhere, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

BOH — The Board of Health or the Board of Health's designee, which may be the Health Department.

§ 153-13. Title.

This bylaw shall be known as the "Polystyrene Food Container Bylaw."

§ 153-14. Use regulations.

Except as provided herein, food establishments are prohibited from dispensing prepared food to customers in disposable food service containers made from polystyrene.

§ 153-15. When effective.

This bylaw shall take effect six (6) months following approval of the bylaw by the Attorney General or January 1, 2018, whichever is later. Upon application of the owner or the owner's representative, the Board of Health may exempt a food establishment from the requirements of this section for a period of up to six (6) months upon a finding by the Board of Health that (1) the requirements of this section would cause undue hardship; or (2) a food establishment requires additional time in order to draw down an existing inventory of polystyrene disposable food service containers.

§ 153-16. Enforcement.

- A. Enforcement of this bylaw shall be the responsibility of the Board of Health. The Board of Health shall determine the monitoring process to be followed, which may be limited to responding to citizen reports, and/or incorporating inspections into existing food establishment inspections.
- B. Any food establishment in violation of this bylaw shall be subject to a noncriminal disposition fine as specified in § 2-2 of the Bylaws, Noncriminal disposition of violations; enforcement. Any such fines shall be paid to the Town of Wayland.

§ 153-17. Severability.

If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

Chapter 158

STREETS AND SIDEWALKS

GENERAL REFERENCES

Trees — See Ch. 171.

Underground utilities — See Ch. 177.

ARTICLE I

Snow and Ice Removal**[Adopted 3-12-1973 ATM by Art. 14 as Art. 12 of the 1973 Bylaws]****§ 158-1. Vehicles obstructing work. [Amended 4-10-2008 ATM by Art. 5]**

The Board of Public Works or other officers having charge of ways of the Town shall have the authority, for the purposes of removing or plowing snow or removing ice from any way in the town, to remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle interfering with such work.

§ 158-2. Liability of vehicle owner. [Amended 5-13-2010 ATM by Art. 18]

The owner of any such vehicle so removed shall be liable for the reasonable cost of such removal and storage, and delivery of the vehicle to said owner may be withheld by the Board of Public Works or other officer having charge of the ways in the Town until such reasonable costs shall be paid.

ARTICLE II

Changing Public Ways**[Adopted 4-28-1988 ATM by Art. 9 (Art. 21 of the 1973 Bylaws)]****§ 158-3. Public hearing.**

Prior to accepting the final design of any road, bridge or sidewalk for construction or reconstruction, where pavement is to be placed where none exists at the time or where the side lines of the town's ownership are to be altered, the Town committee, board or commission having authority to expend funds for such construction or reconstruction shall hold a public hearing for the purpose of gathering public comments and input on said proposed design.

- A. Notice of said hearing, giving the time, place and general subject matter, sufficient for identification, shall be placed in a newspaper of general circulation in the Town once in each of two successive weeks, with the first such publication being not less than 14 days before the hearing. In addition, a copy of the notice shall be mailed not less than 14 days before the hearing to the abutters of the property where such work is proposed and to owners of any other properties deemed by the committee, board or commission to be directly affected thereby.
- B. Written comments shall be accepted by the committee, board or commission for at least 10 days following said hearing. If 10 or more abutters object at the hearing or in writing within 10 days of the hearing, then no construction activities may begin for at least 60 days from the hearing date.

ARTICLE III

Street Numbering**[Adopted 5-4-1995 ATM by Art. 30 (Art. 13 of the 1973 Bylaws)]****§ 158-4. Powers and duties of Building Commissioner. [Amended 4-28-1997 STM by Art. 2]**

The Building Commissioner shall have charge of the numbering and renumbering of buildings and lots on all ways within the Town of Wayland. The Building Commissioner shall make all necessary rules and regulations relative thereto and assign said numbers in accordance therewith. A list of all such ways and numbers shall be kept on file in the Building Commissioner's office.

ARTICLE IV

Scenic Roads**[Adopted 5-4-1995 ATM by Art. 32 (Art. 34 of the 1973 Bylaws)]****§ 158-5. Authority and purpose.**

- A. Authority. This article is adopted under authority of MGL c. 40, § 15C (Scenic Roads) and MGL c. 40, § 21 and Article 11 and Article LXXXIX, Section 6 of Articles of Amendment of the Constitution of the Commonwealth of Massachusetts.
- B. Purpose. The purpose of this article is to maintain the rural, natural, historic and scenic character of the town's roads (as defined herein). The article ensures that:
- (1) Town roads will be recommended for designation as scenic roads in accordance with the criteria stated in this article; and
 - (2) Trees (as defined herein) and stone walls within the rights-of-way of all designated scenic roads will not be altered without the public hearing required by, nor without following the other procedures set forth in, this article.

§ 158-6. Definitions.

For terms not qualified or defined in MGL c. 40, § 15C (Scenic Roads), the following meanings shall apply for the purposes of this article:

BRANCH — A living branch that is fully attached to a tree (as defined herein) and that has a diameter of three inches or more 12 inches from the point at which said branch connects to the tree.

CUTTING OR REMOVAL OF TREES — The removal of one or more trees, trimming of branches (both as defined herein) or cutting of roots sufficient in the Tree Warden's written opinion to cause eventual destruction of the tree.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK — Any work done within a road (as defined herein) by any person or agency, public or private. Construction of new driveways or alteration of existing ones is included, insofar as it takes place within the road. Construction or alteration of water, sewer, electric, telephone, cable television or other utilities within the road is also included.

ROAD — The entire legal right-of-way of a vehicular traveled right-of-way in Wayland, including any necessary appurtenances, and including bridge structures, drainage systems, retaining walls, traffic control devices and sidewalks. The right-of-way includes the area on and within the boundaries of the right-of-way. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the right-of-way until shown to be otherwise.

TEARING DOWN OR DESTRUCTION OF STONE WALLS — The destruction of more than ten linear feet of stone wall involving more than one cubic foot of wall material per linear foot above existing grade. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board approval, but only if the Board of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced. Repair of a stone wall not involving tearing down or destruction of the wall is not covered by this article. **[Amended 4-10-2008 ATM by Art. 5]**

TREE — A living tree in its naturally standing position, the trunk of which has a diameter of four inches or more four feet above the ground. Nothing in this definition shall be construed to permit a person, other than the Tree Warden, to trim, cut down or remove a public shade tree.

TREE WARDEN — The Town of Wayland Tree Warden or its designated deputy.

§ 158-7. Criteria for designation.

- A. In determining which roads or portions of roads should be recommended to Town meeting for designation as scenic roads, the following criteria shall be considered:
- (1) Overall scenic beauty.
 - (2) Contribution of trees to scenic beauty.
 - (3) Contribution of stone walls to scenic beauty.
 - (4) Age and historic significance of roads, trees and stone walls.
 - (5) Built features, such as historic buildings, historic monuments, historic burial grounds, historic structures, farm buildings and fencing.
 - (6) Features of the road, such as historic right-of-way, surface, carriage width, use restrictions and nonhistoric bridges.
- B. Roads that have previously been designated as scenic roads may be reevaluated using the foregoing criteria.

§ 158-8. Procedure for designation. [Amended 4-10-2008 ATM by Art. 5]

The Planning Board, the Conservation Commission or the Historical Commission, or a petition of 10 citizens of the town, may propose scenic road designation for any road other than a numbered route or state highway. The Planning Board then shall hold a public hearing, notifying the Board of Selectmen, the Tree Warden, the Board of Public Works, the Conservation Commission, the Historical Commission and the public by advertising twice in a newspaper of general circulation, the first

advertisement to appear at least 14 days prior to the date of the public hearing.

- A. The Planning Board shall make a recommendation to Town meeting on the merits of designation of the road as a scenic road.
- B. Following designation by Town meeting, the Planning Board shall:
 - (1) Notify all municipal departments that may take any action with respect to such road.
 - (2) Notify the Massachusetts Highway Department.
 - (3) Notify the Commissioners of Middlesex County.
 - (4) Indicate such designation on all maps currently in use by municipal departments.
 - (5) Notify all utility companies or other such parties that may work on such road.

§ 158-9. Work affecting trees or stone walls; emergencies.

- A. Filing. Any person or organization or agency seeking the consent of the Planning Board under MGL c. 40, § 15C (Scenic Roads) regarding repair, maintenance, reconstruction or paving work that may involve the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, on a designated scenic road shall file a request with the Planning Board and submit the following information:
 - (1) The text of the notice of the public hearing, specifying the time, date, place and purpose of said hearing and identifying the location of the proposed action in terms enabling the readers to locate it with reasonable specificity on the ground without the need for additional plats or references and describing in reasonable detail the proposed changes to trees and stone walls.
 - (2) A statement of the purpose or purposes for the proposed action.
 - (3) Plans, drawings or other explanatory reference material showing the specific design or engineering details.
 - (4) Except in the case of Town agencies, a fee sufficient for the cost of advertising and notification.
 - (5) Any further explanatory material useful to adequately inform the Planning Board.
- B. Notice. The Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area, with the first publication of the notice to be at least 14 days prior to the hearing and the last at least seven days prior to the hearing. Copies of the notice shall be sent to the Board of Selectmen, Conservation Commission, Historical Commission, Town

Surveyor, Tree Warden and Board of Public Works. **[Amended 4-10-2008 ATM by Art. 5]**

- C. Timing of the hearing. The Planning Board shall hold a public hearing within 30 days of receipt of a properly filed request and shall make a decision within 45 days of that receipt, unless a longer time is agreed to by the applicant.
- D. Reporting of decision. The Planning Board shall, within 45 days of receipt of a properly filed request, submit a written determination of consent or denial to the applicant and send a copy thereof to the Board of Selectmen, the Tree Warden and the Town Clerk.
- E. Public shade trees. When required by MGL c. 87 (Shade Trees), notice shall be given and Planning Board hearings required by MGL c. 40, § 15C (Scenic Roads) shall be held in conjunction with those held by the Tree Warden acting under MGL c. 87 (Shade Trees). Consent to an action by the Planning Board shall not be construed as consent by the Tree Warden or vice versa. A Planning Board decision shall contain a condition that no work shall take place until all applicable provisions of MGL c. 87 (Shade Trees) have been complied with.
- F. Emergency repair. This article shall not apply when the Tree Warden acts in an emergency in accordance with law.

§ 158-10. Considerations when acting on applications.

In acting on applications concerning designated scenic roads, the Planning Board shall take into consideration the following:

- A. Preservation of natural resources.
- B. Preservation of historic resources.
- C. Scenic and aesthetic characteristics.
- D. Environmental values.
- E. Public safety.
- F. Local residential traffic patterns and overall traffic volume and congestion.
- G. Compensatory actions proposed, such as tree and wall replacement.
- H. Functional importance and urgency of repair, maintenance, reconstruction or paving.
- I. Additional evidence contributed by abutters, Town agencies and other interested parties.
- J. Existence or absence of reasonable alternatives.
- K. Other planning information.

§ 158-11. Driveways.

- A. At a minimum, driveways shall be consistent with Wayland regulations for residential driveways and curb cuts and shall comply with this article.
- B. Only one driveway cut per lot onto any designated scenic road shall be allowed. A new driveway onto a designated scenic road shall not exceed 12 feet in width.
- C. Stone wall sections to be removed for a driveway shall not exceed the driveway width by more than two feet.
- D. No tree with a trunk exceeding eight inches in diameter four feet above the ground or cluster of trees within six feet of one another with trunks six inches in diameter four feet above the ground shall be removed for a driveway unless the curb cut cannot be safely located elsewhere.

§ 158-12. Enforcement; violations and penalties.

- A. Failure to file with the Planning Board for permission to cut or remove trees or for destruction of any portion of a stone wall within any designated scenic road will require an immediate filing as detailed above, and the applicant shall be required to restore features. This restoration shall consist of replacing the stone wall as necessary and replacing the trees cut on a square-inch-per-square-inch basis (combined area of the replacement trees measured one foot above ground level to equal total area of the original tree trunk as measured at the stump) at locations specified by the Planning Board.
- B. Failure to comply with a duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures that the Planning Board deems necessary. Any decision not carried out within two years of issue shall be void and shall require a new filing. The Planning Board and the Tree Warden shall have the authority to enforce the provisions of this article.
- C. Any violation of this article, MGL c. 40, § 15C (Scenic Roads) or a Planning Board decision issued under this article or MGL c. 40, § 15C shall be punishable by a fine not to exceed \$300.

ARTICLE V

**Repairs to Private Ways
[Adopted 5-1-2002 ATM by Art. 23]****§ 158-13. Temporary repairs to private ways. [Amended 4-10-2008
ATM by Art. 5]**

The Board of Public Works shall have the authority to make temporary repairs to private ways which are open to the public, provided that:

- A. Such repairs are limited to grading and pot hole filling work necessary to make such private ways safe and convenient for the passage of vehicles;
- B. No drainage work shall be performed in connection with such repairs;
- C. Such repairs are determined by the Board of Public Works to be a public necessity;
- D. At least one landowner abutting the private roadway petitions the Board of Public Works for such repairs;
- E. No betterment assessments shall be charged for such repairs;
- F. The Town shall assume no liability and there shall be no liability on account of damages caused by such repairs;
- G. Such private ways shall have been open to public use for at least 15 years before any such repairs may be made; and
- H. No cash deposit shall be required for such repairs.

ARTICLE VI

Removal of Utility Poles**[Adopted 5-10-2004 STM by Art. 12⁸]****§ 158-14. Prompt removal of utility poles.**

In accordance with the provisions of Section 34B of Chapter 164 of the Massachusetts General Laws, an electric distribution company or telephone company engaging in the removal of an existing pole and the installation of a new pole in place thereof shall complete the transfer of wires, all repairs and the removal of the existing pole from the site within 90 days from the date of installation of the new pole or within 90 days from the effective date of this bylaw, whichever is later; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, said company shall be required to remove such existing pole within six months from the date of installation of the new pole. The owner of such pole shall notify all other users of the pole of the starting date of such removal and installation work at least 48 hours prior to the commencement of such work, and said owner shall require all other users to remove their wiring and other attachments from the poles in a timely manner. As used herein, the term "owner" shall mean the entity owning or having majority ownership of any such pole.

§ 158-15. Penalties for violations.

Violations of the terms of this bylaw provision shall be punishable by a penalty of \$100 per pole for each pole for each day of violation. This section of the bylaws may be enforced by a noncriminal citation pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D, by any police officer of the Town, the Building Commissioner or the Director of Highway Operations.

8. Editor's Note: This article was amended 1-27-2005 STM by Art. 3 to renumber the sections from §§ 158-13 and 158-14 to §§ 158-14 and 158-15, respectively.

ARTICLE VII

**Excavation of Trenches in Public Ways and on Private Land
[Adopted 11-12-2008 STM by Art. 9]****§ 158-16. Permit issuing authority.**

The Board of Road Commissioners and, effective July 1, 2009, the Board of Public Works shall have the authority to issue permits for the excavation of trenches on privately owned land and for the excavation of a public way of the Town pursuant to the provisions of Chapter 82A of the General Laws.

Chapter 163

SWIMMING POOLS

§ 163-1. Definitions.

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

PRIVATE SWIMMING POOL — A pool which is used or intended to be used in connection with a single-family residence and available only to the householder's family and private guests.

SWIMMING POOL — Includes every pool of water above or below ground having a depth of 24 inches or more and a water surface area of 250 square feet or more. Natural and man-made ponds are not included.

§ 163-2. Fencing requirements; access devices.

- A. Below-ground private swimming pools shall be enclosed by a suitable nonclimbable fence not less than five feet in height and containing a gate which shall be self-closing and self-latching so that the pool would be inaccessible to small children when an adult is not present.
- B. Aboveground private swimming pools.
 - (1) Aboveground private swimming pools shall be enclosed by:
 - (a) A nonclimbable fence as described in Subsection A; or
 - (b) In the case of aboveground private swimming pools having smooth exterior sides less than five feet in height or having a perimeter deck accessible only by ladder, stairs or similar device, a suitable nonclimbable fence or barricade extending upward from the edge of the exterior pool side or the surrounding deck, as the case may be, provided that the top of any such fence or barricade extension shall be at least five feet above the ground.
 - (2) Aboveground private swimming pools having smooth exterior sides extending five feet or greater above the ground shall not require any additional fencing under this section.
- C. Attached ladders, stairs or similar access devices used in connection with aboveground private swimming pools not enclosed by fencing as described in Subsection A above shall swing out of the way and be maintained as not usable when the pool is not in use. If a movable ladder is used for getting in and out of such a pool, it shall be inaccessible to small children when an adult is not present.

§ 163-3. Enforcement; other regulations. [Amended 4-28-1997 STM by Art. 2]

The provisions of this chapter shall be monitored and enforced by the Building Commissioner and shall be in addition to, and not in lieu of, any other laws and regulations applicable to the construction or use of private swimming pools.

Chapter 171**TREES****GENERAL REFERENCES**

Scenic roads — See Ch. 158, Art. IV.

§ 171-1. Replacement of public shade trees.

Whenever public shade trees are cut down or removed there shall be planted by the Tree Warden by the end of the following fiscal year at least one tree of caliper two inches or larger for each four cut down or removed. The Tree Warden may plant the trees in the public ways or, if he/she deems it expedient, upon adjoining land, at a distance not exceeding 20 feet from said public ways, for the purpose of improving, protecting, shading or ornamenting the same, provided that an easement shall first be obtained from the owner of such adjoining land in accordance with MGL c. 87, § 7.

Chapter 177**UTILITIES, UNDERGROUND****GENERAL REFERENCES**

Streets and sidewalks — See Ch. 158.

§ 177-1. Construction of poles and overhead wires prohibited.

No utility shall install or construct, except by way of replacement or upgrading of existing facilities, any poles and overhead wires and associated overhead structures upon, along or across any public way within the parts of the town listed in § 177-2 herein. Any poles and overhead wires and associated overhead structures installed or constructed in violation of this chapter shall be immediately removed by the utility responsible therefor.

§ 177-2. Applicability.

This chapter applies to the following parts of town:

- A. Any new way within a new subdivision approved by the Planning Board.
- B. Any way in which the wires and utility facilities are underground as of the effective date of this chapter.

§ 177-3. Violations and penalties.

- A. Any person who installs or constructs any poles and overhead wires and associated overhead structures which are in violation of §§ 177-1 and 177-2 herein shall be punished by a fine of not less than \$1,000 and not more than \$5,000.
- B. Any person who fails to remove immediately any poles and overhead wires and associated overhead structures which are in violation of §§ 177-1 and 177-2 herein shall be punished by a fine of not less than \$1,000 and not more than \$5,000 for each consecutive fifteen-day period during which the failure continues.

§ 177-4. Construal of provisions.

This article implements MGL c. 166, § 22C and associated sections and shall be construed in a manner consistent with these sections and with the definitions in MGL c. 166, § 22A.

Chapter 190**WATER****GENERAL REFERENCES**

Swimming pools — See Ch. 163.

Aquifer Protection District — See Ch. 300.

Water Department
Division 4.

Regulations — See

ARTICLE I

Restrictions on Use**[Adopted 5-6-1998 ATM by Art. 14]****§ 190-1. Statutory authority. [Amended 4-10-2008 ATM by Art. 5]**

This article is adopted by the Town of Wayland under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq. and under the Town of Wayland's authority to regulate water use through its Board of Public Works pursuant to Chapter 80 of the Acts of 1878. This article also implements the Town of Wayland's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection (DEP).

§ 190-2. Purpose.

The purpose of this article 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 of Wayland or by the DEP.

§ 190-3. Definitions.

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

PERSON — Any individual, corporation, trust, partnership or association or other entity.

STATE OF WATER SUPPLY CONSERVATION — A state of water supply conservation declared by the town pursuant to § 190-4 of this article.

STATE OF WATER SUPPLY EMERGENCY — A state of water supply emergency declared by the DEP under MGL c. 21G, §§ 15 through 17.

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

**§ 190-4. Declaration of state of water supply conservation.
[Amended 4-10-2008 ATM by Art. 5]**

The town, through its Board of Public Works, may declare a state of water supply conservation upon a 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 water consumers. Public notice of a state of water conservation shall be given under § 190-6 of this article before it may be enforced.

§ 190-5. Restricted water uses.

A declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 190-6.

- A. Odd/even day outdoor watering: Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days.
- B. Outdoor water ban: Outdoor watering is prohibited.
- C. Outdoor watering hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a state of water supply conservation and public notice thereof.
- D. Filling swimming pools: Filling of swimming pools is prohibited.
- E. Hand watering only: Outdoor watering is limited to watering by hand only. The use of an outdoor sprinkler device is prohibited.

§ 190-6. Public notification of state of water supply conservation; notification to DEP.

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. Any restriction imposed under § 190-5 shall not be effective until such notification is provided. Notification of the state of water supply conservation shall also be simultaneously provided to the DEP.

§ 190-6.1. Exemptions. [Added 11-17-1999 STM by Art. 6; amended 4-10-2008 ATM by Art. 5]

After a declaration of a state of water supply conservation, the town, through its Board of Public Works, may fully or partially exempt certain water users from the restrictions imposed. Exemptions shall only be granted after a determination by a majority vote of the Board of Public Works that the following conditions exist:

- A. That the water restriction imposes a hardship, financial or otherwise, on the water user seeking an exemption which is more severe than the hardship imposed upon water customers in general; and
- B. The exemption may be granted without a substantial detriment to the water system.

**§ 190-7. Termination of state of water supply conservation.
[Amended 4-10-2008 ATM by Art. 5]**

A state of water supply conservation may be terminated by a majority vote of the Board of Public Works, 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 required by § 190-6.

§ 190-8. State of water supply emergency; compliance with DEP orders.

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

§ 190-9. Violations and penalties. [Amended 11-17-1999 STM by Art. 6]

A. Any person violating this article shall be subject to the following:

- (1) First offense: written reprimand by Director of Public Works or other person(s) designated in writing by the Director of Public Works. Written reprimand shall include a copy of this article, Chapter 190. **[Amended 4-10-2008 ATM by Art. 5; 5-13-2010 ATM by Art. 18]**
- (2) Second offense: a fine in the amount of \$100 and written notification by certified and regular mail that an additional violation may result in a termination of water service and a charge to reconnect water service as set forth below. Actual proof of receipt of this notice is not required.
- (3) Third and each subsequent offense: notice of termination of water services in no less than seven days shall be served upon the water customer by a duly appointed constable for the Town of Wayland. The notice shall be served to the water customer in hand or left at the address given for billing purposes and mailed to that address. Notice shall include a statement that the water customer may appeal a decision to terminate water services by requesting a hearing before the Board of Public Works. Water service may be terminated seven days after receipt of the notice to terminate or after a majority vote of the Board of Public Works if the water customer has requested a hearing. Receipt of the notice shall be presumed to be three days after the notice is mailed or the day of in hand service. After water service has been terminated, a reconnection fee of \$275 during normal business hours, or reconnection fee of \$275 plus overtime fee of \$200 after normal working hours, will be charged prior to renewing water service. Payment of the above must be made before reconnection. In lieu of

terminating water services, the Board of Public Works by a majority vote may assess a fine in the amount of \$200 for the third offense and each subsequent offense. **[Amended 4-10-2008 ATM by Art. 5]**

- B. Fines shall be recovered by indictment or on complaint before the District Court or by noncriminal disposition in accordance with Massachusetts General Laws Chapter 40, Section 21D. After favorable disposition to the Town of Wayland, any outstanding unpaid fines shall be placed on the water customer's water bill. The enforcing person shall be the Director of Public Works or his/her designee. Each day of violation during the same calendar year shall constitute a separate offense. **[Amended 5-13-2010 ATM by Art. 18]**

§ 190-10. Severability.

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

Chapter 191

LAWN IRRIGATION SYSTEMS

GENERAL REFERENCES

Water — See Ch. 190.

**Water Department
Division 4.**

Regulations — See

§ 191-1. Statutory authority. [Amended 4-10-2008 ATM by Art. 5]

This bylaw is adopted by the Town of Wayland under its common law police powers to protect public health and welfare, MGL c. 40, § 21, and under the Town of Wayland's authority to regulate water use through its Board of Public Works pursuant to Chapter 80 of the Acts of 1878.

§ 191-2. Purpose.

The purpose of this bylaw is to protect, preserve and maintain the public water supply, health, safety and welfare of the citizens of the Town of Wayland.

§ 191-3. Definitions.

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

OUTDOOR UNDERGROUND WATER SPRINKLER SYSTEM — Any underground sprinkler device, together with all pipes appurtenant thereto, used to water outside areas, and hereafter referred to as "system" or "systems." Aboveground sprinklers attached to hoses and existing systems, so long as they are not expanded, are specifically exempt from the provisions of this article.

PERSON — Any individual, corporation, trust, partnership or association or other entity.

PUBLIC WATER SUPPLY — Any water which is fully or partially drawn from a well operated by the Town of Wayland.

THIS BYLAW — Chapter 191 of the Code of the Town of Wayland.

WATER CUSTOMER — Any individual, corporation, trust, partnership or association or other entity that owns property which is receiving water from the public water supply.

§ 191-4. Certain outdoor underground water sprinkler systems prohibited.

No person shall install or expand a system which is connected to the public water supply if said system, after installation or expansion covers, an area greater than 15,000 square feet or more.

§ 191-5. Application for installation or expansion of certain systems.

No person shall install or expand a system connected to the public water supply, which covers an area of 15,000 square feet or less unless an application has been made to pursuant to this bylaw and approval of said installation or expansion has been approved pursuant to this bylaw.

§ 191-6. Types of applications.

- A. Any application for the installation or expansion of a system which covers an area of 5,000 square feet or less shall be made by completing the short-form application.
- B. Applications for the installation or expansion of a system which covers an area of more than 5,000 square feet and less than or equal to 15,000 square feet shall be made by completing the long-form application.
- C. Any municipally owned field which uses prudent water conservation practices shall be exempt from the 15,000-square-foot limit for new installations or expansions of existing irrigation systems. All irrigation improvements will be limited to the playing field area. All irrigation systems are subject to applicable regulations as well as approval by the Board of Public Works as Water Commissioners. Nothing in this bylaw shall limit the authority of the Board of Public Works to implement water restrictions, including for municipal irrigation systems. **[Added 11-15-2016 STM by Art. 1]**

§ 191-7. System requirements.

- A. All systems installed or expanded under this bylaw shall be installed or expanded pursuant to all local and state laws and regulations and shall include a backflow device (approved by the Department of Public Works), a rain gauge, a moisture detector, a programmable automatic timer and a shut-off valve. **[Amended 5-13-2010 ATM by Art. 18]**
- B. All systems installed or expanded under this bylaw shall obtain an appropriate plumbing permit from the Gas and Plumbing Inspector of the Town of Wayland.
- C. All systems installed or expanded under this bylaw shall be maintained pursuant to the regulations of the Board of Public Works. **[Amended 5-13-2010 ATM by Art. 18]**
- D. All systems installed or expanded under this bylaw shall be installed outside of any road easements, which run in the favor of the Town of Wayland, and any roads owned by the Town of Wayland.
- E. No portion of a system shall be installed or expanded within 50 feet of bordering vegetated wetlands.

- F. No portion of a system shall be installed or expanded within 25 feet of the leaching area or a tank of a sanitary septage system.

§ 191-8. Approval process.

- A. Fees. All applications to install or expand a system shall include an application fee of \$50.
- B. The application shall include the name and address of the property owner and the installer, acknowledgement of the requirements of this bylaw, a drawing and calculation of the area covered by the system and any additional information the Board of Public Works requires to reasonably identify and evaluate the compliance of the proposed system. **[Amended 4-10-2008 ATM by Art. 5]**
- C. The Director of Public Works or his/her designee shall approve the short-form application if s/he determines that said system covers a land area of 5,000 square feet or less and complies with the provisions of this bylaw. **[Amended 5-13-2010 ATM by Art. 18]**
- D. The long-form application shall be approved by the Board of Public Works or designee if the Board of Public Works or designee determines that said system covers a land area of 15,000 square feet or less and complies with the provisions of this bylaw. **[Amended 4-10-2008 ATM by Art. 5]**

§ 191-9. Rules and regulations. [Amended 4-10-2008 ATM by Art. 5]

The Wayland Board of Public Works shall have the authority and duty to adopt, issue and administer any additional rules and regulations necessary for the administration, operation and enforcement of outdoor underground water sprinkler systems connected to the public water supply. Any such rules and regulations shall be consistent with the provision of this bylaw.

§ 191-10. Violations and penalties.

Any person violating this bylaw shall be subject to the following:

- A. Written notification of a violation by the Director of Public Works or his/her designee. Said notification shall include a demand that said system comply with the bylaw within 30 days' receipt of the notification or that said system be removed. **[Amended 4-10-2008 ATM by Art. 5; 5-13-2010 ATM by Art. 18]**
- B. A fine of \$250 per day for each day after the initial 30 days that the system is in violation of this bylaw.
- C. After the initial 30 days, a notice of termination of water services in no less than seven days may be served upon the water customer by a duly appointed Constable of the Town of Wayland. The notice shall be served to the water customer in hand or left at the address given for billing purposes and mailed to that address. Notice shall include a statement

that the water customer may appeal a decision to terminate water services by requesting a hearing before the Board of Public Works. Water service may be terminated seven days after receipt of the notice to terminate or after a majority vote of the Board of Public Works, if the water customer has requested a hearing. Receipt of the notice shall be presumed to be three days after the notice is mailed or the day of in-hand service. After water service has been terminated, a reconnection fee of \$275 during normal business hours, or reconnection fee of \$200 after normal working hours, will be charged prior to renewing water service. Payment of said fees must be made before reconnection. In lieu of terminating water services, the Board of Public Works, by a majority vote, may assess a fine in the amount of \$250 per day for each day after the initial 30 days that the system is in violation of this bylaw. **[Amended 4-10-2008 ATM by Art. 5]**

- D. Fines shall be recovered by indictment or on complaint before the District Court or by noncriminal disposition in accordance with MGL c. 40, § 21D. After disposition favorable to the Town of Wayland, any outstanding unpaid civil fines shall be placed on the water customer's water bill. The enforcing person shall be the Director of Public Works or his/her designee. **[Amended 5-13-2010 ATM by Art. 18]**

§ 191-11. Severability.

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

Chapter 193

STORMWATER AND LAND DISTURBANCE

GENERAL REFERENCES

Wetlands and water resources — See Ch. 194.
Aquifer Protection District — See Ch. 198, Art. 16.

Zoning — See Ch. 198.

Site plan review and approval — See Ch. 302.

Subdivision of land — See Ch. 303.

§ 193-1. Purposes and objectives.

- A. The purpose of this chapter is to:

- (1) Protect the quantity and quality of water recharge to the Town's water supply aquifers;
- (2) Protect cold water fisheries and other designated outstanding water resources from discharges of toxic pollutants, nutrients, and temperature changes;

- (3) Protect and enhance wildlife habitat;
 - (4) Protect streams, rivers, and private property from additional flood damage from changed flow patterns.
- B. This chapter seeks to implement these goals through the following objectives:
- (1) Complement and expand upon the requirements of state and federal statutes and regulations relating to stormwater and illicit discharges;
 - (2) Establish provisions for long-term responsibility for and maintenance of structural stormwater control facilities/devices and nonstructural stormwater management practices to ensure they continue to function as designed, are maintained, and pose no threat to public safety;
 - (3) Ensure that soil erosion control measures, sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
 - (4) Require that new development and redevelopment maintain the pre-development hydrologic characteristics in the post-development state as nearly as practicable in order to reduce flooding, stream bank erosion, and non-point source pollution, to maintain the integrity of stream channels and aquatic habitats and to provide protection from property damage.
 - (5) Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration and peak flow rate of stormwater runoff; establish minimum design criteria for BMP measures to minimize point and non-point source pollution from stormwater runoff which would otherwise degrade water quality;
 - (6) Control the volume and rate of stormwater runoff resulting from land disturbance activities; establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development, redevelopment and land conversion activities from damages due to increases in volume, velocity, frequency, duration and peak flow rate of stormwater runoff;
 - (7) Establish minimum design criteria for BMP measures to minimize point and non-point source pollution from stormwater runoff which would otherwise degrade water quality;

- (8) Require that there be no increase in post-development discharge from storm drainage systems or any other changes in post-development conditions that alter the post-development watershed boundaries;
 - (9) Require that all catch basin discharge points or other point source discharge points shall be designed with structures to disperse stormwater energy;
 - (10) Encourage the use of non-structural stormwater management and low-impact stormwater site design standards such as reducing impervious cover and the preservation of open space and other natural areas;
 - (11) Require practices to control waste such as discarded building materials, truck washouts, chemicals, litter and sanitary waste at construction sites that may cause adverse impacts to water quality;
 - (12) Ensure compliance with the provisions of this bylaw through inspection, monitoring and enforcement;
 - (13) Establish provisions to ensure there is an adequate funding mechanism, including a performance guarantee, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this chapter;
 - (14) Establish administrative procedures and fees for the submission, review, approval or disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.
- C. Nothing in this chapter is intended to replace the requirements of Chapter 194 of the Town Code, the Town's Wetlands and Water Resources Bylaw, or any other bylaw that may be adopted by the Town.

§ 193-2. Definitions.

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

ALTER — Shall include, but is not limited to, one or more of the following actions upon areas described in this bylaw:

- A. The removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- B. The changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood storage retention areas;
- C. The drainage or disturbance of the water level or water table; the dumping, discharging or filling with any material or drainage which could degrade the water quality;

- D. The driving of piles; erection of buildings or structures of any kind;
- E. The placing of obstructions, including docks and piers, whether or not they interfere with the flow of water;
- F. The destruction of plant life, including the cutting of trees;
- G. The changing of water temperature, biochemical oxygen demand and other natural characteristics of the receiving water;
- H. Any activity, change or work which pollutes or degrades the quality of any stream, body of water, wetland, buffer zone, or water resource area, whether located in or out of the Town of Wayland;
- I. The flowage of water, piped or otherwise channelized, through irrigation or other unnatural means into or onto any wetlands, buffer zones, and related water resources.

AUTHORIZED ENFORCEMENT AGENT — The Wayland Conservation Commission, hereinafter the Commission, its employees or agents designated to enforce this chapter.

BEST MANAGEMENT PRACTICE (BMP) — Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment.

- A. Structural BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff.
- B. Nonstructural BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN — Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and open space, reducing impervious cover, and using natural features for stormwater management.

CLEARING — Any activity that removes the vegetative surface cover.

CONSTRUCTION AND WASTE MATERIALS — Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at construction sites that may adversely impact water quality.

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

DISCHARGE — A general outflow term including flow from a pipe into a stream, or from a stream to a body of water.

- A. DISCHARGE POINT — The outlet of a pipe or a particular location along a stream.

- B. DISCHARGE (FLOW) RATE — Volume of water passing a particular point in a given time.
- C. DISCHARGE (FLOW) VOLUME — Includes both sheet runoff and point source discharges from pipes or stream channels.

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

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

ILLICIT DISCHARGE — Any direct or indirect discharge to the municipal separate storm sewer system and municipal storm drain system that is not composed entirely of stormwater, except for projects exempted by this bylaw or regulations issued thereunder. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltration to the underlying soils. "Impervious surface" includes without limitation roads, paved parking lots, sidewalks, stone patios, decking, and rooftops.

INFILTRATION — The movement of water downward into the soil. Infiltration is important to replenishing the groundwater.

LAND-DISTURBING ACTIVITY — Any activity including clearing, the removal of trees and other vegetation that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LAND USE CONVERSION ACTIVITY — Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns.

LOCAL GENERAL PERMIT — Work permitted by right under this chapter, providing that there is an approved erosion and sediment control plan for the land-disturbing activity.

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, MGL c. 131, § 40, and the Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage

system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Wayland.

NATURAL VEGETATED STATE — Ground covers of native plants species and other trees, shrubs, and/or grasses that are not mowed more than twice a year.

NEW DEVELOPMENT — Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

NON-POINT SOURCE POLLUTION — Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

NPDES PERMIT — National Pollutant Discharge Elimination System, a permit program of the Clean Water Act administered by the Environmental Protection Agency, Region I, for the Commonwealth of Massachusetts.

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

OUTFALL — A pipe or conduit discharging water.

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

POST-DEVELOPMENT — The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion and does not refer to the construction phase of the project.

PRE-CONSTRUCTION — All activity in preparation for construction.

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Any ground surface disturbing construction, alteration, demolition, or improvement of a parcel of land that currently lacks a natural vegetated state and contains alterations by man-made activities.

RUNOFF — Water from precipitation, rainfall, snowmelt, or irrigation, which flows broadly over the ground surface as opposed to a channel. Also called "stormwater runoff" or "direct runoff."

- A. **RUNOFF VOLUME** — The total volume of water that occurs as direct runoff from a given rainfall event.
- B. **RUNOFF RATE** — The volume of water passing a particular point in a given period of time, often expressed as cubic feet per second.

C. TOTAL RUNOFF — Includes both sheet or non-point runoff (water flowing over the ground and point sources from stream channels/pipes).

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

SEDIMENTATION — The process or act of deposition of sediment.

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

SLOPE — The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

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

STABILIZATION — The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER — Runoff from precipitation or snowmelt, surface water and drainage.

STORMWATER MANAGEMENT AND LAND DISTURBANCE PERMIT (SMLDP) — The permit issued following a review of an application, plans, calculations and other supporting documents, which is designed to protect the environment of the Town of Wayland from deleterious effects of uncontrolled and untreated stormwater runoff.

STRIP — Any activity that removes vegetative ground surface cover, including, but not limited to, tree removal, clearing, grubbing, and storage or removal of topsoil.

TOTAL SUSPENDED SOLIDS (TSS) — A measure of the sediments in a unit volume of water. Small particles of mineral and organic matter that are suspended within water runoff. TSS does not include sediment fractions larger than two millimeters in size.

VERNAL POOL — Any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways, which normally holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species. In addition this definition, shall include any vernal pool certified by the Natural Heritage and Endangered Species Program (NHESP) of the Massachusetts Division of Fisheries and Wildlife.

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

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

WAYLAND'S WETLANDS AND WATER RESOURCES PROTECTION BYLAW
— Chapter 194 of the Town Code.

WETLAND RESOURCE AREA — Areas specified in the Massachusetts Wetlands Protection Act and/or in Wayland's Wetlands and Water Resources Bylaw.

WETLANDS — Wet meadows, marshes, swamps, bogs, and other areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a hydrophilic plant community, or emergent and submergent plant communities in inland waters.

§ 193-3. Authority.

This chapter is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution.

§ 193-4. Applicability.

- A. This chapter shall apply to all new development and redevelopment within the Town of Wayland, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that is likely to result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that is likely to alter the drainage characteristics of a parcel of land, unless exempt pursuant to § 193-4B of this chapter. An SMLDP shall be required for all new development and redevelopment regulated by this chapter.
- B. Exemptions. No person shall alter land within the Town of Wayland without having obtained an SMLDP for the property, except for the following activities:
 - (1) Any activity disturbing an area less than 5,000 square feet; or 10% of the lot area, whichever is less;
 - (2) Any activity creating new impervious surface or increasing existing impervious surfaces less than a total of 500 square feet;
 - (3) Normal maintenance and improvement of land in agricultural use as defined in 310 CMR 10.04 and MGL c. 40A, § 3;
 - (4) Construction and repair of septic systems when required and approved by the Board of Health for the protection of public health and in compliance with Massachusetts Title V requirements, providing no other local permit is needed and the applicant has implemented a soil erosion plan that includes the use of sediment barriers, temporary and permanent soil stabilization specifications, and containment of erodible materials;
 - (5) Projects wholly within the jurisdiction of the Commission and requiring an Order of Conditions pursuant to the Wetlands

Protection Act and/or a wetlands permit pursuant to Chapter 194 of the Town Code;

- (6) Construction activities associated with utilities (gas, water, electric, telephone, fiber-optic cable) other than drainage, which will not permanently alter terrain, ground cover or drainage patterns;
- (7) Emergency repairs to any stormwater management facility or practice that poses a threat to public health or public safety or as deemed necessary by the Commission;
- (8) Any work or projects for which all necessary approvals and permits have been issued prior to the effective date of this chapter;
- (9) Construction or reconstruction of an existing stonewall and all other retaining walls less than 12 feet in length that will not deter drainage or runoff;
- (10) The construction of any fence that will not alter existing terrain or drainage patterns;
- (11) The repair or replacement of an existing roof of a single-family dwelling;
- (12) Municipal activities for public safety or public health such as water line flushing, street sweeping and dye testing, provided notification is given to the Authorized Enforcement Agency.

§ 193-5. Administration.

- A. The Conservation Commission shall administer and implement this chapter.
- B. Stormwater and land disturbance regulations. The Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection and/or consultant), procedures and administration of this chapter by majority vote of the Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing date shall be advertised in a newspaper of general local circulation, at least seven days prior to the hearing date. After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure of the Commission to promulgate such rules and regulations shall not act to suspend or invalidate the effect of this chapter.
- C. Waiver: The Commission may waive strict compliance with any requirement of this chapter or the rules and regulations promulgated hereafter, where such action:
 - (1) 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 objectives of this chapter.

§ 193-6. Procedures.

Permit procedures and requirements shall be defined and included as part of any rules and regulations promulgated as permitted under § 193-5 of this law.

§ 193-7. Enforcement.

The authorized enforcement agent shall enforce this chapter, regulations, orders, violation notices, and enforcement orders, and may pursue all civil (noncriminal) and criminal remedies for such violations.

§ 193-8. Severability.

The invalidity of any section, provision, paragraph, sentence, or clause of this chapter shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

Chapter 194

WETLANDS AND WATER RESOURCES PROTECTION

GENERAL REFERENCES

Boats and boating — See Ch. 101.

Zoning — See Ch. 198.

Dudley Pond — See Ch. 109.

Aquifer Protection District — See Ch. 300.

Hunting and trapping — See Ch. 120.

Conservation cluster development — See Ch. 301.

Pesticides — See Ch. 143.

Site plan review and approval — See Ch. 302.

Trees — See Ch. 171.

Subdivision of land — See Ch. 303.

§ 194-1. Purpose.

The purpose of this chapter is to provide a greater degree of protection of wetlands, buffer zones, and related water resources, than the protection of these resource areas provided under MGL c. 131, § 40, and the Wetlands Regulations promulgated thereunder by the Massachusetts Department of Environmental Protection. This greater degree of protection shall be by pre-construction review and control of activities deemed by the Conservation Commission likely to alter, degrade, or have an adverse cumulative effect upon wetland values and functions, including but not limited to the following: public or private water supply, groundwater, flood control,

erosion and sedimentation control, storm damage prevention, water pollution prevention, stormwater quality, water quality, fisheries, unusual plants, wildlife, wildlife habitat, passive recreation and aquaculture values (collectively, the "wetland values protected by this chapter").

§ 194-2. Definitions.

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

ALTER — Includes, but is not limited to, one or more of the following actions upon areas described in this chapter:

- (1) The removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- (2) The changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood storage retention areas;
- (3) The drainage or disturbance of the water level or water table, the dumping, discharging or filling with any material or drainage which could degrade the water quality;
- (4) The driving of piles, erection of buildings or structures of any kind;
- (5) The placing of obstructions, including docks and piers, whether or not they interfere with the flow of water;
- (6) The destruction of plant life, including the cutting of trees;
- (7) The changing of water temperature, biochemical oxygen demand and other natural characteristics of the receiving water;
- (8) Any activity, change or work which pollutes or degrades the quality of any stream, body of water, wetland, buffer zone, or water resource area whether located in or out of the Town of Wayland;
- (9) The flowage of water, piped or otherwise channelized, through irrigation or other unnatural means into or onto any wetlands, buffer zones, and related water resources.

APPLICANT — Any person who files a determination of applicability (RDA) as to whether this chapter applies to any area or work thereon or any person who files a notice of intent (NOI) to do work within such area to build, remove, fill, dredge, discharge into, or alter a wetlands, buffer zone and/or related water resource.

BANKS — Land adjoining any body of water which serves to confine said water, the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

BOG — An area where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational

community has a significant portion of the ground or water surface covered with sphagnum moss and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all of, the following plants or groups of plants: aster, azaleas, black spruce, larch, laurels, leatherleaf, orchids, pitcher plants, sedges, sundews, sweet gale, or white cedar.

BUFFER ZONE — Unless otherwise specified herein, any land whichever is the greater distance of the following:

- (1) One hundred feet horizontally lateral from the edge of any bog, marsh, wet meadow, swamp, pond, vernal pool, bank, streambed, lake, stream or any other resource area specified in this chapter; or
- (2) One hundred feet horizontally lateral from the water elevation of the one-hundred-year storm, or land subject to flooding or inundation.

BYLAW — Chapter 194 of the Code of the Town of Wayland.

LAND SUBJECT TO FLOODING OR INUNDATION — A protected water resource, except as noted in the definition of "stream," means an area of depression in topography, isolated depression, low lying land, or closed basin which floods periodically and/or serves as a ponding area of ground or surface water. This area may also border a freshwater vegetated wetlands as a result of a hydrologic connection with a freshwater wetlands, marsh, bog, wet meadow, swamp, creek, river, stream, pond, or lake or other water body during any storm event up to and including the one-hundred-year storm event.

- (1) Such area shall be 500 square feet or greater in surface area and may include vernal pools.
- (2) Land subject to flooding or inundation shall include the area shown on the Federal Emergency Management Agency Flood Profile, Town of Wayland one-hundred-year flood elevation, as most recently amended.
- (3) TR-20 computer program (Computer Program for Project Formulation — ater during any storm event (up to and including the one-hundred-year storm event based upon a twenty-four-hour seven-inch rainfall), hydrophilic vegetation (wetland indicator plants), and/or hydric soils. The lateral extent of flooding may be determined by: the most recent Federal Management Flood Profile one-hundred-year flood elevation for the Town of Wayland, the elevation that is reached by the amount of water from a one-hundred-year storm event determined either by visual observation, or by calculation using the Soil Conservation Service hydrologic model TR-20 computer program (Computer Program for Project Formulation - Hydrology, Soil Conservation Service Technical Release 20, Washington, D.C., 1983) for a twenty-four-hour, seven-inch rainfall event.

MARSH — An area where a vegetational community exists in standing or running water during the growing season and where at least 50% of the vegetational community is composed of, but not limited to nor necessarily including all of, the following plants or groups of plants: arums, bladderworts, bur-reeds, buttonbush, cattails, duckweeds, eelgrass, frog bits, horsetails, hydrophilic grasses, leatherleaf, pickerel weeds, pipeworts, pond weeds, rushes, sedges, smartweeds, sweet gale, water milfoil, water lilies, water starworts or water willow.

PERSON — Includes any individual, group of individuals, associations, partnerships, corporations, business organizations, trust, estate, Commonwealth of Massachusetts when subject to Town bylaws; any public or quasi-public corporation or body when subject to town bylaws; any other legal entity, including the Town of Wayland or its legal representatives, agents or assigns.

POND — Any open body of freshwater, either naturally occurring or manmade by impoundment, with a surface area observed or recorded within the last 10 years of at least 10,000 square feet and which is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, "extended drought" shall mean any period of four or more months during which the average rainfall for each month is 50% or less of the ten-year average for that same month. Basins or lagoons, which are part of wastewater treatment plants, shall not be considered "ponds," nor shall swimming pools or other impervious man-made retention basins.

RIVERFRONT AREA — That area of land situated between a perennial stream's mean annual high-water line and a parallel line located a maximum of 200 feet away, measured outward horizontally from the stream's mean annual high-water line. The Commission may, after a public hearing, designate a riverfront area of less than 200 feet for a densely developed area. This definition shall not create a buffer zone, so-called, beyond such riverfront area. The riverfront area shall not apply to any mosquito control work for the improvement of low lands and swamps and the eradication of mosquitoes under MGL c. 252.

STREAM — A body of running water, and the land under the water, including brooks, creeks, and man-made watercourses, which moves in a definite channel in the ground due to hydraulic gradient in a definable path. A portion of a stream may flow through a culvert, pipe, or beneath a bridge. A stream may be intermittent (i.e., does not flow throughout the year).

SWAMPS — An area where groundwater is at or near the surface of the ground for not less than two consecutive weeks of the growing season or where runoff water from surface drainage frequently collects above the soil surface and where at least 50% of the vegetational community is made up of, but is not limited to nor necessarily includes all of, the following plants or groups of plants: alders, ashes, azaleas, black alder, black spruce, buttonbush, American or white elm, highbush blueberry, larch, cowslip, poison sumac, red maple, skunk cabbage, sphagnum

mosses, spicebush, black gum tupelo, sweet pepperbush, white cedar or willow.

VERNAL POOL — Includes, in addition to any vernal pool certified by the Massachusetts Division of Wildlife and Fisheries Natural Heritage and Endangered Species Program, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways, which normally holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species.

WETLAND — Wet meadows, marshes, swamps, bogs, and other areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a hydrophilic plant community, or emergent and submergent plant communities in inland waters.

WET MEADOW — An area where groundwater is at or near the surface of the ground for not less than two consecutive weeks of the growing season or where runoff water from surface drainage frequently collects above the soil surface and where at least 50% of the vegetational community is composed of various grasses, sedges and rushes; made up of, but not limited to nor necessarily including all of, the following plants or groups of plants: blue flag, vervain, thoroughwort, dock, false loosestrife, hydrophilic grasses, loosestrife, marsh fern, sensitive fern or smartweed.

- B. The Conservation Commission may, in its rules and regulations, provide such other definitions or terms used in this chapter not inconsistent therewith, as it deems useful in order to carry out its obligations under this chapter.

§ 194-3. Procedure.

- A. No person shall remove, fill, dredge, build upon, discharge onto or otherwise or alter any bank, freshwater wetland, marsh, bog, wet meadow, swamp, vernal pool, creek, river, stream, pond or lake or any land under said waters, or any buffer zone, or any land subject to flooding or inundation, or riverfront area other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services without first filing either a request for a determination (RDA) of applicability or a notice of intent (NOI) to so remove, fill, dredge, build upon, discharge, or otherwise alter, including such plans as may be necessary to fully describe such proposed activity and its effect on the environment and without receiving and complying with a permit issued by the Conservation Commission. Said applications shall be made in

conjunction with any required filings under MGL c. 131, § 40. Said request for determination of applicability or notice of intent shall be sent by certified mail or hand delivered to the Conservation Commission. Each such notice or determination shall be accompanied by a filing fee to be established by the Conservation Commission in accordance with a fee schedule adopted by the Conservation Commission pursuant to MGL c. 40, § 22F, payable to the Town of Wayland.

- B. Copies of a request for determination of applicability or a notice of intent shall be sent at the same time, by certified mail or by hand delivery, to the Board of Health. Such determination of applicability or notice of intent may be sent before any or all permits, variances and approvals required by the Zoning Bylaw⁹ or by the Subdivision Control Law¹⁰ and the regulations of the Planning Board hereunder have been obtained; however the filing shall note if such permits, variance and approvals are required.
- C. Upon receipt from any person of a request for determination of applicability, the Conservation Commission shall within 30 days make a written determination as to whether this chapter is applicable to any land or work thereon. This determination shall be made after a public meeting to consider the request for a determination of applicability. Notice of the date, time, and place of said meeting shall be given by the Conservation Commission at the expense of the applicant, not less than seven days prior to such hearing by publication in a newspaper of general circulation in Wayland, and by delivering or mailing a notice thereof to the applicant, Board of Health, the Town Surveyor, Road Commissioners, Surface Water Quality Committee, Building Commissioner, Planning Board, to abutters of the land (property owners within 100 feet of the activity/parcel, as determined by the most recent Assessors' records) on which the proposed activity is to take place and to such other persons as the Conservation Commission may determine. Where such person is other than the owner, notice of any such determination and notice of the Commission's decision, shall be sent to the owner, abutters, Building Commissioner, and to the person making such request.

§ 194-4. Public hearing.

The Conservation Commission shall hold a public hearing on the proposed activity within 30 days of the receipt of said notice of intent. Notice of the date, time, and place of said hearing shall be given by the Conservation Commission at the expense of the applicant, not less than seven days prior to such hearing by publication in a newspaper of general circulation in Wayland, and by delivering or mailing a notice thereof to the applicant, Board of Health, the Town Surveyor, Road Commissioners, Building

9. Editor's Note: See Ch. 198, Zoning.

10. Editor's Note: See Ch. 303, Subdivision of Land.

Commissioner, Surface Water Quality Committee, Planning Board, to abutters of the land (as determined by the most recent Assessors' records) on which the proposed activity is to take place and to such other persons as the Conservation Commission may determine. The Conservation Commission, the Town Surveyor, the Planning Board, their agents, officers and employees may enter upon privately owned land without liability of any kind for the purpose of performing their duties under this section.

- A. If, after said hearing, the Conservation Commission determines that the wetland, related water resource area, vernal pool, pond, or buffer zone on which the proposed work is to be done is likely to be significant to the protection of the values and functions of the wetlands, related water resource area, and buffer zone by impacting the public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, stormwater quality, water quality, fisheries, shellfish, unusual plants, wildlife, wildlife habitat, passive recreation and aquaculture values the Commission shall, by written order, within 21 days or such time as the Commission and the applicant agree on, impose such conditions as are reasonably necessary for the protection of the interests described herein, and all work shall be done in accordance therewith. Said order shall be known as a "wetlands and water resources permit" and may be issued in conjunction with an order of conditions issued pursuant to MGL c. 131, § 40. The conditions may include a condition that certain land or portions thereof not be built upon or altered, filled or dredged; that streams not be diverted, dammed or otherwise disturbed.
- B. If the Conservation Commission makes a decision that the proposed activity does not require the imposition of such conditions, the applicant and all others who have received notice of such hearing by mail shall be notified of such decision within 21 days after said hearing.
- C. The Conservation Commission shall not impose additional or more stringent conditions as a result of any hearing conducted by it pursuant to MGL c. 131, § 40 than it has imposed pursuant to the provisions of this chapter nor shall it require from an applicant who filed a notice of intention pursuant to MGL c. 131, § 40 additional materials or data than is required of him/her pursuant to the application filed under this chapter.
- D. Wetlands and water resources permits shall expire three years from the date of issuance. An applicant may apply for an extension at least 30 calendar days prior to the expiration of the permit or extension and the Commission may deny a request for an extension, may require a new notice of intent, may make a new determination of applicability grant extensions for up to three years each. Notice of any decision or extensions of time granted an applicant shall be filed with the Town Clerk.

§ 194-5. Exemptions.

This chapter shall not apply to any emergency project as defined in MGL c. 131, § 40 provided that a plan is given to the Conservation Commission within 30 days of the abatement of the emergency and provided that the Conservation Commission may, after notice and public hearing, require restoration or mitigation measures including such structural changes as it deems feasible and necessary to protect the wetlands values and functions of this chapter, or to any work performed for normal maintenance or improvement of land actively devoted to agricultural, horticultural, floricultural, silvaculture, or viticultural use at the time of application, provided however that further encroachment into an area subject to this chapter or an increase in impervious surface does not constitute normal maintenance.

§ 194-6. Responsibility.

- A. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this chapter, or in violation of any determination or permit issued under this chapter, shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless such action is commenced within three years following the recording or registration of the deed or vesting of title through death showing the date or the death by which such real estate was acquired by such person.
- B. The Board of Selectmen may, upon request of the Conservation Commission, instruct the Town Counsel to take such legal action as may be necessary to restrain a violation of this chapter and enforce the orders of the Conservation Commission hereunder.

§ 194-7. Rules and regulations.

The Conservation Commission may, after a public hearing, notice of which shall be given to other Town Boards and by posting a legal advertisement in a newspaper with general circulation in the Town of Wayland at least seven days prior to such public hearing, promulgate rules and regulations to effectuate the purposes of this chapter. However, failure by the Commission to promulgate such rules and regulations or a legal declaration of the invalidity of any such rules and regulations by a court of law shall not act to suspend or invalidate the effect of this chapter.

§ 194-8. Burden of proof.

- A. The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the notice of intent will not cause harm to the functions and values sought to be protected by this chapter.

- B. Failure to provide to the Conservation Commission adequate evidence to determine that the proposed work will not cause harm to the functions and values sought to be protected by this chapter shall be sufficient cause to deny such wetlands and water resources permit or to grant such a wetlands and water resources permit with such conditions as the Commission deems reasonably necessary or desirable to carry out the purposes of this chapter or to postpone or continue the hearing to another date certain to enable the applicant and others to present additional evidence.

§ 194-9. Security.

The Conservation Commission may, as part of its wetlands and water resources permit, require, in addition to any security required by any other Town or state board, commission, agency or officer, that the performance and observance of the conditions imposed hereunder be secured by one, or in part by one and in part by the other, of the methods described in the following Subsections A and B:

- A. By a proper bond or a deposit of money or negotiable securities, sufficient in the opinion of the Conservation Commission to secure performance of the conditions and observance of the safeguards of such order of conditions.
- B. By a covenant, executed and duly recorded by the owner of record, running with the land, whereby the conditions and safeguards included in such order of conditions shall be performed before any lot may be conveyed, other than by mortgage deed.

§ 194-10. Penalties.

Whoever violates any provision of this chapter may be assessed a civil fine of not more than \$300. Each day or portion thereof of a continuing violation may constitute a separate offense. This chapter may be enforced by any Town police officer, other officer having police powers, or agents of the Conservation Commission.

§ 194-11. Appeals.

A decision of the Conservation Commission relative to a wetlands and water resources permit shall be reviewable in the Superior Court in accordance with MGL c. 249, § 4.

§ 194-12. Relation to Wetlands Protection Act.

This chapter 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 Wetlands Regulations 310 CMR 10.00 promulgated hereunder by the Massachusetts Department of Environmental Protection.

§ 194-13. Effect of partial invalidity.

A determination of the invalidity of any section or provision of this chapter by a court of competent jurisdiction shall not invalidate any other section or provision thereof, nor shall it invalidate any wetlands and water resources permit or conditions therein which has previously become final.

Chapter 196**HISTORIC DISTRICTS****GENERAL REFERENCES**

**Community Preservation Committee — See Zoning — See Ch. 198.
Ch. 75.**

Planning Board Regulations — See Division 3.

ARTICLE I

Historic District; Purpose; Governance; Appointments; Officers**§ 196-1. Purpose.**

196-101.1. The purpose of this bylaw is to promote the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Wayland, the maintenance and improvement of settings of such buildings and settings, and the encouragement of design compatible with the existing architecture.

§ 196-2. Definitions.

196-102.1. As used in this bylaw, the following terms shall have the following meanings, unless otherwise stated:

TO ALTER, ALTERATION — To rebuild, reconstruct, restore, remove, demolish or other similar activities, including a change in exterior color.

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

CERTIFICATE — A certificate of appropriateness, a certificate of nonapplicability, or a certificate of hardship as set forth in this bylaw.

CHAPTER 40C — Chapter 40C of the Massachusetts General Laws.

COMMISSION — The Historic District Commission as established by this bylaw.

TO CONSTRUCT, CONSTRUCTION — To build, erect, install, enlarge, move and other similar activities.

DISTRICT — The historic districts established pursuant to Chapter 40C and this bylaw consisting of one or more district areas.

EXTERIOR ARCHITECTURAL FEATURES — 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.

PERSON AGGRIEVED — The applicant, an owner of adjoining property, an owner of property within the same historic district as property within 100 feet of said property lines and any charitable corporation which has as one of its purposes the preservation of historic structures or districts.

SIGN — Any symbol, design, or device used to identify or advertise any place of business, product, activity or person.

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

THIS BYLAW — Chapter 196 of the Code of the Town of Wayland.

§ 196-3. District.

196-103.1. The district shall consist of one or more district areas as listed in § 196-201 of this bylaw and as delineated in the map or maps identified in § 196-201 of this bylaw.

196-103.2. Prior to the establishment of additional districts, an investigation and report on the historical and architectural significance of the buildings, structures or sites to be included in the proposed district shall be made by the existing district commission(s) acting as an historic district study commission pursuant to the provisions of Chapter 40C, Sections 3 and 4. The buildings, structures or sites to be included in the proposed district may consist of one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land. Copies of the report shall be transmitted to the Planning Board and to the Massachusetts Historical Commission for their respective consideration and recommendations. Not less than 60 days after such transmittal, the study committee shall hold a public hearing on the report after due notice given at least fourteen days prior to the date thereof, which shall include a written notice mailed postage prepaid, to the owners as they appear on the most recent real estate tax list of the Board of Assessors of all properties to be included in such district or districts. The committee shall submit a final report with its recommendations, a map of the proposed district or districts and a draft of the proposed bylaw to the Town Meeting for its consideration. Adoption of such bylaw shall require a 2/3 vote of the Town Meeting.

196-103.3. In the case of the enlargement or reduction of an existing district, the investigation, report and hearing shall be conducted by the historic district commission having jurisdiction over such district. In the case of a creation of an additional historic district, the investigation, report and hearing shall be conducted by the existing historic district commission or commissions acting jointly if there is more than one historic district commission, provided, however, that the existing historic district commission(s) may relinquish all power relative to the establishment of an additional district(s) as permitted by Chapter 40C, Section 3, in which event an historic district study committee shall be appointed by the Selectmen to perform all acts required of historic district commission(s) for the establishment of additional districts.

196-103.4. A district created pursuant to this bylaw or any amendment to the boundaries of an existing district shall not become effective until a map or maps setting forth the boundaries of the new district, or the change in the boundaries of an existing district has been filed with the Town Clerk and recorded in the Middlesex South Registry of Deeds.

§ 196-4. District Commissions.

196-104.1. The district(s) shall be administered by a Commission consisting of seven members, appointed by the Board of Selectmen. Initial terms shall be as follows: two members shall be appointed for one year; two members shall be appointed for two years and three members shall be

appointed for three years. The Board of Selectmen shall fill the vacancies in membership arising from expired terms by appointments for a term of three years. Appointments to membership shall be so arranged that the term of at least one member will expire each year, and their successors shall be appointed in the same manner as the original appointment. Any vacancy in the membership of the Commission shall be filled for the unexpired portion of any member's term by the Board of Selectmen.

196-104.2. A Commission shall include one member from two nominees submitted by the local chapter of the American Institute of Architects; one realtor from two nominated by the Board of Realtors covering Wayland; one member from two nominees submitted by the Wayland Historical Society; and one or more resident(s) or property owner(s) in an historic district administered by the Commission. If within 30 days after submission of a written request for nominees to any of the organizations herein named no such nominations have been made, the Selectmen may proceed to appoint members without nomination by such organization.

196-104.3. The Board of Selectmen may appoint up to two alternate members to the Commission. Alternate members need not be from nominees of organizations entitled to nominate members. In the event that a permanent member is absent or unable to act for any reason, the Chairman of the Commission shall designate an alternate member to act in place of a permanent member. The initial appointments of alternate members shall be for terms of two or three years, with appointments thereafter being for three year terms.

196-104.4. Each member and alternate member to a Commission shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

196-104.5. Meetings of a Commission shall be held at the call of the Chairman, at the request of two permanent members and in such other manner as the Commission shall determine.

196-104.6. Four members of a Commission shall constitute a quorum.

§ 196-5. District Commission powers and duties.

196-105.1. The Commission shall regulate the construction and/or alteration of any building(s) or structure(s) within the district over which it has jurisdiction in accordance with the provisions of Chapter 40C and the procedures and criteria established by this bylaw. Except as otherwise provided in § 196-106 of this bylaw, no building or structure within a district shall be constructed or altered in any way that affects exterior architectural features unless the Commission having jurisdiction over that district shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration.

196-105.2. The Commission may adopt and/or amend reasonable rules and regulations which are consistent with the provisions of this bylaw and with Chapter 40C, and which set forth such procedures as it deems desirable and necessary for the regulation of and conduct of its business, including requirements for the contents and form of applications for certificates, fees, hearing procedures, and other matters. The Commission shall file a copy of any such rules and regulations with the Town Clerk.

196-105.3. A Commission shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman, and Secretary from among the permanent members, and file notice of such election with the Town Clerk.

196-105.4. The Commission shall keep a permanent record of its decisions, transactions, resolutions, and of the vote of each member participating therein.

§ 196-6. Procedures for review of applications for certificates of appropriateness, nonapplicability and hardship.

196-106.1. Any person who desires to obtain a certificate from the Commission shall file an application with the Commission. The application shall be accompanied by such plans, elevations, specifications, photographs, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application. The date of the filing of an application shall be the date on which a copy of such application is received at the Town Building. The Commission shall determine within 14 days after the filing of an application for a certificate whether the application involves any exterior architectural features which are subject to approval by the Commission.

196-106.2. If the application involves any exterior architectural features which are subject to review and approval under this bylaw, the Commission shall hold a public hearing within 45 days after the filing of a completed application for a certificate of appropriateness or a certificate of hardship unless additional time is agreed to by both the applicant and the Commission or unless such hearing is dispensed with as provided in § 196-106.3 of this bylaw. At least 14 days before said public hearing, public notice shall be given by posting in the Town Building and in a newspaper of general circulation in Wayland. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and to other property owners deemed by the Commission to be materially affected thereby, and to any person filing written request for notice of hearings and to such other persons as the Commission shall deem entitled to notice.

196-106.3. A public hearing on an application for a certificate need not be held if such hearing is waived in writing by all persons entitled to notice

thereof. In addition, a public hearing on an application for a certificate may be waived by the Commission if the Commission determines that the exterior architectural feature involved or its category, as the case may be, is so insubstantial in its effect on the district that it may be reviewed by the Commission without public hearing on the application, provided, however, that if the Commission dispenses with a public hearing on an application, notice of the application shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as above provided, and 10 days shall elapse after the mailing of such notice before the Commission may act upon such application.

196-106.4. A Commission shall render a decision within 60 days after the filing of a completed application for a certificate of appropriateness unless further time for a decision is allowed, in writing, by the applicant. If the Commission shall fail to make a determination within 60 days, the Commission shall thereupon issue a certificate of hardship.

196-106.5. In the case of a disapproval of an application for a certificate of appropriateness, the Commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefor as set forth in the records of the Commission, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, materials, and similar features. Prior to the issuance of any disapproval, the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission. If within 14 days of the receipt of such notice the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a certificate of appropriateness to be issued to the applicant.

196-106.6. The concurring vote of a majority of the members of the Commission shall be required to issue a certificate.

196-106.7. In issuing certificates, the Commission may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this bylaw.

196-106.8. If the Commission determines that the construction or alteration for which an application for a certificate of appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the district, the Commission shall issue a certificate of appropriateness.

196-106.9. If a Commission determines that an application for a certificate of appropriateness or for a certificate of nonapplicability does not involve any exterior architectural feature, or involves an exterior architectural

feature which is not subject to review by the Commission, the Commission shall cause a certificate of nonapplicability to be issued to the applicant.

196-106.10. If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a certificate of hardship, the Commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to public welfare and without substantial derogation from the intent and purposes of this ordinance. If the Commission determines that owing to such conditions failure to approve the application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the Commission shall issue a certificate of hardship.

196-106.11. Each certificate issued by the Commission shall be dated and signed by the chairman or such other person designated by the Commission to sign such certificates on its behalf.

196-106.12. The Commission shall send a copy of certificates and disapprovals issued to the applicant and shall file a copy with the Town Clerk and the Building Commissioner.

196-106.13. Any person aggrieved by a determination of the Commission, may, within 20 days of the filing of the notice of such determination with the Town Clerk, file a written request with the Commission for a review by a person or persons of competence and experience in such matters, designated by the Metropolitan Area Planning Council. The finding of the reviewers shall be filed with the Town Clerk within 45 days after the request, and shall be binding on the applicant and the Commission, unless further appeal is sought by commencing an action in superior court as provided in Chapter 40C, section 12A. The filing of such further appeal shall occur within 20 days after the finding of the reviewers has been filed with the Town Clerk.

§ 196-7. Criteria for determinations.

