ZONING BYLAWS

OF THE

TOWN OF MILTON

ADOPTED FEBRUARY 10, 1938

AS AMENDED THROUGH THE
MAY 2009 SPECIAL TOWN MEETING

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SECTION I. Definitions.

A. In this bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

1. *Street* – the word "street" means:
   a. a public way or a way which is maintained as a public way under public authority and used as a public way and the Town Clerk so certifies.
   b. a way shown on a plan approved and endorsed by the Planning Board in accordance with the Subdivisions Control Law, provided that such approved way has been built or that there exists the assurance required by section eight–one U of the Subdivision Control Law (or successor statutory provision) that such approved way will be built, or,
   c. a way in existence on February 10, 1938, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Certification by the Town Clerk hereunder shall be by writing in form sufficient for recording with the Norfolk County Registry of Deeds. A private way shall not be a "street" with respect to any lot which does not have appurtenant to it recorded right of access to and over such way for vehicular traffic.
2. *Lot* – A "lot" is a single area of land in one ownership defined by metes, bounds, or boundary lines in a recorded deed or on a recorded plan. After this bylaw is adopted, new lots may be established by recording the same or by filing with the Building Commissioner as a part of an application for a building permit the plan of the lot appurtenant to the building signed by the owner or owners of the lot and defining the lot by metes and bounds on such plan. In determining lot areas no part thereof within the limitation of the street shall be included.
3. *One Ownership* – The term "one ownership" means an undivided ownership by one person or by several persons whether the tenure be joint, in common, or by entirety.
4. *Recorded* – The term "recorded" or "of record" means recorded or registered in the Norfolk County Registry of Deeds or a record title to a parcel of land disclosed by any or all pertinent public records.
5. *Building* – The word "building" shall include "structure." A retaining wall rising no more than five feet above the finished grade at its base, exclusive of any berms, shall not be deemed a structure.
6. *Erected* – The word "erected" shall include the words "build," "constructed," "reconstructed," "altered," "enlarged," and "moved."
7. *Frontage* – Frontage of a lot is the distance measured in a straight line between the points where the side boundary lines of the lot intersect the side line of the street which provides access to the lot. At least 80% of the required frontage measured

parallel to the aforementioned straight line must be maintained without interruption for a distance of at least 75% the required frontage.

8. *Religious* – The word "religious," shall have the same meaning as the word has in the second paragraph of G.L. c40A S3 (or successor statutory provision), which partially exempts from zoning requirements the use of land or structures for religious purposes.
9. *Educational* – The word "educational," shall have the same meaning as the word has in the second paragraph of G.L. c40A S3 (or successor statutory provision), which partially exempts from zoning requirements the use of land or structures for educational purposes. No use of land or structure shall be deemed educational or for educational purposes unless it is on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation, except as G.L. c40 S3 (or successor statutory provision) may be amended to permit partially–exempt educational use on land otherwise owned or leased.
10. *Sign* – The word "sign" (whether exterior, interior, permanent or temporary) means any object, board, placard, paper, symbol, banner, streamer, letter, number, emblem, logo, color, display or light or any combination thereof which identifies or attracts attention to any property or premises or provides information.
11. *Exterior Sign* – The term "exterior sign" means a sign, temporary or permanent, which is: (a) located outside of a building, whether apart from or attached to a building; (b) located on vacant property; or (c) painted on or attached to the outside of a window or door.
12. *Interior Sign* – The term "interior sign" means a sign, temporary or permanent, which is located inside a building within twelve inches of or attached to the inside of the door or window glass of such building, and visible through such glass from any public right of way or from any outside area open to the public.
13. *Permanent Sign* – The term "permanent sign" means a sign, exterior or interior, other than a temporary sign.
14. *Temporary Sign* – The term "temporary sign" means a sign, exterior or interior, which provides information regarding any special event or offering of a non–permanent nature, including, but not limited to a yard sale at the same location authorized by the Board of Selectmen, an activity involving the public health, safety or welfare, an election or referendum, or an offering for sale or lease of the real property upon which the temporary sign is located. Governmental, seasonal, or decorative flags displayed on residential premises are temporary signs.
15. *Adult Live Entertainment Establishment* – A business in business premises which as a form of entertainment to customers allows a person or persons to perform in a state of nudity as defined in General Laws, Chapter 272, Section 31, as amended, or allows a person or persons to work in a state of nudity as so defined.
16. *Adult Theater* – A business in business premises which presents to customers live or filmed performances distinguished by an emphasis on matter depicting, describing,

or relating to sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31 as amended.

17. *Sexually Oriented Business* – A business in business premises having as a substantial or significant portion of its stock in trade any of the following:
    a. Books, magazines, newspapers, or other written material which are distinguished or characterized by their emphasis depicting or describing sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31 as amended;
    b. Videos, movies, photographs or other filmed material which are distinguished or characterized by their emphasis depicting sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31 as amended; and
    c. Sex paraphernalia consisting of devices, objects, tools or toys which are distinguished or characterized by the purpose of stimulating sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31 as amended, and which are without medical utility.

    As used in this definition a substantial or significant portion of stock in trade shall be deemed to exist under any of the following circumstances:
    d. When the cost of such a portion of the stock in trade on hand exceeds more than fifteen percent (15%) of the cost of all stock in trade on hand;
    e. When monthly sales including rentals from such a portion of the stock in trade exceed more than fifteen percent (15%) of the monthly sales of all stock in trade;
    f. When an area of more than fifteen percent (15%) of the floor area open to or observable by customers is wholly or partially used for the display or storage of such portion of the stock in trade; or
    g. In the event a business with any stock in trade listed in (a), (b) or (c) fails upon request of the building commissioner to produce accurate figures establishing costs for determining (d) and sales for determining (e).

    As used in this and the two preceding definitions business premises are a building or buildings or part of a building or buildings occupied by a business in a Business District.

18. *Family* – a person living alone or any of the following groups of people living together as a single housekeeping unit and sharing common living, cooking and eating facilities: (i) persons related by blood, marriage or adoption; (ii) two unrelated persons and other persons related by blood, marriage or adoption to either of them; (iii) persons in foster care or legal guardianship of a person listed above. A family shall not include lodgers, boarders or paying guests who shall be subject to the provisions of Section III.B.1.(e).

History: Added 5/8/2006 ATM, Article 50, approved by the Attorney General on 10/5/2006.

SECTION II. Establishment of Districts.

A. Classes of Districts. The town of Milton is hereby divided, as shown on the Zoning Map entitled "Map of Milton, Massachusetts, showing Zoning Districts," dated January 7, 1938 and filed with the Town Clerk, and hereby declared a part of this bylaw, into nine classes of districts:

1. Residence A districts;
2. Residence B districts;
3. Residence C districts;
4. Business districts;
5. Residence D districts;
6. Residence D–1 districts;
7. Residence E districts;
8. Residence AA districts;
9. Residence D–2 districts.

B. Boundaries of Districts. The boundaries of business districts hereunder shall continue to be as existing immediately prior to the adoption of this bylaw. The boundaries of Residence AA districts, Residence A districts, Residence B districts, Residence C districts, Residence D districts, Residence D–1 districts, Residence D–2 districts, and Residence E districts shall be as shown on the Zoning Map which is part of this bylaw.

Section 1.01 ZONING MAP CHANGED BY VOTES AT THE FOLLOWING TOWN MEETINGS

ARTICLE 57	MARCH 9, 1940
ARTICLE 57	MARCH 8, 1947
ARTICLE 48	MARCH 8, 1958
ARTICLE 3	NOVEMBER 18, 1969
ARTICLE 45	MARCH 15, 1977
ARTICLE 45	MARCH 14, 1978
ARTICLE 6	JUNE 13, 1978
ARTICLE 17	MARCH 12, 1988
ARTICLE 14	JUNE 7, 1988
ARTICLE 40	MAY 7, 2002

C. Lots in Two Districts. Where a district boundary line divides a lot recorded prior to the time this bylaw is adopted, the regulations and restrictions of the less restricted portion of such lot shall govern such portion of such lot as shall be within the more restricted district and shall lie within thirty feet of said boundary line, provided the lot has a frontage on a street in the less restricted district.

SECTION III. Use Regulations.

A. Residence AA, A, B, and C District Uses. In a Residence AA, A, B, C district, except as herein otherwise provided, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used for a store or shop, or for manufacturing or commercial purposes, or for other purposes except one or more of the following:

1 Detached one–family dwelling;
2. Religious purposes;
3. Educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies politic or by a religious sect or denomination, or by a non–profit educational corporation;
4. (a) Agricultural, horticultural, or floricultural use on a parcel of more than five acres if such use is the primary one, selling only produce raised on the premises; but the term "agricultural use" shall not include maintenance of a piggery or fur farm.

(b) On a parcel of five acres or less, agricultural use, selling only produce raised on the premises; provided, however, that this paragraph 4(b) shall not be deemed or construed to permit to authorize the maintenance of any building or structure.

5. Municipal use, other than housing of any kind whether controlled by a Milton Housing Authority or otherwise;
6. Accessory use on the same lot with and customarily incident to any of above permitted uses, or to the uses permitted in accordance with the following subsection numbered 7, and not detrimental to a residential neighborhood;
7. Any of the following uses, if authorized by permit issued by the Board of Appeals and subject to appropriate conditions, limitations, and safeguards stated in writing by the Board of Appeals and made a part of the permit:
   (a) Private clubs not conducted for profit;
   (b) Cemetery, not conducted for profit;
   (c) The garaging or maintaining on any lot of more than five automobiles when accessory to a dwelling;
   (d) On a parcel of five acres or less a greenhouse or nursery selling only produce raised on the premises; provided, however, that greenhouses and nurseries in single residence districts shall be permitted to sell, only during the Christmas season, cut trees, Christmas trees, boughs, holly and wreaths grown or fabricated elsewhere than on the premises;
   (e) Charitable or philanthropic use (including hospital or sanitarium) not conducted for profit, but not including any use described in paragraph D of this Section;
   (f) Riding stable;
   (g) Public utility or public communications building not including a service station or outside storage of supplies;
   (h) A two–family house (as defined below) if the lot on which it will stand lies between two lots on which a building designed for occupancy by two or more families each, located on the same side of the street and less than 100 feet apart.

A two–family house is a residential building fitted to be occupied by two families which are independent of each other as regards the preparation of food;

(i) A dwelling used primarily and principally for residential purposes may be used incidentally but without public display of goods or wares, or signs except as permitted in subsection B.3 hereof, for the sale of foods or of goods of home manufacture prepared or made therein by the occupants of such dwelling, for the operation of a telephone answering service, or for other incidental purposes which are not primarily industrial, trade, manufacturing or commercial purposes, provided, in each case, the Board of Appeals shall determine that the use of such building is incidental only and that such use will not be substantially detrimental to the use of other property in the neighborhood;

(j) The parking of school buses on town–owned land.

8. The following use, if authorized by permit issued by the Planning Board and subject to appropriate conditions, limitation, and safeguards stated in writing by the Planning Board and made a part of the permit:

   Condominium units converted from existing estate buildings, as provided in subsection L of Section VI.

9. The following use, if authorized by special permit issued by the Board of Appeals subject to the following conditions, and to such further limitations and safeguards as the Board of Appeals may deem necessary or appropriate:

   Detached one–family dwelling with temporary apartment.

   The Board of Appeals shall not issue a special permit for a detached one–family dwelling with a temporary apartment except upon the following conditions which shall be in writing and part of the special permit:

   a. The applicant(s) for the special permit must be the owner(s) of the one–family dwelling in which the temporary apartment is proposed. During the effective dates of a special permit hereunder, an owner or owners with at least a 50% ownership interest in the dwelling, shall have his/her/their primary residence either in the temporary apartment or in the principal dwelling quarters. The application shall specify whether the owner(s)–occupant(s) will dwell in the temporary apartment or in the principal dwelling quarters. For the purposes of this paragraph, “principal dwelling quarters” shall mean the portion of a one–family dwelling not included in a temporary apartment.

   b. If the owner(s)–occupant(s) will occupy the principal dwelling quarters, the application for a special permit and the special permit shall specify the names of all the tenants who will occupy the temporary apartment, or, if the owner(s)–occupant(s) will occupy the temporary apartment, the application and the special permit shall specify the names of all the tenants who will occupy the principal dwelling quarters. At least one of the tenants living in the premises during the term of the special permit must bear one of the following relationships to at least one of the owner(s)–occupant(s) or to a spouse, a former spouse, or a deceased

spouse of an owner–occupant: mother, father, stepmother, stepfather, child, stepchild, grandparent, grandchild, aunt, uncle, niece, nephew.

c. Each of the tenants specified in the application for a special permit and in the special permit shall bear at least one of the following relationships to each of the other tenants: spouse, child, parent, stepchild, stepparent, brother, sister, stepbrother, or stepsister. Only the tenants specified in the special permit may reside in the premises, except for newborn or newly adopted children and for a nurse, nurse's aide, homemaker, or other such person necessary to care for a tenant who is so specified.

d. In the application for a special permit, the applicant(s) shall submit a design in adequate detail showing the layout of the temporary apartment and specifying all changes required to be made to the existing dwelling for such apartment; the applicant(s) shall submit a further design in adequate detail showing the incorporation of the temporary apartment into the principal dwelling quarters upon expiration of the special permit. These designs shall show: that the temporary apartment will be created without exterior modifications to the dwelling except as may be required for safety; that in the event an additional entrance or egress is so required, it shall be unobtrusively located on the side or rear of the dwelling; that any new stairway to the second or third floor shall be enclosed and be unobtrusively located on the rear of the dwelling; and that the dwelling shall retain the appearance of a single–family dwelling. The designs shall also show that the temporary apartment can be readily and inexpensively incorporated into the principal dwelling quarters upon expiration of the special permit. These designs shall be made a part of the special permit so as to specify all permissible alterations for creation of the temporary apartment and the necessary alterations, including removal of kitchen facilities, which will be required to merge the space back into a one–family dwelling upon the expiration of the special permit.

e. The lot on which a detached one–family dwelling with temporary apartment is located shall be of adequate size and configuration to permit the increased use without adverse impact on neighboring properties. The application for the special permit shall specify the location and amount of parking necessary to meet the needs of the occupants of the principal dwelling quarters and the occupants of the temporary apartment. Additional parking which may be required on account of the increased use shall be partially screened from neighboring properties by such planting as may be deemed adequate by the Board of Appeals. In no event shall creation of a temporary apartment reasonably require that more than five vehicles be garaged or maintained accessory to a one–family dwelling with a temporary apartment, and no more than five vehicles shall be garaged or maintained accessory to such dwelling at any time during existence of the apartment.

f. The one–family dwelling in which a temporary apartment is located shall be of adequate size for the uses of both the temporary apartment and the principal dwelling quarters. The temporary apartment shall not contain in excess of eight

hundred (800) square feet of floor area or one–third of the floor area of the dwelling, whichever is less. There shall be no more than two (2) bedrooms in a temporary apartment. A temporary apartment shall be entirely contained within the existing dwelling or on the second floor of an attached garage. Garage parking space, which existed within five years before application for a special permit is made, cannot be used as living space in a temporary apartment or the associated principal dwelling quarters. A temporary apartment may not be located in a building which is not part of a dwelling or an attached garage. During the period in which a temporary apartment exists in or has been approved for a dwelling, there shall be no enlargement of the dwelling. During the period a temporary apartment exists, there shall be no boarders or lodgers in the principal dwelling quarters or in the temporary apartment.

g. A special permit for a detached one–family dwelling with temporary apartment shall terminate by reason of any of the following events:
   1. Sale of the premises.
   2. Residence by a tenant not named in the special permit, except for newborn or newly adopted children or for a nurse, nurse's aide, homemaker, or other such person necessary to care for a tenant who is so named in the special permit.
   3. Residence by a boarder or lodger in either the temporary apartment or in the principal dwelling quarters.
   4. Failure of an owner or owners with at least a 50% ownership interest in the dwelling to have his/her/their primary residence in the dwelling.
   5. Violation of any other term of the special permit which is not cured within two weeks of notice of the violation, mailed to the assessed owner by certified mail, return receipt requested.
   6. The expiration of four (4) years from the date on which the special permit was granted, or the expiration of four (4) years from the date on which the special permit may have been extended.

If the Building Commissioner has cause to believe that one of the foregoing events, numbered 2–5, has occurred, he shall schedule a hearing by the Board of Appeals for a determination whether such an event has occurred and shall give notice of the time, place, and reason for the hearing to the assessed owner(s) of the property by certified mail, return receipt requested, mailed at least two weeks before the hearing. At the hearing, the Building Commissioner or a designee shall specify the basis of his belief that one of the events has occurred, including information provided by third persons, who also may speak at the hearing. The holder of the special permit shall then have the burden of convincing the Board of Appeals that no event terminating the special permit has occurred. Unless the Board of Appeals is convinced that no such event has occurred, it shall formally revoke the special permit which shall thereupon terminate.

h. Following sale of the premises, expiration of the term of the special permit or revocation of the special permit by the Board of Appeals, there shall be no further use or occupancy of the temporary apartment separately from the

principal dwelling quarters. The temporary apartment shall be incorporated with the principal dwelling quarters within sixty (60) days from the date of sale, from the date of revocation of the special permit, or from the date of expiration of the special permit, whichever occurs first. Extension of a special permit may be denied solely on the basis of prior lack of cooperation of an owner with the Building Commissioner's reasonable efforts to ascertain whether the conditions, limitations, and safeguards of the special permit were being met from time to time during the term of the special permit. Uncured violation of a condition of a special permit shall be continuing cause for its termination, whether or not notice of violation has been or might have been given at a prior time.

i. A temporary certificate of occupancy shall be issued by the Building Commissioner prior to any use of a temporary apartment pursuant to a special permit under this paragraph. Upon termination of the special permit, such temporary certificate of occupancy shall also terminate. Following termination of the special permit, after giving reasonable notice, the Building Commissioner shall inspect the premises to determine whether the temporary apartment has been incorporated into the principal dwelling quarters. Failure to so incorporate the temporary apartment into the principal dwelling quarters or to give the Building Inspector access to inspect such incorporation shall be cause for the Building Commissioner to terminate the certificate of occupancy for the dwelling.

j. For the purpose of this bylaw, each fortnight that an apartment is maintained in a one–family dwelling without compliance with this paragraph (or other provision making the use legal) shall be deemed a separate violation subject to the penalty specified in Section XI. Following termination of a special permit, failure to give the Building Commissioner access to inspect, upon reasonable notice, incorporation of the temporary apartment into the principal dwelling quarters shall be a violation of this paragraph; for the purpose of this bylaw, each fortnight during which access is so denied shall be deemed a separate violation subject to the penalty specified in Section XI.

k. After issuance of a special permit under this paragraph, the Board of Appeals shall send copies of the special permit and thereafter any extension of the special permit, and any termination of the special permit, to the Building Commissioner and to the Board of Assessors. Annually, the holder of a special permit under this paragraph shall advise the Building Commissioner that the temporary apartment is in conformity with the special permit.

l. For the purposes of this paragraph a temporary apartment is defined as a separate living area within a detached one–family dwelling fitted to be occupied by tenants independent of the occupants of the principle dwelling quarters as regards the preparation of food.

10. The following use, if authorized by a business certificate issued by the Town Clerk to a resident or residents upon payment of a fee and subject to the following conditions: A Home Occupation.

(a) The home occupation shall be conducted in no more than 400 square feet within the dwelling and all materials, equipment, and facilities related to the home occupation shall be included in that space. Outside storage shall not be permitted in a home occupation. A floor plan drawn to scale that details the area in which the home occupation will be conducted and such other material as specified by the Town Clerk shall be included as part of the permit application. A detailed description of the home occupation shall also be included as part of the application.

(b) Only persons residing in the dwelling may engage in the home occupation and there shall be no more than three persons engaged in the home occupation.

(c) Merchandise, operations, signs or other indications of any kind regarding the home occupation shall not be visible from outside the dwelling.

(d) The appearance of the dwelling shall not be altered in any manner which reflects or indicates that the home occupation is being conducted in the dwelling.

(e) The home occupation shall not generate excessive pedestrian and/or vehicular traffic to or from the dwelling.

(f) There shall be no use of commercial vehicles for regular deliveries of goods or materials to or from the dwelling related to the home occupation.

(g) The home occupation shall not create noise, odor, dust, vibration, fumes, or smoke discernible at any boundary of the lot on which the home occupation is situated; it shall not create any electrical disturbance affecting electrical appliances located on adjacent properties; and it shall not create any hazardous or potentially hazardous condition or conditions.

(h) The home occupation shall be permissible under any applicable lease or rental agreement, or in the case of a condominium project, any applicable covenants, conditions, or restrictions.

(i) Home occupations shall not involve sexually oriented conduct.

(j) Home occupations shall be conducted in accordance with all applicable state and federal laws and regulations and with all applicable municipal requirements.

If all the foregoing conditions are satisfied, the Town Clerk shall issue a business certificate for the home occupation. A business certificate issued in accordance with this section shall be in force and effect for four (4) years from the date of issue and upon payment of a fee for each renewal may be renewed for additional four (4) year terms so long as the home occupation shall have been conducted in accordance with these conditions. The certificate shall lapse and be void at the end of its term unless so renewed.

Any violation of the conditions imposed in this Paragraph 10 on a home occupation shall be cause for the revocation of the home occupation business certificate by the Building Commissioner pursuant to Section VIII.A. Upon such revocation, such home occupation shall cease immediately.

In the event that such home occupation shall continue following revocation or expiration of a business certificate and notice to the resident(s), the resident(s) shall be subject to a

fine of no more than $50 for each offense with each day that business continues following such notice being deemed a separate offense.

No home occupation shall be conducted except in compliance with the foregoing conditions pursuant to a business certificate or as otherwise authorized by special permit issued by the Board of Appeals pursuant to Section III, Subsection A, Paragraph 7 (i).

B. Accessory Uses in Residence AA, A, B and C Districts.

1. In Residence AA, A, B and C districts the following are hereby declared not to be "accessory uses" within the meaning of the bylaw.
   (a) Except with respect to a parcel of more than five acres primarily used for agricultural, horticultural or floricultural purposes, the garaging or maintaining on any lot of a total of more than five registered automobiles at any time, or the maintaining of any unregistered automobile whether assembled or disassembled unless such unregistered automobile is stored within an enclosed building, unless a special permit is granted by the Board of Appeals pursuant to the provisions of Section IX.C.**.**
   (b) The maintaining on any lot of any commercial automobile, except in the case of a lot used for agricultural or for a municipal use, except that one such commercial vehicle may be maintained provided that such commercial vehicle is garaged.
   (c) The garaging or maintaining on any lot of less than five acres used for agriculture of more than four commercial vehicles.
   (d) The sale of produce not raised on the premises unless, in the case of a commercial greenhouse maintained on any lot of less than five acres established and doing a non–conforming business, a special permit is granted by the Board of Appeals pursuant to the provisions of Section IX hereof.
   (e) The accommodation of, or renting space to more than three lodgers, boarders, or paying guests.
   (f) Accessory use shall not include dwellings, except that there may be constructed as part of a garage or stable, family living quarters for and to be occupied only by an employee of the owner or occupant of the dwelling to which such garage or stable is an accessory use; provided, however, that such employment is of the type customarily incident to the use of said dwelling.
   (g) The storage of a boat, a pickup camper, a trailer or a recreational vehicle, except that storage on a lot of a boat, a pick–up camper, a trailer or a recreational vehicle which is owned or leased by a resident of that lot is permitted, subject to the conditions that the said boat, pick–up camper, trailer or recreational vehicle is stored inside a principal or accessory building, or, if stored outside, is not located closer to the street than the dwelling is located or within thirty feet of the line of the street on which the lot fronts, whichever is further, nor within twenty feet of a side lot line nor within ten feet of the dwelling on the lot; is exclusively used for recreational purposes by the resident of the lot; and is not used for dwelling or sleeping purposes on the lot.
2. Swimming Pools – A permit is required for the construction of a swimming pool, which is an accessory structure subject to the provisions of this chapter. Any pool over twenty–

four inches deep shall be fenced by a chain link fence at least four feet high or a stockade type fence at least five feet high with a self–latching gate or an equivalent enclosure or means of protection from access to the pool. No swimming pool shall be erected or constructed within twelve feet of any existing building nor within eight feet of the boundary lines of any lot.

3. *Signs and Billboards* – This Bylaw is intended to serve the following objective: To preserve, promote and advance the aesthetically pleasing environment of the community by prohibiting permanent signs in residential zones except such as are necessary for the public health or the public safety.
   (a) No person shall erect any permanent sign of any type in any residential zoning district of the town.
   (b) Temporary signs are permitted, provided that a temporary sign advertising any commodities, including but not limited to goods, food and services, shall be displayed only on premises where such commodities are sold, rented or otherwise made available to the public pursuant to a valid business use, that any such temporary advertising sign shall be displayed for no more than forty–five (45) days, and that any such temporary advertising sign on premises shall be no larger than the size which would be permissible if the premises were located in a business district.
   (c) Exceptions: Notwithstanding Subsection (a) above the following will be allowed;
      1. Any permanent sign lawfully erected and existing as of the date of adoption of this Bylaw.
      2. Any sign permitted by the Board of Selectmen as necessary for public safety or the public health.

C. Business District Uses. In a Business District no building shall be erected, altered, or used and no land shall be used for any purpose, injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration, or noise, or other cause, or for any purpose whatsoever except the following purposes;

1. Any use permitted in a Residence AA, A, B, or C district;
2. Offices, banks, assembly halls or places of amusement;
3. Signs permitted in any residence district and advertising signs not illuminated (directly or indirectly) and erected or posted by the occupant of the premises to advertise goods or services offered on the premises for sale, hire or use, and meeting all of the following criteria as determined by the Building Commissioner.
   (a) Maximum Aggregate Area:
   The aggregate area of all exterior signs shall not exceed: (i) the number of square feet equal to the product resulting from multiplying the number of linear feet of the width of the facade by four–tenths (0.4) of a foot or (ii) forty (40) square feet, whichever is smaller.

Nor shall the aggregate area of interior signs exceed: (i) thirty (30) percent of the total area of door and window glass of the building facade or (ii) twenty (20) square feet, whichever is smaller.

Nor shall the aggregate area of all exterior and interior signs exceed ten (10) percent of the area of the building facade.

The area of a building facade shall be calculated by multiplying the width of the building front by the height of the building front as measured from ground level to the underside of any eave or parapet line. In calculating maximum permitted aggregate sign area in cases where the signs relate to a business occupying only a part of a building, the area of a facade shall be calculated by multiplying the width of the front of that part of the building occupied by the business by the height of the front of that part of the building occupied by the business.

(b) Height:

All portions of an exterior sign attached to a business building, including supporting bracket, shall be a minimum of seven (7) feet above adjoining ground level except that one exterior directory sign of less than one square foot shall be permitted between ground level and seven (7) feet.

(c) Number:

In addition to the exterior directory sign permitted under Section III, C.3 above, the number of exterior signs attached to or apart from each business premises shall be no more than one (1) except when in the judgment of the Board of Selectmen acting under paragraph 5 below an unusual circumstance is found to exist such as, but not limited to, business premises with entrances located on two rights of way. Business premises are a building or buildings or part of a building or buildings occupied by one business.

(d) Calculations of Sign Area:

(1) Each face of a multifaced sign or of a double faced sign shall be included so long as it can be seen from a public way or area open to the public.

(2) For irregularly shaped signs, the area shall be that of the smallest rectangle that wholly contains the sign.

(3) The area of a sign shall include the board or other material, including framing (visual or otherwise) of which the sign is a part. Area of signs which are permitted to be painted on walls, doors and windows, shall be calculated the same as irregularly shaped signs.

(e) Sign Location:

(1) Signs shall be located below the eave or parapet line of the building on which they are mounted.

(2) Signs shall be mounted flush to the building facade and shall not be mounted so as to be at an angle to or extending out from the building. Pole signs or exterior signs standing apart from a building are not

allowed unless approved by the Board of Selectmen under Paragraph 5 below.

4. Retail or wholesale stores, shops for custom work where the products are sold directly by the producer to the consumer, places where services are performed, places of the building trades, sales rooms and repair shops for motor vehicles, garages, filling stations, storage warehouses, restaurants and other places for serving food and drink, places of business of bakers, dyers, confectioners, launderers, photographers, printers and undertakers. Other uses of substantially the same character may be permitted only if authorized by special permit issued by the Board of Appeals subject to appropriate conditions, limitations and safeguards stated in writing by the Board of Appeals and made a part of the permit all in accordance with the provisions of Section IX.C.
5. Signs or illuminated signs erected or posted by the occupant of the premises to advertise goods or services offered on the premises for sale, hire or use, and approved by the Board of Selectmen subject to appropriate conditions, limitations and safeguards stated in writing by the Board of Selectmen and made a part of the sign permit. For approval of a sign not otherwise allowed in the Chapter, the Board of Selectmen shall determine that (a) the applicant has a reasonable need for the sign, (b) there is a reasonable basis for exempting the sign from the applicable standards, and (c) the exemption of the sign from such standards will not have a substantial detrimental effect on the community. The owner and lessee (if any) shall make written application for such sign permit to the Board of Selectmen.

6. Notwithstanding the provisions in Paragraphs l through 5 of this Subsection, no Adult Live Entertainment Establishment, No Adult Theater, and no Sexually Oriented Business, as defined in Section 1.A., shall be established or maintained in a Business District except as authorized by a special permit from the Board of Appeals, subject to appropriate conditions, limitations, and safeguards stated in writing by the Board of Appeals as part of the special permit, as provided in Section IX.C.. Each application for such a special permit shall be made by the owners of the property at which the business will be located and shall include the following:

   a) The name of the proposed business, a copy of any lease for the business premises, a detailed description of the type of business for which the special permit is sought, and the proposed days and hours of operation.
   b) The name and address of each person who has or will have a legal or beneficial interest in the business. If a corporation has such a legal or beneficial interest, the application shall include the names and addresses of the officers and directors and, if such corporation is not publicly owned, the names of the stockholders. If a partnership has such a legal or beneficial interest, the application shall include the names and addresses of all general and limited partners and all persons with a beneficial interest in the partnership.
   c) The name and address of each person who will have management responsibility for the proposed business and specification of the days and times at which each such person will be present at the business premises. The application shall include the names and addresses each person with management responsibility

who shall be authorized and available to respond promptly to complaints at any time when a manager is not present at the business premises and shall specify how each such person can be contacted without delay at any such time.

d) A certification that none of the persons named in the previous two subparagraphs has ever been convicted of violating the provisions of General Laws, Chapter 119, Section 63 or General Laws, Chapter 272, Section 28.

e) A plan to scale showing the lot on which the proposed business will be located, including all buildings, designation of parking spaces to be used by the proposed business, driveways, abutting streets and lots and any proposed landscaping; a floor plan to scale showing the proposed layout of the business premises; and exterior elevations to scale showing the proposed exterior appearance of the business premises, including each proposed sign and its content and the treatment of doors and windows.

f) A traffic study reliably determining the effect on traffic which is likely to be caused by the proposed business and setting out all measures proposed to be taken to mitigate any adverse traffic impact. The traffic study shall reliably determine the parking needs of the proposed business and shall specify how these needs will be met without adverse impact on other businesses.

g) Specification of the number of employees to be employed by the proposed business and hours during which they are expected to work.

h) A proposed security plan ensuring that minors shall in no event be exposed to sexually explicit material or performances except as authorized by law.

i) A proposed plan for ensuring that the stock in trade of the business or any performances presented shall include no obscene material.

j) If an application seeks a renewed special permit, it shall contain a certification that there has been compliance with the terms and conditions of the special permit of which renewal is sought.