196-107.1. In deliberating on applications for certificates, 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.

196-107.2. In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and

structures in the vicinity, and the Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable zoning bylaw.

196-107.3. The Commission shall not consider interior arrangements or architectural features not subject to public view.

196-107.4. The Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the district.

196-107.5. Nothing in this bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within a district which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of any bylaw or amendment thereto listing a specified district.

196-107.6. The Commission may determine from time to time after a public hearing, duly advertised and posted at least 14 days in advance in a conspicuous place in the Town Building and in a newspaper of general circulation in Wayland, that certain categories of exterior architectural features, colors, structures or signs, including, without limitation any of those enumerated under G.L. c. 40C § 8, under certain conditions may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of this bylaw.

§ 196-8. Exclusions.

196-108.1. This bylaw shall not adopt any items for exclusions from review as set forth in Chapter 40C Section 8.

§ 196-9. Enforcement.

196-109.1. The Commission, as defined herein, is authorized to institute any and all actions and proceedings, in law or in equity, in any court of competent jurisdiction, pursuant to the provisions of Chapter 40C, Section 13, as amended, or its successor, as it deems necessary and appropriate to obtain compliance with the requirements of this bylaw and the determinations, rulings and regulations issued pursuant thereto. Whoever violates any of the provisions of this bylaw shall be punished by a fine not exceeding \$300 for each offense. Each day any violation of this bylaw shall continue shall constitute a separate offense.

§ 196-10. Severability.

196-110.1. The provisions of this bylaw shall be deemed to be severable. If any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction the remaining provisions shall continue in full force and effect.

ARTICLE II
Establishment of Districts

§ 196-11. Wayland Historic District; establishment, boundaries.

There is hereby established pursuant to Massachusetts General Laws Chapter 40C and this bylaw, an historic district known as the "Wayland Historic District." The location and boundaries of the Wayland Historic District are defined and shown on the map entitled "Plan Showing Proposed Historic District Changes in Wayland, Massachusetts 2001 Annual Town Meeting" dated 2-1-2001, which map is attached to and made part of this bylaw.¹¹ This district includes the original district established pursuant to a vote of the 1965 Annual Town Meeting on March 10, 1965, as shown on a plan entitled "Plan of Proposed Historic District" dated January 19, 1965, and enlarged by vote of the 1966 Annual Town Meeting on March 9, 1966, the 1973 Annual Town Meeting on March 9, 1973, the 1994 Annual Town Meeting on April 28, 1994, the 1995 Annual Town Meeting on May 1, 1995, the 2000 Annual Town Meeting on April 27, 2000 and the 2001 Annual Town Meeting on April 26, 2001. Said plan is recorded as plan number 1036 of 2001 in the Middlesex County Registry of Deeds.

§ 196-12. Bow Road Historic District; establishment, boundaries.

There is hereby established pursuant to Massachusetts General Laws Chapter 40C and this bylaw, an historic district known as the Bow Road Historic District, bounded and described as shown on the map entitled, "Plan of Land in Wayland, Massachusetts showing Bow Road Historic District," dated September 25, 2003, which map is attached to and made part of this bylaw.¹² Said plan is recorded as plan number 1208 of 2003 in the Middlesex County Registry of Deeds.

11.Editor's Note: Said map is on file in the Town offices.

12.Editor's Note: Said map is on file in the Town offices.

Chapter 197**STRETCH ENERGY CODE****§ 197-1. Definitions.**

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) 2009 — The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency.

STRETCH ENERGY CODE — Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

§ 197-2. Purpose.

The purpose of 780 CMR 120 AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

§ 197-3. Applicability.

The Stretch Energy Code applies to residential and commercial buildings. Buildings not included in the scope of this code shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

§ 197-4. Stretch Energy Code.

The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications thereto, is herein incorporated by reference into this chapter.

§ 197-5. Enforcement.

The Stretch Energy Code shall be enforced by the Building Commissioner.

Chapter 198**ZONING****GENERAL REFERENCES**

Billboards and advertising signs — See Ch. 97. Conservation cluster development — See Ch. 301.

Aquifer Protection District — See Ch. 300. Site plan review and approval — See Ch. 302.

Subdivision of land — See Ch. 303.

ARTICLE 1
General Provisions

§ 198-101. Purpose. [Amended 4-7-2011 ATM by Art. 19]

101. For the purpose of promoting the health, safety, convenience, and welfare of the inhabitants of the Town of Wayland, the height, number of stories and size of buildings and structures; the size and width of lots; the portion of a lot that may be built upon; the size of yards and other open spaces; the intensity and usage of lots; and the location and use of buildings, structures and land for trade, industry, residence or other purposes are hereby regulated and restricted as herein provided.

101. The Town of Wayland is divided into the districts hereinafter specified, and their regulations and restrictions are established as herein provided, all with the purpose of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

§ 198-102. Applicability. [Amended 4-7-2011 ATM by Art. 19]

102. The regulations and restrictions set forth in this Zoning Bylaw for each of the districts defined and described herein shall apply to the erection, construction, reconstruction, alteration and/or use of all buildings, structures, and/or land in the Town of Wayland. **[Amended 4-30-1975 ATM by Art. 28; 4-28-1986 ATM by Art. 25]**

§ 198-103. Severability.

103. The invalidity of one or more articles, sections, paragraphs, sentences, clauses or provisions of this Zoning Bylaw shall not invalidate or impair any other part of this Zoning Bylaw nor invalidate this Zoning Bylaw as a whole. **[Amended 5-3-1993 ATM by Art. 19]**

§ 198-104. Definitions.

104. Unless otherwise expressly stated, words used in this Zoning Bylaw shall have the definitions in, first, the Zoning Act (MGL c. 40A, § 1A) or, if not defined in said section of said Act, then in this Article, or, if not defined in either said Act or in this Article, then in the most recent edition of the Code of Massachusetts Regulations (CMR), the Massachusetts State Building Code (the Building Code) or, successor code. Additional definitions applicable to particular provisions, including overlay districts, in this Zoning Bylaw may be found under the particular Article regulating those districts. **[Amended 4-30-1975 ATM by Art. 31; 5-3-1993 ATM by Art. 17; 4-7-2011 ATM by Art. 19]**

104. As used in this Zoning Bylaw, the following terms shall have the meanings indicated: **[Amended 5-2-1996 STM by Art. 3; 5-7-1997 ATM by Art. 38]**

ACCESSORY DWELLING UNIT — A dwelling unit located in a single-family dwelling, or a building accessory thereto, and occupying no more than 35% of the combined gross floor area of the accessory dwelling unit and the principal single-family dwelling.**[Amended 4-7-2011 ATM by Art. 19]**

ACCESSORY STRUCTURE — A building or structure, the use of which is customarily incidental to, and located on the same lot with, the building or structure to which it is accessory.**[Amended 4-7-2011 ATM by Art. 19]**

ACCESSORY USE — A use of land, building(s), or structure(s) customary with, and incidental to, any permitted use and located on the same lot with, the use to which it is accessory, or on an adjacent lot under the same ownership, including a garage for three cars or fewer, carport, noncommercial greenhouse, toolshed, barn, swimming pool, and tennis court.**[Amended 4-7-2011 ATM by Art. 19]**

AFFORDABLE DWELLING UNIT (ADU) — A residential unit that is restricted in its sale, lease or rental to a qualified income-eligible household at specific price limits that qualify such residential unit for inclusion in the Chapter 40B Inventory of Subsidized Housing maintained by the Commonwealth of Massachusetts Department of Community Affairs, Department of Housing and Community Development.**[Added 5-4-2005 STM by Art. 1]**

AGRICULTURE — Farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.**[Added 4-7-2011 ATM by Art. 19]**

ASSISTED/INDEPENDENT LIVING — See Article 21.**[Added 4-7-2011 ATM by Art. 19]**

AUTOMOBILE SALES — The use of any building, structure, or lot for the display and sale of new or used automobiles, including light trucks, vans, trailers or recreational vehicles, and any accessory vehicle preparation and repair work associated with such sale.**[Added 4-7-2011 ATM by Art. 19]**

AUTOMOBILE SERVICE GARAGE — The use of any building, structure or lot for the repair of automobiles, including light trucks, vans, trailers or recreational vehicles.**[Added 4-7-2011 ATM by Art. 19]**

AUTOMOBILE SERVICE STATION — The use of any building, structure, or lot for the sale of vehicular fuels, service and repair of automobiles, including light trucks, vans, trailers or recreational vehicles, and any accessory use and sale of products related to such sales and service.**[Added 4-7-2011 ATM by Art. 19]**

BATHROOM — A room equipped for taking a bath or shower.**[Added 4-7-2011 ATM by Art. 19]**

BOARDINGHOUSE — An establishment in which permanent lodging is provided for consideration to more than three persons unrelated to the owner or proprietor. Boardinghouse includes dormitories.**[Added 4-7-2011 ATM by Art. 19]**

BOAT OR CANOE RENTAL — The rental, storage, maintenance and repair of small boats and canoes, non-motorized or no more than 10 horsepower, and equipment and accessories customarily incidental to their normal operation, including outboard motors and boat trailers; seasonal sale of boats and occasional sale of accessory items.**[Added 4-7-2011 ATM by Art. 19]**

BUILDING — A structure with a roof supported by columns or walls and intended to shelter people, animals or goods.¹³**[Added 4-7-2011 ATM by Art. 19]**

BUILDING HEIGHT — The distance, measured vertically from the average grade to the highest roof element.**[Amended 4-7-2011 ATM by Art. 19]**

CONSERVATION LAND — Land that is left in its natural state or which is improved with trails and resource management programs that do not significantly alter the land's natural state.**[Added 4-7-2011 ATM by Art. 19]**

CONSTRUCTION YARD — An establishment for storage of lumber and other construction supplies, materials, and equipment.**[Added 4-7-2011 ATM by Art. 19]**

DEP — Massachusetts Department of Environmental Protection, or any successor agency.

DHCD — Massachusetts Department of Housing and Community Development, or any successor agency.

DRIVE-IN, DRIVE-THROUGH OR DRIVE-UP RESTAURANT — An establishment, the principal business of which is the sale of food or beverages in a ready-to-consume state and for which the method of operation includes sale of food or beverages in paper, plastic, or other disposable container or service of food or beverages directly to a consumer in a vehicle.**[Added 4-7-2011 ATM by Art. 19]**

DRIVE-IN, DRIVE-THROUGH OR DRIVE-UP USES — A retail or consumer service use of a building, structure or lot, other than a

13. Editor's Note: The former definition of "building envelope," added 5-3-2000 ATM by Art. 32, which followed, was repealed 4-7-2011 ATM by Art. 19.

restaurant, in which the business transacted is conducted by a customer or client from within a vehicle.**[Added 5-5-1999 STM by Art. 11; amended 4-7-2011 ATM by Art. 19]**

DWELLING, ATTACHED (ATTACHED DWELLING) — A building designed or occupied as a residence and separated from another attached dwelling on one or both sides, either by a vertical party wall or walls or by a contiguous wall or walls, without side yards.**[Added 5-5-1999 STM by Art. 11; amended 4-7-2011 ATM by Art. 19]**

DWELLING, DETACHED (DETACHED DWELLING) — A building that is designed or occupied as a residence and that is separated by side yards from any other building or structure or structures except accessory buildings or structures.**[Added 5-5-1999 STM by Art. 11; amended 4-7-2011 ATM by Art. 19]**

DWELLING, MULTIFAMILY (MULTIFAMILY DWELLING) — A building containing more than two dwelling units.**[Added 5-5-1999 STM by Art. 11; amended 4-7-2011 ATM by Art. 19]**

DWELLING, SINGLE-FAMILY (SINGLE-FAMILY DWELLING) — A dwelling unit for one housekeeping unit.**[Added 4-7-2011 ATM by Art. 19]**

DWELLING UNIT (DWELLING) — A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation; but no trailer, trailer coach or mobile home, whether or not self-propelled, and whether or not the wheels thereof may have been removed, shall be construed to be a dwelling.**[Amended 5-5-1999 STM by Art. 11; 4-7-2011 ATM by Art. 19]**

EARTH — Includes soil, loam, sand, gravel, clay, rock or other natural minerals and peat, and any combination of such materials.**[Added 5-6-2004 ATM by Art. 23; amended 4-7-2011 ATM by Art. 19]**

EDUCATIONAL — Educational uses exempt from regulation by the Zoning Act (MGL c. 40A, § 3).**[Added 4-7-2011 ATM by Art. 19]**

FLOOR AREA, GROSS (GROSS FLOOR AREA) — The sum of all floor areas within the perimeter of the outside walls of the building under consideration, without deduction for bathrooms, toilet compartments, lavatories, hallways, stairs, closets, thickness of walls, columns or other features; but excluding unfinished basements, cellars and attics, space used for mechanical systems, garages, and areas open to below such as foyer spaces, balconies, and two-story atriums.¹⁴**[Amended 5-5-1999 STM by Art. 11; 4-7-2011 ATM by Art. 19]**

FLOOR AREA RATIO — The gross floor area of all buildings and structures on a lot divided by the total lot area.

14. Editor's Note: The former definition of "floor area, net," which immediately followed this definition, was repealed 4-7-2011 ATM by Art. 19.

FRONTAGE — The linear extent of the front of a lot measured along the street lot line of the right-of-way from the intersection of one side lot line to the intersection of the other lot line of the same lot along the same right-of-way. Noncontiguous frontage shall not be considered with regard to meeting frontage requirements. A building lot that is located on more than one street may not combine frontage on the streets and shall have the minimum frontage requirement on one such street.**[Added 5-5-1999 STM by Art. 11; amended 5-3-2000 ATM by Art. 32; 4-7-2011 ATM by Art. 19]**

GRADE — A reference plane representing the average of finished ground adjoining the building at all exterior walls, established by the lowest points within the area between the building and a point six feet from the building.¹⁵

HAZARDOUS MATERIAL STORAGE — Storage or disposal of hazardous materials.**[Added 4-7-2011 ATM by Art. 19]**

HEAVY VEHICLE REPAIR GARAGE — Establishment for the repair of trucks, construction equipment or other similar heavy motor vehicles and equipment, and vehicle body work shop, provided that the making of all but minor repairs must be conducted wholly within a building sufficiently sound insulated to confine noise to the lot.**[Added 4-7-2011 ATM by Art. 19]**

HOME OCCUPATION, CUSTOMARY (CUSTOMARY HOME OCCUPATION) — Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit or an accessory structure. Said occupation to include but are not necessarily limited to the following: sale of antiques; dressmaking, sewing and tailoring; letting of rooms; telephone solicitation work; tutoring; home crafts; studio for artist or craftsman; office for doctor, dentist, attorney, real estate agent, insurance agent, accountant, stock broker, engineer, architect, landscape architect, musician, writer, data programming, sales representative; and tradesperson, such as electrician, plumber, and carpenter. Where customary home occupations are permitted by the Table of Accessory Uses § 198-804, no dwelling or accessory structure so used shall be reconstructed or enlarged for such purposes unless specifically permitted under the provisions of § 198-203.**[Added 4-30-2001 ATM by Art. 25; amended 4-7-2011 ATM by Art. 19]**

HOSPITAL — A licensed sanitarium or hospital.**[Added 4-7-2011 ATM by Art. 19]**

HOUSEKEEPING UNIT — One or more persons living together and sharing the same kitchen facilities, water services and energy services.

JUNKYARD — A commercial salvage yard, commercial junkyard, or all open-air storage of junk, waste products, and salvage materials,

15. Editor's Note: The former definition of "habitable space," which immediately followed this definition, was repealed 4-7-2011 ATM by Art. 19.

including non-operative motor vehicles.**[Added 4-7-2011 ATM by Art. 19]**

KENNEL — The maintenance of dogs and suitable shelters therefor.**[Added 4-7-2011 ATM by Art. 19]**

LAVATORY — A room fitted for plumbing fixtures for washing the hands and face and water closets.**[Added 4-7-2011 ATM by Art. 19]**

LIGHT MANUFACTURING — Manufacturing that employs electricity, and/or other quiet motive power, utilizes hand labor, and/or quiet machinery, and/or processes and that is free from neighborhood-disturbing odors or other neighborhood-disturbing characteristics such as noise or dust.**[Added 4-7-2011 ATM by Art. 19]**

LOT — An area of land in one ownership with definite external boundaries and without any other legal boundaries or lines that are internal to said external boundaries, excepting easements.**[Amended 4-7-2011 ATM by Art. 19]**

MASSDOT — Massachusetts Department of Transportation, formerly MassHighway Department, or any successor agency.**[Added 4-7-2011 ATM by Art. 19]**

MEDICAL/DENTAL CARE CENTER — A center for medical, dental, clinical and public health service and supporting services for the foregoing, such as offices and laboratories.**[Added 4-7-2011 ATM by Art. 19]**

MEMBERSHIP CLUB, FOR PROFIT — Membership clubs and nongovernmental recreational facilities devoted to outdoor sports, recreational or social activities, including buildings and lots, when the chief activity is customarily carried out as a gainful business.¹⁶**[Added 4-7-2011 ATM by Art. 19]**

MEMBERSHIP CLUB, NONPROFIT — Membership clubs and nongovernmental recreational facilities devoted to outdoor sports, recreational or social activities, including buildings and lots, except when the chief activity is customarily carried out as a gainful business.**[Added 4-7-2011 ATM by Art. 19]**

MOVE or MOVEMENT — To dig, excavate, remove, deposit, fill, grade, replace, level, or otherwise alter or change the location or contour of land.**[Added 5-6-2004 ATM by Art. 23]**

MUSEUM or LIBRARY — A museum or library open to the public or connected with a permitted educational use and not conducted as a for-profit business.**[Added 4-7-2011 ATM by Art. 19]**

NONCONFORMING USE OF BUILDING, STRUCTURE, OR LOT — An existing use of a building, structure, or lot that does not conform to the Zoning Bylaw.**[Amended 4-7-2011 ATM by Art. 19]**

16. Editor's Note: The former definition of "MHD," which followed, was repealed 4-7-2011 ATM by Art. 19.

NURSERY SCHOOL or DAY-CARE — Nursery school and day-care centers and other facilities that receive children of school or preschool age for temporary custody, with or without stated educational purposes, during all or part of the day.**[Added 4-7-2011 ATM by Art. 19]**

NURSING HOME — A licensed nursing, rest or convalescent home for the care of the sick or aged. No nursing home may be located within 30 feet of any lot line.**[Added 4-7-2011 ATM by Art. 19]**

OFFICE — A business, government or professional office; a medical office, including laboratories incidental thereto.**[Added 4-7-2011 ATM by Art. 19]**

PARKING FACILITY — A commercial parking lot or garage for four or more vehicles.**[Added 4-7-2011 ATM by Art. 19]**

PERSONAL AND OTHER SERVICE ESTABLISHMENTS — Any establishment providing services involving the care of a person or his or her apparel or establishments providing services to the general public or to other business establishments, including a repair shop for household or office items.¹⁷**[Added 4-7-2011 ATM by Art. 19]**

PUBLIC OR CHARITABLE INSTITUTION — A public or charitable institution not of a correctional nature, provided that no building shall be within 30 feet of any lot line.**[Added 4-7-2011 ATM by Art. 19]**

RAILROAD STATION/RAILROAD RIGHT-OF-WAY — Railroad passenger stations or rights-of-way, including customary services therein, but not including switching, storage or freight yards or sidings.**[Added 4-7-2011 ATM by Art. 19]**

RECREATION/PARK — Parks; water supply reservations; public military and veterans memorials and monuments; and recreational facilities owned or operated by the Town.**[Added 4-7-2011 ATM by Art. 19]**

RELIGIOUS — Places of worship and other religious uses exempted from regulation by the Zoning Act (MGL c. 40A, § 3).**[Added 4-7-2011 ATM by Art. 19]**

RESEARCH AND DEVELOPMENT LABORATORIES/OFFICES — An establishment for carrying on investigations in the natural, physical, or social sciences, including engineering and product development.**[Added 4-7-2011 ATM by Art. 19]**

RESTAURANT — An establishment for the serving and consumption of food and beverages inside a building at tables or counters.**[Added 4-7-2011 ATM by Art. 19]**

RETAIL STORE — A store, showroom or salesroom for the sale, preparation and display of merchandise within a building. Garden centers, florists or commercial greenhouses may have open-air displays of horticultural products. Retail stores may have seasonal open-air displays of merchandise.**[Added 4-7-2011 ATM by Art. 19]**

17. Editor's Note: The former definition of "premises," which followed, was repealed 4-7-2011 ATM by Art. 19.

RIGHT-OF-WAY — The full strip of land, whether public or private, designated for vehicular and sometimes pedestrian traffic, consisting of the pavement or traveled way and any planting strips and sidewalks. A right-of-way so designated shall be available only for such uses as are customary for rights-of-way in the Town of Wayland and shall not be available for any private construction, such as buildings, fuel tanks, septic systems, fences, walls or paved parking areas.

ROADSIDE STAND — A farm stand for the sale of produce.**[Added 4-7-2011 ATM by Art. 19]**

ROADSIDE STAND (ACCESSORY) — For yearly terms only, a roadside stand for the sale of produce of the land of the owner and of other land within the Town, provided that the front yard regulations are complied with.**[Added 4-7-2011 ATM by Art. 19]**

SETBACK — The shortest distance from the lot line or right-of-way to the wall of a building or structure facing thereon.**[Added 5-5-1999 STM by Art. 11; amended 4-7-2011 ATM by Art. 19]**

SPGA — Special permit granting authority.

STOR(E)Y — That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

STREET — Any public way used for vehicular traffic, or any private way used as a public way for such traffic.**[Amended 5-5-1999 STM by Art. 11]**

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like. The word "structure" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."

STUDIO — A place for art, music, dance and similar activities or classes.**[Added 4-7-2011 ATM by Art. 19]**

TOWN — The Town of Wayland (unless used generically with no capitalization).

TRADE SHOP — A shop used by practitioners of the building trades, provided that all work and storage shall be conducted within a building.**[Added 4-7-2011 ATM by Art. 19]**

UTILITY FACILITY — A building housing facilities for communications or other utility uses.**[Added 4-7-2011 ATM by Art. 19]**

WAREHOUSE/DISTRIBUTION — A building for the enclosed storage of goods and materials where the wholesale sale of goods or materials is permitted, provided that such sale is incidental to the warehouse use.**[Added 4-7-2011 ATM by Art. 19]**

WIRELESS COMMUNICATIONS FACILITY — A structure which may include a tower, one or more antennas and one or more accessory

structures designed to facilitate the following types of services: cellular telephone service, personal communications service and enhanced specialized mobile radio service.**[Amended 5-7-1997 ATM by Art. 32]**

YARD, FRONT — The space extending across the full width of the lot and lying between the front lot line or lines and the nearest point of the building or structure.**[Amended 5-5-1999 STM by Art. 11; amended 4-7-2011 ATM by Art. 19]**

YARD, REAR — The space extending across the full width of a lot and lying between the nearest point of the building or structure and the rear lot line, or the corner of a triangular lot farthest from the front lot line in the case of a triangular lot with only one lot line along a right-of-way.**[Amended 5-5-1999 STM by Art. 11; 4-7-2011 ATM by Art. 19]**

YARD, SIDE — The space between a side lot line of a lot and the nearest point of the building or structure, and extending from the front yard to the rear yard.**[Amended 5-5-1999 STM by Art. 11; amended 4-7-2011 ATM by Art. 19]**

ZBA — The Wayland Zoning Board of Appeals.

ARTICLE 2

Administration and Enforcement**§ 198-201. Zoning Board of Appeals. [Amended 4-30-1975 ATM by Art. 33; 5-5-1993 ATM by Art. 28; 4-7-2011 ATM by Art. 19]**

201.A. Zoning Board of Appeals (ZBA) consisting of five members shall be appointed by the Board of Selectmen and shall have the powers as provided for in the Zoning Act, MGL, c. 40A, and in this Zoning Bylaw. As provided for in c. 379 the Acts of 1996, the ZBA members shall be appointed for terms of three years. The Board of Selectmen shall also appoint three associate members of the ZBA as provided for in MGL c. 40A, § 12. Each associate member shall be appointed for a term of three years and shall participate in ZBA proceedings as provided for in MGL c. 40A, § 12. The ZBA shall have the following powers:

201.1¹⁸. To permit a substitution for, or an extension or alteration to, an existing building, whether conforming or nonconforming, in accordance with provisions on use.

201.To2.grant temporary and conditional permits for nonconforming uses, buildings, and structures incidental to the development of the use, building, or structure.

201.To3grant special permits pursuant to § 198-203 for the conversion of a house for a single dwelling unit existing on September 5, 1934, into a house for two dwelling units, provided that: **[Amended 3-20-1974 ATM by Art. 43; 4-30-1975 ATM by Art. 31; 4-16-1980 ATM by Art. 20]**

201.The1ot on which the house is located conforms to the area and frontage regulations set forth in this Zoning Bylaw in effect at the time that the application for a permit shall have been filed;

201.Eac2.dwelling unit shall have its own kitchen and at least one bathroom;

201.Eac3.dwelling unit shall have sufficient space to park two automobiles off street; and

201.A.34 disposal works construction permit for such use shall have been granted by the Board of Health.

201.To4.grant special permits provided for in this Zoning Bylaw. **[Amended 4-30-1975 ATM by Art. 31; 6-21-1978 ATM by Art. 6; 4-22-1980 by Art. 24; 4-28-1986 ATM by Art. 28]**

18. Editor's Note: Former Section 201.1.1, which provided the ZBA with the power to adapt requirements of the Zoning Bylaw to irregular, unusual, narrow or shallow lots, and which immediately preceded this section, was repealed 5-14-1998 ATM by Art. 53. Said Art. 53 also redesignated former Sections 201.1.2 through 201.1.6 as Sections 201.1.1 through 201.1.5, respectively.

201. To hear and decide petitions for variances for use or activity pursuant to the provisions of MGL c. 40A, § 10.

§ 198-202. Permit application. [Amended 4-7-2011 ATM by Art. 19]

202. Every application for a special permit under § 198-203 shall be accompanied by a plot plan prepared and certified by a professional land surveyor and a written description of the lot, the existing buildings and structures thereon and the location of any proposed building or structure on the lot, together with plans for any proposed building or structure, and shall in every case comply with the provisions of this Zoning Bylaw and the regulations of the ZBA or Planning Board, as may be the special permit granting authority.

§ 198-203. Special permits; requirements and conditions. [Amended 5-2-1983 ATM by Art. 12; 4-7-2011 ATM by Art. 19]

203. The Building Commissioner may not issue a building permit for a use, building, or structure for which a special permit is required unless the special permit granting authority, the ZBA or the Planning Board, as applicable, shall have issued a special permit. Upon application for such a special permit, the special permit granting authority shall give public notice by publication in a newspaper and by mail to the applicant and to the owners of all property who are entitled to be notified, as provided for in MGL c. 40A. The special permit granting authority shall hold a hearing, render a decision and take final action on the application as provided for in MGL c. 40A. The applicant shall show to the satisfaction of the special permit granting authority that the use, building, or structure for which application is made shall not be against the public interest, shall not derogate from the character of the neighborhood in which such use, building, or structure is to occur and shall not be detrimental or offensive because of noise, vibration, smoke, gas, fumes, odor, dust or other objectionable features and that such use, building, or structure shall not otherwise be injurious to the inhabitants of the Town or their property or dangerous to the public health or safety. When not so satisfied, the special permit granting authority shall deny the application. When the special permit granting authority determines that a special permit may be granted if accompanied by conditions specially designated to safeguard the neighborhood and the Town, it shall impose such conditions and make them a part of the decision, and they shall be made a part of the building permit issued by the Building Commissioner.

§ 198-204. Planning Board associate member. [Amended 5-3-1993 ATM by Art. 21]

204. There shall be one associate member of the Planning Board who shall be elected to serve a term of five years.

204. Reserved)¹⁹

204. In the event of a vacancy in the position of associate member, the Planning Board and the Board of Selectmen shall jointly appoint, by majority vote of all members of both boards present, an associate member for the remaining portion of the term at which time the position shall be filled by election in the manner as regular members. No vote to fill a vacancy may occur unless a quorum of both the Board of Selectmen and the Planning Board is present for the vote. **[Amended 4-7-2011 ATM by Art. 19]**

204. The Chairman of the Planning Board may require such associate member to be in attendance at special permit proceedings and hearings and may designate such associate member to sit on the Planning Board for the purpose of acting on a special permit application in the case of absence, inability to act or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Planning Board during special permit application proceedings and hearings. In no case, however, shall more than five members in total, including the associate member, acting as the Planning Board, take any action on any special permit. Notwithstanding the expiration of the term of any duly appointed or elected associate member, said associate member shall continue to serve on any matter on which he or she was designated to serve until final action is taken on the matter. **[Amended 4-7-2011 ATM by Art. 19]**

§ 198-205. Enforcement.

205. The Building Commissioner/Zoning Enforcement Officer shall be charged with the enforcement of this Zoning Bylaw. No building permit may be issued for the construction, alteration or moving of any building or structure if the building or structure, as constructed, altered or moved, would be in violation of this Zoning Bylaw. **[Amended 5-2-1990 ATM by Art. 13; 4-7-2011 ATM by Art. 19]**

205. The penalty for each violation of this Zoning Bylaw shall be as stated in the article specifying the penalty for such violations in the Town of Wayland Code, as may be amended from time to time (currently Chapter 1, General Provisions, Article II, Violations and Penalties). **[Amended 5-3-1993 ATM by Art. 20]**

205. No building permit may be issued under any application of any kind unless the plans and specifications that shall accompany such application, and the intended use of any building, structure or lot under such permit, shall be in all respects in conformity with the provisions of this Zoning Bylaw. **[Amended 5-20-1990 ATM by Art. 13; 4-7-2011 ATM by Art. 19]**

19. Editor's Note: Former § 198-204.2, regarding appointment of the first associate member after § 198-204 became effective, was repealed 4-7-2011 ATM by Art. 19.

ARTICLE 3
Establishment of Districts

§ 198-301. Designation.

301. For the purpose of this Zoning Bylaw, the Town of Wayland is divided into the following types of districts, designated as:

301. ~~Single~~ Residence Districts. For the purposes of § 198-705.1 and § 198-705.2 of Article 7 of this Zoning Bylaw, the Single Residence District shown on the map referred to in § 198-301 herein is hereby divided into four types of zones designated as follows, all as shown, defined and bounded on a second map accompanying this Zoning Bylaw entitled "Town of Wayland, Amendment to Zoning Map 1934, March 1939," dated and approved February 27, 1939, by the Wayland Planning Board, as revised March 13, 1939, by said Board and on file with the Town Clerk, and said second map and the explanatory matter thereon, as so revised, are hereby made a part of this Zoning Bylaw: **[Amended 3-12-1973 ATM by Art. 15; 5-4-2000 ATM by Art. 35]**

301. ~~Residence~~ Zone 20,000 square feet - 120 feet Front.

Residence Zone 30,000 square feet - 150 feet Front.

Residence Zone 40,000 square feet - 180 feet Front.

Residence Zone 60,000 square feet - 210 feet Front.

301. ~~Roadside~~ Business Districts. **[Amended 3-12-1973 ATM by Art. 15]**

301. ~~Business~~ Districts A. **[Amended 3-12-1973 ATM by Art. 15]**

301. ~~Business~~ Districts B. **[Amended 3-12-1973 ATM by Art. 15]**

301. ~~Light~~ Manufacturing Districts. **[Amended 3-12-1973 ATM by Art. 15]**

301. ~~Limited~~ Commercial Districts. **[Amended 3-12-1973 ATM by Art. 15]**

301. ~~Planned~~ Development Districts. **[Amended 10-30-1974 STM by Art. 7]**

301. ~~Refuse~~ Disposal District. **[Amended 11-12-1975 STM by Art. 8]**

301. Said districts are defined and described in numerous votes of the Town, beginning with the adoption of this Zoning Bylaw under Article 5 of the September 5, 1934, Special Town Meeting, and subsequent Town Meetings, and are shown on a plan accompanying this Zoning Bylaw that has been filed with the Town Clerk entitled "Town of Wayland Zoning Map," Survey Department, 41 Cochituate Road, Wayland, Massachusetts, 01778, December 5, 2003, as the same may be

amended from time to time hereafter. **[Amended 5-7-1997 ATM by Art. 39; 4-30-2001 ATM by Art. 23; 5-5-2004 ATM by Art. 19]**

§ 198-302. Overlay districts. [Amended 3-20-1974 ATM by Art. 44; 4-30-1975 ATM by Art. 28]

302. To carry out the purposes of this Zoning Bylaw, the Town of Wayland is also divided into the following districts that overlay the districts established by § 198-301 above:

302.A. Floodplain District that includes all land and water in the Town of Wayland subject to seasonal or periodic flooding by the Sudbury River, except for temporary excavations, whose surface lies below elevation 124 feet above mean sea level, as such elevation is shown by the notation "--124--Floodplain" in the Atlas of the Town of Wayland, Massachusetts, prepared and corrected to January 1, 1972, by Everett M. Brooks & Co., corrected to January 1, 1975, by the Wayland Engineering Department.

302.A. Federal Flood Plain Protection District, which includes all special flood hazard areas within the Town of Wayland designated as Zone A, AE, AH, AO, A99 and "Floodway Areas in Zone AE," 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 Wayland are panel numbers 25017C0369E, 25017C0386E, 25017C0388E, 25017C0389E, 25017C0507E, 25017C0509E, 25017C0517E, 25017C0526E, 25017C0527E, 25017C0528E, 25017C0529E, and 25017C0536E dated June 4, 2010. The exact boundaries of the Federal Flood Protection District are defined by the one-hundred-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. The FIRM is hereby incorporated as part of the Zoning Map of the Town of Wayland. **[Amended 5-4-1982 ATM by Art. 17; 5-4-2004 ATM by Art. 19; 5-5-2005 ATM by Art. 31²⁰; 4-7-2011 ATM by Art. 20]**

302.A. Southeast Wayland-Cochituate Planning District that includes all land to be placed in said district by a two-thirds vote of Town Meeting, but including only such land with an area not less than 25 acres, a substantial portion of which (herein defined as more than 30%) is wet areas, as defined in § 198-1402 herein, and that is located in the area shown as Residence Zone 30,000 square feet-150 feet Front bordering on the Wayland-Natick town lines

20. Editor's Note: This article also repealed former § 198-302.1.2, which provided for a Watershed Protection District, and redesignated former § 198-302.1.3 through 198-302.1.6 as § 198-302.1.2 through 198-302.1.5, respectively.

on the map entitled "Town of Wayland Zoning Overlay Districts," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated December 5, 2003. **[Amended 6-16-1987 STM by Art. 3; 4-30-2001 ATM by Art. 22; 4-30-2001 ATM by Art. 23; 4-29-2002 STM by Art. 5; 5-4-2004 ATM by Art. 19; 5-5-2005 ATM by Art. 31]**

302.A.4. Aquifer Protection District that is shown on a map on file with the Town Clerk entitled "Town of Wayland Zoning Overlay Districts," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated December 5, 2003. The district comprises areas in the Town of Wayland where liquids or water-soluble materials placed on or below the surface of the land will migrate to the Town's municipal wells if pumping is sufficiently heavy and prolonged. For data, standards and procedures by which the boundary of the district was established and for other details, see a report on file with the Town Clerk entitled "Aquifer Mapping Project, Town of Wayland," January 1988, by IEP, Inc., Consulting Environmental Scientists of Northborough, Massachusetts, and also a report on file with the Town Clerk entitled "Report on Conceptual Zone II Study of the Baldwin Pond Wellfield," March 1994, by Anderson-Nichols & Company, Inc., Consulting Engineers, Boston, Massachusetts. **[Added 5-1-1989 STM by Art. 7; amended 4-30-2001 ATM by Art. 23; 4-29-2002 ATM by Art. 5; 5-4-2004 ATM by Art. 19; 5-5-2005 ATM by Art. 31]**

302.A.5. Senior and Family Housing Overlay District which includes all of the following land: Parcels F and G as shown on a plan entitled "Town of Wayland Zoning Overlay Districts," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated December 5, 2003, and is available at the office of the Town Clerk for public inspection. **[Added 4-28-1997 STM by Art. 5; amended 4-30-2001 ATM by Art. 23; 4-29-2002 ATM by Art. 5; 5-4-2004 ATM by Art. 19; 5-5-2005 ATM by Art. 31]**

302.A.6. Wireless Communications Services District that includes the land owned by the Town of Wayland known as the "old landfill site" as shown in the Atlas of the Town of Wayland, Massachusetts, 1999, on Plates 22 and 23, Parcels 22-001 and 22-002, and known as the "new landfill site" as shown in the Atlas of the Town of Wayland, Massachusetts, 1996, on Plates 17, 21, and 22 inclusive, that portion of Parcel 17-018 that is south of the line that is the continuation of the northwestern property line of Parcel 22-004, Parcels 21-010A, 22-003, 22-004, 22-006 and 22-007; and the land comprising the portion of the so-called Massachusetts Bay Transportation Authority (MBTA), "right-of-way" from its boundary with the southerly sideline of Boston Post Road (Route 20) westerly to its westernmost boundary with the Town of Sudbury as shown in the Atlas of the Town of Wayland, Massachusetts, 1999, on Plates 22, 26 and 27, inclusive, and as shown on the plan entitled

"Town of Wayland Zoning Overlay Districts," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated December 5, 2003, a copy of which is on file in the office of the Town Clerk. **[Added 11-17-1999 STM by Art. 3; amended 4-30-2001 ATM by Art. 23; 4-29-2002 STM by Art. 5; 5-4-2004 ATM by Art. 19; 5-5-2005 ATM by Art. 31²¹**

302.~~(Reserved)~~²²

302.~~(Reserved)~~

302.~~A.~~ **P**lanned Wireless Communications Services District that includes the land on Reeves Hill, so-called, as shown on Plate 34 of the Atlas of the Town of Wayland, Massachusetts, 1996, numbered as Parcels 34-026, 34-027, and 34-026A, and as shown on the plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," prepared by the Town of Wayland Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated August 11, 2005, a copy of which plan is on file in the office of the Town Clerk. **[Added 11-1-2005 STM by Art. 2]**

302.~~A.~~ **M**ixed-Use Overlay District that includes the land as shown on Plate 23 of the Atlas of the Town of Wayland, Massachusetts, 2002, numbered as Parcels 23-052, 23-052B, 23-052C, and 23-052F, and as shown on the plan entitled "Town of Wayland Mixed-Use Overlay District," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated September 6, 2005, a copy of which is on file in the office of the Town Clerk. **[Added 5-3-2006 STM by Art. 2]**

302.~~A~~ Any land lying within the Aquifer Protection District, the Federal Flood Plain Protection District, the Floodplain District or the Watershed Protection District shall also be subject to the regulations of the underlying districts to the extent not inconsistent with the regulations for the applicable overlying district or districts and shall, in addition, conform to the additional requirements of the one or more overlying districts in which the land lies. In the event of any conflict between the regulations applying to two or more overlying districts that apply to the same parcel of land, the conflict shall be resolved by applying the most restrictive provisions. **[Added 5-4-1982 ATM by Art. 17; amended 5-1-1989 STM by Art. 7; 4-7-2011 ATM by Art. 20]**

§ 198-303. Plans and maps.

303. The plans and maps referred to in §§ 198-301 and 198-302 shall be part of this Zoning Bylaw. **[Amended 6-21-1978 STM by Art. 6; 4-17-1980 ATM by Art. 23]**

21. Editor's Note: This article also redesignated former § 198-302.8 as § 198-302.6.

22. Editor's Note: Former Subsection 302.1.7, Cochituate Interim Planning Overlay District, added 4-30-1997 STM by Art. 7; amended 5-8-2000 ATM by Art. 47 and 4-30-2001 ATM by Art. 23, was repealed 5-5-2004 ATM by Art. 18.

ARTICLE 4

Nonconforming Structures and Uses²³**[Amended 4-17-1980 ATM by Art. 23; 4-7-2011 ATM by Art. 19]****§ 198-401. Continuance; conditions.**

401. Any building, structure, or use lawfully in existence or lawfully begun or as to which a building or special permit has been issued before the first publication of notice of public hearing on any provision of this Zoning Bylaw, or any amendment thereto, required by MGL c. 40A, § 5, may be continued or completed although such building, structure, or use does not conform to the terms of said provision or amendment, subject, however, to the following:

401. Construction or operations under a building or special permit shall conform to any subsequent provision of this Zoning Bylaw, or any amendment thereto, unless the use or construction is commenced within a period of not more than six months after the issuance of the building or special permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

401. Existing nonconforming buildings, structures, or uses may be changed, extended or altered by a special permit issued by the ZBA pursuant to the provisions of § 198-201 and § 198-203 of this Zoning Bylaw, provided that no such change, extension or alteration shall be permitted unless there is also a finding by the ZBA that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming building, structure or use to the neighborhood; provided, however, that the Planning Board shall serve as the special permit granting authority for changes, extensions and/or alterations to nonconforming buildings, structures, and uses in the Senior and Family Housing Overlay District pursuant to Article 21 of this Zoning Bylaw; and further provided, however, that a single- or two-family dwelling may be changed, extended, or altered so long as the change, extension or alteration does not increase the nonconforming nature of the dwelling. The Building Commissioner shall determine if a change, extension or alteration to a single- or two-family dwelling increases the nonconforming nature of the structure. **[Amended 4-28-1997 STM by Art. 5; 5-14-1998 ATM by Art. 45]**

401. A building for one or two dwelling units may be the subject of alteration, reconstruction, extension or structural change without the necessity of a special permit, provided that the following conditions are met: **[Amended 5-4-1994 ATM by Art. 24]**

23. Editor's Note: The title of this article was amended 5-14-1998 ATM by Art. 47.

- 401.1. ~~Such~~ alteration, reconstruction, extension or structural change shall comply with this Zoning Bylaw; and
- 401.2. ~~Such~~ alteration, reconstruction, extension or structural change shall not exceed 20% of the gross floor area of the building in existence on the date this paragraph first become effective, which is May 4, 1994, and such alteration, reconstruction, extension or structural change does not increase the nonconforming nature of the building. Open decks, accessory buildings less than 175 square feet in gross floor area, and accessory structures, such as fences, retaining walls, swimming pools, and tennis courts shall be permitted as a matter of right and shall not be included in any gross floor area calculation. **[Amended 5-5-1999 STM by Art. 11; 5-3-2000 ATM Art. 30]**
- 401.3. ~~Wherever~~ a lawful nonconforming building, structure, or use has been abandoned, or has not been used for two consecutive years or more, it shall not be resumed or reestablished, and all future buildings, structures, and uses shall conform to this Zoning Bylaw. **[Amended 5-14-1998 ATM by Art. 45]**
- 401.4. ~~If a~~ nonconforming building or structure is damaged or destroyed by natural causes or otherwise, then any rebuilding or restoration may take place as of right as long as the rebuilding or restoration conforms precisely in size, location, configuration and extent of use to that which existed prior to the damage or destruction. All rebuilding or restoration shall be commenced within two years of the date of the damage or destruction and shall be continued through to completion as continuously and expeditiously as reasonable. Prior to the expiration of the two years, if the owner applies to the ZBA for an extension of this time period, and if the ZBA finds that there is good cause for the failure to commence rebuilding or restoration, the ZBA may extend the time period for no longer than an additional six months **[Amended 5-14-1998 ATM by Art. 45]**
- 401.5. ~~The~~ ZBA may issue a special permit for any changes in size, location, configuration and extent of use in a nonconforming building or structure damaged or destroyed by natural or other involuntary causes, provided that the ZBA shall find that such changes shall not be substantially more detrimental to the neighborhood than the existing nonconforming use. **[Amended 5-14-1998 ATM by Art. 45; 5-5-2004 ATM by Art. 20]**
- 401.6. ~~Any~~ permitted restoration or rebuilding under § 198-401.1.6 shall commence within six months after the issuance of the special permit therefor and shall continue through to completion as continuously and expeditiously as is reasonable or such permission shall lapse. Prior to the expiration of the six months, if the owner applies to the ZBA for an extension of this time period and if the

ZBA finds that there is good cause for the failure to commence rebuilding or restoration, the ZBA may extend the time period for no longer than an additional six months. Unless otherwise authorized by the ZBA, the new or restored building or structure shall have the same height and location on the lot as the replaced structure.

401. ~~Whenever~~ land is taken by, or conveyed to, a governmental authority having the power of eminent domain or a street is created, widened or relocated, any then existing lot shown on a plan or described in a deed recorded in the Registry of Deeds that conformed to the area and frontage requirements before, but not thereafter, shall be considered to conform, and any existing structure that was in compliance with regulations respecting location before, but not thereafter, shall be considered to be in compliance. This paragraph shall not be applicable if the street was a private way and the land on which it was created, widened or relocated was owned by the owner of the lot or structure affected. **[Amended 4-28-1986 ATM by Art. 24; 5-4-1992 STM by Art. 4]**
401. ~~A~~ Building, structure, or use existing on January 1, 1947, shall be conclusively presumed to have been in existence before the first publication of notice of the public hearing on the original enactment of this Zoning Bylaw. **[Amended 5-3-1990 ATM by Art. 22]**

ARTICLE 5
General Regulations

§ 198-501. Signs and exterior lighting. [Amended 4-7-2011 ATM by Art. 19]

501. Only those signs and exterior lighting as pertain to buildings, structures, or uses permitted in this Zoning Bylaw and on the same lot are permitted. Yard requirements as otherwise specified in this Zoning Bylaw shall apply to signs and exterior lighting fixtures and structures, except freestanding lampposts at a residence in a residential district, which lampposts shall have a minimum front yard setback requirement of 15 feet, to be measured from the front property line. Signage in residential districts shall be limited to that which is permitted by other sections of this Bylaw. Signage in districts other than residential districts may not exceed 40 square feet of area and 15 feet in height, including supporting structures and light sources. Signs attached to buildings may not rise above the front roofline of the building to which it is attached. Signs must be fixed in position so as not to rotate or oscillate. Signage in excess of that which is permitted may be allowed with a special permit issued by the special permit granting authority with appropriate jurisdictional responsibility for site plan approval, as provided for in § 198-603; provided, however, that signs with moving parts and internally illuminated signs are prohibited. The sign dimensions set forth in this Zoning Bylaw apply in the aggregate to all signs on the lot. **[Amended 4-29-1996 STM by Art. 1; 5-1-2002 ATM by Art. 30]**

501. Exterior lighting and lighting of signs shall be continuous illumination, not flashing, blinking or varying in color. Exterior lighting fixtures shall be designed and placed so that the light source shall be completely shielded or diffused so as not to produce glare at any point along the exterior lines of ways adjacent to the lot where the sign is located or at another lot in a residential district. Illumination of athletic fields, golf courses and tennis courts is permitted when a special permit is issued by the Zoning Board of Appeals under the provisions of § 198-203. The provisions of this article do not apply to the seasonal display of lights for the purpose of the celebration of holidays nor to signs and advertising devices that have been installed or erected pursuant to a special permit, which permit shall expire in seven days after issuance by the Board of Selectmen to a person or persons for any of the purposes set forth in MGL c. 180, §§ 2 and 4.

§ 198-502. Temporary signs. [Amended 5-14-1998 ATM by Art. 47; 5-1-2002 ATM by Art. 30]

502. Real estate signs are permitted in all districts as of right, but shall refer only to the building, structure, or lot on which they are located and have an area not exceeding six square feet. **[Amended 4-7-2011 ATM by Art. 19]**

502. ~~One~~ contractors sign, not exceeding nine square feet in area, maintained on the lot while a building is actually under construction or being renovated is permitted. No more than one contractors sign may be on the lot at any one time. **[Amended 4-7-2011 ATM by Art. 19]**

502. ~~Non~~residential site development and subdivision signs are allowed in the form of one wall-mounted or freestanding sign, erected at the development/subdivision entrance from a street. The sign shall not exceed 15 square feet, and may bear decorative or logo devices, but no commercial advertisement. For nonresidential site development, the sign shall not be erected prior to the issuance of a building permit and shall be removed upon completion of construction or the issuance of a certificate of occupancy, whichever comes first. For subdivisions, the sign shall not be erected prior to the commencement of construction activities and shall be removed upon the issuance of the first certificate of occupancy or the issuance of certificates of occupancy for 25% of the development, whichever comes later. Signs shall be removed if construction activities have halted for a period of 6 months and may be reinstalled with approval of the Building Commissioner or designee. Signs required from federal, state, and/or local permitting authorities are excluded from the provisions of this section.

§ 198-503. Unregistered and ungaraged motor vehicle in Single Residence District. [Amended 5-14-1998 ATM by Art. 47; 5-5-1999 STM by Art. 11; 4-3-2003 ATM by Art. 38; 4-7-2011 ATM by Art. 19]

503. Unless authorized by a special permit issued by the ZBA pursuant to § 198-203.1 of this Zoning Bylaw, not more than one unregistered and ungaraged motor vehicle may be located on any lot in a Single Residence District, and no unregistered motor vehicle or boat may be placed or permitted to remain in the front yard of any such lot. Any person so locating a motor vehicle or boat shall each be punishable as specified in § 198-205.2 of this Zoning Bylaw.

§ 198-504. Earth movement. [Amended 5-14-1998 ATM by Art. 47; 5-6-2004 ATM by Art. 23]

504. ~~No~~ earth in excess of 500 cubic yards may be moved on any lot in any district which requires a minimum lot area of less than 40,000 square feet and no earth in excess of 1,500 cubic yards may be moved on any lot in any district which requires a minimum lot area of 40,000 square feet or more unless a special permit from the ZBA is obtained in accordance with the procedure provided in § 198-203, and only under such conditions as the ZBA may impose, with the following exceptions: **[Amended 4-7-2011 ATM by Art. 19]**

504. ~~Where~~ necessary as a part of farm or nursery activities or other use protected under MGL c. 40A, § 3.

504. ~~Where~~ the amount of earth to be moved is limited to the volume of the foundation and basement of the principal building or structure,

or installation of septic systems, driveways, and walkways. The quantity of material to be moved shall be certified by a registered professional engineer or land surveyor.

504. ~~Where~~ the movement is on Town-owned land or to be transferred between or among Town-owned parcels. **[Amended 11-12-2008 STM by Art. 6]**

504. ~~Nothing~~ contained in § 198-504.1 shall prevent the continued use of any land for the purpose for which it is used at the time § 198-504.1 takes effect, which is May 14, 1998, or prevent the use of any land for farms, gardens, nurseries, cemeteries, parks, playgrounds and such purposes as are incidental to, or usual in connection with, any of said purposes. **[Amended 4-7-2011 ATM by Art. 19]**

504. ~~Before~~ a special permit is issued, the applicant shall show to the satisfaction of the ZBA that the movement will not impair the usability of the lot and adjacent lots for the purposes permitted in this Zoning Bylaw, that the grades to be established within the lot will permit vehicular access to the lot and the continuation of streets from the abutting lots, and that the lot may ultimately be developed compatibly with the neighboring land. **[Amended 4-7-2011 ATM by Art. 19]**

504. ~~The~~ movement of earth from within a subdivision, the plan of which has been approved by the Planning Board and duly recorded in the Middlesex South District Registry of Deeds, shall be permitted as of right when and to the extent that such is necessary for the lawful construction or alteration of a way shown on said plan or for the lawful installation of utilities, drainpipes or drain structures in said subdivision, provided that the quantity of earth so moved shall not exceed that in place in the particular space to be occupied by such way, utilities, drainpipes or drain structures, and subject to any requirements made by the Planning Board endorsed or referred to on the plan of such subdivision.

§ 198-505. Performance standards. [Added 5-6-1999 STM by Art. 19; amended 5-6-2004 ATM by Art. 21]

505. ~~In~~ all zoning districts all uses shall be conducted in a manner so as not to create offensive or unreasonable noise, vibration, light, smoke, gas, fumes, odor, dust, or so as to be dangerous to the public health or safety.

§ 198-506. Off-street parking. [Amended 5-5-1999 STM by Art. 11; 5-5-2004 ATM by Art. 15²⁴]

506. ~~Off-street~~ parking space shall be provided in connection with the original erection, or increase by units or dimensions, of any building or

24. Editor's Note: This Art. 15 also redesignated former § 198-1105.1 through § 198-1105.6.4 as § 198-506.

structure in the following amounts except as otherwise specified in the Zoning Bylaw:

506. ~~For~~. general retail businesses, commercial and personal service establishments, parking facilities on the basis of one parking space per 140 square feet of gross floor area. In addition to this amount, one parking space for every two employees shall be provided. **[Amended 5-5-2004 ATM by Art. 16]**
506. ~~For~~. office, professional or public buildings, one off-street parking space for each 200 square feet of ground floor area not used for bulk storage and one parking space for each 400 square feet of floor area other than ground floor.
506. ~~For~~. restaurants, tearooms, lunch counters or other facilities for eating or drinking, one parking space for every three employees, plus one additional space for every four seats. **[Amended 4-7-2011 ATM by Art. 19]**
506. ~~For~~. roadside stands, filling stations, auto sales, automobile repair shops or other roadside service establishments, one parking space for every two employees, plus such additional spaces for customer-motorists as the ZBA shall deem necessary to provide a maximum of safety and a minimum of congestion on the adjacent roadways. **[Amended 4-7-2011 ATM by Art. 19]**
506. ~~Religious~~. facilities, theaters, auditoriums or any public assembly area, one parking space for every three occupants based on the allowed occupancy. **[Amended 4-7-2011 ATM by Art. 19]**
506. ~~Educational~~. or training center, one parking space for each employee plus one parking space for each instructor plus one parking space for every 1.5 students based on the allowed occupancy. **[Amended 4-7-2011 ATM by Art. 19]**
506. ~~Elementary~~. or junior/middle schools, one parking space for each employee, teacher, or staff member; a number of parking spaces equal to 5% of the allowed occupancy for visitor parking; plus sufficient off-street space for the safe and convenient loading and unloading of students.
506. ~~High~~. school, one parking space for each employee, teacher, or staff member; a number of parking spaces equal to 5% of the allowed occupancy for visitor parking; plus one parking space per four students of driving age.
506. ~~Nursery~~. school or day-care center, one parking space for every four persons of the facility's licensed capacity plus three parking spaces designed for the safe and convenient loading and unloading of persons. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~For~~ any and all uses, buildings, or structures not specifically provided for in the foregoing enumeration, such parking spaces as the Site Plan Approval Granting Authority, in accordance with § 198-603, shall determine to be necessary, considering the activities involved, to provide a maximum of safety and a minimum of congestion on the adjacent roadways. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~Whenever~~, there is a change in the lawful use of the premises or in the number of employees or business visitors or any other unit of measurement specified in any of the foregoing paragraphs of this Article, and whenever such change creates a need for an increase of more than 20% of the number of off-street automobile parking spaces, as determined by the requirements of § 198-506, more off-street parking facilities shall be provided on the basis of the adjusted needs, as determined by § 198-506. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~Mixed uses.~~ **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~In~~ the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with § 198-506.1. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use unless it can be clearly demonstrated that the need for parking occurs at different times.

506. ~~Special permit.~~ The number of parking spaces may be reduced by the granting of a special permit from the Site Plan Approval Granting Authority, in accordance with § 198-603, if the applicant demonstrates that such parking spaces will not be needed for the proposed use, subject to the condition that the area necessary for those spaces is available on the lot and is designated on the approved plan of record. Additional spaces may be required if, at anytime after the special permit is granted, the Site Plan Approval Granting Authority determines that a need exists or parking is deficient. The special permit requirement shall not apply to uses protected under MGL c. 40A, § 3. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~Location of facilities.~~ **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~Off-street parking facilities,~~ to the extent required in § 198-506, may be required either on the same lot with the parking-generating activity or on any lot or premises a substantial portion of which is, at least, within 300 feet of such activity.

506. ~~Parking facilities shall be used for automobile parking only,~~ with no sales, dead storage, repair work, dismantling or servicing of any kind. The required parking facilities shall be permanently available for use by persons using or working at establishments providing such space. **[Amended 4-7-2011 ATM by Art. 19]**

506. The following design standards apply to off-street parking facilities:

506. ~~All~~ off-street parking facilities shall be designed with appropriate means of vehicular access to a street, as well as maneuvering areas. Access to and from parking facilities shall be through designated driveways, with openings or curb cuts not in excess of 40 feet in width at the exterior line of a public or private way.

[Amended 4-7-2011 ATM by Art. 19]

506. ~~All~~ off-street parking facilities shall be provided and maintained with a permanent, dust-free surface, and shall be provided with adequate drainage, and shall have bumper guards where needed for safety. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~If~~ lighting is provided, the source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent lots. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~For~~ off-street parking facilities of 10 or more spaces, bicycle racks facilitating locking, shall be provided to accommodate one bicycle per 10 parking spaces. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~Standard~~ parking dimensional regulations. Off-street parking facilities shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking (in degrees)	Width of Parking Stall (feet)	Parking Stall Length of Line (feet)	Width of Maneuvering Aisle (feet)
90 (two-way)	9	18.5	24
60 (one-way)	10.4	22	18
45 (one-way)	12.7	25	14
Parallel (one-way)	8	22	14
Parallel (two-way)	8	22	18

506. ~~Landscaping~~ in parking facilities. **[Amended 4-7-2011 ATM by Art. 19]**

506. ~~Parking~~ facilities immediately adjacent to a residence district shall be adequately screened year round from view from said residence district by trees, hedges or a tight fence.

506. ~~But~~ all off-street parking facilities that are not enclosed within a building or structure, 10% of the parking facility shall be landscaped. For the purpose of § 198-506, "parking facilities" shall mean the total area of all parking spaces, including handicapped spaces. **[Added 5-5-2004 ATM by Art. 16; amended 5-5-2005 ATM by Art. 28]**

§ 198-507. Off-street loading. [Amended 5-5-2004 ATM by Art. 15;²⁵ 4-7-2011 ATM by Art. 19]

507. On the same lot with every building or structure where goods are received or shipped, newly erected or increased by units or dimensions, adequate loading areas shall be provided. Off-street loading that is spaced logically, conveniently located for bulk pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and business uses. Required off-street loading space may not be included as off-street parking space. Loading areas shall be screened from any view from a street. The Site Plan Approval Granting Authority may modify this requirement.

§ 198-508. Design Review Board. [Added 4-9-2012 ATM by Art. 24]

508. Design Review Board establishment and membership. A Design Review Board is hereby established. Said Design Review Board shall consist of five (5) members who shall be appointed by the Planning Board based on the criteria contained herein. Members of the Design Review Board shall include, where possible and in order of preference, an architect; a landscape architect; a member of the Planning Board or designee; a resident who is an owner of a business in Wayland; and a graphic designer. Members shall serve for three (3) years or until their successors are appointed.

508. Purpose. The purpose of the Design Review Board is to issue an advisory opinion to the Building Commissioner, Special Permit Granting Authority, Board of Appeals and/or the Planning Board based on design guidelines that enhance, protect and promote development consistent with Wayland's Master Plan. Decisions of the Design Review Board shall be by a simple majority, and no final action shall be taken without the concurrence of at least three (3) members.

508. Organization. The Design Review Board shall elect from among its members a Chairman, Vice Chairman and a Clerk. Each officer shall serve for a term of one (1) year. The Design Review Board shall adopt rules and design guidelines as are necessary for the conduct of its responsibilities and shall publish and make available to the public design guidelines, advisory opinions rendered, and records of proceedings showing the vote on each opinion.

508. Authority and specific powers. All applications for building permits, site plan approval, special permits or variances for all nonresidential uses involving new construction and all commercial signs shall be submitted to the Design Review Board concurrently, or earlier, with the submission to the decisionmaking authority via the inclusion of one (1) additional set of all usual submittals required for such proposal. The Design Review Board review shall preferably be done in consultation

25. Editor's Note: This Art. 15 also redesignated former § 198-1105.7 as § 198-507.

with the applicant and their designer. A written advisory opinion must be made within 30 days after filing a complete application or such further time as the applicant may in writing allow to the administering Board (i.e., Board of Appeals, Planning Board). Lack of a report from the Design Review Board shall not be a sufficient reason to delay action on a submitted proposal.

All decisions, comments and reports of the Design Review Board shall be advisory only.

ARTICLE 6

Site Plan Approval**[Amended 3-20-1974 ATM by Art. 40; 5-5-1993 ATM by Art. 22]****§ 198-601. Application thresholds and criteria.**

601. In all instances specified in § 198-802, Table of Permitted Principal Uses by Districts, indicating site plan approval, structures in any district shall be constructed, reconstructed, altered, enlarged or used, and the premises shall be used, and substantial alteration to areas of parking, loading or vehicular access shall be approved, only in conformity with a site plan approved as required by this Article 6, except as listed in § 198-601.2 below. Except as listed in § 198-601.2 below, no change in use of an existing structure or lot shall be permitted and no area for parking, loading or vehicular access shall be established or substantially altered unless a site plan has been approved as required by this Article 6. **[Amended 5-4-1995 ATM by Art. 31; 5-5-1999 STM by Art. 9]**

601. The following thresholds and criteria shall determine the applicability of, and the exceptions to, the requirements of this Article 6:

601. Site plan approval (SPA) shall not be required for any proposal for single- family residential structures or uses or structures or uses accessory thereto. **[Amended 4-30-2001 ATM by Art. 26]**

601. SPA shall not be required for any proposal subject to Article 18, Conservation Cluster Development District, or Article 19, Planned Development District, or Article 20, Southeast Wayland-Cochituate Planning District, of this Zoning Bylaw.

601. For the purpose of this Article 6, "change in use" shall mean any proposal to change from one use to a different use, and the calculation of gross floor area for such changes in use shall be determined by the Planning Board based on the aggregate of all such changes authorized since the original SPA or, if there is no SPA, since construction of the original structure. SPA shall be required for any improvement, alteration or change in use to any vacant lot, or vacant contiguous lots under the same ownership, that results in the erection or placement of any structure on said lot or lots or to any existing structure, or group of structures under the same ownership on the same or contiguous lots, that constitutes either a substantial alteration to areas of parking, loading or vehicular access (as defined in § 198-601.2.4 below) or that results in an increase in gross floor area as follows:

If the gross floor area of original structure

or SPRA- authorized structure is:

(square feet)

Less than 3,333
 3,333 to less than 5,000
 5,000 to less than 7,500
 7,500 to less than 15,000
 15,000 to less than 25,000
 25,000 to less than 50,000
 50,000 to less than 80,000
 80,000 to less than 100,000
 100,000 to less than 125,000
 125,000 or more

Then SPRA shall be required for

any increase greater than:

30% of existing gross floor area
 1,000 square feet
 20% of existing gross floor area
 1,500 square feet
 10% of existing gross floor area
 2,500 square feet
 5% of existing gross floor area
 4,000 square feet
 4% of existing gross floor area
 5,000 square feet

601. ~~For~~ the purpose of this Article 6, "substantial alteration to areas of parking, loading or vehicular access" shall mean any proposal where all or part of such existing or proposed areas is located off the site of the primary use or structure; or where any resurfacing of such areas results in any change in the design of the septic or drainage systems on or for the site; or where any curb cut is relocated, added or otherwise changed; or where this Zoning Bylaw requires more parking than was required for the previous use; or where an increase in the area of such areas is required as follows:

If the total square footage currently

required for such areas is:

Less than 15,000 square feet
 15,000 square feet to less than 30,000 square feet
 30,000 square feet or more

Then "substantial alteration" shall mean any increase greater than:

33.3% or 1,499 square feet, whichever is smaller
 10% of the total of such areas
 3,000 square feet

601. Prospective applicants for SPA shall either be exempt from application requirements, if the conditions of § 198-601.4 below are met, or file an application in accordance with § 198-601.5 below or file a form in accordance with § 198-601.6 below certifying that the proposal does not require SPA. All such filings shall contain a checklist for septic, drainage, zoning and wetlands impacts and implications, a copy of which shall be submitted to each of the ZBA, the Board of Health and the Conservation Commission.

- 601.~~If~~ a prospective applicant for SPA answers "Yes" to either of the following questions at § 198-601.4.1 and 601.4.2 below, then no SPA application is required; if the answer is "No" to both questions, then said applicant shall proceed to the questions at § 198-601.5.1, 601.5.2 and 601.5.3. below.
- 601.~~Will~~ the proposal result solely in single- or two-family residential or owner-occupied multifamily structures or uses or structures or uses accessory thereto? (See § 198-601.2.1 above.)
- 601.~~Is~~ the proposal for structures or uses that will be subject solely to Article 18, 19 or 20 of this Zoning Bylaw? (See § 198-601.2.2 above.)
- 601.~~If~~ a prospective applicant for SPA answers "Yes" to any of the following questions at § 198-601.5.1, 601.5.2 and 601.5.3 below, then the applicant shall file an SPA application as required by § 198-605.2, 605.3 and 605.4 below. Said application shall be obtained from the Planning Board or its agent. If a prospective applicant answers "No" to all of said questions, then said application is not required, and a form certifying that the proposal does not require SPA shall instead be submitted as required by § 198-601.6 below.
- 601.~~Will~~ the proposal add one or more structures to a vacant site? (See § 198-601.2.3. above.)
- 601.~~Will~~ the proposal, together with all SPA-authorized increases or, if there is no SPA, together with all increases since the construction of the original structure, increase the size of existing structures in total by the amount specified in the table in § 198-601.2.3 above?
- 601.~~Will~~ the proposal substantially alter areas of parking, loading or vehicular access, as defined in § 198-601.2.4 above?
- 601.~~Whenever~~ any proposal is for a change in use requiring no improvement, alteration or change to any external part of any structure and to any area for parking, loading or vehicular access, and whenever the proposal meets all of the exclusions, or is below all of the minimum thresholds, defined in § 198-601.2.3 and 601.2.4 above, a blank form to certify that said proposal does not require SPA shall be obtained from the Planning Board or its agent. Said completed certification form shall be submitted in quadruplicate to the Planning Board or its agent, who shall, within 10 calendar days of its submission, notify, in writing, the person submitting said certification whether SPA is required. Said person may proceed at his/her risk with said proposal upon submitting said certification. One copy of said certification shall forthwith be transmitted to each of the Board of Health, the Building Commissioner/ZBA and the Conservation Commission.

§ 198-602. Relationship to other approvals.

602. SPA shall be a prerequisite to the issuance of any special permit, permit and/or variance required by this Zoning Bylaw, unless excepted from SPA by § 198-601.2.2 above.

602. No person shall undertake any improvement or alteration, and no building permits shall be issued for any such proposal, until SPA, as certified by the Planning Board or its agent, has been issued for such proposal or until the completed certification form referenced in § 198-601.6 above has been received by the Building Commissioner.

§ 198-603. Administering board or official. [Amended 4-7-2011 ATM by Art. 21]

603. The Planning Board shall administer SPA:

603. Whenever this Zoning Bylaw does not also require a special permit and/or variance; or

603. Whenever this Zoning Bylaw also requires a special permit from the Planning Board.

603. The ZBA shall administer SPA whenever this Zoning Bylaw also requires a special permit and/or variance from the ZBA.

603. The Building Commissioner shall administer the SPA whenever the principal use of the land or structure is an exempt day-care, educational, nursery school or religious use under MGL c. 40A, § 3.

§ 198-604. Application procedure.

604. An applicant desiring approval of a site plan shall obtain an application form and related materials from the Planning Board or its agent. One original and 10 copies of the completed application form, and one original and five copies of the plans and related materials, shall be submitted to the Planning Board or its agent. Concurrently, one copy of the completed application form shall be submitted by the applicant to the Town Clerk, and a receipt therefor shall be submitted with the Planning Board copy of the application form. Once the Planning Board or its agent determines the SPA application submittal to be completed, one copy of the application form shall be transmitted to at least the following: the Planning Board consultant, ZBA, Building Department, Board of Health, Conservation Commission, Highway Department, Fire Department, Police Department, Water Department and Surveying Department. A file copy of the plans and related materials shall remain in the Planning Board office to serve as a common review copy. The other copies shall be distributed as needed. **[Amended 5-5-1999 STM by Art. 11]**

604. Within three working days of the original application submittal, or within three working days of any subsequent submittal in response to a determination that any such submittal is incomplete, the Planning Board or its agent shall review said submittal and inform the applicant

and the Town Clerk, in writing, whether said submittal is determined to be complete. If said submittal is determined to be incomplete, the applicant shall receive written notice from the Planning Board or its agent listing the items or information needed to complete said submittal. The submittal date shall be the date the application submittal was received by the Town Clerk.

604. Each board or department receiving the application form as required by § 198-604.1 above may, within 30 calendar days of the date of the complete application submittal, file with the Planning Board or its agent a written report recommending approval, approval with modifications or conditions or disapproval, stating its reasons therefor. Failure to respond within said 30 days shall be deemed lack of opposition to the application. The Planning Board shall hold a public hearing on said application after the expiration of said thirty-day review period.

604. ~~For~~ SPA applications, or for applications for revisions or amendments to approved site plans proposing changes determined to be major as specified in § 198-608 below, the Planning Board shall make a decision on said application and file notice of said decision with the Town Clerk and send to the applicant, by certified mail, return receipt requested, a copy of said notice and the decision within 60 calendar days from the date of the submittal of the complete application, or said application shall be deemed approved.

604. ~~For~~ applications for revisions or amendments to approved site plans proposing changes determined to be minor as specified in § 198-608 below, the final decision deadline shall be 45 days from the date of the complete application submittal. However, whenever SPA is part of any special permit, permit and/or variance application, the requirements of this Zoning Bylaw, and of this Article 6, relevant to special permits, permits and/or variances shall instead apply, except that the public hearing shall not be held sooner than 30 days after the date of the complete application submittal.

604. ~~Whenever~~ the ZBA includes SPA as part of any special permit, permit and/or variance application, the Planning Board shall review the SPA application as required by this Article 6 and submit a written report with findings and recommendations to the ZBA. The Planning Board shall concurrently submit to the ZBA copies of reports received from other boards. All reports shall be submitted to the ZBA prior to the public hearing held by the ZBA, and the Planning Board shall not hold a public hearing. The ZBA shall notify the Planning Board of the date of said hearing as soon as said date is set.

604. The ZBA, whenever it includes SPA as part of any special permit, permit and/or variance application, shall give due consideration in its decision to the findings and recommendations of the Planning Board report. The decision of the ZBA may deviate from said report, but the ZBA shall submit to the Planning Board written justifications for each such deviation prior to the ZBA's decision deadline.

604.8PA shall lapse if implementation of the proposal has not commenced within two years from the date of approval and has not been completed within five years from the date of approval. An extension of the time for said commencement may be granted for up to six months, while extensions of the time for said completion may be granted without limitation, both extensions to be granted by the Planning Board.

604.7The applicant may agree, in writing, to extend any of the deadlines within this Article 6.

604.6Upon denial or issuance of any required building permits, any person aggrieved by a decision of the Building Commissioner may appeal the site plan decision of the Planning Board to the ZBA pursuant to MGL c. 40A, § 8. Any person aggrieved by a decision of the ZBA made as required by this Article 6 may appeal said decision pursuant to MGL c. 40A, § 17. **[Amended 5-4-1995 ATM by Art. 31]**

§ 198-605. Application requirements.

605.AAn application as required by § 198-605.2, 605.3 and 605.4 below shall be submitted when required by § 198-601 above.

605.2A prospective applicant may submit review copies of preliminary site plans only (not including the application form) to the Planning Board or its agent in quantities sufficient for distribution to relevant boards and departments. Such plans shall not constitute a formal application for site plan approval and need not be stamped or certified by professionals.

605.3Plans shall be stamped or certified by an appropriate registered professional, such as an architect, landscape architect, land surveyor, engineer, etc., unless this requirement is specifically waived by the Planning Board in accordance with the SPA regulations.

605.4A complete SPA application submittal shall include the information and requirements set forth in this Article 6 and in the regulations for SPA, which information and requirements shall include, but not be limited to, the following completed items:

605.4.1Regulatory requirements.

605.4.1.1list (provided as part of the blank application form) indicating required permits, approvals, licenses, etc., relevant to SPA, including the name of the issuing agency, and the relative timing of each.

605.4.2Requested waivers.

605.4.2.1list of requested waivers from this Article 6 and/or the regulations for SPA, with justification for each waiver

explaining how each is in the public interest and is not inconsistent with this Article 6 and said regulations.

605. ~~Site~~ plans.

605. ~~Site~~ plans suitable for recording or registration and showing existing and proposed descriptive and physical features, such as lot lines, easements, rights-of-way and other such features and matters on record at the Middlesex County South District Registry of Deeds or its Land Registration Office; natural land features (such as topographical data); man-made improvements (surface and subsurface), including all structures, watercourses, ponds, brooks, wetlands, floodplains, ditches and culverts; methods of handling surface and subsurface drainage; and vehicular and pedestrian ways.

605. ~~Water~~ resources impacts.

605. ~~A.4~~ description and analysis of measures proposed to prevent pollution of surface water and groundwater, erosion of soil, excessive runoff of precipitation, excessive raising or lowering of the water table and flooding of other properties.

605. ~~Land~~scape impacts.

605. ~~A.5~~ description and analysis, with sketches as needed, of design features intended to integrate the proposed new or altered buildings, structures, signs, plantings, etc., into the existing landscape to preserve and enhance existing aesthetic assets of the site and to screen objectionable features from adjacent properties.

605. ~~Traffic~~ impacts.

605. ~~A.6~~ a. detailed traffic impact study, including but not limited to the following:

605. ~~The 1~~ projected number of motor vehicle trips to enter or depart from the site shall be estimated for an average day and for peak hours.

605. ~~The 1~~ projected traffic flow patterns for both vehicular and pedestrian traffic shall be described and related to the site plan, including vehicular movements at intersections likely to be affected by the proposed activity.

605. ~~The 1~~ impact of this traffic upon existing streets shall be evaluated in relation to road capacities.

605. ~~Waste~~ disposal impacts.

605. ~~A.7~~ description and analysis of proposed waste disposal practices and their impacts and a description and analysis of

past waste disposal practices and their impacts, insofar as said practices and impacts can be determined from reasonably available historical sources.

§ 198-606. Standards and criteria.

606. The Planning Board shall review the complete application submittal and determine whether said submittal is consistent with the standards and criteria in this § 198-606. If the Planning Board finds that said standards and criteria have been met, and if it does not make any of the findings set forth in § 198-607 below, it shall approve the submittal, with or without conditions.

606. The following standards and criteria, specifically defined for each zoning district, shall be included in the SPA regulations:

606. The proposal shall be integrated into the existing terrain and surrounding landscape. Proposals shall, to the extent feasible:

606. Minimize the use of wetlands, steep slopes, floodplains and hilltops;

606. Preserve natural or historic features;

606. Maximize retention of open space;

606. Preserve scenic views from publicly accessible locations;

606. Minimize tree, vegetation and soil removal, blasting and grade changes; and

606. Screen objectionable features from adjacent properties and roadways.

606. The proposal shall include an adequate water supply system and adequate sewage and other waste disposal systems. Where sewage disposal systems are required, the applicant shall submit information as required by the Board of Health.

606. The proposal shall incorporate measures adequate to prevent pollution of surface water or groundwater; to minimize erosion and sedimentation; to prevent changes in groundwater levels and increased rates of runoff; and to minimize potential for flooding. Drainage shall be designed to maximize groundwater recharge and to prevent any increase in the rate and volume of runoff at the site's perimeter.

606. To the extent feasible, the proposal shall minimize demands placed on Town services and infrastructure.

606. The proposal shall provide safe vehicular and pedestrian movement within the site and to adjacent ways, including sidewalks, crosswalks and the like.

606. ~~The~~ Design of buildings, structures and landscaping shall be in harmony with the prevailing character and scale of said buildings, structures and landscaping of the zoning district of the site and of adjacent properties. Such design shall include the use of appropriate building materials, screening and similar architectural techniques.
606. ~~To~~ the extent practicable, electric, telephone, cable television and other utilities on the site shall be placed underground.
606. ~~Ex~~posed storage areas, machinery, service areas, truck-loading areas, utility buildings and structures and similar unsightly buildings, structures, uses and activities shall be set back and/or screened to the extent feasible to protect adjacent properties from objectionable features.
606. ~~To~~ the extent feasible, proposals shall be designed to minimize shadows cast on adjacent properties in residential zoning districts.
606. ~~There~~ shall be no unreasonable glare from lighting, whether direct or reflected, onto roads and other ways, into the night sky or onto adjacent properties in residential zoning districts.
606. ~~The~~ proposal shall comply with this Zoning Bylaw. However, proposals that do not so comply may be approved hereunder if such noncompliance is permitted by the ZBA pursuant to other articles of this Zoning Bylaw and the applicable provisions of this Article 6.
606. ~~When~~ reviewing and acting on a site plan application for the principal use of land or a building or structure for day care, educational, nursery school or religious uses that are exempt from regulation under MGL c. 40A, § 3, the Building Commissioner shall apply reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements as set forth in this Zoning Bylaw, except to the extent that the applicant shows that the regulation is unreasonable and unrelated to a legitimate municipal concern and will substantially detract or diminish the applicant's ability to conduct the exempt use. **[Added 4-7-2011 ATM by Art. 21]**

§ 198-607. Reasons for disapproval.

607. The Planning Board shall approve the complete application submittal in the form submitted, or with reasonable conditions, based upon the standards and criteria set forth in § 198-606 above, unless the Planning Board finds that:
607. ~~The~~ submittal is incomplete (See § 198-605 above);
607. ~~The~~ imposition of reasonable conditions likely would not ensure that the proposal would conform to the standards and criteria set forth in § 198-606 above; or

607. ~~The~~ proposal does not comply with this Zoning Bylaw. However, proposals that do not so comply may be approved if such noncompliance is permitted by the ZBA pursuant to other articles of this Zoning Bylaw and applicable provisions of this Article 6.

§ 198-608. Revisions and amendments to approved site plans.

608. ~~No~~ revision or amendment to any approved site plan shall be made until application for such has been approved as required by this Article 6.

608. ~~Except~~ when SPA has been included as part of a special permit, permit and/or variance, any application for revisions or amendments to approved site plans shall be submitted, in writing, to the Planning Board, which shall determine, in writing, whether the proposed revisions or amendments are minor. Revisions or amendments to said approved site plans proposing only changes that are internal to existing structures shall be determined to be minor. Whenever the Planning Board determines, in writing, that said proposed revisions or amendments are minor, do not significantly impact the public interest and are consistent with the purposes of this Zoning Bylaw, it may amend said approved site plan in accordance with the procedures set forth at § 198-604 above, except that a public hearing need not be held, and except that the final decision deadline shall be 45 days from the date of the complete application submittal.

608. ~~Whenever~~ the Planning Board determines, in writing, that proposed revisions or amendments to approved site plans are major (that is, not minor as specified in § 198-608.2 above) or whenever said approved site plans have been included as part of any special permit, permit and/or variance, applications for said proposed revisions or amendments shall be submitted, in writing, to the Planning Board or ZBA, whichever was the issuing authority, and the requirements of this Zoning Bylaw and of this Article 6 relevant to special permits, permits and/or variances shall instead apply.

§ 198-609. Regulations and fees.

609. The Planning Board shall adopt and publish, within 12 months of the effective date of this Article 6, and may periodically amend, SPA regulations that shall conform to the requirements of this Article 6 and that may define the scope and format of reports required hereunder.²⁶ Said regulations shall include a requirement for surety to secure the completion of all SPA-required improvements, exclusive of improvements on structures, in an amount and form determined by the Planning Board or its agent. Said regulations shall also include a provision that the Planning Board may waive strict compliance with said regulations only when, in the written judgment of the Planning Board, said waiver is in the public interest and is not inconsistent with this Zoning Bylaw, this Article 6 and said regulations.

26. Editor's Note: See Ch. 302, Site Plan Review and Approval.

609. The adoption or amendment of said regulations shall be after a public hearing, which shall be advertised two different weeks in a newspaper of general local circulation, the first advertisement to appear no less than seven calendar days prior to the date of the hearing. Adoption or amendment of said regulations shall be by majority vote of the Planning Board.
609. The Planning Board shall establish, and periodically amend, a schedule of fees for applications submitted as required by this Article 6. No application for SPA shall be considered complete unless accompanied by the required fees.

ARTICLE 7

Area, Yard and Bulk Regulations**§ 198-701. Height regulations.****701. Single Residence Districts.**

701. The limit of height of all buildings and structures in Single Residence Districts shall comply with § 198-801, Table of Dimensional Requirements, except that schools and, on lots of five acres or greater in area, dwellings may be three stories high, but may not exceed the maximum allowed heights for buildings and structures set forth in § 198-801, Table of Dimensional Requirements. **[Amended 5-5-1999 STM by Art. 9; 4-7-2011 ATM by Art. 19]**

701. The limitations of height in feet shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other necessary features usually carried above roofs, nor to towers or spires of churches and other buildings, if such features are in no way used for living purposes; provided, however, that no wireless communications facility shall be erected except in compliance with Article 15 or Article 15A. **[Amended 5-2-1996 STM by Art. 3; 5-7-1997 ATM by Art. 32; 11-1-2005 STM by Art. 2]**

701. Light Manufacturing Districts.

701. The limit of height in Light Manufacturing Districts shall comply with § 198-801, Table of Dimensional Requirements, with the exception that § 198-701.1.2. shall apply; provided, however, that no wireless communications facility shall be erected except in compliance with Article 15. **[Amended 5-2-1996 STM by Art. 3; 5-7-1997 ATM by Art. 32; 5-14-1998 ATM by Art. 48; 5-5-1999 STM by Art. 9]**

§ 198-702. Setbacks. [Amended 4-7-2011 ATM by Art. 19]

702. All buildings or structures in any district shall comply with the setbacks in § 198-801, Table of Dimensional Requirements. The setbacks shall apply to any public or private street right-of-way whether accepted or not. The setbacks shall apply to whichever distance is greater, except as provided in § 198-702.2 and 702.3 below; except that any existing lot shown on a plan or described in a deed, recorded in the Registry of Deeds, that conformed to the area and frontage requirements on, but not after, January 28, 1998, shall be considered to be conforming with this Zoning Bylaw; and any existing structure that conformed with regulations respecting location on, but not after, January 28, 1998, shall be considered to be conforming. Exempt from the setback requirements of this paragraph are roof eaves, stoops, stairs, bulkheads, chimneys and bay windows; and fences and walls up to six feet in height from the existing natural ground level. **[Amended 5-14-1998 ATM by Art. 51;**

5-5-1999 STM by Art. 9; 5-5-1999 STM by Art. 11; 5-6-2004 ATM by Art. 21; 5-5-2005 ATM by Art. 26]

- 702.~~A~~. building or structure in existence on March 1, 1960, may extend within 50 feet of any center line of the street; a porch attached thereon may extend within 20 feet of any street lot line; and a two-story porch that is not enclosed at least 1/2 of the year may project six feet into the front yard. **[Amended 5-5-1999 STM by Art. 11]**
- 702.~~B~~. In Single Residence Districts if there are two or more single-family dwellings on the same side of a street between two streets consecutively intersecting such street and within 200 feet of the lot in question, any new single-family dwelling may extend as near the line of such street as the average alignment of such then existing single-family dwellings with respect to said street lot line. A new single-family dwelling shall extend only as near such street lot line as the average alignment of the single-family dwellings. **[Amended 5-5-1999 STM by Art. 11]**
- 702.~~C~~. On a corner lot, no planting, structure or part of a building may extend within 20 feet of any corner street lot line intersection if the planting, structure or building interferes with the traffic visibility around the corner. **[Amended 5-5-1999 STM by Art. 11]**

§ 198-703. Yards. [Amended 4-7-2011 ATM by Art. 19]

- 703.~~B~~. Behind every building or structure there shall be provided a backyard between the rear line of the building or structure and the rear lot line meeting the setbacks in § 198-801, Table of Dimensional Requirements, except as authorized by special permit issued by the ZBA. A backyard may contain accessory buildings or structures, each of which may not be more than 1 1/2 stories high and that together may not cover more than 30% of the backyard, and none of which may extend within 10 feet of any lot line, except as authorized by special permit issued by the ZBA. **[Amended 5-1-1995 STM by Art. 5; 5-5-1999 STM by Art. 9]**
- 703.~~A~~. At each side of a building or structure there shall be a side yard meeting the setbacks in § 198-801, Table of Dimensional Requirements; except that any existing lot shown on a plan, or described in a deed, recorded in the Registry of Deeds that conformed to the area and frontage requirements on, but not after, December 15, 1998, shall be considered to conform to this Zoning Bylaw; and any existing building or structure that was in compliance with regulations respecting location on, but not after, December 15, 1998, shall be considered to be conforming with this Zoning Bylaw. The above provision shall not apply; if an existing lot has less than the minimum frontage required by this Zoning Bylaw. In any such case, a special permit for a side yard of such width as may be approved by the ZBA may be issued in accordance with the provisions of § 198-203. A garage, either attached to the single-family, two-family, attached dwelling or multifamily dwelling or detached, may be located beside the dwelling, provided that there is a yard between the garage

and the side lot line not less than that required by this Zoning specified in this paragraph. **[Amended 4-28-1986 ATM by Art. 26; 5-5-1999 STM by Art. 9; 5-12-1999 ATM by Art. 37]**

703. Except as otherwise provided by this Zoning Bylaw, for any nonresidential use, or for any use accessory thereto, all provisions of this Zoning Bylaw in regard to depth and width of yards applying to dwellings shall be observed.

§ 198-704. Lot coverage. [Amended 5-5-1999 STM by Art. 9; 4-7-2011 ATM by Art. 19]

704. In all zoning districts, the percentage of a lot that may be covered by any building or structure shall meet the requirements in § 198-801, Table of Dimensional Requirements.

704. In the business districts, the open space required in this paragraph shall be located in such a way as determined by the Building Commissioner to properly light and ventilate the building or structure and to provide access in case of fire.

§ 198-705. Lot area and frontage. [Amended 4-7-2011 ATM by Art. 19]

705. **[Amended 5-2-1983 ATM by Art. 13; 5-4-1992 STM by Art. 3]**

705. (Reserved)²⁷

705. The lots on which dwellings are erected in the Single Residence District as set forth in § 198-301.1, shall meet the minimum lot area and frontage requirements of § 198-801, Table of Dimensional Requirements. **[Amended 5-7-1997 ATM by Art. 39; 5-5-1999 STM by Art. 9]**

705. (Reserved)²⁸

705. (Reserved)²⁹

705. (Reserved)³⁰

705. If a lot is shown on a plan recorded at the Registry of Deeds on or before the effective date of an amendment to this Zoning Bylaw increasing the area or frontage requirements enacted at the Special Town Meeting called for June 20, 1951, and if such lot conformed to the requirements of this Zoning Bylaw before such

27. Editor's Note: Former § 198-705.1.1, pertaining to types of zones in the Single Residence Districts, was repealed 5-4-2000 ATM by Art. 35. See now § 198-301.1.1.

28. Editor's Note: Former § 198-705.1.3, Lot, amended 5-7-1997 ATM by Art. 39, 5-5-1999 STM by Art. 9 and 5-5-1999 STM by Art. 11, was repealed 5-4-2000 ATM by Art. 35.

29. Editor's Note: Former § 198-705.1.4, Lot, amended 5-7-1997 ATM by Art. 39, 5-5-1999 STM by Art. 9 and 5-5-1999 STM by Art. 11, was repealed 5-4-2000 ATM by Art. 35.

30. Editor's Note: Former § 198-705.1., Lot, amended 5-5-1999 STM by Art. 9 and 5-5-1999 STM by Art. 11, was repealed 5-4-2000 ATM by Art. 35.

amendment but not afterwards, then such parcel or lot shall be considered to meet the requirements of such amendment, but no division of such lot may be made that will increase the extent of nonconformity between the lot and the amended requirements of this Zoning Bylaw.

705.1f. ~~7.~~ A lot conformed to the requirements of this Zoning Bylaw before the adoption of an amendment or amendments to said Zoning Bylaw changing the area or frontage requirements enacted under the warrant for the Special Town Meeting called for November 30, 1953, but did not conform to the requirements as amended, and if such lot meets either of the following two conditions, no division of the lot may be made whereby the remaining land, if any, excluding the lot or lots to be sold, may be smaller than the minimum size provided for the zone in which such remaining land is located or have less frontage than the minimum provided:

705.1f. ~~7s1~~ shown on a plan or described in a deed recorded at the Registry of Deeds on or before October 9, 1953; or

705.1f. ~~7s2~~ shown on a plan of a subdivision that was submitted to the Planning Board for approval on or before November 2, 1953, and that was approved by the Planning Board and recorded in the Registry of Deeds not later than 20 days after November 30, 1953; then such lot shall be considered to meet the area and frontage requirements, as amended, but no division of such lot may be made that will increase the extent of nonconformity between the lot and the amended requirements of this Zoning Bylaw.

705.1n8a Residence Zone 20,000 square feet - 120 feet Front or Residence Zone 30,000 square feet - 150 feet Front, no building lot may be laid out and no dwelling may be erected on a lot unless the center of a circle 75 feet in diameter can be passed along a continuous line from the side line of the street along which the frontage of the lot is measured to any point of the dwelling, or proposed dwelling, on the lot without the circumference intersecting any side lot lines. In a Residence Zone 40,000 square feet - 180 feet Front or a Residence Zone 60,000 square feet - 210 feet Front, no building lot may be laid out and no dwelling may be erected on a lot unless the center of a circle 100 feet in diameter can be passed along a continuous line from the side line of the street along which the frontage of the lot is measured to any point of the dwelling, or proposed dwelling, on the lot without the circumference intersecting any side lot lines. This § 198-705.1.8 shall not apply to an existing dwelling or to a dwelling for which a building permit has been issued as of the effective date of the adoption of this paragraph, which is May 2, 1983, or to any alteration, extension or structural change thereto. **[Amended 5-5-1999 STM by Art. 11]**

705. ~~No~~ dwelling may be erected in a Business District or in a Light Manufacturing District or in Residence Zone 20,000 square feet-120 feet Front on a lot of land unless the lot has at least 20,000 square feet of area and at least 120 feet of frontage on a street. No dwelling may be erected in a Residence Zone 30,000 square feet-150 feet Front on a lot of land unless the lot has at least 30,000 square feet of area and at least 150 feet of frontage on a street. No dwelling may be erected in a Residence Zone 40,000 square feet-180 feet Front on a lot of land unless the lot has at least 40,000 square feet of area and 180 feet of frontage on a street.

705. ~~No~~ building, structure, or dwelling may be erected on a lot of land not fronting on a street, which lot contains less than 20,000 square feet in area or has less than the minimum area and frontage on a right-of-way required for the zone in which it is located, unless such building, structure, or dwelling is accessory only to some existing building, structure, or dwelling, and no dwelling may be erected on a lot fronting on a street, which lot contains less area and less frontage on a street than the minimum area and frontage required for the zone in which said parcel or lot of land is located, as set forth in § 198-705.1.1 through 705.1.7 herein, except that where a lot was recorded at the Registry of Deeds at the time this Zoning Bylaw was adopted, in which case, the provisions of § 198-201, applying to narrow and irregular lots, shall apply.

705. ~~No~~ lot for which application for a permit to build has been made, or upon which a building or structure has been erected, may be reduced or changed in area or shape so that the lot, as so reduced or changed, or any land of the owners remaining after such reduction or change fails to have the minimum area and frontage required for the zoning district in which such land is located, unless such land as so changed shall be added to, and become a part of, another lot conforming to the requirements of the zoning district in which such lot is located.

705. ~~The~~ area of any lot, for the purpose of ascertaining the minimum required, may not include any part of the street or way upon which it abuts, but this provision shall not apply to any area beyond the street lot line set aside by the Planning Board as a temporary turnaround area on a dead-end street intended for extension. **[Amended 5-5-1999 STM by Art. 11]**

§ 198-706. Lots on more than one street.

706. ~~A~~ building lot that is located on more than one street must comply with the front setback requirement with respect to each street on which it is located, except as may be authorized by special permit granted by the ZBA pursuant to § 198-203, and must meet the frontage requirement on one such street. **[Amended 5-3-1993 ATM by Art. 16]**

ARTICLE 8

Dimension and Use Tables

**[Amended 5-27-1981 ATM by Art. 16; 5-27-1981 by Art. 17;
5-14-1998 ATM by Art. 55; 5-5-1999 STM by Art. 10]**

§ 198-801. Table of Dimensional Requirements.³¹

801. The Table of Dimensional Requirements sets forth the requirements of this Zoning Bylaw as to area, lot coverage, frontage, setbacks and height requirements for a building or structure enlarged or erected pursuant to a permit issued on or after June 1, 1982. Unless a footnote to the Table of Dimensional Requirements shall expressly state to the contrary, said table shall govern over conflicting requirements in the text of this Zoning Bylaw. Overlay and other special districts may be subject to other dimensional requirements. For such requirements see the applicable Article. **[Amended 4-7-2011 ATM by Art. 19]**

801. Additional dimensional requirements located in other articles of this Zoning Bylaw may apply to the placement of signs, sidewalks, driveway openings, curbs, fences, planting strips and parking and loading facilities and to the separation of buildings and/or structures on the premises.

801. Footnotes to the table set forth additional requirements and exceptions as stated therein with respect to the category to which the footnote is noted.

§ 198-802. Table of Permitted Principal Uses by Districts.³²

802. The Table of Permitted Principal Uses by Districts sets forth the permitted principal uses of land, buildings and structures in each zoning district as set forth in the various provisions of this Zoning Bylaw for uses commencing on or after June 1, 1982. No building, structure or land shall be used or occupied, except for the purposes permitted in the district in the Table of Permitted Principal Uses by Districts of this article applicable thereto, except accessory uses permitted pursuant to § 198-804, and nonconforming uses as provided in Article 4 of this Zoning Bylaw. It is the intent of this Zoning Bylaw to prohibit in any district any use which is not specifically permitted, as well as any use which is denoted by the word "no" in the Table of Permitted Principal Uses by Districts or the Table of Permitted Accessory Uses by Districts. **[Amended 5-5-1999 STM by Art. 11]**

802. A use listed in the Table of Permitted Principal Uses by Districts is permitted as of right in any district under which it is denoted by

31. Editor's Note: The Table of Dimensional Requirements is included at the end of this Zoning Bylaw.

32. Editor's Note: The Table of Permitted Principal Uses by Districts is included at the end of this Zoning Bylaw.

the word "yes." Uses denoted by the word "no" shall be prohibited.
[Amended 5-5-1999 STM by Art. 11]

802. ~~Uses~~ designated by the letters "SP" may be allowed only if the Zoning Board of Appeals (ZBA) or Planning Board issues a special permit pursuant to § 198-203. **[Amended 5-5-1999 STM by Art. 11; 4-7-2011 ATM by Art. 19]**

802. ~~(Reserved)~~³³

802. ~~Site~~ plan approval is required in accordance with Article 6 for a use where the letter "R" appears, and is not required where the letters "NR" appear.

802. ~~Uses~~ designated by the letters "TAU" are not permitted as principal uses, but are permitted as accessory uses pursuant to § 198-804.

802. ~~All~~ uses set forth in this Table of Permitted Principal Uses by Districts shall, in addition, conform to all other requirements contained in this Zoning Bylaw; and, in the event of a conflict between this Table of Permitted Principal Uses by Districts and any other provisions of this Zoning Bylaw, this § 198-802 shall prevail; and the Classification of Principal Uses, § 198-803, below, shall be considered as part of said section and shall likewise prevail in the event of such conflicts. The special permit requirement shall not apply to uses protected under MGL c. 40A, § 3. **[Amended 4-7-2011 ATM by Art. 19]**

§ 198-803. Classification of Principal Uses. [Amended 4-7-2011 ATM by Art. 19]

803. ~~Business~~ uses.

803. ~~Auto~~mobile sales. See § 198-1102.1.2.

803. ~~Auto~~mobile service garage. See § 198-1102.1.4.

803. ~~Auto~~mobile service station. See § 198-1102.1.4.

803. ~~Bank~~.

803. ~~Boat~~ or canoe rental.

803. ~~Funeral~~ home.

803. ~~Medical~~/dental care center.

803. ~~Office~~.

803. ~~Parking~~ facility.

803. ~~Personal~~ and other service establishment.

33. Editor's Note: Former § 198-802.1.3, as amended 5-5-1999 STM by Art. 11, regarding uses designated by the letters "P-ZBA," was repealed 4-7-2011 ATM by Art. 19.

- 803. ~~Rest~~aurant. See § 198-1102.1.
- 803. ~~Retail~~ store.
- 803. ~~Road~~side stand.
- 803. ~~Stables~~ with horses for hire.
- 803. ~~Trade~~ shop.
- 803. ~~General~~ uses.
 - 803. ~~Agri~~culture.
 - 803. ~~Cem~~etery, including any crematory therein.
 - 803. ~~Con~~servation Land.
 - 803. ~~Earth~~ removal. See § 198-504 of this Zoning Bylaw.
 - 803. ~~Ken~~nel.
 - 803. ~~Mem~~bership club, nonprofit.
 - 803. ~~Mem~~bership club, for profit.
 - 803. ~~Re~~creation/park.
- 803. ~~Gov~~ernment, institutional and public service uses.
 - 803. ~~Ass~~isted/independent living.
 - 803. ~~Bu~~s terminal.
 - 803. ~~Edu~~cational.
 - 803. ~~Hos~~pital.
 - 803. ~~Low~~-income elderly housing. See § 198-901.1.5.2.
 - 803. ~~Mult~~ifamily unit/low-income. See § 198-901.1.5.3.
 - 803. ~~Mu~~seum or library.
 - 803. ~~Nu~~rsery school or day-care.
 - 803. ~~Nu~~rsing home.
 - 803. ~~Pub~~lic or charitable institution.
 - 803. ~~Rail~~road station/railroad right-of-way.
 - 803. ~~Rel~~igious building or structure, or use.
 - 803. ~~Stu~~dio.
 - 803. ~~Town~~ use. **[Amended 5-3-2000 ATM by Art. 31]**

- 803.~~B.1~~ Utility facility.
- 803.~~A~~ Industrial uses.
- 803.~~C.1~~ Construction yard.
- 803.~~H.2~~ Heavy vehicle repair garage.
- 803.~~L.3~~ Light manufacturing.
- 803.~~R.4~~ Research and development laboratories/offices less than or equal to 15,000 square feet. See § 198-1401.1.1.
- 803.~~R.5~~ Research and development laboratories/offices greater than 15,000 square feet. See § 198-1402.1.1.
- 803.~~W.6~~ Warehouse/distribution less than or equal to 15,000 square feet. See § 198-1401.1.1.
- 803.~~W.7~~ Warehouse/distribution greater than 15,000 square feet. See § 198-1402.1.1.
- 803.~~B~~ Prohibited uses.
- 803.~~A.1~~ Aircraft landing and taking off.
- 803.~~B.2~~ Boarding house.
- 803.~~D.3~~ Drive-in, drive-through or drive-up restaurants.
- 803.~~H.4~~ Hazardous material storage.
- 803.~~J.5~~ Junkyards are expressly prohibited in all zoning districts of the Town as are trailer and mobile home, trailer camp, mobile home park, trailer and mobile home sales and service, billboard, outdoor movie theater, commercial dump, slaughterhouse, rendering plant, fertilizer plant, race track, commercial extraction of sand, gravel or minerals and all other uses which would be injurious to the neighborhood or to the property in the vicinity are expressly prohibited in all zoning districts in the Town.
- 803.~~E.6~~ Garaged and unregistered motor vehicles: more than one except as otherwise permitted.
- 803.~~A.7~~ Uses not specifically permitted by this Zoning Bylaw.
- 803.~~R~~ Residential uses.
- 803.~~C.1~~ Conservation cluster: See Article 18.³⁴
- 803.~~D.2~~ Dwelling, single-family.

34. Editor's Note: The former entry for accessory dwelling unit, which preceded this entry, was repealed 4-30-2001 ATM by Art. 26.

803. ~~Dwelling~~, multifamily. Accessory dwelling units and residences in accessory dwelling shall not be considered multifamily. **[Amended 4-30-2001 ATM by Art. 26]**

§ 198-804. Table of Permitted Accessory Uses by Districts.³⁵
[Amended 5-5-1999 STM by Art. 11; 4-7-2011 ATM by Art. 19]

804. The Table of Permitted Accessory Uses by Districts sets forth the permitted accessory uses of land, buildings and structures in each zoning district as set forth in the various provisions of this Zoning Bylaw for uses commencing on or after June 1, 1982. All uses set forth in this table shall conform to all other requirements contained in this Zoning Bylaw, and in the event of a conflict between this Table of Permitted Accessory Uses by Districts and any other provisions of this Zoning Bylaw, this § 198-804 shall prevail; and the Classification of accessory uses, § 198-805, below, shall be considered as part of said section and shall likewise prevail in the event of such conflicts.

804. ~~A~~. A use listed in said table is permitted as of right in any district under which it is denoted by the word "yes." Uses denoted by the word "no" shall be prohibited.

804. ~~Use~~. Uses designated by the letters "SP" may be allowed only if a special permit is issued pursuant to § 198-203.

804. ~~(Reserved)~~³⁶

804. ~~Site~~. Site plan approval is required in accordance with Article 6 for a use where the letter "R" appears, and is not required where the letters "NR" appear.

§ 198-805. Classification of accessory uses. **[Amended 4-7-2011 ATM by Art. 19]**

805. ~~Residential~~ accessory uses.

805. ~~In~~ residential districts the term "accessory use" shall not include any walkway or driveway giving access thereto; nor any billboard advertising sign or poster, except for small bulletin boards.

805. ~~A~~ ~~1~~. Accessory dwelling unit. See § 198-901.1.3.

805. ~~A~~ ~~2~~. Accessory dwelling unit, WHA. See § 198-901.1.4.

805. ~~A~~ ~~3~~. Accessory use.³⁷

35. Editor's Note: The Table of Permitted Accessory Uses by Districts is included at the end of this chapter.

36. Editor's Note: Former § 198-804.1.3, regarding uses designated by the letters "P-ZBA," was repealed 4-7-2011 ATM by Art. 19.

37. Editor's Note: The entry for customary home occupation, which immediately followed, was repealed 4-30-2001 ATM by Art. 25. See now § 805.1.1.5.

805. ~~Family~~ day-care, provided that it is conducted as an accessory use.
805. ~~Home~~ occupation, customary. See § 198-104. **[Amended 4-30-2001 ATM by Art. 25³⁸]**
805. ~~Kennel~~, three dogs or fewer. Any kennel or other structure used by dogs shall be no closer than 20 feet to any lot line, and no closer than 50 feet to any existing dwelling located beyond any lot line.
805. ~~Kennel~~, four or more dogs, provided that a special permit is granted to the current owner of the premises in accordance with § 198-203; any kennel or other structure used by dogs shall be no closer than 20 feet to any lot line and no closer than 50 feet to any existing dwelling located beyond any lot line.
805. ~~Letting~~/renting of rooms. See "Home occupation, customary" above.³⁹
805. ~~Office~~, provided that it is conducted as an accessory use and that there is no display of advertising, except for a small professional nameplate.
805. ~~Residence~~ in accessory building. No accessory building may be occupied for residence purposes, except as otherwise provided herein; and except that an employee of the owner or tenant of the principal dwelling may occupy the upper floor of a garage or stable.
805. ~~Roadside~~ stand.⁴⁰
805. ~~Accessory~~ uses permitted in the Limited Commercial District.
805. ~~Cafeterias~~, banks, day-care or recreational facilities for employees.

38. Editor's Note: This article also repealed the entry for in-home office which immediately followed.

39. Editor's Note: See § 805.1.1.5.

40. Editor's Note: The entry for trade shop, which immediately followed, was repealed 4-30-2001 ATM by Art. 25.

ARTICLE 9

**Single Residence District
[Amended 4-7-2011 ATM by Art. 19]****§ 198-901. Permitted uses.**

901. See Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Tables. **[Amended 5-5-1999 STM by Art. 9]**

[Amended 4-16-1980 ATM by Art. 20; 5-4-1994 ATM by Art. 23; 5-5-1999 STM by Art. 9: paragraphs deleted]

[Amended 5-4-1994 ATM by Art. 23; 5-5-1999 STM by Art. 9; 4-30-2001 ATM by Art. 25: paragraph deleted]

901. ~~A.1.~~ Customary home occupation of a resident owner, or a resident tenant with the owner's permission, shall be permitted as a matter of right in those zoning districts specifically referenced in the Table of Accessory Uses, § 198-804, provided that all of the following conditions are met: **[Amended 5-4-1994 ATM by Art. 23; 4-30-2001 ATM by Art. 25]**

901. ~~The~~ Customary home occupation occupies no more than 25% of the gross floor area or 500 square feet, whichever is less, of the dwelling unit or accessory building on the lot.

901. ~~The~~ There are no employees;

901. ~~No~~ Business is conducted on the lot with any client or customer physically present;

901. ~~The~~ There are no signs or other external evidence of nonresidential use; and

901. ~~No~~ Hazard or nuisance, including offensive noise, vibrations, smoke, dust or other particulate matter, odors, heat, glare, humidity, and noxious fumes, shall be created to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists.

901. ~~A.2.~~ Customary home occupation of a resident owner, or a resident tenant with the owner's permission, may be permitted by issuance of a special permit from the Zoning Board of Appeals in those zoning districts specifically referenced in the Table of Accessory Uses, § 198-804, provided that all of the following conditions are met: **[Added 4-30-2001 ATM Art. 25]**

901. ~~The~~ Use of the dwelling unit, or an accessory structure, by the resident for business is incidental and subordinate to its use for residential purposes and occupies no more than 25% of the gross floor area of the dwelling unit or 500 square feet, whichever is less, within the dwelling unit or accessory

structure on the premises; **[Amended 5-6-2004 ATM by Art. 21]**

901. ~~No~~ **2.1** More than one nonresident employee shall be permitted on the lot;

901. ~~The~~ **2.2** There is no change in the outside appearance of the building, structure, or lot or any visible or audible evidence detectable from the property line of the conduct of such business except that one sign not larger than two square feet in area bearing only the name of the practitioner and occupation shall be permitted (words only). The sign shall be flush-mounted to the dwelling unit and shall not be illuminated.

901. ~~Traffic~~ **2.3** Traffic, including traffic by commercial delivery vehicles, shall not be generated in greater volumes than would normally be anticipated in a residential neighborhood;

901. ~~No~~ **2.4** Hazard or nuisance, including offensive noise, smoke, dust, odors, heat, glare, noxious fumes or vibrations, shall be created to any greater or more frequent extent than would normally be expected in the neighborhood under normal circumstances wherein no home occupation exists;

901. ~~The~~ **2.5** There shall be no display of goods or outside storage;

901. ~~Parking~~ **2.6** Parking for the customary home occupation shall be provided on the lot.

901. ~~An~~ **3** accessory dwelling unit is as permitted by the Table of Accessory Uses, § 198-804, and provided that: **[Amended 4-17-1980 ATM by Art. 22; 4-30-1986 ATM by Art. 29; 5-5-1999 STM by Art. 9]**

901. ~~The~~ **3.1** The lot on which the accessory unit is to be situated contains at least 20,000 square feet and at least 50% of the requirement for the district in which it is located.

901. ~~No~~ **3.2** More than one accessory unit shall exist on the lot on which it is to be situated.

901. ~~The~~ **3.3** The building or buildings in which the accessory unit and the principal residence are to be situated shall have existed for two years. **[Amended 4-30-1986 ATM by Art. 29]**

901. ~~Any~~ **3.4** Additions made after January 1, 1980, to a building for the purpose of accommodating an accessory unit shall not increase the habitable area of the original building by more than 20%. Any such additions must meet all zoning requirements. **[Amended 4-30-1986 ATM by Art. 29]**

901. ~~Either~~ **3.5** Either the accessory unit or the principal residence shall be occupied by the owner of the lot on which the accessory unit is

situated. The owner may be absent for periods not exceeding one year, provided that no one occupies the owner's unit, except a house sitter paying no rent. The owner's unit may be rented for periods not exceeding two years, provided that prior written notice is given to the Building Commissioner, the owners have occupied their unit for the prior two years, and occupy for two years between rental periods, and the owners remain legal residents of the Town. **[Amended 4-30-1986 ATM by Art. 29]**

901. ~~The~~ accessory unit and the principal residence shall each have two means of egress to grade that are in compliance with the Building Code.

901. ~~Sufficient~~ parking spaces, not less than 10 feet by 20 feet, shall be provided off street for the occupants of each dwelling unit.

901. ~~The~~ Board of Health shall have given written approval that the septic system serving the dwelling with the accessory unit is in compliance with the rules and regulations of the Board of Health in effect at the time of application for special permit, unless a variance is granted by the Board of Health.

901. ~~Where~~ a special permit has been issued pursuant to the provisions of this section, the permitted use must commence within one year, otherwise said permit shall lapse.

901. ~~Fl~~ ~~301~~ plans of the accessory unit and the principal residence and a plot plan showing the location of the building on the lot shall have been filed with the application after review by the Building Commissioner.

901. ~~Application~~ for a building permit or certificate of occupancy shall be made to the Building Commissioner, and no use or occupancy shall commence prior to the issuance of a certificate of occupancy by the Building Commissioner. **[Amended 4-30-1986 ATM by Art. 29; 5-5-1999 STM by Art. 11]**

[Amended 4-30-1986 ATM by Art. 29; paragraph deleted]

901. ~~An~~ accessory dwelling unit reserved, for a period not less than 10 years, for occupancy by a person or family receiving rental assistance from the Wayland Housing Authority is permitted in accordance with the Table of Accessory Uses, § 198-804, and provided that: **[Amended 5-8-1989 ATM by Art. 18; 5-5-1999 STM by Art. 9]**

901. ~~The~~ lot on which the accessory unit is to be situated contains at least 15,000 square feet.

- 901.1.4.2 Any additions made after December 15, 1988, to a building for the purpose of accommodating an accessory dwelling unit reserved for Wayland Housing Authority rental programs shall not increase the habitable area of the original building by more than 35%, provided that the unit shall not exceed 1,000 square feet of floor space. Any such addition must meet all zoning and Building Code requirements.
- 901.1.4.3 The accessory unit shall have two means of egress to grade in compliance with the Building Code. **[Amended 5-5-1999 STM by Art. 11]**
- 901.1.4.4 The accessory unit shall be served by one parking space, unless the special permit granting authority determines that on-street parking is not detrimental to the neighborhood.
- 901.1.4.5 The accessory unit shall comply with the requirements of § 198-901.1.3.2, 901.1.3.3, 901.1.3.5, 901.1.3.8, 901.1.3.9, 901.1.3.10 and 901.1.3.11.
- 901.1.4.6 The homeowner shall submit proposed documents leasing the accessory unit, for a period of not less than 10 years, to the Wayland Housing Authority. Such documents shall include certification that the Wayland Housing Authority intends to accept such unit for its rental assistance programs.
- 901.1.4.7 Any special permit issued under this § 198-901.1.4 shall lapse if the homeowner breaches his/her lease with the Wayland Housing Authority (upon proper notice by said Authority) or if the accessory unit ceases to be occupied by an eligible family (as certified by said Authority).
- 901.1.5 Public buildings.
- 901.1.5.1 Police stations. **[Amended 4-8-1985 STM by Art. 2; 5-5-1999 STM by Art. 9; 5-5-1999 STM by Art. 11]**
[Amended 5-5-1999 STM by Art. 9; paragraph deleted]
- 901.1.5.2 Housing for elderly persons of low income, including adequate parking areas therefor, as such housing is defined by MGL c. 121B, §§ 1, 38, 39 and 40, constructed by the Wayland Housing Authority as permitted in the Table of Principal Uses by District, § 198-802. **[Amended 5-5-1999 STM by Art. 9]**
- 901.1.5.3 Subsidized multifamily dwelling for persons of low income, including adequate parking areas therefor, such housing being more fully described in MGL c. 121B, constructed by the Wayland Housing Authority as permitted in the Table of Principal Uses by District, § 198-802. **[Amended 6-2-1981 STM by Art. 6; 5-5-1999 STM by Art. 9]**

[Amended 4-8-1985 STM by Art. 2; 5-5-1999 STM by Art. 9: paragraphs deleted]

901. ~~Where~~ ^{When} sanitariums, hospitals or nursing homes for the care of the sick or aged, are permitted by the Table of Principal Uses by District, § 198-802, no building shall be within 30 feet of any lot line. **[Amended 5-3-1993 ATM by Art. 18; 5-5-1999 STM by Art. 9]**

901. ~~Where~~ ^{When} public or charitable institutional buildings not of a correctional nature are permitted by the Table of Principal Uses by District, § 198-802, no building shall be within 30 feet of any lot line. **[Amended 4-28-1986 ATM by Art. 25; 5-5-1999 STM by Art. 9]**

[Amended 6-16-1987 STM by Art. 5; 5-4-1988 ATM by Art. 20; 5-5-1999 STM by Art. 9: paragraph deleted]⁴¹

901. ~~Greenhouses or stable for horses~~ ^{Greenhouses or stable for horses} are permitted by the Table of Principal Uses by District, § 198-802, any greenhouse heating plant and any building in which farm or pleasure animals are kept may not be within 20 feet from any lot line. **[Amended 4-30-1975 ATM by Art. 31; 5-5-1999 STM by Art. 9]⁴²**

[Amended 5-5-1999 STM by Art. 9: paragraph deleted]

41. Editor's Note: Former § 198-901.1.9 on real estate signs, which immediately followed, was moved to § 198-502 by Art. 47 of the 5-14-1998 ATM.

42. Editor's Note: Former § 198-902, Accessory uses and buildings, amended 4-30-1986 ATM by Art. 29, and former § 198-903, Permits required by the Zoning Board of Appeals, amended 5-2-1983 ATM by Art. 12, which immediately followed, were repealed 5-5-1999 STM by Art. 9. Prior to this repeal, a former § 198-903, Storage of unregistered vehicles; violations and penalties, was moved to § 198-503 by Art. 47 of the 5-14-1998 ATM and a former § 198-903.1.4, Earth removal, was moved to § 198-504 by Art. 47 of the 5-14-1998 ATM.

ARTICLE 10

Roadside Business District
[Amended 4-7-2011 ATM by Art. 19]

§ 198-1001. Permitted uses.

1001 See Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Tables. **[Amended 4-30-1975 ATM by Art. 3; 11-13-1991 STM by Art. 6; 5-4-1992 STM by Art. 1; 5-5-1999 STM by Art. 9]**

§ 198-1002. Area, yard and bulk regulations; parking facilities; signs.

1002 In a Roadside Business District, buildings, structures and lots used for purposes other than those permitted in a residence district shall be subject to the following special provisions:

1002.1 Reserved) **[Amended 11-13-1991 STM by Art. 6; 5-5-1999 STM by Art. 9; 5-5-1999 STM by Art. 11]**

[Amended 5-5-1999 STM by Art. 9: paragraph deleted]

1002.2 All buildings and structures shall conform to the height and lot coverage regulations for residence districts as contained in § 198-701.1 and § 198-704, respectively. **[Amended 4-28-1975 ATM by Art. 16]**

[Amended 5-5-1999 STM by Art. 9: paragraph deleted]

1002.3 Except where adjacent buildings, structures, or lots are served by the same driveway openings, each building, structure, or lot shall be provided with two driveway openings onto the street, one of which shall be used for entrance to, and the other for exit from, the building, structure, or lot. Not more than two such openings shall be permitted for each 200 feet of street frontage. Such openings shall be not more than 20 feet in width at the street lot line and located no less than 40 feet apart, measured along said line, and not less than 20 feet from side lot lines. Where approval by the MassDOT is required in connection with driveway openings onto state highways, the prior provisions of this § 198-1002.1.3 shall be waived, and the regulations of MassDOT shall be applicable.

1002.4 Each building, structure, or lot shall provide and maintain adequate areas off the street for parking of cars of employees and customers to avoid undue interference with traffic.

1002.5 No more than one sign, other than those that are attached to and are part of the architectural design of a building or structure, may be permitted on each building or structure.

1002.6 Accessory signs may not be located nearer than 30 feet to any lot or street lot line. **[Amended 5-5-1999 STM by Art. 11]**

1002n1. The event of the construction, reconstruction or substantial alteration of any building or structure that is used or intended to be used, in whole or in part, for any industry, trade, manufacturing or commercial purposes, a paved pedestrian sidewalk shall be constructed as a part of such construction, reconstruction or substantial alteration, such sidewalk to be no less than five feet in width and set back no less than four feet from the street lot line and to be constructed the full width of the lot, except where driveways exist. The sidewalk shall be separated from the remainder of the lot with a four-foot strip to be maintained as a landscaped area. The sidewalk location shall be such as to join in a reasonable manner existing sidewalks on abutting land. **[Amended 5-5-1999 STM by Art. 11]**

ARTICLE 11
Business Districts

§ 198-1101. Establishment. [Amended 4-7-2011 ATM by Art. 19]

1101 ~~Business Districts A and Business Districts B are hereby established. In these districts, no building or structure, and no alteration, enlargement or extension of an existing building or structure, may be constructed and no building, structure, or lot or part thereof may be used for any purpose or in any manner other than as provided in the Table of Principal Uses by District, § 198-802. The provisions of Article 6, Site Plan Approval, shall apply as described in the Table of Principal Uses by District, § 198-802. [Amended 5-5-1999 STM by Art. 9]~~

§ 198-1102. Permitted uses in Business District A. [Amended 4-7-2011 ATM by Art. 19]

1102 ~~The Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Tables. [Amended 5-5-1999 STM by Art. 9]~~

[Amended 5-5-1999 STM by Art. 9; paragraphs deleted]

1103 ~~Restaurants shall be permitted as described in the Table of Permitted Uses by District. Where the Table of Principal Uses by District, § 198-802, requires either a permit from the Zoning Board of Appeals (ZBA) or a special permit, the ZBA shall satisfy itself that a clearly established need of the Town will be served thereby and where the ZBA shall satisfy itself that the use of the premises shall not be against the public interest, shall not derogate from the character of the neighborhood in which such use is to occur and shall not be detrimental or offensive because of noise, vibrations, smoke, gas, fumes, odor, dust or other objectionable features and that such use shall not otherwise be injurious to the inhabitants or their property or dangerous to the public health or safety, subject, however, to the following: [Amended 3-20-1974 ATM by Art. 61; 5-5-1999 STM by Art. 9]~~

1104 ~~The ZBA may permit food or beverages to be served or consumed on the premises outside the building, subject to such safeguards and limitations as it may impose in its approval of a site plan pertaining thereto, as long as such use shall be incidental to such consumption inside the building.~~

1105 ~~The area of the lot to be traversed by motor vehicles shall be paved or otherwise covered with a suitable material.~~

1106 ~~Properties in abutting residential districts shall be protected from headlight glare by such methods as the ZBA may require. Any protection required shall be maintained in good condition at all times. No signs or advertisements may be attached to any protective screening or fence except on the side facing the use~~

of the building, structure, or lot. Such protective screening or fence may be interrupted by normal entrances or exits.

[Amended 4-28-1986 ATM by Art. 27: paragraph deleted]

110211.4.1 Illumination of outdoor areas shall be shielded so as not to shine upon any property in a residential district.

110211.4.2 The use of banners, pennants, pinwheels or other advertising novelties is prohibited.

110211.4.3 The ZBA may impose such additional conditions with respect to the size, construction, use, maintenance and operation of the premises, and the vehicular and pedestrian access thereto, as may be appropriate.

[Amended 5-5-1999 STM by Art. 9: paragraphs deleted]

110211.5 Automobile sales.

110211.5.1 Automobile sales shall be permitted as described in the Table of Principal Uses by District, § 198-802, and subject to the following: **[Amended 5-5-1999 STM by Art. 9]**

110211.5.1.1 Washing, lubricating and major repairing of vehicles are to be performed inside enclosed buildings.

110211.5.1.2 Dispensing of fuels, lubricants and fluids is to be done entirely on the lot.

110211.5.1.3 Dismantling and junk operations are prohibited.

110211.5.1.4 The entire area of the lot to be traversed by motor vehicles shall be paved.

110211.5.1.5 Driveways shall be paved and join streets and cross sidewalks at right angles, shall not be more than 24 feet nor less than 10 feet wide at any point, shall be at least 10 feet from any lot line and 25 feet from the intersection of street lot lines and shall be at least 20 feet apart. No more than two driveways may be permitted for each 100 feet of street frontage. Where approval by the MassDOT, or successor agency, is required in connection with driveway openings onto state highways, the prior provisions of this § 198-1102.1.4.1.7 shall be waived, and the regulations of said MassDOT shall be applicable. **[Amended 5-5-1999 STM by Art. 11]**

110211.5.1.6 No parts or partially dismantled vehicles may be stored out-of-doors.

1102.1.1. Minimum lot area for automobile sales shall be two acres, and minimum frontage shall be 200 feet, and a structure(s) shall not be less than 100 feet from any residential building. **[Amended 4-28-1986 ATM by Art. 27: paragraph deleted]**

1102.1.2. Buildings may occupy no more than 25% of the lot.

1102.1.3. The minimum setback for all structures shall be 40 feet from the street lot line, and setbacks from other lot lines shall be 25 feet. **[Amended 5-5-1999 STM by Art. 11]**

1102.1.4. Properties in abutting residential districts shall be protected from headlight glare by either:

1102.1.4.1. At least four feet wide densely planted with shrubs at least four feet high at time of planting and that are a type that may be expected to form a year-round dense screen at least six feet high in three years; or

1102.1.4.2. A fence of uniform appearance at least five feet high but not more than seven feet high above finished grade.

[Amended 4-28-1986 ATM by Art. 27: paragraph deleted]

1102.1.5. Protection afforded by § 198-1102.1.2.1.10.1 or 1102.1.2.1.10.2 above shall be maintained in good condition at all times. No signs or advertisements may be attached thereto, except on the side facing the use of the building, structure, or lot. Such protective screening or fences may be interrupted by normal entrances or exits.

1102.1.6. Illumination on outdoor areas shall be shielded so as not to shine on any property in a residential district.

1102.1.7. The use of banners, pennants, pinwheels or other advertising novelties is prohibited.

[Amended 5-5-1999 STM by Art. 9: paragraphs deleted]

1102.1.8. The ZBA, in accordance with § 198-203, may permit additional retail business and service uses when such uses are clearly similar to those permitted herein.

1102.1.9. Automobile service stations and automobile service garages. **[Amended 5-5-1999 STM by Art. 9]**

1102.1.10. Automobile service stations and automobile service garages shall be permitted as described by the Table of Permitted Uses

1102The minimum setback of all structures, except gasoline pumps, shall be 40 feet from the street and 25 feet from other lot lines. Gasoline pumps shall be set back at least 20 feet from the street lot line and 25 feet from other lot lines.

1102Properties in abutting residential districts shall be protected from headlight glare by either:

1102A strip at least four feet wide densely planted with shrubs at least four feet high at time of planting and that are a type that may be expected to form a year-round dense screen at least six feet high in three years; or

1102A 4-foot fence of uniform appearance at least five feet high but not more than seven feet above finished grade.

1102Properties afforded by § 198-1102.1.4.1.12.1 or 1102.1.4.1.12.2 above shall be maintained in good condition at all times. No signs or advertisements may be attached thereto, except on the side facing the use of the building, structure, or lot. Such protective screening or fence may be interrupted by normal entrances or exits.

[Amended 4-28-1986 ATM by Art. 27: paragraph deleted]

1102Illumination on outdoor areas shall be shielded so as not to shine upon any property in a residential district.

1102The use of banners, pennants, pinwheels or other advertising novelties is prohibited.

§ 198-1103. Permitted uses in Business District B. [Amended 4-7-2011 ATM by Art. 19]

1103See Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Table. The ZBA, in accordance with § 198-203, may permit additional retail business and service uses when such uses are clearly similar to those permitted herein. **[Amended 5-5-1999 STM by Art. 9]**

§ 198-1104. Height, area, yard and bulk regulations.

1104Height, area and yard requirements.

[Amended 5-14-1998 ATM by Art. 48; 5-5-1999 STM by Art. 9: paragraph deleted]

1104.1.1 Both Business Districts A and B, all signs as permitted herein and all outdoor displays as permitted herein shall be located not closer than 15 feet to the exterior line of any public or private way.

1104.1.2 Business District A, the area and yard requirements of Article 7-shall apply. This requirement does not constitute relief from conformity with off-street parking and loading requirements under §§ 198-504 and § 198-507. **[Amended 4-7-2011 ATM by Art. 19]**

1104.1.3 Business District B, the following provisions apply:

[Amended 5-5-1999 STM by Art. 9; paragraph deleted]

1104.1.3.1 Exception to the setback requirements from street lot lines for buildings and structures may be made by the ZBA, in accordance with § 198-203, upon presentation of a site plan for approval (See Article 6.), provided that the exception does not reduce the distance to less than 15 feet and that the plan is made in such manner as to minimize the generation of traffic hazards. **[Amended 5-5-1999 STM by Art. 9; 5-5-1999 STM by Art. 11]**

1104.1.3.2 For buildings in a Business District B, the ZBA, as outlined above, may grant exception to the fifteen-foot requirement of § 198-1104.1.3.1, provided that such is necessary to permit development of an integrated group of buildings on separate parcels of land. **[Amended 5-5-1999 STM by Art. 9]**

§ 198-1105. (Reserved)⁴³

§ 198-1106. Curbs and sidewalks. [Amended 4-28-1975 ATM by Art. 26; 4-28-1986 ATM by Art. 27; 4-7-2011 ATM by Art. 19]

1106.1 Both Business Districts A and B, in the event of the construction, reconstruction or substantial alteration of any building or structure that is used, or intended to be used, in whole or in part, for any industry, trade, manufacturing or commercial purpose, there shall be constructed as part of such construction, reconstruction or substantial alteration a raised granite curb at least six inches in height along the edge of the street, except at approved driveway openings. There also shall be a paved pedestrian sidewalk no less than five feet in width set back no less than four feet from the street lot line for the entire length of the lot frontage; provided however, where driveways exist, the sidewalk shall be separated from the remainder of the lot with a strip four feet wide in which suitable evergreen shrubs or other landscaping approved by the ZBA shall be maintained in good condition. The strip between the sidewalk and the street shall be maintained in good

43. Editor's Note: Former § 198-1105, Off-street parking and loading requirements, was moved to § 198-506, Off-street parking, and § 198-507, Off-street loading, 5-5-2004 ATM by Art. 15.

condition as a grass area. The sidewalk location shall be such as to join in a reasonable manner existing or planned sidewalks on abutting land.

§ 198-1107. Outdoor displays.

1107n both Business Districts A and B, no outdoor display of merchandise for sale, other than motor vehicles, automobile accessories customarily sold at filling stations and farm and nursery produce, shall be permitted.

ARTICLE 12

Refuse Disposal District**[Amended 11-12-1975 STM by Art. 8; 4-7-2011 ATM by Art. 19]****§ 198-1201. Permitted uses.**

1201 See Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Table. No building or structure may be erected or constructed, altered, enlarged or used, and no land, water, building, or structure may be used for any purpose, or in any manner, other than as provided below:

1201 The disposal and treatment of septic tank pumpings at the septic treatment facility.

1201 The disposal of refuse and the recycling of materials and sale of recycled materials at such sanitary landfill areas as may have been designated by the Board of Health, all in accordance with its rules and regulations. **[Amended 5-14-1998 ATM by Art. 49]**

1201 The removal of such vegetation, sod, loam, gravel, stone and/or other earth materials as may have been authorized, from time to time, by the Board of Health. **[Amended 5-14-1998 ATM by Art. 49]**

1201 The storage of de-icing and earth materials. **[Added 5-4-2005 STM by Art. 4]**

1201 Public works facility including office and associated structures owned or operated by the Town of Wayland and used for maintenance and repair of vehicles owned or leased by the Town of Wayland and for parking and storage of vehicles used for public works uses. **[Added 4-9-2012 ATM by Art. 10]**

ARTICLE 13

**Light Manufacturing District
[Amended 4-7-2011 ATM by Art. 19]****§ 198-1301. Permitted uses. [Amended 5-5-1999 STM by Art. 9]**

1301 See Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Tables.

§ 198-1302. Sidewalks.

1302 In the event of the construction, reconstruction or substantial alteration of any building or structure that is used or intended to be used, in whole or part, for any industry, trade, manufacturing or commercial purposes, a paved pedestrian sidewalk shall be constructed as a part of such construction, reconstruction or substantial alteration. Such sidewalk shall be no less than five feet in width and shall be set back no less than four feet from the street lot line and shall be constructed for the entire width of the lot frontage; provided, however, where driveways exist, and separated from the remainder of the lot with a four-foot strip to be maintained as a landscaped area. The sidewalk location shall be such as to join in a reasonable manner existing or planned sidewalks on abutting land. **[Amended 5-5-1999 STM by Art. 11]**

ARTICLE 14
Limited Commercial District

§ 198-1401. Permitted uses. [Amended 4-7-2011 ATM by Art. 19]

1401 See Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Tables. **[Amended 5-5-1999 STM by Art. 9]**

[Amended 11-13-1991 STM by Art. 5; 5-5-1999 STM by Art. 9: paragraph deleted]

1402 Research and development laboratories/offices, offices, warehouse/distribution facilities, and light manufacturing, where the total footprint of all buildings housing such use(s) on the property does not exceed 15,000 gross square feet or 5% of the total lot area, whichever is smaller shall be permitted. **[Amended 11-13-1991 STM by Art. 5; 5-6-1992 ATM by Art. 17; 5-5-1999 STM by Art. 9]**

1403 Personal and other service establishment, bank, nursery school/day-care, recreation/park facilities, and similar facilities, for the employees or other licensees of a permitted or special permit use, but such facilities shall not be available to the general public. **[Amended 11-13-1991 STM by Art. 5]**

§ 198-1402. Special permit uses. [Amended 11-13-1991 STM by Art. 5; 4-7-2011 ATM by Art. 19]

1404 Buildings, structures, and lots in a Limited Commercial District may be constructed, reconstructed, altered, enlarged or used, and premises may be used, for the following purposes and no others, subject to the provisions of Article 6, Site Plan Approval, of this Zoning Bylaw, and provided that a permit is obtained from the Zoning Board of Appeals in accordance with § 198-203 of this Zoning Bylaw:

1405 Research and development laboratories/offices, warehouses/distribution facility, and light manufacturing, where the total footprint of all buildings housing such use(s) on the property exceeds 15,000 gross square feet or 5% of the total lot area, whichever is smaller. **[Amended 11-13-1991 STM by Art. 5; 5-6-1992 ATM by Art. 17]**

§ 198-1403. Area, yard and bulk regulations. [Amended 11-13-1991 STM by Art. 5; 5-5-1999 STM by Art. 9; 4-7-2011 ATM by Art. 19]

1406 See Article 7, Area, Yard and Bulk Regulations; Article 8, Dimension and Use Tables.

§ 198-1404. Limitations and development. [Amended 11-13-1991 STM by Art. 5; 5-6-1992 ATM by Art. 16; 4-7-2011 ATM by Art. 19]

1404 Notwithstanding any provision of this Zoning Bylaw to the contrary, no special permit or site plan approval may be granted by the special permit granting authority or by the site plan approval authority ("the approving authority") that allows for development in excess of the following limitations and that has not been supported by the traffic impact information set forth in § 198-1405.

§ 198-1405. Traffic impact.

1405 The applicant shall submit a traffic impact assessment report containing such data and information as required by the approving authority. No new building or structure, group of buildings or structures, improvement, alteration or change in use shall result in a level of service (LOS), as defined by criteria set forth by the Transportation Research Board of the National Research Council, determined to be inadequate within the impact area of the proposed activity. The "impact area" shall mean any road, intersection or way within 1,000 feet of the closest boundary of the project site and projected to receive at least 5% of the anticipated average daily or peak-hour traffic generated by the proposed development. "Inadequate," for the purpose of this finding, shall mean: **[Amended 5-14-1998 ATM by Art. 50; 4-7-2011 ATM by Art. 19]**

1405A1. LOS of less than "B" (as defined in the reference cited above) for existing designated scenic roads, for all categories of existing residential streets (as defined in the Subdivision Regulations of the Planning Board⁴⁴) and for all new streets and intersections created in conjunction with the project.

1405A2. LOS of less than "D" (as defined in the above reference) for numbered highways and all other streets.

1405 The approving authority, at its discretion, may hire a qualified expert in developing and interpreting traffic generation data to confirm data submitted by the applicant, evaluate data and recommend to the approving authority the appropriate LOS to be utilized by the approving authority in determining whether the proposed activity meets the requirement of this § 198-1405. The approving authority may charge the applicant reasonable costs for such work as part of the application fee for review of the application.

1405 The approving authority, at its discretion, may allow for improvements to affected areas that, when complete, will provide the required LOS and may make such improvements a condition of approval.

1405 The approving authority may accept a request for waiver of traffic impact if the applicant asserts to the satisfaction of the approving authority that:

44. Editor's Note: See Ch. 303, Subdivision of Land.

1405.1 The application of the limitations contained under § 198-1405.1 and 1405.2 above would constitute a hardship or prohibit use of the property for a purpose allowed in this article and that the impact on the affected ways is insignificant; or

1405.2 The way(s) affected was (were) below the required LOS at the time of application and the impact on the affected way(s) is insignificant.

1405.3 Such request for waiver of traffic impact shall be made, in writing, by the applicant, who shall submit sufficient data satisfactory to the approving authority to support said request. The approving authority shall list, in writing, its reasons for granting or denying said request, after holding a public hearing in accordance with the hearing requirements of MGL c. 40A, the Zoning Act, pertaining to special permits.

§ 198-1406. Physical attributes of the lot. [Amended 4-7-2011 ATM by Art. 19]

1406.1 The footprint of any building(s) may not exceed 20% of the total area of the lot. The footprint of a building shall be measured at the outermost edge of the foundation of the building or at the outermost edge of any portion of the first floor overhanging the foundation, whichever is greater.

1406.2 The floor area ratio (FAR) may not exceed 40% when calculated by dividing the total gross floor area of the buildings by the total area of the lot.

1406.3 No portion of any building or structure may exceed 35 feet in height, except that this limitation shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other accessory rooftop features necessary to the functioning of the building, if such features are in no way occupied by people.

1406.4 No building or structure may extend to within 100 feet of any street lot line or to within 100 feet of any property line. **[Amended 5-5-1999 STM by Art. 11]**

1406.5 The lot shall have adequate parking spaces, as determined by the approving authority after review of the traffic impact assessment report. Such parking spaces shall be off-street and shall not be located within 50 feet of the perimeter lot line. The approving authority may allow on-street parking and location of parking spaces closer to the lot line, but only after listing its reasons therefor and finding that allowing such parking is consistent with the purposes of this Zoning Bylaw. However, in no event may parking be allowed within 100 feet of residential zoning districts or residential properties. All parking shall be screened from adjacent properties by suitable landscaping materials.

- 1406A. facilities and all articles stored on the lot shall be located within enclosed buildings or structures, unless the approving authority allows for an adequately screened storage area and lists in its written findings that such an area is consistent with the purposes of this Zoning Bylaw.
- 1406B. loading platform may be located on the street side of any building or structure or on the side of a building or structure facing a residential district, unless properly screened and unless the approving authority lists in its written findings that said screened platform is consistent with the purposes of this Zoning Bylaw.
- 1406C. at the event of the construction, reconstruction or substantial alteration on any lot that is used or intended to be used, in whole or in part, for the purpose allowed under Article 14, paved pedestrian sidewalks shall be constructed as a part of such construction, reconstruction or substantial alteration. Such sidewalks shall be no less than five feet in width, shall be set back no less than four feet from the street lot line for the entire width of the lot frontage and shall be separated from the remainder of the lot by a four-foot landscaped strip. Sidewalks shall reasonably join existing sidewalks or shall be capable of reasonably joining planned sidewalks, internally and on abutting land. **[Amended 5-5-1999 STM by Art. 11]**
- 1406D. Not more than one sign, consistent with regulations promulgated pursuant to Article 6, Site Plan Approval, of this Zoning Bylaw, shall be allowed at each entrance of the lot from each principal way and from which way access to the site is provided in the site plan approval for the site.