An application containing inaccurate or incomplete information shall be cause for denying a special permit. If a special permit is issued and information in the application is later discovered to be false, this shall be cause for revoking the special permit. In determining whether to issue a special permit and in specifying conditions, limitations and safeguards, the Board of Appeals shall consider the information in the application and all other relevant information presented to it. An application for a renewed special permit shall be determined in the same manner as the original application except that failure to comply with the conditions, limitations and safeguards of an original special permit shall be cause for denial of a renewed special permit, as well as cause for revoking the original special permit. Any special permit issued under this Paragraph shall be for a term specified by the Board of Appeals not to exceed three years.

7. Applications to construct, reconstruct or alter more than eight hundred (800) square feet of a commercial building must receive site plan approval from the Planning Board, in accordance with Section VIII.D. Site Plan Approval, prior to issuance of a building

permit. Interior renovation work that makes no change in the exterior appearance of a commercial building shall be excluded from this site plan review requirement.

8. A drive-through food service facility, if authorized by special permit by the Planning Board, subject to the provisions of Section IX, Subsection C, the following standards, and such further limitations and safeguards as the Planning Board may deem necessary or appropriate.

   A drive-though food service is a use whereby a business serves food, beverages, or both to customers in motor vehicles. A facility providing drive-through food service shall meet all of the following standards:

   1. The drive-through food service facility shall have no adverse effect on traffic in the street or streets providing access and egress for the motor vehicles of customers of the facility. Initially, the applicant for a special permit shall show by a reliable traffic study by a qualified, independent expert, who has been hired at the expense of applicant and who has been approved by the Planning Board, that the proposed facility will cause no adverse impact on traffic flow on the adjoining street or streets.
2. The curb cuts for access to and egress from a drive-through food service facility from the adjoining street or streets shall be at least thirty feet from the lot line of an abutting owner on the street.
3. The driveway providing access to and egress from a drive-through service facility shall be designed so as to provide safe and efficient access and egress for motor vehicles to and from the facility and safety for pedestrians using the sidewalks over which such access and egress is provided.
4. The design of the drive-through service facility shall provide for adequate stacking spaces for a line of motor vehicles of customers without any blockage of sidewalks or use of adjoining streets for such line. Initially the applicant for a special permit shall show by a reliable business study by a qualified, independent expert, who has been hired at the expense of the applicant and who has been approved by the Planning Board, the reasonably anticipated numbers of vehicles which will be waiting for service at the periods of greatest use, and that such numbers of vehicles can be safely accommodated on site without blockage of sidewalks or waiting in the street.
5. Convenient on-site public parking spaces shall be provided to compensate for the number of street parking spaces eliminated by the access and egress driveways of the drive-through food service facility. Street parking spaces next to land of adjoining owners shall not be eliminated for a drive-through food service facility.
6. The transaction window(s) of a drive-through food service facility shall be at least 75 feet from any residence district. The sound of business being transacted at the transaction window(s) or at any separate ordering speaker station shall not be audible in any dwelling in a residence district or in the interior spaces of abutting buildings.
7. Signage for a drive-through food service facility shall be unobtrusive. The signage shall be adequate to identify the facility. Any menu board or price list shall be suitably screened so as not to be visible from public streets or from dwellings in residence districts. All

permissible signage shall be specified in the special permit and thereafter must be approved pursuant to Section III, Subsection C.

A special permit for a drive-through food service facility shall be effective for a term of five years and thereafter shall be renewable for additional 5-year term(s) provided that there shall have been compliance with the special permit and the provisions of this subsection. Non-compliance with the terms of a special permit or with the provisions of this subsection shall be good cause for revocation or non-renewal of the special permit by the Planning Board following a hearing.

History: Added 5/2/2006, Article 49, approved by the Attorney General on 10/5/2006.

D. Residence D, D–1, D–2 Use. In a Residence D, D–1 or D–2 district, except as herein otherwise provided, no building or land shall be used and no building shall be erected or converted except for the following purposes:

1. To provide Housing for the Elderly in a Residence D district; to provide Housing for the Elderly or Handicapped in a Residence D–1 district; and to provide Housing for the Elderly in a Residence D–2 district, such housing to be owned and operated only by either a private non–profit organization or by a local Housing Authority established under General Laws Chapter 121 Section 26K, as it may from time to time be amended, or owned and operated jointly by such organizations so far as permitted by law.
2. For the purposes of Subsection D.1 above a "private non–profit corporation" shall mean a corporation, foundation or other organization no part of the net earnings of which inures to the benefit of any private shareholder or individual; except that with respect to the Residence D–2 district, such term shall mean a corporation, foundation or other organization established under applicable state law, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
3. If any part of land included in a Limited Residence D district is not being used for Housing for the Elderly, the owner may apply to the Board of Appeals for a special permit to use said part of the land for any use permitted in a Residence AA, A, B or C district. If the permit is granted, all provisions in this bylaw applicable to the most appropriate Residence District shall apply and the Board of Appeals shall determine whether the land for which the permit is granted shall be governed by the provisions of a Residence AA, A, B or C district. While any such permit is in force any such land shall be free of all restrictions and conditions applicable to the use of land for Housing for the Elderly and need not be owned or operated by a non–profit corporation or Housing Authority. Land subject to such a permit may at any time, on application of the owner or with his consent, be redesignated by the Board of Appeals for the primary use of Section D.

   If any part of land included in a Limited Residence D–1 District is not being used for Housing for the Elderly or Handicapped, the owner may apply to the Board of Appeals for a special permit to use said part of land for any use permitted in the Residence AA, A, B or C district within which said part of land was located immediately prior to its

incorporation into a Residence D–1 district. If the permit is granted, all provisions in this bylaw applicable to the appropriate Residence district shall apply and the Board of Appeals shall determine whether the land for which the permit is granted shall be governed by the provisions of a Residence AA, A, B or C district. While any such permit is in force any such land shall be free of all restrictions and conditions applicable in Residence D–1 districts to the use and ownership of such land. Land subject to such a permit may at any time, on application of the owner or with his consent, be redesignated by the Board of Appeals for the primary use in a Residence D or D–1 district.

4. On each lot in a Residence D, D–1 or D–2 district, permitted accessory uses shall include one separate building, not exceeding one story in height, to house snow removal and mowing machines, garden and other tools, and other equipment required to maintain and service the Housing for the Elderly buildings in a Residence D district, the Housing for the Elderly or Handicapped buildings in a Residence D–1 district, and the Housing for the Elderly buildings in a Residence D–2 district erected on said lot and shall include such other accessory uses as are customarily incident to such Housing.
5. In Residence D, D–1 and D–2 districts the owners and operators shall comply with all the rules and regulations of the Town Departments concerning safety, services, ways and health.

E. Residence E Use. In a Residence E district, except as herein provided, no building or land shall be used and no building shall be erected or converted except for the following purposes:

1. For any use permitted in a Residence A district. Such uses shall be subject to all regulations of this bylaw applicable in a Residence A district.
2. For Attached Cluster Development pursuant to a special permit issued by the Planning Board pursuant to Section VI, subsection K of this bylaw.

F. In any district, uses, whether or not: on the same parcel as activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

G. Wireless Telecommunication Facilities.

1. Purpose.
   The purpose of this Subsection is to regulate the siting, construction and removal of wireless telecommunications facilities so as to promote the safety, welfare and aesthetic interests of the Town of Milton. It is the intent of this Subsection to:
   (a) Encourage the concealment of wireless telecommunications facilities within pre–existing structures, other than single family or multi–family dwellings or accessory structures thereto;
   (b) Encourage the camouflaging of wireless telecommunications facilities attached to pre–existing structures;
   (c) Encourage, where location on pre–existing structures is not feasible, the co–location of wireless telecommunications facilities on free–standing towers

currently in existence or for which special permits have been issued as of the effective date of this bylaw;

(d) Encourage the use of wireless communications facilities which employ the least visually intrusive technology available in the industry;

(e) Discourage the construction or location of free–standing towers;

(f) Maintain and preserve the residential character of the Town of Milton by eliminating or minimizing the adverse visual and aesthetic impact of all wireless telecommunications facilities; and

(g) Encourage competition among the providers of wireless telecommunication services to develop creative solutions to the particular and unique problems associated with the providing of wireless telecommunications services within the Town of Milton that do not detract from the aesthetic qualities of the Town generally and the neighborhoods in particular where such facilities are proposed to be located.

2. Definitions.

For the purpose of this Subsection G, the following definitions shall apply:

"antenna" – any apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

"camouflaged wireless telecommunications facility" – a wireless telecommunications facility that is disguised, shielded, hidden, or made to appear as an architectural component of an existing or proposed structure the use of which is otherwise permitted under the zoning bylaws of the Town of Milton. No wireless telecommunications facility attached to an existing structure shall be deemed "camouflaged" for the purpose of this bylaw there it extends vertically more than ten (10) feet above the height of the structure nor horizontally more than ten (10) feet beyond the face of any exterior side wall or the exterior of any surface of a structure with no side walls.

"concealed wireless telecommunications facility" – a wireless telecommunications facility that is entirely contained within the architectural features of an existing or proposed structure the use of which is otherwise permitted under the zoning bylaws of the Town of Milton such that no part of the facility is visible from the exterior of the structure. Antennas and other components of a wireless telecommunications facility situated within a free–standing wireless telecommunications facility shall not be deemed "concealed" or "camouflaged" for the purpose of this bylaw.

"co–location" – the use of a single free–standing wireless telecommunications facility by more than one carrier.

"free–standing wireless telecommunications facility" – any structure that is designed and constructed primarily to support one or more antennas including without limitation self–supporting lattice towers, guy towers or monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular and personal communication service towers.

"provider" or "carrier" – any person, corporation or other entity engaged in the business of providing wireless telecommunication services.

"wireless telecommunications facility" – a facility consisting of the structures, including towers and antennas mounted on towers and buildings, equipment, and equipment shelters, accessory buildings and structures, and site improvements, involved in sending and receiving telecommunications or radio signals from a mobile communications source and transmitting those signals to a central switching computer which connects the mobile unit with land based or other telephone lines.

3. Use Regulations.
   No person shall construct or locate a wireless telecommunications facility within the Town of Milton except as provided below:
   (a) *Uses as of Right.* Any person shall be permitted to construct or locate a wireless telecommunications facility in any zoning district if such facility is entirely concealed within an existing structure or attached to any existing structure but camouflaged thereon; provided, however, that no person shall maintain a wireless telecommunications facility concealed in or camouflaged on a single–family or multi–family residence or any accessory structure to an residential use located in any zoning district. Any building permit issued according to this Section shall require the holder of such building permit to post a bond or other surety, as described in Section 6.
   (b) *Design Review Approval.* Any wireless telecommunications facility the use of which is permitted under the provisions of Section 3 (a) above shall obtain design review approval prior to the issuance of any building permit as provided in Section 5 below.
   (c) *Special Permit.* No person shall construct or maintain any of the following without a special permit issued by the Board of Appeals hereinafter designated "the Board" in accordance with the provisions of Section 4 below:
      (1) any free–standing wireless telecommunications facility;
      (2) a wireless telecommunications facility concealed in or camouflaged on a barn or carriage house;
      (3) any other wireless telecommunications facility the use of which is not permitted under Section 3 (a) above.
   (d) *Historic Districts.* No free standing wireless telecommunications facility shall be constructed within any historic district established pursuant to the provisions of General Law Chapter 40C or any area listed in the National Registry of Historic Districts.
4. Special Permit Procedure.
   (a) *Contents of application.* Each applicant for a special permit under Section 3(c) above shall include in the application the following information:
      (1) copy of the owners' deed to the lot or parcel where a proposed facility is to be located; or evidence of the applicant's right to possession and/or control of the premises where the applicant is not the owner of record;
      (2) a narrative description of the proposed facility including the location and identification of all components together with a statement describing the purpose of each component and its intended function plus photographs or

other graphic illustrations fairly depicting the physical appearance of the proposed components;

(3) a locus plan prepared and certified by a professional engineer depicting all property lines, the exact location and dimension of all components of the proposed facility including all structures, streets, landscape features, including contours residential dwellings and all buildings within 500 feet of the proposed facility;

(4) an itemized description of other wireless telecommunications facilities owned and/or operated by the applicant or for which the applicant is currently seeking approval and which are either located in the Town of Milton or within a two mile radius of the Town of Milton or which are capable of providing service to customers operating within the Town of Milton.

(5) a description of all federal, state and local licenses, permits, or other approvals obtained by the applicant to date or to be obtained by the applicant prior to construction of the proposed facility;

(6) a statement as to whether an Environmental Assessment (EA), a Draft Environmental Impact Statement (DEIS) or Environmental Impact Statement (EIS) is or will be required under the National Environmental Protection Act or the National Historic Preservation Act, and if so, a copy of the said EA, DEIS, or EIS;

(7) a description in both geographical and radio frequency terms of the scope and quality of the service currently being provided to the Town of Milton by the applicant's existing facilities, if any;

(8) a description in both geographical and radio frequency terms as to the need to be addressed by the proposed facility;

(9) a description in both geographical and radio frequency terms as to precisely the manner in which the proposed facility addresses the needs identified in subsection (8) above;

(10) a statement describing the current state of technology available to provide wireless telecommunications services, and whether any such technology is available and feasible for the purpose of addressing the proposed need described in subsection (8) above;

(11) a statement as to whether the applicant considered any alternatives to a free–standing facility including but not limited to co–locating on an existing facility and, if so, the reason(s) such alternatives are not being proposed;

(12) a statement as to why there exists no feasible alternative to a free–standing facility to address the need identified by the applicant in subsection (8) above;

(13) a statement as to whether the need identified in subsection (8) above may be adequately met by siting a facility on other property;

(14) a description of the radio frequency testing procedures conducted by the applicant in connection with the proposed facility, if any, and the results thereof;

(15) a statement as to whether the proposed facility will have any impact on an environmentally, historically or archaeologically significant area in the vicinity of the proposed facility or upon any public way that has been designated as a Scenic Road in the Town of Milton;

(16) a statement setting forth the applicant's projected future needs for wireless telecommunication facilities within the Town of Milton;

(17) a description of the terms of any co–location agreements between the applicant and any other provider of wireless telecommunication services to the Town of Milton; and

(18) whether the applicant is seeking approval of co–location facilities on the proposed free standing facility, and if so, a detailed description in compliance with the preceding sub–sections of all components of the co–location facility for which the applicant is seeking approval.

(b) *Pre–hearing Procedures*. After notice of the public hearing has been published as provided by General Laws Chapter 40A, section 11, but prior to the hearing for which notice has been given thereunder, the applicant shall, with no less than 48 hours written notice to the Board and all immediate abutters, and owners of land directly opposite on any public or private street or way, and abutters to abutters within 300 feet of the property line of the applicant as they appear on the most recent applicable tax list, conduct a balloon or crane test, or such other reasonable equivalent, of the height of the proposed free standing facility and submit to the Board prior to the hearing a photographic representation from a suitable number of locations so as to depict the visual impact of the proposed facility on the Town, the neighborhood and the abutters to the site.

(c) *Independent Consultants*. The Board may at any time assess fees against the applicant in accordance with rules and regulations adopted pursuant to General Laws Chapter 44, section 53G, for the purpose of employing an independent consultant to evaluate any aspect of the proposed facility, including current service coverage. The applicant shall cooperate fully with the independent consultant selected by the Board and shall provide all information reasonably requested by the consultant including but not limited to radiological testing.

(d) *Standard for Issuance of Special Permit.* The Board shall issue a special permit for the construction of a free–standing wireless telecommunications facility only where it finds that (1) existing facilities do not adequately address the need for service, (2) there exists no feasible alternative to the proposal that would adequately address the need in a less intrusive manner, and (3) the proposed use is in harmony with the general purpose and intent of this bylaw.

(e) *Conditions to Issuance of Special Permit.* The Board may attach such terms and conditions to any special permit issued hereunder in order to protect the safety and welfare of the Town and to mitigate the visual impact of any free–standing

facility to be constructed pursuant to a special permit issued hereunder. Such terms and conditions may relate to, but shall not be limited to,

(1) appearance including color, style and materials, in conformity with applicable law and Town of Milton requirements;
(2) the type and dimensions of any fencing surrounding all or part of the facility;
(3) landscaping requirements at and around the facility;
(4) contents and dimensions of any signs if any are to be permitted by the Board;
(5) establishing noise limitations so as not to unreasonably disturb residents surrounding the facility during construction, operation or maintenance of the facility;
(6) hours of access to the facility for the purpose of conducting routine maintenance and inspections;
(7) limits as to the permissible height of any component of the facility;
(8) provisions to assure adequate lighting and lighting that is not intrusive to neighbors;
(9) safety provisions to guard against damage to persons or property in the event of a collapse or structure failure of any component of the facility;
(10) provisions for the removal of the facility upon abandonment or expiration of the special permit, including without limitation a bond or other surety; such bond or other surety shall be maintained throughout the period of construction, location, operation and use of the subject wireless telecommunications facility; the Building Commissioner shall receive thirty (30) days prior written notice of any cancellation, non–renewal or material amendment of such bond or other surety; and
(11) whether co–locations will be pre–approved, and if so, the terms and conditions of any such co–location pre–approval.

(f) *Duration of Special Permit.* Unless an earlier expiration date is specified by the Board in a special permit, all special permits issued under this bylaw shall expire automatically upon the expiration of five years from the date of issuance. Prior to expiration the applicant may apply for renewal of the special permit for another five–year period, said application to comply with all the provisions of Section 3 and 4 of this bylaw. In determining whether the special permit shall be renewed, the Board shall take into consideration whether there now exist any structures and/or technology available to the applicant which would enable the applicant to provide functionally equivalent services in a less intrusive manner. Upon expiration of a special permit which has not been renewed, the applicant shall disassemble and remove the entire facility forthwith at its expense, and any such facility not removed in its entirety within thirty days of the expiration of the special permit shall be deemed abandoned within the meaning of Section 6 below.

5. Design Review

(a) The Board of Selectmen shall appoint a Design Review Committee which shall consist of a member of the Planning Board who shall initially serve for a two–year term, a member of the Board of Appeals who shall initially serve for a three–year term, and a third member, who shall be a Milton resident, who shall initially serve for a one–year term. Each person appointed subsequent to the initial appointments shall serve for a three–year term.

(b) No building permit for the construction of a wireless telecommunications facility the use of which is permitted as of right pursuant to Section 3 (a) of this bylaw shall be issued by the Building Commissioner until such time as the facility design has been reviewed by the Design

Review Committee as provided herein. The Design Review Committee shall within twenty–one days of the filing of the application make a written finding that the proposed wireless telecommunications facility (1) does not substantially alter the exterior appearance of the structure in which it is to be located, or (2) substantially alters the appearance of the structure in which it is to be located. If the Design Review Committee fails to make a written finding within said twenty–one (21) day period the building permit process shall proceed without further review by said Committee.

(c) The written findings required by Section 5 (b) above shall issue only upon a vote in favor by at least two of the three members of the Design Review Committee. A written finding under Section 5 (b) shall be signed by each member of the committee who voted in favor of the issuance of said finding. All written findings issued under this bylaw shall be maintained under the control of the Building Commissioner.

(d) A written finding under Section 5 (b) above shall constitute approval of the facility design by the Design Review Committee. Where the Design Review Committee issues a written finding under Section 5 (b) (2) above, it may attach to its finding reasonable terms and conditions pertaining to the color, materials, design, dimensions, and other aspects of the exterior appearance of the proposed wireless telecommunications facility and/or the structure in which it is to be concealed or to which it is to be attached. Said terms and conditions issued by the Design Review Committee shall be incorporated by the Building Commissioner into the terms of any building permit issued thereafter.

(e) Any person aggrieved by the written finding or terms and conditions attached to the finding described in Section 5 (b) above may appeal the decision of the Design Review Committee to the Board of Appeals.

6. Removal of Abandoned Facilities

Any wireless telecommunications facility that is not operated or that is not in compliance with these bylaws for a continuous period of thirty days shall be considered to be abandoned, and the Building Commissioner may, by written notice sent by certified mail, order that such facility be removed within thirty days. At the time of removal the facility and all associated debris shall be removed from the premises. Any building permit issued pursuant to Section 3 above and any special permit issued pursuant to Section 4 above

shall require the holder of such building permit or special permit to post a bond or other surety, specifically approved by Town Counsel, in an amount and for a term both sufficient to guarantee the removal of the facility in accordance with this section and the lawful disposal of any components thereof. Such bond or other surety shall be maintained throughout the period of construction, location, operation, and use of the subject wireless telecommunications facility; the Building Commissioner shall receive thirty (30) days prior written notice of any cancellation, non–renewal or material amendment of such bond or other surety. In the event that the posted amount does not cover the cost of such removal and disposal, the Town may place a lien upon the premises covering the difference in costs.

7. Indemnification
   Any building permit issued pursuant to Section 3 above and any special permit issued pursuant to Section 4 above shall require the holder of such building permit or special permit to indemnify and hold harmless the Town of Milton and its boards, commissions, committees, officers, employees, agents and representatives from and against all claims, causes of action, suits, damages, costs and liability of any kind which arise out of the construction, location, operation or use of the subject wireless telecommunications facility in the Town of Milton.
8. Exemptions
   The provisions of this bylaw shall not apply to:
   (a) wireless telecommunications facilities providing safety or emergency services for any federal, state or municipal body;
   (b) amateur radio antennas licensed by the Federal Communications Commission and subject to General Laws Chapter 40A, section 3, provided that such antennas are not used for any commercial purpose and do not exceed 35 feet in height;
   (c) home television or internet access antennas;
   (d) medical facilities for transmittal of clinical medical information.

H. Limited Exterior Storage of Materials.

The following items shall not be stored or maintained on any lot in a residential district unenclosed and within view from a public or private way or the land of an abutter: demolished or dismantled buildings or elements of buildings; dismantled, inoperable, unused or rusty machinery, including lawn, driveway, garden and recreational machinery; household appliances for interior use; bathroom or kitchen fixtures; building materials except materials for construction for which a building permit has been issued; furniture or other household items intended and suitable only for interior use; scrap metal; tires; batteries; components of motor vehicles; unused clothing or rags; newspapers, magazines, and other papers; and trash not properly contained. Any such items removed from a dwelling onto a lot shall be promptly removed from the lot, in no event later than 14 days after being first placed onto the lot.

I. Planned Unit Development.

In the Milton Village/Central Avenue Business District on a lot of no less than 80,000 square feet of land, exclusive of wetlands, all of which is no less than 50 feet from any residential zoning district in the town a mixed residential and business use may be permitted by a special permit for planned unit development issued by the Planning Board upon such terms and conditions as the Planning Board shall deem to be reasonable and appropriate. In the event that a special permit for planned unit development shall be issued for a lot of land, no use of the lot may be made except as specifically authorized by the special permit. As used in this subsection I the word "lot" shall be deemed to include a combination of adjacent lots in more than one ownership. A special permit for planned unit development shall not lapse following substantial completion of construction but may be modified or amended by the Planning Board.

(1) Purpose

The purpose of this subsection is to permit quality development on large lots in the Milton Village/Central Avenue Business District combining both business and residential uses and providing significant amenities to the public, including meaningful usable open space, additional parking, and an attractive design which takes advantage of natural features and promotes access to and from nearby areas in the Business District.

(2) Uses

(a) Business use otherwise permissible in the Business District may be permitted, in conjunction with residential use, by a special permit for planned unit development, except that none of the following uses shall be permitted: drive–through food establishments, used car lots, motor vehicle dealerships, gasoline stations, body shops, motor vehicle repair shops, and sexually oriented businesses.

(b) Residential use shall be permitted in conjunction with an amount and type of business use, which is deemed reasonable and appropriate by the Planning Board, by a special permit for planned unit development. Such residential use may be authorized as rental or ownership of housing units or both. The number of such housing units shall not exceed one unit per 2,000 square feet of lot area, exclusive of wetlands, provided that this number may be increased in the discretion of the Planning Board as hereafter provided in paragraphs 3, 4, 6 and 7 but in no event shall the number of such housing units exceed one unit per 1,000 square feet of lot area, exclusive of wetlands.

(3) Buildings

(a) In a planned unit development the total gross floor area of all buildings, excluding below–grade basements and parking areas within a building shall not exceed 0.8 times the area of the lot, exclusive of wetlands, provided that this total gross floor area may be increased, in the discretion of the Planning Board, as hereafter provided in this paragraph and paragraphs 4, 6 and 7, but in no event shall this total gross floor area be more than 1.6 times the area of the lot, exclusive of wetlands.

(b) Buildings, exclusive of parking structures used solely for parking, shall not cover in excess of 30% of the lot, exclusive of wetlands. The total coverage of parking structures,

which are used solely for parking, together with other buildings, shall not cover in excess of 50% of the lot, exclusive of wetlands. Buildings shall not exceed 65 feet in height or more than six stories, including any above grade parking levels in the building. Height shall be measured from mean finished grade, excluding berms, to the highest point of the building provided that the Planning Board may permit additional height for protrusions of up to eight feet above the roof line, such as elevator shaft housings or chimneys, so long as the appearance of the top of the building remains architecturally coherent and visually attractive. Buildings shall be designed so that there are no blank walls or box–like structures without visual interest and architectural merit. The back and sides of each building shall be given as much architectural care as the front.

(c) Buildings shall be sited so that foot access by residents to nearby areas in the business district is convenient. Buildings shall be sited so as to take advantage of natural features in the area and the open space in the development without unnecessarily obstructing the natural features and open space from view in nearby areas in the business district. Parking structures shall be designed so that users are not obstructed or discouraged from access to the nearby business district.

(d) In the event that the Planning Board determines that the design of the buildings, including parking structures, in a planned unit development is of high quality and of attractive appearance on all sides and that the buildings are well sited and meet the foregoing criteria, the Planning Board as part of the special permit for planned unit development may authorize additional housing units and additional gross floor area up to 20% of the maximum permissible prior to authorization of additional housing units and of additional gross floor area under this paragraph and paragraphs 4, 6, and 7.

(4) Open Space

At least 30% of a lot used for planned unit development shall be used for open space which, whenever possible, shall be accessible to and usable by the public during daylight hours without undue restriction. Open space shall be designed as an integral part of any planned unit development and shall enhance the planned unit development and the area in which the development is located. If the development is near the Neponset River or the MDC bike path, some open space shall enhance public views and access to these resources. Open space shall not include paved streets, sidewalks abutting streets, parking areas or recreational open space not open to the public. Open space may include pedestrian walkways and recreational open space open to the public. In the event that the Planning Board determines that the design of the open space will provide significant public amenities and meets all the criteria set out herein, especially if in meeting those criteria more than the minimum amount of open space is provided, the Planning Board as part of the special permit for planned unit development may authorize additional housing units and additional gross floor area up to 30% of the maximum permissible prior to authorization of additional housing units and of additional gross floor area under this paragraph and paragraphs 3, 6 and 7.

(5) Street Design

Any planned unit development, insofar as possible, shall have safe and convenient access to and egress from a public way with adequate capacity for all anticipated traffic. The streets and driveways in a planned unit development, insofar as possible, shall be designed, so as to provide safe and convenient access and egress for users. Sidewalks and pedestrian walkways shall be designed, insofar as possible, to give pedestrians safe and convenient access to and from the planned unit development and to and from adjacent areas in the nearby business district and to any nearby public amenities including, if applicable, to the trolley station, the MDC bikepath and to the Neponset River.

(6) Parking

A planned unit development shall meet the following minimum parking requirements. In the event that parking is provided in excess of these minimum requirements, the Planning Board as part of the special permit for planned unit development may authorize additional housing units and additional gross floor area up to 30% of the maximum permissible prior to authorization of additional units and additional gross floor area under this paragraph and paragraphs 3, 4 and 7. The additional housing units and additional gross floor area shall bear the same percentage (up to 30%) to such maximum permissible, as the additional number of parking spaces bear to the minimum number of parking spaces required for the development.

Such additional parking spaces may be assigned to meet the parking requirements of other nearby business uses for which such parking would be reasonable convenient as determined by the Planning Board. Any such assignment of parking spaces for a nearly business use shall be appropriately restricted so as to be coterminous with the business use to which it has been assigned. Any such parking spaces so assigned shall not be assigned to meet the requirements of any other uses except as parking sharing may be approved.

The minimum parking required in a planned unit development shall be (a) two parking spaces for each residential unit or such greater number as the Planning Board may determine to be reasonably necessary to accommodate residents and a reasonable number of guests in view of the type of development proposed, provided that there need only be one parking space provided for single bedroom or studio units together with an additional guest space for every ten such single bedroom and studio units, and (b) the number of parking spaces specified in Section VII.C for those business uses permitted in a planned unit development provided that the Planning Board, rather than the Board of Appeals, shall make any determinations required under paragraphs 5 and 7 as part of the special permit for planned unit development and further provided that the Planning Board, upon a reliable showing of lesser parking need for a particular business use, may reduce the parking requirements for that business use. In determining the minimum amount of parking shared between uses, the Planning Board shall employ the following Parking sharing Schedule for the uses listed and determine the total number of parking spaces needed for these residential and business uses at various times of day. The highest number of needed spaces so computed for any of these times shall be the requisite minimum amount of parking.

Parking sharing with respect to other business uses shall be determined by the Planning Board.

PARKING SHARING SCHEDULE					
	Weekday Nights Midnight - 7 AM	Weekdays 7 AM - 5 PM	Weekday Eves 5 PM - Midnight	Weekend Days 6 AM - 6 PM	**Weekend Eves 6 PM - Midnight**
USES	%	%	%	%	**%**
Residential	100	60	90	80	**90**
Office	5	100	10	10	**5**
Service or Retail	5	80	60	100	**70**
Restaurant	10	50	100	50	**100**
Entertainment	10	40	100	80	**100**
Daycare	**5**	**100**	**10**	**20**	**5**

(7) Additional Business Use

Every planned unit development shall have business use as well as residential use. In the event that a planned unit development provides for significant business use, including but not limited to service, retail or restaurant use of one quarter or more of the ground floor in a principal building or equivalent or, if the ground floor is used for parking, on the principal floor, the Planning Board as part of the special permit for planned unit development may authorize additional housing units and additional gross floor area up to 20% of the maximum permissible prior to authorization of additional housing units and of additional gross floor area under this paragraph and paragraphs 3,4, and 6.

(8) Site Plan

An application for a planned unit development shall include a plan meeting, the requirements for a site plan specified in Section VIII.D.2 and such other requirements as may be specified by the Planning Board. The plan shall be contained in various sheets, all of which, after approval, shall contain the written approval of the Planning Board and shall be recorded with the Norfolk County Registry of Deeds at the applicant's expense. The plan on record shall be a part of the special permit for planned unit development. The plan shall show the development in all material detail. Any amendments or modifications to the plan shall be approved by the Planning Board and recorded with the Registry of Deeds at the applicant's expense. The application shall also include professional studies calculating the impacts of the development on town services, on traffic in the town, on existing nearby businesses, and on future business development. The applicant shall promptly provide to the Planning Board evidence of recording of each such plan, amendment or modification. When each such recorded document has been returned to the applicant, the applicant shall promptly provide a copy thereof to the Planning Board, which shows the book and page of recording.

(9) Application Review Fees

When reviewing an application for a special permit for planned unit development, the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed project or because of the project's

potential impacts. The Planning Board may require that applicants pay a review fee, consisting of the reasonable cost incurred by the Planning Board for the employment of outside consultants engaged by the Planning Board to assist in the review of an application. In hiring outside consultants, the Planning Board may engage disinterested engineers, planners, lawyers, stenographers, urban designers or other appropriate professionals who can assist the Planning Board in analyzing a project to ensure compliance with all relevant laws, bylaws, regulations, and other requirements. Expenditures may be made at the direction of the Planning Board and shall be made only in connection with the review of the specific project for which the review fee has been collected from the applicant.

Failure of an applicant to pay a review fee shall be grounds for denial of the application. At the completion of the Planning Board's review of a project, any excess amount of the review fee shall be repaid to the applicant. A final report of expenditures shall be made available to the applicant.

(10) Notice, Procedures and Standards for Decision

The notice and procedural requirements set out in Section IX.B and C and the standard to be used in rendering a decision set out in Section IX.C shall apply to special permits for planned unit development under this subsection.

J. Central Avenue Planned Unit Development.

In the Central Avenue Business District on a lot of no less than 20,000 square feet of land, a mixed residential and business use may be permitted by a special permit for planned unit development issued by the Planning Board upon such terms and conditions as the Planning Board shall deem to be reasonable and appropriate. In the event that special permit for a Central Avenue planned unit development shall be issued for a lot of land, no use of the lot may be made except as specifically authorized by the special permit. As used in this subsection J, the "lot" shall be deemed to include a combination of adjacent lots in one ownership. As used in this subsection the Central Avenue Business District shall mean that portion of the Milton Village/Central Avenue Business District which is to the west of a North/South line drawn through the point on Eliot Street which is equally distant from the points where Morton Road and High Street intersect Eliot Street.

1. Purpose

The purpose of this subsection is to permit quality development on moderately sized lots with good access to transit in the Central Avenue Business District combining both business and residential uses and providing significant amenities to the public.

2. Allowable Uses & Base Number of Housing Units

a. Business use otherwise permissible in the Business District shall be required in conjunction with residential use by a special permit for Central Avenue planned unit development except that none of the following uses shall be permitted: drive-through food establishments, used car lots, motor vehicle dealerships, gasoline stations, body shops, motor vehicle repair shops and sexually oriented businesses.
b. Residential use shall be permitted in conjunction with business use by a special permit for Central Avenue planned unit development. Such residential use may be authorized as rental or ownership of housing units.
c. The base number of housing units in a Central Avenue planned unit development shall be one unit per 1,000 square feet of qualifying lot area in the Central Avenue Business District. The base number should be rounded to the nearest whole number. For purposes of this paragraph qualifying lot area shall not include land within 25 feet of Pine Tree Brook and it shall not include land within the Pine Tree Brook.

3. Bonus Housing Units for Streetscape Improvements

a. The base number of housing units so computed on the basis of qualifying lot area may be increased by a bonus of housing units for streetscape improvements. This bonus shall be available for lots with frontage of at least 150 feet. The bonus shall not exceed 30% of the base number of housing units. The bonus shall be awarded in the discretion of the Planning Board for streetscape improvements for public use in the areas adjacent to and in the street. These improvements should significantly improve and enhance the appearance and amenities of the street and its environs. The quality, functionality, appearance and extent of the improvements shall be factors considered by the Planning Board in determining what, if any, percentage bonus should be permitted on account of streetscape improvements.
b. The total number of housing units in a Central Avenue Planned Unit Development shall not exceed the base number of housing units plus any bonus housing units.

4. Use and Dimensional Requirements

a. Business Use. In a Central Avenue planned unit development business use shall be required in that portion of the street level of buildings adjacent to and accessible from a street or adjacent to and accessible from the set-back area by which the building is set back from the street. The minimum depth to which the business use shall be made from the façade of the building shall be 50 feet. Business use shall include entrances to and exits from the building for both pedestrians and motor vehicles and public amenities such as an atrium or meeting hall. Parking as a business use shall not be permissible in this business use area.

If a building or portion of a building does not have such street level areas for business use, the Planning Board shall require equivalent business use areas conveniently accessible for public use. All such business use areas shall be designed so as to be appropriate space for use as either a retail store or as a restaurant. In no event shall the business use area be less than 50% of the area of the principal floor of the building.

b. Floor Area Ratio. Buildings in a Central Avenue planned unit development, exclusive of parking structures and areas used solely for parking, shall not have a floor area ratio (FAR) in excess of one and one-half (1.5) times the area of the lot in the business district. If the Planning Board determines that the area of the lot in the business district is the same as the qualifying lot area and that a development will preserve, if feasible, or replace in-kind, one or more significant natural features on the site and provide significant amenities to the public, the Planning Board may permit a bonus for a higher FAR not to exceed 15% for a higher FAR. With this bonus, the total FAR for a building, exclusive of parking structures and areas used solely for parking, shall not exceed 1.725 times the area of the lot in the business district.

c. Lot Coverage. In a Central Avenue planned unit development, buildings exclusive of parking structures used solely for parking shall not cover in excess of 50% of the lot in the business district. The total coverage of parking structures, which are used solely for parking, together with other buildings shall not cover in excess of 70% of the lot in the business district. In the event that there shall be contiguous land in a residence zone such land may be used for parking in accordance with subsections F, G and H of Section VII, including an underground parking structure.

d. Building Height. In a Central Avenue planned unit development, buildings shall not contain in excess of four (4) stories, not including any basement level but including any above-grade parking levels, and shall not exceed a height of more than forty-five (45) feet above the average elevation of the building footprint prior to construction without fill, as determined by the Planning Board. The height of the first floor shall be a minimum of eleven (11) feet to encourage and facilitate the use of the space for retail or restaurant use. The Planning Board may permit protrusions of up to eight feet above the roofline, such as elevator shaft housings or chimneys, so long as the appearance of the building remains architecturally coherent, visually attractive and appropriate to its setting. The Planning Board may allow a cupola or clock tower up to fifteen feet above the roofline so long as it has been shown to add significant merit to the building's design.

e. Set-backs of the Third and Fourth Stories. In a Central Avenue planned unit development the third and fourth stories of any building shall be set back from the second story sufficiently so as to maintain a scale appropriate to nearby residential areas. Set-backs shall meaningfully reduce the appearance of the bulk of a building above the second floor. The Planning Board may in its discretion grant an exception or modification of the set-back requirements in this paragraph

upon finding that the entire building is set back from the lot line so as to meaningfully reduce the appearance of the bulk of the building.

5. Design Standards.

In a Central Avenue planned unit development, each building shall be designed to be architecturally coherent, well sited on its lot, visually attractive, and compatible with its neighborhood and nearby buildings. In addition each building shall meet the following additional design standards:

a. Buildings shall have no blank walls.
b. Building walls shall not rise in an uninterrupted vertical plane more than 25 feet, and step backs of walls above that height shall be employed and shall be visually prominent. In general, the ratio of the street width to building set-back height should lie within the range of 2:1 to 3:1. The Planning Board may in its discretion grant an exception or modification to the set-back height requirement in this paragraph upon a finding that a greater uninterrupted rise is architecturally appropriate and does not cause an unacceptable appearance of bulk in the building.
c. Building walls shall not present unrelieved flat surfaces. Windows, doors, dormers, bays, recesses and other such features shall project or be recessed in order to relieve such flatness.
d. Box-shaped structures without visual interest shall not be used.
e. Architecture of the building shall be coherent in all its elements and compatible with and complementary to its surroundings.
f. Windows and doors shall be surrounded by appropriate architectural elements setting the windows and doors off from the plane of the façade.
g. Each door, doorway, window or window grouping shall be suitably proportioned to the building. Small windows shall not be used if disruptive to architectural continuity. Each residential unit shall have some windows which open.
h. The back and sides of each building shall be given as much architectural care as the front. The building, whether observed from the front, rear or sides shall present an attractive appearance and be an architectural whole.
i. The roof-line shall be visually coherent and architecturally well defined. Mansards, cornices and like architectural elements, when appropriate, should be used.
j. Building materials should be of high quality, and traditional materials such as brick and granite should be favored, as should traditional colors, unless there is a sound basis for different treatment.
k. Ground floor business areas shall be functional spaces and present an attractive, inviting appearance to pedestrians on the sidewalk and shall offer easy and convenient access by such pedestrians.

l. Parking structures shall be unobtrusive and designed to blend with the building and the neighborhood. There shall be convenient access from a parking structure to the business and residential uses which it serves.
m. Interior spaces shall be designed so that individual units are resistant to noise from above and below and from all sides.
n. Interior finishes shall be constructed with high quality materials and shall be reasonably consistent with the style of the exterior.
o. Landscaping shall enhance the design of the building and provide attractive features which help integrate the Central Avenue Business District with nearby residential districts. Landscaping in areas within twenty-five (25) feet of Pine Tree Brook shall provide for pedestrian access.
p. Lighting fixtures shall be appropriate to the architecture and provide suitable lighting without detriment to nearby residences.
q. Every development shall provide usable open space and respect the natural features of the site.

6. Affordable Housing Units

In a Central Avenue Planned unit development, ten percent of the total housing units (computed to the nearest whole number) shall be affordable housing, subject to long-term deed restrictions and a regulatory agreement; these units shall be affordable to and occupied exclusively by households whose annual income is less than 80% of the area-wide median as determined by the United States Department of Housing and Urban Development adjusted for household size with reasonable asset limits, so that insofar as reasonably possible the housing qualifies for inclusion on the Subsidized Housing Inventory (SHI) created and maintained by the Commonwealth of Massachusetts Department of Housing and Community Development. Resident preference for such units shall be the maximum permissible for inclusion on the SHI.

7. Business Parking

In a Central Avenue planned unit development, parking for business use shall be dependent on the type of business use. In the absence of specification of the business use in the application for a special permit, four spaces per 1,000 square feet of business floor area shall be required; thereafter, each business use undertaken shall have the number of parking spaces specified in Section VII.C or a lesser number of spaces determined to be adequate for the particular use by the Planning Board considering all relevant circumstances. In the event of a restaurant use (without a bar area) one parking space shall be provided for each two patron seats in the restaurant or such lesser number determined to be adequate for the particular restaurant use by the Planning Board considering all relevant circumstances. If a particular business use is specified in an application, each such use shall have the number of parking spaces specified in Section VII.C or a number of spaces determined to be adequate for the particular use by the Planning Board considering all relevant circumstances. If a business use is changed, a

new determination of an adequate number of parking spaces shall be made by the Planning Board in like manner. One circumstance, which may be considered, is any availability of residence parking vacant and available for business use during normal business hours.

8. Residence Parking

In a Central Avenue planned unit development, there shall be a minimum of one parking space for each bedroom in the housing units. Bedrooms shall include rooms which the Planning Board determines are suitable for use as bedrooms.

9. Parking for Off-Site Uses

In a Central Avenue planned unit development, safe and convenient additional parking may be provided for other uses at other properties in the Central Avenue business district.

10. Site Plan

An application for a planned unit development shall include a plan meeting the requirements for site plan specified in Section VIII.D.2 and such other requirements as may be specified by the Planning Board. The plan shall be contained in various sheets, all of which, after approval, shall contain the written approval of the Planning Board and shall be recorded with the Norfolk County Registry of Deeds at the applicant's expense. The plan on record shall be a part of the special permit for planned unit development. The plan shall show the development in all material detail. Any amendments or modifications to the plan shall be approved by the Planning Board and recorded with the Registry of Deeds at the applicant's expense. The application shall also include professional studies calculating the impacts of the development on town services, on parking in the Central Avenue business district and adjacent streets, on traffic in the town, on existing nearby businesses, and on future business development. The applicant shall promptly provide to the Planning Board evidence of recording of each approved plan, amendment or modification. When each such recorded document has been returned to the applicant, the applicant shall promptly provide a copy thereof to the Planning Board, which shows the book and page of recording.

11. Application Review Fees

When reviewing an application for a special permit for a Central Avenue planned unit development, the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed project or because of the project's potential impacts. The Planning Board may require that an applicant pay a review fee, consisting of the reasonable costs incurred by the Planning Board for employment of outside consultants engaged by the Planning Board to assist in the review of an application. In hiring outside consultants, the Planning Board may engage disinterested engineers, planners, architects, urban designers or other appropriate

professionals who can assist the Planning Board in analyzing a project to ensure compliance with this bylaw and with other laws, regulations and requirements. Expenditures may be made at the direction of the Planning Board and shall be made only in connection with the review of the specific project for which the review fee has been collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application. At the completion of the Planning Board's review of a project, any excess amount of the review fee shall be repaid to the applicant. A final report of expenditures shall be provided to the applicant.

12. Notice, Procedures and Standard for Decision

The notice and procedural requirements set out in Section IX.B and C and the standard to be used in rendering a decision set out in Section IX.C shall apply to special permits for planned unit development under this subsection.

History: Added 5/9/2006, Article 51, approved by the Attorney General on 10/5/2006.
History: Amended 5/14/2007, Article 47, approved by the Attorney General on 8/27/2007.
History: Amended 11/05/2007, Article 8, approved by the Attorney General on 1/3/2008
History: Amended 5/12/2009, Article 46, approved by the Attorney General on 9/21/2009

K. Brownfield Planned Unit Development

In a residential district on a lot which contains structures for a discontinued industrial use, and which can be characterized as a brownfield under any federal or state law or state guidelines with an area of no less than 100,000 square feet of land with no current active use on May 1, 2006 a residential use may be permitted by a special permit for brownfield planned unit development issued by the Planning Board upon such terms and conditions as the Planning Board shall deem to be reasonable and appropriate. In the event that a special permit for planned unit development shall be issued for brownfield planned unit development, no use of the lot may be made except as specifically authorized by the special permit. As used in this subsection, the word "lot" shall be deemed to include a combination of adjacent lots in one ownership on May 1, 2006. A special permit for brownfield planned unit development shall not lapse following substantial completion of construction but may be modified or amended by the Planning Board.

(1) Purpose

The purpose of this subsection is to permit the reclamation of the site of a discontinued industrial use which can be characterized as a "brownfield" under federal or state law or state guidelines by the creation of quality residential development and by provision of public amenities.

(2) Uses

(a) Residential use shall be permitted, in conjunction with a small amount and type of non-residential ancillary uses for the use of the residents or for amenities to benefit the public as, may be deemed reasonable and appropriate by the Planning Board, by a special permit for brownfield planned unit development. Such residential use may be authorized as rental or ownership of housing units or both. The number of such housing units shall not exceed 90 units.

(3) Buildings

(a) In a brownfield planned unit development the total gross floor area of all buildings, excluding below grade basements and parking areas within a building shall not exceed 1.2 times the area of the lot, exclusive of wetlands.

(b) Buildings, exclusive of parking structures used solely for parking, shall not cover in excess of 30% of the lot, exclusive of wetlands. The total coverage of parking structures, which are used solely for parking, together with other buildings, shall not cover in excess of 40% of the lot, exclusive of wetlands. Buildings shall not exceed 45 feet in height or more than four stories, not including a parking level. Height shall be measured from mean finished grade, excluding berms, or from the top of any parking level which is beneath the building and partially above such grade, whichever is higher but in no event more than 55 feet above mean finished grade. Height shall be measured to the highest point of the building provided that the Planning Board may permit additional height for protrusions of up to eight feet above the roof line, such as elevator shaft housings or chimneys, so long as the appearance of the top of the building remains architecturally coherent, balanced and visually attractive. Buildings shall be designed so that there are no blank walls or box_ like structures. Buildings shall have visual interest and architectural merit. The back and sides of each building shall be given as much architectural care as the front. Buildings shall be sited so as to make meaningful the open space in the development.

(c) The design of the buildings, including parking structures, in a planned unit development shall be of high quality and shall present an attractive and coherent appearance on all sides. The buildings shall be sited to take advantage of and to harmonize with the natural features of the site and with any adjacent parkland and watercourses.

(4) Open Space

At least 30% of a lot used for brownfield planned unit development shall be used for open space which, whenever possible, shall be accessible to and usable by the public during daylight hours without undue restriction. Open space shall be designed as an integral part of any planned unit development and shall enhance the planned unit development and the area in which the development is located. If the development is near public parkland, some open space shall enhance public views and access. Open

space shall not include paved streets, sidewalks abutting streets and parking areas. The design of the open space shall provide significant public amenities.

(5) Street Design

Any brownfield planned unit development, insofar as possible, shall have safe, attractive and convenient access to and egress from a public way with adequate capacity for all anticipated traffic. The streets and driveways in a planned unit development shall be designed, so as to provide safe, attractive and convenient access and egress for users. Sidewalks and pedestrian walkways shall be designed, to give pedestrians safe, attractive and convenient access to and from the planned unit development insofar as possible and any nearby public amenities including parkland.

(6) Parking

The minimum parking required in a brownfield planned unit development shall be two parking spaces for each residential unit with more than one bedroom and one for each one bedroom or studio unit. There shall in addition be such guest spaces and public parking as the Planning Board in its discretion may deem appropriate and adequate. In the event parking shall be provided beneath a building, there shall be no more than one level of such parking and it shall be, insofar as practicable, below mean finished grade, or, if not practicable for the entire parking level to be below such grade, then the maximum amount of the parking level, as is practicable, shall be below such grade.

(7) Affordable Housing

In a brownfield planned unit development, ten (10) percent of the residential housing units shall be perpetually reserved for households of low or moderate income up to 80% of area median income ("affordable units") so as to qualify the units for inclusion on the state's Subsidized Housing Inventory or successor inventory of such affordable units insofar as reasonably possible.

(8) Site Plan

An application for a brownfield planned unit development shall include a plan meeting the requirements for a site plan specified in Section VIII.D.2 and such other requirements as may be specified by the Planning Board. The plan shall be contained in various sheets, all of which, after approval, shall contain the written approval of the Planning Board and shall be recorded with the Norfolk County Registry of Deeds at the applicant's expense. The plan on record shall be a part of the special permit for planned unit development. The plan shall show the development in all material detail. Any amendments or modifications to the plan shall be approved by the Planning Board and recorded with the Registry of Deeds at the applicant's expense. The application shall also include professional studies calculating the impacts of the development if requested by the Planning Board. The applicant shall promptly provide to the Planning Board evidence of recording of each such plan, amendment or modification. When each such recorded document has been returned to the applicant, the applicant shall promptly

provide a copy thereof to the Planning Board, which shows the book and page of recording.

(9) Application Review Fees

When reviewing an application for a special permit for planned unit development, the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed project or because of the project's potential impacts. The Planning Board may require that an applicant pay a review fee, consisting of the reasonable costs incurred by the Planning Board for the employment of outside consultants engaged by the Planning Board to assist in the review of an application. In hiring outside consultants, the Planning Board may engage disinterested engineers, planners, lawyers, stenographers, urban designers or other appropriate professionals who can assist the Planning Board in analyzing a project to ensure compliance with all relevant laws, bylaws, regulations, and other requirements. Expenditures may be made at the direction of the Planning Board and shall be made only in connection with the review of the specific project for which the review fee has been collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application. At the completion of the Planning Board's review of a project, any excess amount of the review fee, shall be repaid to the applicant. A final report of expenditures shall be made available to the applicant.

(10) Notice, Procedures and Standard for Decision.

The notice and procedural requirements set out in Section IX.B and C and the standard to be used in rendering a decision set out in Section IX.C shall apply to special permits for planned unit development under this subsection.

History: Added 5/9/2007, Article 46, approved by the Attorney General on 8/27/2007.
History: Amended 5/12/2009, Article 46, approved by the Attorney General on 9/21/2009

SECTION IV. Non–Conforming Uses of Building and Land.

Any building or use of a building or use of land or part thereof lawful and existing upon the adoption of this bylaw on February 10, 1938, or upon the effective date of any amendment of this bylaw may be continued unless and until abandoned, although such building or use does not conform to the provisions thereof; but in any event, non–use of such land or building for a period of two years shall constitute abandonment thereof. A valid pre–existing, nonconforming single family or two family residential structure may be extended or altered as a matter of right within the existing foot print and height of the structure or within a height and setback which conform with the dimensional requirements of the Milton Zoning Bylaws. A valid pre–existing nonconforming single family or two family residential structure which is destroyed by fire or other natural disaster may be rebuilt or replaced as a matter of right within the existing foot print and height of the prior residential structure, or within a height and setback which conform with the dimensional requirements of the Milton Zoning Bylaws, provided the construction is commenced within twelve (l2) months of the fire or disaster and is completed within twenty–four (24) months after such fire or disaster except that such time may be extended by the Board of Appeals for good cause shown. Otherwise, valid pre–existing nonconforming structures or uses may be extended, altered, reconstructed or replaced and such extension, alteration, reconstruction or replacement may be used for the purpose or for a purpose substantially similar to the purpose for which the original buildings may have been lawfully used, if authorized by a special permit from the Board of Appeals and subject to appropriate conditions, limitations, and safeguards stated in writing by the Board of Appeals and made a part thereof. Authorization by special permit of a subsequent use in a building in the business district shall not be required where the only nonconformity in the building and use is in the dimensions or setback of the building, where the prior use is a valid, preexisting use, where the subsequent use is the same or substantially similar to the prior use and where the parking requirements conform to Section VII of the Milton Zoning Bylaws. Construction or operations under such a special permit shall conform to any subsequent amendment of the Zoning Bylaws unless the use or construction is commenced within a period of not more than six months after the issuance of the special permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. As a basis for such a special permit, the Board of Appeals must be satisfied that such extension, alteration, reconstruction or replacement and the use to be made thereof will not substantially increase any detrimental or injurious effect of the building or use on the neighborhood.

History: changes in language 5/2009, Article 44, approved by the Attorney General on 9/21/2009.

SECTION IV A. Earth Materials Removal and Deposit of Fill.

1. The removal of loam, soil, clay, sand, gravel, stone or other earth material from any land in the Town of Milton, not in public use, is hereby prohibited (a) except as may be authorized by a permit issued by the Board of Appeals, and (b) except as such removal is permitted by Subsection 5 of this section. No permit shall be issued except upon written application and after a public hearing. Each application for a permit for earth material removal shall specify the type and amount of earth material to be removed and shall include a locus plan at a scale of 1" = 1000' showing the area from which earth material is proposed to be removed, the location of existing public and private ways and the lot lines of adjacent lots, tracts or parcels with the names and addresses of the owners. Each application for a permit for earth removal shall also include three copies of plan at a scale of l" = 40' prepared at the expense of the applicant by a Massachusetts Registered Professional Engineer showing:

    (i) the existing contours of the land (all contours to be marked by contour lines at intervals of not more than two feet),
    (ii) the contours as proposed after completion of earth removal,
    (iii) the proposed lateral support to all adjacent property after completion of earth removal,
    (iv) the proposed drainage after completion of earth removal,
    (v) any other information necessary to indicate the physical effects from the proposed earth material removal,
    (vi) the relation of existing or proposed buildings or other construction to the area proposed for the removal of earth material,

2. The deposit of building debris, hazardous material of any sort, and industrial waste of any sort on any land, not in public use in the Town of Milton is prohibited.

3. The deposit of any fill, including loam, soil or clay, sand, gravel, stone, stumps and other earth material on any land, not in public use in the Town of Milton is hereby prohibited (a) except as the deposit of clean fill may be authorized by a permit issued by the Board of Appeals, (b) except that during any three year period the bringing of not more than two hundred (200) cubic yards of clean loam, soil, clay, sand or gravel to any lot, tract, or parcel of land, and any adjoining lots, tracts and parcels of land in the same ownership is authorized, (c) except that the bringing of not more than one thousand (1,000) cubic yards of clean loam, soil, clay, sand or gravel to a lot on which a new dwelling is being constructed is authorized upon notice of the planned filling to the Building Commissioner and subject to his approval, and (d) except as such deposit of fill is permitted by Subsection 5 of this section. No permit shall be issued except upon written application and after a public hearing. Each application for a permit for deposit of fill shall specify the type and amount of clean fill proposed for deposit and include a locus plan at a scale of 1" = 1000' showing the area to be filled, the location of existing public and private ways and the lot lines of adjacent lots, tracts or parcels with the names and addresses of the owners. Each application shall also include

three copies of a site plan at a scale of 1" = 40' prepared at the expense of the applicant by a Massachusetts Registered Professional Engineer showing:

(i) the existing contours of the land (all contour lines at intervals of not more than two feet),
(ii) the contours of the land as proposed after completion of the deposit of fill,
(iii) the proposed lateral support for the fill deposited.
(iv) the proposed draining after and during the deposit of fill,
(v) any other information necessary to indicate the physical effects of the proposed deposit of fill,
(vi) the relation of the existing or proposed buildings or other construction to the areas proposed for the deposit of fill.

4. In granting an application for a permit for the removal of earth materials or for the deposit of fill, the Board of Appeals, consistent with the applicant's reasonable use of the site, may impose reasonable conditions to protect the impacted area and adjoining property against potential erosion or silting, potential lack of suitable drainage, potential lack of adequate lateral support, potential destructive increases or deviations in surface water runoff, and potential impairment of the site's ability to support plant life. The Board of Appeals may also impose reasonable conditions to assure that the site will be safe during and after the proposed removal of earth material or the proposed deposit of fill. Such conditions may include:

(i) method of removal,
(ii) dates and hours of operation,
(iii) routes of transport,
(iv) the area and depth of excavation of filling,
(v) the steepness of slopes created,
(vi) the distance between the edge of earth modifications and neighboring properties or ways,
(vii) temporary and permanent drainage,
(viii) the posting of a security bond,
(ix) the establishment of permanent ground levels or grades,
(x) disposition of boulders and tree stumps,
(xi) the permanent establishment of not less than six inches of topsoil over the site,
(xii) permanent planting of the area to suitable cover.

5. (a) The provisions of Section IV shall be deemed not to prohibit the removal of earth materials as may be necessary for the purpose of constructing foundations for buildings or for other allowable construction for which building permits have been issued, or for the purpose of constructing ways in accordance with lines and grades approved by the Planning Board or by the Board of Appeals, or for the purpose of constructing water and sewer lines and underground utilities.

(b) The provisions of said Section IV shall be deemed not to prohibit a nursery from the deposit of clean earth materials on its premises on a temporary basis and from selling such clean earth materials in the course of its business.

(c) The provisions of said Section IV shall be deemed not to prohibit transferal during any three year period of not more than 200 cubic yards of earth materials from one part of a lot to another part of the same lot by an owner who is a resident on that lot.

(d) The provisions of said Section IV shall be deemed not to prohibit a golf club from the deposit of clean loam, soil or clay, sand, gravel, or the removal of earth materials for the maintenance of a golf course.

SECTION IV B. Wetlands Regulations.

1. The purpose of this section is to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the health, safety and welfare of the present and future inhabitants of the Town. For this purpose, the following terms shall have the meanings herein ascribed to them.

a. *Stream* – Any natural watercourse, generally containing water, through and along which water may flow from a pond, swamp, spring or similar body of water to another, to another stream, or to the ocean.
b. *Tidal River* – Any stream in which action of the oceanic tide causes the water to ebb and flow or the water level therein to rise and fall with some regularity, exclusive of hurricane tides irrespective of any actual incursion or admixing of oceanic salt water.
c. *Marsh* – Any essentially flat, frequently wet and occasionally flooded area adjoining open water along the shores of a pond or the banks of a stream and lying between such open water and the adjacent natural or artificial upland.
d. *Tidal Marsh* – Any marsh area in which action of the oceanic tide causes a change in the water level from time to time, exclusive of hurricane tides or tidal waves and any marsh area developed and maintained by incursion of oceanic salt water or by action of the oceanic tide.
e. *Swamp* – Any depressed area of poor drainage in which the water table is generally at or above the ground level, not caused or affected by salt water or action of the oceanic tide.
f. *Pond* – Any body of open water, other than a stream or the ocean, habitually more than 5,000 square feet in area.

2. Any person wishing to perform, or cause to be performed, any of the following acts or operations shall first obtain a special permit from the Conservation Commission after a duly advertised public hearing.

a. Obstructing, filling, dredging, excavating or changing the course of any stream or tidal river.
b. Filling or excavating within any part of any swamp, marsh or tidal marsh or in or along the shore of any pond so as to alter the shore line.

> Notice of such hearing shall be given pursuant to the provisions of General Laws, Chapter 40A, Section 17.

3. In granting a permit for any of the foregoing, the Board of Selectmen shall be guided by current state and federal laws and regulations pertaining to such acts or operations and shall take into consideration any recommendations of the Conservation Commission pertaining thereto.

SECTION IV C. Flood Plain District Regulations.

1. *Flood Plain District* – The Flood Plain District is herein established as an overlay district and includes all special flood hazard areas designated as Flood Zone A or Al–30 on the Town of Milton Flood Insurance RATE Maps, FIRM, dated April 3, 1978, on file with the Town Clerk, Planning Board and Building Commissioner. These maps, as well as the accompanying Town of Milton Flood Insurance Study, are incorporated herein by reference.