ARTICLE 15

Wireless Communications Services District

**[Amended 5-2-1996 STM by Art. 3; 5-7-1997 ATM by Art. 31;
5-7-1997 ATM by Art. 32; 12-2-1998 STM by Art. 5; 12-3-1998 STM
by Art. 11; 12-3-1998 STM by Art. 12; 12-3-1998 STM by Art. 13;
5-3-1999 STM by Art. 14]**

§ 198-1501. Purpose.

1501 For the purposes of this Article 15, "wireless communications services" shall mean the provision of the following types of services: cellular telephone service, personal communications service and enhanced specialized mobile radio service. It is anticipated that such services will be provided via wireless communications facilities that may include a tower, one or more antennas and one or more accessory structures. The purpose of this Article 15 is to establish a district in which wireless communications services may be provided while preserving and protecting the public health, safety and general welfare. Specifically, the Wireless Communications Services District has been created to:

1501.1 Protect the general public from hazards associated with wireless communications facilities.

1501.2 Minimize visual impacts from wireless communications facilities.

1501.3 Protect the scenic, historic, natural and human-made resources of the Town.

1501.4 Protect property values.

§ 198-1502. Location.

1502 The Wireless Communications Services District shall be located on land owned by the Town of Wayland known as the "old landfill site" (as shown in the Atlas of the Town of Wayland, Massachusetts, 1996, on Plates 22 and 23, Parcels 22-001 and 22-002), and part of the land known as the "new landfill site" (as shown in the Atlas of the Town of Wayland, Massachusetts, 1996, on Plates 17, 21 and 22, inclusive, that part of Parcel 17-018 that is south of a continuation of the parcel line that extends northeasterly from the point of the intersection of parcel lines for Parcels 21-010A, 21-012F, 22-004 and 17-018 to meet the northeast parcel line of Parcel 17-018, Parcels 21-010A, 22-003, 22-004, 22-006 and 22-007) and on the land comprising the portion of the so-called Massachusetts Bay Transit Authority, currently known as "Massachusetts Bay Transportation Authority (MBTA), "right-of-way from its boundary with the southerly sideline of Boston Post Road (Route 20), westerly to its westernmost boundary with the Town of Sudbury as shown in the Atlas of the Town of Wayland, Massachusetts, 1996, on Plates 22, 26 and inclusive, and as shown on the plan entitled "Town of Wayland Wireless Communications Services District Special Town Meeting - November 17, 1999," dated September 16, 1999,

prepared by the Town of Wayland Survey Department, a copy of which plan is on file in the Office of the Town Clerk. **[Amended 11-17-1999 STM by Art. 3; 5-4-2000 ATM by Art. 33]**

- 1502 The Wireless Communications Services District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

§ 198-1503. Use restrictions.

- 1503 A wireless communications facility may be erected in the Wireless Communications Services District upon the issuance of a special permit by the Planning Board pursuant to § 198-203 and subject to site plan approval as set forth in Article 6 of this Zoning Bylaw, if the Planning Board determines that the adverse effects of the proposed facility will not outweigh its benefits to the Town in view of the particular characteristics of the site and of the proposal in relation to the site. Said determination shall include consideration of each of the following:

1503 The communications needs served by the facility.

1503 Traffic flow and safety, including parking and loading.

1503 Adequacy of utilities and other public services.

1503 Impacts on neighborhood character, including aesthetics.

1503 Impacts on the natural environment, including visual impacts.

1503 Potential fiscal impacts, including impacts on Town services, tax base and employment.

1503 Potential human health hazards due to radio signal radiation, to the extent not contrary to federal law.

- 1503 In addition, such facility may be erected in said district, subject to the following conditions:

1503 To the extent feasible, all service providers shall collocate their antennas on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten-year period) technically practicable.

1503 New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the antennas planned for the proposed tower.

1503 Any new wireless communications facility tower shall be of the monopole type only; no lattice or guy-wire towers and no teleports shall be permitted, and the Planning Board may allow and/or limit the use and size of parabolic antennas and of repeaters.

1503A.4 Any wireless communications facility erected in the portion of the Wireless Communications Services District comprising the portion of so-called MBTA right-of-way located between its westernmost boundary with the Town of Sudbury and its boundary with the southerly sideline of Route 20, as described in Section 198-1502.1 of this Zoning Bylaw, shall be mounted on and attached to one of the Boston Edison Company (BECO) electric transmission towers located therein numbered 94 through 102, inclusive, except for structures which are accessory to such wireless communications facilities. Except for the BECO towers, the highest point of any antenna support structure or of any antenna or any component thereof or attachment thereto shall not exceed 10 feet above the lesser of the preexisting significant tree canopy elevation or the proposed postconstruction significant tree canopy elevation, as defined in § 198-1503.2.4.2 below. **[Amended 11-17-1999 STM by Art. 3]**

1503E.4.1 Except for the BECO towers, if there is no significant tree canopy elevation, as defined in § 198-1503.2.4.2 below, the maximum height of any antenna support structure or any antenna or any component thereof or attachment thereto shall not exceed 55 feet above finished grade of ground elevation.

1503E.4.2 The purpose of this Article 15, "significant tree canopy elevation" shall be defined as the arithmetic average of the elevations of the tops of all trees at least 6 inches in diameter at four feet and over 20 feet tall in a stand of trees, all of which are located within a 150-foot radius of the base of the proposed antenna support structure, provided that at least 10 such trees are in said stand. Elevations shall be measured with respect to mean sea level datum.

1503E.5 Except for the BECO towers, no antenna, nor any support structure, nor any antenna or any component thereof or attachment thereto shall be located at a height in excess of 55 feet, unless there is such a significant tree canopy elevation, as defined in § 198-1503.2.4.2 above.

1503E.6 Finished grades shall not be distorted above the preexisting natural grades as a way to achieve additional height.

1503E.7 Except for the BECO towers, a wireless communications facility shall not be erected nearer to any property line than a distance equal to the vertical height of the wireless communications facility, measured at the mean finished grade of the tower base.

1503E.8 To the extent feasible, all network interconnections from the wireless communications facility made via land lines shall be via underground lines.

150319. Existing on-site vegetation shall be preserved to the maximum extent practicable.
150320. A wireless communications facility shall minimize, to the extent feasible, adverse visual effects on the environment. The Planning Board may impose reasonable conditions to ensure this result, including painting and lighting standards.
150321. Traffic associated with the wireless communications facility shall not adversely affect abutting ways.
150322. An applicant shall obtain written, legally valid and binding authorization for the use of each facility site from the owner thereof; and, where applicable, from the utility companies whose facilities are used; and from the Board of Selectmen with respect to public ways and Town-owned facilities.
150323. An antenna for use as a wireless communications facility shall not be installed, nor mounted on, nor attached to a new monopole tower or existing structure in any location that is within 900 feet of a lot line defining a parcel on which exists a dwelling, a school, a day-care center, a nursing home or an assisted or independent living facility.
150324. An antenna or equipment mounted on or attached to any of the BECO towers shall not extend more than 25 feet above the highest point of said towers.
150325. The area around a tower, communication equipment shelters and related equipment shall be completely fenced for security to a height of six feet, and gated; and a sign shall be posted on or adjacent to all entry gates indicating the facility owner and a twenty-four-hour emergency telephone number.
150326. Radio frequency radiation from any wireless communications facility:
- 150326.1 Shall comply with Federal Communications Commission (FCC) Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation.
 - 150326.2 Shall comply with standards of the Massachusetts Department of Public Health (DPH), the National Council for Radiation Protection and the American National Standards Institute, insofar as such standards are more strict or limiting as to permissible human exposure than are the FCC Guidelines and may lawfully be applied.
 - 150326.3 Shall be controlled and limited as to frequency and power so as not to cause interference, by intermodulation or otherwise, with any Town facility or amateur facility.

1503. Noise generated by any wireless communications facility, including auxiliary generators, shall not exceed 50 db at ground level at the property line at any public way on which it is located.

§ 198-1504. Submittal requirements.

1504.1. As part of any application for a special permit, applicants shall submit, at a minimum, the information required for site plan approval as set forth herein at Article 6. Applicants shall also describe the capacity of any tower, including the number and types of antennas, number and types of radios and of channels per radio that it can accommodate, and the basis for the calculation of capacity and shall describe any accessory structures.

1504.2. In addition, applicants shall submit:

1504.2.1. The name and address of the applicant and all agents of the applicant and of all legal and beneficial owners of the site or sites proposed for a wireless communication facility, copies of all instruments, options, contracts or encumbrances affecting ownership of the site or sites, together with the opinion of an attorney concerning the state of the title thereto, and an instrument executed by all persons or entities owning property at the site or sites agreeing that the applicant is authorized by them to make the application and agreeing to comply with provisions of this Article 15.

1504.2.2. A statement signed by the applicant, on oath and under penalties of perjury, that all information included in the submittal is materially accurate, true, complete and verifiable. Inaccurate, misleading or false information shall be grounds for disapproval of the application or revocation of approval.

1504.2.3. Plans and other information identifying the site or sites proposed, including:

1504.2.3.1. A map at an appropriate scale (to be determined by the Planning Board), showing lot lines of the subject property and of all properties within 2,000 feet of the perimeter of the facility and showing the footprint of all buildings on all such properties.

1504.2.3.2. Specification on a copy of the Town Atlas Maps of the zoning district, including any overlay district, applicable to such properties.

1504.2.3.3. The heights of all existing buildings and structures on such properties and the height of any proposed new structure on the subject property.

1504.2.3.4. The average height of existing tree cover on such properties, specifying heights and principal species.

1504A2.4a map of the Town of Wayland, including all towns to a distance of five miles from Wayland boundaries, showing the locations of:

1504A2.4x1 existing wireless communications facilities.

1504A2.4x2 proposed wireless communications facilities the applicant expects to install and reasonably knows will be installed by other providers within the next 24 months following the submittal of the application.

1504A2.5a map showing:

1504A2.5.1 location of tree cover within 500 feet of the proposed facility.

1504A2.5.2 dominant tree species for each area of tree cover within 500 feet.

1504A2.5.3 topography contour lines at two-foot intervals to a distance beyond the proposed facility to be determined by the Planning Board, but not to exceed 1,000 feet, with reference contours to mean sea level datum.

1504A2.6 copies of all applications [to include any Notification of Nonionizing Radiation Source, and/or any Combined Request for Approval Under 105 CMR 122.000 (et seq.) and Employer Notification Under 453 CMR 5.000, (et seq.), and the like] and information submitted to the DPH, Radiation Control Program, or any other subdivision of the DPH, approval letter and any other notice from said Department or subdivisions and any revisions thereof; and true copies and any revisions thereof of all similar applications, notices, etc., submitted to the FCC.

1504A2.7 complete specification certified by a radio frequency engineer licensed by the Commonwealth of Massachusetts of:

1504A2.7.1 energy outputs at ground level and at six feet and 16 feet above ground level, actual and potential, and the power densities at ground level and at six feet and 16 feet above ground level, actual and potential, produced at 200 feet, 500 feet and 1,000 feet and at the location where maximum power density is expected, for each antenna sector, from the operation of each and every proposed new wireless communications facility to be added.

1504A2.7.2 cumulative energy outputs at ground level and at six feet and 16 feet above ground level, actual and potential, produced from all wireless communications facilities, and the cumulative power densities from the operation of all wireless communications facilities, actual and potential, produced at 200 feet, 500 feet and 1,000 feet and at the location where maximum power density is expected, for each antenna sector,

from the operation of all wireless communications facilities, including any proposed new wireless communications facility.

1504.11.3. With respect to such actual energy outputs and power densities, the data contained in such specification shall be from actual field measurements made within 30 days before the applicant submits the special permit/site plan review and approval application.

1504.11.8. Beam widths at ground level for the energy outputs from each antenna sector and the degree of down-tilt of each antenna.

1504.12.0. Complete description, including, but not limited to, data, drawings, catalogs, brochures, manufacturers' specifications, photographs and all other pertinent information relevant to the proposal describing antennas, equipment mounts and all other equipment and structures proposed for the site or related to the proposal; plus all of the information required by Article 6 of this Zoning Bylaw.

1504.13.0. As to noise, certified by an acoustical engineer, specifying in decibels Ldn (logarithmic scale) both existing or ambient noise at each proposed site and the maximum noise to occur, comprising the aggregate of that existing and that resulting from the proposed wireless communications facility.

1504.14.1. Environmental assessment meeting the standards set forth in § 198-1503.2.16, and the environmental assessment requirements of the FCC, together with evidence that the same has been submitted to and approved by the FCC.

§ 198-1505. Review and action by the Planning Board.

1505.1. The Planning Board shall review and act upon an application for a special permit and site plan review and approval for a wireless communications facility in accordance with applicable provisions of MGL c. 40A, §§ 9 and 11; and in accordance with Articles 6 and 15 of this Zoning Bylaw; and:

1505.1.1. Shall make such investigation as it deems appropriate to determine whether the application meets the requirements of §§ 198-1503 and 198-1504.

1505.1.2. May engage a radio frequency engineer, an acoustic engineer and such other professional consultants as it deems necessary to assist and advise it in its investigation and determination.

1505.1.3. Shall require of each applicant and each holder of a special permit and site plan approval hereunder reasonable deposit for and reimbursement of all fees for the employment of appropriate consultants.

1505 May 4. limit the duration of a special permit.

§ 198-1506. Monitoring and inspections.

1506 The applicant may be required to float a balloon or use a crane test at the location of a proposed tower or antenna to show its height and visibility. Such test shall be conducted two weeks prior to the public hearing and shall be advertised at the applicant's expense in a newspaper of general circulation in Wayland at least one week prior to the test.

1506 Photo documentation after construction of the facility and just prior to becoming operational shall be required.

1506 Prior to beginning operation of the wireless communications facility, background levels of electromagnetic frequency radiation shall be monitored for each antenna sector at ground level and at six feet and sixteen feet above ground level for points that are at 200 feet, 500 feet and 1,000 feet from the facility and at the locations where maximum power density is predicted, as listed in the application.

1506 After operation of the facility has commenced, random monitoring of radio frequency and acoustic emissions shall be required. Electromagnetic frequency radiation shall be monitored for each antenna sector at ground level and at six feet and 16 feet above ground level for points that are at 200 feet, 500 feet and 1,000 feet from the facility, at the locations where maximum power density was predicted, as listed in the application, and at the locations where maximum power density occurs.

1506 Inspection of the structural integrity and safety of all towers and equipment attached thereto shall be required. Monopoles shall be inspected every five years. Structures mounted on or attached to existing BECO towers shall be inspected every three years. Any modification of an existing facility that includes changes to tower dimensions or antenna numbers or type shall require a new structural inspection.

1506 All required monitoring and inspections shall be performed by appropriate independent consultants selected by the Planning Board and paid for by the applicant/owner. Said consultants shall use monitoring and inspection protocols as outlined in applicable wireless communication facilities regulations or, in the absence of such regulations, as specified by the Planning Board. Reports of all monitoring and inspection results shall be prepared by the consultants and submitted to the Planning Board, to the Zoning Enforcement Officer, to the Building Commissioner and to the Board of Health.

§ 198-1507. Compliance and violations.

- 1507 Every wireless communications facility for which a special permit is granted hereunder shall continue at all times to comply with the provisions thereof and of this Article 15; and the holder of such special permit shall comply with requirements of the Planning Board in fulfillment of the provisions for monitoring herein.
- 1507 Every wireless communications facility and every application for a special permit for such facility shall comply with all other applicable provisions of this Zoning Bylaw, including, without limitation, requirements with respect to:
- 1507a permit application under § 198-202.
 - 1507b special permits under § 198-203.
 - 1507c signs and exterior lighting under § 198-501.
 - 1507d site plan approval under Article 6.
- 1507 Wireless communications facilities shall comply with such standards applicable thereto as may from time to time be imposed by the Board of Health, to the extent that such standards are not contrary to federal or state laws.
- 1507 The applicant shall be bound in the special permit and site plan approval processes and thereafter by the energy outputs and power densities at the locations as set forth in the special permit and site plan review and approval application and also with respect to the information contained in the application to the Radiation Control Program of the DPH.
- 1507 If a wireless communications facility is determined to be in violation of any of the provisions of the special permit and/or site plan approval or any other applicable law or regulation, the Zoning Enforcement Officer shall cause to be served on the operator of the facility and on the owner of the land on or from which the violation is caused notice of such violation.

§ 198-1508. Modifications.

- 1508 Any changes or modifications to an already approved wireless communications facility shall be made through the special permit/site plan review and approval process. All such changes or modifications shall include:
- 1508a change of personal wireless services as defined in the Federal Communications Act of 1996, other than allowed under an existing special permit.
 - 1508b change of service that involves changing the physical appearance of the wireless communications facility.

1508~~11~~³ Any change of tenant by collocation, regardless of the type of service.

1508~~11~~⁴ Any change in equipment that, by nature of the change, increases the level of radio frequency emissions.

1508~~11~~⁵ Any change in the physical appearance, physical characteristics or dimensions of the wireless communications facility.

1508~~11~~⁶ Any change in or deviation from the existing special permit.

§ 198-1509. Liability insurance; removal and removal bond.

1509~~11~~¹ The special permit shall include a condition that any wireless communications services provider that operates a wireless communications facility in the Town of Wayland shall provide, for each such wireless communications facility, a certificate of insurance for bodily injury, in a form acceptable to the Planning Board, with coverage limits of not less than \$5,000,000. For good cause, and after notice and a public hearing, the Planning Board may, from time to time, require the owner to increase the limits of such coverage.

1509~~12~~² If a wireless communications facility is not substantially in commercial operation for a period of one year, it shall be removed, and the site shall be returned to its preexisting condition by the owner of the facility and/or by the owner of the site within 180 days of notice by the Town. As part of an application for any wireless communications facility, a plan shall be submitted detailing how the site will be returned to its preexisting conditions, including planting of replacement trees, grading and removal of all structures and waste and any other work that may be required by the Planning Board, with a bond to be held by the Town, the amount of which shall be determined by the Planning Board. If the facility is not removed within said 180 days, the Town shall be empowered to use said bond for the removal of said facility.

§ 198-1510. Exemption.

1510~~11~~¹ The following type of wireless communications towers are exempt from this Article 15: amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, provided that the tower is not used or licensed for any commercial purpose.

1510~~12~~² Wireless communications facilities constructed by the Town of Wayland for municipal public safety communications purposes.

ARTICLE 15A

Planned Wireless Communications Services District**[Added 11-1-2005 STM by Art. 2; amended 5-1-2006 ATM by Art. 22;****§ 198-1550. Purpose.**

1550 For the purposes of this Article 15A, "wireless communications facility" shall have the same meaning as in § 198-104.2, and "wireless communications services" shall have the same meaning as in § 198-1501.1. The purpose of this article is to establish a district on or near the top of a geographically prominent hill in the Town, which has long been the subject of study and planning for wireless use in the Town, and in which wireless communications services may be provided while preserving and protecting the public health, safety and general welfare, while fulfilling the purposes of the Federal Telecommunications Act regarding provision of personal wireless services to the area capable of being served by the Planned Wireless Communications Services District and minimizing the number of wireless communications facilities in the Town. The Planned Wireless Communications Services District has been created specifically to protect the general public from hazards, minimize visual impacts, protect the scenic, historic, natural and human-made resources of the Town and protect property values.

§ 198-1551. Location.

1551 The Planned Wireless Communications Services District shall be located on land on Reeves Hill, so-called, as shown on Plate 34 of the Atlas of the Town of Wayland, Massachusetts, 1996, numbered as Parcels 34-026, 34-027, and 34-026A, and as shown on the plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," prepared by the Town of Wayland Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated August 11, 2005, a copy of which is on file in the office of the Town Clerk.

1552 The Planned Wireless Communications Services District shall be construed as an overlay district with regard to said locations. In the Planned Wireless Communications Services District, all requirements of the underlying zoning district shall apply to uses other than a wireless communications facility or facilities; and the use and design restrictions of the Planned Wireless Communications Services District shall specifically apply to all wireless communications facilities.

§ 198-1552. Use restrictions.

1553 The wireless communications monopole may be constructed, operated, maintained and used by up to four wireless carriers in the Planned Wireless Communications Services District as of right, upon the issuance of a building permit therefor, provided that the proposed facility complies with the requirements of the State Building Code, 780

CMR, as applicable, plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," prepared by the Town of Wayland Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated August 11, 2005, a copy of which is on file in the office of the Town Clerk, and with the Design Restrictions set forth below. A wireless communications facility conforming to the requirements of Article 15A may be constructed, operated, maintained and used in the Planned Wireless Communications Services District without the need for a special permit pursuant to § 198-203 and without the need for site plan approval under Article 6 of this Zoning Bylaw.

§ 198-1553. Design restrictions.

~~1553A1~~ wireless communications facility in the Planned Wireless Communications Services District shall conform to the design restrictions set forth in this section.

~~1553A2~~ free standing wireless communications facility in the Planned Wireless Communications Services District shall be designed as a monopole tower with internally or closely ("flush") mounted antenna panels (with appropriate allowance for antenna tilting to meet coverage objectives consistent with minimizing adverse visual impact of the antennas) except as provided in § 1557.1 regarding equipment of the Town.

~~1553A3~~ Except as provided in § 198-1557 of Article 15A, the maximum height of the monopole shall be 180 feet above ground level at the base of the monopole.

~~1553A4~~ wireless communications monopole in the Planned Wireless Communications Services District shall be designed to conform to all applicable state structural and engineering codes, including, but not limited to, the State Building Code, 780 CMR.

~~1553A5~~ wireless communications monopole in the Planned Wireless Communications Services District shall be subject to the conditions set forth in § 198-1559, below.

§ 198-1554. Contents of application.

~~1554A1~~ The application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall contain all of the information ordinarily required for a building permit for a communications tower or other unmanned structure, as applicable; provided, however, that the plans submitted with the application for a building permit ("Plans") shall be in lieu of an approved site plan for the proposed facility.

~~1554A2~~ Construction drawings for the proposed facility shall be consistent with the Plans identified in § 198-1554.1, and shall be stamped by a Massachusetts-registered professional engineer.

1554~~The~~ application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall be made by or on behalf of: (i) an FCC-licensed wireless communications carrier; or (ii) by a tower building company or other person or entity having a binding lease or other agreement with at least one FCC-licensed wireless communications carrier to locate on the tower at the time it is constructed.

1554~~The~~ application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall include a copy of the publicly available manufacturer's specification sheets for (i) the antennas, cables, and other equipment to be internally or flush mounted on the tower, and (ii) each equipment cabinet or equipment shelter proposed to be used for ground equipment within the fenced equipment compound at the base of the tower.

§ 198-1555. Liability insurance; removal and removal bond.

1555~~The~~ tower owner and each of its tenants will carry during the term of their use the following insurance: (i) "all risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of \$5,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence, naming the Town of Wayland as an additional insured if permitted by the insurer; and (iii) workers' compensation insurance as required by law. Annual proof of the insurance must be filed with the Town Clerk.

1555~~Except~~ as provided in § 198-1557.3, within six months of the termination of use of the tower, the tower owner and its tenants will remove all of their respective aboveground improvements and the tower owner will restore the site to its condition at the commencement of the tower use, reasonable wear and tear and loss by casualty or other causes beyond its control excepted. The tower owner and its tenants will be responsible for reasonably replacing trees, shrubs and other vegetation at the site, but will not be required to remove from the site any below-ground foundations or underground utilities.

1555~~To~~ ensure removal of the tower after termination of use of the tower, the tower owner must obtain a performance bond or other form of financial security, in an amount consistent with a removal cost estimate stamped by a Massachusetts-registered professional engineer, and deposit it with the Town, to be used for removal and site-restoration costs in the event that the tower owner fails to comply. The tower owner also agrees to allow the Town and its agents and employees the right to enter the property for the purpose of removing the monopole in the event that it is not removed after such cessation of use.

§ 198-1556. Applicable provisions.

1556~~Section~~ 198-1510 (Exemption) shall also apply to this Article 15A.

§ 198-1557. Town-owned emergency equipment.

1557 The owner of any free standing wireless communications monopole in the Planned Wireless Communications Services District shall permit the Town of Wayland to mount antennas and equipment for the Wayland Police Department, Fire Department or other Town emergency services on and next to the tower, provided that (i) said Town antennas and equipment shall not interfere with preexisting wireless communications services on the monopole, and (ii) the Town shall pay any costs associated with the installation of the Town's antennas and equipment.

1557 Town antennas mounted on the monopole may extend up to twenty feet above the top of the permitted height of the monopole and need not be closely mounted to the monopole.

1557 In the event of termination, for a continuous period of six months or more, of the use of the tower by all users except for the Town of Wayland, the tower owner may in lieu of removal of the tower convey the tower free of charge to the Town of Wayland, subject to the acceptance of the tower by the Town. In the event that the Town accepts the tower under this provision, the bond referred to in § 198-1555.3 shall thereupon be returned to the tower owner.

§ 198-1558. Modification of permitted facilities.

1558 Any equipment permitted for a wireless communications facility in the Planned Wireless Communications Services District may be replaced with equal or similar brands or models and may be upgraded to newer or technically superior brands or models so long as there is no change in the monopole design or increase in signal strength, and if a building permit is required, upon the issuance of a building permit. Upon request of the Building Commissioner, made not more frequently than once per year, each carrier shall provide updated specifications as to its equipment on the monopole in the Planned Wireless Communications Services District.

1558 A major modification to an existing wireless communications facility in the Planned Wireless Communications Services District shall consist of (i) a change in number of buildings or equipment cabinets located on the site compared to that shown on the Plans identified in § 198-1554.1, (ii) an increase in the height of the monopole compared to that shown on the Plans identified in § 198-1554.1, or (iii) an addition to the externally visible equipment including the number of antennas on the monopole compared to that shown on the Plans identified in § 198-1554.1. Notwithstanding the provisions of (i) and (iii) above, any subsequent change that only adds collocators' antennas, buildings, or equipment cabinets for up to a maximum of four wireless carriers shall not constitute a "major modification" and shall not require site plan approval under Article 6 of this Zoning Bylaw, whether or not the change was shown on the Plans identified in § 198-1554.1.

1558A3 major modification to an existing wireless communications facility in the Planned Wireless Communications Services District shall require site plan approval from the Planning Board under Article 6 of the Zoning Bylaw and a building permit from the Building Commissioner.

§ 198-1559. Conditions for a wireless communications facility in the Planned Wireless Communications Services District.

1559D1 Definitions. For the purposes of the conditions below, the following definitions apply:

APPLICANTS, TOWER OWNER, TENANTS — The applicants for a building permit, the tower owner and the tower's tenants, respectively.

BUILDING COMMISSIONER — The Building Commissioner of Town of Wayland (or his designated agent).

DPH — The Massachusetts Department of Public Health (or its successor agency).

FAA — The Federal Aviation Administration (or its successor agency).

FCC — The Federal Communications Commission (or its successor agency).

TOWN — The Town of Wayland.

ZBA — The Wayland Zoning Board of Appeals.

1559D2 Permits and standards.

1559D2.1 Other permits: Except to the extent superseded by or inconsistent with the judgment in the matter AT&T Wireless Services of Massachusetts v. Town of Wayland, et al., United States District Court for the District of Massachusetts, Civil Action Docket No. 04-11807MLW (the "TCA Case"), the applicants must obtain and comply with all other required municipal, state, and federal permits from regulatory authorities having jurisdiction in this matter.

1559D2.2 Structural integrity: The 180-foot monopole tower must meet the Massachusetts Building Code provisions for seismic loadings and structural protection from wind and ice and shall be designed to support a height at least 20 feet above tower height.

1559D2.3 Radio frequency emissions: The tenants' use of the monopole tower must be fully compliant with federal requirements on radio frequency emissions and the provisions of the Wayland Zoning Bylaw, § 198-1503.2.16, to the extent lawful, reasonable and applicable and not inconsistent with regulations adopted by the FCC.

1559D2.4 Monitoring standards: Monitoring, testing, and inspection must be in accordance with the regulations of the FCC and, to the extent lawful, reasonable and applicable, DPH.

- 1559A.2.1. **ANSI standards:** The monopole tower and its transmission must comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council for Radiation Protection (NCRP), whichever are stricter, if and to the extent adopted by the FCC.
- 1559A.2.6. **Construction traffic control:** Prior to the issuance of a building permit and the start of construction, the applicants must meet with representatives from the Building Department, the Police Department, the Highway Department, the Conservation Commission, and any other relevant Town officials to discuss staging areas, traffic issues, and other construction-related matters. The applicants must bear the cost of any reasonable and necessary temporary traffic controls associated with the construction.
- 1559A.2.7. **Construction inspections:** An independent, Massachusetts-registered professional engineer who is not affiliated with any of the applicants, at the applicants' reasonable expense, must review all the construction documents, review and approve all quality-control procedures, and inspect the site at appropriate intervals. The reviews and inspection results must be included in a certified report, submitted to the Building Commissioner, attesting that the construction of the facility complies with the judgment in the TCA Case and other applicable building and safety codes.
- 1559A.2.8. **Construction:** All materials shall be assembled and constructed on the site by contractors licensed by the Commonwealth of Massachusetts, with insurance and bonding mutually acceptable to the applicants and the Wayland Building Commissioner.
- 1559A.2.9. **Maintenance:** The monopole tower and associated equipment mounted on the tower at the site shall be subject to periodic inspection and maintenance, to ensure their structural and mechanical integrity, and to avoid structural, mechanical and other failures. This periodic inspection and maintenance must occur at least every year. The tower owner must submit a report to the Building Commissioner indicating, among other details, the date of the inspection, the personnel performing the inspection, and the results. If any changes or repairs to the tower are performed as a result of the maintenance inspection, the tower owner should file a supplemental report after the repairs. Each report is due within 7 business days of the inspection or repair. In the event the tower owner fails to conduct a required inspection or to submit a required report, the Town shall notify the tower owner and all FCC-licensed carriers collocating on the tower of this alleged omission; and the tower owner or any carrier collocating on the tower shall have 45 days to conduct the required inspection and submit the required report before the Town may commence any enforcement action with respect thereto. (See also § 198-1559.4.6, below.)

15592110val: Within six months of the termination of the use of the tower, the tower owner and its tenants will remove all of their respective aboveground improvements and the tower owner will, to the extent reasonable, restore the site to its condition at the commencement of the tower construction, reasonable wear and tear and loss by casualty or other causes beyond its control excepted. Notwithstanding the foregoing, the tower owner and its tenants will not be required to remove from the site any foundations which are fully buried or underground utilities, but shall remove any such materials which reach or protrude above the surface. (See also § 198-1559.4.4, below.)

15593Visual impact.

15593Screening vegetation: To mitigate against visual impacts on the neighborhood, the tower owner must, during construction, not permit any contractor to place or stockpile construction materials on the root zones of the existing vegetation and mature trees or to disturb the root zones of the mature trees (the "root zone" being an area around the base of the tree equal to the width of the canopy). The tower owner must replace any mature tree on the site that dies within 4 years of the construction unless the death was from natural causes or caused by activity other than that of the tower owner or its tenants. The replacement vegetation must be a fast-growing species at least 15 feet high when planted.

15593Fencing and landscaping: The fencing surrounding the installation and accessory equipment, which will serve to control access to the facilities and the monopole tower, must be an 8-foot-high locked black or green chain link fence topped by three strands of barbed wire. The fence must be kept in good repair, at the tower owner's expense, and screened to the east (except for an access gate) by evergreen vegetation (at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting to effectively screen the tower base and accessory facilities), which vegetation must be also maintained and replaced if it dies.

15593Lighting and noise: No permanent lighting can be placed to shine on or otherwise illuminate the monopole, unless required by the FAA. Lighting on the monopole shall be limited to that needed for emergencies or as required by the FAA. Any lighting placed at the base to facilitate inspection and maintenance must be turned off when the inspection/maintenance personnel are not present. No flag shall be flown or displayed on the monopole. Noise generation shall be in accordance with the provisions of the Wayland Zoning Bylaw, § 198-1503.2.17 to the extent reasonable, applicable and lawful.

15593Concealment: All equipment must be concealed behind the fencing. All antennas must be flush (closely) mounted to the outside of the

monopole tower, with appropriate allowance for antenna tilting, to meet coverage objectives consistent with minimizing adverse visual impact of the antennas. The monopole tower must be constructed to ensure that no portion of the structure falls off in high winds or ice storms. The monopole tower must have a galvanized finish and its color shall be a color selected by the ZBA.

~~1559C3.15~~ **Collocators:** The tower owner must agree to provide access for FCC-licensed collocators, including space on the monopole tower and room at the base, within the chain link fencing, for related ground equipment. The facilities of Cingular Wireless and three additional FCC-licensed collocators within the tower and within the fence are hereby approved. All additional collocators must file a separate application with the ZBA.

~~1559S3.6~~ **Signage:** The only signs allowed at the facility are No Trespassing/Private Property warning signs affixed to the fence and a required sign indicating whom to contact in the event of an emergency and the telephone number for that contact. As long as the monopole tower remains in use, this contact information must be kept current.

~~1559I4~~ **Indemnities and protections.**

~~1559I4.1~~ **Indemnification:** The tower owner shall indemnify the Town for any damage to the Town's water supply tanks or other structures and equipment in the vicinity of the facility caused by its facility.

~~1559C4.2~~ **Corrosion protection:** The tower owner must supply proof that the manufacturer of the tower has added corrosion protection for the monopole and the base of the tower. All hardware must be galvanized, to prevent rust.

~~1559L4.3~~ **Liability insurance:** The tower owner, each of its tenants and all applicants will carry from the date of commencement of construction through the later of the date of removal of the tower or termination of tower use the following insurance, at a minimum: (i) "all risk" property insurance for the replacement of all property on the site at replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of \$5,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence, naming the Town as an additional insured, if permitted by the insurer; and (iii) workers' compensation insurance as required by law. All insurance carriers shall be licensed in Massachusetts. Annual proof of such insurance must be filed with the Town Clerk.

~~1559R4.4~~ **Removal bond:** Removal must be conducted in accordance with § 198-1559.2.10, hereof. To ensure this, the tower owner must obtain a performance bond or other form of financial security, in an amount consistent with a removal cost estimate stamped by a Massachusetts-registered professional engineer and deposit it with

the Town, to be used for removal and site restoration costs in the event that the tower owner fails to comply. The tower owner also agrees to allow the Town and its agents and employees the right to enter the property for the purpose of removing the monopole in the event that it is not removed after such cessation of use, and applicants warrant that the lease with the property owner will, for the duration of the lease, confirm this right to enter.

1559.4.5 **Change in owner or lessee:** If the monopole tower as a whole, or any of its components, is sold, assigned, licensed or leased to an entity other than the original applicant, the new owner or lessee must notify the ZBA in writing, within seven business days of the sale or transfer, with its name, address, telephone, and other contact information. (See also § 198-1559.3.6 above.) The new owner or lessee shall be subject to all of the provisions of these conditions.

1559.4.6 **Right to cure:** In the event the applicants or the tower owner or any tenant fails to perform any condition required of it hereunder within 45 days after receipt of written notice from the Town specifying the failure, then the Town may commence an enforcement action with respect thereto; provided, however, that no such failure will be deemed to exist if the applicants, tower owner or any tenant, as applicable, has commenced to cure such violation within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a violation will be excused if due to causes beyond the reasonable control of the applicants, tower owner or any tenant. In the event that a failure presents an imminent threat to the public health or safety, the Town may commence enforcement action within a shorter time period as may be warranted by the circumstances.

ARTICLE 16

Aquifer Protection District

**[Amended 5-1-1989 STM by Art. 7; 5-7-1998 ATM by Art. 16;
5-5-1999 STM by Art. 11; 4-30-2001 ATM by Art. 22]**

§ 198-1601. Purpose.

1601 The Town has determined that:

1601.1 The groundwater underlying the Town is the sole source of its drinking water supply.

1601.2 The groundwater aquifers are integrally connected with, and flow into, surface waters that constitute significant resources of the Town.

1601.3 Spills and discharges of petroleum products and other toxic and hazardous materials and discharges of sewage have repeatedly threatened the quality of groundwater and related water resources throughout Massachusetts and elsewhere, posing potential public health and safety hazards and threatening economic losses to the affected communities.

1601.4 Therefore, the Town has designated an Aquifer Protection District and enacted this Article 16 to:

1601.4.1 To serve and maintain the existing and potential groundwater supplies, aquifers and recharge areas of the Town and to protect them from development or land use practices that would adversely affect their quality or quantity.

1601.4.2 To serve and protect present and potential sources of drinking water supply for the public health and safety.

1601.4.3 To serve the water resources of the Town.

1601.5 Scope of authority.

The Aquifer Protection District is an overlay district superimposed on the zoning districts. As described in § 198-302.1.4, the Aquifer Protection District is shown on a map on file with the Town Clerk entitled "Town of Wayland Zoning Overlay Districts," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated December 5, 2003, as amended. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Aquifer Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Aquifer Protection District. **[Amended 5-13-2010 ATM by Art. 28]**

§ 198-1602. Definitions.

As used in this Article 16, the following terms shall have the meanings indicated:

AQUIFER — A geologic formation composed of rock, or sand and gravel that contains significant amounts of potentially recoverable potable water.

DEP — The Massachusetts Department of Environmental Protection.

DISCHARGE — The intentional or accidental introduction of a liquid, or a soluble or leachable solid material, upon or into land or water bodies. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any wastewater disposal system, dry well, catch basin or landfill that has not received site assignment by the Board of Health.

DISTRICT — The Aquifer Protection District is the zoning district defined to overlay other zoning districts in the Town of Wayland. The Aquifer Protection District may include specifically designated recharge areas.

GROUNDWATER — The slowly moving subsurface water

IEP 1988 — The report prepared by IEP, Inc., described in § 198-302.1.5.⁴⁵

IMPERVIOUS SURFACE — Material placed by man, including buildings, that prevents the penetration of surface water into the soil.

MASSACHUSETTS GENERAL LAWS — Massachusetts General Laws.

MINING OF LAND — The removal of geologic materials, such as topsoil, sand, gravel or bedrock.

PERVIOUS UPLAND LOT AREA — The upland lot area less that portion thereof that is covered by impervious surface.

RECHARGE AREAS — Areas from which precipitation or surface water can migrate into an aquifer.

RESIDENTIAL LOT — A parcel of land or lot which is located in a residential zoning district. **[Added 4-29-2002 STM by Art. 3]**

SANITARY WASTE — Wastewaters arising from ordinary domestic water use, as from toilets, sinks, bathing facilities, etc., and containing such concentrations and types of pollutants as to be considered normal wastes. Where the quantity of sanitary waste is stated, it is to be understood that the quantity is the design quantity as specified by the State Environmental Code, 310 CMR 15.00, or, in the absence of a specification therein, as specified by the Board of Health.

SECTION — This Article 16.

45. Editor's Note: See now § 198-302.1.4.

SECURED OPEN SPACE — Land that is permanently dedicated as open space that will not be developed, used for disposal of sanitary waste or farmed. The method of dedication may include a conservation restriction under Massachusetts General Laws c. 184, §§ 26 through 33; Town ownership of land devoted to conservation under Massachusetts General Laws c. 40, § 8C; Town ownership of park land under Massachusetts General Laws c. 45, § 3; or Town ownership of land devoted to protection of municipal wells and/or aquifers under Massachusetts General Laws c. 40, § 39B, or Chapter 80 of the Acts of 1878.

SOLID WASTE — Discarded solid material with insufficient liquid content to be free flowing. This definition includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

SPGA — The special permit granting authority under this Article 16 (the Planning Board).

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like. The word "structure" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."

TOXIC OR HAZARDOUS — Any substance or mixture of such physical, chemical or infectious characteristics as to pose an actual or potential hazard to water supplies or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes and acids and alkalies, and also include such products as pesticides, herbicides, solvents and thinners and all substances defined as toxic or hazardous under Massachusetts General Laws c. 21C and 21E and 310 CMR 30.00.

UPLAND LOT AREA — The total area of the parcel of land in question less the area of ponds, streams and wetlands as defined under Massachusetts General Laws c. 131, § 40, as amended.

§ 198-1603. Use restrictions applying to the Aquifer Protection District.

1603 Permitted uses. The following uses are permitted within the Aquifer Protection District, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained.

- i. Conservation of soil, water, plants and wildlife;
- ii. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;

- iii. Foot, bicycle and/or horse paths, and bridges. Pervious surfaces are preferred.
- iv. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- v. Maintenance, repair, and enlargement of any existing structure, subject to §§ 198-1603.2 (Prohibited uses) and 198-1603.3 (Special permitted uses);
- vi. Residential development, subject to §§ 198-1603.2 (Prohibited uses) and 198-1603.3 (Special permitted uses);
- vii. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to §§ 198-1603.2 (Prohibited uses) and 198-1603.3 (Special permitted uses);
- viii. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels. Underground storage tanks related to these activities are not categorically permitted.
- ix. Any use permitted in the underlying zoning district, subject to §§ 198-1603.2 (Prohibited uses) and 198-1603.3 (Special permitted uses).

1603.20 Prohibited uses. The following uses are specifically prohibited within the Aquifer Protection District: **[Amended 4-29-2002 STM by Art. 3; 5-6-2004 ATM by Art. 22]**

1603.21 Sanitary landfills and open dumps as defined in 310 CMR 19.006; disposal or stockpiling of solid wastes, other than brush and stumps; and disposal of brush or stumps by burial with less than four feet of clearance above the maximum water table, as defined by the Board of Health. Landfills receiving only wastewater residuals and/or septage. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.

1603.22 Yards or motor vehicle salvage operations as defined in Massachusetts General Laws Chapter 140B, Section 1.

1603.23 Storage of deicing chemicals, unless such storage and required loading areas are within a weatherproof structure having an impervious floor designed to prevent the generation and escape of contaminated runoff or leachate and only if all loading and unloading will be done within that shelter, with provisions for a separate closed drain system for safe disposal.

1603.24 Stockpiling/disposal of snow transported into the district containing deicing chemicals.

- 1603.25 ~~Dye~~ cleaning establishments where cleaning is performed on the premises in open or non-self-contained units.
- 1603.26 ~~Commercial~~ establishments for the plating, finishing, etching or polishing of metals or semiconductors.
- 1603.27 ~~Painting~~, wood preserving, wood finishing or stripping paint on a commercial scale or on a scale more than that which is required for maintenance of existing structures and facilities.
- 1603.28 ~~Manufacture~~ of semiconductors or other electronic components or electronic circuit assembly on a commercial scale where hazardous materials are used.
- 1603.29 ~~Chemical~~ or bacteriological laboratories on a commercial scale.
- 1603.30 ~~Commercial~~ establishments for printing, photocopying or photographic processing where the processing is performed in open or non-self-contained units.
- 1603.31 ~~Storage~~ of liquid petroleum products and liquid hazardous waste, except the following: **[Amended 5-13-2010 ATM by Art. 28]**
- a) Normal household use, outdoor maintenance, and heating of a structure;
 - b) Waste oil retention facilities required by statute, rule, or regulation;
 - c) Emergency generators required by statute, rule, or regulation; and
 - d) Treatment works approved under 314 CMR 5.00 for treatment of ground and surface waters; provided that such storage, listed in items a) through d) above, meets the requirements of § 198-1603.3.10.
- 1603.32 ~~Earth~~ removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads or utility works.
- 1603.33 ~~Hotels~~ or motels.
- 1603.34 ~~Any other~~ use that includes the generation, the manufacture, use, transportation or disposal of toxic or hazardous waste, except for the following: **[Amended 5-13-2010 ATM by Art. 28]**
- a) Very small quantity generators as defined under 310 CMR 30.000;

- b) Household hazardous waste centers or events operated pursuant to 310 CMR 30.390;
- c) Waste oil retention facilities required by MGL c. 21, § 52A; and
- d) Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

~~16032115~~ Any floor drainage system in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage area, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the State Plumbing Code, 248 CMR 2.00) or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies.

~~16032116~~ Treatment or disposal works subject to 314 CMR 5.00 for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), 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);
- b) Treatment works approved by the DEP designed for the treatment of contaminated ground or surface waters operated in compliance with 314 CMR 5.05(3) or 5.05(13); and
- c) Publicly owned treatment works or POTW's.

~~16032117~~ Petroleum, fuel oil, and heating oil bulk stations and terminals, including but not limited to those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and any other subsequent amendments.

~~16032118~~ Storage of commercial fertilizers, as defined in Massachusetts General Laws Chapter 128, Section 64, unless stored within a structure designated to prevent the generation and escape of contaminated runoff or leachate.

~~16032119~~ Storage of animal manure unless stored within a structure designated to prevent the generation and escape of contaminated runoff or leachate.

~~16032120~~ Special permit uses. The following uses and activities are permitted only upon the issuance of a special permit by the special permit

granting authority (SPGA) under such conditions as they may require:
[Amended 5-6-2004 ATM by Art. 22]

~~1603.3.1~~ Golf courses, whether public or private.

~~1603.3.2~~ Commercial cabinetry or furniture making. (Note that painting, wood preserving, wood finishing and stripping of paint are prohibited.)

~~1603.3.3~~ Cluster developments, planned developments and other forms of flexible development that require special permits under other articles of this Zoning Bylaw.

~~1603.3.4~~ Any use with the exceptions of uses described in Subsections 1603.3.5 and 1603.3.6 below, where the design flow of sanitary waste exceeds a total of 10,000 gallons per day for the entire project.

~~1603.3.5~~ Municipal wastewater treatment facilities with on-site disposal of effluent from primary or secondary treatment. (See also § 198-1603.2.1 herein.)

~~1603.3.6~~ Individual on-site sewage disposal systems shall comply with Board of Health and DEP requirements for the installation of septic systems in DEP recognized Zone II areas.

~~1603.3.7~~ Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under § 198-1603.2). Such activities shall require a special permit to prevent contamination of groundwater.

~~1603.3.8~~ Any other use that involves, as an accessory activity, the storage, use, transportation or disposal of toxic or hazardous materials, not including ordinary household storage or use.

~~1603.3.9~~ Nursing homes or hospitals.

~~1603.3.10~~ Storage of liquid hazardous materials as defined in MGL c. 21E and/or liquid petroleum products unless such storage is above ground and on an impervious surface and either:

- a. In container(s) or above-ground tank(s) within a building; or
- b. Outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater.

However these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storage of gasoline, provided that the replacement is performed in a manner consistent with state and local requirements.

~~1603B.1~~ The application of pesticides, including herbicides, insecticides, fungicides and rodenticides for nondomestic or nonagricultural uses in accordance with state and federal standards. If applicable the applicant shall provide documentation of compliance with a yearly operating plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved pesticide management plan or integrated pest management (IPM) program under 333 CMR 12.00.

~~1603B.1~~ The plan approval uses. The following uses and activities are permitted only upon the issuance of a site plan approval in accordance with Article 6. The Planning Board shall include the standards and criteria of this Article 16 in addition to those contained in Article 6. **[Amended 5-6-2004 ATM by Art. 22]**

~~1603C.1~~ Commercial or municipal facilities for the washing, servicing or repair of boats or motor vehicles.

~~1603D.1~~ Drycleaning establishments wherein the dry-cleaning materials are completely self-contained and all the disposal of such materials is off-site. The operation and maintenance of this use shall require periodic inspections in accordance with 1606.8.1.5.

~~1603C.3~~ Commercial establishments for printing, photocopying or photographic processing; wherein the processing materials are completely self-contained and all the disposal of such materials is off-site. The operation and maintenance of this use shall require periodic inspections in accordance with 1606.8.1.5.

~~1603C.4~~ Commercial laundries.

§ 198-1604. Density restrictions applying to the Aquifer Protection District. [Amended 4-29-2002 STM by Art. 3]

~~1604A.1~~ For residential developments that do not require a special permit and in which the disposal of wastewater is by means of septic tank sewage systems, the density of dwelling units shall not exceed 1 1/2 units per upland acre of the parcel of land being developed.

~~1604A.2~~ Any use that will render impervious more than 15% of the lot or 2,500 square feet, whichever is greater shall require site plan approval under this section. A system for ground water recharge for runoff from the impervious surface that does not degrade groundwater quality shall be provided. Under no circumstances shall the impervious surface of

a residential lot exceed 30% of the upland area of the lot. **[Amended 11-16-2010 STM by Art. 16]**

For developments of five or more residential lots and for all nonresidential uses, stormwater management standards and best management practices (BMP) shall apply; BMPs should be designed to treat 1.0 inch of runoff times the total impervious surface of the post development site and remove 80% of total suspended solids where possible.

For nonresidential uses, recharge may be by groundwater infiltration basins or similar systems covered with natural vegetation and dry wells shall be used only where other methods are infeasible. Oil, grease and sediment traps to facilitate removal of contamination shall precede all such basins and wells. The owner shall permanently maintain any and all recharge area in full working order.

1604.2b. Any change or alteration to an existing nonresidential lot(s) as of the adoption of this section that increases in area or is equivalent to the existing area or that proposes to lessen the amount of impervious surface; but does not meet the thresholds of 1604.2; the change shall require a system for groundwater recharge for runoff that does not degrade groundwater quality.

Recharge shall be by groundwater infiltration basins or similar systems covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. All such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. The owner shall permanently maintain any and all pretreatment devices and the recharge areas in full working order.

For any change or alteration to existing lot(s) as of the date of the adoption of this section that proposes to lessen the amount of impervious surface of existing conditions and meets the thresholds of 1604.2; the change in impervious surface shall be permitted as of right.

§ 198-1605. Division of land parcels.

1605b. No division of a parcel of land containing structures shall be permitted if one or more of the resulting parcels would be in violation of this Article 16, unless upland area equivalent to the deficiency thereof on any such nonconforming new parcel is permanently dedicated as secured open space.

1605c. No additional development of an already developed parcel shall cause these density restrictions to be exceeded or further exceeded.

§ 198-1606. Special permits within the Aquifer Protection District.

1606b. Special permit granting authority (SPGA).

1606.1 The SPGA under this Article 16 is the Planning Board. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission and the Water Department that the intent of this bylaw, as well as its specific criteria, are met. If more than one special permit is required, the SPGA's shall coordinate processing of the applications to the maximum extent feasible.

1606.2 Material to be submitted by applicants.

1606.2.1 Eight copies of the application shall be filed with the Town Clerk and certified as to date of receipt. Certified copies shall immediately be transmitted to the SPGA, the Surveying Department, the Water Commissioners, the Board of Health, the Conservation Commission, the Right-To-Know Coordinator and the Hazardous Waste Coordinator. Additional requirements for the application shall be as specified in the rules of the SPGA. Said rules must be promulgated by the SPGA within 120 days of approval of this Article 16 by the Attorney General and shall include the following specifications relative to the information to be supplied with the application:

1606.2.1.1 A site plan, prepared by a professional engineer or a professional land surveyor, showing existing and proposed structures and the location of all facilities relevant to the other requirements specified in §§ 198-1606.2.1.2 through 1606.2.1.4 below.

1606.2.1.2 A complete list of all chemicals, pesticides, fertilizers, fuels and other potentially toxic or hazardous materials to be used, generated, stored or disposed of on the premises, in quantities greater than those associated with normal household use together with Materials Safety Data Sheets for each such substance.

1606.2.1.3 A description of proposed transportation of toxic or hazardous materials within the district, including contractor and amounts to be transported.

1606.2.1.4 A description of proposed measures complying with § 198-1606.8 herein.

1606.3 Review by agencies other than the SPGA.

1606.3.1 Failure by any agency to submit a written recommendation to the SPGA within 45 days from the date on which said agency received the application shall indicate approval, or no desire to comment, by that agency.

1606.4 Public hearing.

~~1606.1~~ The SPGA shall hold a public hearing within the period from 45 to 65 days after the filing of the application, unless said period is extended in accordance with Massachusetts General Laws, c. 40A. Notice of the public hearing shall be given by publication and posting and by first class mailings to parties in interest, as required in Massachusetts General Laws, c. 40A.

~~1606.5~~ boundary.

~~1606.5.1~~ boundary of the Aquifer Protection District is that area designated as Zone II by the commonwealth.

~~1606.6~~ The SPGA's decision.

~~1606.6.1~~ The SPGA shall consider the simplicity, reliability and feasibility of the proposed control measures (See § 198-1606.8); and the degree of threat to water quality that would result if the control measures failed to meet expectation or were not properly maintained. It shall then issue a written decision that describes its findings with respect to the several considerations listed in this § 198-1606.6.1. It may grant a special permit if it finds that the proposed use:

~~1606.6.1.1~~ meets the intent of this Article 16, as well as its specific criteria;

~~1606.6.1.2~~ will not, during construction or thereafter, have an adverse impact on any aquifer area or recharge area in the district;

~~1606.6.1.3~~ will not adversely affect an existing or potential domestic or municipal water supply; and

~~1606.6.2~~ In addition to the findings described in § 198-1606.6.1 above, the decision shall include an explanation of any departure from the recommendations of any other Town agencies.

~~1606.6.3~~ For projects that require approval by DEP, the Board of Health and/or the Conservation Commission or require a special permit under other articles of this Zoning Bylaw, the special permit shall include a condition that no building permits shall be issued until evidence has been received by the SPGA that such required approvals have been received.

~~1606.6.4~~ The decision of the SPGA shall be made and filed within a period of 90 days following the close of the public hearing, unless said period is extended in accordance with the provisions of Massachusetts General Laws, c. 40A. Copies of said decision, plus the record of all proceedings, shall be filed with the Town Clerk within 14 days of the date of the decision if the period of the decision is less than the 90-day period described here. Failure of the SPGA to so act within said 90-day period, as extended, shall be deemed a granting of the permit. However, no work shall commence until a certification by

the Town Clerk has been recorded as required by Massachusetts General Laws, c. 40A.

1606Lapse of permits if not used.

1606Special permits issued under this Article 16 shall lapse within two years (not including any time required to pursue or await the determination of an appeal made under the provisions of Massachusetts General Laws, c. 40A) from the grant thereof if a substantial use thereof has not sooner commenced, except for good cause, or, in the case of a permit for construction, if construction has not begun by such date, except for good cause.

1606Design and operation requirements and guidelines.

1606Applications under this Article 16 shall include proposed methods, as described below, for preventing or minimizing harmful effects on the quality or quantity of groundwater in the district.

1606Safety guards.

1606For those activities using or storing hazardous materials, a hazardous materials management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan shall include:

1606Provision 1. to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures.

1606Provision 2. for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;

1606Evidence 3. of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

1606Location.

1606Where the premises are partially outside the Aquifer Protection District, potential sources of pollution, if permitted, shall be located outside the district to the extent feasible.

1606Disposal.

1606For any toxic or hazardous wastes to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the

availability and feasibility of disposal methods that are in conformance with Massachusetts General Laws, c. 21C.

1606B.1. ~~Damage.~~

1606B.1. ~~Runoff~~ from impervious surfaces shall be recharged on the site to the maximum extent possible. For developments of five or more residential lots and nonresidential uses, Stormwater Management Standards and best management practices shall apply. BMPs should be designed to treat 1.0 inch of runoff times the total impervious surface of the post-development site and remove 80% of total suspended solids. Any and all recharge areas shall be permanently maintained in full working order by the owner, including inspections after major storm events and routine semiannual evaluations for system maintenance.

1606B.2. ~~Monitoring and inspection.~~

1606B.2. ~~Periodic~~ monitoring and/or inspections may be required by the special permit granting authority (SPGA) as part of any special permit issued under this Article 16 or by the Planning Board as part of any site plan approval issued under this Article 16. The periodic inspection may include annual or semiannual inspections by the Board of Health, Conservation Commission or Toxic Waste Coordinator. The level of monitoring and/or inspections to be required in any specific situation shall consider both the level of potential hazard and the efficacy of the monitoring and/or inspection.

1606B.3. ~~Erosion and sedimentation control.~~

1606B.3. ~~Erosion~~ and sedimentation measures approved by the SPGA or its agent shall be in place before the commencement of any operation that will expose erodible materials to the elements. Filter fabric shall be used for sediment retention. Such control measures shall remain in place until the SPGA or its agent determines that the danger of erosion or sedimentation no longer exists.

1606B.4. ~~Violations.~~

1606B.4. ~~Written~~ notice of any violation of this Article 16, or of any permit issued thereunder, shall be provided by the Building Commissioner to the owner of the premises, specifying the nature of the violations and a reasonable schedule of compliance, including cleanup of any spilled toxic or hazardous materials. A total of 30 days shall be allowed for either compliance or completion of a plan for longer-term compliance. Violations shall be enforced according Chapter 1, General Provisions, Article II, Violations and Penalties.

For situations that require remedial action to prevent adverse impact to the water resources within the Aquifer Protection District, the Town of Wayland, the Building Inspector or the Board of Health may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Wayland, the Building Inspector or the Board of Health shall act within their jurisdiction to impose fines and/or seek remediation.

1606C16ts.

1606C16ts. SPGA may require fees to be paid by the applicant to cover the costs of advertising, notification by mail and reasonable expenses incurred by the Town in processing an application for a special permit or variance under this Article 16. A schedule of fees shall be published in the SPGA's and/or the Planning Board's rules and regulations.

1606C16verability.

1606C16verability. Determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

§ 198-1607. District boundary disputes.

1607If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the special permit granting authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.

1607The burden of proof shall be upon the owner(s) of the land to show where the bounds should be located. At the request of the owner(s), the Town may engage a professional engineer, hydrologist, geologist or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

ARTICLE 17

Floodplain, Federal Flood Protection, and Watershed Protection Districts**§ 198-1701. Floodplain District.**

1701 The purpose of this § 198-1701 is to protect the health and safety of persons and property against the hazards of flooding along the Sudbury River. In the Floodplain District, any use otherwise permitted by this Zoning Bylaw shall be permitted, except that no filling, excavating or transferring of any material that will reduce the natural floodwater storage capacity or interfere with the natural flow or recession of any floodwater shall be done in the Floodplain District, and no structure shall be erected or placed in the Floodplain District unless a special permit for such action or structure has been issued by the Zoning Board of Appeals (ZBA), created under § 198-201, after a hearing with due notice given. Said special permit shall state the conditions under which said action or structure may be done, erected or placed in the Floodplain District. **[Amended 5-4-1994 ATM by Art. 26]**

1701A Any person desiring a special permit to fill, excavate or transfer material or to erect or place a structure within the Floodplain District shall submit a written application for a special permit to the Building Commissioner describing the work to be done, together with three copies of the plans and specifications for the proposed filling, excavating or transferring of material and/or for the proposed structure, and, in each case, of the premises on which the same is to be done or situated, which plans shall have been approved by the Board of Health. The Building Commissioner shall transmit copies of said application, plans and specifications forthwith to the ZBA and to the Conservation Commission. No building permit shall be issued by the Building Commissioner, nor shall any of the proposed work be begun, until the ZBA shall have issued a special permit under Article 6. **[Amended 4-30-1975 ATM by Art. 28; 5-4-1994 ATM by Art. 26]**

1701B The ZBA shall issue a special permit under Article 6, subject to the conditions hereinafter specified and such other special conditions and safeguards as the ZBA deems necessary to fulfill the purposes set forth in § 198-1701.1, if it finds that the proposed use of the premises and filling, excavating or transferring of material or structure thereon will not endanger the health or safety of the users or occupants thereof or of any other land in or adjacent to the Floodplain District. **[Amended 5-4-1994 ATM by Art. 26]**

1701B.1 In deciding applications for a special permit under Article 6, but without limiting the generality of the foregoing, the ZBA will assure, to a degree consistent with reasonable use of the premises for purposes permitted in the district in which located, that:

170103he land in and adjacent to the Floodplain District is protected against detrimental or offensive uses of the premises.

170112The methods of drainage are adequate.

1701A3.1. Proposed filling, excavating or transferring of materials would not result in pollution or contamination of the river or its watershed, reduction of seasonal high-water storage areas, interference with the flow or recession of floodwaters or risk to the health or safety of users or occupants of land in the Floodplain District or adjacent thereto. **[Amended 5-4-1994 ATM by Art. 26]**

170113.2. In addition, with respect to any structure referred to in an application for a special permit under this article, the ZBA shall assure that:

1701A3.2.1. to be used or occupied by human beings shall be at an elevation above mean sea level of at least 125 feet.

1701S3.2. Vehicular and pedestrian movement to, over and from the premises is provided over ways having an elevation above mean sea level of at least 125 feet.

170114. Nothing contained in this § 198-1701 shall limit the authority of the Board of Health with respect to premises in the Floodplain District or limit the authority relative thereto of the Conservation Commission pursuant to MGL c. 131, § 40. **[Amended 4-30-1975 ATM by Art. 28]**

170115. In the event that the ZBA shall find that the site selected by the applicant for the work to be done is not accessible to waters of the Sudbury River at flood stages up to 124 feet above mean sea level, it may excuse the applicant from complying with the requirements of this § 198-1701, even though the site is included in the Floodplain District. **[Amended 4-30-1975 ATM by Art. 28]**

170116. Land included in the Floodplain District may be used to satisfy the area and yard regulations set forth in this Zoning Bylaw for the use of lots in the Town of Wayland. **[Amended 4-30-1975 ATM by Art. 28]**

§ 198-1702. Federal Flood Plain Protection District. [Amended 5-4-1982 ATM by Art. 17; 4-7-2011 ATM by Art. 20]

1702The purposes of the Federal Flood Plain Protection District are to protect the health and safety of persons in the Town against the hazards of flooding; to reduce damage to public and private property resulting from flooding; to control development within lands identified as flood hazard areas; and to maintain the Town's eligibility to participate in the National Flood Insurance Program and thereby enable Town property owners to purchase insurance against damage to, or loss of, real property or personal property arising from a flood. As used herein,

FIRM means the Federal Insurance Rate Map, as described in § 198-302.1.2.

1702**The** following requirements apply in the Federal Flood Plain Protection District:

1702**In** Zone AE, where the base flood elevation is provided on the FIRM, the base flood elevation shall be utilized to meet the elevation or floodproofing requirements of the State Building Code, Seventh Edition, 780 CMR 120.G, "Flood Resistant Construction", as may be modified in subsequent editions. Within Zone A, where the base flood elevation is not provided on the FIRM, each applicant for a building permit for any building and/or structure within Zone A shall obtain the best available base flood elevation data, which shall be reviewed by the Building Commissioner and used to meet said elevation or floodproofing requirements. Base flood elevation data is required for subdivision proposals or other developments greater than five acres within Zone A.

1702**All** encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited, unless certification by a registered professional engineer or architect is provided by the applicant for a building and/or special permit for any such encroachment within the floodway demonstrating that such encroachment shall not result in an increase in flood levels within the Town during the occurrence of the one-hundred-year flood. Along waterways that have not had a regulatory floodway designated on the FIRM, the best available federal, state, Town or other floodway data shall be used to provide the certification that the encroachment will not result in an increase in said flood levels.

1702**All** development in the Federal Flood Plain Protection District, including structural and nonstructural activities, that is in compliance with this Bylaw, must also be in compliance with the following state and Town requirements, and any waivers or variances from said requirements may only be granted in accordance with the procedures of those requirements:

1702**The** current requirements of the Massachusetts State Building Code for construction in flood hazard areas.

1702**The** Wetlands Protection Act, MGL c. 131, § 40, and its Regulations (currently 310 CMR 10.00 et seq.).

1702**Land** Wetlands Restriction Regulations (currently 310 CMR 13.00).

1702**Minimum** Requirements for the Subsurface Disposal of Sanitary Sewage ("Title V") (currently 310 CMR 15,000 et seq.).

1702 Town Bylaws, Chapter 194, Wetlands and Water Resources
Protection, and the Rules and Regulations of the Town
Conservation Commission, as currently in effect.⁴⁶

46.Editor's Note: Former § 198-1703, Watershed Protection District, as amended 3-15-1967
ATM by Art. 16, 4-30-1975 ATM by Art. 28, and 4-28-1986 ATM by Art. 25, which
immediately followed, was repealed 5-5-2005 ATM by Art. 31.

ARTICLE 18

**Conservation Cluster Development District
[Amended 5-2-1983 ATM by Art. 12]**

§ 198-1801. Purpose; special permit required.

1801 For the purpose of promoting the more efficient use of land in harmony with its natural features; encouraging the preservation of open land for conservation, agriculture, open space and recreational use; preserving historical and archaeological resources; and protecting existing or potential municipal water supplies, all in accordance with the general intent of this Zoning Bylaw to protect and promote the health, safety, convenience and general welfare of the inhabitants of the Town of Wayland, an owner or owners of a tract of land within a Single Residence District, or an authorized agent or agents of such owner or owners, may submit an application for a special permit exempting such land from the lot area and frontage, yard, setback and width of lot requirements of Article 7.

1802 The Planning Board is hereby designated as the special permit granting authority for all purposes under this article and shall adopt rules and regulations with respect to the administration of applications for special permits under this article.⁴⁷

§ 198-1802. Site plan.

1803 In addition to any other documents or information required by the Planning Board pursuant to its rules and regulations adopted hereunder, application for a special permit pursuant to this article shall be accompanied by a site plan (the "plan"), which plan shall show all of the information required for a definitive subdivision plan as specified in the Planning Board Subdivision Regulations,⁴⁸ such additional information required by § 198-601 through 605 of this Zoning Bylaw, as the Planning Board deems necessary, and, to the extent applicable, all proposed instruments to be recorded with the plan.

§ 198-1803. Public hearing; general requirements. [Amended 5-5-2005 ATM by Art. 27; 5-5-2005 ATM by Art. 29; 10-3-2012 STM by Art. 6; 11-15-2016 STM by Art. 4]

1804 After notice and public hearing in accordance with law, which public hearing shall be held within 65 days after the filing of the application with the Planning Board, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission, Historical Commission, and the Board of Health, grant such a special permit, provided that:

47. Editor's Note: See Ch. 301, Conservation Cluster Development.

48. Editor's Note: See Ch. 303, Subdivision of Land.

1803.1.1 ~~It~~ finds that the proposed plan is in harmony with the purposes and intent of this Zoning Bylaw and this article.

1803.1.2 ~~The~~ area of the tract of land is not less than 5 acres.

1803.1.3 ~~The~~ total number of dwelling units on the tract of land, including any affordable units required by Section 2204, does not exceed the larger of the following:

- (a) The number of building lots that could be created in the tract shown on such plan without a special permit hereunder, plus one lot for each 10 of such building lots that could otherwise be created; or
- (b) The number of building lots obtained by dividing 90% of the total area of the tract, exclusive of land identified as a protected resource area under the Wayland Wetlands and Water Resources Protection Bylaw (excluding buffer zones), by the minimum lot size permitted in the district within which the tract is located, plus one lot for each 10 lots so arrived at from such division.

1803.1.3.1 ~~For~~ purposes of demonstrating the number of lots under Subsection 1803.1.3(a) above, an applicant under this Bylaw shall submit a dimensioned lotting plan signed and stamped by a registered professional engineer or land surveyor which shows the maximum number of lots which can be created on a conventional subdivision plan meeting all dimensional and other requirements of the Zoning Bylaw and being in compliance with the Subdivision Rules and Regulations, which submittal shall include a list of requested waivers necessary to implement the subdivision plan, which the Planning Board shall review and consider.

1803.1.3.2 ~~With~~ in the Residence Districts, the Planning Board may allow by special permit structures to be constructed containing more than one dwelling unit, but not more than four dwelling units per structure. The total number of dwelling units shall not exceed the total that is allowed under § 198-1803.1.3.