2. Base Flood Elevation and Floodway Data:

   a. Floodway Data. In Zone A, Al–30 and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
   b. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

3. *Notification of Watercourse Alteration* – The applicant shall submit prior written notice of any proposed alteration or relocation of a riverine watercourse to:

   a. The Board of Selectmen of the Towns of Randolph and Canton, the Mayor of Quincy and the Mayor of Boston.
   b. NFIP State Coordinator, whose present address is
      Massachusetts Office of Water Resources
      100 Cambridge Street
      Boston, MA 02202
   c. NFIP Specialist, whose present address is
      FEMA Region I
      John W. McCormack Post Office and Courthouse
      Room 462
      Boston, MA 02109

   The applicant shall submit proof of such notice of the Milton Building Commissioner.

4. *Development Regulations* – The following requirements shall apply in the Flood Plain District:

   a. The Flood Plain District is established as an overlay district to all other districts. All development in the District, including structural and non–structural activities, whether permitted by right or by special permit, shall be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:
      (1) Sections of the Massachusetts State Building Code which address flood plain and coastal high hazard areas (currently 780 CMR 2102.0, “Flood Resistant Construction”);

(2) Wetlands protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
(3) Inland Wetlands Restrictions, DEP (currently 302 CMR 6.00); and
(4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

Any variances from the provisions of the above referenced state regulations may only be granted in accordance with the required variance procedures of those state regulations.

b. Within the floodway, no new construction, substantial improvement or other land development shall be permitted unless it is demonstrated to the Building Commissioner that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood level at any point within the Town.
c. All development shall be designed to (i) minimize flood damage to the proposed development and to public facilities and utilities, and (ii) to provide adequate drainage to reduce exposure to flood hazards.
d. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
e. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
f. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
g. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.
h. Development within the floodway is prohibited unless a registered professional engineer certifies that the proposed development will not result in any increase in flood levels during the occurrence of the base flood.

5. Duties and Responsibilities of the Building Commissioner:

The Building Commissioner shall maintain a record of:

(a) all permits issued for development in areas of special flood hazard.
(b) the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings.
(c) the elevation, in relation to mean sea level, to which buildings have been floodproofed.
(d) all floodproofing certifications required under this By–Law.
(e) all variance actions, including justification for their issuance.

6. Definitions

Base Flood – (One Hundred Year Flood) means the flood having a one percent change of being equaled or exceeded in any given year.

Development – means any man–made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Federal Emergency Management Agency (FEMA) – is the Federal agency which administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood Hazard Boundary Map (FHBM) – means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

Flood Insurance Rate Map (FIRM) – means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study – means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood–related erosion hazards.

Floodway – means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Manufactured Home – means a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

New Construction – means, for flood plain management purposes, structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by the Town. For the purpose of determining insurance rates, New Construction means structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, which ever is later.

Riverine – means relating to, formed by or resembling a river (including tributaries), stream, brook or the like.

Special Flood Hazard Area – means the area having special flood and/or flood–related erosion hazards, and shown on an FHBM or FIRM as Zone A, A0, Al–30, AE, A99, AH, V, Vl–30 or VE.

Substantial Improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual report work performed.

Zone A – means the 100–year flood plain area where the base flood elevation has not been determined. To determine the base flood elevation, use the best available federal, state, local or other data.
Zone Al–30 and Zone AE – (for the new and revised maps) means the 100–year flood plain where the base flood elevation has been determined.

SECTION IV D. Wind Turbine

1. Definition A wind turbine consists of a foundation, a tower, a generator located at the top of the tower, associated wiring and a rotor with two or more blades. The height of a wind turbine shall be measured from the grade at its base to the tip of a rotor blade at its highest point.

2. Authorization of up to Two Wind Turbines Up to two Wind Turbines may be erected and maintained on a parcel of land owned by the Town pursuant to the provisions of a special permit issued by the Planning Board pursuant to Section IX.C. The special permit shall impose the requirements specified in this section together with such terms and conditions deemed appropriate by the Planning Board. There shall be only one or two wind turbines erected, maintained and operated pursuant to this section. The turbine(s) shall at all times be owned by the Town and sited on Town-owned land. The wind turbine(s) may be operated, maintained and managed by experienced persons or entities under contract with the Town.

3. Applicable Zoning. The special permit shall identify a specific area of town-owned land for the site of the wind turbine(s). The requirements set out in Sections III, V, VI, and VII of the zoning bylaws shall not be applicable to the wind turbine and its components on this site.

4. Requirements for Wind Turbine(s)

   (a) Siting: The wind turbine(s) shall be sited on a parcel of land owned by the Town at least 1200 feet from the nearest dwelling and at least 1100 feet from the nearest state highway and at least 1200 feet from the nearest public town street, which is not separated from the selected site by the state highway, and at least 100 feet from the green and fairway of any golf course. Siting of the wind turbine(s) shall be supported by a study concluding that the selected site is a good wind energy project site and by a study concluding that siting the wind turbine(s) on the selected site would minimize any adverse environmental consequences and any adverse impacts on historical or archeological sites. There shall be a showing that the shadow flicker impact on playing areas of any nearby golf course will be minimized.

(b) Height: The wind turbine(s) shall in no event exceed 480 feet in height. If a lesser height will enable performance sufficient to make the turbine(s) project financially feasible to the town in a manner that efficiently generates the desired amount of electricity (not less than 1.5 megawatts in rated capacity), the height of the wind turbine(s) shall not exceed such lesser height. The height of the tower and its location shall be approved by state and federal entities with jurisdiction.

(c) Visual Appearance: The wind turbine(s) shall present a visually acceptable appearance. Its visual appearance on site, as viewed from both near and far, shall not have a significant adverse visual impact but shall blend with its site and environs as well as reasonably possible. In determining whether the visual appearance of the wind turbine is acceptable the Planning Board shall balance all relevant factors, including the national and local need for alternative energy sources and any practical ways in which the proposed wind turbine could be given a more acceptable visual appearance.

(d) Noise: The wind turbine(s) and appurtenant equipment shall operate at all times at a low noise level. Quietness of operation shall be preserved throughout the wind turbine's useful life. As the wind turbine ages, it shall be properly maintained and serviced so as to ensure continued quiet operation at all times. The wind turbine(s) and appurtenant equipment shall be the quietest available for the class and model of turbine selected. The noise level of the wind turbine(s) shall be measured at the beginning of its actual operation and shall not thereafter be significantly increased in subsequent operations. Under no circumstances shall the noise level of actual operations of the wind turbine(s) and of the appurtenant equipment exceed the standards set in the Massachusetts DEP'S Noise Control Regulation, 310 CMR 7.10 or successor regulatory provision.

(e) Ownership: The wind turbine(s) shall be constructed on town-owned land in such manner and under such terms and conditions as may be authorized by the Board of Selectmen using grants, gifts, and other financing. Following construction the wind turbine(s) shall be owned by the Town.

(f) Operations: During its useful life or until such earlier time as its operations permanently cease, the wind turbine(s) shall be operated, maintained and managed by one or more persons or entities skilled in such operation, maintenance and management (the "operator") . The operator shall be under contract with the Board of Selectmen. The Contract shall provide terms and conditions pursuant to which the wind turbine shall be operated and maintained and pursuant to which all necessary and appropriate charges and expenses shall be paid from revenues of the wind turbine(s). A separate reserve from these revenues shall be maintained by the Town Treasurer for unforeseen contingencies and for the eventual dismantling of the wind turbine(s). The operator shall have the responsibility and obligation to maintain all parts of the wind turbine(s) and associated structures and equipment in good condition

providing for the safe efficient and quiet generation of electricity. The operator shall have the responsibility to operate the wind turbine in the manner for which it was designed, safely, efficiently and quietly . In the event of any malfunction of or damage to the wind turbine the operator shall take all necessary steps to remedy the malfunction or to repair the damage as quickly as reasonably possible. At the end of the useful life of the wind turbine or at such earlier time as the wind turbine(s) can no longer generate electricity safely, efficiently and quietly, the operator shall notify the Town, and the wind turbine(s) shall be removed and the site restored to an attractive natural condition .

(g) Lighting and Signs: The wind turbine(s) shall carry aircraft warning lights as required under federal law, regulation or permit but shall not be otherwise illuminated at night provided that if actual operations show a need the Planning Board may require dim lighting of the blades at specified times. The wind turbine(s) shall carry no logos or signs except as authorized by the Town's sign regulations.

5. Contents of Application. The application for a special permit for a wind turbine(s) shall be made by the Town for itself as owner and on behalf of the operator of the wind turbine. The application for the special permit shall contain the following:

(a) GIS maps showing the proposed site of the wind turbine(s) and the topography; all significant natural features, lot lines and identification of lot owners; all existing ways and trails; and all existing power lines shall be shown with reasonable accuracy.

(b) A plan showing the distances from the proposed site of the closest residence, the nearest state highway, the nearest public street not separated from the proposed site by a state highway, and the nearest fairway and green of a golf course. Distances can be calculated using the geological survey map of the area produced by the United States Geological Survey.

(c) A site plan showing all site work necessary for the construction and operation of the wind turbine(s), including specifications for: clearing; foundation work; grading; and construction of power lines, access road, fencing, and storage building.

(d) Detailed plans for the wind turbine(s) including renderings showing the front, rear and side profiles of the wind turbine(s) in all material detail.

(e) Elevations accurately depicting the wind turbine(s) on site. The elevations shall show how the wind turbine will appear on site from various distances. Other elevations shall accurately depict the wind turbine on site when viewed from the following locations: (1) the

observation area on Chickatawbut Road; (2) the Granite Links Golf Course Club House; and (3) such other additional or alternate locations specified by the Planning Board.

(f) Detailed specifications of the wind turbine(s) including: height and diameter of tower; length, width and weight of blades; materials to be used; color and type of exterior finish; make and characteristics of the generator, including power output, noise characteristics and expected useful life; strength of components including the ability to withstand hurricane-force winds and icing; anticipated maintenance needs during operations; and ability to access components for maintenance and repair; material concluding that the appearance of the wind turbine(s) will not create unacceptable visual impacts.

(g) Material concluding that operations of wind turbines do not produce unacceptable noise impacts.

(h) Such other material or information which may be requested by the Planning Board and which will assist it in rendering a reasoned and reasonable decision on the application.

6. Compliance with Special Permit. The requirements, terms and conditions of the special permit shall bind and be enforceable against both the Town and the operator then under contract with the Town or otherwise operating the wind turbine(s). The "Requirements for Wind Turbine(s)" set out in Subsection (4) shall be independently or concurrently enforceable against the Town and the operator.

History: Added 5/12/2009, Article 42, approved by the Attorney General on 9/21/2009

SECTION V. Height Regulations.

A. 1. Building Heights in Residence AA, A, B and C Districts.

In a Residence AA, A, B or C district, no building, including dwellings, accessory buildings, buildings for educational or religious use, and any other structures of whatever sort shall be erected or altered to exceed two and one–half (2 ½) stories or thirty–five (35) feet in height, whichever is less, provided that if the building is set back from each street and lot line fifteen (15) feet or more farther than is required by section VI, it may have three (3) stories but shall not exceed thirty–five (35) feet in height. The Board of Appeals, upon a finding that additional height is reasonably necessary for use of a building and will not be detrimental to the neighborhood in which the building is located, may authorize by special permit a building for religious or educational use not to exceed fifty (50) feet in height with no more than two (2) stories. The term "story", as used in this paragraph, shall not include a basement so long as the finished floor height of the first story is no more than four (4) feet above the mean grade of the ground contiguous to the building. The term "half–story," as used herein means a story in a sloping roof, the area of which story at a height four (4) feet above the floor does not exceed two–thirds the floor area of the story immediately below it. The height of any building shall be measured from the mean grade of the natural ground contiguous to the building, as such ground exists prior to construction, provided that, if alterations in grades may have been approved by the Board of Appeals pursuant to Section IV.A., the height of a building shall be measured from the mean grade of the ground contiguous to the building as so altered and approved by the Board of Appeals. Height shall be measured to the highest part of the building excluding those chimneys, lightning rods, solar energy systems, domes, spires, cupolas, towers and antennas for which a different height limit is herein established, but including weathervanes, elevator housings, satellite dishes, solar energy systems, and any other projections.

2. Additional Height Limits and Exceptions in Residence AA, A, B and C Districts.

In a Residence AA, A, B or C district, the following additional height limits and exceptions shall apply. Chimneys and solar energy systems shall not exceed the height of a building by more than eight (8) feet. Lightning rods shall not exceed the highest point of a structure by more than three (3) feet. Towers which are part of any building not used for religious or educational purposes shall not exceed forty (40) feet in height. One or more spires, domes, cupolas, and/or towers in excess of thirty–five (35) feet in height may be a part of a building which is used for religious or educational purposes, provided that no such spire or tower may be in excess of twice the height of the building as determined for Paragraph 1 and that the portion of any spire, dome, cupola or tower in excess of thirty–five (35) feet in height above the ground shall not have an exterior perimeter measurement of more than sixty–four (64) feet. Upon a finding that the portion of a spire, tower, or dome in excess of thirty–five (35) feet in height reasonably requires an exterior perimeter measurement of more than sixty–four (64) feet, the Board of Appeals shall authorize, by special

permit, such a spire, tower or dome as part of a building used for religious or educational purposes, provided that in no event shall such a larger spire, tower or dome exceed seventy (70) feet in height. No spire, dome, cupola or tower shall have a height above the ground in excess of the distance from any contiguous lot under separate ownership. Height of a spire, dome, cupola or tower shall be measured from the mean grade of the natural ground contiguous to the building of which the spire, dome, cupola or tower is part, as such natural ground exists prior to construction, provided that, if alterations in grades may have been approved by the Board of Appeals pursuant to Section IV.A., the height of a spire, dome, cupola or tower shall be measured from the mean grade of the ground contiguous to the building as so altered and approved by the Board of Appeals.

3. *Existing Nonconforming Buildings with an Educational or Religious Use.* In a Residence AA, A, B or C district, buildings in excess of thirty–five (35) feet in height, lawfully existing on May 31, 1991 with an educational or religious use may be maintained and/or altered for educational or religious use so long as any alteration does not increase the extent of the building's nonconformity with the applicable height, setback, and building coverage provisions in Sections V and VI.

B. Building Heights in Residence D Districts. In a residence D district, no building shall be erected or altered to exceed three (3) stories or thirty–five (35) feet in height, whichever is less. The Board of Appeals, upon a finding that additional stories and/or height are reasonably necessary in order to provide housing for the elderly and will not be detrimental to the neighborhood in which the building is located, may authorize by special permit a building for use as housing for the elderly not to exceed (6) stories or sixty–five (65) feet in height, whichever is less. Included in any such authorization for additional height may be one or more spires, domes, cupolas, or towers. The term "story," as used in this paragraph, shall not include a basement so long as the finished floor height of the first story is no more than four (4) feet above the mean finished grade of the ground contiguous to the building. The height of any building shall be measured from the mean finished grade of the ground contiguous to the building, as such ground will exist subsequent to construction. Height shall be measured to the highest part of the building, excluding chimneys and lightning rods. Chimneys and solar energy systems shall not exceed the height of a building by more than eight (8) feet. Lightning rods shall not exceed the highest point of a structure by more than three (3) feet.

C. Building Heights in Residence D–1 Districts. In a residence D–1 district, no building shall be erected or altered to exceed two and one–half (2 ½) stories or thirty–five (35) feet in height, whichever is less. The term "story," as used in this paragraph shall not include a basement as long as the finished floor height of the first story is no more than four (4) feet above the mean finished grade of the ground contiguous to the building. The term "half–story," as used herein means a story in a sloping roof, the area of which story at a height four (4) feet above the floor does not exceed two–thirds (2/3) of the floor area of the story immediately below it. The height of any building shall be measured from the mean finished grade of the ground contiguous to the building, as such ground will exist subsequent to

construction. Height shall be measured to the highest part of the building excluding chimneys, lightning rods and one cupola. Chimneys and solar energy systems shall not exceed the height of a building by more than eight (8) feet. Lightning rods shall not exceed the highest point of a structure by more than three (3) feet. A cupola shall not exceed the height of building by more than ten (10) feet.

D. Building Heights in Residence D–2 Districts. In a Residence D–2 district, no building shall be erected or altered to exceed forty–five (45) feet in height above the mean finished grade of the ground contiguous to the building. Mean finished grade shall be the grade of the ground contiguous to the building as such ground will exist subsequent to construction. Height of a building shall be measured to the highest part of the building excluding chimneys, lightning rods, and one cupola. Chimneys and solar energy systems shall not exceed the height of a building by more than eight (8) feet. Lightning rods shall not exceed the highest point of a structure by more than three (3), feet. A cupola shall not exceed the height of a building by more than eighteen (18) feet.

E. 1. Building Heights in Business Districts. In a business district, no building shall be erected or altered to exceed three (3) stories or forty–five (45) feet in height, whichever is less. The Board of Appeals, upon a finding that additional stories and/or additional height are reasonably necessary for use of a building and will not be detrimental to the neighborhood in which the building is located, may authorize by special permit a building not to exceed five (5) stories or sixty–five (65) feet in height, whichever is less. The term "story," as used in this paragraph, shall not include a basement so long as the finished floor height of the first story is no more than four (4) feet above the mean finished grade of the ground contiguous to the building. The height of any building shall be measured from the mean finished grade of the ground contiguous to the building, as such ground will exist subsequent to construction. Height shall be measured to the highest part of the building excluding those chimneys, lightning rods, solar energy systems, domes, spires, cupolas, towers and antennas for which a different height limit is herein established, but including weathervanes, elevator housings, satellite dishes, and any other projections.

2. Additional Height Limits and Exceptions in Business Districts. In a business district, the following additional height limits and exceptions shall apply. Chimneys and solar energy systems shall not exceed the height of a building by more than eight (8) feet. Lightning rods shall not exceed the highest point of a structure by more than three (3) feet. The Board of Appeals may authorize by special permit one or more spires, domes, cupolas and/or towers in excess of forty–five (45) feet in height above the ground but less than seventy–five (75) feet in height above the ground as part of a building with a business use. One or more spires, domes, cupolas, and/or towers in excess of forty–five (45) feet in height above the ground may be a part of a building which is used for religious or educational purposes, provided that no such spire, dome, cupola or tower may be in excess of twice the height of the building as determined for Paragraph l, and that the portion of any spire, dome, cupola or tower in excess of forty–five (45) feet in height above the ground shall not have an exterior perimeter measurement of more than

sixty–four (64) feet. Upon a finding that the portion of a spire, tower or dome in excess of forty–five (45) feet in height reasonably requires an exterior perimeter measurement of more than sixty–four (64) feet, the Board of Appeals shall authorize, by special permit, such a spire, tower or dome as part of a building used for religious or educational purposes, provided that in no event shall such a larger spire, tower or dome exceed seventy–five (75) feet in height. No spire, dome, cupola or tower shall have a height above the ground in excess of the distance from any contiguous lot in a residence district under separate ownership.

Height of a spire, dome, cupola or tower shall be measured from the mean finished grade of the ground contiguous to the building of which the spire, dome, cupola or tower is part, as such ground will exist subsequent to construction.

F. Buildings with an Educational or Religious Use in Residence D, D–1 and D–2 Districts. Notwithstanding the foregoing Paragraphs B, C and D, any building for educational or religious use in a Residence D, D–1 or D–2 district, which is not an accessory use to housing for the elderly or handicapped in a Residence D or Residence D–1 district or an accessory use to housing for the elderly in a Residence D–2 district or for which no special permit has been issued pursuant to Section III.D, shall meet the requirements contained in Paragraph A for a building for educational or religious use in a Residence AA district. Any building or portion of a building with such a non–accessory educational or religious use in a Residence D, D–1 or D–2 district shall also be subject to all other regulations of these bylaws applicable to such a building in a Residence AA district, including, but not limited to, the Building Coverage and Floor Space provisions in Section VI.E., the Open Space provisions in Section VI.F., and the parking regulations in Section VII. The addition of a new building with such a non–accessory educational or religious use or conversion of an existing building to such a use shall render any other building or buildings with a different use on the same lot or on adjoining lots in common ownership nonconforming.

G. Antennas. In any zoning district, the Board of Appeals may authorize by special permit an antenna in excess of the height permitted in this section but not to exceed fifty (50) feet in height above the ground if the additional height is necessary for use of the antenna and will have no substantial adverse effect on neighboring properties. If, under applicable state or federal law, an applicant is entitled, as a matter of right, to an antenna in excess of the height permitted hereunder, the Board of Appeals shall authorize an antenna in accordance with the requirements of such law, subject to permissible safeguards and conditions minimizing any adverse effect on neighboring properties. The provisions of this Section V do not apply to wireless telecommunications facilities, which are governed by Section III.G.

H. Berms and Terraces. Earthen berms or other mounding of earth materials, which exceed a slope rising more than one (1) foot in four (4) feet (4:1) within thirty (30) feet of a building shall not be considered in determining the mean finished grade of the building. Terraces, which project less than fifty (50) feet from the face of a building, shall not be considered in determining the mean finished grade of the building. This subsection shall not apply to any project for which site Plan Approval pursuant to Section V III.F has been granted by the

Planning Board prior to adoption of this subsection, even if amendments to such site plan approval are subsequently granted.

SECTION VI. Area Regulations.

A. Lot Sizes and Frontages.

1. In a Residence A district no dwelling shall be erected or maintained except on lots as hereinbefore defined, or on lots established on February 10, 1938, as hereinbefore provided, containing not less than 40,000 square feet each and having a frontage of not less than 150 feet and not more than one dwelling shall be erected on each such lot except that (a) a lot recorded on February 10, 1938, or, if not so recorded, is authorized by special permit from the Board of Appeals, containing less than 80,000 and more than 64,000 square feet may be divided into lots containing not less than 32,000 square feet each and each having a frontage of not less than 150 feet, and one dwelling may be erected on each such lot and (b) if a lot recorded on February 10, 1938, or, if not so recorded, if authorized by special permit from the Board of Appeals, contains more than 80,000 square feet and if after division into as many lots as practicable, each containing not less than 40,000 square feet and each having a frontage of not less than 150 feet, there remains a lot of 32,000 square feet or more, one dwelling may be erected on such remaining lot provided that the same has a frontage of not less than 150 feet, and (c) one dwelling may be erected on a lot containing less than 40,000 square feet, or having a frontage of less than 150 feet, if such lot was recorded on February 10, 1938, and did not at the time of such adoption adjoin other land of the same owner available for use in connection with said lot. No such adjoining land or any part thereof shall be deemed "available for use" (as that phrase is used in this subsection (c)) if such land is a parcel which was so recorded, on which at the time of such adoption a dwelling existed, and which then contained no more than 40,000 square feet and had a frontage of no more than 150 feet.
2. In a Residence B district no dwelling shall be erected or maintained except on lots as hereinbefore defined, or on lots established on February 10, 1938, as hereinbefore provided, containing not less than 20,000 square feet each and having each a frontage of not less than 100 feet, and not more than one dwelling shall be erected on each such lot except that (a) a lot recorded on February 10, 1938, or, if not so recorded, if authorized by special permit from the Board of Appeals, containing less than 40,000 and more than 32,000 square feet may be divided into lots containing not less than 16,000 square feet each and each having a frontage of not less than 80 feet, and one dwelling may be erected on each such lot, and (b) if a lot recorded on February 10, 1938, or if not so recorded, if authorized by special permit from the Board of Appeals, contains more than 40,000 square feet and if after division into as many lots as practicable, each containing not less than 20,000 square feet and each having a frontage of not less than 100 feet there remains a lot of 16,000 square feet or more, one dwelling may be erected on such remaining lot provided that the same has a frontage of not less than 80 feet, and (c) one dwelling may be erected on a lot containing less than 20,000 square feet, or having a frontage of less than 100 feet, if such lot was recorded on February 10, 1938, and did not at the time of such adoption adjoin other land of the same owner available for use in connection with said lot. No

such adjoining land or any part thereof shall be deemed "available for use" (as that phrase is used in this subsection (c)) if such land is a parcel which was so recorded, on which at the time of such adoption a dwelling existed, and which then contained not more than 20,000 square feet and had a frontage of no more than 100 feet.

3. In a Residence C District no dwelling shall be erected or maintained except on lots as hereinbefore defined, or on lots established on February 10, 1938, as hereinbefore provided, containing no less than 7,500 square feet each and having each a frontage of not less than 75 feet, and not more than one dwelling shall be erected on each such lot except that (a) a lot recorded, on February 10, 1938, or if not so recorded, if authorized by special permit from the Board of Appeals, containing less than 15,000 and more than 12,000 square feet may be divided into lots containing not less than 6,000 square feet each and each having a frontage of not less than 60 feet, and one dwelling may be erected on each such lot, and (b) if a lot recorded on February 10, 1938 or, if not so recorded, if authorized by special permit from the Board of Appeals, contains more than 15,000 square feet and if after division into as many lots as practicable, each containing not less than 7,500 square feet and each having a frontage of not less than 75 feet, there remains a lot of 6,000 square feet or more, one dwelling may be erected on such remaining lot provided that the same has a frontage of not less than 60 feet, and (c) one dwelling may be erected on a lot containing less than 7,500 square feet, or having a frontage of less than 75 feet, if such lot was recorded on February 10, 1938, and did not at the time of such adoption adjoin other land of the same owner available for use in connection with said lot. No such adjoining land or any part thereof shall be deemed "available for use" (as that phrase is used in this subsection (c) if such land is a parcel which was so recorded on which at the time of such adoption a dwelling existed, and which then contained no more than 7,500 square feet and had a frontage of no more than 75 feet.
4. (a) In a Residence D district no building or buildings shall be erected or maintained to furnish Housing for the Elderly except on a lot containing not less than 100,000 square feet and having a frontage of not less than fifty (50) feet, and no such building or buildings shall in the aggregate cover more than 25% of said lot. And no building or buildings shall be converted for such use without a special permit from the Board of Appeals.

(b) Each such building shall have three or more independent dwelling units consisting of a room or suite of rooms, its own bath and toilet facilities and its own kitchen facility. Each such building may also include central kitchen and dining facilities for providing meals to residents thereof and their guests but not to the public and may also provide lounge rooms for the common use of residents and their guests. In one of such buildings, a unit may be included for occupancy by the manager of the project and his immediate family, one room of which may be used as an office.

(c) Except for the unit to be occupied and used as aforesaid by the manager, no unit in such a building shall be occupied unless at least one of the tenants is a person who is sixty–two years of age or over.

5. (a) In a Residence D–1 district no building or buildings shall be erected or maintained to furnish housing for the elderly or handicapped except on a lot containing not less than 20 acres of buildable land and having a frontage of not less than one hundred fifty (150) feet.

   For the purposes of this Subsection VI.A.5. buildable land shall not include land which in the opinion of the Planning Board is unsuitable for use as buildable land because it is wet, swampy, dangerous or otherwise unsuitable for the construction of dwelling units or subject to rights or easement inconsistent with purposes of building land in a Resident D–1 development.

(b) Each such building shall have three or more independent dwelling units consisting of a room or suite of rooms, its own bath and toilet facilities, and its own kitchen facility. A separate building may also include a multi–purpose room with dining facilities and a central kitchen for providing meals to residents thereof and their guests, but not to the public and may also provide common lounge and activity rooms for the collective use of residents and their guests. In one of such buildings, a unit may be included for occupancy by the manager of the project and his immediate family, one room of which may be used as an office.

(c) Except for the unit to be occupied and used as aforesaid by the manager, no unit in such building shall be occupied unless one of the tenants is a person who is sixty–two years of age or over or is handicapped. A handicapped person means any person having an impairment which is expected to be of long–continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions.

(d) In a Residence D–1 District containing a housing for the elderly and/or handicapped development, the number of independent dwelling units, excluding structures existing March 15, 1977, shall not exceed 160 units. Further, no single building in a Residence D–1 District shall contain more than eight independent dwelling units, except that a housing for the elderly and/or handicapped development may include one building of up to 32 independent dwelling units.

6. Notwithstanding the foregoing provisions of this section, if adjacent lots, any of which has less area or frontage than required by this section, are recorded as all in the same ownership at the time this bylaw is adopted, and if (a) substantial expenditures have been incurred, prior to that time, toward the improvement of these lots or approved ways giving access thereto, or toward utilities serving such lots, which improvements or utilities would be diminished in value in a substantial amount by a literal enforcement of the terms of this section, of if (b) adjoining areas have been, prior to that time, developed to a substantial extent by the construction of houses on lots generally smaller than is prescribed by this section and the standard of the neighborhood so established does not reasonably require a subdivision of the applicant’s land into lots as large as is hereby prescribed, then the owner of these lots may apply to the Board of Appeals for relief from the terms of this section as applying to any of these lots, and the Board of Appeals may grant such relief by

making special exceptions to the terms of this section, subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this bylaw, where desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of this bylaw.

7. In a Residence AA District, no dwelling shall be erected or maintained except on a lot, as hereinbefore defined, containing not less than 80,000 square feet and having a frontage of not less than 150 feet, and not more than one dwelling shall be erected on each such lot, provided that the minimum frontage of a lot on any street, for the construction of which approval under the Subdivision Control Law has been given subsequent to March 10, 1990, shall be 200 feet.
8. (a) In a Residence D–2 District no building or buildings shall be erected or maintained to furnish Housing for the Elderly except on a lot containing not less than twenty–five (25) acres and having a frontage of not less than three hundred (300) feet, provided, however, that in the case of adjacent lots zoned as Residence D–2, the total area and the frontage of all such adjacent lots may be aggregated for the purpose of determining compliance with the acreage and frontage requirements of this Subsection.

(b) In a Residence D–2 District, buildings may include such administrative, resident support services, staff housing and other facilities as shall be necessary and accessory to elderly housing.

(c) Except for staff housing facilities, no unit shall be occupied unless one of the occupants is over the age of 62 years.

(d) In a Residence D–2 district containing Housing for the Elderly, the number of residential units shall not exceed three hundred thirty–two (332) with not more than one hundred seventy–six (176) units on any lot meeting the requirements of Section VI.A.8.(a)

9. Notwithstanding the provisions of Subsection VI.A.7., if a lot in a Residence AA District was recorded on or before March 12, 1988 and contains not less than 40,000 square feet and has a frontage of not less than 150 feet, a detached one–family dwelling may be erected and/or maintained on such lot, but no more than one dwelling shall be erected or maintained on such lot.
10. Except as may otherwise be required by the provisions of G.L.c.40A, S3 or other applicable law, no building in a Residence AA, A, B or C district for municipal, educational, or religious use or for any of the permissive uses in Section III, Subsection A, Paragraph 7, shall be erected or maintained except on a lot which meets the applicable area and frontage requirements for the erection or maintenance of a dwelling contained in Paragraphs 1, 2, 3 and 7 of this subsection.