1803.1.3.3 ~~Notwithstanding~~ any provision of this Zoning Bylaw to the contrary, the Planning Board may permit by Special Permit attached and detached dwelling units to be erected on single lot(s).

1803.1.4 ~~Each~~ of the building lots shown on the site plan shall have adequate frontage, but no less than 50 feet, on a public or private way.

1803.1.5 ~~Each~~ of the building lots shall be of a size and shape as shall provide a building site that shall be in harmony with the natural terrain and other features of the tract, but no such lot shall have an area of less than 20,000 square feet as shown on the plan.

~~1803.16~~ The front, side and rear yards of each lot shall be shown on the plan by dashed lines indicating the area within which a building may be built. All dwellings, accessory buildings, driveways and roadways shall be set back at least 50 feet from the perimeter of the tract except that the Planning Board may reduce this setback to not less than 15 feet if it furthers the interests of this bylaw, and 15 feet from any open land. except for that portion of a driveway or roadway that intersects a public or private way for access to the development.

~~1803.17~~ For Conservation Cluster Developments consisting of at least a majority of single-family detached dwellings, at least 35% of the land area of the tract, exclusive of land set aside for road and drainage areas, shall be designated as Open Land. For Conservation Cluster Developments consisting of at least a majority of single-family attached dwellings, at least 50% of the land area of the tract, exclusive of land set aside for road and drainage areas, shall be designated as Open Land. For the purpose of this article, "Open Land" is defined as a parcel or parcels of land, or an area of water, or a combination of land and water, not including roads or ways, whether public or private, The Open Land shall be reserved for open space, conservation, agriculture, passive recreation, park purposes or some combination of the foregoing.

~~1803.20~~ Conveyance of the Open Land.

~~1803.21~~ The Open Land shall be conveyed either:

- (a) To the Town or its Conservation Commission, but only if the Town or Conservation Commission agrees to accept title to the Open Land;
- (b) To the Sudbury Valley Trustees, Inc., and its successors or to another nonprofit conservation organization approved by the Planning Board, the principal purpose of which is the conservation of open space; or
- (c) To a corporation, trust or association owned, or to be owned, by the owners of lots or residential units within the tract, provided that if such a corporation, trust or association holds title, ownership thereof shall pass with conveyance of the lots or residential units.

~~1803.22~~ Title to the Open Land is held by an entity other than the Town, provisions shall be made satisfactory to the Planning Board that the Town, through its Conservation Commission, Planning Board, or other board, can enforce restrictions or easements imposed upon the Open Land by the Planning Board as conditions of its special permit.

~~1803.23~~ Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit the Open Land to

be used for subsurface waste disposal where the Planning Board finds that such use will not be detrimental to the character or quality of the Open Land.

1803f3the tract of land proposed for the Conservation Cluster development is located in two or more residential districts, the entire tract, for all purposes of this, shall be considered as lying entirely within the district having the largest area and frontage requirements, except that if 75% or more of the total area shown on the plan as building lots lies within one residential district, all of the land shall be considered as lying within that district.

1803N4lot shown on the plan for which a permit is granted under this article may be further subdivided, and a notation to this effect shall be shown on the approved, recorded plan.

§ 198-1804. Conditions.

1804The Planning Board may, in appropriate cases, impose as a condition of the special permit further restrictions, conditions and safeguards upon the tract, or parts thereof, to protect and promote the health, safety, convenience and general welfare of the inhabitants of the Town of Wayland.

§ 198-1805. Decision.

1805In connection with the granting or denying of a special permit under this article, the Planning Board shall issue to the applicant and shall file with the Town Clerk a written decision that shall include, at a minimum:

1805A1determination of the maximum number of lots upon which dwellings could be constructed (without a special permit hereunder) and a determination of the area of the tract usable for residential construction in accordance with § 198-1803.1.3 herein.
[Amended 11-15-2016 STM by Art. 4]

1805A1g2general description of the neighborhood in which the tract lies and the effect of the plan on the area.

1805The3relation of the proposed development to long-range plans of the Town, if any.

1805The4extent to which the proposed development is designed to take advantage of the natural terrain of the tract.

1805The5extent to which the proposed open land is of such a size, shape and location and has such adequate access so as to benefit the Town.

1805f1.6the Planning Board grants the special permit, the finding required by § 198-1803.1.1 above.

1805f1t7e Planning Board denies the special permit, its reasons for so doing.

1805f1t8e Planning Board disagrees with the recommendations of the Conservation Commission, Historical Commission, or the Board of Health, it shall state its reasons therefor in writing. **[Amended 11-15-2016 STM by Art. 4]**

1805f1t9y the terms of the special permit, the Planning Board permits the open land to be used for subsurface waste disposal, the finding required by § 198-1803.2.3 above. **[Amended 11-15-2016 STM by Art. 4]**

1805t2uch decision must be reached, filed with the Town Clerk and sent or delivered to the applicant within 90 days after the public hearing held on the application for the special permit, unless said ninety-day deadline is extended in accordance with law. Failure to so act shall be deemed approval in accordance with law.

§ 198-1806. Open Land. [Amended 11-15-2016 STM by Art. 4]

1806f1a special permit is granted, the Planning Board shall impose as a condition that the Open Land shall be conveyed, free and clear of any liens or encumbrances except those that may be permitted by the Planning Board, and subject to a perpetual restriction of the type described above (if applicable), prior to the Planning Board's release of any lots from the subdivision restriction covenant or, if there is no such covenant, prior to the Building Commissioner's issuance of a building permit for any lot, unless the petitioner shall provide a cash performance bond in an amount sufficient in the judgment of the Planning Board to guarantee the conveyance of the Open Land as required by the special permit. The petitioner shall provide satisfactory assurance of said conveyance and recording, in the form of copies of the recorded instruments bearing the recording stamp, and of such freedom from encumbrances. In any event, the Open Land shall be conveyed as required on or before one year after the conveyance of the first lot.

§ 198-1807. Duration of special permit.

1807t1special permit granted under this article shall lapse within 18 months if substantial construction has not begun by such date, except for a good cause shown and approved by the Planning Board.

§ 198-1808. Amendments.

1808t1ollowing the granting by the Planning Board of a permit under this article, it may, upon application and for good cause shown, after notice and a public hearing as required for granting a special permit, amend the plan solely to make changes in lot lines shown on the plan; provided, however, that no such amendment shall:

1808 Grant any reduction in the size of the open land as provided in the permit;

1808 Grant any change in the layout of the ways as provided in the permit;

1808 Increase the number of building lots as provided in the permit; or

1808 Decrease the dimensional requirements of any building lot below the minimal required by this Zoning Bylaw.

ARTICLE 19

**Planned Development District
[Amended 10-30-1974 STM by Art. 7]****§ 198-1901. Statutory authority; objectives. [Amended 5-4-1982
ATM by Art. 18]**

1901 In accordance with the provisions of MGL c. 40A, MGL c. 41, § 81I, the Home Rule Amendment (Article 89) to the Constitution of the Commonwealth of Massachusetts and every other power that the Town of Wayland may exercise, the Zoning Board of Appeals (ZBA) may grant special permits exempting planned developments that satisfy the terms and conditions that may properly be imposed pursuant to this article from certain regulations and restrictions contained in this Zoning Bylaw for the purposes set forth in Chapter 808 of the Acts of 1975, Sections 2A and 6, and to achieve the following objectives:

1901 Development that conserves environmental features, woodlands, wetlands, productive farms and areas of scenic beauty and that preserves sites and structures of historical importance.

1902 Development that encourages the construction and location of multiresidence dwellings in certain sites, to preserve open space in Wayland for all its inhabitants.

1903 Development that provides for a variety of housing in Wayland.

1904 Development that will permit the Town to continue to provide the same quality of municipal services without imposing an increased financial burden on its citizens.

§ 198-1902. Definitions.

1902 As used in this article, the following terms shall have the meanings indicated:

APPLICANT — The person or persons, including a corporation or other legal entity, who applies or apply for issuance of a special permit hereunder. The applicant must own, or be the beneficial owner of, all the land included in the proposed planned development site or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site within a period of 60 days from the time that the applicant shall notify the owner(s).

BEDROOM — A separate room intended for, or that customarily could be used for, sleeping.

BUFFER — An area within a planned development site adjacent to its boundaries, roads, streams and ponds that may not be developed except as provided herein.

DETACHED UNIT — A building containing one dwelling unit.**[Amended 1-19-1977 STM by Art. 7]**

DEVELOPMENT SCHEDULE — A program showing the order of construction, and the sequence of improvements, to be built or furnished in the planned development site, defined by stages where applicable.

DWELLING UNIT — A residence. Each residence shall contain at least a kitchen-living area, a bathroom and one or more bedrooms.

LAND — Land, including areas covered by water.

MULTIRESIDENCE DWELLING OR BUILDING — A building containing more than one dwelling unit.

PRIVATE OPEN SPACE — Land included in the planned development site that is neither public land nor residential land.

PUBLIC LAND — Land included in the planned development site that is donated in fee, except for such encumbrances as may be permitted by the ZBA, and accepted by the Town in connection with the planned development.

RESIDENTIAL LAND — Land included in the planned development site that shall be submitted by the applicant and conform to the provisions of MGL c. 183A.

STAGE OF DEVELOPMENT — The work to be done and the number of structures to be built within any of the time limits defined by the development schedule.

WET AREAS — Include land situated within a floodplain or designated as wetlands by the Conservation Commission pursuant to its authority under MGL c. 131, § 40.**[Amended 5-8-1989 ATM by Art. 16]**

§ 198-1903. Permitted uses.

1903n1.a Planned Development District, no building or premises shall be used, nor shall any building or structure be constructed, reconstructed, repaired or used, except as follows:

1903An1 use permitted as of right by Article 9 of this Zoning Bylaw shall be permitted therein as of right. Prior to the issuance of a special permit by the ZBA under this article, a parcel of land included within a Planned Development District shall retain the residential zoning classification listed under § 198-705.1 applicable to it prior to such designation by Town Meeting as a Planned Development District.

1903An2 use permitted if a special permit is obtained from the ZBA in accordance with the provisions of § 198-203 shall be permitted therein subject to the same proviso.

1903~~Multiresidence~~ and detached unit condominium dwellings shall be permitted therein, provided that a special permit is obtained from the ZBA in accordance with the provisions of this article.
[Amended 1-19-1977 STM by Art. 7]

1903~~No.~~ multiresidence or detached unit condominium dwelling shall be permitted in a planned development site in the event that the applicant shall have constructed or reconstructed any building or structure on residential land for any use permitted under § 198-1903.1.1 and 1903.1.2 above after a special permit shall have been granted to the applicant pursuant to § 198-1907.6 below. **[Amended 1-19-1977 STM by Art. 7]**

1903~~For~~ the convenience of a multiresidence condominium development of which they will be a part, retail sales and service establishments, including, without limitation, neighborhood variety food stores and drugstores, but excluding gasoline service stations or fast-food stores, shall be permitted, provided that:

1903~~No. 1~~ more than one such establishment shall be permitted for each 100 dwelling units constructed.

1903~~No. 2~~ such establishment shall occupy more than 2,000 square feet of space.

1903~~The~~ ZBA shall have endorsed on a site plan its approval of the proposed establishment pursuant to the provisions of Article 6 of this Zoning Bylaw.

1903~~The~~ ZBA shall find that such an establishment meets the standards set forth in § 198-1904 below and the objectives set forth in § 198-1901 above.

1903~~In~~ the event that access roads and underground utility services (other than sewage disposal facilities) are necessary for a planned development site, land abutting, but not included in, a Planned Development District may be used for such purposes, provided that such use shall have been approved by a two-thirds vote of a Town Meeting and that the ZBA shall have endorsed its approval thereof on a site plan of the proposed development pursuant to the provisions of Article 6 of this Zoning Bylaw, and further provided that: **[Amended 11-12-1975 STM by Art. 18; 5-8-1989 ATM by Art. 16]**

1903~~The~~ Planning Board shall find that such roads and services meet the objectives set forth in § 198-1901 above.

1903~~The~~ Planning Board shall find that such roads and services meet the objectives set forth in § 198-1904 below.

1903~~Any~~ such roads and services so permitted shall be subject to all applicable provisions of this article and the rules and regulations prescribed by the Planning Board pursuant to § 198-1913 below.

§ 198-1904. Standards.**1904Q**Qualifying area.

1904Q1. To qualify as a planned development site, an area of land in a Planned Development District shall contain at least 40 contiguous acres not divided by an existing street or aqueduct. Additional areas may be permitted in a planned development site although such areas are divided from the qualifying area by a street or aqueduct. If additional areas are so included, then the qualifying area, together with such additional areas, shall thereafter be treated as one indivisible planned development site. **[Amended 5-8-1989 ATM by Art. 17]**

1904PPrinciples.

1904P1. An application for a special permit shall be approved unless the ZBA shall find:

1904P1.1 That the proposed development plan is financially sound.

1904P1.2 That the applicant's associates, professional advisers and contractors are qualified by training and/or experience to develop real estate and to construct multiresidence dwellings comparable to those proposed in accordance with the development schedule set forth in his application.

1904DDevelopment schedule.

1904D3. development schedule shall be required that considers the capacity of the applicant to develop, as well as the ability of the Town to provide, public services in accordance with the provisions of § 198-1901.1.4 above.

1904OOpen space coverage.

1904O1. At least 70% of the area of a planned development site shall consist of public land and private open space, and at least 35% of the area of a planned development site shall be public land.

1904FPreservation of natural and historical features.

1904F1. Natural and historical features of special interest, including hilltops, cliffs and bluffs, ravines, attractive groves of trees, biological habitats of special interest and views of unusual charm, shall be preserved.

1904GGround coverage limitations.

1904G1. No more than 15% of the total area of a planned development site shall be occupied by structures, parking areas, roadways and driveways, patios, storage spaces or enclosed areas; provided, however, that buildings and structures erected on public land shall not be included in this calculation.

1904-17 Density of dwelling units.

1904-17.1 The maximum number of dwelling units that may be allowed in a planned development site shall be determined by the ZBA in accordance with the following formula:

$$D = K (A - W)$$

Where:

D = The maximum number of dwelling units.

K = The density factor.

A = The total number of acres in a planned development site.

W = The number of acres of wet areas.

=

1904-17.2 The density factor (K) shall be a value recommended by the Planning Board within the following ranges:

1904-17.2.1 residence zone of 60,000 square feet, 1.0 to 1.4, inclusive.

[Amended 11-25-1975 STM by Art. 16]

1904-17.2.2 residence zone of 40,000 square feet, 1.25 to 1.75, inclusive, based on the following criteria:

1904-17.2.2.1 The nature, size and distribution of the wet areas in the site, as well as the soil drainage conditions there;

1904-17.2.2.2 The topography;

1904-17.2.2.3 The amount and location of land available for parking, access and unobstructed areas between nearby buildings;

1904-17.2.2.4 The extent to which the plan provides access to county or state highways or other modes of transportation; and

1904-17.2.2.5 The acreage donated to the Town for public land in excess of the minimum amount set forth in § 198-1904.4 above.

1904-17.2.3 In the event that it is proposed to develop a planned development site in stages or over a period of years, the Planning Board may recommend that the development plan provide for greater concentration of density, or intensity of land use, within some section or sections of the site than in other sections; provided, however, that approval of such greater concentration shall be offset by a smaller concentration in a section that shall have been completed prior thereto, and provided further that the total number of dwelling units in the planned development site shall not exceed the maximum determined in accordance with the aforesaid formula.

1904-18 Number of bedrooms.

1904B.1 The number of bedrooms in any planned development shall not exceed twice the number of dwelling units permitted by the special permit.

1904D. Distribution of bedrooms among dwelling units. **[Amended 1-19-1977 STM by Art. 7]**

1904D.1 No more than 70% of the dwelling units in any planned development site, or at the completion of any stage of construction permitted in the development schedule, shall contain the same number of bedrooms.

1904D.2 No more than 25% of the total number of bedrooms permitted in any planned development site shall be contained in detached units.

1904M. Maximum number of dwelling units per building.

1904N.1 No multiresidence dwelling in a planned development site shall contain more than 10 dwelling units.

1904B.1 Buffers.

1904B.1 No structure may be erected, nor may any land be paved, within 100 feet of the perimeter of the planned development site nor of any pond, stream or road (other than ways or driveways not intended for public acceptance by the Town), unless such construction shall have been recommended by the Planning Board acting in accordance with the standards set forth in its regulations. No structure or building, as defined in the most recent provisions of the Building Code, may be erected on any portion of a planned development site within 15 feet of public land, unless such construction shall have been recommended by the Planning Board acting in accordance with the standards set forth in its regulations. The ZBA may, nevertheless, approve the construction in any such buffer of such structures, ways, footpaths and bicycle paths, fences and other landscape constructions, as well as bridges and recreational facilities recommended by the Planning Board, if it shall determine that such construction and use may be in harmony with the general purpose and intent of this Zoning Bylaw. **[Amended 5-4-1982 ATM by Art. 19; 5-4-1982 ATM by Art. 20]**

1904V.1 Visual scale.

1904V.1.1 The horizontal clearance between any two principal structures shall be not less than the height of the taller structure. Departure from the visual scale of single-family development shall be minimized by limiting building length to 250 feet and limiting unbroken roof area to 2,500 square feet. Buildings shall be located to assure privacy, promote views to outlying open areas and reflect the character of the community in which they are located.

[Amended 11-25-1975 STM by Art. 17; 5-8-1989 ATM by Art. 16]

19041b3 Height.

19041b3 Building or structure shall be more than three stories in height or exceed 35 feet in height from finished grade at any point.

19041b4 Parking.

19041b4 A minimum of two parking spaces shall be provided for each dwelling unit. No lot providing residential parking shall contain more than 25 parking spaces. Each parking lot shall be screened from public ways, ways within the planned development site and residentially zoned property adjacent to the planned development site by building location, grading, fencing or planting sufficient to minimize visibility of the parking lot from such locations.
[Amended 5-8-1989 ATM by Art. 16]

19041b5 Utilities.

19041b5 Electric, gas, telephone and water distribution lines shall be placed underground in accordance with the regulations of the Planning Board, unless the ZBA shall grant an exception to this requirement.

19041b6 Access to public land.

19041b6 Applicant shall construct paths and trails leading to public lands and grant easements to the Town in and over such trails and paths.

19041b7 Roads.

19041b7 Roads shall be designed, located and constructed in accordance with the Subdivision Regulations promulgated by the Planning Board, as the same may be amended from time to time.⁴⁹

19041b8 Paths.

19041b8 Paths for the use of residents shall be attractively designed, with proper regard to convenience; separation of vehicular, bicycle and pedestrian traffic; adequate connectivity; and completeness of access to the various amenities and facilities on the site.

19041b9 Surface drainage.

19041b9 Surface drainage system shall be designed in accordance with the regulations of the Planning Board.

19041b10 Waste disposal.

49. Editor's Note: See Ch. 303, Subdivision of Land.

1904A20.1 Wastewater treatment and/or sewage disposal facilities shall be designed and constructed in accordance with the most recent provisions of the Sanitary Code promulgated by DEP, the regulations of the Board of Health and all other laws pertaining thereto. **[Amended 5-4-1982 ATM by Art. 21; 5-8-1989 ATM by Art. 16]**

1904D21. Detached units. **[Amended 1-19-1977 STM by Art. 7]**

1904E21.1 The number of detached units in any planned development site shall not exceed 20% of the total number of dwelling units permitted.

1904E21.2 The number of detached units in any stage of development shall not exceed 40% of the total number of dwelling units permitted in such stage.

1904E21.3 Determining the number of detached dwelling units to be permitted, the ZBA may consider the recommendations submitted by the Planning Board pursuant to § 198-1906 below.

1904L22. Lighting.

1904L22.1 No building shall be floodlit. Drives and parking areas shall be illuminated only by shielded lights not higher than 15 feet. **[Added 5-8-1989 ATM by Art. 16]**

1904A23. Affordable dwelling units. **[Added 5-8-1989 ATM by Art. 17]**

1904A23.1 As a condition of a special permit, the ZBA shall require, on site and within the development, the provision of low-income housing units amounting to at least 10%, and moderate-income units amounting to at least 5%, of the development's total number of dwelling units. The low- and moderate-income units to be provided shall meet the standard for low- and moderate-income housing established by the Massachusetts Department of Housing and Community Development and the Federal Department of Housing and Urban Development with regard to size, quality and characteristics. The distribution of unit sizes and determination of occupancy characteristics (i.e., individual or family) shall be made by the ZBA, after consultation with the Wayland Housing Authority, at the time of the granting of the permit.

1904A23.2 Such low- and moderate-income dwelling unit shall be sold, or leased in perpetuity, on terms affordable to households or individuals with incomes not exceeding those defined as "low income" by the Federal Department of Housing and Urban Development and the Massachusetts Department of Housing and Community Development, at the election of the Wayland Housing Authority, to the Wayland Housing Authority. Said Authority shall have the exclusive option to purchase or lease the unit(s).

1904.23.3 ~~1904.23.3~~ need to units conveyed to the Wayland Housing Authority shall provide good and clear record and marketable title, free from mortgages and any taxes, betterments, Town service fees or similar financial encumbrances then due and owing.

1904.23.4 ~~1904.23.4~~ low- and moderate-income units shall be conveyed or leased prior to the issuance of occupancy permits for 25% of the project's total number of units.

1904.23.5 ~~1904.23.5~~ determining the number of units to be provided in accordance with § 198-1904.23.2 through 1904.23.4 above, a fractional unit of 1/2 or more shall be regarded as a whole unit; less shall be deemed not to impose a required unit.

§ 198-1905. Special permit application.

1905.1 ~~1905.1~~ application for a special permit to develop a planned development site shall be submitted on forms furnished by the Planning Board to the ZBA. Written notice containing a copy of said plan shall be given by the applicant to the Town Clerk, the Conservation Commission, the Finance Committee, the Fire Chief, the Board of Health, the Building Commissioner, the Park and Recreation Commissioners, the School Committee, the School Building Planning Committee, the Selectmen, the Commissioners of the Water Department and the Planning Board. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of MGL c. 41, §§ 81O and 81T, as the same may be amended from time to time, a filing fee determined in accordance with § 198-1914 below and a development plan containing the following information and data:

1905.1.1 ~~1905.1.1~~ The name(s) and address(es) of the applicant and all legal and beneficial owners of the site; copies of all instruments, options, contracts or encumbrances affecting ownership of the planned development site, together with the opinion of an attorney concerning the state of the title; and an instrument executed by all persons owning property within the site agreeing that the development is desired.

1905.1.2 ~~1905.1.2~~ A plan, suitable for recording, of the planned development site showing all structures and improvements on the site; all ways and utilities serving the same; and all lot lines, easements and rights-of-way of record.

1905.1.3 ~~1905.1.3~~ Information required by the Planning Board regarding the training and experience of the applicant, his associates, professional advisers and contractors in the development and management of real estate and the construction of multiresidence dwellings, as well as their respective financial positions. Such information may include a list of all persons and organizations with whom or which he has been associated in the development of real estate during the past 10 years, including their addresses

and the names of their principal officers, as well as all sources of credit upon which he relies to acquire, develop and manage the planned development site. The applicant shall furnish copies of such transcripts, records, letters of intent and contracts, as well as all other documentation that the Planning Board may require to determine whether the applicant is qualified to undertake and complete the proposed planned development and whether his plan for financing the same is sound.

1905A1.4 proposed development schedule showing the beginning of construction; the rate of construction and development, including stages, if applicable; and the estimated date of completion.

1905A1.5 information showing the effect, from time to time, of the development on the Town's capacity to furnish services, including but not limited to schooling, roads, water and sanitation.

1905A1.6 map, to the scale required by the Planning Board, of the planned development site and the community surrounding the same, to a distance of 1/2 mile, and showing all proposed points of interconnection, including roads, open space, utilities and schools.

1905A1.7 plan or plans, to the scale required by the Planning Board, showing the topography of the site at a minimum of two-foot intervals, as well as vegetation and special features, including all woodlands, wetlands, groups of trees or individual trees worthy of preservation, rock outcroppings, significant slopes, trails and paths, flowing streams and drainageways, ponds, productive agricultural lands, open vistas, structures of historical importance and biological or wildlife habitats.

1905A1.8 plans for the preservation of the vegetation and special features shown on said plan.

1905A1.9 information that the Planning Board may require to determine limitations on private open space, ground coverage and density.

1905A1.10 information regarding the number and kind of proposed dwelling units, including their location, the number of bedrooms planned, the anticipated sale prices and population projections pertaining thereto.

1905A1.11 plan or plans, to the scale required by the Planning Board, showing existing and proposed contours; roads; lighting, utility and sewage systems; and the areas to be set aside for public land, for private open space, for municipal facilities, for buffers, for building structures and for parking areas.

1905A1.12 model or models illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings and typical elevations, as well as the general height,

this article shall be deemed to modify the powers of the Planning Board or the Board of Health under the Subdivision Control Law or the rules and regulations of the Planning Board, where applicable. **[Amended 5-8-1989 ATM by Art. 16]**

§ 198-1907. Review and action by the Zoning Board of Appeals.

1907The ZBA shall review an application for a special permit for a planned development in accordance with the provisions of MGL c. 40A, §§ 9 and 11, as may be amended. The ZBA shall hold a public hearing not less than 35 days nor more than 65 days after the filing of the application. Where the planned development shall also require approval of a definitive plan by the Planning Board, the ZBA shall, to the extent feasible, consolidate its procedures with those of the Planning Board. Failure by the ZBA to take final action upon an application for a special permit within 90 days following the date of public hearing shall be deemed to be a grant of the special permit applied for. **[Amended 5-4-1982 ATM by Art. 18; 5-8-1989 ATM by Art. 16]**

1907In the event that the ZBA shall decide, after the conclusion of such hearing, not to grant such a special permit, it shall notify all parties in interest of its decision as provided in MGL c. 40A, § 15, as the same may be amended from time to time. **[Amended 5-4-1982 ATM by Art. 18]**

1907If, on the other hand, the ZBA shall be inclined to grant such a special permit, it shall, within 45 days after the date of the conclusion of the public hearing, send to the applicant a proposed special permit containing the approved development plan, as well as such conditions and safeguards it deems appropriate to assure that the approved site shall be developed in complete harmony with the general purpose and intent of MGL c. 40A, § 9, and this Zoning Bylaw. Without limiting this general purpose and intent, such conditions and safeguards shall include: **[Amended 5-4-1982 ATM by Art. 18; 5-8-1989 ATM by Art. 16]**

1907A requirement that the applicant shall submit the following to the ZBA:

1907A.1. A plan, suitable for recording, showing all the public land, the private open space and the residential land in the planned development site.

1907A.2. A deed conveying to the Town a good and clear record and marketable title free of all encumbrances (except for such encumbrances as may be permitted by the ZBA) to all land designated as public land on the approved development plan.

1907A.3. A conservation instrument, suitable for recording pursuant to the provisions of MGL c. 184, §§ 26 through 33, imposing a conservation restriction for the benefit of said public land upon

all land designated private open space on the approved development plan but reserving to the grantor the right to use and develop the same in accordance with the provisions of § 198-1911 below. Said restriction shall be enforceable by the Town of Wayland pursuant to the provisions of MGL c. 184, § 30.

- 1907A31. Master deed, duly executed and recorded by the applicant, submitting all residential land to the provisions of MGL c. 183A, as well as a copy of the bylaws duly adopted by the organization of unit owners.
- 1907A32. Development schedule, bearing the signature of the applicant, showing dates for:
 - 1907C321. Commencement of development within one year after recording of the special permit applied for;
 - 1907C322. Completion of each stage of the proposed development, if applicable;
 - 1907B323. Recording of covenants, restrictions and/or easements in private open space; and
 - 1907C324. Completion of the planned development.
- 1907A33. Negotiable instruments, deposits of money and/or a performance bond of a surety company qualified to do business in Massachusetts and satisfactory to the ZBA shall be furnished and maintained by the applicant, and a covenant shall be executed and recorded by the applicant, running with the land, which covenant shall be sufficient, in the opinion of the ZBA, to secure adherence by the applicant to the approved development plan and performance of such plan in accordance with the development schedule set forth therein. All such covenants shall provide that the applicant shall pay \$50 to the Town, as liquidated damages, for each day that shall pass after the expiration of 90 days from the time that any work shall not have been completed as required by the development schedule, unless said work shall have stopped for a period of 30 days under a court order or if it shall be stopped or delayed through no act or fault of the applicant or of any of the contractors that he has engaged to develop the site.
- 1907A34. Requirement that the professionals and principals named in the development plan shall continue to participate in the development in the capacities specified in the approved plan, unless the ZBA shall have modified the permit as hereinafter provided.
- 1907A35. Regulations to minimize inconveniences to residents in the general area, whether of noise, vibration, dust, blocking of Town roads or otherwise.

1907A3.6. A requirement that as-built drawings shall be filed with the Building Commissioner upon completion of each stage of the development.

1907The applicant shall, within 15 days after he receives a copy of the proposed special permit from the ZBA, notify said Board of his acceptance of, or his refusal to accept, all the conditions and safeguards set forth therein. In the event that the applicant shall notify the ZBA that he accepts all such conditions, he shall file with his notice copies of the plan and the instruments that he proposes to submit pursuant to § 198-1907.5 below to satisfy the requirements of § 198-1907.3.1 through 1907.3.3 above. In the event that the applicant shall not, within said period, notify the ZBA that he accepts all of said conditions and safeguards or if he shall fail to submit copies of the aforesaid plan and instruments, the ZBA shall be deemed to have denied approval of the development plan and his application for a special permit. The ZBA and the applicant may, nevertheless, agree to a change in any such conditions, and the ZBA may, at the request of the applicant, extend the time during which the applicant shall notify the ZBA of his acceptance, or refusal to accept, the proposed conditions and safeguards. **[Amended 5-8-1989 ATM by Art. 16]**

1907Within 10 days after he has notified the ZBA of his acceptance, the applicant shall deliver to said Board all of the documents described in § 198-1907.3.1 through 1907.3.3 above, except the instrument and master deed required by § 198-1907.3.1.3 and 1907.3.1.4 above, together with any and all other instruments and fees that may have been imposed as a condition or safeguard upon exercise of the special permit applied for. **[Amended 5-8-1989 ATM by Art. 16]**

1907Within 15 days after receipt of all such material, the ZBA may grant such special permit to the applicant in accordance with the procedure set forth in said MGL c. 40A, § 11, subject, however, to such conditions and safeguards as it may impose pursuant to MGL c. 40A, § 9. **[Amended 5-4-1982 ATM by Art. 18; 5-8-1989 ATM by Art. 16]**

1907The ZBA shall have no power to issue a special permit under this article:

1907After the expiration of 36 months from the date on which the Attorney General shall have approved the bylaw amendment designating a Planned Development District for which the special permit is sought, unless, after the expiration of such thirty-six-month period, the consent of all but one of the members of the Planning Board shall be given to the issuance of a special permit in the manner provided by MGL c. 40A, § 9. Such consent by all but one of the members of the Planning Board shall be effective for 12 months from its date and may be extended for additional twelve-month periods by similar vote of the Planning Board. **[Amended 5-4-1982 ATM by Art. 18]**

1907.6.2. Unless the entire area in the Planned Development District is included in the planned development site described in the application for a special permit referred to in § 198-1905 above.

§ 198-1908. Permits for use and construction.

1908.1. No permit for the construction or alteration of any structure, or for any new use of a structure or of land, in a planned development site shall be granted by the Building Commissioner or permitted by the Zoning Enforcement Officer until the Planning Board shall have reviewed a copy of each application for a building permit and/or a use permit submitted to it by the applicant and notified said officials, in writing, that:

1908.1.1. less than one year has expired since the grant of the special permit or that a building or use permit has previously been granted for said site;

1908.1.2. the applicant has delivered the instrument required by § 198-1907.3.1.3 above to the ZBA;

1908.1.3. the applicant has obtained binding commitments for the financing required to complete the stage of development proposed or in progress in residential land or that he has irrevocably committed personal funds sufficient for this purpose; and

1908.1.4. the construction and/or use proposed is in substantial compliance with the definitive plan of the subdivision, where applicable, the planned development plan and this Zoning Bylaw. In the event that 20 days shall have elapsed after the Planning Board has received a copy of such application without submitting the aforesaid notification, the permit may issue as if the Planning Board had so notified the Building Commissioner and Zoning Enforcement Officer.

1908.2. In the event that the Planning Board shall determine that the applicant has not satisfied the conditions and safeguards set forth in § 198-1908.1 above or that any schedule, construction or use applied for will vary any of the following by 10% or more from the approved planned development plan, it shall recommend that the Building Commissioner and Zoning Enforcement Officer withhold a permit therefor pursuant to the provisions of MGL c. 40A, § 7, as the same may be amended from time to time: **[Amended 5-4-1982 ATM by Art. 18]**

1908.2.1. the amount and location of ground coverage, including buffers.

1908.2.2. the reference to the development schedule.

1908.2.3. the density and types of dwelling units and the size.

1908.2.4. the number of parking spaces required.

1908.2.5. the location of utility facilities.

1908.16 location of paths, ways and traffic.

1908.18 such event, the applicant may either appeal such decision of the Zoning Enforcement Officer pursuant to the provisions of MGL c. 40A, §§ 8 and 15, or apply for modification of his special permit as provided hereinbelow. **[Amended 5-4-1982 ATM by Art. 18]**

§ 198-1909. Amendments.

1909.1 in addition to the powers conferred upon it by MGL c. 41, § 81W, the Planning Board shall have the power, on its own motion or on the petition of any person interested, to recommend that the ZBA modify or amend its approval of the development plan annexed to its special permit, provided that no such recommendation may be filed until the Planning Board shall have satisfied the requirements of § 198-1306 above.

1909.2 a modification of the provisions of said development plan, or part thereof, contained in the special permit shall nevertheless be made, nor shall it be impaired by the Town, except with the written consent of the applicant.

§ 198-1910. Abandonment.

1910.1 in the event that the applicant shall abandon the work described in the approved development plan, or any portion or stage thereof, for a period of 120 days or if he shall fail to commence said work within the time prescribed in § 198-1907.3.2.1 above, the ZBA may, after a hearing duly called and conducted in accordance with MGL c. 40A, §§ 11 through 15, cause notice of abandonment to be recorded in the Middlesex South District Registry of Deeds. **[Amended 5-4-1982 ATM by Art. 18]**

1910.2 such notice shall be recorded, however, in the event that the holder of any security interest in the planned development site who has exercised his right to take possession of the mortgaged property and to proceed to completion of the work that he has contracted to finance shall have delivered an instrument to the ZBA, assented to by the applicant, accepting all the conditions and safeguards set forth in the special permit, as the same may have been modified from time to time, and such holder or holders shall thereupon be deemed the applicant hereunder.

1910.3 notwithstanding anything herein to the contrary, a special permit granted hereunder shall lapse if construction thereunder is not begun within two years from the date of such grant, except for good cause. **[Amended 5-8-1989 ATM by Art. 16]**

1910.4 upon the recording of a notice of abandonment, no further development shall take place in the development site unless the

applicant shall have complied with the zoning and subdivision control regulations that would otherwise be applicable thereto.

§ 198-1911. Use and maintenance of land.

1911 Use of private open space.

1911 No construction in, or development of, private open space shall be permitted unless the ZBA shall have approved any of the following uses in said open space in its special permit:

1911 Utility structures and facilities.

1911 Structures and facilities accessory thereto, designed for agricultural and/or recreational purposes, including structures designed to be used for the purposes and subject to the terms and conditions of § 198-901.1.7.2.⁵¹

1911 Use and maintenance of residential land.

1911 No person shall occupy any structure constructed in the planned development site unless the Building Commissioner shall find that such structure, the land on which it is located and the improvements associated therewith have been submitted by the applicant and conform to the provisions of MGL c. 183A.

1911 In the event that any organization established under MGL c. 183A, §§ 8 and 10 through 12, shall at any time fail to maintain its common areas and facilities in reasonable order and condition in accordance with the development plan set forth in the special permit, as the same may have been amended or modified from time to time, the Building Commissioner may serve written notice upon such organization, or upon the residents of the planned development, setting forth the manner in which the organization has failed to maintain its said areas and facilities in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon, which hearing shall be held within 14 days of the notice. If the deficiencies set forth in the original notice shall not be cured within said 30 days, or any extension thereof, the Town may maintain the same in reasonable condition, at the expense of such organization, and/or pursue any and all remedies that may be available to it under MGL c. 40, § 31, MGL c. 40A or otherwise to assure the continued maintenance of all such residential land.

1911 No portion of any common areas and facilities shall be sold or otherwise disposed of by such organization unless the Town shall

51. Editor's Note: Former § 198-901.1.7.2, which provided for buildings of membership clubs devoted to outdoor sports and social and recreational buildings and premises, was repealed 5-5-1999 STM by Art. 9.

have been given written notice of its intent to sell and 60 days to exercise a right of first refusal.

1911~~1912~~4. portion of any condominium shall be removed from the provisions of said MGL c. 183A without the consent thereto by a two-thirds vote of a Town Meeting.

§ 198-1912. Dedication of property to public use.

1912~~1913~~All persons applying for a special permit to the ZBA seeking an exception under this article to the regulations and restrictions contained in this Zoning Bylaw acknowledge that their proposal to construct multiresidence dwellings in the Town of Wayland will be considered by the ZBA by reference to the Town's objective to preserve open space for all its inhabitants by permitting a greater density of dwelling units in Planned Development Districts than would otherwise be permitted by law, and their offer to convey property shown as public land in their development to the Town shall be construed in satisfaction of a condition that the ZBA may lawfully impose pursuant to MGL c. 40A, § 9, so that exceptions sought by applicants shall always be in harmony with the general purpose and intent of this Zoning Bylaw.
[Amended 5-4-1982 ATM by Art. 18]

§ 198-1913. Rules and regulations.

1913~~1914~~The Planning Board may prescribe from time to time rules and regulations to supplement the standards and conditions set forth in this article, provided that:

1913~~1914~~Said rules and regulations are not inconsistent with said standards and conditions;

1913~~1914~~A copy of said rules and regulations is filed in the office of the Town Clerk; and

1913~~1914~~Any amendment or change of said rules and regulations shall not apply to any application that shall have been submitted prior to such filing.

§ 198-1914. Enforcement; stop orders.

1914~~1915~~General principles.

1914~~1915~~In accordance with the provisions of MGL c. 40, § 31, MGL c. 40A, § 7, MGL c. 41, § 81U, and Chapter 1, General Provisions, Article II, Violations and Penalties, of the Code of the Town of Wayland and every other authority and power that may have been, or may hereafter be, conferred upon it, the Town may enforce the conditions and safeguards imposed on the exercise of special permits under this article in equity or at law and recover from the applicant, his successor or approved assignee(s) all moneys

that may be required to complete the approved development plan.
[Amended 5-4-1982 ATM by Art. 18]

1914~~The~~² penalty provisions of this Zoning Bylaw may be imposed upon the applicant, his general agent, tenant(s), architect(s), contractor(s) or any and all persons having an interest in the development site, including a mechanic's lien, mortgage or attachments.

1914~~The~~³ Town of Wayland shall be the beneficiary of all fines imposed on account of the violation of this Zoning Bylaw to defray the expense of enforcing the same.

1914~~All~~⁴ provisions of the approved development plan shall run in favor of the residents thereof, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent said provisions, whether recorded by plan, covenant, easement or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

1914~~Stop~~⁵ order.

1914~~In~~⁶ the event of a violation of law, an unauthorized sale or lease of the approved development site, development that deviates from the approved development plan, any use of the property that is not permitted in the development site or the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of his special permit, the Zoning Enforcement Officer or the Building Commissioner may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation and the date on which said order shall expire, which date shall not be six days later than the date of the order.

1914~~Any~~⁷ person who shall violate the provisions of a stop order shall be deemed in violation of this Zoning Bylaw.

1914~~Failure~~⁸ of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing any other legal remedy permitted under law.

§ 198-1915. Fees.

1915~~To~~⁹ reimburse the Town for the expense of processing the various applications provided for hereinabove, the ZBA may from time to time adopt and promulgate in its regulations a schedule of fees payable by the applicant, a copy of which shall be kept on file and available in the office of the Town Clerk.

ARTICLE 20

**Southeast Wayland-Cochituate Planning District
[Amended 6-16-1987 STM by Art. 3; 6-16-1987 STM by Art. 4]****§ 198-2001. Statutory authority; objectives.**

2001In accordance with the provisions of MGL c. 40A, MGL c. 41, § 81I, the Home Rule Amendment (Article 89) to the Constitution of the Commonwealth of Massachusetts and every other power that the Town of Wayland may exercise, the Planning Board may grant special permits exempting developments that satisfy the terms and conditions that may properly be imposed pursuant to this article from certain regulations and restrictions contained in this Zoning Bylaw for the purposes set forth in Chapter 808 of the Acts of 1975, Sections 2A and 6, and to achieve the following objectives:

2001Development that conserves environmental features, woodlands, wetlands and areas of scenic beauty and preserves sites and structures of historical importance.

2001Development that encourages the construction and location of attached single-family dwellings, or multifamily condominium dwellings, in certain sites, to preserve the residential characteristics of Wayland for all its inhabitants.

2001Development that provides for a variety of housing in Wayland.

2001Development that will permit the Town to continue to provide the same quality of municipal services without imposing an increased financial burden on its citizens.

2001Development that will provide at least 10% of the dwellings constructed to be made available for sale at affordable prices.

2001Development that will protect the environment and preserve open spaces by granting conservation and recreation restrictions to the Conservation Commission for certain buffer areas and wet areas.

§ 198-2002. Definitions.

2002As used in this article, the following terms shall have the meanings indicated:

AFFORDABLE PRICES — Those prices set by the Massachusetts Housing Finance Agency and the Massachusetts Housing Partnership within the Massachusetts Department of Housing and Community Development for the sale of housing units to low- and moderate-income persons, as defined in the applicable Massachusetts Housing Finance Agency statute and regulations.

APPLICANT — The person or persons, including a corporation or other legal entity, who apply for issuance of a special permit hereunder. The

applicant must own, or be the beneficial owner of, all the land included in the proposed development site or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site within a period of 60 days from the time that the applicant shall notify the owner(s).

ATTACHED SINGLE-FAMILY DWELLING — A dwelling unit for one family that has at least one exterior wall in common with another dwelling unit.

BEDROOM — A separate room intended for, or that customarily could be used for, sleeping.

BUFFER — An area within a Southeast Wayland-Cochituate Planning District development site adjacent to its boundaries, roads, streams and ponds that may not be developed except as provided herein.

DEVELOPMENT SCHEDULE — A program showing the order of construction, and the sequence of improvements, to be built or furnished in the development site, defined by stages where applicable.

DWELLING UNIT — A residence. Each residence shall contain at least a kitchen-living area, a bathroom and one or more bedrooms.

LAND — Land, including areas covered by water.

MULTIFAMILY CONDOMINIUM DWELLING — A building containing more than one dwelling unit that is subject to the provisions of MGL c. 183A.

STAGE OF DEVELOPMENT — The work to be done, and the number of structures to be built, within any of the time limits defined by the development schedule.

WET AREAS — Water areas and other land in any of the following categories:

All land subject to the provisions of MGL c. 131, §§ 40 and 40A or land designated as being subject to the one-hundred-year flood (an A Zone) pursuant to the Federal Flood Disaster Protection Act, 42 U.S.C. § 4001 et seq., or subject to any regulation by the Town with regard to floodplain or aquifer protection.

All lands within the Watershed Protection District originally established by vote of the Town under Article 17 of the 1967 Annual Town Meeting, as the same may be amended from time to time.

Land that is ordinarily submerged during any portion of the year.

§ 198-2003. Permitted uses.

2003n1.a Southeast Wayland-Cochituate Planning District, no building or premises shall be used, nor shall any building or structure be constructed, reconstructed, repaired or used, except as follows:

2003.1.1 Any use permitted as of right by Article 4 of this Zoning Bylaw shall be permitted therein as of right. Prior to the issuance of a special permit by the Planning Board under this article, a parcel of land included within a Southeast Wayland-Cochituate Planning District shall retain the residential zone classification and dimensional controls applicable to it prior to such designation by Town Meeting as a Southeast Wayland-Cochituate Planning District.

2003.1.2 Any use permitted if a special permit is obtained from the ZBA in accordance with the provisions of § 198-203 shall be permitted therein, subject to the same proviso.

2003.1.3 Provided that a special permit is obtained from the Planning Board in accordance with the provisions of this article, attached single-family dwellings or multifamily condominium dwellings shall be the only permitted uses therein. In the event that a special permit is abandoned, as provided in § 198-2009 herein, or the time for application for a special permit has lapsed, as provided in § 198-2006.7 herein, the uses set forth in § 198-2003.1.1 and 2003.1.2 above shall be the permitted uses in a Southeast Wayland-Cochituate Planning District.

2003.1.2 In the event that access roads and underground utility services (other than septic disposal facilities) are necessary for a development site, land abutting, but not included in, a Southeast Wayland-Cochituate Planning District may be used for such purposes, provided that such use shall have been approved by the Planning Board pursuant to its issuance of a special permit under this article, and further provided that:

2003.1.2.1 The Planning Board shall find that such roads and services meet the objectives set forth in § 198-2001 above.

2003.1.2.2 The Planning Board shall find that such roads and services meet the standards set forth in § 198-2004 below.

2003.1.3 Any such roads and services so permitted shall be subject to all applicable provisions of this article and the rules and regulations prescribed by the Planning Board pursuant to § 198-2010 below.

§ 198-2004. Standards.

2004.1 Qualifying area.

2004.1.1 To qualify as a development site, an area of land in a Southeast Wayland-Cochituate Planning District shall contain at least 25 contiguous acres of land not divided by an existing street or aqueduct. At least 30% of the land area must be wet areas for any parcel of land to qualify as a Southeast Wayland-Cochituate Planning District development site.

2004.2 Principles.

2004~~12~~1. application for a special permit shall be approved unless the Planning Board shall find:

2004~~12~~1.1. the proposed development plan is financially sound.

2004~~12~~1.2. the applicant's associates, professional advisers and contractors are qualified by training and/or experience to develop real estate and to construct multiresidence dwellings comparable to those proposed in accordance with the development schedule set forth in his application.

2004~~12~~2. Affordability.

2004~~12~~2.1. development plan shall provide that at least 10% of the dwelling units to be constructed will be made available at affordable prices to home buyers and that the deed of these dwelling units will contain a mechanism or mechanisms to ensure future sales at reduced prices for a period of not less than 99 years. The development plan shall also provide that the Town of Wayland shall have a right of first refusal to purchase the dwelling units made available at affordable prices at the expiration of the aforementioned ninety-nine-year period. Dwelling units to be sold at affordable prices shall be integrated into the overall development in a manner acceptable to the Planning Board to prevent physical segregation of such units.

2004~~12~~3. Development schedule.

2004~~12~~3.1. development schedule shall be required that considers the capacity of the applicant to develop, as well as the ability of the Town to provide, public services in accordance with the provisions of § 198-2001.1.4 above.

2004~~12~~4. Preservation of natural and historical features.

2004~~12~~4.1. Natural and historical features of special interest, including hilltops, cliffs and bluffs, ravines, attractive groves of trees, biological habitats of special interest and views of unusual charm, shall be preserved.

2004~~12~~5. Ground coverage limitations.

2004~~12~~5.1. more than 35% of the total area of a Southeast Wayland-Cochituate Planning District development site shall be occupied by structures, parking areas, roadways and driveways, patios, storage spaces or enclosed areas.

2004~~12~~6. Density of dwelling units.

2004~~12~~6.1. maximum number of dwelling units that may be allowed in a development site shall be determined by the Planning Board in accordance with the following formula:

$D = K(A - W)$

Where:

D = The maximum number of dwelling units.

K = The density factor, with a value recommended by the Planning Board within the range of 2.75 to 3.25.

A = The total number of acres in a Southeast Wayland-Cochituate Planning District development site.

W = The number of acres of wet areas.

~~2004B.1~~ Number of bedrooms.

~~2004B.1~~ The number of bedrooms in any Southeast Wayland-Cochituate Planning District development shall not exceed two times the number of dwelling units permitted by the special permit.

~~2004B.2~~ Maximum number of dwelling units per building.

~~2004B.2~~ No multifamily condominium dwelling or attached single-family dwelling grouping in a Southeast Wayland-Cochituate Planning District development shall contain more than six dwelling units.

~~2004B.3~~ Buffers.

~~2004B.3~~ No structure may not be erected, nor may any land be paved, within 100 feet of the perimeter of a Southeast Wayland-Cochituate Planning District development site unless such construction shall have been approved by the Planning Board acting in accordance with its rules and regulations.

~~2004B.4~~ Separation of buildings.

~~2004B.4~~ The developer shall separate neighboring buildings to prevent overmassing and to assure privacy and a view to outlying open areas. Every effort shall be made to design and locate buildings to retain and reflect the character of the community in which they are located.

~~2004B.5~~ Height.

~~2004B.5~~ No building or structure shall be more than three stories in height or exceed 35 feet in height from finished grade at any point.

~~2004B.6~~ Parking.

~~2004B.6~~ A minimum of two parking spaces shall be provided for each dwelling unit. The term "parking spaces" shall be defined to include both private indoor parking garages and private driveways accessing such indoor garages. No lot providing for residential parking shall contain more than 10 parking spaces. Each parking lot shall be screened from ways by a landscaped border that shall be at least 25 feet wide.

2004114Utilities.

2004114All electric, gas, telephone and water distribution lines shall be placed underground in accordance with the regulations of the Planning Board, unless the Planning Board shall grant an exception to this requirement.

2004115Roads.

2004115All roads shall be designed, located and constructed, in a manner satisfactory to the Planning Board, as private ways to be maintained by an association of unit owners.

2004116Paths.

2004116All paths for the use of residents shall be attractively designed with proper regard to convenience; separation of vehicular, bicycle and pedestrian traffic; adequate connectivity; and completeness of access to the various amenities and facilities on the development site.

2004117Surface drainage.

2004117The surface drainage system shall be designed in accordance with the rules and regulations of the Planning Board and the Board of Health and in accordance with the requirements of the Conservation Commission with respect to retaining and protecting groundwater. Drainage of adjoining parcels shall not be materially adversely affected by the development.

2004118Septic disposal.

2004118All wastewater treatment and/or sewage disposal facilities shall be designed and constructed in accordance with the most recent provisions of the Sanitary Code promulgated by the Massachusetts Department of Public Health, the regulations of the Board of Health and all other laws pertaining thereto.

2004119Conservation and recreation restriction.

2004119All conservation and recreation restrictions on the development site shall be granted to the Town of Wayland Conservation Commission, in accordance with MGL c. 184, §§ 31 through 33, over certain buffer areas and over wet areas. The Planning Board shall determine the exact areas to be subject to the conservation and recreation restrictions and the exact terms and provisions of such restrictions, after considering the need to protect the environment and preserve open spaces and the comments, if any, of the Conservation Commission.

§ 198-2005. Special permit application.

2005A1.1. application for a special permit for construction of attached single-family dwellings and/or multifamily condominium dwellings in a Southeast Wayland-Cochituate Planning District shall be submitted to the Planning Board on forms furnished by the Planning Board. Written notice containing a copy of said plan shall be given by the applicant to the Town Clerk, the Conservation Commission, the Finance Committee, the Fire Chief, the Board of Health, the Building Commissioner, the Park and Recreation Commissioners, the School Committee, the School Building Planning Committee, the Selectmen, the Commissioners of the Water Department and the Zoning Board of Appeals. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of MGL c. 41, §§ 81O and 81T, as the same may be amended from time to time, a filing fee determined in accordance with § 198-2012 below and a development plan containing the following information and data:

2005A1.2. The name(s) and address(es) of the applicant and all legal and beneficial owners of the site; copies of all instruments, options, contracts or encumbrances affecting ownership of the development site, together with the opinion of an attorney concerning the state of the title; and an instrument executed by all persons owning property within the site agreeing that the development, as applied for, is desired.

2005A1.3. A plan, suitable for recording, of the development site showing all structures and improvements on the site, all ways and utilities serving the same and all lot lines, easements and rights-of-way of record.

2005A1.4. Information required by the Planning Board regarding the training and experience of the applicant, his associates, professional advisers and contractors in the development and management of real estate and the construction of housing, as well as their respective financial positions. Such information may include a list of all persons and organizations with whom or with which he has been associated in the development of real estate during the past 10 years, including their addresses and the names of their principal officers, as well as all sources of credit upon which he relies to acquire, develop and manage the development site. The applicant shall furnish copies of such transcripts, records, letters of intent and contracts, as well as all other documentation that the Planning Board may require to determine whether the applicant is qualified to undertake and complete the proposed development and whether his plan for financing the same is sound.

2005A1.5. A proposed development schedule showing the beginning of construction; the rate of construction and development, including stages, if applicable; and the estimated date of completion.

2005A1.6. Information, including but not limited to reports, letters or studies prepared by qualified professionals, showing the effect, from time

to time, of the development on the Town's capacity to furnish services, including but not limited to schooling, roads, water and sanitation.

2005A1.6 ~~Map~~, to the scale required by the Planning Board, of the development site and the community surrounding the same to a distance of 1/2 mile and showing all proposed points of interconnection, including roads, utilities and schools.

2005A1.7 ~~Plan~~ or plans, to the scale required by the Planning Board, showing the topography of the site at a minimum of two-foot intervals, as well as vegetation and special features, including all woodlands, wetlands, groups of trees or individual trees worthy of preservation, rock outcroppings, significant slopes, trails and paths, flowing streams and drainageways, ponds, productive agricultural lands, open vistas, structures of historical importance, biological or wildlife habitats and proposed conservation and recreation restriction areas.

2005A1.8 ~~Plans~~ for the preservation of the vegetation and special features shown on the topographic plan.

2005A1.9 ~~Information~~ that the Planning Board may require to determine limitations on ground coverage and density.

2005A1.10 ~~Information~~, including proposed interior plans, regarding the number and kind of proposed dwelling units, including their location, the number of bedrooms planned, the anticipated sale prices and population projections pertaining thereto.

2005A1.11 ~~Plan~~ or plans, to the scale required by the Planning Board, showing existing and proposed contours, roads, lighting, utility and sewerage systems, the areas to be set aside for building structures, parking areas and conservation and recreation restrictions.

2005A1.12 ~~Model~~ or models illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings and typical elevations, as well as the general height, bulk and appearance of structures. Perspective drawings may be required.

2005A1.13 ~~Report~~ showing the manner of construction of structures and describing structural and paving materials, all in accordance with the minimum standards prescribed in the most recent provisions of the Building Code and all other laws and regulations pertaining thereto.

2005A1.14 ~~Information~~ showing the proposed street name and numbering system and any supplementary methods proposed for identifying places and residences in the site.

2005A115 organization that the applicant proposes to form if the development is to be a condominium development, including forms and plans to be used to organize and manage the same.

2005C116 Copies of all proposed covenants, easements and other restrictions that the applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium organization and the owners thereof, including plans of land to which they are intended to apply.

2005P117 Plans for the disposition of sanitary waste and stormwater.

2005C118 Copies of all proposed deed restrictions to assure resale at affordable prices, and the right of first refusal in favor of the Town, for dwelling units to be sold at affordable prices in accordance with § 198-2004.3 herein.

2005A119 and all other information that the Planning Board may reasonably require, in a form acceptable to it, to assist in determining whether the applicant's proposed development plan meets the objectives of § 198-2001 and satisfies the standards of § 198-2004 above.

§ 198-2006. Review and action by the Planning Board.

2006A120 Within 65 days of receiving an application for a special permit for a development plan, as the same may have been modified from time to time since it was first submitted, the Planning Board shall request a report from the Board of Health pursuant to MGL c. 41, §§ 81U and 81V, and hold a public hearing on such plan, giving notice of the time and place thereof and of the subject matter in accordance with the provisions of MGL c. 40A, § 11, as the same may be amended from time to time.

2006A121 In the event that the Planning Board shall decide, after the conclusion of such hearing, not to grant such a special permit, it shall notify all parties in interest of its decision, as provided in MGL c. 40A, § 15, as the same may be amended from time to time.

2006A122 On the other hand, the Planning Board shall be inclined to grant such a special permit, it shall, within 60 days after the date of the conclusion of the public hearing, send to the applicant a proposed special permit containing the approved development plan, as well as such conditions and safeguards it deems appropriate to assure the approved site shall be developed in complete harmony with the general purpose and intent of MGL c. 40A, § 9, and this Zoning Bylaw. Without limiting this general purpose and intent, such conditions and safeguards shall include:

2006A123 Requirement that the applicant shall submit to the Planning Board:

- 2006A3.11a. plan, suitable for recording, showing the land in the development site, including a designation of land to be included as conservation and recreation restrictions;
- 2006A3.12. copy of the deeds for the dwelling units to be sold at affordable prices;
- 2006A3.13. the special permit provides for construction of multifamily condominium dwelling units, a master deed, duly executed and recorded by the applicant, submitting the land to the provisions of MGL c. 183A, as well as a copy of the bylaws to be adopted by the organization of unit owners; and
- 2006A3.14. document, suitable for recording, granting the Town of Wayland a conservation and recreation restriction over certain buffer areas and over wet areas.
- 2006A3.2. development schedule, bearing the signature of the applicant, showing dates for:
- 2006A3.2.1. commencement of development within one year after recording of the special permit applied for;
- 2006A3.2.2. completion of each stage of the proposed development, if applicable; and
- 2006A3.2.3. completion of the development.
- 2006A3.3. negotiable instruments, deposits of money and/or a performance bond of a surety company qualified to do business in Massachusetts and satisfactory to the Planning Board shall be furnished and maintained by the applicant, and a covenant, running with the land, shall be executed and recorded by the applicant, which covenant shall be sufficient, in the opinion of the Planning Board, to secure adherence by the applicant to the approved development plan and performance of such plan in accordance with the development schedule set forth therein. All such covenants shall provide that the applicant shall pay \$50 to the Town, as liquidated damages, for each day that shall pass after the expiration of 90 days from the time that any work shall not have been completed as required by the development schedule, unless said work shall have stopped for a period of 30 days under a court order or if it shall be stopped or delayed through no act or fault of the applicant or of any of the contractors that the applicant has engaged to develop the site.
- 2006A3.4. requirement that the professionals and principals named in the development plan shall continue to participate in the development in the capacities specified in the approved plan, unless the Planning Board shall have modified the permit as hereinafter provided.

- 2006.3.5. Regulations to minimize inconveniences to residents in the general area, whether of noise, vibration, dust, blocking of Town roads or otherwise.
- 2006.3.6. Requirement that as-built drawings shall be filed with the Building Commissioner upon completion of each stage of the development.
- 2006.4. The applicant shall, within 15 days after he receives a copy of the proposed special permit from the Planning Board, notify said Board of his acceptance of, or his refusal to accept, all the conditions and safeguards set forth therein. In the event that the applicant shall notify the Planning Board that he accepts all such conditions, he shall file with his notice copies of the plan and the instruments that he proposes to submit pursuant to § 198-2006.5 below to satisfy the requirements of § 198-2006.3.1 through 2006.3.3 above. In the event that the applicant shall not, within said period, notify the Planning Board that he accepts all of said conditions and safeguards or if he shall fail to submit copies of the aforesaid plan and instruments, the Planning Board shall be deemed to have denied approval of the development plan and his application for a special permit. The Planning Board and the applicant may, nevertheless, agree, in writing, to a change in any such conditions, and the Planning Board may, at the request of the applicant, extend the time during which the applicant shall notify the Planning Board, in writing, of his acceptance, or refusal to accept, the proposed conditions and safeguards.
- 2006.5. Within 10 days after the applicant has notified the Planning Board of his acceptance, the applicant shall deliver to said Board all of the documents described in § 198-2006.3.1 through 2006.3.3 above, except the instrument and master deed required by § 198-2006.3.1.3 above, together with any and all other instruments and fees that may have been imposed as a condition or safeguard upon exercise of the special permit applied for.
- 2006.6. Upon receipt of all such material, the Planning Board may grant such special permit to the applicant in accordance with the procedure set forth in MGL c. 40A, §§ 9 and 11, subject, however, to such conditions and safeguards as it may impose pursuant to MGL c. 40A, § 9.
- 2006.7. The Planning Board shall have no power to issue a special permit under this article after the expiration of 36 months from the date on which the Attorney General shall have approved the bylaw amendment designating a Southeast Wayland-Cochituate Planning District for which the special permit is sought, unless, after the expiration of such thirty-six-month period, the consent of all but one of the members of the Planning Board shall be given to the issuance of a special permit in the manner provided by MGL c. 40A, § 16. Such consent by all but one of the members of the Planning Board shall be effective for 12 months from its date and may be extended for additional twelve-month periods by similar vote of the Planning Board.

§ 198-2007. Permits for use and construction.

2007**Nb.** permit for the construction or alteration of any structure, or for any new use of a structure, on the land in the development site shall be granted by the Building Commissioner or permitted by the Zoning Enforcement Officer until the Planning Board shall have reviewed a copy of each application for a building permit and/or a use permit submitted to it by the applicant and notified said officials, in writing, that:

2007**L4s1.** than one year has expired since the grant of the special permit or that a building or use permit has previously been granted for said site;

2007**The2** applicant has obtained binding commitments for the financing required to complete the stage of development proposed or in progress or that he has irrevocably committed personal funds sufficient for this purpose; and

2007**The3** proposed construction and/or use is in substantial compliance with the definitive plan of the subdivision, where applicable, the development plan and this Zoning Bylaw. In the event that 20 days shall have elapsed after the Planning Board has received a copy of such application without submitting the aforesaid notification, the permit may issue as if the Planning Board had so notified the Building Commissioner and Zoning Enforcement Officer.

2007**In2** the event that the Planning Board shall determine that the applicant has not satisfied the conditions and safeguards set forth in § 198-2007.1 above or that any schedule, construction or use applied for will vary any of the following criteria by 10% or more from the approved development plan, it shall recommend that the Building Commissioner and/or Zoning Enforcement Officer withhold a permit therefor pursuant to the provisions of MGL c. 40A, § 7, as the same may be amended from time to time:

2007**The1** amount and location of ground coverage, including buffers.

2007**The2** adherence to the development schedule.

2007**The3** density and types of dwelling units.

2007**The4** size and number of parking spaces required.

2007**The5** location of utility facilities.

2007**The6** location of paths, ways and traffic.

2007**In3** such event, the applicant may either appeal such decisions of the Zoning Enforcement Officer pursuant to the provisions of MGL c. 40A, §§ 8 and 15, or apply for modification of his special permit as provided hereinbelow.

§ 198-2008. Amendments.

2008~~1~~ In addition to the powers conferred upon it by MGL c. 41, § 81W, the Planning Board shall have the power, on its own motion or on the petition of any person interested, to modify or amend its approval of the development plan annexed to its special permit, provided that no such proposed modifications or amendments may be granted until the Planning Board shall have satisfied the requirements of § 198-2006 above.

2008~~2~~ No modification of the provisions of said development plan, or part thereof, contained in the special permit shall nevertheless be made, nor shall it be impaired by the Town, except with the written consent of the applicant.

§ 198-2009. Abandonment.

2009~~1~~ In the event that the applicant shall abandon the work described in the approved development plan, or any portion or stage thereof, for a period of 120 days or if he shall fail to commence said work within the time prescribed in § 198-2006.3.2.1 above, the Planning Board may, after a hearing duly called and conducted in accordance with MGL c. 40A, §§ 11 and 15, cause notice of abandonment to be recorded in the Middlesex South District Registry of Deeds.

2009~~2~~ No such notice shall be recorded, however, in the event that the holder of any security interest in the development site who has exercised his right to take possession of the mortgaged property and to proceed to completion of the work that he has contracted to finance shall have delivered an instrument to the Planning Board, assented to by the applicant, accepting all the conditions and safeguards set forth in the special permit, as the same may have been modified from time to time, and such holder or holders shall thereupon be deemed the applicant hereunder.

2009~~3~~ Notwithstanding anything herein to the contrary, a special permit granted hereunder shall lapse if construction thereunder is not begun within two years from the date of such grant, except for good cause. Upon the recording of a notice of abandonment, no further development shall take place in the development site unless the applicant shall have complied with the zoning and subdivision control regulations that would otherwise be applicable thereto.

§ 198-2010. Rules and regulations.

2010~~1~~ The Planning Board may prescribe rules and regulations from time to time to supplement the standards and conditions set forth in this article, provided that:

2010~~2~~ Said rules and regulations are not inconsistent with said standards and conditions;

2010A3copy of said rules and regulations is filed in the office of the Town Clerk; and

2010A4any amendment or change of said rules and regulations shall not apply to any application that shall have been submitted prior to such filing.

§ 198-2011. Enforcement; stop orders.

2011General principles.

2011In accordance with the provisions of MGL c. 40, § 31, MGL c. 40A, § 7, MGL c. 41, § 81U, Chapter 1, General Provisions, Article II, Violations and Penalties, of the Code of the Town of Wayland and every other authority and power that may have been, or may hereafter be, conferred upon it, the Town may enforce the conditions and safeguards imposed on the exercise of special permits under this article in equity or at law and recover from the applicant, his successor or approved assignee(s) all moneys that may be required to complete the approved development plan.

2011The penalty provisions of this Zoning Bylaw may be imposed upon the applicant, his general agent, tenants, architects, contractors or any and all persons having an interest in the development site, including a mechanic's lien, mortgage or attachments.

2011The Town of Wayland shall be the beneficiary of all fines imposed on account of the violation of this Zoning Bylaw to defray the expenses of enforcing the same.

2011All provisions of the approved development plan shall run in favor of the residents thereof, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent said provisions, whether recorded by plan, covenant, easement or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

2011Stop order.

2011In the event of a violation of law, an unauthorized sale or lease of the approved development site, development that deviates from the approved development plan or any use of the property that is not permitted in the development site or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of his special permit, the Zoning Enforcement Officer or the Building Commissioner may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation and the date on which said order shall expire, which date shall not be six days later than the date of the order.

2011 Any person who shall violate the provisions of a stop order shall be deemed in violation of this Zoning Bylaw.

2011 Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing any other legal remedy permitted under law.

§ 198-2012. Fees.

2012 To reimburse the Town for the expense of processing the various applications provided for hereinabove, the Planning Board may from time to time adopt and promulgate in its regulations a schedule of fees payable by the applicant, a copy of which shall be kept on file and available in the office of the Town Clerk.

ARTICLE 21

Senior and Family Housing Overlay District
[Added 4-28-1997 STM by Art. 5]

§ 198-2101. Purpose.

~~2101~~The purpose of the Senior and Family Housing Overlay District (SFHOD) is to:

~~2101~~~~1~~Provide a residential environment that offers supportive services to individuals 55 years of age or older who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as dressing, bathing, toileting and nutrition;

~~2101~~~~2~~Provide multifamily condominium dwellings and/or apartments for occupancy by individuals 55 years of age or older;

~~2101~~~~3~~Provide for mixed and diverse varieties of housing, including (a) affordable housing, (b) single-family housing without regard to age limitation, (c) assisted living residences and (d) independent living residences, in combination and in close proximity to one another; and

~~2101~~~~4~~Provide for residential development in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas.

§ 198-2102. Applicability.

~~2102~~The SFHOD shall be construed as an overlay district. All requirements of the underlying district(s) shall remain in full force and effect; provided, however, that where the SFHOD provides for uses or structures, or establishes different dimensional or other requirements, not set forth in the underlying district(s), the requirements of the SFHOD shall supersede the underlying zoning requirements.

§ 198-2103. Definitions.

~~2103~~As used in this Article 21, the following terms shall have the meanings indicated:

APPLICANT — The person or persons, including a corporation or other legal entity, who apply for issuance of a special permit hereunder. The applicant must own, or be the beneficial owner of, all the land included in the proposed SFHOD or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site within a period of 60 days from the time that the applicant shall notify the owner(s).

ASSISTED LIVING RESIDENCE (ALR) — A facility(ies), as defined in 651 CMR 12.02, reserved for occupancy to persons 55 years of age or older.

BEDROOM — A separate room intended for, or that customarily could be used for, sleeping.

BUFFER — An area within a mixed residential development adjacent to its boundaries, streams and ponds that may not be developed except as provided herein.

DEVELOPMENT SCHEDULE — A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the mixed residential development site, separated into stages where applicable.

DWELLING UNIT — A residence, including studio units. Each residence shall contain at least a kitchen area/living area, bathroom and, except in studio units, one or more bedrooms.

INDEPENDENT LIVING RESIDENCE (ILR) — A multifamily condominium dwelling(s) or apartments reserved for occupancy by persons 55 years of age or older.

LAND — Land, including areas covered by water.

MIXED RESIDENTIAL DEVELOPMENT (MRD) — Development of one or more single-family dwellings, ILR's or ALR's, in some combination, on a lot or lots. Such lot or lots need not comply with the dimensional requirements of this Zoning Bylaw for lot area, frontage, yards, setbacks and the like, except as set forth in § 198-2106 herein.

MULTIFAMILY CONDOMINIUM DWELLING — A building containing more than one dwelling unit that is subject to the provisions of MGL c. 183A.

REGULATIONS — The rules and regulations of the Planning Board relative to subdivisions, special permits and site plans.⁵²

SINGLE-FAMILY DWELLING — A detached dwelling unit for one family not within an ILR or ALR.

WET AREAS — Include water areas and other land in any of the following categories:

52. Editor's Note: See Ch. 302, Site Plan Review and Approval, and Ch. 303, Subdivision of Land.

All land subject to the provisions of MGL c. 131, §§ 40 and 40A or land designated as being subject to the one-hundred-year flood (an A Zone) pursuant to the Federal Flood Disaster Protection Act, 42 U.S.C. § 4001 et seq., or subject to any regulation by the Town with regard to floodplain or aquifer protection.

All lands within the Watershed Protection District originally established by vote of the Town under Article 17 of the 1967 Annual Town Meeting, as the same may be amended from time to time.

Land that is ordinarily submerged during any portion of the year.

§ 198-2104. Use restrictions.

2104The uses set forth below, individually or in combination, may be authorized by a special permit issued by the Planning Board pursuant to § 198-203, upon site plan approval as set forth in Article 6 and in compliance with the standards set forth in § 198-2106 below. The site plan review and special permit procedures under this Article 21 shall be consolidated by the Planning Board.

2104111sted living residence.

2104112dependent living residence.

2104113Mixed residential development.

2104114Structures and uses accessory to the uses set forth in § 198-2104.1.1, 2104.1.2 and 2104.1.3 above, located (with the exception of covered parking areas) within the same building, including but not limited to the following: beauty and barber salons; recreational, physical fitness and therapy services; nondenominational chapel; library; bank automated teller machine; management offices; adult day health facility; hospice residence; and covered parking areas.

§ 198-2105. Administration.

2105The Planning Board shall serve as the special permit granting authority pursuant to this Article 21. The Planning Board may grant extensions of time, in writing, for deadlines imposed herein, upon the written request of the applicant. The Planning Board may waive the submittal of technical information or documents otherwise required herein where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for, or applicable to, the Planning Board's decision pursuant to this Article 21. An application for a special permit shall be governed by the following rules:

210511Form of application.

210511.1Application for a special permit for construction within the SFHOD shall be submitted to the Planning Board on forms furnished by the Planning Board. Written notice containing

a copy of said application shall be given by the applicant to the Town Clerk, the Conservation Commission, the Finance Committee, the Fire Chief, the Board of Health, the Building Commissioner, the Park and Recreation Commissioners, the School Committee, the School Building Planning Committee, the Selectmen, the Board of Water Commissioners and the Zoning Board of Appeals. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of MGL c. 41, §§ 81O and 81T, as the same may be amended from time to time, and pursuant to the regulations of the Planning Board, a filing fee determined in accordance with § 198-2107 below and a development plan containing the following information and data:

21051. The name(s) and address(es) of the applicant and all legal and beneficial owners of the MRD site; copies of all instruments, options, contracts or encumbrances affecting ownership of the development site, together with the opinion of an attorney concerning the state of the title; and an instrument executed by all persons owning property within the site agreeing that the development, as applied for, is desired.
21052. A plan, suitable for recording, of the MRD site, showing all structures and improvements on the site, all ways and utilities serving the site, all lot lines, easements and rights-of-way of record.
21053. All information required by the regulations regarding the training and experience of the applicant, his associates, professional advisers and contractors in the development and management of real estate and the construction of housing, as well as their respective financial positions. Such information may include a list of all persons and organizations with which or whom the applicant has been associated in the development of real estate during the past 10 years, including their addresses and the names of their principal officers, as well as all sources of credit upon which the applicant relies to acquire, develop and manage the MRD site. The applicant shall furnish copies of such transcripts, records, letters of intent and contracts, as well as all other documentation that the Planning Board may require to determine whether the applicant is qualified to undertake and complete the proposed development and whether his plan for financing the same is sound.
21054. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion.

- 210511.5. Information, including but not limited to reports, letters or studies prepared by qualified professionals, showing the effect of the development on the Town's capacity to furnish services, including but not limited to schooling, roads, water and sanitation.
- 210511.6. A map, to the scale required by the regulations, of the MRD site and the community surrounding the same, to a distance of 1/2 mile, and showing all proposed points of interconnection, including roads, utilities and schools.
- 210511.7. Plans, to the scale required by the regulations, showing the topography of the MRD site at a minimum of two-foot intervals, as well as vegetation and special features, including all woodlands, wetlands, groups of trees or individual trees worthy of preservation, rock outcroppings, significant slopes, trails and paths, flowing streams and drainageways, ponds, productive agricultural lands, open vistas, structures of historical importance, biological and wildlife habitats and proposed conservation and recreation restriction areas.
- 210511.8. Plans for the preservation of the vegetation and special features shown on the topographic plan.
- 210511.9. All information that the Planning Board may require subsequent to the filing of the application to determine limitations on ground coverage and density.
- 210511.10. Information, including proposed interior plans, regarding the number and kind of dwelling units proposed, their location, the number of bedrooms planned, the anticipated sales prices and population projections pertaining thereto.
- 210511.11. Plans, to the scale required by the regulations, showing existing and proposed contours; roads; lighting; utility and sewerage systems; the areas to be set aside for building structures; parking areas; and conservation and recreation restrictions.
- 210511.12. Models or models illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings and typical elevations, as well as the general height, bulk and appearance of structures. Perspective drawings may be required subsequently by the Planning Board.
- 210511.13. A report showing the manner of construction of structures and describing structural and paving materials, all in accordance with the minimum standards prescribed in the most recent provisions of the Building Code and all other laws and regulations pertaining thereto.

210511.4. Information showing the proposed street name and numbering system and any supplementary methods proposed for identifying places and residences in the MRD site.

210511.5. Information pertaining to any organization that the applicant proposes to form where the development is to be a condominium development, including forms and plans to be used to organize and manage the same.

210511.6. Copies of all proposed covenants, easements and other restrictions that the applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium organization and the owners thereof, including plans of land to which they are intended to apply.

210511.7. Proposals for the disposal of sanitary waste and stormwater.

210511.8. Copies of all proposed deed restrictions to assure resale at affordable prices, and the right of first refusal in favor of the Town, for dwelling units to be sold at affordable prices, if applicable.

210511.9. Any and all other information that the Planning Board may reasonably require, in a form acceptable to it, to assist in determining whether the applicant's proposed development plan meets the objectives of this Article 21.

210512. Review and action by the Planning Board.

210512.1. Within 65 days of receiving an application for a special permit and site plan approval, the Planning Board shall request a report from the Board of Health pursuant to MGL c. 41, §§ 81U and 81V, and hold a public hearing on such plan, giving notice of the time and place thereof and of the subject matter in accordance with the provisions of MGL c. 40A, § 11, as the same may be amended from time to time.

210512.2. In the event that the Planning Board shall decide, after the conclusion of such hearing, not to grant a special permit, it shall notify all parties in interest of its decision as provided in MGL c. 40A, § 15, as the same may be amended from time to time.

210512.3. If the Planning Board shall be inclined to grant a special permit and site plan approval, it shall, within 60 days after the date of the conclusion of the public hearing, send to the applicant a proposed special permit and site plan approval containing the approved development plan, as well as such conditions and safeguards as it deems appropriate to assure the approved site shall be developed in complete harmony with the general

purpose and intent of this Zoning Bylaw. Without limiting this general purpose and intent, such conditions and safeguards may include:

2105A1.2. Requirement that the applicant shall submit to the Planning Board:

2105A1.2.1. A plan, suitable for recording, showing the land in the development site, including a designation of land to be included under conservation and recreation restrictions;

2105A1.2.2. A copy of the deeds for the dwelling units to be sold at affordable prices;

2105A1.2.3. If the special permit provides for construction of a multifamily condominium dwelling, a master deed, duly executed and recorded by the applicant, subjecting the land to the provisions of MGL c. 183A, as well as a copy of the bylaws to be adopted by the organization of unit owners; and

2105A1.2.4. A document, suitable for recording, granting the Town a conservation and recreation restriction over certain buffer areas and over wet areas.

2105A1.3. A development schedule bearing the signature of the applicant showing estimated dates for:

2105A1.3.1. Completion of development within one year after recording of the special permit applied for;

2105A1.3.2. Completion of each proposed stage of the development, if applicable; and

2105A1.3.3. Completion of the MRD.

2105A2. Negotiable instruments, deposits of money and/or a performance bond of a surety company qualified to do business in Massachusetts and satisfactory to the Planning Board shall be furnished and maintained by the applicant, and a covenant shall be executed and recorded by the applicant, running with the land, that shall be sufficient, in the opinion of the Planning Board, to secure construction by the applicant of the infrastructure shown on the approved development plan and performance of such construction in accordance with the development schedule set forth therein. All such covenants shall provide that the applicant shall pay \$50 to the Town, as liquidated damages, for each day that shall pass after the expiration of 90 days from the time that any work shall not have been completed as required by the development schedule,

as said schedule may be revised from time to time with the approval of the Planning Board, unless said work shall have stopped for a period of 30 days under a court order or if it shall be stopped or delayed through no act or fault of the applicant or of any of the contractors that the applicant has engaged to develop the MRD site.

2105.1.2.3.4. ~~Article 2105.1.2.3.4.~~ Requirement that the professionals and principals named in the development plan shall continue to participate in the development in the capacities specified in the approved plan, unless the Planning Board shall have modified the permit as hereinafter provided.

2105.1.2.3.5. ~~Article 2105.1.2.3.5.~~ Regulations to minimize inconveniences to residents in the general area, whether of noise, vibration, dust, blocking of Town roads or otherwise.

2105.1.2.3.6. ~~Article 2105.1.2.3.6.~~ Requirement that as-built drawings shall be filed with the Building Commissioner upon completion of each stage of the development.

2105.1.2.4. ~~Article 2105.1.2.4.~~ The applicant shall, within 15 days after he receives a copy of the proposed special permit from the Planning Board, notify said Board of his acceptance of, or his refusal to accept, the proposed special permit, including all the conditions and safeguards set forth therein. In the event that the applicant shall notify said Board that he accepts all such conditions, he shall file with his notice copies of the plan and the instruments that he proposes to submit to satisfy the requirements of this Zoning Bylaw. In the event that the applicant shall not, within said period, notify the Planning Board that he accepts all of said conditions and safeguards or if he shall fail to submit copies of the aforesaid plan and instruments, the Planning Board shall be deemed to have denied approval of the development plan and special permit application; provided, however, that the Planning Board may, at the request of the applicant, extend the time during which the applicant shall notify the Planning Board, in writing, of his acceptance, or refusal to accept, the conditions and safeguards proposed, and during such extended period the Planning Board and the applicant may agree, in writing, to changes in any such conditions.

2105.1.2.4.1. ~~Article 2105.1.2.4.1.~~ 110 days after the applicant has notified the Planning Board of his acceptance, the applicant shall deliver to said Board all of the documents described herein, except the instrument and master deed required by § 198-2105.1.2.3.1.3 above, together with any and all other instruments and fees that may have been imposed as a condition or safeguard upon exercise of the special permit applied for.

2105Upon receipt of all such material, the Planning Board may grant such special permit to the applicant in accordance with the procedures set forth in MGL c. 40A, §§ 9 and 11, subject, however, to such conditions and safeguards as may be imposed pursuant to said § 9.

2105The Planning Board shall have no power to issue a special permit under this Article 21:

2105After the expiration of 18 months from the date on which the Attorney General shall have approved this Article 21 designating a SFHOD under which the special permit is sought, unless, after the expiration of such eighteen-month period, the consent of all but one of the members of the Planning Board shall be given to the issuance of a special permit in the manner provided by MGL c. 40A, § 16. Such consent by all but one of the members of the Planning Board shall be effective for 12 months from its date and may be extended for additional twelve-month periods by similar vote of the Planning Board.

2105Permits for use and construction.

2105No permit for the construction or alteration of any structure, or for any new use of a structure, on the land in the development site shall be granted by the Building Commissioner until the Planning Board shall have reviewed a copy of each application for a building permit and/or a use permit submitted to it by the applicant and notified the Building Commissioner, in writing, that:

2105Less than one year has expired since the grant of the special permit or that a building or use permit has previously been granted for said site.

2105The applicant has obtained binding commitments for the financing required to complete the stage of development proposed or in progress or that he has irrevocably committed personal funds sufficient for this purpose; and

2105The proposed construction and/or use is in substantial compliance with the definitive plan of the subdivision, where applicable, the development plan and this Zoning Bylaw.

2105In the event that 20 days shall have elapsed after the Planning Board has received a copy of such application without submitting the aforesaid notification, the permit may issue as if the Planning Board had so notified the Building Commissioner.

2105In the event that the Planning Board shall determine that the applicant has not satisfied the conditions and safeguards

set forth in § 198-2105.1.3.1 above or that any schedule, construction or use applied for will vary any of the following items by 10% or more from the approved development plan, it shall recommend that the Building Commissioner withhold a permit therefor pursuant to the provisions of MGL c. 40A, § 7, as the same may be amended from time to time:

21051.3.3.1 The amount and location of ground coverage, including buffers.

21051.3.3.2 All reference to the development schedule.

21051.3.3.3 The density and types of dwelling units.

21051.3.3.4 The size and number of parking spaces required.

21051.3.3.5 The location of utility facilities.

21051.3.3.6 The location of paths, ways and traffic.

21051.3.4 In such event, the applicant may either appeal such decision of the Building Commissioner pursuant to the provisions of MGL c. 40A, §§ 8 and 15, or apply for modification of the special permit as provided herein.

21051.4 Modification or amendment of approved plan.

21051.4.1 In addition to the powers conferred upon it by MGL c. 41, § 81W, the Planning Board shall have the power, on its own motion or on the petition of any person interested, to modify or amend its approval of the development plan annexed to its special permit, provided that no such proposed modifications or amendments may be granted until the Planning Board shall have satisfied the requirements of § 198-2105.1.2 above.

21051.4.2 No modification of the provisions of said development plan, or part thereof, contained in the special permit shall, in any event, be made, nor shall it be impaired by the Town, except with the written consent of the applicant.

21051.5 Abandonment.

21051.5.1 In the event that the applicant shall abandon the work described in the approved development plan, or any portion or stage thereof, for a period of 120 days or if it shall fail to commence said work within the time prescribed in § 198-2105.1.2.3.2.1 above, the Planning Board may, after a hearing duly called and conducted in accordance with MGL c. 40A, §§ 11 and 15, cause notice of abandonment to be recorded in the Middlesex South District Registry of Deeds. No such notice shall be recorded, however, in the event that the holder of any security interest in the MRD site who has exercised his right to take possession of the mortgaged property and

to proceed to completion of the work that he has contracted to finance shall have delivered an instrument to the Planning Board accepting all the conditions and safeguards set forth in the special permit, as the same may have been modified from time to time, and such holder or holders shall thereupon be deemed the applicant hereunder. Notwithstanding anything herein to the contrary, a special permit granted hereunder shall lapse if construction hereunder is not begun within two years from the date of such grant, except for good cause. Upon the recording of a notice of abandonment, no further development shall take place in the MRD site unless the applicant shall have complied with the zoning and subdivision control regulations that would otherwise be applicable thereto.

§ 198-2106. Standards.

2106**1.** To be eligible for consideration for a special permit and site plan approval pursuant to this Article 21, the proposed development shall meet all of the following standards:

2106**Qualifying area.**

2106**1.1.** To serve as a MRD site, an area of land within the SFHOD shall contain at least 20 contiguous acres.

2106**Open space requirement.**

2106**1.2.** At least 40% of the MRD site shall be open space, which shall be left in its natural vegetated state.

2106**Buffer.**

2106**1.3.1.** A buffer area of 50 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties; provided, however, that no buffer shall be required where the land abutting the site is the subject of a permanent restriction for conservation or recreation or where the land abutting the site is held by the Town for conservation or recreation purposes.

2106**1.3.2.** No vegetation in this buffer area will be disturbed, destroyed or removed. Structures or buildings may be located within the buffer area upon the issuance of a special permit from the Planning Board.

2106**Removal and replacement of vegetation.**

2106**1.4.** Clear-cutting shall be permitted, except incidental to construction of buildings, roads, trails and parking areas. Where vegetation will be disturbed, destroyed or removed during construction, the applicant shall indicate on the plan submitted pursuant to § 198-2105.1.1 that such vegetation will

be replaced with appropriate alternative vegetation in locations consistent with the completion of the project.

~~2106Roadways.~~

~~2106The~~**2106.1** principal roadway(s) serving the site shall be designed to conform to the standards of the Town. Private ways shall be maintained by an association of unit owners or by the applicant.

~~2106Height.~~

~~2106No~~**2106.6** single-family dwelling shall be more than three stories in height or exceed 35 feet in height from finished grade at any point. ALR's and ILR's may exceed 35 feet in height, but not more than 55 feet in height, upon the issuance of a special permit by the Planning Board.

~~2106Parking.~~

~~2106The~~**2106.7** applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, and from public ways, by a landscaped border at least 10 feet in width.

~~2106Surface drainage.~~

~~2106The~~**2106.8** surface drainage system shall be designed in accordance with the regulations and the rules and regulations of the Board of Health and the Conservation Commission pertaining to groundwater protection. Drainage of adjacent parcels shall not be adversely affected by the proposed development.

~~2106Wastewater.~~

~~2106All~~**2106.9** wastewater treatment and/or sewage disposal facilities shall conform to the provisions of the State Sanitary Code, 310 CMR 15.00, any other state regulations as may be applicable and with the rules and regulations of the Board of Health.

~~2106Utilities.~~

~~2106All~~**2106.10** electric, gas, telephone and water distribution lines shall be placed underground, except upon a demonstration of exceptional circumstances.

~~2106Paths.~~

~~2106Paths~~**2106.11** for the use of residents shall be attractively designed with proper regard for convenience; separation of vehicular, bicycle and pedestrian traffic; adequate connectivity; and

completeness of access to the various amenities and facilities on the MRD site and to pathways on adjacent sites.

2106 Single-family dwellings.

2106.1 The development of one or more single-family dwellings on a lot or lots shall be permitted only in a proposal to construct an MRD. Such single-family dwellings may be situated on any common or individual lot consistent with the overall design objectives of the SFHOD; provided, however, that such dwellings shall comply with the provisions of the State Sanitary Code, 310 CMR 15.00, any other state regulations as may be applicable and with the rules and regulations of the Board of Health.

2106 Independent and assisted living residences.

2106.1 The development of independent or assisted living residences shall be permitted only in combination with each other. Such combination may be situated on any common or individual lot consistent with the overall design objectives of the SFHOD; provided, however, that such combination shall comply with the provisions of the State Sanitary Code, 310 CMR 15.00, such other state regulations as may be applicable, and with the rules and regulations of the Board of Health.

2106 Mixed residential development.

2106.1 When the applicant proposes an MRD, single-family dwellings shall constitute not less than 14% of the total dwelling units in the MRD.

2106 Affordable units.

2106.1 The applicant is encouraged to provide dwelling units at prices affordable to persons or families of low or moderate income. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units.

2106 Development schedule.

2106.1 The development schedule submitted by the applicant shall allow for orderly construction of the project.

§ 198-2107. Fees.

2107 The Planning Board may engage, at the expense of the applicant, professional, technical and/or legal consultants to review an application for a special permit within the SFHOD.⁵³

53. Editor's Note: Former Art. 22, Cochituate Interim Planning Overlay District, added 4-30-1997 STM by Art. 7; amended 5-8-2000 ATM by Art. 47, which immediately followed this section, was repealed 5-5-2004 ATM by Art. 18.

ARTICLE 22

Inclusion of Affordable Housing**[Added 5-4-2005 STM by Art. 1; amended 5-1-2006 ATM by Art. 21]****§ 198-2201. Purpose and intent.**

2201 The purpose of this article is to increase the supply of housing in the Town of Wayland that is available to and affordable by low-income and moderate-income households who might otherwise have difficulty in finding homes in Wayland, and to ensure that such housing is affordable over the long term and provided in accordance with the requirements of Massachusetts General Laws Chapter 40B and its implementing regulations, the Wayland Comprehensive Permit Policy, the Wayland Master Plan, and other ongoing programs within the Town of Wayland. In those cases where this article may conflict or be inconsistent with other sections of the Town of Wayland's Zoning Bylaws, except as otherwise expressly provided herein, the provisions of this article shall be controlling.

2202 It is intended that the affordable dwelling units authorized under the provisions of this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same established by the Commonwealth of Massachusetts Department of Community Affairs, Department of Housing and Community Development (DHCD), or its successor, or such additional programs adopted by the Commonwealth or its agencies, and that said units shall be included in the Town's Inventory of Subsidized Housing under Massachusetts General Laws Chapter 40B, Sections 20 through 23, as amended.

§ 198-2202. Administration.

2202 The Planning Board shall be designated as the special permit granting authority (SPGA) under this article.

2202 The Planning Board shall adopt and maintain a set of regulations that contains the necessary policies, definitions, fee structures, procedures, and requirements to implement the provisions of this article.

§ 198-2203. Applicability.

2203 Multiple units. The construction of six or more dwelling units, whether on one or more contiguous parcels, shall require a special permit from the Planning Board, including the construction of six or more dwelling units in a Conservation Cluster Development District pursuant to a special permit issued by the Planning Board under Article 18 of the Town's Zoning Bylaws. Whenever a special permit is issued under this article for a development in a Conservation Cluster Development District, the Planning Board shall issue a single special permit pursuant to this article and said Article 18.

2203**d.** Developments shall not be segmented to avoid compliance with this article. Segmentation shall mean one or more divisions of land that cumulatively result in an increase by five or more residential lots or dwelling units above the number existing thirty-six months earlier on any parcel or on contiguous parcels of land that were in common ownership on or after the effective date of this article.

§ 198-2204. Calculation of affordable dwelling units.

2204**1.** In any development subject to this article, a minimum of 16.7% of the units in the development shall be affordable. Nothing in this section shall preclude a developer or landowner from creating more affordable housing units than the minimum required under the provisions of this article.

2204**2.** When applying the percentage to the total number of units to determine the number of affordable units, the number of affordable dwelling units results in a fraction, said number shall be rounded to the nearest whole number.

§ 198-2205. Allowed types of affordable dwelling units.

2205**1.** Single-family dwellings;

2205**2.** Single-family dwellings with accessory apartments;

2205**3.** Multifamily dwellings which are designed to be consistent in character with the single-family dwellings in the same development. Such multifamily dwellings may be allowed provided:

2205**3.1.** In terms of exterior appearance, the building is compatible in design and, to the extent practicable, indistinguishable from the single-family dwellings in the same development; and

2205**3.2.** There shall be no more than four attached dwelling units in any building.

2205**4.** Accessory uses and structures incidental to principal uses indicated above and approved by the Planning Board.

§ 198-2206. Eligibility standard.

2206**a.** Affordable rental or ownership units developed under this article shall serve low-income households. A low-income household is defined as having a total household or family income of not more than 80 percent of the median income for the Boston Standard Metropolitan Statistical Areas, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development, or by a similar federal agency created to replace it, as adopted by DHCD or its successor.

§ 198-2207. Affordability requirements.

- 2207 ~~D~~uration of affordability: Affordable dwelling units shall be subject to restrictions that shall preserve their affordability, in perpetuity, to the extent legally possible, but in no case less than 50 years.
- 2207 ~~M~~aximum rental price: Rents for affordable units, excluding utilities (gas, heat, water, electricity, etc.) shall not exceed 30 percent of the targeted annual gross household income, as determined by DHCD. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Wayland Housing Partnership or its successor authority or agency.
- 2207 ~~M~~aximum sales price: Housing costs, including monthly housing payments, principal and interest payments, real estate taxes, and insurance, shall not exceed 30 percent of the targeted gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Wayland Housing Partnership or its successor authority or agency.
- 2207 ~~R~~esale prices: Subsequent resale prices shall be determined based on a percentage of the median income for the Boston Standard Metropolitan Statistical Area at the time of resale as determined by the U.S. Department of Housing and Urban Development and adopted by DHCD. The formula for the resale price shall be defined in the Planning Board's rules and regulations for the implementation of this article and shall be established in order to assure that the target income group's ability to purchase will be commensurate with the unit's market appreciation and to provide a reasonable return on equity to the seller.
- 2207 ~~M~~arketing plan: The affordable dwelling units must be rented or sold using marketing and selection guidelines approved by the Wayland Housing Partnership, or its successor authority or agency, and in accordance with DHCD guidelines.
- 2207 ~~R~~eference for Wayland-related residents and Town Employees: Not fewer than 70 percent of the affordable dwelling units shall be initially offered to Wayland-related residents and employees of the Town of Wayland, unless prohibited by a federal or state agency under a financing or other subsidy program.
- 2207 ~~R~~ight of first refusal to purchase: The purchaser of an affordable dwelling unit developed pursuant to this article shall agree to execute a deed rider prepared by the Town, consistent with affordable housing deed riders promulgated by DHDC granting, among other things, the Town a right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

§ 198-2208. Development standards.

- 2208 ~~L~~ocation of affordable dwelling units: Affordable dwelling units shall be provided on-site unless the Planning Board allows an alternative

method of compliance. (See § 198-2209, below.) Location of affordable dwelling units shall be approved by the Planning Board.

~~2208C~~2208C2 Comparability: Affordable dwelling units shall be externally indistinguishable from market-rate units in the same development, to the extent possible. Affordable dwelling units should be comparable to market-rate units in terms of location, quality, and character.

~~2208D~~2208D3 Unit size: It is preferable that affordable dwelling units contain at least two bedrooms.

~~2208E~~2208E4 Rights and privileges: The owners or renters of affordable dwelling units shall have all rights, privileges, and responsibilities accorded to market-rate owners or renters, including access to all nonfee amenities within the development.

§ 198-2209. Alternative methods of compliance.

~~2209A~~2209A1 In exceptional circumstances, the Planning Board may consider an alternative method of compliance. In granting such exception, the Planning Board must find that the developer or landowner has demonstrated that building the required affordable dwelling units on site would create a significant hardship or that such alternate method of compliance is in the best interests of the Town. A significant hardship shall be defined as being of such significance that the property cannot physically accommodate the required affordable dwelling units and/or related requirements, such as height, setbacks, or parking. Hardship shall not be considered due to financial or marketing considerations. The burden of proof shall be on the developer or landowner, who must make full disclosure to the Planning Board of all relevant information.

~~2209B~~2209B2 Except as set forth below, affordable dwelling units provided through an alternate method shall comply in all other respects with the requirements of this article. The Planning Board may consider the following alternative methods of compliance or combination of methods, in order of preference by the Town:

~~2209C~~2209C1 Construction on a site different than the one subject to the special permit that is suitable for residential development within the Town of Wayland, (2) adds to the Town's stock of affordable housing, and (3) is comparable in quantity, quality, size, and type. Affordable off-site dwelling units may be located within an existing structure.

~~2209D~~2209D2 An applicant may offer, and the Town, with the approval of the Planning Board and the Board of Selectmen, may accept donations of land in fee simple, on or off site that the Planning Board determines are suitable for the construction of an equivalent number of affordable dwelling units. The Planning Board may require, prior to acceptance of land by the Town, satisfaction of the requirements of this article, that the applicant submit appraisals

of the land in question, as well as other data relevant to the determination of its value.

2209~~2209~~²²⁰⁹ ~~Developers and landowners may make a monetary payment to the Town to be used only for the purposes of providing housing affordable to low-income households, as defined by this article.~~

2209~~2209~~²²⁰⁹ ~~For ownership developments, the financial contribution for each affordable unit shall be equal to the then-current cost of construction of an affordable dwelling unit as further defined in the Planning Board rules and regulations for this article. In order to include the value of the land, the financial contribution for each affordable dwelling unit shall also include an amount equal to the current year's assessed value of the land divided by the total number of units proposed, multiplied by the total number of affordable units.~~

2209~~2209~~²²⁰⁹ ~~For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for market-rate units in the subject development or the median market rate rent for the Boston Standard Metropolitan Statistical Area, whichever is greater, and the rent affordable to a four-person low-income household as defined by this article, calculated over a term of 10 years, as further defined by the Planning Board rules and regulations for this article. The financial contribution for each affordable dwelling unit shall also include an amount equal to the current year's assessed value of the land divided by the total number of units proposed, multiplied by the total number of affordable dwelling units or an amount sufficient to purchase an affordable housing deed restriction on a comparable rental property, whichever is greater.~~

2209~~2209~~²²⁰⁹ ~~For fractional affordable dwelling units, the applicant shall round up to the next whole number of units or choose to pay equivalent fees in lieu of units (See § 198-2204 above.) proportionate to the percentage of the unit required.~~

2209~~2209~~²²⁰⁹ ~~For preservation of existing dwelling units as affordable dwelling units through the purchase of deed restrictions.~~

2209~~2209~~²²⁰⁹ ~~Prior to the issuance of a final certificate of occupancy for any portion of the project, the contribution shall be payable in full, or a written agreement approved by the Planning Board and the Wayland Housing Partnership, or successor authority or agency, must be recorded and filed with the Town Treasurer.~~

§ 198-2210. Enforcement.

2210~~2210~~²²¹⁰ ~~Legal restrictions: Affordable dwelling units shall be rented or sold subject to deed restrictions, restrictive covenants, contractual~~

agreements, and/or other mechanisms restricting the use and occupancy, rent levels, and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Wayland Housing Partnership, or successor authority or agency, the Planning Board and Town Counsel and shall be recorded with the Middlesex South Registry of Deeds prior to the commencement of construction. All condominium documents and fees shall be subject to review and approval by the Wayland Housing Partnership and Town Counsel.

2210 **Timing of commitments:** All contractual agreements with the Town and other documents necessary to ensure compliance with this Bylaw shall be executed prior to and as a condition of the issuance of any approval required to commence construction.

2210 **Timing of construction:** As a condition of the issuance of a special permit under this article, the Wayland Housing Partnership, or successor authority or agency, may set a time schedule for the construction of both affordable and market-rate units. No certificate of occupancy shall be issued for any market-rate units in a development subject to the requirements of this article until 25 percent of the affordable dwelling units required to be constructed have been issued a certificate of occupancy. No certificate of occupancy shall be issued to more than 75 percent of the market-rate units until 100 percent of the affordable dwelling units required to be constructed have obtained a certificate of occupancy.

§ 198-2211. Severability.

2211 If any provision of this article is held invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaws.

ARTICLE 23

Mixed-Use Overlay District
[Added 5-3-2006 STM by Art. 2]

§ 198-2301. Purposes.

2301 The purposes of the Mixed-Use Overlay District include but are not limited to:

2301.1 Promoting a range and balance of land uses;

2301.2 Facilitating integrated physical design and encouraging interaction among activities;

2301.3 Establishing controls which will facilitate development while protecting the public interest by limiting the aggregate amount of development;

2301.4 Permitting flexible development on individual lots;

2301.5 Promoting site features and layouts conducive to walking and bicycling;

2301.6 Promoting a pedestrian-friendly living and working environment.

§ 198-2302. Definitions.

2302 The following definitions apply, in addition to those in § 198-104, in the Mixed-Use Overlay District:

CONCEPT PLAN — A required submittal for a mixed-use project master special permit, which provides a preliminary site plan for the mixed-use project, describing the proposed character, uses, site layout, and public amenities incorporated therein. The requirements for the submittal of a concept plan are set forth in § 198-2304.2.

GROSS FLOOR AREA — As defined in § 198-104.

MASTER SPECIAL PERMIT PLAN — A required submittal for a mixed-use project which, as described in the Planning Board's rules and regulations for the MUOD, defines in detail the site, the site plan, the proposed uses, site improvements, traffic impacts and their mitigation, environmental impacts and their mitigation, future division of the property, and other information required for the public and boards of the Town of Wayland. Compliance with the master special permit plan, as approved by the Planning Board, shall be a condition of any development of a mixed-use project.

MIXED-USE PROJECT — A combination of retail, office, municipal, service establishments, and residential uses, as may be approved by the Planning Board for the Mixed-Use Overlay District by the issuance of a mixed-use project master special permit, defined below.

MIXED-USE PROJECT MASTER SPECIAL PERMIT (MUP MASTER SPECIAL PERMIT) — The initial special permit that an applicant must obtain before obtaining any site plan approvals, as provided for in § 198-2304.

MUOD — The Mixed-Use Overlay District (MUOD) comprising the land as shown on Plate 23 of the Atlas of the Town of Wayland, Massachusetts, 2002, numbered as Parcels 23-052, 23-052B, 23-052C, and 23-052F, and as shown on the plan entitled "Town of Wayland Mixed-Use Overlay District," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated September 6, 2005, a copy of which is on file in the office of the Town Clerk.

§ 198-2303. Overlay district.

2303 The MUOD is an overlay district superimposed on all underlying zoning districts. All uses permitted by right or by special permit in the pertinent underlying zoning district shall be similarly permitted in the MUOD, subject to the further provisions of this Article 23. Where the MUOD authorizes uses not otherwise allowed in the underlying district, the provisions of the MUOD shall control. The Planning Board shall be the special permit granting authority (SPGA) for every MUP master special permit and any other special permit required in the MUOD. The Planning Board shall also serve as the SPGA for special permits required under any other applicable overlay districts. Nothing herein shall be construed to supersede the provisions of other overlay districts applicable in the MUOD, except as set forth herein.

§ 198-2304. Approvals process.

2304 Overview.

2304 Prior to applying for a building permit for a mixed-use project, the applicant submits the following to the Planning Board, in sequence:

2304.1 Concept plan;

2304.1.1 Master special permit application;

2304.1.2 Phase I site plan review application.

2304.2 After approval of the Phase I site plan, changes of use and of exterior features that were previously approved by a Phase I site plan and that require Phase II site plan review under § 198-2304.4.4 may not be made unless the applicant submits, and the Planning Board approves, a Phase II site plan review application.

2304.3 Where special permits other than the MUP master special permit are sought under this Article 23, such special permits may be applied for concurrently with, or at any time after, the application for the MUP master special permit. Any pending special permit

application shall be considered concurrently with the master special permit application, the Phase I site plan review application, or the Phase II site plan review application, rather than sequentially, where doing so would promote efficiency and timeliness.

2304All.4 proceedings of the Planning Board under this Article 23 shall proceed reasonably expeditiously under the circumstances and in light of the Planning Board's responsibilities under this Article 23, and the Planning Board and the applicant should avoid unnecessary delay.

2304C2 concept plan.

2304With. or prior to the application for the MUP master special permit, the applicant must file a concept plan with the Planning Board for review. The concept plan shall generally define the proposed character, uses, site layout, and public amenities of the proposed mixed-use project. The Planning Board shall determine whether the concept plan substantially conforms with the provisions of this Article 23. The submission shall, at a minimum, include:

2304A2preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the approximate location and anticipated size of footprint(s) of all proposed buildings, general site grading with finish floor elevations, parking, landscaping, roads, walkways and accessways, open space, and wetlands.

2304A2preliminary utilities plan showing the location of hydrants and wastewater facilities; the location and type of stormwater facilities; and the sources of water to be used on the site.

2304A2preliminary lighting plan including a photometric plan and general information regarding light poles, bases and fixtures.

2304A2preliminary signage plan for the mixed-use project.

2304A2preliminary subdivision plan(s), if applicable.

2304A2pla6. showing proposed buildings as to approximate location, proposed categories of uses, general architectural design, and anticipated size.

2304The Planning Board shall solicit public comment on the concept plan. Thereafter, the Planning Board shall determine that (i) the concept plan is in substantial conformity with the provisions of this Article 23; or (ii) it would be in substantial conformity if it includes modifications suggested by the Planning Board or agreed upon by the applicant; or (iii) it is not in substantial conformity. If the concept plan is submitted prior to an application for an MUP master special permit, the Planning Board shall advise the

applicant of the Planning Board's determination within 90 days following submittal of the concept plan, unless such time period is extended by written agreement of the Planning Board and the applicant. If the Board determines the submitted concept plan is not in substantial conformity with the provisions of this Article 23, it shall provide the reasons for its determination. The determination of the Planning Board on the submitted concept plan shall be advisory in nature and shall be without binding effect on either the Planning Board or the applicant.

2304MUP master special permit.

2304E3.1 Every mixed-use project within the MUOD must obtain an MUP master special permit issued by the Planning Board. The MUP master special permit (a) specifies the mixed-use project's design, architectural character, public amenities, site improvements, traffic improvements, mitigation, specific location of buildings, and categories of uses for buildings; and (b) defines categories of interchangeable uses, for establishments in Size Category B in the § 198-2308.3.1 establishment size chart, that will not require Phase II site plan review under § 198-2304.4.5.

2304E3.2 The application for an MUP master special permit shall include, at a minimum, the following submittals:

2304A3.2a Master special permit plan, containing a site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the location, size of footprint(s) of all buildings; site grading with finish floor elevations; parking; landscaping; roads, walkways and accessways; open space and wetlands.

2304A3.2b Utilities plan showing the location of hydrants and wastewater facilities; the location and type of stormwater facilities; and the sources of water to be used on the site.

2304A3.2c Lighting plan including a photometric plan and information regarding light poles, bases and fixtures.

2304A3.2d Signage plan for the mixed-use project, which plan must include existing and proposed signage throughout the MUOD.

2304A3.2e Division plan(s), if applicable.

2304A3.2f Showing the location, elevations with heights, proposed categories of uses, general architectural design, and sizes of all buildings and structures.

2304A3.2g Reference to any separate special permit(s) being requested in conjunction with the MUP master special permit.

- ~~2304.3~~ ~~No. 3~~ MUP master special permit shall be granted unless the mixed-use project is in compliance with the performance standards set forth in § 198-2309.
- ~~2304.4~~ ~~Be 4.~~ MUP master special permit shall govern (a) all future development in a particular mixed-use project; and (b) the uses of all streets within the mixed-use project and all streets that provide access between the mixed-use project and any public way. All construction and associated improvements must be in compliance with the MUP master special permit.
- ~~2304.5~~ ~~Be 5.~~ applicant must supply the Planning Board with sufficient copies of the application for an MUP master special permit, along with all supporting documents and plans, as are necessary to provide to other local boards, agencies, and officials, such as the Conservation Commission, Fire Chief, Police Chief, Board of Health, Building Commissioner, Board of Road Commissioners, Water Commissioners, Wastewater Management District Commission, Finance Committee, Park and Recreation Commission, Board of Selectmen, and others as designated in the Planning Board's rules and regulations for the MUOD, for their review and comment.
- ~~2304.6~~ ~~Be 6.~~ Following issuance of the MUP master special permit, any application for revisions or amendments to the MUP master special permit shall be submitted in writing to the Planning Board, which shall determine and notify the applicant in writing whether such revisions or amendments are minor or major.
- ~~2304.7~~ ~~Be 7.~~ If the Planning Board does not notify the applicant in writing within 30 days after such submittal that such revisions or amendments are minor, the revisions or amendments shall be deemed major. In the event that such revisions or amendments are deemed to be major by such failure of timely notification, the Planning Board may, at any time thereafter, determine and notify the applicant in writing that such revisions or amendments are minor in accordance with the provisions of this § 198-2304.3.6.
- ~~2304.8~~ ~~Be 8.~~ Revisions or amendments proposing only changes that (i) do not significantly affect major exterior elements; (ii) do not significantly impact the public interest, as determined by the Planning Board in writing; and (iii) are consistent with the purposes of this Zoning Bylaw, shall be considered minor.
- ~~2304.9~~ ~~Be 9.~~ Revisions or amendments to the MUP master special permit may be made by the Planning Board in accordance with the same procedures as are applicable hereunder to the initial approval of the MUP master special permit, except that the submittal materials, together with an explanatory statement, shall be limited to those affected by the proposed revisions or

amendments; and in the case of revisions or amendments that are minor, a public hearing in accordance with the provisions of MGL Chapter 40A need not be held, and the final decision deadline shall be 45 days from the date of the complete application submittal.

2304.3.6.4. special permits issued under this Article 23 allow modifications to project elements from those previously approved in the MUP master special permit, such special permits shall constitute revisions or amendments of the MUP master special permit to the extent of such allowed modified project elements, without the need for a separate application and approval of such modifications as revisions or amendments to the MUP master special permit.

2304.3.6.5. unless the applicant agrees otherwise, no existing condition of any MUP master special permit or other special permit or approval shall be modified, nor may any new condition be imposed, except with respect to or arising from the subject matter of the modification requested by the applicant.

2304.4. Uses; special permits; Phase I and Phase II site plan review within the MUOD.

2304.4.1. Within a mixed-use project, the uses available are set forth in Table A, "Mixed-Use Overlay District Table of Uses."⁵⁴ Table A lists the uses allowed either: (i) with an MUP master special permit, which uses are designated "MSP" in Table A; or (ii) with an MUP master special permit and a separate special permit, which uses are designated "SP" in Table A; or (iii) as of right, which uses are designated "A" in Table A. All other uses within the MUOD are prohibited. In the MUP master special permit, the Planning Board may coordinate applications for site plan review and individual special permits to ensure an orderly development process. Once an MUP master special permit has been issued, all uses designated "MSP" in Table A shall be allowed, and all uses designated "SP" on Table A shall be allowed subject to issuance of the requisite special permit under § 2304.4.2.1.

2304.4.2. Special permits.

2304.4.2.1. The prerequisite for a special permit for uses designated "SP" in Table A, "Mixed-Use Overlay District Table of Uses," is an MUP master special permit. Applications for the special use permit may be filed with the MUP master special permit application or following the grant of the MUP master special permit; and either separately or in conjunction with Phase I or Phase II site plan reviews.

54. Editor's Note: Table A: Mixed-Use Overlay District Table of Uses is included at the end of this chapter.

2304.4.2. Special permits required under Table B, "Table of Dimensional Requirements in the Mixed-Use Overlay District"⁵⁵ may be incorporated into the MUP master special permit and may be obtained during the MUP master special permit approval process or in a subsequent application. These dimensional special permits may also be applied for in conjunction with Phase I or Phase II site plan reviews.

2304.4.3. Changes of use in the Size Category A establishment.

2304.4.3.1. Within the § 198-2308.3.1 Size Category A establishment, any change of use after the MUP master special permit is granted shall require a separate special permit under the following circumstances:

- (a) The change of use covers 10,000 square feet or more of gross floor area; or
- (b) The change of use, when aggregated with all other changes made within the Category A establishment after the MUP master special permit, totals 10,000 square feet or more of gross floor area; except changes within the food store use or changes in uses accessory to a food store shall not be counted when computing the aggregate number.

2304.4.3.2. A separate special permit is required for a change of use under this § 198-2304.4.3 and such change of use also involves other changes requiring Phase II site plan review under § 198-2304.4.5, then the special permit and the Phase II site plan review may be applied for and considered separately or in conjunction.

2304.4.4. Phase I site plan review.

2304.4.4.1. The purpose of the Phase I site plan review is to ensure that any proposed building or site improvement is in compliance with the MUP master special permit. Prior to the issuance of a building permit for the construction of a building which will contain a use listed as allowed in Table A, "Mixed-Use Overlay District Table of Uses," the Planning Board shall conduct a Phase I site plan review. The Phase I site plan review at a minimum shall include the following components: building design and elevations; signs; landscaping; lighting; parking; and compliance with the MUP master special permit.

2304.4.4.2. The applicant shall submit an application and plans showing: building design and elevations; signs; landscaping; lighting; parking; compliance with the MUP master special permit; and any other documents required by the MUP master special

55. Editor's Note: Table B: Table of Dimensional Requirements in the Mixed-Use Overlay District is included at the end of this chapter.

permit and the Planning Board's rules and regulations for the MUOD. The Planning Board shall review the application and plans to determine whether the proposed building(s) and associated improvements are consistent with the performance standards set forth in § 198-2309 and the specific conditions of the MUP master special permit. The Planning Board shall hold its first hearing only after receipt of a complete application. The Planning Board shall render a written decision and file it with the Town Clerk within 60 calendar days after the first hearing, unless such time period is extended in writing by agreement of the Planning Board and the applicant. Any appeal from a decision of the Planning Board shall be made to a court of competent jurisdiction in accordance with the provisions of MGL Chapter 40A, § 17.

2304.4.5. Phase II site plan review.

2304.4.5.1 The purpose of a Phase II site plan review is to review certain proposed changes after the MUP master special permit has been granted and the Phase I site plan review has been completed. Phase II site plan review shall apply to the following:

- (a) Changes of principal and accessory uses for § 198-2308.3.1 Size Category B establishments, from one MSP-defined category of interchangeable uses to another MSP-defined category of interchangeable uses;
- (b) Changes of principal use of any structure, from any use within specified Table A categories to a use in another such category in Table A; and
- (c) Changes, as defined in the MUP master special permit, of exterior features and site improvements such as signage, facades, landscaping, lighting, and parking.

For purposes of § 198-2304.4.5.1(b), the specified Table A categories are Residential, Office, Institutional, Retail, Service Establishments, Place of Assembly, or Restaurants.

2304.4.5.2 Phase II site plan review shall not apply to the following: (a) changes of principal or accessory use of such establishments within an MSP-defined category of interchangeable uses; and (b) changes in content of signage; replanting or other minor landscaping changes that do not result from a general redesign of landscaping for the mixed-use project as a whole; restriping of parking areas; repair and maintenance; and such other items as the Planning Board determines do not require Phase II site plan review, whether in its rules and regulations for the MUOD, on its own motion, or upon request.

2304.4.5. The applicant shall submit an application and plans showing proposed changes subject to § 198-2304.4.5.1, and any other documents required by the MUP master special permit and the Planning Board's rules and regulations for the MUOD. The Planning Board shall review the application to determine whether the proposed changes are consistent with the MUP master special permit, the Phase I site plan approval, and the performance standards set forth in § 198-2309. The Planning Board shall hold its first hearing only after receipt of a complete application. The Planning Board shall render a written decision and file it with the Town Clerk within 60 calendar days after the first hearing, unless such time period is extended in writing by agreement of the Planning Board and the applicant. Any appeal from of a decision of the Planning Board shall be made to a court of competent jurisdiction in accordance with the provisions of MGL c. 40A, § 17.

§ 198-2305. Special permit decision.

2305.1. Any special permit shall be subject to the requirements and conditions set forth in § 198-203 and the performance standards set forth in § 198-2309.

2305.2. When the application is for an MUP master special permit, the Planning Board shall consider the following criteria, in addition to the requirements and conditions set forth in § 198-203:

2305.2.1. The mixed-use project must comply with the uses table, the dimensional requirements, and the § 198-2309 performance standards. The Planning Board may not reduce the allowed gross floor area, number of residential units, or bedroom counts below the limits permitted in § 198-2308.2; impose more restrictive dimensional requirements than those set forth in § 198-2308 and Table B; or disapprove project elements meeting performance standards under § 198-2309.

2305.2.2. The MUP master special permit shall be granted by the Planning Board only upon the Board's written determination that the adverse effects of the proposed mixed-use project will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site.

2305.3. Where the application is for a special permit for building height in excess of 35 feet, in addition to the criteria set forth in §§ 198-203 and 198-2305.2, in order to grant a special permit, the Planning Board must find that such additional height will facilitate architectural variety, visual interest, and building scale in relation to other buildings, and it shall not grant relief to allow a building that is out of character with the neighborhood. Any such special permit for increased height may not be granted if it would or could be used to increase habitable space or be otherwise used for occupancy purposes.

2305 Where the application for a special permit is for a specific allowable use designated "SP" in Table A, "Mixed-Use Overlay District Table of Uses," the additional criteria set forth in § 198-203 also shall apply.

§ 198-2306. Special permit conditions.

2306 In any special permit granted by the Planning Board, the Board may, pursuant to MGL c. 40A, § 9, and § 198-203 of the Zoning Bylaw, as amended from time to time, impose additional reasonable conditions, safeguards, and limitations on time and use, which conditions may include but are not limited to the following:

2306A1 phasing schedule for construction of each component part of the project which ensures integration of residential, nonresidential, and municipal uses.

2306A12 demolition and construction schedule, including a construction traffic management plan.

2306B3 hours of operation, delivery times, and lighting schedule.

2306A14 requirement that special permits and site plans be recorded in the Middlesex South Registry of Deeds and, if registered land, in the Land Court, prior to the issuance of any building permits.

2306C15 compliance with plans approved in the MUP master special permit and with all applicable federal, state, and local laws, rules, regulations, and bylaws;

2306B16 circumstances so warrant, a requirement to continue monitoring off-site impacts to traffic and the environment in appropriate locations with regard to the locus of the MUOD development; and

2306B17 right of the Planning Board, or its designated representative, to make inspections during the construction process.

2306B18 restrictions on use of the streets within the mixed-use project and all streets that allow access between the mixed-use project and any public way.

§ 198-2307. Time limit.

2307 Until such time as a master special permit is issued for a mixed-use project, and the appeal period following the Planning Board's decision has expired, the provisions of the underlying zoning shall solely govern the use and development of the property comprising the MUOD. At the time of the issuance of the first certificate of use and occupancy for a building constructed under the MUP master special permit, the underlying zoning, as established in § 198-301, shall no longer be applicable in the MUOD. If no MUP master special permit is issued, however, within five years after the effective date of this article, the provisions of this MUOD shall expire. In such event, the underlying

zoning in effect on the date of adoption of this article, and any amendments thereto, shall govern the use of the property shown on the Zoning Map of the MUOD.

§ 198-2308. Dimensional requirements and aggregate limits.

~~2308~~The dimensional requirements set forth in Table B, "Mixed-Use Overlay District Table of Dimensional Requirements," apply to all mixed-use projects and, to the extent Table B conflicts with the dimensions listed in the Table of Dimensional Requirements for the underlying zoning, Table B shall prevail. The following criteria apply to Table B:

~~2308~~~~Minimum~~ total area. All land within the MUOD must be located entirely within the Town of Wayland.

~~2308~~~~Maximum~~ building height. Height shall be as defined in § 198-701.1.2, except that penthouses shall refer only to mechanical penthouses and that none of the items referred to in that section are used for occupancy purposes. Height shall be measured in accordance with the provisions of § 198-104.2.

~~2308~~~~Maximum~~ building size. No building shall exceed 60,000 square feet of gross floor area.

~~2308~~~~Maximum~~ bulk for freestanding child-care facilities. No building used as a freestanding child-care facility shall have a building footprint exceeding 2,500 square feet.

~~2308~~The total amount of development allowed under Article 23, exclusive of any uses related to a wastewater treatment facility, is limited to 372,500 square feet of gross floor area, of which 40,000 square feet of gross floor area can be used only for municipal uses.

~~2308~~~~The~~ nonresidential component of any mixed-use project, exclusive of municipal uses and any uses related to a wastewater treatment facility, shall be limited to 177,000 square feet of gross floor area. Not more than 156,750 square feet of such gross floor area shall be dedicated to retail uses. Not more than 22,000 square feet of such gross floor area shall be dedicated to office uses, except that such 22,000 square foot limitation shall not apply to gross floor area devoted to uses within the category of "banks and financial institutions" in Table A: Mixed-Use Overlay District Table of Uses.⁵⁶

[Amended 11-12-2008 STM by Art. 5]

~~2308~~~~The~~ residential component of any mixed-use project shall be limited to 155,500 square feet of gross floor area. There shall be no more than 100 dwelling units, and there shall be no more than 200 bedrooms. Not more than 15 dwelling units within any mixed-use

56. Editor's Note: Table A: Mixed-Use Overlay District Table of Uses is included at the end of this chapter.

project shall be three-bedroom units. No unit shall have more than three bedrooms.

2308.3.2 Aggregate limits on sizes and numbers of individual establishments.

2308.3.1 Ensure a mix of larger and smaller establishments devoted to retail, service, assembly or restaurant use, and without limiting the size or configuration of buildings, the size and number of individual establishments in the MUOD taken as a whole shall not exceed the following aggregate limits:

Size Category	Maximum Gross Floor Area Allowed for Each Establishment	Minimum Number Required	Maximum Number Allowed
A	More than 15,000 but not more than 45,000 sq. ft.	none	One
B	More than 10,000 but not more than 15,000 sq. ft.	none	Two
C	More than 7,000 but not more than 10,000 sq. ft.	(none)	Three (subject to § 198-2308.3.2)
D	More than 5,000 but not more than 7,000 sq. ft.	(none)	Five (subject to § 198-2308.3.2)
E	Not more than 5,000 sq. ft.	Seven	Unlimited

2308.3.3 In the mixed-use project, any square footage not used in Size Category A can be allocated to one or more of Categories C, D, and E; any square footage not used in Size Category B can be allocated in one or more of Categories C, D, and E; any square footage not used in Size Category C can be allocated in one or more of Categories D and E; and any square footage not used in Size Category D can be allocated in Category E; all by increasing the maximum number of establishments allowed in a category into which unused square footage has been allocated,

§ 198-2309. Performance Standards.

2309.1 Landscaping.

2309.1.1 Landscaping within the MUOD shall be designed to promote the establishment, protection and enhancement of the natural landscape; ensure the appropriate use of plant material; preserve natural tree cover; and promote inclusion of new tree planting in order to reduce visual blight, noise and glare, prevent soil erosion,

reduce stormwater runoff, increase groundwater discharge, create shade, and reduce solar overheating.

2309The applicant shall prepare a landscaping plan showing that the mixed-use project will meet these standards and the standards set forth in § 198-606.

2309Massing.

2309Massing within the MUOD should promote buildings designed in a traditional New England style and create a mixed-use project with an authentic, New England regional character to its buildings.

2309Any buildings proposed for a mixed-use project shall provide visual relief, generally every 30 feet, along the facade of each building.

2309Building design throughout a mixed-use project shall include designs which promote visual relief by including varying roof lines and roof heights.

2309A mixed-use project shall include residential buildings and buildings with multiple nonresidential uses and a mix of buildings containing single or multiple establishments.

2309Screening and buffer requirements.

2309Screening and buffering should create visual barriers between features of the mixed-use project from public streets and abutting properties. Such features shall include dumpsters and trash handling areas, mechanical equipment at ground level or rooftop, service entrances and utility facilities for building operation, loading docks and spaces, aboveground backflow preventers, and other components of the mixed-use project as may be reasonably determined by the Planning Board to require screening and buffering.

2309Signs.

2309Signage must (a) be in keeping with a traditional New England town center; and (b) be integrated into the overall architectural design of the mixed-use project.

2309The following dimensional standards apply:

Size Category	Area of Any Single	Area of Any Single
(see § 198-2308.3.1)	Sign on a Primary Wall	Sign on a Secondary Wall
A	Up to 120 sq. ft.	Up to 60 sq. ft.
B	Up to 60 sq. ft.	Up to 40 sq. ft.
C, D, E	Up to 40 sq. ft.	Up to 25 sq. ft.

An establishment can have only one primary wall, to be designated in the signage plans referenced in § 2309.4.6. All other designations will be made in the signage plans.

~~2309.4.3.~~ For 3. Size Category B, the allowed aggregate area of an establishment's main signs on the primary wall can be up to 90 sq. ft.

~~2309.4.4.~~ For 4. all size categories, the aggregate area of signage will be determined by special permit.

~~2309.4.5.~~ For 5. Signs may be illuminated externally, but no sign can be illuminated internally.

~~2309.4.6.~~ For 6. applicant shall prepare signage plans indicating aggregate signage, maximum sign area, and proposed lighting, demonstrating that signs and proposed lighting will comply with § 198-2309.4, § 198-501 (except that the area and height limits specified in § 198-501.1 shall not apply), and the Planning Board's rules and regulations for the MUOD.

~~2309.4.7.~~ For 7. special permit, the Planning Board may allow signage that varies from that which is permitted in §§ 198-501.1 and 198-2309.4, including signage not on the same premises as the building, structure, or use to which the signage pertains (provided the signage is still within the MUOD).

~~2309.5.~~ For 5. stormwater management.

~~2309.5.1.~~ For 1. stormwater management system within the MUOD should provide an adequate system for managing stormwater and should comply with all applicable federal, state and local laws, rules, regulations and bylaws, including the Stormwater Management Policy of the Massachusetts Department of Environmental Protection or any successor agency.

~~2309.6.~~ For 6. streets.

~~2309.6.1.~~ For 1. streets within the MUOD should provide for adequate access for emergency vehicles; accommodate the normal traffic expected in the mixed-use project; provide for safe pedestrian access; and maintain pedestrian flow in, between, and throughout the residential and nonresidential portions of the MUOD,

~~2309.6.2.~~ For 2. streets serving the mixed-use project shall comply with the Planning Board's rules and regulations governing the subdivision of land, except to the extent waived by the Planning Board, and the Planning Board's rules and regulations for the MUOD.

~~2309.7.~~ For 7. parking and loading standards.

~~2309.7.1.~~ For 1. parking and loading design within the MUOD must provide adequate parking for the mixed-use project, including for any

educational, religious, and municipal uses and for any child-care facilities; allow for shared parking as appropriate; create parking fields separated by landscaped areas; create off-street parking areas that minimize curb cuts within the mixed-use project; and create safe and comfortable passageways for pedestrians.

~~2309A7.1~~ A mixed-use project shall provide multiple small parking areas of 50 or fewer spaces.

~~2309A7.1~~ Larger parking areas shall be separated, whether by buildings, landscape features, or both. At least 10% of the interior of the parking area shall be maintained with landscaping, including trees, in landscape islands.

~~2309A7.1B~~ Parking areas shall be designed to include sidewalks at the perimeter to promote safe pedestrian passage; larger areas may incorporate pedestrian corridors delineated by paving materials, plantings and/or bollards.

~~2309A7.1C~~ The provisions of §§ 198-506 and 198-507 of the Town's Zoning Bylaw shall not apply to the mixed-use project, except that all off-street parking shall be subject to the provisions of §§ 198-506.6 and 506.7; and except that all off-street loading facilities shall be subject to the provisions of § 198-507.

~~2309A7.1D~~ For nonresidential and nonmunicipal establishments, off-street parking space shall be provided at a minimum of five parking spaces per 1,000 square feet of gross floor area.

~~2309A7.1E~~ For residential uses, parking space shall be provided at a minimum of two parking spaces per dwelling unit.

~~2309A7.1F~~ For any and all uses or structures not specifically provided for in the foregoing provisions, the parking design shall provide such parking spaces as the Planning Board shall determine to be necessary, considering the activities involved, to provide a maximum of safety and a minimum of congestion on the adjacent roadways.

~~2309A7.2~~ Application for an MUP master special permit must include a parking/loading plan setting forth the number, location, and design (including landscaping and lighting) of parking spaces and loading areas. The application must also include a parking-and-loading study that supports the design of the parking/loading plan. Such study must be prepared by a qualified traffic engineer who is licensed by the Commonwealth of Massachusetts as either a professional traffic or transportation engineer or a professional civil engineer with certification by the Transportation Professional Certification Board as a professional traffic operations engineer, as may be more fully described in the Planning Board's rules and regulations for the MUOD. If such study demonstrates that the interaction of uses will allow for shared parking and thus for a

reduction in the otherwise-required minimum number of parking spaces, the Planning Board may, in Phase I or Phase II site plan review, approve such a reduction.

2309L Lighting.

2309L.1 The lighting design within a mixed-use project should accommodate public safety and welfare, and protect the night sky from unnecessary ambient light. Any lighting plan submitted for a mixed-use project shall, at a minimum, include the following:

2309L.1.1 Lighting installations shall be designed to achieve no greater than the minimum luminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).

2309L.1.2 To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cutoff. Where necessary to prevent light trespass or glare, accessories such as hoods and shields shall be used on lighting fixtures. The source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent property.

2309L.1.3 Security lighting shall be shielded and directed at a downward angle.

2309L.2 The applicant must submit a lighting study showing that the mixed-use project will meet these standards and the applicable standards set forth in § 198-606.

2309O Open space.

2309O.1 The design of the mixed-use project shall promote and ensure public common space within the MUOD. Any MUP master special permit shall provide at least two acres of contiguous upland open space to serve as a public commons, and additional suitable open space throughout the mixed-use project to serve public purposes; provided, however, the Planning Board may approve a smaller open space area where such open space promotes the purposes set forth in this standard. The applicant shall prepare an open space plan indicating the bounds of such open space, and a plan for the ownership, operation and maintenance of the open space.

2309A Aquifer protection.

2309A.1 The mixed-use project must comply with Article 16 of the Town's Zoning Bylaw (the "Aquifer Protection District" bylaw); provided, however, that § 198-1604.1 shall not apply and that for purposes of §§ 198-302.2 and 198-1604.2, no land within the MUOD shall be construed to be a "residential lot."

2309A.2 Article 16 groundwater recharge requirements shall be inapplicable to the extent necessary (and only for the duration

of time specified by the LSP) to comply with an activity-and-use limitation or other restriction imposed on the site by or under the supervision of the licensed site professional of record (LSP) acting pursuant to the provisions of MGL c. 21E or 310 CMR 40.000 et seq., as evidenced by documentation from the LSP of record submitted to the Planning Board.

2309**The** Article 16 groundwater recharge requirements shall be inapplicable to the extent inconsistent with (and only for the duration of time specified by the LSP) a response action taken or a response action to be undertaken pursuant to the provisions of MGL c. 21E or 310 CMR 40.000 et seq., with respect to oil or hazardous materials on this site or affecting the site, as evidenced by documentation from the LSP of record submitted to the Planning Board.

2309**Notwithstanding** any provision of Article 16 to the contrary, the impervious surface area of a mixed-use project shall not exceed 65% of the upland area of the MUOD.

2309**Affordable units.**

2309**In lieu of** Article 22 of the Town's Zoning Bylaw (the "Inclusion of Affordable Housing" bylaw), the following standards shall apply in the MUOD. At least 12% of the dwelling units shall be affordable units. The term "affordable unit" shall mean a dwelling unit reserved in perpetuity for rental or ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for rental or ownership units set forth in 760 CMR 45.03(4), as amended from time to time, in order that such affordable units shall be included in the DHCD Subsidized Housing Inventory. Affordable units shall be subject to the following conditions: **[Amended 11-18-2009 STM by Art. 3]**

2309**Each** affordable unit shall be affordable in perpetuity. A deed rider or other suitable restriction shall assure this condition. The deed rider shall be structured to survive any and all foreclosures.

2309**When** an affordable unit is proposed for sale, the continuing enforcement of the deed rider through subsequent resales shall be the subject of a monitoring agreement and in accordance with §§ 198-2207.3 and 198-2207.6 of Article 22 of the Town's Zoning Bylaw.

2309**The** deed rider and the monitoring agreement shall be drafted in compliance with 760 CMR 45.00 (Local Initiative Program), as amended from time to time, and guidelines promulgated thereunder. The deed rider and the monitoring agreement shall

be subject to review and approval by the Planning Board and approved as to form by Town Counsel prior to the issuance of the first certificate of occupancy for any dwelling unit in the MUOD.

2309~~The~~^{The} affordable units shall conform to the DHCD standards for inclusion in the DHCD Subsidized Housing Inventory.

2309~~A right~~^{A right} of first refusal in accordance with § 198-2207.7 of the Town's Zoning Bylaw shall be granted to the Town or its designee for a period not less than 120 days after notice thereof.

2309~~The~~^{The} affordable units must satisfy the design and construction standards of the Local Initiative Program, 760 CMR 45.00, as amended from time to time, with regard to indistinguishability from market-rate units. It is the intent of this Article 23 that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as Local Initiative Program units.

2309~~The~~^{The} affordable units must be constructed and occupancy permits obtained at the rate of one affordable unit for every three market-rate units.

2309~~In computing~~^{In computing} the number of required affordable units, any fraction of a unit shall be rounded up, and the result shall be the number of affordable units to be built within the MUOD and not off site.

2309~~Efficiency~~^{Efficiency} of design.

2309~~Every~~^{Every} effort shall be made to design buildings and use materials and construction techniques to optimize daylight in building interiors, natural ventilation, and energy efficiency; to minimize exposure to and consumption of toxics and nonrenewable resources; and to incorporate appropriate "green" design techniques.

2309~~Utilities~~^{Utilities}.

2309~~To the~~^{To the} extent practicable, electric, telephone, cable TV, and other utilities on the site shall be placed underground.

§ 198-2310. Peer review.

2310~~The~~^{The} Planning Board, at the expense of the applicant and pursuant to MGL c. 44, § 53G, may engage qualified peer reviewers, including, but not limited to, traffic engineers, civil engineers, landscape architects, architects, wetlands scientists, lighting technicians, and attorneys, to review all concept plans, special permit applications and site plan review applications.

§ 198-2311. Rules and regulations.

2311The Planning Board shall adopt and may, from time to time, amend, reasonable rules and regulations for special permit applications and site plan reviews in the MUOD and for the implementation of this article. Such rules and regulations shall take effect upon their filing with the Town Clerk. Applications must be submitted on a form provided by the Planning Board and must be in accordance with those rules and regulations in effect at the time of such application. If later amendments of the Planning Board's rules and regulations for the MUOD change any of the submittal requirements, the Planning Board can request additional submittals from the applicant to the extent that doing so is reasonable and appropriate.

§ 198-2312. Relation to other requirements.

2312The submittals required by this article shall be in addition to any submittals required by the Massachusetts Subdivision Control Law and the Planning Board's rules and regulations on subdivision control.

§ 198-2313. Inapplicability of certain other regulations.

2313Where this article specifies some standard or makes some other requirement contrary to a requirement set forth elsewhere in the Town's Zoning Bylaw, the provisions of this article, as may be amended from time to time, shall govern.

ARTICLE 24

**Municipal Services Overlay District
[Added 11-16-2010 STM by Art. 12]****§ 198-2401. Permitted uses.**

The purpose of the Municipal Services Overlay District is to allow municipal facilities and buildings for public uses and purposes. All uses shall comply with the requirements of Article 6, Site Plan Approval.

ARTICLE 25

**River's Edge Housing Overlay District
[Added 4-3-2014 ATM by Art. 15]****§ 198-2501. Purposes and intent.**

2501 The purpose of this article is to increase the supply of housing in the Town of Wayland that is available to and affordable by low-income and moderate-income households which might otherwise have difficulty in finding housing in Wayland, and to ensure that such housing is affordable over the long term and provided in accordance with the Wayland Master Plan and the Town's Affordable Housing Production Plan.

2502 It is intended that the affordable dwelling units authorized under the provisions of this article be considered as affordable housing units which shall be included in the Town's inventory of subsidized housing units established and administered by the Commonwealth of Massachusetts Executive Office of Housing and Economic Development, Department of Housing and Community Development (DHCD), or its successor.

§ 198-2502. Overlay district.