B. Front Yards.

1. In a Residence AA, A or D district no building shall be erected within 30 feet of the line of the street on which it fronts, provided that no building need be set back more than 30 percent of the mean depth of the lot nor more than the average of the setbacks of the buildings on the lots immediately next thereto on either side, a vacant

lot or a lot occupied by a building set back more than 30 feet being counted as though occupied by a building set back 30 feet.

2. In a Residence B district no building shall be erected within 25 feet of the line of the street on which it fronts provided that no building need be set back more than 25 percent of the mean depth of the lot nor more than the average of the setbacks of the buildings on the lots immediately next thereto on either side, a vacant lot or a lot occupied by a building set back more than 25 feet being counted as though occupied by a building set back 25 feet.
3. In a Residence C district no building shall be erected within 20 feet of the line of the street on which it fronts, provided that no building need be set back more than 20 percent of the mean depth of the lot nor more than the average of the setbacks of the buildings on the lots immediately next thereto on either side, a vacant lot or a lot occupied by a building set back more than 20 feet being counted as though occupied by a building set back 20 feet.
4. In Residence AA, A, B and C districts no part of an accessory building shall be located within 40 feet of the front line of the lot, unless such accessory building is within the body of a dwelling or attached to a dwelling and such accessory building complies with the setback from said front line established for such dwelling.
5. In a Residence D–1 district, no building, excluding existing buildings for accessory use, shall be erected within 150 feet from existing public ways.
6. In a Residence D–2 district, no building, excluding existing buildings for accessory use, shall be erected within 175 feet from then existing public ways.
7. Notwithstanding the provisions of Paragraphs 1, 2, 3 and 4, no building, which covers a ground area of more than 5,000 square feet, shall be erected within 50 feet of any street or front lot line in a Residence AA or A district or within 35 feet of any street or front lot line in a Residence B or C district.

C. Side Yards.

1. No building except a one–story building of accessory use shall be erected or maintained in a Residence AA or A district within 15 feet of a side lot line, or within 30 feet of any other building on an adjacent lot, in a Residence B district within 12 feet of a side lot line or within 24 feet of any other building on an adjacent lot, or in a Residence C district within 10 feet of a side lot line, or in a Residence D district within 20 feet of a side lot line, or in a Residence D–1 district within 40 feet of a side lot line, or in a residence D–2 district within one hundred (100) feet of a side lot line except that the distance shall be not less than one hundred seventy–five (175) feet to any street or public way and to a side lot line of an adjacent lot which is being used for single family residential purposes, provided, however , that this requirement shall not apply with respect to side lot lines between two adjacent lots zoned as Resident D–2.
2. No building of accessory use shall be erected or maintained within 10 feet of a side lot line in a Residence AA or A district or a Residence B district nor within 8 feet of a side line in a Residence C district.

3. On a lot abutting on two intersecting streets no building shall be erected or maintained in a Residence AA or A district within 30 feet, in a Residence B district within 25 feet, and in a Residence C district within 20 feet of the line of the side street.
4. The provisions of this section shall not reduce to less than 26 feet the buildable width of any lot in a Residence AA, A, B or C district recorded on February 10, 1938, provided, however, that no building shall extend within 6 feet of any side lot line, and provided further that where a building is erected less than 10 feet from either side line by virtue of the provisions of this paragraph 4 the buildable width shall not exceed 26 feet.
5. In a Business District no building shall be erected or maintained within 6 feet of a side line of any lot unless the wall adjoining such side be either a party wall or a wall with its outer face coincident with the lot side line.
6. In addition to the provisions of Paragraphs 1, 2, and 4, no building except a one–family or two family dwelling, in a Residence AA, A, B or C District shall be closer to a side lot line, adjoining land in separate ownership, than a distance equal to one–fifth of the sum of the building's height and its length measured parallel to such side lot line [(H+L)/5]. In addition to the provisions of Paragraphs 1,2 and 4 and the foregoing sentence, no building, which covers a ground area of more than 5,000 square feet, shall be erected within 35 feet of a side lot line, adjoining land in separate ownership, in a Residence AA or A district, within 25 feet of a side lot line, adjoining land in separate ownership, in a Residence B district or within 18 feet of a side lot line, adjoining land in separate ownership, in a Residence C district.

D. Rear Yards.

1. In a Residence AA, A, B or C district no building except a one–story building of accessory use shall be erected or maintained within 30 feet of the rear lot line, provided that no building need be set back from the rear lot line more than 30 percent of the mean depth of the lot.
2. In a Business district no dwelling shall be erected or maintained within 20 feet of the rear lot line, and no other building shall be erected or maintained within 12 feet of the rear lot line of any lot unless the wall adjoining such rear lot line be either a party wall or a wall with its outer face coincident with the rear lot line.
3. No building of accessory use shall be erected or maintained within 10 feet of a rear lot line in a Residence AA or A district, or within 8 feet of a rear lot line in a Residence B or a Residence C district, or within 15 feet of a rear lot line in a Residence D district, or within 30 feet of a rear lot line in a Residence D–1 district, or within 175 feet of a rear lot line of a Residence D–2 district provided, however, that this requirement shall not apply with respect to rear lot lines between two adjacent lots zoned as Residence D–2.
4. Notwithstanding the provisions of Paragraphs 1 and 3, no building, which covers a ground area of more than 5,000 square feet shall, be erected within 50 feet of a rear lot line, adjoining land in separate ownership, in a Residence AA or A district, within 40 feet of a rear lot line, adjoining land in separate ownership in a Residence B

district or within 30 feet of a rear lot line, adjoining land in separate ownership, in a Residence C district.

E. Building Coverage and Floor Space.

1. In a Residence AA district, no building, alone or in combination with other buildings, on the same lot or on adjacent lots in common ownership, shall cover an area in excess of 10% of the total area of such lot or lots or 3,000 square feet, whichever is greater. The gross floor area in such building or buildings shall not exceed 20% of the total area of such lot or lots or 6,000 square feet, whichever is greater.
2. In a Residence A district, no building, alone or in combination with other buildings, on the same lot or on adjacent lots in common ownership, shall cover an area in excess of 15% of the total area of such lot or lots or 3,000 square feet, whichever is greater. The gross floor area in such building or buildings shall not exceed 30% of the total area of such lot or lots or 6,000 square feet, whichever is greater.
3. In a Residence B district, no building alone or in combination with other buildings, on the same lot or on adjacent lots in common ownership, shall cover an area in excess of 20% of the total area of such lot or lots or 2,500 square feet, whichever is greater. The gross floor area in such building or buildings shall not exceed 40% of the total area of such lot or lots or 5,000 square feet, whichever is greater.
4. In a Residence C district, no building, alone or in combination with other buildings, on the same lot or on adjacent lots in common ownership, shall cover an area in excess of 30% of the total area of such lot or lots or 2,250 square feet, whichever is greater. The gross floor area in such building or buildings shall not exceed 50% of the total area of such lot or lots or 3,750 square feet, whichever is greater.
5. The building coverage and floor space provisions of Paragraphs 1 through 4 shall not apply to a single family dwelling. These provisions shall apply to all other buildings and structures used for any other purposes, including religious purposes and educational purposes. In determining whether a building accessory to a single family dwelling is permissible on a lot or on an adjacent lot in common ownership, the building coverage and gross floor area of the single family dwelling shall be considered.
6. With respect to a building or buildings on a lot or on adjacent lots in common ownership with a municipal, educational or religious purpose existing on May 31, 1991, violation of any of the foregoing provisions in this paragraph shall not prohibit expansion of any such building or buildings for such purpose by a total of no more than 25% of their May 31, 1991 building coverage and/or floor space.
7. For the purposes of this subsection, gross floor area shall mean the sum of the areas of the several floors of a building measured from the exterior faces of the walls. It does not include an unfinished basement so long as the finished floor height of the first story is no more than four feet above the mean grade of the ground contiguous to the structure. It does not include attic space with less than 5 feet of headroom.
8. In determining the building coverage and floor space requirements of this subsection, the total area of adjacent lots in common ownership shall be considered.

F. Open Space. For the purposes of this subsection, open space shall mean a portion of a lot or of adjacent lots in common ownership exclusive of any building or buildings and/or their associated driveways and parking areas and shall include parks, lawns, gardens, landscaped areas, terraces, patios, areas left in their natural condition, athletic fields, open air athletic courts, playgrounds, open air swimming pools, and any open vegetated areas. Driveways and parking areas permanent or temporary, shall not be counted as open space.

1. In a Residence AA district, there shall be open space on a lot or on adjacent lots in common ownership equal in area to 100% of the ground area of the buildings plus the area of all parking areas and driveways.
2. In a Residence A district, there shall be open space on a lot or on adjacent lots in common ownership equal in area to 75% of the ground area of the buildings plus the area of all parking areas and driveways.
3. In a Residence B district, there shall be open space on a lot or on adjacent lots in common ownership equal in area to 50% of the ground area of the buildings plus the area of all parking areas and driveways.
4. In a Residence D district, there shall be open space on a lot or on adjacent lots in common ownership equal in area to 33% of the ground area of the buildings plus the area of all parking areas and driveways.
5. The open space requirements of this subsection shall be reduced for a buildable lot or buildable adjoining lots in common ownership with less than the usual minimum area for a buildable lot required by Subsection A of Section VI, as follows:
    (a) For any such buildable lot or lots containing less than 7,500 square feet in total, the open space requirement shall be a fraction, of which the numerator shall be the number of square feet in the lot or lots, and the denominator shall be 7,500 times 33% of the ground area of the buildings and of the ground area of all parking areas and driveways.
    (b) For any such buildable lot or lots containing between 7,499 and 20,000 square feet in total, the open space requirement shall be a fraction of which the numerator shall be the number of square feet in the lot or lots but as least 10,000, and the denominator shall be 20,000, times 50% of the ground area of the buildings and of the ground area of all parking areas and driveways.
    (c) For any such buildable lot or lots containing between 19,999 and 40,000 square feet in total, the open space requirement shall be a fraction, of which the numerator shall be the number of square feet in the lot or lots but at least 26,667, and the denominator shall be 40,000, times 75% of the ground area of the buildings and of the ground area of all parking areas and driveways.
    (d) For any such buildable lot or lots containing between 39,999 and 80,000 square feet in total, the open space requirement shall be a fraction, of which the numerator shall be the number of square feet in the lot or lots but at least 60,000 and the denominator shall be 80,000 times 100% of the ground area of the buildings and of the ground area of all parking areas and driveways.
6. With respect to a building or buildings on a lot or on adjacent lots in common ownership with a municipal, educational or religious purpose existing on May 31,

1991, violation of any of the foregoing provisions in this paragraph shall not prohibit expansion of any such building or buildings for such purpose by a total of no more than 25% of their May 31, 1991 building coverage and/or floor space, provided that, if parking spaces in excess of the minimum number required by Section VII.A.3 or 4 exist on such lot or lots, such excess spaces shall be removed and used as the site for expansion or as open space.

7. In determining the open space requirements of this subsection, the total area of open space on adjacent lots in common ownership shall be considered.

G. Miscellaneous Provisions.

1. Projection
   Nothing herein shall prevent the projection of steps, eaves, chimneys and cornices not exceeding 18 inches in width, windowsills, or belt courses into any required yard or open space.
2. Corner Clearance
   On lots in Residence AA, A, B, C, D, D1 and D2 districts no building, fence, or other structure shall be erected and no tree, shrub or other planting shall be planted, or allowed to exist, which prevents an unobstructed view through the space between 3 ½ feet and 8 feet above the ground within the area formed by the intersecting side lines forming the corner of the intersecting streets and a line joining points on such lines 25 feet distant from the point of intersection in an AA, A, D, D–1 or D–2 district or 20 feet distant from the point of intersection in a Residence B or C district.
3. Driveways and Paved Areas.
   In the front yard set–back area of a lot, as required in Section VI, Subsection B, Paragraphs l, 2,and 3 for lots in Residence AA, A, B, and C districts, no more than 40 percent of the set back area shall be paved or covered with an impervious surface.

H. Landscaping.

(a) In all Residence D districts for the Elderly, there shall be provided suitable landscaping adequate to screen parking and service areas from public or private ways and adjacent properties.

(b) In a Residence D1 district being used for Housing for the Elderly or Handicapped there shall be provided suitable landscaping adequate to screen parking, driveways, and service areas from public or private ways and adjacent properties.

(c) In all Residence D–2 districts being used for Housing for the Elderly, there shall be provided suitable landscaping adequate to screen parking and service areas from public or private ways and adjacent properties, provided, however, that adjacent properties zoned as Residence D–2 shall not be considered adjacent properties for the purposes of this Subsection.

I. Parking, Ways and Lighting.

1. (a) In a Residence D district being used for Housing for the Elderly, off–street parking shall be provided which may be either indoor or outdoor or a

combination thereof. At least one parking space shall be provided for each unit contained in each residence building.

(b) In a Residence D1 district being used for Housing for the Elderly or Handicapped, off–street parking shall be provided which may be either indoor or outdoor or a combination thereof. At least one parking space shall be provided for every two units contained in each residence building.

(c) In a Residence D–2 district being used for Housing for the Elderly, off street parking shall be provided which may be either indoor or outdoor or a combination thereof. At least one (1) parking space shall be provided for each unit and which shall be at least one hundred (100) feet from any street or public way and from any lot line of an adjacent lot which is being used for single family residential purposes.

2. (a) In a Residence D district being used for Housing for the Elderly, driveways within each lot, including those for ingress and egress, shall be thirty (30) feet in width, with twenty (20) feet paved for the use of vehicles and with two (2) sidewalks each five (5) feet in width. Adequate lighting shall be provided for driveways, and driveways and parking areas shall be suitably graded and provided and maintained with a permanent dust–free surface, adequate drainage and bumper guards when needed for safety.

(b) In a Residence D1 district being used for Housing for the Elderly or Handicapped, main driveways within each lot, including those for ingress and egress, shall be twenty–nine (29) feet in width with twenty–four (24) feet paved for the use of vehicles and with one (1) sidewalk five (5) feet in width, as applicable to main driveways and not secondary vehicle roads or pedestrian walks.

(c) In a Residence D–2 district being used for Housing for the Elderly, drivewayswithin each lot including those for ingress and egress, shall be 30 feet in width with at least 20 feet paved for the use of vehicles and one sidewalk 5 feet in width. Adequate lighting shall be provided for all driveways, and driveways and parking areas shall be suitably graded and provided and maintained with permanent dust–free surface, adequate drainage and bumper guards when needed for safety, provided, however, that a common driveway shared by two adjacent lots zoned as Residence D–2 can be approved as part of site plan approval.

J. Cluster Developments.

1. (a) *Definition* – "Cluster Development" means a residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and other groups within the development by intervening open land.

(b) *Purpose* – This subsection relating to Cluster Development is intended, (i) to permit development on large tracts of land in a manner which preserves open space and topography, wooded areas, and natural features of substantial portions of those tracts, and (ii) to provide a process requiring careful site

planning and high quality design resulting in developments in harmony with the surrounding open spaces, which enhance the neighborhoods in which they occur and the Town as a whole.

2. A Cluster Development shall be established on a parcel of land in one ownership containing not less than ten (10) acres, provided that the Planning Board may permit a Cluster Development to be established on a parcel of land in one ownership, containing not less than five (5) acres, if the Planning Board determines that such a Cluster Development on the parcel is, under the circumstances, demonstrably superior in design, visual appearance, and land use to a subdivision which meets the usual lot size and frontage requirements of this Section.
3. A Cluster Development may be established in a Residence AA, A, B, or C district or on a parcel of land lying in more than one of such residence districts.
4. In a Cluster Development, the number of lots on which dwellings may be erected or maintained shall not exceed the number of buildable lots which would be available in a subdivision, (a) in which each lot all or part in a Residence AA district contains no less than the area and frontage required by Subsection A, Paragraph 7, of this Section; in which each lot all or partly in a Residence A district contains no less than the area and frontage required by Subsection A, Paragraph 1, of this Section; and in which each lot all or partly in a Residence B district or a Residence C district contains no less than the area and frontage required by Subsection A, Paragraph 2, of this Section, and (b) which would be entitled to subdivision approval by the Planning Board pursuant to the Subdivision Control Law, the Zoning Bylaws (apart from the provisions of this Subsection), the Wetlands Bylaws, the Rules and Regulations of the Planning Board, and other applicable law. In determining whether wetlands would render any such lot unbuildable or would preclude the construction of a street, the Planning Board shall rely on the report and recommendations of the Conservation Commission.
5. In a Cluster Development, no dwelling shall be erected or maintained except on a “Buildable Lot”. A “Buildable Lot” is a lot containing not less than 10,000 square feet of land, exclusive of wetlands, and having a frontage deemed adequate by the Planning Board. Not more than one dwelling shall be erected or maintained on any Buildable Lot. Each Buildable Lot shall have a location, size and shape to provide a building site for a dwelling and an attached or unattached garage. No more than thirty–five percent (35%) of the area of any Buildable Lot shall be covered by buildings or other impervious surface unless the Planning Board determines that special circumstances justify a greater coverage.
6. On any Buildable Lot in a Cluster Development, the dwelling and any unattached garage shall be set back at least 25 feet from the street on which the lot has frontage and at least 15 feet from any other lot line. Every dwelling shall be located at a place on a Buildable Lot where the lot width is at least 75 feet. Every unattached accessory building shall be set back at least 35 feet from the street on which the lot has frontage and at least 10 feet from any other lot line. Matters relating to Projection shall be governed by the provisions of Subsection F of this Section, and matters relating to

Corner Clearance at intersecting streets shall be governed by the provisions of Subsection G of this Section, as if the development were in a Residence B district.

7. All utilities in a Cluster Development, including the wiring for lights on the Open Land, paths, and driveways, shall be placed underground. Subject to the approval of the Planning Board, provision may be made for additional parking areas for the residents and guests of the Buildable Lots. Suitable provision shall be made for ownership and maintenance of such parking areas by the owners of the Buildable Lots.
8. Every Cluster Development shall include "Open Land", which, for the purposes of this subsection, shall mean land left in its natural state, gardens, and other open land suitably landscaped in harmony with the terrain of the site and its other features. Open Land may not be used for residential accessory uses such as parking or roadway or any other use of Open Land prohibited by G.L.c40A, S9 or successor statutory provision. Insofar as permitted thereunder and subject to the approval of the Planning Board, Open Land may be used for non–commercial outdoor recreational purposes, including playgrounds, tennis courts, basketball courts and swimming pools, but no more than 20% of the Open Land may be used for such purposes unless the Open Land is owned by the Town of Milton or open to public use. Open Land may be used for necessary underground utility services. The Planning Board may permit Open Land to be utilized for the coursing or temporary retention of storm drainage. No structure shall be erected or maintained on Open Land except as may be reasonably necessary for and incidental to the use of Open Land, such as lampposts, benches, small sheds for tools or sports equipment, bath houses, and fences. The number, use, characteristics, and location of structures shall be subject to the approval of the Planning Board.
9. At least 35% of the total land area of the Cluster Development, exclusive of the land set aside for streets, shall be Open Land, and at least 35% of the non–wetland area of the Cluster Development, exclusive of the land set aside for streets, shall be Open Land. Land which is subject to rights or easements inconsistent with the use of Open Land shall not be counted as Open Land in determining these percentages.
10. Open Land in a Cluster Development shall be contained in one or more parcels of such size, shape and location so that the purposes of this subsection are met. Narrow strips of land, which are not necessary for a high–quality site design, shall not be a part of the Open Land. Open Land shall be situated so that each Buildable Lot is adjacent to Open Land or has convenient access to Open Land.
11. In a Cluster Development the public shall not be unreasonably restricted from daytime foot passage on paths in the Open Land. The use of special facilities shall be restricted to the regular occupants and their guests, and use of such facilities by such persons may be made subject to a user's fee and reasonable rules and regulations.
12. Open Land in a Cluster Development may be owned (a) by the Town of Milton for park or open space use with the Town's consent, (b) by a non–profit organization, the principal purpose of which is the conservation of open space and which agrees by suitable guarantees to maintain the Open Land for such purpose in perpetuity and

which in the opinion of the Planning Board, has sufficient resources to provide adequate maintenance of the Open Land and/or (c) by a corporation or trust as described in Paragraph 13 of this subsection. In any case where the Open Land is not conveyed to the Town of Milton, a perpetual conservation restriction pursuant to G.L.c184SS.31–33, shall be granted to the Town and recorded with the Norfolk County Registry of Deeds providing that such Open Land shall be kept in an open or natural state and not built for commercial or residential use or developed for accessory uses such as parking or roadway.

13. Any corporation or trust, which owns Open Land in a Cluster Development, shall be owned by the owners of the Buildable Lots. Each such owner's interest in the corporation or trust shall be subordinate to the conservation restriction granted to the Town and shall pass with conveyance of his or her Buildable Lot. Such corporation or trust shall be responsible for the maintenance of the Open Land. The deed of the Open Land to such corporation or trust shall restrict the use of the Open Land to all or some of the uses set forth in this subsection. Each deed to a Buildable Lot shall obligate the owner and his successors in title to pay a pro rata share of the expenses of the corporation or trust and any successor in title in maintaining the Open Land. The corporation or trust by unamendable provision in this charter or trust indenture (a) shall be obligated to maintain the Open Land, (b) shall be prohibited from mortgaging or pledging the Open Land, and (c) shall be prohibited from conveying or assigning the Open Land, except to an entity described in Paragraph 12 of this subsection, with the consent of the Planning Board. In the event that such corporation or trust shall be legally terminated, another corporation or trust constituted pursuant to the requirements of this paragraph subject to the rights and obligations provided herein shall take title to the Open Land.
14. Every application for a Cluster Development permit shall include (a) a plan and other documentation meeting all requirements for a Definitive Subdivision Plan set out in the Subdivision Control Law and the Rules and Regulations of the Planning Board, (b) a plan which shows the number of lots which would be buildable in a subdivision pursuant to the requirements of Paragraph 4 of this subsection and which provides adequate detail, including data on subsurface waste disposal, to permit the Planning Board to determine whether such a subdivision would be approved, (c) a Site Plan meeting the requirements of Paragraph 15, (d) copies of all proposed deeds, documents and other instruments required by this subsection, and (e) such other information as the Planning Board determines is reasonably necessary for a determination of the application.
15. A. The Site Plan for a Cluster Development may be contained in, one or more plans prepared in a form suitable for recording by a Registered Professional Engineer or a Registered Land Surveyor, and in accompanying text and material. Applicants are encouraged to secure the assistance of a Registered Architect or Landscape Architect in preparation of the Site Plan. A Site Plan, approved by the Planning Board, is a prerequisite of a special permit for a Cluster Development

granted under this subsection, and construction of the Cluster Development shall be in accordance with the approved site Plan. The Site Plan shall show:

(a) The existing topography of the land showing existing and proposed two–foot contours.

(b) A mapping of all wetlands, a description of these wetlands, and any proposed alteration of wetlands.

(c) Major site features such as large trees, wooded areas, rock–ridges and outcroppings, water bodies, meadows, stone walls, and buildings, a description of these features, and any proposed removal or changes in these features.

(d) The siting, grading, and landscape plan for all proposed streets, Buildable Lots, Open Land, parking areas, paths, walkways, driveways, tennis courts, basketball courts, ball fields, swimming pools, any other athletic facility, playgrounds, gardens and fences.

(e) A written description of the landscape characteristics of the site and its contiguous neighborhood and of the effects of the Cluster Development on such characteristics, including the passage of water through the site and to and from contiguous property.

(f) A written description of the site's current uses, such as watershed, wildlife habitat, woodland, or meadowland and of the effect of the Cluster Development on such uses.

(g) A statement of all significant impacts, which the Cluster Development is likely to cause, and a description of any measures proposed to deal with these impacts.

(h) The design of all structures, proposed for the Open Land or for common parking areas, and the design of the lighting for streets, walkways, paths and common parking areas.

B. The Site Plan shall be prepared in conformity with the purpose and specific requirements of this subsection including the following design standards:

(a) The existing terrain, whether part of the Open Land or a Buildable Lot, shall be preserved insofar as reasonably possible, and earth moving shall be minimized except as may be required for a site design meeting the purpose and requirements of this subsection.

(b) Existing trees and significant natural features whether on the Open Land or a Buildable Lot, shall be preserved and integrated into the landscape design plan insofar as reasonably possible and appropriate to a site design meeting the purpose and requirements of this subsection.

(c) Street layouts shall take account of the existing terrain and landscape features, and there shall be no extreme or ill designed cuts or fills. The width, construction and lighting of streets shall be appropriate for their intended use.

(d) Preservation of views of the Open Land from existing streets and creation of views of the Open Land from new streets in the Cluster Development shall be among the objectives of overall site design.

(e) The Buildable Lots shall be arranged and oriented to be compatible with the terrain and features of surrounding land and shall be sited so that the arrangement of the Buildable Lots fronting a street creates a landscape setting in context with the street and the surrounding land.

(f) The Buildable Lots shall not be located in such a manner that densities of dwelling units are increased in the immediate vicinity of any existing dwelling beyond the increase which would be caused by a conventional subdivision.

(g) Individually and commonly owned parking areas shall be designed with careful regard to topography, landscaping, ease of access and lighting and shall be developed as an integral part of overall site design.

(h) There shall be an adequate, safe and convenient arrangement of walkways, paths, driveways and parking areas and suitable lighting. Varied construction materials, such as brick or stone, shall be used when feasible and appropriate to site design.

(i) Suitable trees, shrubs and other plant material, used for screening or landscaping, shall be of a size and number sufficient for their purpose. The Site Plan shall specify the approximate location and approximate dimensions of all dwellings on the Buildable Lots in conformity with the following design standards:

(j) The dwellings on the Buildable Lots shall be conveniently accessible from the street without extreme or ill–designed cuts or fills and without removal of trees or other natural features beyond what is necessary to a site design meeting the purpose and requirements of this subsection.

(k) The dwellings on adjacent Buildable Lots shall be located with respect to each other so as to promote visual and audible privacy.

(l) The siting of a dwelling on a Buildable Lot shall take into account traditional neighborhood patterns for relationships of dwellings, yards, and common space.

(m) The size of the dwelling on a Buildable Lot shall be commensurate with and appropriate to the size of the lot.

The Site Plan need not include architectural plans for dwellings, but, when prepared, such plans should make the appearance of each dwelling on its sides and rear at least equal in amenity and design to the appearance of the dwelling on its front.

16. Every application for a Cluster Development under this subsection shall be referred to the Conservation Commission and to the Board of Health which shall file reports on the application. The Conservation Commission shall determine the extent of wetlands and any necessary conditions required to be imposed on the proposed

development and on the development shown by the plan described in Paragraph 14 (b) and shall report its findings and any recommendations. The Board of Health shall determine the adequacy of provisions for subsurface waste disposal and whether any proposed Buildable Lots cannot be used as building sites without injury to the public health and shall report its findings and any recommendations. The Board of Health shall also specify any lots on the plan described in Paragraph 14 (b) which cannot be used as building sites. The Conservation Commission or the Board of Health may require the applicant to provide, at the applicant's expense, additional information necessary in order for it to prepare its report.

17. Every application for a special permit for a Cluster Development shall be filed with the Town Clerk and five copies of the application (including the date and time of filing certified by the Town Clerk) shall be filed forthwith with the Planning Board. The Planning Board shall forthwith transmit a copy of the application to the Conservation Commission and a copy of the application to the Board of Health and shall specify the date of public hearing. Prior to the date of public hearing, the Conservation Commission and Board of Health shall transmit their reports and recommendations to the Planning Board. After due publication notice, the Planning Board shall hold a public hearing within 65 days of the filing of the application or within such further time as may be permitted by G.L.c40AS9 (or successor statutory provision) or within such further time specified by written agreement between the applicant and the Planning Board filed with the Town Clerk. The written decision of the Planning Board shall be made within 90 days from the date of public hearing or within such further time as may be permitted by G.L.c.40AS9 (or successor statutory provision) or within such further time specified by written agreement between the applicant and the Planning Board filed with the Town Clerk.
18. The Planning Board shall grant a special permit for a Cluster Development provided that it finds that the proposed Cluster Development meets all the requirements and criteria set out in Paragraphs 1–17 of this subsection and that the proposal is financially practical and will, in reasonable probability, be completed. In granting a special permit, the Planning Boards shall impose such conditions and restrictions as may be required by the reports of the Conservation Commission and the Board of Health and may impose additional conditions or restrictions which it finds are reasonably necessary to accomplish the purpose or satisfy the requirements of this subsection.
19. After a special permit for a Cluster Development has been granted, the development may be altered or amended only upon an application for such alteration or amendment complying with the pertinent requirements of this subsection and after notice and a public hearing and a finding by the Planning Board that the alteration or amendment (a) meets the requirements and purpose of this subsection, (b) is financially practical and in reasonable probability will be completed, and (c) is desirable or reasonably necessary for the Cluster Development. In permitting an alteration or amendment, the Planning Board may impose such conditions or

restrictions which it finds are reasonably necessary to accomplish the purpose or satisfy the requirements of this subsection.

20. In the event no substantial use of a special permit granted under this subsection is made and no substantial construction has commenced within 2 years of the Planning Board's decision (excluding any time involved in judicial review of the decision), the special permit shall expire, except for good cause. The Planning Board may set reasonable time limits for completion of parts or of the whole of the development and may determine the order of construction.

K. Attached Cluster Development.

The purpose of this subsection relating to Attached Cluster Development is to provide an alternative pattern of land development to that permitted in the present residential zones. Specifically, it is intended to encourage the conservation of more usable open space than is normally possible in conventional developments while at the same time providing for a greater mixture of housing types at somewhat greater dwelling unit densities than allowed in the present residential zones without a significant increase in population density or requirements for public services. An Attached Cluster Development shall result in:

i. conservation of significant tracts of open space;
ii. efficient allocation, distribution and maintenance of common and open spaces;
iii. economic and efficient street, utility and public facility installation, construction and maintenance;
iv. a variety of housing types and characteristics;
v. housing and land developments harmonious with natural features;
vi. the development and maintenance of real property values consistent with the needs of the town.

(1) An Attached Cluster Development is a complex of attached single family units each unit separated by party walls from the other, located on the parcel of land having an area of not less than 25 acres and the development shall be so laid out that there should be groups of dwellings within the complex with suitable common and open space adjacent to and surrounding it (herein, called ATTACHED CLUSTER DEVELOPMENT).

(2) No Attached Cluster Development shall be established except under a special permit issued by the Planning Board as provided in this Subsection K.

(3) An Attached Cluster Development may be located only in a Residence E district.

(4) Lot Area – In an Attached Cluster Development the area for lots or units shall be in accordance with an approved site plan submitted in accordance with Section K, paragraph 2.

(5) Every Attached Cluster Development may include "common land" which for purposes of this Section K means land within the development available for common use for streets and immediate and essential access to the residential dwelling units and accessory building and facilities within the development.

Common land shall not include land which in the opinion of the Planning Board is unsuitable for use as common land because it is wet, swampy, dangerous or otherwise unsuitable for the construction of a dwelling or unit, or subject to rights or easements inconsistent with purposes of common land in a Cluster Development in the Town.

(6) Every Attached Cluster Development shall include "open land" which for the purpose of this Subsection K, means land within the development available for open space, recreation, flower gardens, gardens, landscaping and land left in its natural state, and, if approved by the Planning Board, for other similar purposes consistent with the development and the character of the neighborhood. No land shall be counted as open land which is included in an area on which the erection or maintenance of a dwelling or accessory structures is permissible. (Such lots or land are hereinafter called "buildable lots or land".) No common land shall constitute open land, nor, for purposes of Section 7, 8, 9, and 14 of this Section K shall be land which in the opinion of the Planning Board is unsuitable for use as open land because it is wet, swampy, dangerous, or otherwise unsuitable for the construction of a dwelling or unit, or subject to rights or easements inconsistent with purposes of open land in an Attached Cluster Development in the Town.

(7) As hereinafter used the term "qualifying land" shall mean the aggregate of all land within the Attached Cluster Development which qualifies as buildable land, common land and open land.

(8) Layout of open land – In an Attached Cluster Development, as least seventy (70%) percent of qualifying land of the development shall be open land and used for no other purpose except for underground utility services necessary for the development, and each dwelling unit or lot within such a development shall be so laid out that each dwelling or dwelling unit shall have reasonable access to open land although individual dwellings or dwelling units need not front directly on such open land.

(9) Density – In an Attached Cluster Development, the number of dwelling units to be constructed in the development may not exceed one unit for each 25,000 square feet of qualifying land area and the average number of bedrooms per dwelling unit may not be greater than two and one–half (2.5) bedrooms per dwelling unit.

(10) Height regulation – In Attached Cluster Developments no building shall exceed two and one–half stories in height above mean finished grade measured at the foundation.

(11) Yard regulations – In accordance with an approved site plan submitted pursuant to Section K, paragraph 2.

(12) Miscellaneous dimensional regulations – Matters relating to appurtenant open space, projections and corner clearances at intersecting streets shall be in accordance with an approved site plan submitted pursuant to Section K, paragraph 2.

(13) All utilities, including wiring for lights on open spaces, paths and driveways, shall be placed underground.

(14) On open land only structures such as lamp posts, small sheds for tools or sports equipment, fences, including the kind enclosing a tennis court or swimming pool, bath houses and other structures for accessory uses incidental to open land in an Attached Cluster Development, shall be permitted and the number of such accessory structures and their locations, uses and sizes shall be subject to approval by the Planning Board, provided however that all such uses shall not involve the use of more than 10% of all the open land in the Cluster Development.

(15) The Developer shall include in his overall plans for the Development:

(a) provisions whereby the title to all open land shall be always and only vested in a non–profit corporation, the members of which shall be all and only those having title from time to time in fee simple to the buildable lots within the Development;

(b) provisions whereby the said corporation under its charter and bylaws shall have the exclusive right to manage and maintain the open land, determine the uses thereof and the construction, use and maintenance of facilities thereon, all as permitted under the Zoning Bylaw:

(c) provisions whereby all open land in the Attached Cluster Development shall be always open to use at least by every regular occupant of any of the dwellings located in the development, except that use of special facilities such as a swimming pool, tennis court or the like may be restricted to those who have and are contributing to the cost and maintenance thereof:

(d) provisions for owners of buildable lots or dwelling units to bear equitably the cost of said corporation and provisions for the imposition of real estate liens on the buildable lots or dwelling units of owners who fail to meet their said obligations:

(e) provision in the corporate charter that the open land shall be permanently dedicated and restricted to the open land uses incident to Attached Cluster Developments and that any mortgage or other security arrangement with respect to such land expressly provide that the mortgage or beneficiary of such security arrangement to be subject to such restrictions:

(f) provisions that should common land, open land or the corporation be subjected involuntarily to any lien or the corporation be subject to dissolution or bankruptcy or receivership, the members of the corporation shall use all reasonable means to secure the discharge of any such lien and to arrange for the payment of any debt of the corporation; and provisions that each such member shall hold the corporation harmless and indemnify the corporation from all loss,

cost or damage resulting from the use of the open land by that member or the members of his household; and

(g) additional provisions whereby the said corporation when it acquires Title to common and open land shall be bound to establish an Easement or Covenant running to the Town but vesting in the Town only if, notwithstanding provisions in (f) above, the corporation is dissolved. The terms of the Easement or Covenant shall be such as to assure that the open and common uses of such land shall not be violated.

The rights and obligations set forth in the foregoing paragraphs lettered (a) through (g) shall be duly set forth in one or more legally binding and enforceable instruments prepared by the Developer and, when appropriate, shall be drawn so as to insure to the benefit of and be binding upon successors in title and the heirs, executors, administrators, successors and assigns of the parties; and in said instruments and the charter and bylaws of the corporation, provision shall be made foreclosing any right of amendment to or diminution of the rights and obligations described in said paragraphs (a) through (g), unless for cause shown in the same shall be permitted by a court of competent jurisdiction.

(16) Every application for an Attached Cluster Development permit shall be filed with the Planning Board. The application and all required plans, drawings and documents shall be filed in duplicate and shall include samples of all instruments on which the Developer intends to rely to assure compliance with paragraph 15 of the Subsection K. Plans and drawings shall be prepared by or under the direction of a Registered Professional Engineer or Registered Land Surveyor, stamped or sealed accordingly, and shall comply with all applicable rules of the Subdivision Control Law and the Rules and Regulations of the Planning Board pertaining to subdivisions and streets. The plans shall show all land immediately adjacent to the proposed Development, including nearby buildings and structures. No special permit pursuant to this Section K shall be issued until a public hearing has been held as provided in Mass. General Law Chap. 40A, Section 9.

(17) The Planning Board shall take into account that every Attached Cluster Development involves long term planning with respect to open land requirements relating to Cluster Development, and the Board shall issue a permit for such a Development only if it is satisfied that the plan presented for approval is financially practical and will in reasonable probability be completed. The Board may set time limits for completion of parts of and the whole of an Attached Cluster Development, determine the order of construction, and set

other conditions and limitations on such Development as are consistent with this Section K. A special permit issued under this Section K shall lapse if, within two (2) years from the grant thereof, construction has not begun unless such construction has been delayed beyond the two year period for good cause as provided in Mass. General Law Chap. 40A, Section 9.

(18) After an Attached Cluster Development permit has been issued, lines of buildable lots and dwelling units, the uses of open and common land and the uses and locations of structures thereon may be changed upon petition to the Planning Board and a public hearing, (with the provisions of paragraph 16 applying) provided that the proposed change or changes do not substantially derogate from the intent and purpose of this Subsection K.

(19) The provisions of this Subsection K shall be construed as being additional to and in substitution for all provisions of Section VI except Subsections E, F, and G. Otherwise Attached Cluster Developments shall be subject to all other provisions of this bylaw where the intent and context permits.

L. Condominium Conversion Special Permit.

The purpose of this subsection L is to permit existing buildings on large tracts of land in Residence Districts AA, A, B and C to be converted to single family condominium dwelling units compatible with such Residence Districts, to create new housing involving relatively little new construction, to generate tax revenue to the Town, to preserve existing buildings, to preserve the residential character of the Town and to preserve open space in the Town. In order to provide for development that is compatible with Residence Districts AA, A, E and C, which Districts are primarily for single family residences, the conversions to dwelling units under this subsection L are to condominium dwelling units, which can be separately owned, and are therefore a type of development similar in character to other development in such Districts. Properties meeting the following requirements shall be eligible for consideration for a condominium conversion special permit:

(1) Parcels of not less than 10 acres and with not less than 150 feet of frontage on a public way, with one or more existing buildings in a Residence AA, A, B, or C District.

(2) Any building on the parcel built prior to January 1, 1980 may be converted to condominium dwelling units.

(3) The total number of dwelling units that can be created under a condominium conversion special permit shall not exceed (n–2) where “n” is the number of acres in the parcel, provided that where one or more new condominium dwelling units are authorized pursuant to paragraph (6) the total number of condominium dwelling units shall not exceed (n–1).

(4) Each condominium dwelling unit shall be an independent dwelling unit intended for use by a single family, with its own bath and toilet facilities and its own kitchen. The average square footage of the interior living space of the units shall be not less than 1,200 square feet per unit.

(5) No building (including both buildings converted to condominium dwelling units and other buildings not converted to condominium dwelling units) shall be externally enlarged except with the approval of the Planning Board, and in no event shall such enlargements add to any one building more floor area than a number equal to 5% of the above grade floor area of such building, the floor area of porches and decks to be included in the calculations of floor area.

(6) No new building for dwelling purposes shall be constructed on the parcel provided that the Planning Board may authorize accessory facilities and structures as provided in paragraphs 8 (b) and l2 (e) below and further provided that the Planning Board in its discretion may authorize up to three (3) new condominium dwelling units, the gross floor area of the condominium dwelling units not to exceed twenty–five percent (25%) of the gross floor area of the condominium dwelling units (excluding any new condominium dwelling units) on the parcel, if the Planning Board shall have made the findings required by paragraph (12) and the following additional findings:

(a) such additional new dwelling units are financially necessary for the maintenance and operation of the condominium common areas by the association of condominium owners;

(b) the design of the new condominium dwelling units and of the driveways, walkways, accessory structures and facilities, and landscaping augment the existing site design and constitute an integral part of the overall site without adverse design impacts; and

(c) there is a substantial public benefit excluding payment of taxes attributable to the authorization of additional condominium dwelling units.

(7) There shall be at least one off–street automobile parking space for each condominium dwelling unit.

(8) For the purposes of this subsection L, “open space” shall mean all of the land on the parcel except that land occupied by buildings to be converted to condominium dwelling units and existing buildings to be used for parking purposes. To insure the preservation of open space, the following requirements shall be met:

a. Open space may be used for the following purposes: flower gardens, gardens, landscaping, required parking roadways and driveways reasonably necessary for this development, underground utilities, recreation not requiring any facility or structure, and land left in its natural state. The open space may be used for other purposes permitted in the Residence District if approved by the Planning Board as consistent with the condominium development and character of the neighborhood.

b. On open land all facilities and structures for accessory purposes (such as swimming pools, tennis courts, garages, carports, parking areas, lamp posts, small sheds for tools or sports equipment, fences, including the kind

enclosing a tennis court or swimming pool, bath houses and other accessory structures for accessory purposes) shall be subject to the approval of the Planning Board as to their number, design, locations, uses and sizes, provided however, that all such facilities and structures, including roadways and driveways, shall not involve the use of more than 20% of all of the open land on the parcel.

c. All new utilities, including wiring for lights on open spaces, paths and driveways, shall be placed underground.

(9) An application for a condominium conversion special permit shall include the following:

a. Proposed Master Deed and proposed plans to be recorded therewith, including floor plans, at least one elevation for each building being converted to dwelling units and site plan for the parcel locating at least each building, roadways, and driveways, parking, recreation facilities, utilities and accessory facilities and structures.

b. Proposed Bylaws.

c. A sample proposed Unit Deed.

d. A copy of an assessor's plan showing the parcel and all land immediately adjacent thereto, including nearby buildings and structures.

e. Such other plans, photographs, models or elevations as the Planning Board shall reasonably deem necessary or appropriate to help understand the proposal.

(10) In case of a natural disaster or casualty, the damaged building or buildings may be rebuilt or restored to its or their condition prior to the natural disaster or casualty as near as possible or practicable. The Planning Board shall oversee such rebuilding or restoration under paragraph 13 below.

(11) No special permit pursuant to this subsection L shall be granted until a public hearing has been held as provided in M.G.L.c.40A. The Planning Board shall be the special permit granting authority for condominium special permits.

(12) The Planning Board shall not grant a condominium conversion special permit unless it makes the following findings:

a. That the proposal presented for approval is financially practical and will in reasonable probability be completed. The Board may set time limits for completion of parts of and the whole of a condominium development, determine the order of construction, and set other conditions and limitations on the special permit as are consistent with the subsection L.

b. That any external enlargement of any existing building is compatible with the architecture of the existing building.

c. That appropriate provision has been made for the preservation and restoration of significant architectural and landscaping features, particularly those visible from a public way.

d. That the purposes for which the open space is to be used is consistent with the condominium development and character of the neighborhood.

e. That the facilities and structures permitted on the open space are necessary for parking and access and egress or are for permitted accessory purposes and that the number, design, location, use and size of such facilities and structures are consistent with the condominium development and character of the neighborhood.

f. That the provisions of the proposed Master Deed and Bylaws will insure the preservation and maintenance of the open space on the parcel.

g. That the roads within the parcel are adequate for the condominium development.

(13) After a condominium conversion special permit has been granted, any change in the location or use of a building, any enlargement of a building, any material exterior restoration or rebuilding of a building following a natural disaster or casualty or any material change in the use of the open space or in the facilities or structures thereon, shall not be permitted except upon an amendment to the special permit which shall be upon petition to the Planning Board and after a public hearing (with the provisions of paragraph 11 applying) and upon a finding by the Planning Board that the proposed change or changes do not substantially derogate from the intent and purpose of this subsection L.

(14) A special permit or amendment thereto granted under this subsection L shall lapse two years from the grant thereof unless such construction has commenced, or if no construction is required, unless a Master Deed has been filed.

(15) A special permit granted under this section shall be subject to the review by the Planning Board of the final plans, and of the Master Deed, and plans to be recorded therewith, and Bylaws, as they are to be initially recorded, which final plans, Master Deed, plans and bylaws shall all be substantially the same as those approved with the special permit in all respects material to considerations relevant to the special permit, in which case the Chairman of the Planning Board shall endorse copies of such final plans and such Master Deed, plans and bylaws as having received final review and approval under this subsection L, which endorsement shall be conclusive evidence thereof. Thereafter the Master Deed, and plans recorded therewith, and Bylaws may be amended without Planning Board approval, provided however, that an amendment to the special permit shall be required for those matters specified in paragraph 13 hereof. Any amendment to the Master Deed, and plans recorded therewith, and Bylaws related to an amendment to the special permit shall be endorsed by the Chairman of the Planning Board as provided herein for such documents as initially recorded.

(16) Provisions of this subsection L shall be construed as superseding subsections A, B, C, D, and E of Section VI and shall be in addition to subsections F and G of said Section VI. The provisions of paragraph 7 above shall supersede the provisions of A.l. of Section VII. The limitation in subsection B.l.(a) of Section III with respect to garaging or maintaining more than three registered automobiles shall apply with respect to each unit owner rather than with respect to the entire parcel. Otherwise

condominium conversions under this subsection L shall be subject to all other provisions of this bylaw where the intent and context permits.

(17) All references herein to the Massachusetts General Laws shall be to those provisions in effect on the date hereof.

M. Open Space Development Special Permit.

The purpose of this subsection M is to permit large parcels of land in Residence Districts AA, A, B and C to be divided into single family residential lots of 4 acres or more without the requirement of frontage on a public way, to preserve the residential character of the Town and to preserve open space in the Town.

No Open Space Development shall be established except under a special permit issued by the Planning Board as provided in this subsection M.

Properties meeting the following requirements shall be eligible for an Open Space Development special permit:

(1) Parcels of not less than 10 acres of buildable land. For the purposes of this subsection M, buildable land shall not include land which in the opinion of the Planning Board is unsuitable for use as buildable land because it is wet, swampy, dangerous, or otherwise unsuitable for the construction of dwelling units or subject to rights or easements inconsistent with purposes of buildable land in an Open Space Development.
(2) Each proposed lot in the development shall contain 4 acres or more.
(3) Only one single–family home will be permitted on each lot.
(4) All new buildings or additions shall be set back 30 feet from other buildings and lot lines.
(5) All buildings shall be set back 30 feet from new lot lines.
(6) All new buildings shall be set back 30 feet from major private driveways within the development. For the purposes of this subsection M, major private driveways describes the portion of the private driveways that runs by the individual homes as oppposed to the section of driveways that run toward the homes and terminate at the garage or what would be the garage area. Each development shall have a major driveway that begins at a public way.
(7) Height limitations shall be the same as for buildings in a Residence AA, A, B or C district.
(8) All new utilities including wiring for lights shall be underground.
(9) Proper easements shall be provided for all driveways and utilities.
(10) Every application for an Open Space Development permit shall be filed with the Planning Board. The application and all required plans, drawings and documents shall be filed in duplicate and shall include samples of all instruments on which the developer intends to rely to assure compliance with Subsection M. Plans and drawings shall be prepared by or under the direction of a Registered Professional Engineer and Registered Land Surveyor, stamped or sealed accordingly, and shall

comply with all applicable rules of the Planning Board. The plans shall show all buildings and structures within 50 feet of the parcel.

(11) The Planning Board shall take into account that every Open Space Development involves long term planning with respect to ten or more acres of land, and the Board shall issue a permit for such a developer only if it is satisfied that the plan presented for approval is financially practical and will in reasonable probability be completed. The Board may set time limits for completion of parts of and the whole of an Open Space Development, and determine the order of construction.

(12) After an Open Space Development permit has been issued, lines of buildable lots, the uses of common land thereon may be changed upon petition to the Planning Board and a public hearing, provided that the proposed change or changes do not substantially derogate from the intent and purpose of this Subsection M.

(13) The provisions of this Subsection M shall be construed as being additional to and in substitution for all other provisions of Section VI, except Subsections E, F and G. Otherwise Open Space Development shall be subject to all other provisions of this bylaw where the intent and context permit.

SECTION VII. Parking Regulations.

A. Intent. It is the intent of this section to reduce traffic congestion, to promote the safety of motorists and pedestrians in the Town of Milton, and to preserve the amenity of the Town's residential and business areas. This section requires development of adequate parking for the uses to which land is put.

B. Parking Requirements in Residence AA, A, B and C Districts. In a Residence AA, A, B or C district, no building shall be erected, altered or used for any of the purposes specified by the use regulations in Subsection A and B of Section III unless off–street automobile parking spaces shall be provided in connection with such erection, alteration and/or use, (i) on the same lot, (ii) on one or more adjacent lots in common ownership, and/or (iii) on lots in common ownership separated by a street, as hereafter set forth:

1. Detached one–family dwelling. For each detached one–family dwelling in a Residence AA, A or B district there shall be at least two parking spaces. For each detached one–family dwelling in a Residence C district there shall be at least 1 parking space.
2. Two family house. For each two–family house in a Residence AA, A or B district there shall be at least 2 parking spaces for each of the 2 units. For each two–family house in a Residence C district there shall be at least 1 parking space for each of the 2 units.
3. Religious Purposes.
    a. Place of Worship. For each place of worship, there shall be at least 1 parking space for every 4 seats in the place of worship. In the event temporary seats are to be used in a place of worship, the parking space requirement shall be determined on the basis of the total of temporary and permanent seats in use at the time of most intensive use. In no event shall the total of temporary and permanent seats in a place of worship exceed 4 times the number of parking spaces provided for the place of worship. In the event standing room and/or seating on floor is to be used in a place of worship, there shall be at least 1 additional parking space for every 80 square feet of area used for standing room or seating on the floor by worshippers. Notwithstanding the foregoing, in the event that the minimum parking space requirement for a place of worship does not exceed 10 parking spaces, the Board of Appeals may reduce the requisite number of spaces by special permit upon a finding that provision of the minimum number of spaces is not reasonably possible, and that adequate, alternative, safe parking exists in the vicinity of the place of worship.
    b. Meeting hall, social center, or other place of assembly. For each meeting hall, social center or other place of assembly used for religious purposes there shall be at least 1 parking space for every 4 seats. In the event temporary seats are to be used in such a place of assembly, the parking space requirement shall be determined on the basis of the total of temporary and

permanent seats in use at the time of most intensive use. In the event the place of assembly is to be used wholly or partially without seating, there shall be at least 1 additional parking space for every 80 square feet of area, which does not contain seating but is used by persons for assembling in such place of assembly.

These parking spaces shall be in addition to the parking spaces requisite for an associated place of worship, provided that if no substantial use of any such place of assembly will be concurrent with the use of the place of worship, the parking spaces for such associated place of worship may be counted towards satisfaction of the parking spaces requisite for such place of assembly.

In the event that a limited use of any such place of assembly will be made at the same time as use of an associated place of worship, but that peak use will occur when the associated place of worship is not in use, upon application, the Board of Appeals shall issue a special permit to permit the limited use with a commensurately lower number of parking spaces than would be required for peak use of the place of assembly concurrent with use of the associated place of worship.

c. Dwelling place of a religious community. For each convent, monastery, or like dwelling place of a religious community, there shall be at least 1 parking space for each 3 sleeping rooms.

d. Dwelling place of the clergy. For each rectory, parsonage, or like dwelling place of the clergy, there shall be at least 1 parking space for each dwelling unit.

e. Place of religious education. For each religious school or college providing full–time instruction, the parking requirements of Paragraph 4 shall be met. For each facility used for religious purposes to provide part–time instruction, such as a Sunday School, there shall be at least 1 parking space for every 4 seats: provided that to the extent the seats in such place of religious education are used by persons attending services in an associated place of worship and/or by children under age 16, there need be no additional parking for the place of religious education. If use of a place of religious education is not concurrent with use of an associated place of worship and/or place of assembly, the parking spaces for these other facilities shall be counted towards satisfaction of the parking spaces required by this subparagraph.

f. Administrative and office areas. For administrative and office areas, there shall be at least 1 parking space for every 250 square feet of usable floor area. If such use is not concurrent with use of an associated place of worship, place of assembly, and/or place of religious education, the parking spaces for these other facilities shall be counted towards satisfaction of the parking spaces required by this subparagraph.

g. Temporary places of assembly. For uses which employ any temporary covered facility, such as a tent, as a place of assembly, there shall be at least

1 parking space for every 4 seats or 1 parking space for every 100 square feet of area covered within such temporary facility, whichever is greater. If such use is not concurrent with use of an associated place of worship, place of assembly, place of religious education, and/or administrative or office areas, the parking spaces provided for these other facilities shall be counted towards satisfaction of the parking spaces required by this subparagraph. If a use employs a temporary covered facility for no more than 2 days in any year, the use shall be permitted without provision of additional parking spaces.

h. General. For the purposes of this paragraph, in the event benches, pews, or like seating are used in a building with a religious use, every two linear feet of such seating shall be deemed 1 seat. Parking spaces provided in connection with one use may be counted towards satisfaction of the parking requirements for one or more other non–concurrent uses, but in no event shall parking spaces be counted more than once in connection with concurrent uses.

4. Educational Purposes

a. Pre–school and Kindergarten. For each pre–school or kindergarten, there shall be at least 3 parking spaces for every 2 instructional rooms.

b. School. For each school, up to grade 12, there shall be at least 2 parking spaces for every instructional room for 10 or more students. In the event students are permitted to park automobiles or other four–wheel motor vehicles at or in the vicinity of the school during school hours, there shall be an additional parking space for every 8 eligible students with driver's licenses. If school auditoriums, theatres, gymnasiums and/or other covered places of assembly are from time to time open to the general public on an admission basis, there shall be 1 additional parking space for every 4 seats in such facility. If such use occurs after regular classroom hours, the parking spaces requisite for such school shall be counted towards satisfaction of the parking space requirements for such facility. In the event two or more facilities are from time to time open to the general public on an admission basis but not at the same time as each other, the parking spaces requisite for one shall be counted towards the parking spaces requisite for the other facility or facilities.

c. College or University. For each college, university or school beyond grade 12, there shall be at least 2 parking spaces for every instructional room for 10 or more students. In the event students are permitted to park automobiles or other four–wheel motor vehicles at the college, there shall be an additional parking space for every 5 students enrolled. If college auditoriums, theatres, gymnasiums and/or other covered places of assembly are from time to time open to the general public on an admission basis, there shall be 1 additional parking space for every 4 seats in such facility. If such use occurs after regular classroom hours, the parking spaces requisite for the college shall be counted towards satisfaction of the parking space requirement for such

facility, except for the parking spaces determined on account of students who board at the college. In the event two or more such facilities are from time to time open to the general public on an admission basis but not at the same time as each other, the parking spaces requisite for one shall be counted towards the parking spaces requisite for the other facility or facilities.

d. Temporary places of assembly. For any other educational use which employs a temporary covered facility, such as a tent, as a place of assembly for non–students, there shall be at least 1 parking space for every 4 seats or 1 parking space for every 100 square feet of area covered within such temporary facility or facilities, whichever is greater. Additional parking on account of the proportionate part of use of a temporary covered facility by students shall not be required. If use of a temporary covered facility is not concurrent with use of other facilities for which parking spaces have been provided, these parking spaces shall be counted towards satisfaction of the parking spaces required by this sub–paragraph. If a use employs a temporary covered facility for no more than two days in any year the use shall be permitted without provision of additional parking spaces.

e. General. For the purposes of this paragraph, in the event benches or like seating are used in a building with an educational use, every 2 linear feet of such seating shall be deemed to be one seat. Parking spaces provided in connection with one use may be counted towards satisfaction of the parking requirements for one or more other non–concurrent uses, but in no event shall parking spaces be counted more than once in connection with concurrent uses. In the event that a school, college, or university owns housing for members of its faculty within one–half mile of its educational facilities, the parking spaces provided for its faculty at such housing shall be counted towards satisfaction of the parking spaces required by this subparagraph.

5. Municipal Use. For each building with a municipal use, there shall be sufficient parking spaces as may be necessary to accommodate the automobiles of employees, and users under anticipated normal conditions. The Board of Appeals shall specify the requisite minimum number of parking spaces in a special permit.
6. Permissive Uses. For each building with any of the permissive uses authorized by the Board of Appeals pursuant to section III.A.7, there shall be sufficient parking spaces as may be necessary to accommodate the automobiles of employees, patrons and other users under anticipated normal conditions. In issuing a special permit for a building or buildings with any such permissive use, the Board of Appeals shall specify the requisite minimum number of parking spaces and shall provide for an increase in this minimum number of parking spaces in the event actual normal conditions exceed anticipated normal conditions.
7. Mixed Uses. For mixed uses, there shall be the total of parking spaces required for each concurrent use. In the event the different uses are non–concurrent, the parking spaces for each non–concurrent use may be counted in satisfaction of the parking spaces required for each other non–concurrent use.

C. *Parking Requirements in Business Districts.* In a Business District, no building shall be erected, altered or used for any of the purposes permitted by Section III.C. unless off–street automobile parking spaces shall be provided in connection with such erection, alteration or use as hereinafter set forth:

1. Retail stores. For each retail store, there shall be one parking space for each 250 square feet of gross floor area.
2. Offices. For businesses and professional offices, there shall be one parking space for each 250 square feet of gross floor area.
3. Banks and financial institutions. For banks and financial institutions, there shall be one parking space for each 250 square feet of gross floor area.
4. Storage, Distribution, Manufacturing and Industrial Uses. For places of the building trades, storage warehouses, printing and publishing establishments, contractor's plants, and other such facilities as may be permissible, there shall be one parking space for each 250 square feet of gross floor area on the ground floor, or 1 parking space for each three employees (based upon the maximum number of employees on any shift), whichever requires the greater number of parking spaces.
5. Other business uses. For other business uses, including theatres, places of amusement, wholesale stores, filling stations, automobile dealerships, automobile repair facilities, restaurants, other places serving food and drink, funeral homes, laundries, cleaners, places where services are performed, and any other permitted business uses not heretofore specified, there shall be sufficient parking spaces as the Board of Appeals may deem to be adequate under the circumstances to meet the parking needs of each such business.
6. Uses permitted in Residence AA, A, B or C district. For uses permitted in a Residence AA, A, B or C district, the parking space requirements set out in Subsection B of this section shall be met.
7. Mixed Uses. In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses, computed separately in accordance with paragraphs B and C of this section; parking spaces of one use shall not be considered as providing the required parking facilities for any other use unless the Board of Appeals determines that a use does not require some or all of its parking at a time when the parking can be used for another use.
8. General. For purposes of this subsection, gross floor area shall mean the total floor area used in connection with any particular business use measured from the exterior faces of the walls.

D. Pre–Existing Uses. Any building or use of a building, or use of land or part thereof, lawful and existing on May 31, 1991, may be continued, unless and until abandoned, although such building or use does not conform to the provisions of this Section, provided, however, that any existing parking areas which do not meet the requirements hereof shall not hereafter be rendered more non–conforming. If there is a lawful change in said use of such land or building, or if such building is lawfully added to, enlarged, reconstructed or replaced, said new use may be undertaken and any such addition, enlargement, reconstruction or replacement may be made without there being compliance with this Section, but only if the

new use or building change does not increase by 25% or more the number of off–street parking spaces that would have been required had compliance with this Section been necessary before the new use or building changes.

E. Changes in Uses. Whenever there is a lawful change in or expansion of a lawful use existing on May 31, 1991 and whenever such change or expansion increases by 25% or more the number of off–street parking spaces required by this section for the changed or expanded use, as compared with the number of off–street parking spaces which would have been required for the prior use if compliance with this Section had been necessary, the number of parking spaces, required by this Section for the changed or expanded use, shall be provided within a reasonable time not to exceed six months from the date of the change or expansion. In the event there is more than one change or expansion in a lawful us after May 31, 1991, the cumulative total of additional parking spaces required for all such changes or expansions shall be used to determine whether the number of required parking spaces has increased by 25% or more. In the event there is a lawful change in or expansion of an existing use or building pursuant to a special permit and/or variance granted by the Board of Appeals prior to March 14, 1992, such change or expansion may be undertaken without compliance with this Section.

F. Access to and Egress from Parking Areas for More Than 15 Vehicles in Residence AA, A, B and C Districts. The following requirements, numbered 1 through 5, shall be applicable only to a parking area or parking areas with a total capacity of more than fifteen (15) automobiles on a lot or on contiguous lots in common ownership in a Residence AA, A, B or C district.