2502 The River's Edge Housing Overlay District ("REHOD") is an overlay district superimposed on the underlying zoning district on the parcels of land on Boston Post Road in Wayland, Massachusetts, Plate 22 of the Atlas of the Town of Wayland, Massachusetts, 2002, numbered as Parcels 22-3, 22-6 and 22-7. All uses permitted by right or by special permit in underlying zoning districts shall be similarly permitted in the REHOD, subject to the further provisions of this Article 25. Where the REHOD authorizes uses not otherwise allowed in the underlying district, the provisions of the REHOD shall control. Nothing herein shall be construed to supersede the provisions of other overlay districts applicable to land or structures within the REHOD, except as set forth herein. The REHOD shall not supersede the requirements of the Wireless Communications Overlay District as set forth in Article 15 of the Zoning Bylaw of the Town.

§ 198-2503. Administration.

2503 The Planning Board shall be the site plan approval authority (SPA) under this article.

2503 The Planning Board shall adopt, maintain and file with the Town Clerk a set of regulations that contains the necessary policies, definitions, fee structures, procedures, and requirements to implement the provisions of this article.

§ 198-2504. Permitted uses.

2504The uses set forth below, individually or in combination, are permitted, as of right, in the REHOD, subject to site plan approval issued by the Planning Board pursuant to Article 6 of this Zoning Bylaw for the initial development of the REHOD:

2504Multi-family affordable and market-rate housing dwelling units.

2504Structures and uses accessory to the uses set forth in § 198-2504.1 above, located (with the exception of covered parking areas) within the same building, including but not limited to the following: beauty and barber salons; recreational, physical fitness and therapy services; library; bank automated teller machine without drive-throughs or drive-up facilities; management offices; adult day health facility; assisted living residences not exceeding 25% of the total number of age-restricted dwelling units in the REHOD; and covered parking areas. In addition, food service, including a cafe or diner primarily for residents but as may also be open to the public for this limited use only.

2504After initial development of the REHOD, any subsequent redevelopment of more than 25% of the existing buildout shall require a special permit issued by the Planning Board.

§ 198-2505. Dimensional requirements and aggregate limits.

2505Minimum building setback from the REHOD perimeter boundary shall be 50 feet. If lots within the REHOD are subdivided, the minimum setback from internal property lines shall be 15 feet, with the exception that buildings may be linked at internal property lines via covered walkways.

2505Maximum building height of any building or portion thereof located less than 100 feet from a public way Boston Post Road/Route 20 shall not exceed 35 feet in height. Maximum building height shall not exceed 45 feet for the remainder of the site, with the exception that the maximum height for the northwest quadrant of the site shall be 58 feet in height for this quadrant only. Height shall be as defined in § 198-701.1.2. Height shall be measured from the average grade of the land immediately adjacent to the building to the highest point of the roof, except for buildings on the northern edge of the REHOD where average grade shall be determined by the grade of the land immediately adjacent to the three sides of the building which do not face north, to reduce grading on the north-facing sides near wetlands, and to encourage underground parking in these areas. On these north-facing facades only, not more than six feet of a parking level may be exposed and allow natural ventilation as long as this facade area is screened and buffered with landscape.

2505Maximum building size. No building shall exceed 150,000 square feet of gross floor area.

2505 Maximum number of dwelling units. There shall be no more than 190 dwelling units. All dwelling units shall be studio, one bedroom or two bedroom units, with the sole exception that not more than three of the affordable non-age-restricted units may be three bedroom units. No unit shall have more than three bedrooms.

§ 198-2506. Performance standards.

2506 Landscaping.

2506 Landscaping within the REHOD shall be designed to promote the establishment, protection and enhancement of the natural landscape; ensure the appropriate use of plant materials; preserve natural tree cover; and promote inclusion of new tree plantings in order to reduce visual blight, noise and glare, prevent soil erosion, reduce stormwater runoff, increase groundwater discharge, create shade, and reduce solar overheating.

2506 The applicant shall prepare a landscaping plan showing that the housing development will meet these standards and the standards set forth in § 198-606.

2506 Screening and buffer requirements.

2506 Screening and buffering should create visual barriers between features of the housing development from public streets and abutting properties. Such features shall include dumpsters and trash handling areas, mechanical equipment at ground level or on rooftop, service entrances and utility facilities for building operation, loading docks and spaces, aboveground backflow preventers, and other components of the development as may be reasonably determined by the Planning Board to require screening and buffering.

2506 Parking standards.

2506 Parking spaces shall be provided at a minimum of 1.25 parking spaces per dwelling unit and maximum of 15 parking spaces for any accessory cafe or diner in addition to said dwelling unit parking spaces. If over 50% of the total number of dwelling units are age restricted as set forth in § 198-2506.6 below, parking may be provided at a minimum of 0.50 parking space per age-restricted dwelling unit.

2506 Any large surface parking areas shall be separated, whether by buildings, landscape features, or both. At least 10% of the interior of the parking areas shall be maintained with landscaping, including trees, in landscape islands.

2506 Small parking areas shall be designed to include sidewalks at the perimeter to promote safe pedestrian passage; larger areas

may incorporate interior pedestrian corridors delineated by paving materials, plantings and/or bollards.

2506.4 Lighting standards.

2506.4.1 The exterior lighting design within the housing development should accommodate public safety and welfare, and protect the night sky from unnecessary ambient light. Any lighting plan submitted for the development shall, at a minimum, include the following:

2506.4.1.1 Lighting installations shall be designed to achieve no greater than the minimum luminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).

2506.4.1.2 To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cutoff. Where necessary to prevent light trespass or glare, accessories such as hoods and shields shall be used on lighting fixtures. The source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent property.

2506.4.1.3 Security lighting shall be shielded and directed at a downward angle.

2506.4.2 The applicant must submit a lighting study showing that the housing development will meet these standards and the applicable standards set forth in § 198-606.

2506.5 Affordable units.

2506.5.1 In lieu of the requirements set forth in Article 22 of the Town's Zoning Bylaw (the "Inclusion of Affordable Housing" bylaw), the following standards shall apply in the REHOD. A minimum of 25% of the dwelling units shall be affordable units. The term "affordable unit" shall mean a "low or moderate income housing" dwelling unit as that term is used in MGL c.40B, § 20-23, and associated regulations, which shall be restricted in perpetuity for rental or ownership by a household earning less no greater than 80% of area median family income, and priced to conform with the standards of DHCD for rental or ownership units set forth in DHCD's guidelines and regulations, as amended from time to time, in order that such affordable units shall be included in the DHCD Subsidized Housing Inventory for the Town under MGL c.40B, § 20-23. Affordable units shall be subject to the following conditions:

2506.5.1.1 Affordable units shall be affordable in perpetuity. A deed rider or other suitable restriction shall assure be required to ensure compliance with this condition. The restriction shall be structured to survive any and all sales, transfers or foreclosures.

- 250615.1.2. event that an affordable unit or the project in part or whole is proposed for sale, the continuing enforcement of the restriction through subsequent resales shall be the subject of a monitoring agreement and in accordance with the provisions of §§ 198-2207, 198-2207.3 and 198-2207.6 of Article 22 of this Zoning Bylaw.
- 250615.1.3. The restriction and the monitoring agreement shall be drafted in compliance with DHCD's Local Initiative Program guidelines and regulation, as amended from time to time, and guidelines promulgated thereunder, unless another low or moderate income housing subsidy program is applicable, which conforms to MGL c.40B, § 20-23. The restriction and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by Town Counsel to ensure compliance with this section, and shall be executed and recorded prior to the issuance of the first building permit for any dwelling unit in the development.
- 250615.1.4. Affordable units shall conform to the DHCD standards for inclusion in the DHCD Subsidized Housing Inventory for the Town. Any assisted living units as allowed under § 2504.1.2 above shall conform to DHCD standards for inclusion as rental units (either as market or affordable) in the DHCD Subsidized Housing Inventory for the Town.
- 250615.1.5. A right of first refusal in accordance with § 198-2207.7 of this Zoning Bylaw shall be granted to the Town or its designee for a period not less than 120 days after receipt of notice thereof.
- 250615.1.6. Affordable units must satisfy the design and construction standards of the Local Initiative Program, as set forth in DHCD's guidelines and regulations, as amended from time to time, with regard to indistinguishability from any market-rate units. The range of affordable units must be representative of the overall market-rate units in terms of unit mix, size and location, except for the unique three bedroom units described above. It is the intent of this Article 25 that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory for the Town as Local Initiative Program units, unless another low or moderate income housing subsidy program is applicable, which conforms to MGL c.40B, § 20-23.
- 250615.1.7. Affordable units must be constructed and occupancy permits obtained at the rate of not less than one affordable unit for every three market-rate units.
- 250615.1.8. In computing the number of required affordable units, any fraction of a unit shall be rounded up, and the result shall be the number of affordable units to be built within the development.

2506A Age-restricted units.

2506A.1 A minimum of 25% of all dwelling units shall be age restricted to a minimum of at least one occupant aged 55 or over.

2506E Efficiency of design.

2506E.1 Every effort shall be made to design buildings and use materials and construction techniques to optimize daylight in building interiors, natural ventilation, and energy efficiency; to minimize exposure to and consumption of toxics and nonrenewable resources; and to incorporate appropriate "green" design techniques.

2506U Utilities.

2506U.1 To the greatest extent practicable, electric, telephone, cable TV, and other utilities on the site shall be placed underground.

§ 198-2507. Peer review.

2507 The Planning Board, at the expense of the applicant and pursuant to MGL c. 44, § 53G, may engage qualified peer reviewers, including, but not limited to, traffic engineers, civil engineers, landscape architects, architects, wetlands scientists, lighting technicians, and attorneys, to review all site plan review applications.

§ 198-2508. Inapplicability of certain other regulations.

2508 Where this article specifies some standard or makes some other requirement contrary to a requirement set forth elsewhere in the Town's Zoning Bylaw, the provisions of this article, as may be amended from time to time, shall govern. The provisions of this article shall not supersede the requirements of the Wireless Communications Overlay District as set forth in Article 15 of the Zoning Bylaw of the Town.

Chapter 300

**AQUIFER PROTECTION DISTRICT PLANNING BOARD
REGULATIONS**

GENERAL REFERENCES

Zoning — See Ch. 198.

ARTICLE I
General Provisions

§ 300-1. Authority.

These regulations are promulgated by the Wayland Planning Board pursuant to laws which include but are not limited to the following:

- A. Article 16 of the Zoning Bylaws of the Town of Wayland.
- B. Massachusetts General Laws Chapter 40A.

§ 300-2. Purpose.

The purpose of these regulations is to implement the provisions of Article 16 of the Zoning Bylaw and to guide the planning, design and construction of developments in accordance with Article 16 of the Zoning Bylaw, namely to:

- A. Preserve and maintain the existing and potential groundwater supplies, aquifers and recharge areas of the town and to protect them from development or land use practices which would adversely affect their quality or quantity;
- B. Preserve and protect present and potential sources of drinking water for the public health and safety; and
- C. Conserve the town's water resources.

§ 300-3. Effective date; copies on file.

The effective date of these regulations is the date of adoption by the Wayland Planning Board: November 7, 1990. Copies of these regulations will be available at the office of the Planning Board and the office of the Town Clerk and will be furnished to the public at a reasonable cost to cover preparation, reproduction and handling.

§ 300-4. Applicability.

All developments or portions thereof which require a special permit under the provisions of Article 16 of the Zoning Bylaw shall comply with these regulations and with Article 16 of the Zoning Bylaw.

§ 300-5. Definitions.

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

APPLICATION — A duly submitted and completed request for a special permit under Article 16 of the Zoning Bylaw, filed with the development plan and all required forms, fees and information in accordance with the Zoning Bylaws and these regulations.

ARTICLE 16 OF THE ZONING BYLAW — Article 16 of the Zoning Bylaw

DEVELOPMENT — Alteration of a site by addition or removal of buildings, other structures, paved areas, parking areas, playgrounds, roads, drives or utilities; by changing existing grades; by using the site for waste disposal or storage of any materials or things; or by changing existing land use patterns (e.g., forested to farming).

PRC — The Rules and Regulations for the Conduct of Planning Board Functions, Meetings and Hearings, as amended.

ZONING BYLAWS — The Zoning Bylaws of the Town of Wayland, as amended.⁵⁷

§ 300-6. Forms.

All forms required for the purposes of these regulations are available from the Planning Board or its agent.

§ 300-7. Fees and costs.

- A. If a filing fee is required by any law or regulation other than Article 16 of the Zoning Bylaw, no additional filing fee shall be required hereunder. If no such other filing fee is required, the filing fee hereunder shall be \$1 per linear foot of street or portion thereof shown on the development plan, but not less than \$500.
- B. Other costs shall include costs of evaluating the application which are specific to Article 16 of the Zoning Bylaw, as described in § 198-1606.2.1. **[Amended 10-7-1997]**

§ 300-8. Relation to Zoning Bylaws.

The Zoning Bylaws shall apply to the development, insofar as they are applicable, and shall control if there is any inconsistency between the Zoning Bylaws and these regulations.

§ 300-9. Relation to other Planning Board regulations.

Other regulations of the Planning Board shall apply to the development unless inconsistent with these regulations, in which case these regulations shall control.

§ 300-10. Waivers.

- A. Strict compliance with the requirements of these regulations may be waived only when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the intent and purpose of Article 16 of the Zoning Bylaw and these regulations.

57. Editor's Note: See Ch. 198, Zoning.

- B. Any request from an applicant for a waiver of these regulations must be submitted in writing to the Planning Board at the time of, or prior to, submission of the application and must clearly identify the provision or provisions of these regulations from which relief is sought. Such request must be accompanied by a written statement explaining why, in the applicant's opinion, the granting of such a waiver would be in the public interest and would not be inconsistent with the intent and purpose of the Zoning Bylaws and these regulations.
- C. In waiving strict compliance, the Planning Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived. Waivers shall be in writing and signed by the Planning Board.

§ 300-11. Severability.

If any section, paragraph, sentence, clause or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these regulations shall be deemed valid and effective.

§ 300-12. Amendments.

These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the concurring vote of at least three members of the Planning Board.

§ 300-13. Additional information.

The Planning Board may from time to time require additional information which it believes is necessary for evaluation of a proposal or plan or in connection with construction. The applicant shall be notified in writing of any such requirement. If the need is not evident to the Board prior to the public hearing and/or the information cannot be furnished prior to the public hearing, the Planning Board may continue the hearing until the information is provided.

ARTICLE II
Submission of Plans

§ 300-14. Preliminary development plan.

- A. General. If allowed by the Planning Board, a preliminary development plan of a development may be submitted by the applicant at his/her expense to the Planning Board. The preliminary development plan is for the purpose of discussion prior to final engineering and shall be accepted and acted on in the same manner as a preliminary plan under the Subdivision Rules and Regulations.⁵⁸ It may consist of paper copies sufficient in number to provide one copy for each official or agency required by Subsection B below.
- B. Filing procedure. The preliminary development plan shall be filed as described in Section 3.0 of the PRC, using the form designated by the Planning Board for such purpose. Certified copies shall be transmitted to the Planning Board, the Engineering Department, the Water Commissioners, the Board of Health, the Conservation Commission, the Right-To-Know Coordinator, the Hazardous Waste Coordinator and any other officials or agencies as required in the PRC. The Planning Board shall hold an information meeting on the preliminary development plan. The applicant shall publish a notice of this meeting and availability of the plan for public review in a newspaper of general circulation at least two weeks before the meeting. This notice shall include the time, date and location of the meeting.
- C. Contents of the preliminary development plan shall be as follows:
- (1) Site rationale: a statement indicating how the development on the proposed site is compatible with the objectives of Article 16 of the Zoning Bylaw.
 - (2) A site plan including:
 - (a) Development name, boundaries, North point, date, scale (one inch equals 40 feet preferred), legend, the annotation "Preliminary Plan" and a locus map.
 - (b) Names and addresses of record owner, developer and professional advisors or designers.
 - (c) Names of all abutters as determined from the most recent local tax list.
 - (d) Existing and proposed lines of streets, ways, easements and public areas relevant to the site.

58. Editor's Note: See Ch. 303, Subdivision of Land.

- (e) Existing and proposed systems of wastewater disposal and stormwater management, including easements therefor, and relevant natural drainageways.
 - (f) Existing and proposed lot lines, with each lot numbered.
 - (g) Plan view of all roadways and drives and of all areas to be paved.
 - (h) Complete information on drainage systems and wastewater disposal systems.
 - (i) All other information necessary to show the nature and location of the development.
- (3) Site coverage summary: a statement providing the following information in summary form:
- (a) The total area of the site.
 - (b) The area and proportion of the total site occupied by each land use in both the existing and proposed condition.
 - (c) An estimate of the total upland lot area as defined in § 198-1504, with a description of the methods of computation and a list of dates when the data was gathered.
 - (d) Area and proportion of the total site occupied by impermeable surfaces in both the existing and proposed condition.
 - (e) The total number of dwelling units and the density of dwelling units per upland acre of the site in both the existing and proposed condition.
 - (f) The type of construction and materials of construction.
- (4) Information as set forth in § 198-1606.2.1.2 and 1606.2.1.5.
- (5) Any additional information required under sections of the Zoning Bylaws other than Article 16 of the Zoning Bylaw, insofar as such sections pertain to the specific type of development proposed.
- (6) Any additional information required under other sections of the Planning Board regulations, insofar as such sections pertain to the specific type of development proposed.
- (7) Any additional information specifically required by the Planning Board.

§ 300-15. Development plan.

The requirements for content and filing procedures shall be generally as described in § 300-14 above, modified according to directions issued by the Planning Board in its review of the preliminary development plan and

further modified by providing documents and plans intended for recording with the Registry of Deeds in a form suitable for submission to the Registry.

ARTICLE III

Design Standards; Administration**§ 300-16. Design standards.**

- A. The development shall conform to § 198-1606.8.
- B. The designs employed shall comply with the intent and requirements of § 198-1606.6.1.
- C. Additional design standards will apply as set forth in sections of the Zoning Bylaws other than Article 16 of the Zoning Bylaw, insofar as such sections apply to the particular type of development proposed.
- D. Additional design standards will apply as set forth in other sections of the Planning Board's rules and regulations, insofar as such sections apply to the particular type of development proposed.

§ 300-17. Administration.

- A. General: see the PRC for guidance.
- B. Specific to Article 16 of the Zoning Bylaw: see § 198-1606.6.2 and 1606.6.3.

Chapter 301

CONSERVATION CLUSTER DEVELOPMENT

GENERAL REFERENCES

Zoning — See Ch. 198.

ARTICLE I
General Provisions

§ 301-1. Authority.

Pursuant to the authority granted by Article 18 of the Zoning Bylaws of the Town of Wayland, the Planning Board has adopted the following regulations governing special permits for conservation cluster development in the Town of Wayland.

§ 301-2. Purpose.

The purpose of these regulations is to guide the planning, design and construction of developments in accordance with Article 18 of the Zoning Bylaws of the Town of Wayland in a manner consistent with the following objectives:

- A. Promoting the more efficient use of land in harmony with its natural features.
- B. Encouraging the preservation of open land for conservation, agriculture, open space and recreational use and preserving historical and archaeological resources.
- C. Protecting existing or potential municipal water supplies.
- D. Protecting and promoting the health, safety, convenience and general welfare of the inhabitants of the Town of Wayland.
- E. Implementing the Zoning Bylaws.

§ 301-3. Effective date; copies on file.

The effective date of these regulations is the date of adoption by the Wayland Planning Board, March 1, 1988. Copies of the regulations will be available at the office of the Planning Board and will be furnished to the public at a reasonable cost to cover preparation, reproduction and handling.

§ 301-4. Compliance.

A development or any phase thereof under Article 18 of the Zoning Bylaws shall comply with these regulations as in effect as of the date an application is duly submitted for the special permit and when all requirements for an application contained in Article 18 and in these regulations are met to the satisfaction of the Board.

§ 301-5. Definitions.

In addition to definitions contained in the Massachusetts General Laws, the Zoning Bylaws of the Town of Wayland and the Rules and Regulations Governing the Subdivision of Land, the following terms shall have the definitions below:

APPLICATION — A duly submitted and completed request for a special permit under Article 18 of the Zoning Bylaws of the Town of Wayland filed with the development plan and all required forms, fees and information in accordance with the Zoning Bylaws and these regulations.

BUFFER — Land, in its natural state or landscaped, unencumbered by structures or paved surfaces, which land is intended to provide a transition between different land uses or similar uses developed at different intensities or in different development patterns or between groups of houses within the conservation cluster development.

BUILDING LOT — A parcel of land on which a single dwelling can be erected in conformance with Article 18 of the Zoning Bylaws.

DEVELOPMENT — A plan and resulting construction subject to a special permit granted by the Planning Board pursuant to Article 18 of the Zoning Bylaws.

PLAN — The site plan required by Article 18 of the Zoning Bylaws of the Town of Wayland.

PRIVATE WAY — A road, street, highway, avenue or routed passage which has not been accepted as a public way by a vote of the town.

REGULATIONS — Regulations of the Planning Board for a special permit for conservation cluster development.

RULES AND REGULATIONS — The Rules and Regulations Governing the Subdivision of Land adopted by the Wayland Planning Board, as revised.⁵⁹

TOWN — The Town of Wayland.

TRACT — A parcel or parcels of land subject to one application under Article 18 of the Zoning Bylaws.

ZONING BYLAWS — The Zoning Bylaws of the Town of Wayland, as amended.⁶⁰

§ 301-6. Forms.

All forms required by the Rules and Regulations for the purposes of these regulations will be supplied to the applicant by the Planning Board or its agent.

§ 301-7. Fees and costs.

All costs incurred by the Town of Wayland to administer the requirements of the Massachusetts General Laws, the Zoning Bylaws, the Rules and Regulations Governing the Subdivision of Land, these regulations and other applicable rules and regulations of the Planning Board and other boards and commissions or departments of the Town of Wayland in connection with an application for a special permit for conservation cluster development shall

59. Editor's Note: See Ch. 303, Subdivision of Land.

60. Editor's Note: See Ch. 198, Zoning.

be borne by the applicant for the special permit as provided in Section 3.4 of the Rules and Regulations of the Planning Board for Conduct of Planning Board Functions, Meetings and Hearings.

§ 301-8. Relation to Zoning Bylaws.

The Wayland Zoning Bylaws shall apply to the development insofar as they are applicable and shall control if there is any inconsistency between the Zoning Bylaws and these regulations.

§ 301-9. Relation to Rules and Regulations.

The Rules and Regulations Governing the Subdivision of Land as revised from time to time shall apply to the development unless inconsistent with these regulations, in which case these regulations shall control.

§ 301-10. Waivers.

- A. Strict compliance with the requirements of these regulations may be waived only when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the intent and purpose of Article 18 of the Zoning Bylaws and these regulations.
- B. Any request from an applicant for a waiver of these regulations must be submitted in writing to the Board at the time of, or prior to, submission of the application and must clearly identify the provision or provisions of these regulations from which relief is sought. Such request must be accompanied by a statement setting forth the reason or reasons why, in the applicant's opinion, the granting of such a waiver would be in the public interest and not inconsistent with the intent and purpose of the Zoning Bylaws and these regulations.
- C. In waiving strict compliance, the Planning Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived. All waivers shall be granted in writing by the Planning Board.

§ 301-11. Severability.

If any section, paragraph, sentence, clause or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these regulations shall be deemed valid and effective.

§ 301-12. Amendments.

These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the concurring vote of at least three members of the Board.

§ 301-13. Additional information.

The information identified herein is not exclusive. The Planning Board may from time to time require any additional information which it feels is necessary in evaluating a proposal or plan or in connection with construction. The applicant shall be notified in writing of such requirement(s). If the need is not evident to the Board prior to the public hearing and/or the information cannot be furnished prior to the public hearing, the Board may continue the hearing until the information is provided.

ARTICLE II
Submission of Plans

§ 301-14. Concept plan.

- A. General. A concept plan of development may be submitted by the applicant at his expense to the Planning Board. The concept plan is for the purpose of discussion prior to final engineering and shall be accepted and acted on in the same manner as a preliminary plan under the Rules and Regulations.
- B. Filing procedure.
- (1) The concept plan shall be filed in the same manner as a preliminary plan and shall be considered submitted when delivered to the Planning Board at the next regular Planning Board meeting after being accepted during normal business hours as a complete filing by the Planning Board agent.
 - (2) The applicant shall also submit copies of the concept plan, at his expense, to the Town Clerk, the Conservation Commission, the Finance Committee, the Fire Chief, the Board of Health, the Building Commissioner, the Park and Recreation Commissioners, the Police Chief, the Road Commissioners, the School Committee, the School Building Planning Committee, the Selectmen, the Commissioners of the Water Department and the Zoning Board of Appeals. **[Amended 10-7-1997]**

§ 301-15. Site plan.

- A. General. A site plan as required in § 198-1802 of the Zoning Bylaws shall be filed in the same manner as a definitive plan under the Rules and Regulations. The site plan may be submitted at the same time as the application for a special permit for a conservation cluster development described in § 301-16 of these regulations.
- B. Contents. The site plan shall include all the item listed below:
- (1) All the requirements of the Rules and Regulations, Section III.B.3.
 - (2) All the information required in the Zoning Bylaws, §§ 198-1801 through 198-1805.
 - (3) To the extent applicable, all proposed instruments to be recorded with the plans.
 - (4) A plan showing:
 - (a) The number of building lots which could be created in the tract shown on such plan without a special permit; and
 - (b) The number of building lots obtained by dividing 90% of the total area of the tract, exclusive of land situated within the

floodplain or designated as wetlands by the Conservation Commission, by the minimum lot size permitted in the district within which the tract is located.

- (5) The front, side and rear yards of each lot shown on the plan by dashed lines indicating the area within which a building may be built.
- (6) The use and ownership of adjacent land and the location and use of any buildings thereon within 200 feet of the boundary of the tract.
- (7) Provisions for screening, surfacing, lighting and landscaping, including fences, walls, planting areas and walks.

C. Format.

- (1) The site plan shall be prepared by a land surveyor, landscape architect or professional engineer registered in the Commonwealth of Massachusetts. Said plan shall be drawn at a scale of one inch equals 40 feet, or such other scale approved by the Planning Board. Sheet size shall be no larger than 24 by 36 inches. When more than one sheet is submitted, a key sheet shall be provided.
- (2) Each sheet shall have a title.

§ 301-16. Special permit application.

A special permit for a conservation cluster development shall be submitted on a form supplied by the Planning Board in accordance with Section 3.0 of the Rules and Regulations of the Wayland Planning Board for Conduct of Planning Board Functions, Meeting and Hearings. Where the submittal procedure in said Section 3.0. is in conflict with those of § 301-15 of these regulations, § 301-15 of these regulations shall apply.

ARTICLE III
Design Standards

§ 301-17. Basic requirements.

The design standards contained in the Rules and Regulations shall govern all development in a conservation cluster development. In addition, the conservation cluster development shall meet the following design standards:

- A. The standards contained in § 198-1803.1.2 through 1803.1.7 and 1803.1.10 and all other sections of the Zoning Bylaws which are not in conflict with these regulations.
- B. Each building site shall have access by way of a relatively level drive which shall not have a grade in excess of 10%.
- C. There shall be a buffer strip at least 50 feet wide around the perimeter of the tract when the abutting use is not a conservation cluster development or dedicated open space or dedicated to conservation purposes.
- D. There shall be a buffer strip at least 30 feet wide between the groupings of building lots within the conservation cluster development.
- E. Each principal building shall have access from a street:
 - (1) Contained within the conservation cluster development; and
 - (2) Not in existence prior to the development of the cluster.
- F. No building, structure or pavement shall be located within areas which are required to be maintained as open land.
- G. Buildings shall be compatible with other buildings in the conservation cluster development.
- H. Buildings, open spaces, driveways and other development features shall be located and designed in a manner which conforms to the existing natural terrain of the site.
- I. All existing or proposed utilities shall be installed underground at the time of initial construction.

§ 301-18. Additional specifications.

All improvements not specifically mentioned in the Rules and Regulations or these regulations shall be subject to standards approved by the Planning Board.

ARTICLE IV
Improvements

§ 301-19. Basic requirements.

- A. The applicant shall design, install and maintain all improvements in accordance with the requirements and procedures, including performance guaranty, as required by the Rules and Regulations.
- B. All elements of the development shall be installed in a sequence acceptable to the Planning Board. Phases shall include complete building lot groups.

§ 301-20. Additional specifications.

- A. General. The minimum specifications of the Rules and Regulations and of this article shall govern the installation of all roadways, walkways, utilities and other improvements in all conservation cluster developments.
- B. In addition, the following improvements are required:
 - (1) All trees to be taken down in the development shall be visibly marked in the field at the request of the Planning Board, and such markings shall be maintained until the trees are cut. No marked trees shall be cut until approved by the Planning Board.

ARTICLE V
Administration

§ 301-21. Procedure.

- A. Special permit. A special permit submitted under § 198-1801 will be acted on in the same manner as a special permit prescribed in § 198-203 of the Zoning Bylaws and in MGL c. 40A.
- B. Definitive plan. A site plan submitted under § 198-1802 will be acted upon in the manner of a definitive plan, except that the hearing required on a definitive plan and the hearing required for a special permit may be held simultaneously.

§ 301-22. Findings.

Prior to granting a special permit, the Planning Board must make findings that:

- A. The objectives of the Zoning Bylaws and in particular of §§ 198-203 and 198-1803 are met; and
- B. All other requirements of the Zoning Bylaws of the Town of Wayland and of the Rules and Regulations are met.

§ 301-23. Review; public hearing; decision; conditions.

Review, public hearing, notification and recording shall be in the same manner as is required for a definitive plan. Reasonable conditions may be incorporated in the decision to approve a special permit, which shall include all requirements of § 198-1806 and may also include but are not limited to hours of construction, measures to mitigate adverse impacts, review of floor plans for phases after the first phase (which phase is reviewed with the original submission) and provision of a clerk of the works.

§ 301-24. Security.

Negotiable instruments, deposits of money, a performance bond of a surety company qualified to do business in the Commonwealth of Massachusetts and/or such other security as provided in the Rules and Regulations may be required by the Planning Board to cover the cost of construction of ways and the cost of installation of municipal utilities.

§ 301-25. Inspections.

Inspection of all areas not covered under inspections by the Planning Board or its designee and the Board of Health or its agent shall be carried out under the direction of the Planning Board at appropriate times during the improvements of the planned development in accordance with Section V.C of the Rules and Regulations.

§ 301-26. Title certification.

Whenever the fee or any lesser interest in land is offered to the town under these regulations, conveyance of the same shall be by a deed granting good and clear record and marketable title thereto, subject only to such exceptions as the Planning Board may approve. Further, at least 10 days before such conveyance, the party offering such interest shall, at its expense, deliver to Town Counsel an opinion of counsel certifying that the title is of the quality required hereby, which opinion shall be updated and confirmed to the time of conveyance.

§ 301-27. Communications.

Except as otherwise required by law, all communications with town officials or consultants must be forwarded through the Chairman of the Planning Board or his/her designee.

Chapter 302

SITE PLAN REVIEW AND APPROVAL

GENERAL REFERENCES

Zoning — See Ch. 198.

ARTICLE I
General Provisions

§ 302-1. Authority; title.

- A. These regulations are adopted by the Planning Board of the Town of Wayland as authorized by MGL c. 40A and by the Zoning Bylaws of the Town of Wayland (Zoning Bylaws), Article 6, Site Plan Approval, both as amended.
- B. These regulations shall be known as and may be cited as the "Site Plan Review and Approval Regulations of the Planning Board of the Town of Wayland" or as the "Site Plan Review and Approval Regulations" or simply as "these regulations."
- C. All citations in these regulations, whether direct or indirect, shall be to the most recent editions or versions of the reference, unless specified otherwise.

§ 302-2. Purpose.

The purpose of these regulations, as set forth in the Zoning Bylaws, Article 6, is to establish uniform standards and procedures for the review and approval of site plan applications, whether the Planning Board administers site plan review and approval or reviews site plan approvals that are administered by the Zoning Board of Appeals. (Section 302-6 of these regulations specifies when each Board administers site plan review and approval.)

§ 302-3. Word usage and definitions.

- A. Unless expressly stated otherwise, in construing these regulations the words used in these regulations shall have the definitions listed in the most recent editions of:
 - (1) First, MGL c. 40A;
 - (2) Second, these regulations;
 - (3) Third, the Zoning Bylaws;
 - (4) Fourth, Article 2 of 780 Code of Massachusetts Regulations, the Massachusetts State Building Code; and
 - (5) Fifth, Webster's Unabridged Dictionary.
- B. Technical terms or words or phrases and such others as may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning.
- C. All references to the town, to officials, boards, commissions, committees, departments, etc., refer to Wayland unless otherwise specified.

- D. Words in these definitions, and in these regulations, are assumed to apply in both the singular and plural and in both the feminine and masculine, unless the context clearly indicates otherwise or unless specified otherwise.
- E. As used in these regulations, the following terms shall have the meanings indicated:

AGENT — The department head or other staff engaged by a board, commission or other Town of Wayland body or any other person designated in writing by said body to act legally in its stead.

APPLICANT — The person who files either a complete Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable or a complete Application for Site Plan Review and Approval. The applicant must be the owner of all land included in the plan. A representative (including lessee) or assigns may act for an owner, provided that written evidence of such fact is submitted. When an owner and/or his representative is other than an individual, evidence in the form of a certified list of the officers and authority designated to sign legal documents shall be required.

APPLICATION or REQUEST — All plans, data, narrative and other material required by these regulations or the Zoning Bylaws as part of a submittal to the Planning Board.

ARCHITECT — A person registered and/or legally permitted to practice as a professional architect in the Commonwealth of Massachusetts.

BOARD — The Planning Board of the Town of Wayland.

CALCULATION OF GROSS FLOOR AREA — A figure determined by the Planning Board for a change of use based on the aggregate of all such changes authorized since the original site plan approval or, if there is no site plan approval, since construction of the original structure.

CERTIFIED or ENDORSED — As applied to a plan or other instrument required or authorized by the Zoning Bylaws or these regulations to be recorded, bears a certification or endorsement by the appropriate majority of the acting board 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, which statement must be signed by the appropriate majority of said board.

DAY — A calendar day unless specified otherwise.

DEVELOPMENT PLAN OR PLAN — All drawings or sketches required by these regulations or the Zoning Bylaws as part of a submittal.

DRAIN — A channel or pipe that carries drainage water.

DRAINAGE — The control of surface and subsurface water.

EASEMENT — A right acquired by a public authority or other person for use or control of property for utility or any other designated purpose.

ENGINEER — A person registered and/or legally permitted to practice professional engineering in the Commonwealth of Massachusetts.

FINAL ACTION — The filing of the Planning Board's or the Zoning Board of Appeals' site plan decision at the Town Clerk's office.

HORIZONTAL CURVE — The portion of the right-of-way line along which a change in alignment occurs in the horizontal plane.

IMPROVEMENT — Any man-made immovable item, facility or service, together with its associated site or right-of-way, that becomes part of, placed upon or affixed to real estate or the land.

MAJOR REVISIONS OR AMENDMENTS — Changes proposed to approved site plans that are not minor revisions, as defined herein.

MASSACHUSETTS GENERAL LAWS ANNOTATED OR MGL — The General Laws of the Commonwealth of Massachusetts, Ter. Ed., with all additions and amendments thereto. In the case of a rearrangement of the General Laws, any citation of particular chapters/sections herein set forth shall be applicable to the corresponding chapters/sections in the new codification.

MINOR REVISIONS OR AMENDMENTS — Changes that are internal to existing structures (see the Zoning Bylaws, § 198-608.2).

PERMANENT BENCHMARK — A permanent reference point with the elevation accurately established by stone or concrete bounds and referenced to the United States Coast and Geodetic Survey (USCGS) datum.

PLAN — See "development plan."

RECORD, RECORDED OR RECORDING — Record, recorded or recording in the Registry of Deeds of the county or district in which the land in question is situated, except that instruments for registered land refer to those filed with the Recorder of the Land Court.

REGISTERED MAIL — Registered or certified mail. Return receipt mail is referred to specifically as such.

REGISTER OR REGISTRY OF DEEDS — The Register or Registry of Deeds of the county or district in which the land in question, or the town in question, is situated and, when appropriate, shall include the Land Court or Recorder thereof, namely, in the Town of Wayland, Middlesex County.

REGULATIONS — Site Plan Review and Approval Regulations of the Planning Board of the Town of Wayland as adopted and amended from time to time by the Planning Board pursuant to the Zoning Bylaws.

RIGHT-OF-WAY — The full strip of land designated for vehicular and sometimes pedestrian traffic, consisting of the pavement or traveled

way and any planting strips and sidewalks. A right-of-way so designated shall be available only for such uses as are customary for rights-of-way in the Town of Wayland and shall not be available for any private construction, such as buildings, fuel tanks, septic systems, fences, walls or paved parking areas.

RIGHT-OF-WAY ALIGNMENT —

- (1) The ground plan of the right-of-way.
- (2) The sequence of straight lines and curves that define the location of the right-of-way.

SIDEWALK or WALK — A way designed primarily for pedestrian use.

SIGHT DISTANCE — The length of road, roadway or street visible to the driver of an automobile.

SPRA — Site plan review and approval.

STORM DRAIN or STORM SEWER — A drain system that carries stormwater, surface water and the discharge from subsurface drains but does not carry wastewater.

STORMWATER — Precipitation that flows over or under the surface of the ground; "runoff" is that portion of precipitation that flows over the surface of the ground.

SUBDIVISION REGULATIONS — The Subdivision Regulations adopted by the Wayland Planning Board, as revised.⁶¹

SURFACE WATER — Stormwater runoff and all other water on the surface of the land, whether temporary or permanent.

SURVEYOR — A person registered or legally permitted to practice land surveying in the Commonwealth of Massachusetts.

TOWN — The Town of Wayland.

TRIBUTARY AREA — The area from which stormwater runoff contributes to the flow at a particular location.

UTILITIES — Sewers, water drains and other private or public utilities, including but not limited to water pipes, gas pipes, electric lines, telephone lines, fire alarm lines, cable television lines and their appurtenances.

VERTICAL CURVE — The portion of the right-of-way line along which change in alignment occurs in the vertical plane.

§ 302-4. Applicability.

- A. No person shall undertake any improvement or alteration, and no building permits shall be issued therefor, until site plan review and approval as described herein has been issued, unless the proposed

61. Editor's Note: See Ch. 303, Subdivision of Land.

activity is exempt from site plan review and approval as described in these regulations, § 302-5, or until the completed Planning Board Confirmation that Site Plan Review and Approval Are Not Applicable, endorsed by the Planning Board, has been received by the Building Commissioner.

B. Any applicant applying for site plan review and approval under the Zoning Bylaws shall comply with these regulations. Site plan review and approval shall apply to any improvement, alteration or change of use to, on or with respect to:

- (1) Any vacant lot, or vacant contiguous lots under the same ownership, where such improvement, alteration or change of use requires or results in the erection or placement of any structure or parking area on said lot or lots.
- (2) Any existing structure or group of structures under the same ownership on the same or contiguous lots where such improvement, alteration or change of use requires or results in a substantial alteration to any area of parking, loading or vehicular access as set forth in the Zoning Bylaws, § 198-601.2.4, that is, any proposal where:
 - (a) All or part of such existing or proposed areas is located off the site of the primary use or structure;
 - (b) Any resurfacing of such areas results in any change in the design of the septic or drainage systems on or for the site;
 - (c) Any curb cut is relocated, added or otherwise changed;
 - (d) The Zoning Bylaws require more parking than was required for the previous use; or
 - (e) An increase in the area of such parking areas is required as follows:

If the total square footage currently required for such areas is:	Then "substantial alteration" shall mean any increase greater than:
Less than 15,000 square feet	33.3% of such areas or 1,499 square feet, whichever is smaller
15,000 square feet to less than 30,000 square feet	10% of such area
30,000 square feet or more	3,000 square feet

- (3) Any existing structure or group of structures under the same ownership on the same or contiguous lots where such improvement, alteration or change of use requires or results in an

increase of the gross floor area as set forth in the Zoning Bylaws, § 198-601.2.3, repeated herein as follows:

If the gross floor area of original structure or SPRA-authorized structure is:

(square feet)

Then SPRA shall be required for any increase greater than:

Less than 3,333	30% of existing gross floor area
3,333 to less than 5,000	1,000 square feet
5,000 to less than 7,500	20% of existing gross floor area
7,500 to less than 15,000	1,500 square feet
15,000 to less than 25,000	10% of existing gross floor area
25,000 to less than 50,000	2,500 square feet
50,000 to less than 80,000	5% of existing gross floor area
80,000 to less than 100,000	4,000 square feet
100,000 to less than 125,000	4% of existing gross floor area
125,000 or more	5,000 square feet

- C. Site plan review and approval shall be a prerequisite to the issuance of any special permit, permit and/or variance required by the Zoning Bylaws unless exempted from site plan review and approval by these regulations, § 302-5.

§ 302-5. Exemptions.

Site plan review and approval shall not apply to the construction, reconstruction, alteration, enlargement or use of the following:

- A. Single- or two-family residential structures or owner-occupied multifamily structures or structures or uses accessory thereto; or
- B. Any proposal subject to Article 18 (Conservation Cluster Development) or Article 19 (Planned Development District) or Article 20 (Southeast Wayland-Cochituate Planning District) of the Zoning Bylaws.

§ 302-6. Administration.

- A. The Planning Board shall administer site plan review and approval:
 - (1) When the Zoning Bylaws do not also require a special permit, permit and/or variance from the Zoning Board of Appeals; or
 - (2) When the Zoning Bylaws also require a special permit from the Planning Board.
- B. The Zoning Board of Appeals shall administer site plan approval when the Zoning Bylaws also require a special permit, permit and/or variance from the Zoning Board of Appeals. In all such cases the applicant shall

submit the complete application or request as required herein, and the Planning Board shall review and submit a written advisory report with recommendations thereon to the Zoning Board of Appeals as required herein.

§ 302-7. Waivers.

- A. The Planning Board may waive strict compliance with the provisions of these regulations, including the holding of a public hearing, when, in the written judgment of the Planning Board, the waiver is in the public interest or if the information required by these regulations is irrelevant to the project and the result of said waiver granted is consistent with the intent and purpose of the Zoning Bylaws and these regulations.
- B. Any request for a waiver from these regulations shall be submitted, in writing, to the Planning Board. Said requests shall include a statement that clearly identifies the provision or provisions of these regulations from which relief is sought and a statement setting forth the reason or reasons why, in the applicant's opinion, the granting of such waiver would be in the public interest or why the required information is irrelevant to the project and why a waiver would be consistent with the intent and purpose of the Zoning Bylaws and these regulations.
- C. The Planning Board shall vote on any request for a waiver within 21 days of the date of submittal of the complete application or request. If no vote is taken within said 21 days, said waiver request shall be deemed to be approved.
- D. In waiving strict compliance with these regulations, the Planning Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived. All granted waivers shall be written as part of the special permit.

§ 302-8. Security.

The Planning Board may require the provision of reasonable security to the town, or it may recommend such security to the Zoning Board of Appeals, in such form and in such amount as may be determined by the Planning Board or its agent to ensure the satisfactory completion of all improvements required by site plan approval, exclusive of improvements made and related exclusively to structures and parking areas.

§ 302-9. Fees.

The Planning Board shall, without the need for a public hearing, establish and may periodically amend a schedule of fees for applications or requests made under these regulations. No such application or request shall be considered complete unless accompanied by the required fees.

§ 302-10. Amendments; when effective; filing.

- A. These regulations may be amended by a majority vote of the Planning Board at any regularly scheduled meeting thereof after a public hearing has been held, the advertisement for which shall appear in a newspaper of general local circulation in two different weeks, the first advertisement to appear no less than seven days prior to the date of said hearing.
- B. These regulations and amendments thereto shall become effective on the date such regulations are adopted and filed at the Town Clerk's office.
- C. These regulations and any amendments thereto shall be filed at the Town Clerk's office within seven days of adoption.
- D. Copies of these regulations and any amendments thereto shall be made available at the Planning Board office and at the Building Commissioner's office to all persons upon request at a reasonable cost to be established by the Board.

§ 302-11. Communication with town personnel.

- A. To ensure interoffice communication and uniformity of advice on all submittals, the applicant is advised to inform the Planning Board or its agent, in advance, of all appointments made with other town personnel and to copy the Planning Board or its agent in on all correspondence and communication with town personnel.
- B. Any advice, opinion or information given to the applicant by a board member or by any agency, official, employee or personnel of the town shall be considered advisory only and not binding.

§ 302-12. Additional information.

The Planning Board may from time to time require additional information that it believes is necessary for evaluation of the development or plan or in connection with construction of said development. Notification of any such requirement shall be in writing. If the need for such information is not evident prior to the public hearing and/or the information cannot be furnished prior to said hearing, the Planning Board may continue said hearing until such information is provided and reviewed.

§ 302-13. Severability.

If any section, paragraph, sentence, clause or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these regulations shall be deemed valid and effective.

§ 302-14. Notice of violation.

Written notice of any violation of the Zoning Bylaws, Article 6, or these regulations or of any site plan approval issued thereunder shall be provided

by the Building Commissioner to the owner of the premises, specifying the nature of each violation and a reasonable schedule of compliance. In no event shall more than 30 days be allowed for either compliance or completion of a plan for longer-term compliance.

ARTICLE II

Filing Applications and Requests**§ 302-15. Application forms.**

Applicants shall submit the appropriate form, either an Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable, together with a Planning Board Confirmation that Site Plan Review and Approval Are Not Applicable, or an Application for Site Plan Review and Approval. Information, forms and guidance can be obtained at either the Planning Board office or the Building Commissioner's office. The appropriate form shall be submitted, as follows:

- A. An Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable shall be submitted with required documentation for any development that will require or result in any improvement, alteration or change of use to, on or with respect to:
 - (1) Any vacant lot or vacant contiguous lots under the same ownership;
 - (2) Any existing structure or group of structures under the same ownership on the same or contiguous lots where such improvement, alteration or change of use requires or results in any alteration to areas of parking, loading or vehicular access; or
 - (3) Any existing structure or group of structures under the same ownership on the same or contiguous lots where such improvement, alteration or change of use requires or results in any increase in gross floor area.
- B. In the alternative, an applicant may acknowledge that the proposed development necessitates site plan review and approval, in which case the applicant shall directly submit an Application for Site Plan Review and Approval with required documentation.

§ 302-16. Submittal requirements.

Applicants shall obtain the required forms and related materials at the Planning Board office or at the Building Commissioner's office. In order to be deemed complete, forms, related materials and fees shall be submitted as follows:

- A. One copy of the Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable shall be filed at the Town Clerk's office, and a receipt therefor shall be issued by said office for submittal as part of the request. Additionally, one original and three copies of the Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable, plus one original of the Planning Board Confirmation that Site Plan Review and Approval Are Not Applicable, shall be submitted at the Planning Board office, along with a copy of the receipt obtained from the Town Clerk's office certifying that the Applicant's Determination that Site Plan Review and Approval Are/Are Not

Applicable was filed at the Town Clerk's office. Simultaneously, one additional copy of the Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable shall also be submitted at the Building Commissioner's office.

- B. One copy of the Application for Site Plan Review and Approval shall be filed at the Town Clerk's office, and a receipt therefor shall be issued by said office for submittal as part of the application. Additionally, one original and 10 copies of the Application for Site Plan Review and Approval shall be submitted at the Planning Board office, along with a copy of the receipt obtained from the Town Clerk's office certifying that said form was filed at the Town Clerk's office. Simultaneously, one original and five copies of plans and other materials, as set forth in these regulations, § 302-22, shall also be submitted at the Planning Board office.

§ 302-17. Place of filing and submittal.

Completed application or request forms shall be filed at the locations specified in § 302-16 above during hours in which said offices are open (check with said offices to verify hours during which they will be open).

§ 302-18. Status of application or request.

Within three work days of the submittal date of the application or request, or within three work days of any subsequent submittal date in response to a determination that any such submittal was incomplete, the Planning Board or its agent shall review said submittal and inform the applicant and the Town Clerk, in writing, as to whether said submittal is deemed complete. If said submittal is determined to be incomplete, the applicant shall receive written notice from the Planning Board or its agent listing the items or information needed to complete said submittal. When the submittal is deemed complete by the Planning Board, it shall notify the Town Clerk, in writing, of the final submittal date. The final submittal date shall be the date that the Planning Board office receives the completed submittal. For submittals that have been deemed incomplete, the applicant must agree, in writing, to any new submittal or filing date in order for any additional information or material to be considered part of the original submittal.

§ 302-19. Responsibility for information and materials.

By submitting an application or request under these regulations, the applicant assumes responsibility for the accuracy and representations made or implied for all of the information and materials that constitute said application or request.

ARTICLE III
Information Required

§ 302-20. Supplemental site plan.

- A. Applicant's Determination that Site Plan Review and Approval Are/ Are Not Applicable. In addition to the submittal of the Applicant's Determination that Site Plan Review and Approval Are/ Are Not Applicable, as set forth in these regulations, § 302-15, the applicant may provide for the site an optional plan with the information listed in Subsection B below (see "supplemental site plan").
- B. Optional supplemental site plan. In order to facilitate Planning Board determination that the requirements for site plan review and approval do not apply to the proposed development, applicants may provide an optional supplemental site plan. Any development plan should be presented at a suitable scale, clearly and legibly drawn, so as to fully depict and detail the intentions of the applicant. Plan sheets should not be larger than 24 by 36 inches. Plans should show the following for the site, as appropriate (all lines, boundaries, setbacks, etc., must be labeled and must show approximate dimensions and directions and all lots, districts, structure footprints, etc., must show approximate areas, in acres and in square feet):
 - (1) Zoning districts (including the Floodplain, Aquifer Protection and Watershed Protection Districts).
 - (2) Wetlands and wetland buffers, as defined in MGL c. 131, § 40.
 - (3) Watercourses and water bodies, including ponds, streams, brooks and ditches.
 - (4) The outline or footprint of existing structures, including the gross floor areas thereof.
 - (5) Setbacks for existing structures and existing and proposed parking and loading facilities.
 - (6) Existing and proposed sidewalks, walkways, driveways and accesses to the site.
 - (7) Existing and proposed parking and loading facilities, including proposed landscaped areas within the perimeter of parking facilities. Parking spaces must be identified as either standard size, compact size or handicap and shown on the plan. The plan must show at least one parking space of each type provided. All areas proposed for reserve parking shall be identified.
- C. Other information. Applicants are invited to submit more information where such information aids in the proper evaluation of the request. Additional information, including the development plans described in

Subsection B above, may be required by the Planning Board if such information is necessary to properly act upon the request.

- D. Verification of Planning Board confirmation that site plan review and approval are not required. When a Planning Board Confirmation that Site Plan Review and Approval Are Not Applicable is issued by the Planning Board, the Building Commissioner shall verify that the plans submitted with relevant applications, and the plans approved as part of approved permits, do not propose any activity that is subject to site plan review and approval.

§ 302-21. Optional preliminary site plan review.

- A. General. Applicants are encouraged, but not required, to submit review copies of preliminary site plans (not including the Application for Site Plan Review and Approval form) to the Planning Board. Preliminary review of said site plans is recommended and can help expedite the processing of the final application. Substantially the same plans required for the Application for Site Plan Review and Approval in these regulations, § 302-22, shall be submitted for the optional preliminary site plan review. Preliminary site plans shall not constitute a formal application for site plan review and approval and need not be stamped or certified by professionals.
- B. Review of preliminary site plan. Town personnel may review preliminary site plan submittals in an attempt to promote greater efficiency in the ensuing formal review process. Said personnel will limit their review of preapplication submittals to technical issues within their expertise and may offer preliminary opinions as to whether waiver requests are feasible. However, all comments offered during this preapplication review are nonbinding and shall not be construed to constitute instructions or directives of a binding nature. Town personnel will not be responsible for assuring the thoroughness, completeness or correctness of any final application. It is the responsibility of the applicant to ensure that any application to the Board is complete and accurate.

§ 302-22. Application and plan contents.

- A. Application for site plan review and approval.
 - (1) As part of the submittal of the Application for Site Plan Review and Approval, as set forth in these regulations, § 302-15, the applicant shall provide the information listed in this section.
 - (2) The Planning Board may waive any information requirements it finds unnecessary for the review of a particular application.
- B. List of requested waivers. Any request for a waiver from these regulations shall be submitted as part of the application. Said requests shall include a statement that clearly identifies the provision or

provisions of these regulations from which relief is sought and a statement setting forth the reason or reasons why, in the applicant's opinion, the granting of each such waiver would be in the public interest and not inconsistent with the intent and purpose of the Zoning Bylaws and these regulations.

C. Site plan.

- (1) Any site plan for which an applicant seeks approval shall be presented at a suitable scale, which shall be shown on each sheet of said plan. Said plan shall be clearly and legibly drawn, so as to fully depict and detail the intentions of the applicant. The site plan shall be suitable for recording.
- (2) For complex projects, the use of multiple sheets in preparation of the site plan is encouraged. The major headings of this section may serve to distinguish these multiple sheets; however, applicants should present the information in the most effective manner. Where multiple plan sheets are used, an index and numbering system shall be provided for convenience. Plan sheets shall not be larger than 24 by 36 inches.
- (3) The cover sheet shall include an appropriate title block and North arrow. Space shall be provided for endorsement, including the date, with the caption "Date Site Plan Endorsed: _____."
- (4) Plans shall be stamped and certified by an appropriate registered professional, such as an architect, landscape architect, land surveyor and/or engineer. A checklist of all of the items listed in this section, Subsections A through E, shall be included with the application, with each item marked either "Applicable, see site plan, sheet(s) No. ____" or "Not applicable, request for waiver submitted." The site plan shall provide the following information, as applicable (all lines, boundaries, setbacks, etc., must be labeled and must show precise dimensions and directions and all lots, districts, footprints, etc., must show precise areas, in acres and in square feet):
 - (a) The plan shall show all of the following general site characteristics on or related to the site:
 - [1] The locus at a scale of one inch equals 1,000 feet for a minimum radius of 1/2 mile centered on the site.
 - [2] On each plan sheet, a legend identifying any representative symbols used on said plan sheet.
 - [3] Lot lines and boundaries of the site, with permanent bounds, and abutters with their property lines indicated.
 - [4] Existing and proposed easements.

- [5] Existing and proposed internal and adjacent private and public rights-of-way, edges of pavement and other surface and subsurface features within said rights-of-way.
 - [6] Zoning districts (including the Floodplain, Aquifer Protection and Watershed Protection Districts).
 - [7] Existing and proposed topography at two-foot intervals, referenced to the National Geodetic Vertical Datum, with the location and elevation of the permanent benchmark, plus at least two additional permanent benchmarks on the site.
 - [8] Areas intended for use as open space.
 - [9] Wetlands and wetland buffers, as defined in MGL c. 131, § 40.
 - [10] Watercourses and water bodies, including ponds, streams, brooks and ditches.
 - [11] Special site features, including stone walls, fences, historic structures, ledge outcroppings, large trees, etc.
- (b) The plan shall show all of the following site improvements on or related to the site:
- [1] The outline or footprint of existing and proposed structures.
 - [2] Elevations of the front, sides and rear of existing and proposed structures, with maximum heights indicated.
 - [3] Floor plans of existing and proposed structures, with an indication of the use or uses intended for each floor in question and an indication of the net floor area for each use.
 - [4] Setbacks for existing and proposed structures and parking and loading facilities.
 - [5] Existing and proposed signs.
 - [6] Areas intended for outdoor storage, indicating whether fenced or enclosed.
 - [7] Underground storage containers for fuel or other chemical storage, including type and capacity of each container.
 - [8] Existing and proposed sidewalks, walkways, driveways and accesses to the site.
 - [9] Existing and proposed parking and loading facilities, including any proposed landscaped areas within the

perimeter of a parking facility. Parking spaces must be identified as either standard size, compact size or handicap and shown on the plan. The plan must show at least one parking space of each type provided. Areas proposed for reserve parking shall be identified.

[10] Materials to be used in the construction of impermeable surfaces shall be noted on the plan, with specifications for construction consistent with those set forth in the Subdivision Regulations of the Planning Board.

(c) The plan shall show all of the following site utilities on or related to the site:

[1] Stormwater drainage facilities by type, including construction materials of pipes, culverts, catch basins and other system components. Sufficient information relating to the placement of drainage system components (rim and invert elevations, pipe slopes and amount of cover) shall be provided to evaluate the system. Any proposed drainage ponds shall be depicted.

[2] Devices to control erosion and sedimentation during and after construction.

[3] Water service facilities by type. If on-site wells are to be used, their proposed location and distance from structures and sewage disposal systems must be shown. If public water is to be used, the water main serving the site must be identified, sized and its location shown.

[4] Fire hydrants on the site or off the site but within 500 feet of the principal structure on the site. If there is no hydrant within 500 feet of the principal structure on the site, the applicant shall indicate how fire protection is to be provided for the site. The location of proposed fire alarm boxes or other warning system and fire lanes shall be provided.

[5] Underground utilities.

[6] Solid waste disposal facilities by type.

[7] Proposed and existing on-site sewage disposal systems, including required reserve areas, and the locations of water mains with respect to said systems. If a sewage treatment plant is proposed, its location and those of water mains must be shown.

(d) The plan shall show typical details, profiles and/or cross sections, with slopes, dimensions, curves, etc., as applicable,

of all of the following construction features on or related to the site:

- [1] Rights-of-way, catch basins, manholes, headwalls, sidewalks, walkways, driveways, parking and loading areas, subdrains, waterways, leaching basins, drainage ponds, etc.
- [2] Tree wells, tree plantings and specialty planting areas.
- [3] Each type of parking space.
- [4] Outdoor structures, including lighting fixtures, signs, etc.
- [5] Erosion, sedimentation and other construction and pollution control devices.

(e) The plan shall show all of the following landscaping details on or related to the site:

- [1] Buffer areas, with plantings detailed by common name of species, height (at planting), spread (at maturity) and quantity to be planted.
- [2] The perimeter of existing wooded areas, with those wooded areas to be preserved indicated.
- [3] Tabulations of building coverages, open spaces, wooded areas, etc.

D. Written submittals.

- (1) Drainage calculations used to support the design of the stormwater drainage system depicted on the site plan shall be submitted.
- (2) A description and analysis of the measures proposed to prevent pollution of ground- and surface water, erosion of soil, excessive runoff of precipitation, excessive raising or lowering of the water table and flooding of other properties shall be submitted.
- (3) A description and analysis of design features intended to integrate the proposed new and altered buildings, structures, signs and plantings into the existing landscape to preserve and enhance aesthetic assets of the site and to screen objectionable features from adjacent properties shall be submitted.
- (4) Traffic study.
 - (a) A traffic study shall be submitted, which shall include but not be limited to:
 - [1] Existing and projected number of motor vehicle trips to enter or depart the site for an average day and peak hours.

- [2] Existing and projected traffic flow patterns for both vehicular and pedestrian traffic, including vehicular movements and sight distances at existing and proposed intersections and those likely to be affected by the proposed development.
 - (b) The impact of this traffic on existing streets shall be evaluated in relation to road capacities.
 - (5) A description and analysis of proposed waste disposal practices and their impacts and a description and analysis of past waste disposal practices and their impacts, insofar as said practices and impacts can be determined from reasonably available historic sources, shall be submitted.
- E. Other information. Applicants are invited to submit more information where such information aids in the proper evaluation of the application. Additional information may be required by the Planning Board if such information is necessary to properly act upon the application.

ARTICLE IV
Procedures; Decisions; Amendments

§ 302-23. Planning Board procedures.

- A. Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable.
- (1) Within 10 days of the submittal of a complete Applicant's Determination that Site Plan Review and Approval Are/Are Not Applicable and a complete Planning Board Confirmation that Site Plan Review and Approval Are Not Applicable, the Planning Board or its agent shall notify the applicant, the Zoning Board of Appeals, the Building Commissioner, the Board of Health and the Conservation Commission, in writing, whether the requirements of site plan review and approval are applicable.
 - (2) When it is determined that the requirements for site plan review and approval do not apply to the proposed development, the Planning Board shall execute a confirmation to that effect (Planning Board Confirmation that Site Plan Review and Approval Are Not Applicable) at its next regularly scheduled meeting. Such confirmation shall be made by majority vote of the Planning Board.
 - (3) When the Planning Board or its agent determines that the requirements for site plan review and approval do apply, the notice of said determination shall include the reasons why site plan review and approval do apply.
- B. Application for site plan review and approval.
- (1) Within three work days of the submittal of a complete Application for Site Plan Review and Approval, the Planning Board or its agent shall transmit one copy of said complete form to the Planning Board consultant, Zoning Board of Appeals, Board of Health, Conservation Commission, Highway Department, Fire Department, Police Department, Water Department and Town Surveyor. A file copy of the plans and other required submittals shall remain in the office of the Planning Board to serve as a common review copy. The Planning Board may distribute other copies of plans and related materials as necessary.
 - (2) Each board or department receiving an Application for Site Plan Review and Approval may, within 30 days of the date of the submittal of the complete application, submit to the Planning Board or its agent a written advisory report recommending approval, approval with modifications or conditions or disapproval, stating its reasons therefor. Failure to respond within 30 days shall be deemed a lack of opposition to the application.

- (3) When the Planning Board approves site plans (see these regulations, § 302-6), it shall take final action on an Application for Site Plan Review and Approval in the following manner:
 - (a) For site plan applications or for applications for revisions or amendments to approved site plans determined to be major, within 60 days from the date of submittal of the complete application.
 - (b) For applications for revisions or amendments to approved site plans determined to be minor, within 45 days from the date of submittal of the complete application.
- (4) The Planning Board shall not hold its public hearing on any application until 30 days from the date of the submittal of the completed application.
- (5) When the Zoning Board of Appeals approves site plans (see these regulations, § 302-6), the Planning Board shall not hold a public hearing regarding the application. Instead, the Planning Board shall review the application and related materials and submit to the Zoning Board of Appeals, within 30 days of the date of the submittal of the complete application, a written advisory report recommending approval, approval with modifications or conditions or disapproval, stating its reasons therefor. Failure to respond within 30 days shall be deemed a lack of opposition to the application. The Planning Board shall include in said submittal copies of advisory reports received from other boards or officials. Said submittal shall be submitted prior to the public hearing held by the Zoning Board of Appeals. The Zoning Board of Appeals shall notify the Planning Board of the date of said hearing as soon as said date is set.
- (6) When the Zoning Board of Appeals approves site plans (see these regulations, § 302-6), it shall give due consideration in its decision to the findings and recommendations of the Planning Board advisory report. The decision of the Zoning Board of Appeals may deviate from said report, but the Zoning Board of Appeals, prior to its decision deadline, shall submit to the Planning Board written justification for each such deviation.
- (7) When the Zoning Board of Appeals approves site plans, it shall take final action on said approval in accordance with the requirements governing special permits, permits and/or variances.
- C. Extension of deadlines. The applicant may agree, in writing, to extend any of the deadlines set forth in these regulations (see Site Plan Review and Approval Agreement for Extension of Time). Said agreement shall forthwith be filed at the Town Clerk's office.
- D. Constructive approval. When the Planning Board approves site plans (see these regulations, § 302-6), failure by said Board to take final

action within the specified time shall be deemed approval of the site plan application, but only in accordance with MGL c. 40A, § 9.

§ 302-24. Decisions; appeals.

- A. Standards and criteria. The Planning Board shall review the complete application and determine whether said submittal is consistent with the standards and criteria of the Zoning Bylaws, § 198-606.2.1 through 606.2.10, repeated herein as follows:
- (1) The proposal shall be integrated into the existing terrain and surrounding landscape. Proposals shall, to the extent feasible:
 - (a) Minimize the use of wetlands, steep slopes, floodplains and hilltops.
 - (b) Preserve natural or historic features.
 - (c) Maximize retention of open space.
 - (d) Preserve scenic views from publicly accessible locations.
 - (e) Minimize tree, vegetation and soil removal, blasting and grade changes.
 - (f) Screen objectionable features from adjacent properties and roadways.
 - (2) The proposal shall include an adequate water supply system and adequate sewage and other waste disposal systems. Where sewage disposal systems are required, the applicant shall submit information thereon as required by the Board of Health.
 - (3) The proposal shall incorporate measures adequate to prevent pollution of surface water or groundwater, to minimize erosion and sedimentation and to prevent changes in groundwater levels and increased rates of runoff and to minimize potential for flooding. Drainage shall be designed to maximize groundwater recharge and to prevent any increase in the rate and volume of runoff at the site's perimeter.
 - (4) To the extent feasible, the proposal shall minimize demands placed on town services and infrastructure.
 - (5) The proposal shall provide safe vehicular and pedestrian movement within the site and to adjacent ways, including sidewalks, crosswalks and the like.
 - (6) Design of buildings, structures and landscaping shall be in harmony with the prevailing character and scale of the buildings, structures and landscaping of the zoning district of the site and of adjacent properties. Such design shall include the use of

appropriate building materials, screening and similar architectural techniques.

- (7) To the extent practicable, electric, telephone, cable television and other utilities on the site shall be placed underground.
- (8) Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and similar unsightly buildings, structures, uses and activities shall be set back and/or screened to the extent feasible to protect adjacent properties from objectionable features.
- (9) To the extent feasible, proposals shall be designed to minimize shadows cast on adjacent properties in residential zoning districts.
- (10) There shall be no unreasonable glare from lighting, whether direct or reflected, onto roads and other ways, to the night sky or onto adjacent properties in residential zoning districts.

B. Form of decision.

- (1) When the Planning Board approves site plans (see these regulations, § 302-6), it shall approve, approve with modifications or conditions or disapprove the Application for Site Plan Review and Approval, stating its reasons therefor in writing.
- (2) The Planning Board may disapprove said application where:
 - (a) The submittal is incomplete;
 - (b) The imposition of reasonable conditions likely would not ensure that the proposal would conform to the standards and criteria of the Zoning Bylaws, Article 6, or
 - (c) The proposal does not comply with the Zoning Bylaws. However, the Planning Board may waive this requirement where such noncompliance is permitted by the Zoning Board of Appeals pursuant to MGL c. 40A and the Zoning Bylaws.
- (3) When the Zoning Board of Appeals approves site plans (see these regulations, § 302-6), the Planning Board shall review the Application for Site Plan Review and Approval and, prior to the public hearing to be held by the Zoning Board of Appeals, submit said review in the form of a written advisory report with recommendations to the Zoning Board of Appeals.

C. Lapse of decision.

- (1) Site plan review and approval shall lapse if building permits for development of the proposal, where required, have not been issued within two years from the date that the site plan review and approval decision is filed at the Town Clerk's office or if the development has otherwise not substantially commenced within

the same period. Alternatively, site plan review and approval shall lapse if development has not been completed within five years from said date.

- (2) Where certificates of occupancy or use are required for the development, the failure to obtain said certificates shall be conclusive evidence that the development is incomplete.
 - (3) Written extensions for the time to commence development may be granted by the Planning Board, but the total of said extensions shall not exceed two years, and extensions shall be granted only for good cause and upon written request. Written extensions for the time to complete development may be granted without limitation, but each such extension shall be for a period of time specified by the Planning Board and only upon written request.
 - (4) The time periods within this Subsection C shall not include any time required to pursue or await the determination of any appeals made pursuant to these regulations.
- D. Appeal of decision. Upon denial or issuance of any required building permits, any person aggrieved by a decision of the Building Commissioner may appeal the site plan review and approval decision of the Planning Board to the Zoning Board of Appeals pursuant to MGL c. 40A, §§ 8 and 15. Site plan review and approval decisions issued by the Zoning Board of Appeals may be appealed to the Superior Court pursuant to MGL c. 40A, § 17.

§ 302-25. Revisions and amendments to approved site plans.