1. Entrance. All parking areas shall be accessible by one or more driveways from an adjoining street or from an adjoining parking area, as hereafter provided. Driveways to, from, and between streets and parking areas shall be sufficient for the peak flow of traffic. Such driveways shall be located so as to minimize conflict with traffic on streets. The entrance or entrances to a parking area from a street shall, insofar as practical, be designed to ensure safety for entering vehicles and shall not create dangerous conditions for motorists in the street and/or for pedestrians on adjacent sidewalks.
2. Exits. If an entrance to a parking area is also an exit from the parking area, there shall be an adequate separation to ensure the safety of entering and exiting traffic on the driveway. The exit or exits from a parking area shall permit the vehicles exiting a safe and convenient juncture with the adjoining street and shall not create unsafe or dangerous conditions for motorists in the street and/or for pedestrians on adjacent sidewalks. The exit or exits shall be located so as to minimize conflict with traffic on streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.
3. Buses. In the event buses use any parking area, the driveway or driveways to or from any such parking area shall be designed to permit the safe and convenient movement of buses without creating any unsafe or dangerous conditions in the parking areas, the driveways, and the adjacent streets and sidewalks.

4. Sidewalks. The driveways to, from, and between parking areas shall not be used for pedestrian traffic. Sidewalks or walkways shall be provided for pedestrian traffic.
5. Width and Construction. Driveways to and from parking areas shall have a maximum width of 24 feet and a curb cut at the street of no more than 32 feet. Driveways shall have a year–round, stable, dust free, permanent surface, except for driveways which are used exclusively for access to and egress from a parking area or areas which provide parking exclusively for a temporary use or temporary uses. For the purposes of this paragraph, width of a driveway shall not include parking spaces on the side of the driveway.

G. Set Back Requirements for Parking Areas in Residence AA, A, B and C Districts. In Residence AA, A, B or C district, any parking area for more than 5 automobiles shall be set back from any street or front lot line at least the same distance as a building in such district must be set back from such a street pursuant to the provisions in Paragraphs 1, 2 or 3 of Section VI, Subsection B; in any such district, any parking area for more than 5, but less than 20, automobiles shall be set back from any side lot line at least the same distance as a building in such district must be set back from such a side lot line pursuant to the provisions in Paragraph 1 or 3 of Section VI, Subsection C; in any such district, any parking area for more than 5 automobiles shall be set back from the rear lot line at least 20 feet. Any parking area for 20 or more automobiles shall be set back at least 30 feet from any front, side or rear lot line in a Residence AA or A district, at least 24 feet from any front, side, or rear lot line in a Residence B district, and at least 20 feet from any front, side or rear lot line in a Residence C district. For the purposes of this section lot lines between lots in common ownership shall be disregarded.

H. Design Standards. All parking areas for more than 5 vehicles and associated driveways shall be shown on a plan prepared by a Massachusetts Registered Architect, Landscape Architect , Registered Professional Engineer and/or Registered Land Surveyor indicating the layout of the parking areas, the layout of the spaces in such parking areas, the driveways, sidewalks, setbacks from streets and from lot lines, specification of sight lines at intersections of driveways and streets, separation from other parking areas, specification of location and type of trees, and other landscaping (including any berms used to provide screening), cross–section of construction and specification of construction material, surface drainage calculations and plans for surface drainage, and specification of lighting. All parking areas, except parking areas provided exclusively for a temporary use, shall meet the following design standards and compliance shall be shown on the plan:

1. Parking surface and drainage: Any parking area for more than five automobiles shall have a year–round, stable, dustfree, permanent surface and adequate drainage. Runoff from any parking area shall not adversely impact any wetland areas or adjoining property, and runoff shall not be channelled so as to increase the flow of storm water onto neighboring property. Notwithstanding the foregoing, a parking area used exclusively for a temporary use may have a natural dust–free surface, such as grass, and need only be stable at such times of the year as the temporary use occurs. In no event shall parking spaces, which are provided exclusively for a

temporary use and do not have a year–round, stable, dust– free, permanent surface, be counted in satisfaction of the parking space requirement of any other use.

2. Parking for Handicapped. Parking spaces for the exclusive use of handicapped individuals shall be provided in accordance with the most recent rules and regulations of the Architectural Barriers Board.
3. Compact Cars. Off–street parking areas may be designed to allow up to a maximum of 25% of the total number of parking spaces to be used by compact cars. Compact car spaces shall not be less than 8 feet by 16 feet.
4. Aisles. The minimum width of maneuvering aisles within parking areas shall be 20 feet for two–way traffic and 12 feet for one–way traffic.
5. Parking space size. Each parking space, except for spaces for compact cars, shall measure at least 8 ½ feet in width and 19 feet in length, provided that a space may measure no less than 16.5 feet in length if suitable provision is made for front or rear overhang of the parked vehicle over a planted area and further provided that parallel parking spaces on any aisle or driveway shall be at least 22 feet in length.
6. Parking space layout. Required parking areas shall be designed so that each motor vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. In no case shall spaces be so located as to require backing or maneuvering on a sidewalk.
7. Screening in residential districts. Each parking area for more than 5 vehicles in a Residence AA, A, B or C district shall be screened from the street and any lot of an adjoining owner with shrubs and trees of a size and number sufficient to provide effective screening within three years from the date on which such shrubs and trees are established. The use of vegetated berms may be used to provide screening.
8. Multiple parking areas. No parking area shall cover more than 25,000 square feet provided that more than one parking area may be constructed on a parcel of land so long as each parking area is separated from every other parking area by an area at least 20 feet wide planted with trees, shrubs, flowers and groundcover, which may include grass. One tree shall be required for every 5 spaces in multiple parking areas. Trees and other landscaping shall be located within or around the parking area so as to screen, at least partially, and to soften the visual impact of the multiple parking areas. Parking areas may be connected with each other by driveways not in excess of 20 feet wide with adequate sightlines and by pedestrian walkways not in excess of 8 feet wide.
9. Topography Changes. Parking areas shall be designed, insofar as reasonably possible, to be compatible with the terrain and features of surrounding land and shall avoid, insofar as reasonably possible, extreme cuts and/or fills, and the unnecessary removal of trees with a trunk diameter of 8 inches or more. The removal of earth materials and deposit of fill shall be in accordance with Section IV.A.
10. Lighting. Off–site light overspill from any lighting of parking areas shall be controlled through the selection of lighting, its positioning and its mounting height so as not unnecessarily to add to illumination levels on any adjacent lot not in common ownership. Light standards shall not exceed 18 feet in height. Off–site light overspill

from lighting of parking areas shall not add more than one–tenth–foot candle increase in illumination levels on any adjacent lot not in common ownership in a residential zone. Off–site light overspill onto any adjacent lot not in common ownership in a residential zone from the headlights of vehicles entering, traversing, or exiting a parking area shall be minimized, insofar as reasonably possible, through the arrangement or parking, areas and driveways on site, by grading (including use of vegetated berms) and/or by planting. Wooden fences (or their visual equivalent) may be used under circumstances where other means of controlling off–site light overspill are not practical. The light overspill requirements of this Subsection VII.H.10. shall not apply with respect to the overspill of light onto a lot zoned as Residence D–2 if the lot that would otherwise be subject to the light overspill requirements is zoned Residence D–2.

11. Parking for buses. Parking for buses shall not be visible from any neighboring dwelling and, in no event, shall buses be required to back up into pedestrian areas in order to turn around.
12. Parking Structures. Parking facilities provided in an enclosed structure shall meet all requirements of the State Building Code and other applicable law and shall be subject to the requirements of this bylaw regarding buildings except that there shall be no parking required for such a structure. If such structure will contain more than 20 parking spaces, the access and egress provisions of Subsection F shall apply.

I. Parking Requirements in Residence D, D–1, D–2 and E Districts.

1. a. Housing for the Elderly in a Residence D district shall have at least one space for each unit.
   b. Housing for the Elderly or Handicapped in a Residence D–1 district shall have at least one space for every two units.
   c. Housing for the Elderly in a Residence D–2 district shall have at least one space for each unit.
   d. Attached Cluster Housing in a Residence E district shall have such parking spaces as may be specified in the special permit.
2. In a Residence D, D–1, D–2 or E district, no building shall be erected, altered or used for a religious or educational purpose unless the minimum parking space requirements set out in Section B, Paragraphs 3 and 4 are met. Access to and egress from a parking area for such a building shall be as provided in Section F. The location of such a parking area shall be as provided in Section G. The design standards in Section H shall apply to such a parking area.

J. Special Permit for Unbuilt Parking Spaces. Upon a finding that the requisite minimum number of parking spaces required in this Section are likely to exceed the immediately foreseeable need for parking spaces generated by the use of one or more buildings, the Board of Appeals by special permit may authorize up to 25 percent of the requisite parking spaces to remain unbuilt for a period up to 3 years. This unbuilt area shall be kept in a vegetated condition and shall not be built upon during the effective dates of the special permit. The Board of Appeals, by subsequent special permit, may authorize some or all of the spaces to

remain unbuilt for one or more additional periods of up to 3 years upon a finding that any such spaces are in excess of the then immediately foreseeable need for parking spaces generated by the use of such building or buildings. Upon expiration of a special permit permitting requisite parking spaces to remain unbuilt, any such spaces shall be built forthwith thereto.

K. Parking in the Front Yard Set–Back Area in Residence AA, A, B, and C Districts. In the front yard set–back area of a lot, as required in Section Vl, Subsection B, Paragraphs 1, 2, and 3 for lots in Residence AA, A, B, and C districts, no motor vehicle shall be parked except in a driveway or contiguous parking area provided that no such driveway and contiguous parking area, if any, shall separately or in combination, cover more than 30 percent of the set–back area.

SECTION VIII. Administration.

A. Enforcement.

1. The Building Commissioner shall enforce the provisions of this bylaw. If the Building Commissioner shall be informed or have reason to believe that any provision of this bylaw or of any permit or decision thereunder has been, is being, or is about to be violated, he shall make or cause to be made an investigation of the facts, including the inspection of the premises where the violation may exist, and, if he finds any violation, he shall give immediate notice in writing to the owner or his duly authorized agent and to the occupant of the premises.
2. If, after such notice, such violation continues, with respect to any use contrary to the provisions of this bylaw, the Inspector of Buildings shall forthwith revoke any permit issued in connection with the premises, and shall take such other action as is necessary to enforce the provisions of this bylaw.
3. Where a special permit from or relief by the Board of Appeals is required pursuant to the provisions of this bylaw, or where an appeal from an order or decision of an administrative officer, or an appeal or petition involving a variance is pending, the Building Commissioner shall issue no building permit until so directed in writing by said Board.

B. Submission of Plots.

All applicants for building permits shall be accompanied by a plot in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the streets upon which it abuts, the size and location of the building or buildings to be erected or altered, and such other information as may, in the opinion of the Building Commissioner, be necessary for the enforcement of this bylaw. A careful record of such applications and plots shall be kept in the office of the Building Commissioner. Deviation from the terms and dimensions shown on the plot shall constitute violation of the terms of the permit. In connection with furnishing Housing for the Elderly or Handicapped the applicant for a permit shall file with the Building Commissioner detailed plans of all matters included in Section VI.l.2., and the Building Commissioner shall refer said plans to the Town Engineer for his advice before any permit is issued.

C. Occupancy Permit.

It shall be unlawful to use or permit the use of any land, building, or structure or part thereof which is erected or altered, wholly or partly, in its use of construction, or moved, or which has its open spaces in any way reduced, until the Building Commissioner shall have certified on the building permit, or, in case no permit is required, shall have certified in a certificate of occupancy that the building and premises have been regularly inspected by the Building Commissioner and apparently conform to the statutes and bylaws relating to the construction and occupancy of building and land in the Town of Milton..

D. Site Plan Approval

1. Requirement for Site Plan
   a.) No multi–family building, excluding two family residences but including attached single family residences, shall be constructed or externally enlarged, and no area for parking, loading or vehicular service, including driveways giving access thereto, associated with such buildings or residences shall be established or substantially changed, except in conformity with a site plan bearing an endorsement of approval by the Planning Board. In a Residence D–2 district no building shall be constructed, relocated or enlarged, except in conformity with a site plan bearing an endorsement of approval by the Planning Board.
   b.) Construction, reconstruction, or alteration of more than eight hundred (800) square feet of a commercial building shall be in conformity with a site plan bearing an endorsement of approval by the Planning Board. Interior renovation work that makes no change in the exterior appearance of a commercial building shall be excluded from this site plan review requirement.
2. Procedure for Approval
   Any person desiring approval of a site plan under this Section shall submit said plan in duplicate, with application for approval thereof, directly to the Planning Board. The site plan shall show, among other things, zoning boundaries existing and proposed topography, all existing and proposed buildings, their uses, elevations, parking areas, loading areas, driveway openings, service areas and all other open space areas, all facilities for sewage, refuse and other waste disposal, and for surface and subsurface water drainage and all landscape features (such as walks, planting areas with size and type of stock, trees and fences), lighting fixtures and patterns and signs on the lot. The Board shall hold a public hearing within sixty–five (65) days after the application is filed and shall render its decision within thirty–five (35) days following the date of the public hearing.
3. General Conditions for Approval
   In considering a site plan under this Section the Planning Board shall assure, to a degree consistent with a reasonable use of the site for the purpose permitted or permissible by the regulations of the district in which located:
   a. Protection of adjoining premises against detrimental or offensive uses on the site.
   b. Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.
   c. Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and the methods of drainage for surface water.
   d. Adequacy of space for the off–street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment.

e. Proper use of the site with respect to unit density and proximity of adjacent buildings to each other.

f. The adequacy of lighting to maintain a safe level of illumination on the site and whether lighting is properly shielded to protect adjacent properties.

4. Authority of the Board

The Planning Board may reject any plan which fails to meet standards for health, safety, welfare and amenities appropriate to the special needs of the persons by whom such buildings are intended to be occupied and appropriate to the maintenance and preservation of health, safety, welfare and amenities in relation to adjacent and other properties in the neighborhood.

The Planning Board shall have the power to modify or amend its approval of a site plan on application of the owner, lessee, or mortgagee of the premises, or upon its own motion if such power is reserved by the Board in its original approval. All of the provisions of this Section applicable to approval shall, where apt, be applicable to such modification or amendment.

SECTION IX. Board of Appeals.

A. Appointment.

Unless provision for a Board of Appeals is made under a special statute applicable to the Town of Milton, there shall be a Board of Appeals of three members, together with Associate Members, appointed under the provisions of General Laws Chapter 40A as amended, all of whom shall be residents of the Town of Milton and one of whom shall be an attorney at law who at the time of his appointment shall have been a member of the Massachusetts Bar for not less than five years, and one of whom shall be an architect, civil engineer or master builder who at the time of his appointment shall have had not less than five years experience, appointments to be for terms of such length and so arranged that the term of one member shall expire each year. The Associate Members of the Board, who also shall each be a resident of the Town need not be an attorney, architect, civil engineer or master builder. No member or associate member shall act in any case in which there is a conflict of interest, and if there is a vacancy or a member is disqualified or for any reason is unable to act, his place shall be taken by an associate member designated by the Chairman of the Board and the associate member so designated shall serve until the completion of any case in which such associate member participates.
Every decision of the Board shall be in writing and shall be a matter of public record. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments.

B. Notice.

When an appeal, application or petition for a Special Permit or other permit is filed with the Board of Appeals or other permit granting authority pursuant to any of the provisions of this bylaw, the Board or other permit granting authority shall give notice thereof and hold a hearing pursuant to its rules and regulations and to the law. The Building Commissioner shall be entitled to receive notice in all cases involving the issuance of a building permit.

C. Special Permits or Other Permits.

1. Where a special permit or other permit is required pursuant to the provisions of this bylaw, the applicant shall make written application and shall show to the satisfaction of the Board involved, in addition to any specific requirements herein or in the law contained, that the desired relief may be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of this bylaw. The said Board may make appropriate conditions and limitations necessary in its opinion to safeguard the legitimate use of the property in the neighborhood and in the health and safety of the public, such conditions and limitations to be stated in writing by the Board and made a part of the permit. Special permits shall only be issued following public hearings held within sixty–five days after filing an application therefore with the appropriate special permit granting authority a copy of which shall forthwith be filed by the applicant with the Town Clerk. Special permits

shall lapse within a period of two years of the final effective date thereof if substantial use of the same 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.

2. Applicants for special permits pertaining to accessory uses involving scientific research or scientific development or related production shall make written application to the Board of Appeals as provided in subsection 1 above but the rights of the applicant and the powers of the Board of Appeals shall be governed by Section III.E.

D. Variance and Appeals.

Appeals from an order or decision of an administrative officer and appeals or petitions involving variances from the terms of the bylaw including use variances shall be dealt with by the Board of Appeals in accordance with the provisions of General Laws (Ter. Ed.), Chapter 40A, as amended. The Board of Appeals shall have the authority to grant use variances.

E. Relief.

When relief is applied for from the provisions of Section VI, A, 5 hereof the applicant shall file with the Board of Appeals a plan, map, drawing, or document sufficient clearly to show all of the local real estate holdings of the applicant in the neighborhood, the date or dates of the recording of the lots involved; and such other pertinent documentary evidence as the Board may require, and shall show to the satisfaction of the Board that the facts requisite for such relief exist.

F. Zoning Administrator.

The Board of Appeals is authorized to appoint a Zoning Administrator in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 13.

SECTION X. Other Bylaws, Rules or Regulations.

The provisions of this bylaw shall be construed as being additional to and not as annulling, limiting or lessening to any extent, whatsoever the requirements of any other bylaw, rule or regulation, provided that, unless specifically excepted, where this bylaw is more stringent it shall control.

SECTION XI. Penalty.

A. Any person, firm or corporation who violates, disobeys, neglects, or refuses to comply with Section III.B.l.(a) or (b) of this Bylaw shall be fined in a sum not to exceed fifty dollars ($50.00) for each offense.

B. Any person, firm or corporation who violates, disobeys, neglects, or refuses to comply with any other provisions of this Bylaw shall be fined in a sum not to exceed three hundred dollars ($300.00) for each offense.

C. Any person, firm or corporation who violates any provision of this By–Law, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition in accordance with Chapter 40, Section 21D of the Massachusetts General Laws. A noncriminal disposition under this subsection C shall not preclude further judicial proceedings regarding continuing violation of the Zoning Bylaws beyond the date of said noncriminal disposition.

Each violation of section III.B.l.(a) or (b) of this By–Law shall be punishable by a fine not to exceed fifty dollars (50.00) for each offense. Each violation of any other provision of this By–Law shall be punishable by a fine not to exceed three hundred dollars (300.00) for each offense.

SECTION XII. Validity.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof. If for any reason the area requirements in any district shall be or become invalid or inoperative, then the area requirement of the next less restricted district shall be and become the area requirement for such more restricted district.

SECTION XIII. Amendments.

These bylaws, including the zoning map, may be changed from time to time by amendment, addition or repeal, but only in the manner provided by General Laws Chapter 40A.

(a) Index

(b) Amendments

The amendment to Chapter 10 voted at the Special Town Meeting held January 29, 1938, was approved by the Attorney General, February 10, 1938.

The amendments to Chapters 7, 10 and 11 voted at the Annual Town Meeting held March 12, 1938, were approved by the Attorney General, April 11, 1938.

The amendment to Chapter 10 voted at the Annual Town Meeting held March 9, 1940, were approved by the Attorney General, April 11, 1940 and May 1, 1940.

The amendments to Chapters 4 and 10 voted at the Annual Town Meeting held March 13, 1943, were approved by the Attorney General, March 24, 1943 and April 13, 1943, respectively.

The amendments to Chapters 2, 4, 10 and 12 voted at the Annual Town Meeting held March 1, 1945, were approved by the Attorney General, March 21, 1945.

The amendment to Chapter 10 voted at the Annual Town Meeting held March 8, 1947, was approved by the Attorney General, April 10, 1947.

The amendments to Chapters 3 and 10 voted at the Annual Town Meeting held March 8 and 15, 1952, were approved by the Attorney General, July 1, 1952.

The amendments to Chapters 3 and 10 voted at the Annual Town Meeting held March 21, 1953, were approved by the Attorney General, June 1, 1953.

The amendment to Chapter 10 voted under Article 55 at the Annual Town Meeting held March 20, 1954, was approved by the Attorney General, April 23, 1954.

The amendment to Chapter 10 voted under Article 60 at the Annual Town Meeting held March 19, 1955, was approved by the Attorney General, May 20, 1955.

The amendment to Chapter 10 of the General Bylaws having to do with zoning, “Earth Material Removal,” voted under Article 47 of the Warrant for the Annual Town Meeting held March 9, 1957, was approved by the Attorney General, April 26, 1957.

The amendment to Chapter 10 of the General Bylaws, having to do with zoning, “Frontage,” voted under Article 48 of the Warrant for the Annual Town Meeting held March 9, 1957, was approved by the Attorney General, April 26,1957.

The amendment to Chapter 10 of the General Bylaws of the Town (having to do with zoning) by changing designation of land hereto included in Residence “B” district which hereafter will be included in Residence “A” district Zoning map changed by vote passed under Article 48 at the March 8, 1958 Town Meeting, approved by Attorney General on March 28, 1958.

March 14, 1964. Under Article 16 at the Annual Town Meeting, the town voted to amend Chapter 10 of the General Bylaws, having to do with Zoning by changing the zoning map. In

brief to change from Zone “C” to Zone “B” the land presently known as Wollaston Golf Club. Approved by the Attorney General on April 3, 1964.

March 13, 1965, under Article 63, Town voted to amend Chapter 10, Zoning, Section III.B.1.(a) regarding the garaging or maintaining of any unregistered automobile whether assembled or disassembled unless such unregistered automobile is stored within an enclosed building. Approved by the Attorney General, June 10, 1965.

March 13, 1965, under Article 65, Town voted to amend Chapter 10, Zoning, by striking out Section XII in its entirety and inserting in place a new section, in part; that the Planning Board hold public hearings for the consideration of proposed amendments to the Zoning Map or the Zoning Bylaw. Approved by the Attorney General, June 10, 1965.

March 13, 1965, under Article 69, Town voted to amend Chapter 10 Zoning, Section III.B.1(g), prohibiting all political signs and restricting a Real Estate sign to four feet square in area. Approved by the Attorney General, June 10, 1965.

March 11, 1967: Under Article 53, Town voted to amend Chapter 10, Section III,C,3, Zoning, prohibiting signs in residence A, B or C District over four square feet in area, and adding a new Subsection 5 as follows: Advertising signs in business districts authorized by Board of Selectmen. Approved by Attorney General, May 25, 1967.

November 18, 1969: Under Article 2 the town voted to amend Chapter 10, Zoning Bylaws by adding a new district to be known as “Residence D District for Elderly Housing.” Approved by the Attorney General on December 19, 1969.

November 18, 1969: Under Article 3 the town voted to amend Chapter 10, Zoning Map by adding Residence D District, a new zoning category. Approved by the Attorney General on December 19, 1969.

March 14, 1970: Under Article 34 the town voted to amend Chapter 10 Zoning Bylaws, by adding a new Section VII to be known as PARKING REGULATIONS. Approved by the Attorney General, July 20, 1970.

March 13, 1971: Under Article 39 the town voted to amend Zoning Bylaw, Chapter 10, Section VIA, by striking paragraph 5 and reserving it for future use. Section 1.A. by renumbering present paragraph 7, making it paragraph 8, and adding new paragraph 7, Frontage. Approved by the Attorney General, April 20, 1971.

March 13, 1971: Under Article 41 the town voted to amend Zoning Bylaws, Chapter 10, Section VI, by adding a new subsection J — Cluster Developments. Approved by the Attorney General April 20, 1971.

March 11, 1972: Under Article 32 the town voted to amend Chapter 10, Zoning Bylaws by adding a new Section IV.B — Wetlands Regulations. Approved by the Attorney General, May 25, 1972.

March 11, 1972: Under Article 33 the town voted to amend Chapter 10, Section Xl, Zoning Bylaw by increasing the Penalty Fine from $20.00 to $50.00 Approved by the Attorney General, May 25, 1972.

March 9, 1974: Under Article 44 the Town voted to amend Chapter 10, Section III, B.l. (g) of the General Bylaws, known as the Zoning Bylaw, stating that Political or Real Estate signs of any size shall not be considered an accessory use. Approved by the Attorney General, June 25,1974.

March 9, 1974: Under Article 45 the Town voted to amend Chapter 10 of the General Bylaws, known as the Zoning Bylaw, by adding to Section III, Paragraph A.7. subparagraph (d) a sentence which gives permission to greenhouses and nurseries in single residence districts the right to sell, only during Christmas Season, cut trees, Christmas trees, Boughs, Holly and wreaths grown or fabricated elsewhere than on the premises Approved by the Attorney General, April 26, 1974.

March 8, 1975: Under Article 30 the Town voted to amend Chapter 10 of the General Bylaws by adding a new section known as Section III.B.2. Swimming Pools. This section requires a permit be obtained for the construction of a swimming pool and includes the regulations for the construction of same. Approved by the Attorney General, April 18, 1975.

March 12, 1977: Under Article 44 the Town voted to amend Chapter 10 to provide for Residence D1 zoning (Housing for the Elderly or Handicapped) by enacting numerous provisions relating thereto. The following sections were amended II A; II B; III D; III D(1), (3), (4); V C, D, E; VI C(1); VI D(3); VI G; VI H; VI I; VII A(2). The following new sections were added: II A(6); III D(5); VI A(5)(a) (d); V C; VI B(5). Approved by the Attorney General on May 19, 1977.

March 12, 1977: Under Article 48 the Town voted to amend Chapter 10, Section 1A(7) by adding a provision requiring 80% of the distance between sidelines to be maintained without interruption for a distance of at least 75% of the required frontage. Approved by the Attorney General on May 19, 1977.

March 11, 1978: Under Article 36 the Town voted to amend Chapter 10 in order that it conform to the requirements of Acts of 1975, Chapter 808. The following sections were amended to reflect the requirements of Chapter 808: I A(2); IIIA(1) (4); III A7(d); III A7(j) (deleted); III B(l)(a), (c), (d); III C(4); III D(2); IV A (non conforming uses); IV A (earth materials removal); IV A(2); IV B(3); V B; V D; Vl A(l) (4); Vl C(4); Vl H(b); VI J(2), (14), (17), (18); VII A(2)(b); VI B(2); VII C; VII D; VII E; VII A(1), (3); VIII B; VII C; IX A; IX B; IX C; IX E; XIII. Approved by the Attorney General on June 2,1978.

March 11, 1978: Under Article 37 the Town voted to amend Chapter 10, Section III D(2) by making perfecting changes and by deleting the definition of “private nonprofit organization” which contained references to taxes and payments in lieu of taxes. Approved by the Attorney General on June 2, 1978.

March 11, 1978: Under Article 39 the Town voted to amend Chapter 10 by adding a new Section IV C pertaining to Flood Plain District Regulations. Approved by the Attorney General on May 19,1978.

March 11, 1978: Under Article 40 the Town voted to amend Chapter 10 by adding a new Section VIII D pertaining to Site Plan Approval by the Planning Board. Approved by the Attorney General with recommendations on June 2, 1978.

March 11, 1978: Under Article 44 the Town voted to amend Chapter 10, Section II A, II B, and to add two new Sections III E and VI K to adopt and implement Residence E (Attached Single Family Cluster Developments) zoning. Approved by the Attorney General on May 19,1978.

June 13, 1978: Under Article 1 the Town voted to amend Chapter 10 by adding two sections, III E and IX C(2), providing special permit procedure for activities in connection with scientific research or development. Approved by the Attorney General on September 25, 1978.

June 13, 1978: Under Article 2 the Town voted to amend Chapter 10 by striking Section IX D and inserting in place thereof new Section IX D which authorized the Board of Appeals to grant use variances. Approved by the Attorney General on September 25, 1978.

June 13, 1978: Under Article 3 the Town voted to amend Chapter 10 by adding a new Section III A(7) which authorized parking for school buses pursuant to a special permit. Approved by the Attorney General on September 25, 1978.

March 8, 1980. Voted under Article 35 to amend Chapter 10, the Zoning Bylaws, Section III A.7, regarding the parking of school buses on Town owned land.

March 8, 1980. Voted under Article 40 to amend Chapter 10, the Zoning Bylaws, regarding the Conservation Commission.

March 14, 1981. Voted under Article 51 to amend Chapter 10, the Zoning Bylaws, Section V, regarding height regulations for buildings.

March 14, 1981. Voted under Article 52 to amend Chapter 10, the Zoning Bylaws, relating to permits given by the Planning Board.

March 13, 1982. Voted under Article 37 to amend Chapter 10, the Zoning Bylaws, Section VI, by adding a subsection entitled “Open Space Development Special Permit.”

March 9, 1985. Voted under Article 10 to amend Chapter 10, the Zoning Bylaws, Section III B.1(a), relating to registered and unregistered automobiles stored on a single lot of land.

March 9,1985. Voted under Article 11 to amend Chapter 10, the Zoning Bylaws, Section VI A.5(a), relating to handicapped and elderly housing.

March 14, 1987. Voted under Article 16 to amend Chapter 10, the Zoning Bylaws, Section IV C, regarding Flood Plain District Regulations.

March 12, 1988. Voted under Article 17 to amend Chapter 10, the Zoning Bylaws, Sections II A; II B; VI A; VI B.1; VI C.1, 2 & 3; VI D.3; and VI G regarding Earth Materials Fill.

March 12, 1988. Voted under Article 18 to amend Chapter 10, the Zoning Bylaws, Section I A.1 regarding the definition of a street, and insert new Section III B (h) regarding the storage of boats, pick up campers, trailers and recreational vehicles.

June 6, 1988. Voted under Article 13 to amend Chapter 10, the Zoning Bylaws, Sections II A; II B; III D; III D. 1; III D4; III D.5; VI A; VI B; VI C. 1; VI D.3; VI B; VI H; VI I and VII A.2, regarding housing for the elderly at Fuller Trust.

June 6, 1988. Voted under Article 14 to amend Chapter 10, the Zoning Bylaws, Section II B by modifying the Zoning Map.

June 6, 1988. Voted under Article 17 to amend Chapter 10, the Zoning Bylaws, by striking out Section IV A, "Earth Materials Removal" and inserting in place thereof a new Section IV A, "Earth Materials Removal and Deposit of Fill."

June 6, 1988. Voted under Article 18 to amend Chapter 10, the Zoning Bylaws, Section XI, "Penalty."

March 11, 1989. Voted under Article 37 to amend Chapter 10, the Zoning Bylaws, by repeating Section III B 1(g) and inserting new Section III B.3 regarding signs.