- A. Further approval required for revisions or amendments. No revision or amendment to any approved site plan shall be made or implemented until application for such has been submitted to and reviewed and approved by the Planning Board or Zoning Board of Appeals, as required and specified herein.
- B. Determination of minor/major status of revisions or amendments.
 - (1) When the Planning Board initially or previously approved any site plan, any revisions or amendments to said site plan shall be proposed in writing to the Planning Board, which shall determine within 10 days of receipt of said proposal whether such revisions or amendments are minor. In order to facilitate review, the applicant shall depict the proposed changes to the internal space of the existing structure in a suitable form.
 - (2) After determining that said revisions or amendments are minor and that the proposed changes are consistent with the purposes of the Zoning Bylaws, the Planning Board shall, within 45 days from the complete submittal date, take final action on said application. The Planning Board need not hold a public hearing for revisions or amendments deemed to be minor.

- (3) When the Planning Board determines that said revisions or amendments to approved site plans are major and that the proposed changes are consistent with the purposes of the Zoning Bylaws, the Planning Board shall proceed in accordance with the requirements of the Zoning Bylaws, Article 6, and these regulations.
- C. Revisions or amendments when the Zoning Board of Appeals approves site plans.
- (1) When the Zoning Board of Appeals initially or previously approved any site plan, no revision or amendment to said site plan shall be made or implemented until the Planning Board has submitted a written advisory report with recommendations thereon to the Zoning Board of Appeals and until application for such has been submitted to and approved by the Zoning Board of Appeals.
 - (2) When the Zoning Board of Appeals initially or previously approved any site plan, any revisions or amendments to said site plan shall be administered by said Board in accordance with the requirements governing special permits, permits and/or variances.

Chapter 303**SUBDIVISION OF LAND****Chapter 400****CONNECTION TO WATER SYSTEM****§ 400-1. Fees.**

- A. The fee per connection to the public water supply system shall be as follows:

Connection (inches)	Fee
1	\$ 750
1 1/4 to 2	1,000
3 to 5	1,000
6	1,200
8	1,500

- B. The Water Department will make a one-inch tap and supply a corporation valve, one-inch PE IPS tubing, curb stop and service box at the property line at no additional cost.

§ 400-2. Contractor/developer responsibilities.

For all connections one inch and larger:

- A. The contractor must obtain a street opening permit from the Highway Department. A copy is to be furnished to the Water Department.
- B. The contractor will be responsible for the excavation to the water main and provide proper safety measures (i.e., for excavations of five inches and greater shoring is required).
- C. The contractor will provide all materials, equipment and personnel to perform taps greater than one inch. This will include the corporation valve, water service line, curb stop and service box. All materials must meet Water Department specifications.
- D. The contractor must backfill and restore the road and/or sidewalk area according to the requirements of the Highway Department's street opening permit.
- E. The contractor must notify the Water Department at least 48 hours before commencement of any work. The Water Department will mark the location of the water main before excavation can begin.

- F. The water service line from the main to its termination at the water meter inlet valve must be inspected by the Water Department before the contractor may backfill.
- G. The Water Department will install the water meter, including inlet and outlet valves. The owner of the property is responsible for the cost of the meter, inlet and outlet valves and any other parts and/or labor costs necessary for installation of the water meter.
- H. The contractor must notify the Police Department and arrange for any required police details.

Chapter 401

CROSS-CONNECTIONS AND BACKFLOW PREVENTION

§ 401-1. Purpose.

The purpose of this chapter is to:

- A. Protect the public potable water supply of Wayland from the possibility of contamination or pollution by isolating within the customer's internal distribution system or the customer's private water system such contaminants or pollutants that could backflow into the public water system;
- B. Promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-plant potable water system and nonpotable water systems, plumbing fixtures and industrial piping systems; and
- C. Provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems.

§ 401-2. Responsibility of Water Superintendent.

The Water Superintendent shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of said Water Superintendent, an approved backflow-prevention assembly is required at the customer's water service connection or within the customer's private water system for the safety of the water system, the Water Superintendent or his/her designated agent shall give notice, in writing, to said customer to install such an approved backflow-prevention assembly at a specific location on his/her premises. The customer shall immediately install such approved assembly at his/her own expense, and failure, refusal or inability on the part of the customer to install, have tested and maintain said assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

§ 401-3. Definitions.

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

APPROVED — Accepted by the authority responsible as meeting an applicable specification stated or cited in this chapter or as suitable for the proposed use.

AUXILIARY WATER SUPPLY — Any water supply on or available to the premises other than the purveyor's approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as a well, spring, river, stream, harbor, and so forth, used waters or industrial fluids. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

BACKFLOW — The undesirable reversal of flow in a potable water distribution system as a result of a cross-connection.

BACKFLOW PREVENTER — An assembly or means designed to prevent backflow.

A. **AIR GAP** — The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor or other assembly and the flood level rim of the receptacle. These vertical, physical separations must be at least twice the diameter of the water supply outlet, never less than one inch (25 millimeters).

B. **REDUCED-PRESSURE BACKFLOW-PREVENTION ASSEMBLY** — The approved reduced-pressure-principle backflow-prevention assembly consists of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve. These units are located between two tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.

C. **DOUBLE CHECK VALVE ASSEMBLY** — The approved double check valve assembly consists of two internally loaded check valves, either spring loaded or internally weighted, installed as a unit between two properly located resilient-seated test cocks. This assembly shall only be used to protect against a non-health-hazard (that is, a pollutant).

BACKPRESSURE — A pressure, higher than the supply pressure, caused by a pump, elevated tank, boiler or any other means that may cause backflow.

BACKSIPHONAGE — Backflow caused by negative or reduced pressure in the supply piping.

CONTAMINATION — An impairment of a potable water supply by the introduction or admission of any foreign substance that degrades the quality and creates a health hazard.

CROSS-CONNECTION — A connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that under any circumstances would allow such substances to enter the potable water system. Other substances may be gases, liquids or solids, such as chemicals, waste products, steam, water from other sources (potable or nonpotable) or any matter that may change color or add odor to the water.

CROSS-CONNECTION CONTROL — A connection between a potable water system and a nonpotable water system with an approved backflow-prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

CROSS-CONNECTION CONTROL BY CONTAMINANT —

- A. The installation of an approved backflow-prevention assembly at the water service connection to any customer's premises where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or
- B. The installation of an approved backflow-prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections that cannot be effectively eliminated or controlled at the point of the cross-connection.

HAZARD, DEGREE OF — The term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

- A. **HAZARD, HEALTH** — A cross-connection or potential cross-connection involving any substance that could, if introduced in the potable water supply, cause death or illness, spread disease or have a high probability of causing such effects.
- B. **HAZARD, PLUMBING** — A plumbing-type cross-connection in a consumer's potable water system that has not been properly protected by an approved air gap or an approved backflow-prevention assembly.
- C. **HAZARD, NON-HEALTH** — A cross-connection or potential cross-connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into a potable water supply.
- D. **HAZARD, SYSTEM** — An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination that would have a protracted effect on the quality of the potable water in the system.

INDUSTRIAL FLUIDS SYSTEM — Any system containing a fluid or solution that may be chemically, biologically or otherwise contaminated or polluted

in a form or concentration such as would constitute a health, system, pollution or plumbing hazard if introduced into an approved water supply. This may include, but shall not be limited to, polluted or contaminated waters; all types of process waters and used waters originating from the public potable water system that may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulating cooling waters biologically treated or stabilized with toxic substances; contaminated natural waters such as wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems and so forth; oils, gases, glycerin, paraffin and caustic and acid solutions; and other liquid and gaseous fluids used in industrial or other purposes for fire-fighting purposes.

POLLUTION — The presence of any foreign substance in water that tends to degrade its quality so as to constitute a non-health-hazard or impair the usefulness of the water.

SERVICE CONNECTION — The terminal end of a service connection from the public potable water system, that is, where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or backflow-prevention assembly located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

WATER, NONPOTABLE — Water that is not safe for human consumption or that is of questionable quality.

WATER, POTABLE — Water that is safe for human consumption as described by the public health authority having jurisdiction.

WATER SUPERINTENDENT — The Superintendent in charge of the Water Department of Wayland, who is invested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this chapter.

WATER, USED — Any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the water purveyor.

§ 401-4. Water system.

- A. The water system shall be considered as made up of two parts: the utility system and the customer system.
- B. The utility system shall consist of the source facilities and the distribution system and shall include all those facilities of the water system under the complete control of the utility, up to the point where the customer's system begins.

- C. The source facilities shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.
- D. The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.
- E. The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system that are utilized in conveying utility-delivered domestic water to points of use.

§ 401-5. Protection of water supply required; discontinuance of water service.

No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state-provincial laws and regulations and this chapter. Service of water to any premises shall be discontinued by the water purveyor if a backflow-prevention assembly required by this chapter is not installed, if the assembly has been removed or bypassed or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

§ 401-6. Inspections.

The customer's system should be open for inspection at all reasonable times to authorized representatives of the Water Department to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the Water Superintendent shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with state-provincial and town statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.

§ 401-7. Installation of backflow-prevention assembly.

An approved backflow-prevention assembly shall be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served, but in all cases before the first branch line leading off the service line wherever the following conditions exist:

- A. In the case of premises having an auxiliary water supply that is not or may not be of safe bacteriological or chemical quality and that is not acceptable as an additional source by the Water Superintendent, the public water system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line, appropriate to the degree of hazard.

- B. In the case of premises on which any industrial fluids or any other objectionable substances are handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line, appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system that have been subject to deterioration in quality.
- C. In the case of premises having internal cross-connections that cannot be permanently corrected and controlled or intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line.

§ 401-8. Type of protective assembly.

- A. The type of protective assembly required under § 401-7 shall depend upon the degree of hazard that exists as follows:
 - (1) In the case of any premises where there is an auxiliary water supply as stated in § 401-7A of this chapter and it is not subject to any of the following rules, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure-principle backflow-prevention assembly.
 - (2) In the case of any premises where there is water or a substance that would be objectionable but not hazardous to health if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.
 - (3) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure-principle backflow-prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.
 - (4) In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure-principle backflow-prevention assembly at the service connection.

- (5) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced-pressure-principle backflow-prevention assembly on each service to the premises.
 - (6) In the case of any premises where, in the opinion of the Water Superintendent, an undue health threat is posed because of the presence of an extremely toxic substance, the Water Superintendent may require an air gap at the service connection to protect the public water system. This requirement will be at the discretion of the Water Superintendent and is dependent on the degree of hazard.
- B. Any backflow-prevention assembly required herein shall be a model and size approved by the Water Superintendent.
- (1) The term "approved backflow-prevention assembly" shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association (AWWA), titled "AWWA C510-89, Standard for Double Check Valve Backflow-Prevention Assembly" and "AWWA C511-89, Standard for Reduced-Pressure-Principle Backflow-Prevention Assembly," and has met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research (FCCHR) of the University of Southern California established by the Specification of Backflow-Prevention Assemblies, Section 10 of the most current issue of the Manual of Cross-Connection Control.
 - (2) Said AWWA and FCCHR standards and specifications have been adopted by the Water Superintendent. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with said AWWA standards and FCCHR specifications. In addition, backflow prevention devices must be approved for use by the Massachusetts Department of Environmental Protection (DEP).
 - (3) The following testing laboratory has been qualified by the Water Superintendent to test and certify backflow preventers:

Foundation for Cross-Connection Control and

Hydraulic Research

University of Southern California

University Park

Los Angeles, CA 90089

- (4) Testing laboratories, other than the laboratory listed above, will be added to an approved list as they are qualified by the Water Superintendent.
- (5) Backflow preventers that may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval by said qualified laboratory and are listed on the laboratory's current list of approved backflow-prevention assemblies may be used without further testing or qualification.

§ 401-9. Inspection, testing and overhauling of devices. [Amended 10-15-1997]

- A. Beginning on January 1, 1988, all testing of backflow-prevention devices conducted in accordance with these regulations must be conducted by a person who is a certified backflow-prevention device tester.
- B. Within 14 days after the installation of devices in accordance with plans reviewed and approved by the reviewing authority, the owner or owner's agent shall notify the reviewing authority to arrange inspection of the installation by the reviewing authority.
- C. Reduced-pressure backflow preventers, double check-valve assemblies, pressure-type vacuum breakers and air-gap separations may be inspected and tested by the Department or the supplier of water at any item.
- D. The supplier of water shall test each reduced-pressure backflow preventer and double check-valve assembly and shall inspect air-gap separations with tank and pump arrangements semiannually. If the supply is used less than six months of the year, these devices shall be inspected and tested by the supplier of water once each year. The test shall be conducted by a certified backflow-prevention device tester and recorded on the Department's inspection and maintenance report form. Copies of the inspection forms shall be submitted to the Department and the owner.
- E. The owner shall test each reduced-pressure backflow preventer and double check-valve assembly once each year. The test shall be conducted by a certified backflow-prevention device tester and recorded on the Department's inspection and maintenance report forms. One copy of the inspection and maintenance report form shall be submitted to the Department along with the annual permit application form and permit fee.
- F. Devices failing a test or found defective shall be overhauled, repaired or replaced by a plumber licensed by the Commonwealth of Massachusetts to the extent required by 248 CMR 2.04(3). These devices must be reinspected within two weeks of the initial inspection date, and a report of the failure and repair shall be submitted by

the owner or owner's agent to the Department on the Department's inspection and maintenance report form within two weeks of the repair.

- G. No two routine tests required by this section shall be conducted within three months of each other without the written approval of the Department.
- H. The owner or owner's agent must maintain on the premises a spare parts kit and any special tools required for removal and reassembly of devices which are to be tested. The presence of these materials must be recorded on the inspection and maintenance report form.
- I. The owner or owner's agent must provide labor on the premises as necessary to allow inspection and testing of devices by the Department, the supplier of water or certified backflow-prevention device testers.
- J. The owner or owner's agent shall notify the Department and the supplier of water, in writing, no later than 30 days prior to the removal from service of any permitted device, and such notification shall include the reason for removal and must indicate if the cross-connection has been eliminated.

§ 401-10. Existing assemblies.

All presently installed backflow-prevention assemblies that do not meet the requirements of this chapter but were approved assemblies for the purpose described herein at the time of installation and that have been properly maintained shall, except for the inspection and maintenance requirements under § 401-9, be excluded from the requirements of these rules so long as the Water Superintendent is assured that they will satisfactorily protect the utility system. Whenever the existing assembly is moved from the present location or requires more than minimum maintenance or when the Water Superintendent finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow-prevention assembly meeting the requirements of this chapter.

Chapter A800

ACCEPTED STATUTES

§ A800-1. Acceptance of General Laws.

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL c.	Sec.	Subject Matter
April 10, 1878	13	Chapter 80, Acts of 1878			Authorizing Wayland to supply itself with pure water, to regulate the use thereof and control rates therefor
January 17, 1891	4	Chapter 386, Acts of 1890	41 53 54	6, 7, 10 2, 6-12, 16, 19, 40-42, 44-46, 48, 51, 64-65 67	Authorizing the printing and distributing of ballots for town elections at public expense and setting forth the procedure to be followed at such elections
January 17, 1891	5	Chapter 203, Section 1, Acts of 1883	41	24	Specifying the method of electing Assessors; repealed by Section 345 of Chapter 417, Acts of 1893
June 13, 1891	6	Chapter 36, Section 29	49	28	Authorizing a field driver to impound beasts in a pound on his own premises
June 4, 1893	2	Chapter 423, Section 72, Acts of 1890	54	6, 7 and 10	Dividing town into voting precincts
March 28, 1898	13	Chapter 331, Acts of 1888			Authorizing the regulation of the catching of pickerel; rescission attempted November 15 and December 14, 1900
March 27, 1899	9	Chapter 548, Section 332, Acts of 1898	41	62	Providing for and specifying the method of electing Highway Surveyor; superseded by vote March 4, 1942
March 27, 1899	10	Chapter 548, Section 335, Acts of 1898			Specifying the method of electing Overseers of the Poor; repealed by Chapter 658, Acts of 1967

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
November 15, 1900	3				Attempt to rescind the vote of March 28, 1898, accepting Chapter 331 of the Acts of 1888 regulating the taking of pickerel
December 14, 1900	2				Attempt to rescind the vote of vote of March 28, 1898, accepting Chapter 331 of the Acts of 1888 regulating the taking of pickerel
March 28, 1904	18	Chapter 346, Acts of 1902	39	14	Specifying the method of electing a Moderator
March 26, 1906	15	Chapter, 78, Sections 21-25		Cemetery Commissioners, superseded	Specifying the method of selecting by Chapter 254, Acts of 1966
May 31, 1907	3	Chapter 11, Section 353	39	20	Establishing precinct voting for annual town elections
March 22, 1909	27	Chapter 209, Acts of 1908	48	13	Regulating the setting of open air fires
November 5, 1912	Referendum State Election	Chapter 503, Acts of 1912	32	77	Providing pensions for certain laborers employed by the town
March 26, 1913	17	Chapter 367, Acts of 1911, Sections 1 and 2, as amended by Sections 1, 2 and 3 of Chapter 320, Acts of 1912	71	71 to be used for other than school	Authorizing School Committee to permit school rooms and halls purposes
November 4, 1913	Referendum State Election	Chapter 807, Acts of 1913	152	69	Workmen's compensation (county)
November 3, 1914	Referendum State Election	Chapter 217, Acts of 1914	41	111	Granting vacations to laborer employed by the town

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
November 3, 1914	Referendum State Election	Chapter 790, Acts of 1914			Abolition of party enrollment
February 1, 1915	Referendum Town Election	Chapter 807, Acts of 1913	152	68-74A	Providing compensation for certain public employees for injuries sustained in the course of their employment (town)
February 7, 1917	12	Chapter 153, Acts of 1916	94	120	Established annual license fee for slaughtering businesses
February 4, 1918	Referendum Town Election	Chapter 23, Acts of 1917	140	47	Provides for licensing of coffee houses
February 4, 1918	Referendum Town Election	Chapter 254, Acts of 1917			Authorized town to pay employees who enlisted for World War I service difference between military and municipal compensation
November 4, 1919	Referendum State Election	Chapter 311, Acts of 1919	71	21-26	Authorized establishment and maintenance of continuation schools for minors under 16 who are regularly employed more than 6 hours per day
February 2, 1920	Referendum Town Election	Chapter 28, Sections 1-14 inclusive of Revised Laws 1902	45	2-9	Authorizing the laying out of public parks
May 26, 1920	4	Chapter 240, Acts of 1920	136	2, 21, 22, 23, 24 and 25	Authorizing and regulating amateur athletic outdoor sports and games on the Lord's Day
March 9, 1921	14	Chapter 45, Sections 1-9			Authorizing cities and towns to lay out public parks

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
March 5, 1923	Referendum Town Election	Chapter 516, Acts of 1922	44	35	Town petitions for installation in Wayland of an accounting system by the commonwealth
March 5, 1924	15	Chapter 40, Sections 42A to 42F			Providing that unpaid rates and charges shall be a lien upon real estate and otherwise specifying the method of collecting the same
March 4, 1925	13	Chapter 41, Section 73			Authorizing the establishment of building lines no more than 40 feet distant from the exterior line of a public way
March 6, 1929	17	Chapter 82, Section 37			Authorizing the establishment of building lines no more than 40 feet distant from the exterior line of a public way
March 4, 1931	17	Chapter 94, Sections 120 and 120A			Provides additional per capita license fee for slaughtering businesses
December 14, 1938	7	Chapter 143, Section 3			Authorized enactment of a Building Code Committee appointed to prepare a draft set of bylaws
November 5, 1940	Referendum State Election	Chapter 183, Acts of 1939			Police Chief civil service
March 5, 1941	20	Chapter 211, Section 4, Acts of 1936	41	81K-81GG	Subdivision Control Law
March 5, 1941	20	Chapter 41, Acts of 1936, Section 4	41	81F-81J	Increased powers of Board of Survey
March 5, 1941	16	Chapter 41	41		Term of Selectmen from 1 year to 3 years

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
March 4, 1942	9	Chapter 41	41	63-64	Office of Highway Surveyor abolished and 3 Road Commissioners to be elected in its place, thereby changing procedure adopted under Article 9 of March 27, 1899 Town Meeting
March 4, 1942	15	Chapter 136, Sections 7 and 8			Authorizing the Selectmen to license the sale of frozen desserts on the Lord's Day
March 3, 1943	7	Chapter 41, Section 81A			Establishment of Planning Board
March 8, 1944	17	Chapter 139, Sections 1 to 3 inclusive and Chapter 143, Sections 6 to 11		common nuisances pursuant to MGL c.	Authorizing Selectmen to abate and remove buildings adjudged to be 111, § 122ff and giving Inspector of Buildings authority to remove or see that all structures be made safe pursuant to MGL c. 143
November 5, 1946	Referendum State Election	Chapter 166, Acts of 1946	32	1-28	Authorized establishment of a contributory retirement system for town employees other than teachers

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
November 30, 1949	15	Chapter 40, Section 27A	40A	8	Provides that no proposed bylaw making a change in any existing zoning bylaw which has been unfavorably acted upon by a town meeting shall be considered on its merits by the town meeting within 2 years after such action unless adoption of such proposed bylaw is recommended in the final report of the Planning Board or Board of Selectmen required by MGL c. 40A, § 36
March 22, 1950	30	Chapter 111, Section 128	111	128B-128F	Regulations establishing minimum standards of fitness for human habitation of dwelling places adopted pursuant to MGL c. 111, § 128ff
March 10, 1954	29	Chapter 142, Sections 1, 3, 6, 7 and 11-16			Provides for registration, licensing and regulation of plumbers and authorizes the town to adopt regulations relative to construction, alteration, repair and inspection of plumbing subject to strict limitations
March 6, 1957	6	Chapter 48, Sections 42, 43 and 44			Establishing a Fire Department under the control of a Chief
March 6, 1957	4 ⁶²	Chapter 145, Acts of 1956	41	23A	Selectmen authorized to appoint Executive Secretary

62. Editor's Note: The vote which authorized the Board of Selectmen to appoint an Executive Secretary was rescinded 5-3-2004 ATM by Art. 11.

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
March 11, 1957	33	Chapter 332, Acts of 1955	40	42G-42I	Authorizes special assessments to meet the cost of laying water pipes in public or private ways
March 18, 1957	47	Chapter 54, Section 103A			Provides for voting by absentee ballot at regular town elections
March 5, 1958	Referendum State Election	Chapter 32B, Sections 1-12 and 14			Authorizing the town to provide a plan of contributory group life insurance, group accidental death and dismemberment insurance and group general or blanket hospital, surgical and medical insurance for certain persons in the service of the town and their dependents
March 5, 1958	13	Chapter 351, Acts of 1930	40	6B	Authorizes appropriation for Police and Fire Department uniforms
March 18, 1959	33	Chapter 332, Acts of 1958	142	2	Specified that all towns over 5,000 shall have a Plumbing Code in compliance with MGL c. 142
March 15, 1961	27	Chapter 40, Section 8C			Conservation Commission established

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
December 20, 1961	6	Chapter 40A, Section 20			Provides that no appeal or petition under Paragraphs 2 and 3 of MGL c. 40A, § 15, which has been unfavorably acted upon by the Board of Zoning Appeals shall be considered on its merits by said Board within 2 years after such action except with the consent of all but 1 member of the Planning Board
March 4, 1963	Referendum Town Election	Chapter 130, Acts of 1962			Offices of Tree Warden and Superintendent of Moth Extermination abolished; powers and duties vested in Cemetery Commissioners; superseded by vote of March 13, 1967
March 11, 1964	15	Chapter 54, Section 16A			Town Clerk may appoint competent person to be present at opening of polls in place of absent warden, clerk or inspector
March 11, 1964	18	Chapter 40, Section 6I			Authorizes town to construct, reconstruct, resurface and repair private ways which have been used by the public for 50 years or more
March 10, 1965	42	Chapter 40, Section 22D			Authorizes Selectmen to adopt regulations authorizing Police Chief to remove any vehicle parked in violation of law or impeding the removal of snow or ice

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
March 13, 1967	11	Chapter 254, Acts of 1966			Establishing a Park and Recreation Department in Wayland; Board of Park Commissioners and Cemetery Commissioners abolished
March 20, 1967	43	Chapter 90, Sections 20C and 20D			Provides for enforcement of parking regulations by use of parking tags
March 4, 1968	Referendum Town Election	Chapter 595, Acts of 1959	32B	9A	Authorizes town to pay 1/2 of premium costs payable by retired employees for group life insurance and group general or blanket hospital, surgical and medical insurance
March 4, 1968	Referendum Town Election	Chapter 40, Section 6C			Authorizes town to appropriate money for the removal of snow and ice from such private ways open to the public use as may be designated by the Selectmen
March 18, 1968	55	Chapter 152, Section 69			Town accepts once more the Workmen's Compensation provisions originally accepted February 1, 1915
March 18, 1968	56	Chapter 41, Section 99			Authorizes Chief of Police to requisition police officers from other towns and to provide Wayland officers in response to such requisitions and prescribes terms and conditions of such aid
March 18, 1968	57	Chapter 85, Section 11A			Provides for registration of bicycles

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
July 22, 1968	Selectmen	Chapter 48, Section 59A			Authorizes Fire Department to assist local officials of another municipality in extinguishing fires therein and prescribes terms and conditions for such aid
November 4, 1968	Selectmen	Chapter 174, Acts of 1968	32	56-60	Veterans' Retirement Law
March 2, 1970	Referendum Town Election	Chapter 32B, Section 9D			Town to pay 1/2 premium costs payable to spouse of employee or retired employee
March 9, 1970	20	Chapter 41, Section 97A			Establish a Police Department under the supervision of the Chief of Police
March 1, 1971	Referendum Town Election	Chapter 31, Section 48			Police Department placed with Classified Civil Service
March 3, 1971	15	Chapter 71, Section 16-16I		technical school district	Established a regional vocational-
March 5, 1973	Referendum Town Election	Chapter 32B, Section 11B			Group insurance to elderly persons retired from town and to their dependents with 50% of premium
March 12, 1973	13	Chapter 40, Section 8D			Historical Commission established
March 12, 1973	29	Chapter 44, Section 53C			Funds for payment of police officers for off-duty work details
March 20, 1974	60	Chapter 40, Section 15C			Scenic roads
April 28, 1975	15	Chapter 40, Section 8G			Provision for mutual aid programs for the Police Department

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
April 13, 1978	24	Chapter 41, Section 41B			Payment of public employees by direct bank credits
October 15, 1980	1	Chapter 40, Section 4G			\$4,000 purchase limit without bid
April 6, 1981	Referendum Town Election	Chapter 258, Section 13			Save municipal officers, elected or appointed, from personal financial loss and expense not to exceed \$1,000,000 from claim, demand or suit of judgment
November 18, 1981	4	Chapter 41, Section 81A			Planning Board reduced from 6 to 5 members
November 23, 1981	11	Chapter 351, Section 115, Acts of 1981	90	20A1/2	Parking Clerk placed under the authority of the Executive Secretary
May 3, 1982	9	Chapter 32B, Section 7A			Group insurance
April 24, 1985	21	Chapter 597, Acts of 1982	60A	1	Exemption from the motor vehicle excise for motor vehicle owned and registered by a former prisoner of war
November 13, 1985	4	Chapter 293, Acts of 1985			Unpaid charges for waste disposal to become lien
November 13, 1985	5	Chapter 188, Section 13, Acts of 1985			Professional development grants for teachers
May 5, 1988	26	Chapter 71, Section 71F			Revolving account for collection of tuition and payment of education expenses for nonresident special education students
May 5, 1988	27	Chapter 59, Section 5, Clause 17D			Grant exemptions to elderly persons over 70, surviving minors and spouses

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
May 5, 1988	28	Chapter 59, Section 5, Clause 41C			Grant exemptions to elderly persons over 70
May 8, 1989	12	Chapter 40, Section 39K			Establish enterprise fund
May 8, 1989	25	Chapter 236, Acts of 1987	41	81U Par. 12	Allow Planning Board to spend bonds up to \$25,000 without appropriation
May 2, 1990	1	Chapter 653, Section 40, Acts of 1989			Permits Assessors to assess buildings and other things erected between January 2 and June 30 as if they existed on January 1
May 2, 1990	2	Chapter 653, Section 41, Acts of 1989			Permits the town to issue real and personal property tax bills quarterly
April 29, 1991	12	Chapter 291, Acts of 1990			E-911 legislation
May 2, 1991	20	Chapter 148, Section 26E			Smoke detectors in private residential dwellings
May 2, 1991	21	Chapter 148, Section 26G			Automatic sprinkler systems
May 2, 1991	22	Chapter 148, Section 26I			Automatic sprinkler systems in new residential buildings with 4 or more dwelling units
May 2, 1991	23	Chapter 148, Section 26H			Automatic sprinkler systems in boardinghouses and lodging houses
May 6, 1992	21	Chapter 40, Section 22F			Setting of fees
May 4, 1992	5	Chapter 138, Section 126, Acts of 1991	59	5 Cl. A	Qualifying annual gross receipts of \$40,000

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
May 1, 1995	8	Chapter 59, Section 5, Clause 22 Paragraph 5			Shorten the residence requirement from 5 years to 1 year for veterans to begin receiving real estate tax exemption based on nature and extent of disability
May 6, 1996	24	Chapter 44, Section 53F 1/2			Establish enterprise fund for operation of sewer and wastewater treatment and disposal facilities
April 30, 1997	8	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Increase real estate tax exemption amounts, allowing an additional exemption of up to 100% for Fiscal Year 1998
May 4, 1998	1	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Increase real estate tax exemption amounts, allowing an additional exemption of up to 100% for Fiscal Year 1999
May 4, 1998	11		140	147A	Authority to regulate dogs
May 6, 1998	19		40	57	Denial, revocation or suspension of licenses or permits for failure to pay taxes or charges
June 4, 1998	6		41	108L	Police career incentive pay; salary increases; reimbursement
April 27, 1999	Annual Town Election		59	2D	Taxing of certain improved real property based on its value at the time an occupancy permit is issued

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
May 6, 1999	14	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2000
May 6, 1999	15		60	3D	Voluntary check-off for donations to elderly or disabled taxation fund
May 1, 2000	19	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2001
April 24, 2001	Annual Town Election		44B	3--7	Community preservation
April 30, 2001	12		41	19K	Compensation of Town Clerk
April 30, 2001	13		59	21A; 21A 1/2	Additional compensation for Assessors
April 30, 2001	18	Chapter 73, Section 4, Acts of 1986 as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2002
April 29, 2002	13	Chapter 73, Section 4, Acts of 1986			Increase real estate tax exemption amounts, allowing an additional exemption of up to 100% for Fiscal Year 2003
April 29, 2002	16		80	13B	Allowing deferment of betterment assessments
May 1, 2002	33		41	108P	Compensation for Treasurer

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
April 3, 2003	11	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2004
May 5, 2004	12	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2005
May 5, 2005	18	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2006
April 27, 2006	11	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2007
April 27, 2006	17		32B	18	Transfer of retirees to Medicare extension plan
November 9, 2006	4		39	23D	Allowing Board of Appeals, Board of Health, Conservation Commission and Planning Board members to miss one session of adjudicatory hearings
April 29, 2007	11	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2008

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL		Subject Matter
			c.	Sec.	
April 14, 2008	11	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2009
April 13, 2009	12	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2010
April 15, 2009	2		39	23D	Adjudicatory hearings held by Historic District Commission
November 18, 2009	5		64L	2(a)	Local meals excise tax
May 13, 2010	10	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2011
April 7, 2011	13	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2012
April 9, 2012	7		44	53F 1/2	Establish enterprise fund for Town's water service, effective July 1, 2012
April 9, 2012	17	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2013

Date Accepted	Election or Article	Statute Accepted	Now Codified As MGL c.	Sec.	Subject Matter
April 4, 2013	8	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2014
April 4, 2014	12		44	55C	Establish Municipal Affordable Housing Trust Fund
April 4, 2014	18	Chapter 73, Section 4, Acts of 1986, as amended by Chapter 126, Acts of 1988			Allow an additional exemption of up to 100% for Fiscal Year 2015
April 4, 2014	28		71	37M	Consolidation of Town and school administrative functions; authorization to consolidate financial, personnel, information technology, and maintenance functions
April 6, 2015	8		59	5N	Establishment of real property tax workoff program for veterans
April 6, 2015	28		60	15B	Establishment of tax title collection revolving fund
November 9, 2015	5		71	71E	Establishment and maintenance of revolving funds for adult education and continuing education programs
April 7, 2016	34		59	5C1/2	Allow an additional exemption of up to 100% for any fiscal year beginning on or after July 1, 2016

Chapter A801

SPECIAL ACTS

§ A801-1. Special Acts applicable to Town.

The following is an enumeration of acts of the General Court applicable to the Town of Wayland:

Date Passed By General Court	Chapter Number	Title	Action by Town
April 10, 1780	34	An act for incorporating the easterly pail of the Town of Sudbury, in the County of Middlesex, into a separate town by the name of East Sudbury.	Petition to General Court February 22, 1779
March 3, 1786	57	An act repealing one clause of an act, passed in the year one thousand seven hundred and eighty, entitled, "An act for incorporating the easterly part of the Town of Sudbury, in the County of Middlesex into a separate town, by the name of East Sudbury" and for prescribing the manner in which the bridges and long causeways in the Town of East Sudbury, pointed out in the said act, shall be supported and maintained.	
February 28, 1815	144	An act to establish a Ministerial Fund, in the Town of East Sudbury.	Petition May 2, 1814 STM Art. 8
February 13, 1816	101	An act to incorporate the Proprietors of certain meadows in Sudbury and East Sudbury.	
March 11, 1835	50	An act to change the name of East Sudbury.	Petition February 9, 1835 STM Art. 2
April 22, 1852	143	An act to divide the Commonwealth into Districts for the choice of Representatives in the Congress of the United States.	

Date Passed By General Court	Chapter Number	Title	Action by Town
March 16, 1854	84	An act to incorporate the Middlesex South Agricultural Society.	
March 25, 1858	86	An act in further addition to "An act for supplying the City of Boston with pure water."	Petition February 5, 1859 STM Art. 4
April 2, 1859	184	An act to authorize the City of Boston to raise the dam at the outlet of Lake Cochituate.	Petition January 15, 1859 STM Art. 4
April 4, 1860	211	An act in relation to the flowage of the meadows on Concord and Sudbury Rivers.	Petition February 5, 1859 STM Art. 2
April 9, 1861	154	An act to suspend "An act in relation to the flowage of the meadows on Concord and Sudbury Rivers."	
April 25, 1862	140	An act to repeal "An act in relation to the flowage of the meadows on Concord and Sudbury Rivers."	
February 21, 1868	26	An act to incorporate the Wayland and Sudbury Branch Railroad Company.	
May 10, 1869	260	An act to incorporate the Massachusetts Central Railroad Company.	
June 21, 1870	382	An act to prohibit the taking of black bass in Lake Cochituate.	
April 8, 1872	177	An act to authorize the City of Boston to obtain an additional supply of pure water.	
February 28, 1874	35	An act to establish the First District Court of Southern Middlesex.	

Date Passed By General Court	Chapter Number	Title	Action by Town
April 15, 1875	129	An act to authorize the Town of Wayland to raise money by taxation for celebrating the centennial anniversary of the battle of Lexington.	
May 1, 1875	168	An act to amend Chapter One Hundred and Seventy-Seven of the Acts of the Year Eighteen Hundred and Seventy-Two, authorizing the City of Boston to obtain an additional supply of pure water.	
May 19, 1875	228	An act to preserve the purity of the water of Lake Cochituate.	
March 23, 1878	80	An act to supply the Town of Wayland with pure water.	Acceptance April 30, 1878 STM Art. 13
March 28, 1882	123	An act to authorize the Town of Wayland to raise additional funds to extend and complete its waterworks.	
May 3, 1883	165	An act relative to the confirmation of proceedings of the Evangelical Religious Society in Wayland.	
May 24, 1894	426	An act relative to the protection of the public health in the valleys of the Concord and Sudbury Rivers.	
March 21, 1896	177	An act to authorize the Town of Wayland to refund a portion of its water fund bonds.	
May 28, 1896	446	An act making further provision for the protection of the public health in the valleys of the Concord and Sudbury Rivers.	

Date Passed By General Court	Chapter Number	Title	Action by Town
April 2, 1897	231	An act making further provision for the protection of the public health in the valleys of the Concord and Sudbury Rivers.	
May 11, 1898	418	An act relative to the expense of the improvements in the valleys of the Concord and Sudbury Rivers.	
February 7, 1899	66	An act to authorize the Town of Wayland to refund a portion of its indebtedness.	
June 8, 1900	375	An act relative to the construction of the Metropolitan Water Works.	
April 4, 1901	253	An act to authorize the Natick and Cochituate Street Railway Company to transact business as a common carrier of goods and merchandise in the Town of Wayland.	
June 14, 1901	509	An act to require the Metropolitan Water and Sewerage Board to improve the condition of the Cochituate water basin.	
March 13, 1909	163	An act to confirm the acts of those persons who have assumed to act as the Trustees of the East Sudbury Ministerial Fund.	
March 13, 1909	164	An act to confirm certain acts of the First Parish in Wayland, and to change the name of the First Parish in East Sudbury.	
May 16, 1912	596	An act to establish and confirm certain persons as members of the First Parish in Wayland.	

Date Passed By General Court	Chapter Number	Title	Action by Town
March 28, 1913	378	An act relative to the location and construction of the Boston and Western Electric Railroad in the Towns of Weston and Wayland.	
April 3, 1916	94	An act to exclude Dudley Pond in the Town of Wayland from the Metropolitan Water System.	Petition 1907 Art. 21; 1916 ATM Art. 26
May 28, 1926	375	An act making additional provision for the water supply needs of the Metropolitan Water District and other communities which now or hereafter may require water therefrom, and of the City of Worcester.	
March 15, 1927	111	An act making an appropriation to be defrayed from the proceeds of bonds to provide further for the water supply needs of the Metropolitan Water District by diverting a supply from the headwaters of the Sudbury River.	
April 10, 1928	206	An act relative to certain elections in the Town of Wayland and certain acts and proceedings of said Town and its Board of Water Commissioners.	Petition 1926 ATM Art. 26; 1928 ATM Art. 35
February 16, 1934	42	An act relative to improvement of brooks, streams and water courses in the Town of Wayland.	Petition December 27, 1933 STM Art. 3
February 23, 1934	49	An act authorizing the Town of Wayland to use certain park land for school purposes.	Petition December 27, 1933 STM Art. 2

Date Passed By General Court	Chapter Number	Title	Action by Town
April 2, 1935	127	An act relative to the control of Dudley Pond in the Town of Wayland.	Petition 1935 ATM Art. 27
March 7, 1938	74	An act to authorize the placing of the office of Chief of Police of the Town of Wayland under the Civil Service laws.	Petition by Selectmen December 20, 1937; not accepted 1939 ATE
May 16, 1938	318	An act relative to the use of Lake Cochituate in the Towns of Framingham and Wayland for boating and fishing.	Planning Board Report 1937 ATR
June 28, 1938	460	An act authorizing the purchase of lands and the construction of works for improving the distribution of water from the sources of supply to the Metropolitan Water District and more adequately preventing pollution of the sources of water supply of said district.	
August 24, 1938	501	An act relative to the purchase of lands and the construction of works for improving the distribution of water from the sources of supply to the Metropolitan Water District and more adequately preventing pollution of the sources of water supply of said district, and relative to the emergency-Public Works Commission.	
May 25, 1943	327	An act relative to the use of Lake Cochituate in the Towns of Natick, Framingham and Wayland for bathing purposes.	Planning Board Report 1937 ATR

Date Passed By General Court	Chapter Number	Title	Action by Town
June 8, 1946	490	An act authorizing the Department of Public Utilities to permit the operation of motor vehicles for the carriage of passengers for hire over routes between the City of Boston and the Town of Hancock and intermediate points thereon.	
February 18, 1947	72	An act providing for the removal from Civil Service of the office of Chief of Police of the Town of Wayland.	Petition 1946 ATM Art. 15; acceptance 1947 ATE
May 29, 1947	474	An act authorizing the Town of Wayland to borrow money for school purposes.	School Committee Report 1945 ATR
June 20, 1947	557	An act authorizing the Metropolitan District Commission to transfer to the Department of Conservation certain reservoirs no longer required for water supply purposes, and providing for the discharge of surplus water into the Sudbury River and the Neponset River.	
May 14, 1948	314	An act authorizing the Town of Wayland to use certain park land for school purposes.	School Committee Report 1945 ATR
March 28, 1949	97	An act revoking the authority of the Department of Public Utilities to revise the terms of certificates granted for the operation of motor vehicles for the carriage of persons for hire over routes between the City of Boston and the Town of Hancock.	

Date Passed By General Court	Chapter Number	Title	Action by Town
February 4, 1952	23	An act authorizing the Town of Wayland to use certain park land for school purposes.	Petition December 19, 1951 STM Art. 3
February 4, 1952	24	An act authorizing the Town of Wayland to use certain park land for cemetery purposes.	Petition June 20, 1951 STM Art. 6
February 15, 1952	49	An act authorizing the Town of Wayland to borrow money for school purposes.	Petition December 19, 1951 STM Art. 2
February 5, 1953	36	An act authorizing the Town of Wayland to use certain park land for school purposes.	School Committee Report 1952 ATR
July 26, 1956	562	An act authorizing the repair of Stone Bridge in the Towns of Wayland and Framingham and the construction of an alternate road and bridge.	Petition by Department of Public Works August 15, 1956 STM Art. 9
August 8, 1956	631	An act providing for the establishment and development of the Massachusetts Bay Circuit.	
August 15, 1956	703	An act authorizing the Water Resources Commission to cooperate with the Federal Government in the development of plans relative to flood control of the Assabet, Concord and Sudbury Rivers.	
February 19, 1957	88	An act providing for life tenure for Ernest H. Damon, incumbent of the office of Chief of Police of the Town of Wayland.	Acceptance 1957 ATE

Date Passed By General Court	Chapter Number	Title	Action by Town
May 13, 1957	355	An act reimbursing the Towns of Ashland, Framingham, Hopkinton, Natick and Wayland for the loss of taxes on certain land therein owned by the Commonwealth and held for recreational purposes.	See Acts of 1947, Chapter 557
March 9, 1960	170	An act authorizing the Town of Wayland to transfer the care, custody, and control of certain park land from the Park Department to the Board of Selectmen, and to use said land for other than park purposes.	Petition 1957 ATM Art. 19
September 26, 1960	669	An act authorizing the Water Resources Commission to construct reservoirs for flood control and other purposes in the watershed of the Sudbury, Assabet and Concord Rivers.	
November 23, 1960	785	An act relative to the terms of certain bonds and notes to be issued by the Commonwealth.	
February 24, 1961	116	An act authorizing the Town of Wayland to transfer the care, custody and control of a certain road from the Park Department to the Highway Department of said town.	
May 5, 1961	426	An act providing for relocation of certain reservoirs in connection with the flood control project in the watershed of the Sudbury, Assabet and Concord Rivers.	

Date Passed By General Court	Chapter Number	Title	Action by Town
May 27, 1961	579	An act granting the consent of the Commonwealth to the acquisition by the United States of certain areas in the Sudbury and Concord River Valleys for the purposes of the Migratory Bird Conservation Act and authorizing the Division of Fisheries and Game and the Commissioner of Natural Resources to acquire certain other lands in said areas.	
February 20, 1962 (repealed by Ch. 347 of the Acts of 2008)	130	An act providing that the powers and duties of the offices of Tree Warden and Superintendent of Moth Extermination in the Town of Wayland be vested in the Board of Cemetery Commissioners and that such offices be abolished.	Petition 1962 ATM Art. 14 (4-10-2008 ATM, Art. 5)
February 6, 1963	17	An act extending the time for acceptance of an act providing that the powers and duties of the offices of Tree Warden and Superintendent of Moth Extermination in the Town of Wayland be vested in the Board of Cemetery Commissioners and that such offices be abolished.	
February 18, 1963	39	An act authorizing the Town of Wayland to supply the inhabitants of the Town of Natick with water.	Petition 1963 ATM Art. 14
May 27, 1963	435	An act authorizing the Water Resources Commission to establish encroachment lines and flood plain zones in the drainage areas of the Sudbury and Concord Rivers.	

Date Passed By General Court	Chapter Number	Title	Action by Town
June 10, 1964	494	An act increasing the amount of money which the Commonwealth may borrow to meet the non-federal cost of certain works of improvements for flood prevention and related purposes in the watershed of the Sudbury, Assabet and Concord Rivers.	
July 6, 1964	705	An act relative to the terms of certain bonds and notes to be issued by the Commonwealth. Section 6.	
March 24, 1965	184	An act authorizing the Town of Wayland to sell and convey certain park land to the United States.	Petition 1964 ATM Art. 24; Selectmen's vote June 20, 1966
March 29, 1965	207	An act authorizing the Town of Wayland to transfer a certain portion of Cochituate Beach from the Park Department to the Cemetery Department of said Town.	Petition 1964 ATM Art. 33
December 28, 1965	815	An act authorizing the Water Resources Commission to construct additional reservoirs for flood prevention and related purposes in the watershed of the Sudbury, Assabet and Concord Rivers.	
May 9, 1966 (repealed by Ch. 347 of the Acts of 2008)	254	An act establishing a Park and Recreation Department in the Town of Wayland.	Petition 1966 ATM Art. 23; Acceptance 1967 ATM Art. 11 (4-10-2008 ATM, Art 5)
May 16, 1966	281	An act relative to the terms of certain bonds and notes to be issued by the Commonwealth. Section 6.	

Date Passed By General Court	Chapter Number	Title	Action by Town
August 16, 1966	524	An act authorizing the Metropolitan District Commission to discharge certain amounts of surplus water from its Sudbury reservoir system into the Sudbury River.	
August 29, 1966	577	An act authorizing the Water Resources Commission to establish encroachment lines in the drainage area of the Shawsheen River.	
February 27, 1967	23	An act authorizing the Sudbury Water District of Sudbury to supply the inhabitants of the Town of Wayland with water.	
August 21, 1970	723	An act increasing the amount of money which the Commonwealth may borrow to meet the non-federal cost of certain works of improvement for flood prevention and related purposes in the watershed of the Sudbury, Assabet and Concord Rivers.	
May 25, 1972	307	An act combining the offices of the Town Treasurer and Tax Collector into the office of Town Treasurer and Collector.	Petition November 13, 1971 STM Art. 19
June 3, 1977	251	An act authorizing the Town of Wayland to invest certain trust funds in certain investments and to contract for professional investment advice.	

Date Passed By General Court	Chapter Number	Title	Action by Town
August 26, 1977	472	An act providing that Carl H. Putnam shall, notwithstanding certain maximum age requirements, be eligible for appointment as a regular police officer in the Town of Wayland.	
June 15, 1980	529	An act authorizing the Town of Wayland to see and convey certain conservation land located in said Town.	
September 29, 1981	416	An act exempting certain positions in Town of Wayland from the provisions of the Civil Service Law.	
December 27, 1982	588	An act authorizing the division of capital planning and operations to sell and convey a certain parcel of land in the Town of Wayland to Edwin W. Marston, Sr. and Catherine A. Marston.	
July 26, 1983	320	An act authorizing the Town of Wayland to transfer and convey certain conservation land held by said Town and to release and cancel a conservation restriction held by the Town.	
Date Passed By General Court	Chapter Number	Title	Action by Town
June 20, 1990	44	An act authorizing the Towns of Wayland and Sudbury to borrow money for the reconstruction of a certain bridge.	
December 21, 1990	59	An act relative to quarterly taxes in the Town of Wayland.	

Date Passed By General Court	Chapter Number	Title	Action by Town
December 23, 1992	283	An act authorizing Board of Selectmen and Conservation Commission to release a conservation restriction of Northland Residential Corporation.	
September 8, 1994	137	An act authorizing the Town of Wayland to pay an invoice from Mystic Bituminous Corporation in the amount of \$12,196.78 and several invoices from R.H. White Corporation in the aggregate amount of \$24,024.48.	Petition August 29, 1994 ATM Art. 19
August 9, 1996	316	An act relative to a certain conservation restriction in the Town of Wayland.	May 9, 1996 ATM Art. 41
August 9, 1996	318	An act relative to a certain conservation restriction and easement in the Town of Wayland.	May 4, 1995 ATM Art. 35
September 4, 1996	379	An act relative to reducing the terms of office of the members of the Board of Appeals of the Town of Wayland.	April 29, 1996 STM Art. 2
January 6, 1997	461	An act establishing the Wayland Wastewater Management District Commission.	May 6, 1996 ATM Art. 23
November 17, 1999	128	An act authorizing the Town of Wayland to convey a certain conservation easement.	May 13, 1998 ATM Art. 41
July 28, 2000	154	An act relative to a certain conservation restriction in the Town of Wayland.	May 6, 1999 ATM Art. 20
July 31, 2000	161	An act authorizing the Town of Wayland to grant real estate tax rebates to certain property owners.	May 8, 2000 ATM Art. 39

Date Passed By General Court	Chapter Number	Title	Action by Town
August 3, 2002	198	An act authorizing the Town of Wayland to convey certain park land.	April 25, 2002 ATM Art. 6
August 19, 2004	320	An act relative to the position of Town Administrator in the Town of Wayland.	May 3, 2004 ATM Art. 11
August 9, 2006	251	An act authorizing the Town of Wayland to transfer care and control of certain park land.	May 1, 2006 ATM Art. 19
October 6, 2008	347	An act authorizing the Town of Wayland to establish a Department of Public Works.	April 10, 2008 ATM Art. 5
March 25, 2010	53	An act relative to elections in the Town of Wayland	April 13, 2009 ATM Art. 22
November 17, 2010	372	An act establishing a Postemployment Benefits Trust Fund in the Town of Wayland	November 12, 2008 STM Art. 10

Chapter A802

RESOLUTIONS

§ A802-1. Warrants. [Adopted 4-25-1984 ATM by Art. 23]

Each person who shall offer a motion to act affirmatively upon any of the subjects set forth in the warrant for an annual or special town meeting shall declare to the voters present at said town meeting that said motion is identical word-for-word with the substantive portion of the article then under consideration as printed in the warrant or shall point out all differences in wording between the motion offered and the substantive portion of the article; otherwise, said motion shall not be debated, amended or acted upon; provided, however, that if the voters shall vote to pass said motion, the failure of the moving party to comply with the requirements of this section shall not invalidate their act.

All officials, boards, commissions, committees and other governmental bodies which insert articles in the warrant, as well as all petitioners, shall inform town meeting members of any motion(s) differing from the article as printed in the warrant by:

1. Preparing the motion(s) in time for the warrant hearing and making copies available to persons attending the hearing;
2. Posting the motion(s) at the Town Building and the two libraries no less than seven days prior to town meeting; and
3. Providing copies of the motion(s) at town meeting before the article is to be considered.

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
Planning Board	10-7-1997	Acceptance of Planning Board regulations	Before Ch. 300
Water Department	10-15-1997	Acceptance of Water Department regulations	Before Ch. 300
ATM, Art. 4	4-30-1998	Personnel amendment	Ch. 43
ATM, Art. 24	4-30-1998	Adoption of Code	Ch. 1, Art. I
STM, Art. 1	5-4-1998	General Law acceptance	Ch. A800
STM, Art. 11	5-4-1998	General Law acceptance	Ch. A800
ATM, Art. 12	5-6-1998	Dogs and kennels amendment	Repealed 4-30-2001 ATM by Art. 24
ATM, Art. 14	5-6-1998	Water: restrictions on use	Ch. 190, Art. I
ATM, Art. 16	5-7-1998	Zoning amendment	Ch. 198
ATM, Art. 19	5-6-1998	General Law acceptance	Ch. A800
ATM, Art. 20	5-6-1998	Treasurer and Collector amendment	Ch. 72
ATM, Art. 45	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 46	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 47	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 48	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 49	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 50	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 51	5-14-1998	Zoning amendment	Ch. 198

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 53	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 55	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 56	5-14-1998	Zoning amendment	Ch. 198
ATM, Art. 59	5-14-1998	Meetings: notice and warrant; moderator amendment	Ch. 36, Art. I
STM, Art. 2	6-4-1998	Zoning amendment	Disapproved by Attorney General
STM, Art. 6	6-4-1998	General Law acceptance	Ch. A800
State election	11-3-1998	Affirmative vote to fluoridate water	NCM
STM, Art. 5	12-2-1998	Zoning amendment	Ch. 198
STM, Art. 11	12-3-1998	Zoning amendment	Ch. 198
STM, Art. 12	12-3-1998	Zoning amendment	Ch. 198
STM, Art. 13	12-3-1998	Zoning amendment	Ch. 198
Annual Town Election	4-27-1999	General Law acceptance	Ch. A800
STM, Art. 14	5-3-1999	Zoning amendment	Ch. 198
STM, Art. 9	5-5-1999	Zoning amendment	Ch. 198
STM, Art. 10	5-5-1999	Zoning amendment	Ch. 198
STM, Art. 11	5-5-1999	Zoning amendment	Ch. 198
STM, Art. 19	5-6-1999	Zoning amendment	Ch. 198
ATM, Art. 9	5-3-1999	Personnel amendment	Ch. 43
ATM, Art. 14	5-6-1999	General Law acceptance	Ch. A800
ATM, Art. 15	5-6-1999	General Law acceptance	Ch. A800
ATM, Art. 23	5-10-1999	Meetings: procedure amendment	Ch. 36, Art. II
ATM, Art. 24	5-10-1999	Meetings: notice and warrant; Moderator amendment	Ch. 36, Art. I
ATM, Art. 25	5-10-1999	Finances amendment	Ch. 19
ATM, Art. 30	5-10-1999	Zoning Map amendment	NCM
ATM, Art. 31	5-13-1999	Dudley Pond amendment	Ch. 109

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 37	5-12-1999	Zoning amendment	Ch. 198
ATM, Art. 43	5-13-1999	Finances amendment	Ch. 19
STM, Art. 2	11-17-1999	Personnel amendment	Ch. 43
STM, Art. 3	11-17-1999	Zoning amendment	Ch. 198
STM, Art. 6	11-17-1999	Water: restrictions on use amendment	Ch. 190, Art. I
ATM, Art. 15	5-1-2000	Personnel amendment	Ch. 43
ATM, Art. 17	5-1-2000	Finances amendment	Ch. 19
ATM, Art. 18	5-1-2000	Boards, commissions and committees amendment	Ch. 6
ATM, Art. 19	5-1-2000	General Law acceptance	Ch. A800
ATM, Art. 28	5-8-2000	Finances amendment	Ch. 19
ATM, Art. 30	5-3-2000	Zoning amendment	Ch. 198
ATM, Art. 31	5-3-2000	Zoning amendment	Ch. 198
ATM, Art. 32	5-3-2000	Zoning amendment	Ch. 198
ATM, Art. 33	5-4-2000	Zoning amendment	Ch. 198
ATM, Art. 35	5-4-2000	Zoning amendment	Ch. 198
ATM, Art. 47	5-8-2000	Zoning amendment	Ch. 198
Annual Town Election	4-24-2001	General Law acceptance	Ch. A800
ATM, Art. 12	4-30-2001	General Law acceptance	Ch. A800
ATM, Art. 13	4-30-2001	General Law acceptance	Ch. A800
ATM, Art. 14	4-30-2001	Community Preservation Committee	Ch. 75
ATM, Art. 18	4-30-2001	General Law acceptance	Ch. A800
ATM, Art. 22	4-30-2001	Zoning amendment	Ch. 198
ATM, Art. 23	4-30-2001	Zoning amendment	Ch. 198
ATM, Art. 24	4-30-2001	Animals: regulation of dogs	Ch. 91, Art. I
ATM, Art. 25	4-30-2001	Zoning amendment	Ch. 198
ATM, Art. 26	4-30-2001	Zoning amendment	Ch. 198

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 40	4-30-2001	Violations and penalties amendment	Ch. 1, Art. II
ATM, Art. 11	5-1-2002	Personnel amendment	Ch. 43
ATM, Art. 13	4-29-2002	General Law acceptance	Ch. A800
ATM, Art. 15	4-29-2002	Council on Aging amendment	Ch. 12
ATM, Art. 16	4-29-2002	General Law acceptance	Ch. A800
ATM, Art. 23	5-1-2002	Repairs to private ways	Ch. 158, Art. V
ATM, Art. 27	5-1-2002	Wetlands and water resources protection	Ch. 194
ATM, Art. 30	5-1-2002	Zoning amendment	Ch. 198
ATM, Art. 31	5-1-2002	Zoning amendment	Ch. 198
ATM, Art. 33	5-1-2002	General Law acceptance	Ch. A800
STM, Art. 3	4-29-2002	Zoning amendment	Ch. 198
STM, Art. 4	4-29-2002	Noncriminal enforcement amendment: body art	Ch. 1, Art. II
STM, Art. 5	4-29-2002	Zoning amendment	Ch. 198
STM, Art. 7	4-29-2002	Violations and penalties amendment	Ch. 1, Art. II
ATM, Art. 11	4-3-2003	General Law acceptance	Ch. A800
ATM, Art. 15	4-3-2003	Council on Aging amendment	Ch. 12
ATM, Art. 24	4-3-2003	Violations and penalties amendment; lawn irrigation systems	Chs. 1, Art. II; 191
ATM, Art. 28	4-3-2003	Violations and penalties amendment	Ch. 1, Art. II
ATM, Art. 33	4-3-2003	Meetings: notice and warrant amendment	Ch. 36, Art. I
ATM, Art. 34	4-3-2003	Boards, commissions and committees amendment	Ch. 6
ATM, Art. 37	4-3-2003	Finances amendment	Ch. 19
ATM, Art. 38	4-3-2003	Zoning amendment	Ch. 198

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 39	4-3-2003	Zoning Map amendment	NCM
STM, Art. 11	5-10-2004	Meetings: notice and warrant amendment	Ch. 36, Art. I
STM, Art. 12	5-10-2004	Removal of utility poles	Ch. 158, Art. VI
STM, Art. 13	5-10-2004	False alarms amendment	Ch. 83
ATM, Art. 11	5-3-2004	Town Administrator	Chs. 19, 58, 60 and 62
ATM, Art. 12	5-5-2004	General Law acceptance	Ch. A800
ATM, Art. 13	5-5-2004	Personnel amendment	Ch. 43
ATM, Art. 15	5-5-2004	Zoning amendment	Ch. 198
ATM, Art. 16	5-5-2004	Zoning amendment	Ch. 198
ATM, Art. 18	5-5-2004	Zoning amendment	Ch. 198
ATM, Art. 19	5-5-2004	Zoning amendment	Ch. 198
ATM, Art. 20	5-5-2004	Zoning amendment	Ch. 198
ATM, Art. 21	5-6-2004	Zoning amendment	Ch. 198
ATM, Art. 22	5-6-2004	Zoning amendment	Ch. 198
ATM, Art. 23	5-6-2004	Zoning amendment	Ch. 198
ATM, Art. 30	5-12-2004	Regulation of dogs amendment	Ch. 91, Art. I
ATM, Art. 34	5-12-2004	Meetings: notice and warrant amendment	Ch. 36, Art. I
ATM, Art. 35	5-12-2004	Meetings: procedure amendment	Ch. 36, Art. II
ATM, Art. 36	5-12-2004	Meetings: procedure amendment	Ch. 36, Art. II
ATM, Art. 38	5-12-2004	Historic Districts	Ch. 196
ATM, Art. 39	5-12-2004	Annual reports amendment	Ch. 53
ATM, Art. 40	5-12-2004	Board of Assessors amendment	Ch. 19
STM, Art. 3	1-27-2005	Renumbering of sections	Chs. 158 and 196
STM, Art. 1	5-4-2005	Zoning amendment	Ch. 198
STM, Art. 4	5-4-2005	Zoning amendment	Ch. 198

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 18	5-5-2005	General Law acceptance	Ch. A800
ATM, Art. 26	5-5-2005	Zoning amendment	Ch. 198
ATM, Art. 27	5-5-2005	Zoning amendment	Ch. 198
ATM, Art. 28	5-5-2005	Zoning amendment	Ch. 198
ATM, Art. 29	5-5-2005	Zoning amendment	Ch. 198
ATM, Art. 30	5-5-2005	Historic districts amendment	Ch. 196
ATM, Art. 31	5-5-2005	Zoning amendment	Ch. 198
ATM, Art. 32	5-5-2005	Personnel amendment	Ch. 43
STM, Art. 2	11-1-2005	Zoning amendment	Ch. 198
ATM, Art. 11	4-27-2006	General Law acceptance	Ch. A800
ATM, Art. 17	4-27-2006	General Law acceptance	Ch. A800
ATM, Art. 19	5-1-2006	Special Act	Ch. A801
ATM, Art. 21	5-1-2006	Zoning amendment	Ch. 198
ATM, Art. 22	5-1-2006	Zoning amendment	Ch. 198
STM, Art. 2	5-3-2006	Zoning amendment	Ch. 198
STM, Art. 8	5-3-2006	Meetings: procedure amendment	Ch. 36, Art. II
STM, Art. 4	11-9-2006	General Law acceptance	Ch. A800
ATM, Art. 15	4-29-2007	Personnel amendment	Ch. 43
STM, Art. 9	11-8-2007	Sales amendment	Ch. 149
ATM, Art. 5	4-10-2008	Director of Public Works; solid waste amendment; streets and sidewalks amendment; water use restrictions amendment; lawn irrigation systems amendment; Special Act	Chs. 151; 153, Arts. I and II; 158, Arts. I, IV and V; 190, Art. I; 191; A801
ATM, Art. 11	4-10-2008	General Law acceptance	Ch. A800
ATM, Art. 20	4-10-2008	Personnel amendment	Ch. 43
ATM, Art. 24	4-10-2008	Finances amendment	Ch. 19

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 25	4-10-2008	Stormwater and land disturbance	Ch. 193
ATM, Art. 26	4-10-2008	Violations and penalties amendment	Ch. 1, Art. II
STM, Art. 5	11-12-2008	Zoning amendment	Ch. 198
STM, Art. 6	11-12-2008	Zoning amendment	Ch. 198
STM, Art. 7	11-12-2008	Disposal of surplus property amendment	Ch. 62
STM, Art. 9	11-12-2008	Excavation of trenches in public ways and on private land	Ch. 158, Art. VII
STM, Art. 10	11-12-2008	Petition for Special Act	Ch. A801
STM, Art. 16	11-12-2008	Regulation of dogs amendment	Ch. 91, Art. I
STM, Art. 17	11-12-2008	Violations and penalties amendment	Ch. 1, Art. II
ATM, Art. 12	4-13-2009	General law acceptance	Ch. A800
ATM, Art. 13	4-13-2009	Finances amendment	Ch. 19
ATM, Art. 20	4-13-2009	Violations and penalties amendment	Ch. 1, Art. II
ATM, Art. 21	4-13-2009	Editorial revisions	Ch. 1, Art. I
ATM, Art. 22	4-13-2009	Petition for Special Act	Ch. A801
ATM, Art. 23	4-13-2009	Town Meetings notice and warrant amendment	Ch. 36, Art. I
ATM, Art. 24	4-13-2009	Town Meetings notice and warrant amendment	Ch. 36, Art. I
ATM, Art. 25	4-13-2009	Town Meetings procedure amendment	Ch. 36, Art. II
ATM, Art. 32	4-13-2009	Violations and penalties amendment	Ch. 1, Art. II
ATM, Art. 33	4-13-2009	Violations and penalties amendment	Ch. 1, Art. II
STM, Art. 2	4-15-2009	Zoning amendment	Ch. 198
STM, Art. 4	4-15-2009	General law acceptance	Ch. A800
STM, Art. 3	11-18-2009	Zoning amendment	Ch. 198
STM, Art. 5	11-18-2009	General law acceptance	Ch. A800
ATM, Art. 10	5-13-2010	General law acceptance	Ch. A800

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 18	5-13-2010	Department of Public Works amendments	Ch. 1, Art. II; Ch. 75; Ch. 158, Art. I; Ch. 190, Art. I; Ch. 191
ATM, Art. 28	5-13-2010	Zoning amendment	Ch. 198
STM, Art. 12	11-16-2010	Zoning amendment	Ch. 198
STM, Art. 13	11-16-2010	Stretch Energy Code	Ch. 197
STM, Art. 16	11-16-2010	Zoning amendment	Ch. 198
ATM, Art. 13	4-7-2011	General Law acceptance	Ch. A800
ATM, Art. 16	4-7-2011	Treasurer and Collector amendment	Ch. 72
ATM, Art. 19	4-7-2011	Zoning amendment	Ch. 198
ATM, Art. 20	4-7-2011	Zoning amendment	Ch. 198
ATM, Art. 21	4-7-2011	Zoning amendment	Ch. 198
ATM, Art. 7	4-9-2012	General Law acceptance	Ch. A800
ATM, Art. 10	4-9-2012	Zoning amendment	Ch. 198
ATM, Art. 17	4-9-2012	General Law acceptance	Ch. A800
ATM, Art. 19	4-9-2012	Finances amendment	Ch. 19
ATM, Art. 24	4-9-2012	Zoning amendment	Ch. 198
ATM, Art. 26	4-9-2012	Traffic Commission amendment	Ch. 68
STM, Art. 5	10-3-2012	Finances amendment	Ch. 19
STM, Art. 6	10-3-2012	Zoning amendment	Ch. 198
ATM, Art. 8	4-4-2013	General Law acceptance	Ch. A800
ATM, Art. 12	4-4-2013	Meetings: procedure amendment	Ch. 36, Art. II
ATM, Art. 12	4-3-2014	Municipal Affordable Housing Trust Fund; General Law acceptance	Ch. 77; Ch. A800
ATM, Art. 15	4-3-2014	Zoning amendment	Ch. 198
ATM, Art. 18	4-3-2014	General Law acceptance	Ch. A800
ATM, Art. 26	4-3-2014	Animals: regulation of dogs amendment	Ch. 91, Art. I

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 27	4-3-2014	Board of Selectmen amendment; Town Administrator amendment	Ch. 58; Ch. 60
ATM, Art. 28	4-3-2014	General Law acceptance	Ch. A800
ATM, Art. 8	4-6-2015	General Law acceptance	Ch. A800
ATM, Art. 10	4-6-2015	Private fire hydrants and underground and exposed piping: inspection, testing, and maintenance	Ch. 145, Art. I
ATM, Art. 18	4-6-2015	Meetings: procedure amendment	Ch. 36, Art. II
ATM, Art. 19	4-6-2015	Stormwater and land disturbance amendment	Ch. 193
ATM, Art. 28	4-6-2015	General Law acceptance	Ch. A800
STM, Art. 5	11-9-2015	General Law acceptance	Ch. A800
ATM, Art. 12	4-7-2016	Personnel amendment	Ch. 43
ATM, Art. 14	4-7-2016	Private fire hydrants and underground and exposed piping: inspection, testing, and maintenance amendment	Ch. 145, Art. I
ATM, Art. 34	4-7-2016	General Law acceptance	Ch. A800
STM, Art. 1	11-15-2016	Lawn irrigation systems amendment	Ch. 191
STM, Art. 2	11-15-2016	Meetings: procedure amendment	Ch. 36, Art. II
STM, Art. 4	11-15-2016	Zoning amendment	Ch. 198
STM, Art. 10	11-15-2016	Zoning amendment	Ch. 198
ATM, Art. 5	4-2-2017	Finances amendment	Ch. 19
ATM, Art. 14	4-2-2017	Zoning amendment	Pending approval

Enactment	Adoption Date	Subject	Disposition
ATM, Art. 23	4-2-2017	General provisions: violations and penalties amendment; solid waste: plastic bag reduction	Ch. 1, Art. II; Ch. 153, Art. III
ATM, Art. 24	4-2-2017	General provisions: violations and penalties amendment; solid waste: polystyrene food containers	Ch. 1, Art. II; Ch. 153, Art. IV