March 11, 1989. Voted under Article 38 to amend Chapter 10, the Zoning Bylaws, Section IX, authorizing the Board of Appeals to appoint a Zoning Administrator.

March 11, 1989. Voted under Article 39 to amend Chapter 10, the Zoning Bylaws, Section XI B, "Penalties," to set fine not to exceed three hundred dollars ($300.00) for each offense.

March 11, 1989. Voted under Article 40 to amend Chapter 10, the Zoning Bylaws, Section VI A. 5(d) regarding elderly and handicapped housing and to delete paragraph VI I.3.

March 10, 1990. Voted under Article 9 to amend Chapter 10, the Zoning Bylaws, by adding a clause to Section VI A.7 concerning homes in AA Districts.

March 10, 1990. Voted under Article 10 to amend Chapter 10, the Zoning Bylaws, Section III B 1(e), by striking out the word "four" and inserting in place thereof the word "three," regarding rental space for lodgers.

March 10, 1990. Voted under Article 11 to amend Chapter 10, the Zoning Bylaws, Section III A. 7© regarding garaging or maintaining automobiles, and Section III B. 1(a) regarding registered and unregistered automobiles.

March 9, 1991. Voted under Article 11 to amend Chapter 10, the Zoning Bylaws, Section II A, by striking out the word “one” and inserting in place thereof the word “three.”

March 14, 1992. Voted under Article 10 to amend Chapter 10, the Zoning Bylaws, Section I, by adding paragraph 8 entitled “Religious” and paragraph 9 entitled “Educational.”

March 14, 1992. Voted under Article 11 to amend Chapter 10, the Zoning Bylaws, Section III A, by adding paragraph 9 regarding the Board of Appeals and detached one family dwellings.

March 20, 1993. Voted under Article 31 to amend Chapter 10, the Zoning Bylaws, by amending Section IV A regarding illegal uses of buildings and land.

March 12, 1994. Voted under Article 38 to amend Chapter 10, the Zoning Bylaws, Section I, Subsection A, by adding paragraphs 10, 11, 12, 13 and 14, regarding various forms of signs and replacing paragraph 3 of Section III, Subsection C, “Signs.”

May 1, 1995. Voted under Article 33 to amend Chapter 10, the Zoning Bylaws, by adding a new Subsection C in Section XI, relating to violations of noncriminal dispositions.

May 1, 1995. Voted under Article 34 to amend Chapter 10, the Zoning Bylaws, by striking out Section IV C and inserting in place thereof a new Section IV C regarding Flood Plain District regulations.

May 9, 1996. Voted under Article 55 to amend Chapter 10, Zoning, by adding to Section I paragraphs 15, 16 & 17 regarding Adult Live Entertainment, Adult Theater, and Sexually Oriented Business; and by adding Paragraph 6 to Section III, Subsection C.

May 12, 1997. Voted under Article 58 to amend Chapter 10, Zoning, by deleting & inserting language in Sections III.D.1, 2, 4, 6; Section V.F; Sections VI.A.8(a), (b), (d); VVI.C.1, VI.D.3, VI.H(c), VI.I.1(c), VI.I.2(c), VII.H.10.

May 12, 1997. Voted under Article 59 to amend Chapter 10, Zoning, Section I.A.7, regarding required frontage.

May 2, 2000. Voted under Article 54 to amend Chapter 10, Section III, Zoning Bylaws, by adding a new Subsection G. Wireless Telecommunication Facilities.

May 2, 2000. Voted under Article 55 to amend Chapter 10, Section III, Zoning Bylaws, by adding a new Subsection H. Limited Exterior Storage of Materials.

May 2, 2000. Voted under Article 57 to amend Chapter 10, Sections III.C.6, VIII.D.1.a, 1.b, and VIII.D.3 regarding commercial building construction.

May 22, 2001. Voted under Article 57 to amend Chapter 10, Zoning, Section III, by adding a new Subsection G. Planned Unit Development.

May 7, 2002. Voted under Article 38 to amend Chapter 10, Zoning by adding language to Section III.B.3(b) regarding temporary signage.

May 7, 2002. Voted under Article 40 to amend Chapter 10, Zoning by changing the Zoning Map designation of five lots from Residence AA to Residence D-2 Districts; by deleting & inserting language in Sections VI.A.8(a) & (d), VI.C.1, V.D, and VI.I.1(C).

May 7, 2002. Voted under Article 41 to amend Chapter 10, Zoning by re-designating Section III.G as III.I; by re-designating III.C.6 as III.C.7; by changing III.A.7(i), line 3, deleting "B.l.(g)" and inserting "B.3".

The amendment to Chapter 10 Section III, Subsection C, regarding Drive Throughs, under Article 8 voted at the Special Town Meeting on February 23, 2004, was approved by the Attorney General, August 6, 2004.

The amendment to Chapter 10 Section VI, Subsection L, regarding Condominium Conversion, under Article 49 voted at the Annual Town Meeting on May 6, 2004, was approved by the Attorney General, November 24, 2004.

The amendment to Chapter 10 Section III, Subsection C, regarding Drive Throughs, under Article 48 voted at the Annual Town Meeting on May 3, 2005, was approved by the Attorney General, June 7, 2005.

The amendment to Chapter 10 Sections VI and VII, regarding Front Yard Paving, under Article 49 voted at the Annual Town Meeting on May 3, 2005, was approved by the Attorney General, June 7, 2005.

The amendment to Chapter 10 Section III, Subsection A, regarding Home Occupations, under Article 50 voted at the Annual Town Meeting on May 3, 2005, was approved by the Attorney General, June 7, 2005.

The amendment to Chapter 10 Section VI, Subsection C, regarding Side Yard Set Backs, under Article 52 voted at the Annual Town Meeting on May 3, 2005, was approved by the Attorney General, June 7, 2005.

The amendment to Chapter 10 Section III, Subsection C, Paragraph 8, regarding Drive-Through Food Service, under Article 49 voted at the Annual Town Meeting that convened on May 1, 2006, was approved by the Attorney General, October 5, 2006.

The amendment to Chapter 10 Section I, Subsection A, regarding the definition of family, under Article 50 voted at the Annual Town Meeting that convened on May 1, 2006, was approved by the Attorney General, October 5, 2006.

The amendment to Chapter 10 Section III, Subsection J, regarding the Central Avenue Planned Unit Development overlay, under Article 51 voted at the Annual Town Meeting that convened on May 1, 2006, was approved by the Attorney General, October 5, 2006.

May 7, 2007. Annual Town Meeting voted under Article 46 to amend Chapter 10, Section III by adding Subsection K, *Brownfield Planned Unit Development*, approved by the Attorney General on August 27, 2007

May 7, 2007. Annual Town Meeting voted under Article 47 to amendment Chapter 10 Section III, Subsection J, regarding the Central Avenue Planned Unit Development overlay, approved by the Attorney General on August 27, 2007.

November 5, 2007. Special Town Meeting voted under Article 8 to amendment Chapter 10 Section III, Subsection J 4 b. regarding the Central Avenue Planned Unit Development overlay *Floor Area Ratio*, approved by the Attorney General on January 3, 2008.

WETLANDS BYLAWS
Chapter 15
Wetlands
(Updated through 2006 Annual Meeting)

SECTION I. Application.
The purpose of this Bylaw is to protect the wetlands of the Town of Milton by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following: public or private water supply; aquifer and groundwater protection; flood, erosion and sedimentation control; storm damage and water pollution prevention; the protection of fisheries, shellfish and wildlife; recreation and aesthetics (collectively, the "interests protected by this Bylaw").

No person shall remove, fill, dredge, alter or build upon or within one hundred feet of any bank, freshwater wetland, vernal pool, coastal wetland, beach, dune, flat, marsh, meadow, bog, swamp, aquifer or upon or within one hundred feet of lands bordering on the ocean or upon or within one hundred feet of any estuary, creek, river, stream, pond or lake, or upon or within one hundred feet of any land under said waters or upon or within one hundred feet of any land subject to tidal action, coastal storm flowage, flood or innundation, or within one hundred feet of the 100-year storm line, or upon or within 200 feet of the mean annual high-water line of a perennial stream unless exempted by the Rivers Protection Act (st. 1996, c. 258), 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 basic telecommunication services, or, in the course of practicing agriculture, forestry or the maintenance of property, essentially in its existing condition, so long as these activities are not detrimental to the interests protected by this Bylaw without filing written application for a permit so to remove, fill, dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this Bylaw.

Such application may be identical in form to those filed pursuant to Massachusetts General Laws Ch. 131, Sect. 40, shall be sent by certified mail to the Milton Conservation Commission (the "Commission") and must be filed concurrently with or after applications for all other variances and approvals required by the Zoning Bylaw, the Subdivision Control Law or any other Bylaw or regulation. The Commission shall set a filing fee by regulation, but no filing fee is require when the Town of Milton files an application for a permit. Copies of the application shall be sent at the same time, by certified mail, to the Town Engineer, the Board of Selectmen, the Building Commissioner, the Planning Board, the Board of Health and to each member of the Commission at his/her residence. When the person requesting a Determination of Applicability is other than the owner, notice of the determination shall be sent to the owner as well as to the requesting person.

SECTION II. Hearing.
The Commission shall hold a public hearing on the application within twenty-one days of its receipt. Notice of the time and place of the hearing shall be given by the Commission at the expense of the applicant, not less than five days prior to the hearing, by publication in a newspaper of general circulation (Milton) and by mailing a notice to the applicant, the Town Engineer, the Board of Health, Board of Selectmen, the Building Commissioner, Planning Board and to such other persons as the Commission may by regulation determine. The Commission, its agents, officers and employees, may enter upon privately owned land for the purpose of performing their duties under this Bylaw.

SECTION II A. Permit and Conditions.
If, after the public hearing, the Commission determines that the area which is the subject of the application is probably significant to the interests protected by this Bylaw, the Commission shall, within twenty-one days of such hearings, or such further time as the Commission and the applicant shall agree upon, issue or deny a permit for the work requested. Such permits shall be in a form pursuant to Massachusetts General Laws Chapter 131, Section 40. If it issues a permit after making such determination, the Commission shall impose such conditions as it determines are necessary or desirable for protection of those interests, and all work shall be done in accordance with those conditions. If the Commission determines that the area which is the subject of the application is not significant to the interest protected by this Bylaw, or that the proposed activity does not require the imposition of conditions, it shall issue a permit without conditions within twenty-one days of the public hearing. Permits shall expire three years from the date of issuance, unless renewed prior to expiration, and once initiated, all work shall be completed prior to expiration.

SECTION III. Emergency Projects.
This Bylaw shall not apply to any emergency project as defined in Massachusetts General Laws Ch. 131, Sect. 40.

SECTION IV. Pre-Acquisition Violation.
Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw or in violation of any permit issued pursuant to this Bylaw shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person if such compliance occurs or restoration commences within one year following the date of acquisition of the real estate by such person.

SECTION V. Regulations.
After due notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.

SECTION VI. Burden of Proof

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interest protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interest protected by this Bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or, in the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

SECTION VII. Definitions.

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

(a) The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agencies, public or quasi-public corporations or bodies, the Town of Milton, and any other legal entity, its legal representatives, agents or assigns.

(b) The term "alter" shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

(1) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;

(2) Changing drainage characteristics, flushing characteristics, salinity distribution, sedimentary patterns, flow patterns and flood retention characteristics;

(3) Drainage or other disturbance of water level or water table;

(4) Dumping, discharging or filling with any material which may degrade water quality;

(5) Driving of piles, erection of buildings or structures of any kind;

(6) Placing of obstructions whether or not they interfere with the flow of water;

(7) Destruction of plant life, including cutting of trees;

(8) Changing of water temperature, biochemical oxygen demand or other physical, biological, or chemical characteristics of the water;

(9) Any activity, change or work which pollutes any stream of body or water, whether located in or out of the Town of Milton.

(c) The term "vernal pool" shall include, in addition to scientific definitions found in the laws and regulations of the state Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, driveways, or roadways, which, except in years of drought, is free of adult predatory fish populations, holds water for a minimum of two consecutive months during the spring and/or summer, and exhibits evidence of vernal pool species as required for certification by the Massachusetts Natural Heritage Program (MNHP), or any successor organization. Certification by MNHP is not required. The boundary of the vernal pool shall be the mean annual high water line defining the depression.

(d) All other terms shall be defined pursuant to Massachusetts General Laws Ch. 131, Sect. 40 and any regulations promulgated thereunder**.**

(e) The Commission may adopt additional definitions not inconsistent with this Section VII in its regulations promulgated pursuant to Section V of this Bylaw.

SECTION VIII. Security.

The Commission may require, as a permit condition, that the performance and observance of other conditions be secured by one or both of the following methods:

(a) By a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the Town of Milton;

(a) By a conservation restriction, easement or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).

SECTION IX. Enforcement.

Any person who violates any provision of this Bylaw or of any condition or a permit issued pursuant to it shall be punished by a fine of not more than $300. Each day or portion thereof during which a violation continues shall constitute a separate offense. If the person violates more than one provision of this Bylaw or any condition or permit issued thereunder, each provision, condition, or permit so violated shall constitute a separate offense. If in the estimation of the Commission, corrective work is required to protect the environment, and the applicant fails to perform said corrective work within a reasonable period of time as set by the Commission, the Commission may order the same to be performed by a party to be determined by the Commission. The landowner shall be required to reimburse the Town for all costs incurred. These costs will be in addition to the fines described above. This Bylaw may be enforced pursuant to Massachusetts General Laws. Ch. 40, Sec. 21D by a Town police officer or other officer having police powers. Fines issued and costs assessed by the Commission shall constitute a municipal lien. Upon request of the Commission, the Board of Selectmen and Town Counsel shall take legal action as may be necessary to enforce this bylaw and permits issued pursuant to it.

SECTION X.

The Commission may, if a majority of its members deem it necessary in order to make a decision before issuing a permit, order investigation, engineering, hydrogeological or other review of the filing and/or the site. No investigation or engineering, hydrogeological or other study and review shall commence until such time as the applicant has agreed in writing, to the specified study and/or review costs and terms of payment. Selection of a consultant to perform a required study shall by subject to approval of the Commission. Each permit issued under this article shall be held by the Commission or its designated agent until such time as the Commission is in receipt of a statement by the consultant that the fee has been paid or other satisfactory arrangements has been made. Prior to receipt of a permit under this article, the applicant shall pay the associated costs of investigation, engineering, hydrogeological, or other review which is deemed necessary by a majority of the Commission members in order for the Commission to make a decision to issue said permit.

SECTION XI. Non-Disturbance Zone.

In order to preserve the quality of certain wetland resources and serve the interests protected by this Bylaw, it is necessary to restrict or limit activities adjacent to any bank, land under water bodies and waterways, vernal pools, and bordering vegetated wetlands, (collectively "resource areas"). To achieve these objectives, a Zone of Non-Disturbance (the "Zone") is hereby established to create a boundary or buffer between the activity proposed and the resource area to be protected.

(a) The Zone shall extend a distance of twenty-five (25) feet from the edge of the resource area on or adjacent to any proposed to be altered except for vernal pools, where the zone is one hundred (100) feet.

(b) No person shall engage in any activity within a Zone that alters the Zone or any land, water, animal life within the Zone.

(c) Notwithstanding subsection (b) above, a person may engage in water-dependent activities within the Zone (including, but not limited to, construction, maintenance and repair of marinas, docks and wharves) without seeking relief from this Section XI.

(d) The Commission may grant relief from this Section XI only if the Commission finds that the granting of such relief will not have a significant adverse impact upon the interests protected by this Bylaw. Such a finding requires an affirmative vote of a majority of the quorum present for the vote.

And to act on anything relating thereto.

Submitted by the Conservation Commission.

Chapter 21 Stormwater Management Bylaw

SECTION 1. PURPOSE

The purpose of this Bylaw is to: implement the requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the U.S. Environmental Protection Agency; protect the public health, safety, and welfare of Milton residents; protect the natural resources, water bodies, groundwater resources, environment, and municipal facilities of the Town; satisfy the appropriate water quality requirements of the Federal Clean Water Act; eliminate and prohibit illicit connections and discharges to the Municipal Storm Drain System of the Town; eliminate or reduce the adverse effects of soil erosion and sedimentation as a result of land disturbing activities; and manage stormwater runoff to minimize adverse impacts to the Town, its citizens, and the environment.

Chapter 21 is adopted under authority granted by the Home Rule Amendments of the Massachusetts Constitution, the Massachusetts Home Rule statutes, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34. The provisions of Chapter 21 apply to all property owners in the Town.

The Department of Public Works (DPW) shall administer and the Board of Selectmen shall enforce Chapter 21. Any powers granted to or duties imposed upon the DPW or the Board of Selectmen to promulgate rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

The DPW may promulgate rules and regulations to effectuate the purpose of this Bylaw. The Board of Selectmen shall approve such rules and regulations after a public notice in a newspaper of general circulation and a public hearing. Failure to promulgate such rules and regulations or a determination of their invalidity by final order of a court of competent jurisdiction shall not have the effect of suspending or invalidating Chapter 21.

SECTION 2. DEFINITIONS

Unless otherwise defined in this section, the terms in this Chapter correspond to definitions found in the Clean Water Act (33 U.S.C. section 1251 et seq.) and the General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the U.S. Environmental Protection Agency.

The following definitions apply to this Chapter:

(a) Applicant - The property owner.

(b) Clean Water Act - The Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.) as it is amended from time to time.

(c) Clearing - Any activity that removes the surface cover from land and exposes soil to the potential influence of stormwater.

(d) Illicit Connection - A surface or subsurface drain or conveyance which allows an illicit discharge into a storm drain, including without

limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously constructed, permitted, or approved before the effective date of this Bylaw.

(e) Illicit Discharge - Direct or indirect discharge to the storm drain that is not composed entirely of stormwater, except as exempted in Section *3*.

(f) 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.

(g) Project – Land disturbance conducted on either a single property or multiple properties as part of a single proposal (e.g., residential subdivision).

(h) Stormwater – Runoff from rain, snowmelt, or stream of water, including a river, brook or underground stream.

SECTION 3. APPLICABILITY

This Chapter applies to all property owners that undertake Projects that discharge or propose to discharge stormwater off their property into the Municipal Storm Drain System of the Town of Milton. This Chapter to the extent a Project is required to obtain approval from the Milton Conservation Commission pursuant to the Wetland Protection Act (MGL Chapter 131, Section 40) the provisions of this Chapter do not apply.

The following discharges are exempt from this Chapter:

(a) DPW ice and snow control operations;
(b) Flow resulting from fire fighting activities;
(c) Natural flow from riparian habitats and wetlands;
(d) Dye testing, provided verbal notification is given to the DPW prior to the time of the test;
(e) Non-stormwater discharge permitted under an NPDES permit administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and,
(f) Projects that commenced prior to the effective date of this Bylaw provided they are completed within one year from such effective date.

The following discharges are exempt from Chapter 21 provided they do not significantly increase pollutant loads to the Municipal Storm Drain System:

(g) Waterline flushing;
(h) Flow from potable water sources;
(i) Uncontaminated groundwater or uncontaminated pumped groundwater;
(j) Water from exterior foundation drains, footing drains, crawl space pumps, or air conditioning condensation;
(k) Water from sump pumps and other pumps that remove floodwaters from basements;
(l) Water discharge from irrigation or watering of lawns, trees, landscaping, and gardens;
(m) Water from property management activities including washing walkways, patios, house siding, windows, vehicles garaged at that property, or similar property management activities;
(n) Discharge from de-chlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance.

SECTION 4. STORMWATER MANAGEMENT REQUIREMENTS

All Projects shall prevent the discharge of polluted stormwater to the Municipal Storm Drain System of the Town. Projects involving either clearing of more than 7,500 square feet of land or stockpiling more than 100 cubic yards of excavate or fill shall:

(a) Notify DPW in writing of the date and nature (including a sketch) of the proposed project at least 30 days prior to commencement of site clearing or stockpiling activities;
(b) Implement measures to prevent the offsite discharge of sediment;
(c) Control wastes to prevent discharge of stormwater contacting the wastes;
(d) Implement other stormwater management measures at the direction of the DPW;
(e) Implement a program of inspection and maintenance to ensure proper operation of stormwater management measures; and,
(f) Provide additional stormwater-related information at the request of DPW.

In addition to the requirements of subparagraph (a) through (f), *P*rojects clearing more than one acre of land or stockpiling more than 1000 cubic yards of excavate or fill shall also prepare and submit to DPW for approval an Erosion and Sedimentation Control Plan including the following elements:

(g) Name, address and telephone number of the owner and person responsible for implementation of the plan and for proper inspection and maintenance of erosion and sedimentation controls;
(h) One or more plans depicting property lines, existing and proposed topography in one-foot increments, boundaries of wetlands and natural or artificial water storage or conveyance structures, and location of all existing and proposed buildings and impervious surfaces;
(i) A narrative description of proposed erosion control measures and sedimentation control measures;
(j) Location and design details of erosion and sediment control measures proposed to prevent off-site sediment transport during construction;
(k) A locus map showing the site in relationship to the surrounding area's watercourses, water bodies and other significant geographic features, and roads and other significant structures;
(l) A plan showing the extent of clearing, construction equipment access and storage areas, and material laydown and soil stockpile areas;
(m) A construction schedule including estimated dates for initiation and completion for such tasks as clearing and grading, construction of utilities and infrastructure, construction of buildings, and final grading and landscaping; and,
(n) A written program of documented inspections of stormwater management systems and a corrective action program for identified deficiencies.

In addition to the requirements of subparagraphs (a) through (n), Projects more than one acre of land shall prepare and submit to DPW for approval a Stormwater Management Plan prepared by a Registered Professional Engineer or a Registered Land Surveyor, including the following elements:

o) Drainage area map showing drainage area and stormwater flow paths;
(p) Location of all existing and proposed stormwater utilities including structures, pipes, swales and detention basins;
(q) Topographic survey showing existing and proposed contours in one-foot intervals;
(r) Soil permeability data for areas where infiltration stormwater management systems will be installed;

(s) Description of all watercourses, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
(t) Delineation of 100-year floodplains, if applicable;
(u) Groundwater levels at the time of probable high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
(v) Location of any existing and proposed easements to be used for stormwater management;
(w) Calculations necessary to prove that the project will not increase peak stormwater flows off site;
(x) A narrative description of proposed measures for permanent management and treatment of stormwater;
(y) Structural details for all components of the proposed drainage systems and stormwater management facilities; and,
(z) A written program of documented inspections and maintenance of the stormwater management systems and a corrective action program for identified deficiencies.

All projects subject to this Bylaw shall comply with the Stormwater Management Policy of the Massachusetts Department of Environmental Protection. The DPW may require any additional information or data which is reasonably necessary to review compliance with this Chapter.

SECTION 5. APPLICATION & REVIEW PROCEDURES

The applicant shall file with the DPW, two (2) copies of plans required under Section 4 on forms specified by the DPW. Within 30 calendar days after receiving such plans, the DPW shall, in writing:

(a) Approve the plans as submitted and issue a permit;
(b) Approve the plans subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Chapter, and issue a permit subject to these conditions;
(c) Disapprove the plans, specifying the reason(s) and procedure for submitting a revised application and/or submission; or,
(d) Request additional information or data.

Failure of the DPW to act on an original or revised plan within 30 calendar days of receipt shall authorize the applicant to proceed in accordance with the plan as filed unless such time is extended by agreement between the applicant and the DPW.

SECTION 6 ENFORCEMENT

The Board of Selectmen or an authorized agent of the Board of Selectmen shall enforce this Bylaw, regulation, decision, permit or order issued under this Bylaw and may pursue all civil and criminal remedies for such violations. Any property owner who violates any provision of this Bylaw, or of any regulation, decision, permit or order issued pursuant to this Bylaw shall be punished by a fine of not more than $25 each day or portion thereof

during which a violation continues shall constitute a separate offense. If the property owner violates more than one provision of this Bylaw or any condition of an approval issued hereunder, each provision, or condition, so violated shall constitute a separate offense.

If in the estimation of the Board of Selectmen, corrective work is required to protect the environment, and the property owner fails to perform said corrective work within a reasonable period of time as set by the Board of Selectmen, the Board of Selectmen may order the same to be performed by a party to be determined by the Board of Selectmen. The property owner shall be required to reimburse the Town for all costs incurred. These costs will be in addition to the fines described above.

This Bylaw may be enforced pursuant to Massachusetts General Laws. Ch. 40, Sec. 21D by a Town police officer or other officer having police powers. Fines issued and costs assessed by the Board of Selectmen shall constitute a municipal lien upon the property and shall accrue interest as provided by applicable law. Upon request of the Board of Selectmen, Town Counsel shall take legal action as may be necessary to enforce this Bylaw and permits issued pursuant to it. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Selectmen, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties and may make or cause to be made such examinations, surveys or sampling as the Board of Selectmen deems reasonably necessary. The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.

SECTION *7* SEVERABILITY

The provisions of Chapter 21 are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any property owner, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of said Bylaw to the extent permitted by law.

HOME OCCUPATION BYLAWS

(a) The home occupation shall be conducted in no more than 400 square feet within the dwelling and all materials, equipment and facilities related to the home occupation shall be included in that space. Outside storage shall not be permitted in a home occupation. A floor plan drawn to scale that details the area in which the home occupation will be conducted and such other material as specified by the Town Clerk shall be included as part of the permit application. A detailed description of the home occupation shall also be included as part of the application

(b) Only persons residing in the dwelling may engage in the home occupation and there shall be no more than three persons engaged in the home occupation.

(c) Merchandise, operations, signs or other indications of any kind regarding the home occupation shall not be visible from outside the dwelling.

(d) The appearance of the dwelling shall not be altered in any manner which reflects or indicates that the home occupation is being conducted in the dwelling.

(e) The home occupation shall not generate excessive pedestrian and/or vehicular traffic to or from the dwelling

(f) There shall be no use of commercial vehicles for regular deliveries of goods or materials to or from the dwelling related to the home occupation.

(g) The home occupation shall not create noise, odor, dust, vibration, fumes or smoke discernible at any boundary of the lot on which the home occupation is situated; it shall not create any electrical disturbance affecting electrical appliances located on adjacent properties; and it shall not create any hazardous or potentially hazardous condition or conditions.

(h) The home occupation shall be permissible under any applicable lease or rental agreement, or in the case of a condominium project, any applicable covenants, conditions or restrictions.

(i) Home occupations shall not involve sexually oriented conduct.

(j) Home occupations shall be conducted in accordance with all applicable state and federal laws and regulations and with all applicable municipal requirements

If all the foregoing conditions are satisfied, the Town Clerk shall issue a business certificate for the home occupation. A business certificate issued in accordance with this section shall be in force and effect for four (4) years from the date of issue and upon payment of a fee for each renewal may be renewed for additional four (4) year terms so long as the home occupation shall have been conducted in accordance with these conditions. The certificate shall lapse and be void at the end of its term unless so renewed.

Any violation of the conditions imposed in this Paragraph 10 on a home occupation shall be cause for the revocation of the home occupation business certificate by the Building Commissioner pursuant to Section VIIIA. Upon such revocation, such home occupation shall cease immediately.

In the event that such home occupation shall continue following revocation or expiration of a business certificate and notice to the resident(s), the resident(s) shall be subject to a fine of no more than $50 for each offense with each day that business continues following such notice being deemed a separate offense.

No home occupation shall be conducted except in compliance with the foregoing conditions pursuant to a business certificate or as otherwise authorized by special permit issued by the Board of Appeals pursuant to Section III, Subsection A, Paragraph 7(i).

GENERAL BYLAWS
OF THE
TOWN OF MILTON

As Amended Through The

2007

ANNUAL TOWN MEETING

CHARTER

CHARTER BY SPECIAL ACT FOR THE TOWN OF MILTON

Chapter 27, Acts of 1927
"Representative Town Government by Limited Town Meetings"
(Revised by Chap. 306 Acts of 1936, Chap. 63 Acts of 1948, Chap. 67 Acts of 1957, Chap. 597 Acts of 1958 , Chap. 319 Acts of 1971, and Chap. 47 Acts of 2006)

Be it enacted, etc, as follows:

SECTION I. The registered voters of each precinct in the town of Milton, at the annual town election to be held in the year nineteen hundred and twenty-seven and the registered voters of any precinct affected by any revision of precincts, at the first annual town election following such revisions, shall elect by ballot and conformably to the laws relative to elections not inconsistent with this act from residents of the precinct town meeting members, to the largest number which is divisible by three and which will make the elected representation of such precinct bear approximately the same proportion to the total elected representation of the town as the number of registered voters in such precinct bears to the total number of registered voters in the town, and which will cause the total elected membership to be as nearly two hundred and seventy-nine as may be, and not in excess thereof. The first third in the order of votes received of members so elected shall serve until the third succeeding annual election, the second third in such order shall serve until the second succeeding annual election, and the remaining third in such order shall serve until the first succeeding annual election. After the annual town election in the year nineteen hundred and twenty-seven, except as herein provided, at each annual town election the registered voters of each precinct shall, in like manner, elect as town meeting members for the term of three years, such number of elected town meeting members as are necessary to provide for such precinct the total number of elected town meeting members to which it is then entitled, and shall, at such election, fill for the unexpired term or terms any vacancies then existing in the number of town meeting members in such precinct. In case of any revision of a precinct or precincts, the TERMS of office of all elected town meeting members from each precinct affected by such revision, shall cease upon the qualifications of their successors elected as hereinbefore provided. The number of precincts in said town shall be not less than four.

In the case of a tie vote which affects the election of town meeting members in any precinct otherwise than as to term of office, the members elected from such precinct at the same election other than those whose election is so affected, shall, by a majority vote, determine which of the voters receiving such tie vote shall serve as town meeting members from such precinct, and in case of a tie vote affecting the term of office of members elected, the members elected from such precinct at the same election other than those whose terms of office are affected by such tie vote shall, by a majority vote, determine which member receiving such tie vote shall serve for the longer and which for the shorter term.

The town clerk shall, after every election of town meeting members, forthwith notify each member, by mail, of his election.

The number of elected town meeting members to which each precinct is entitled for the ensuing municipal year shall be determined by the town clerk on or before January fifteenth of each year and shall bear approximately the same proportion to the total number of elected town meeting members of the town as the number of registered voters in such precinct bears to the total number of registered voters in the town on January first of that year.

SECTION 2. The representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the elected town meeting members together with the following, designated as town meeting members ex officios namely: any member of the general court of the commonwealth who is a registered voter of the town, the town moderator, the town clerk, the selectmen, the town treasurer, the town counsel if a registered voter of the town, the town collector of taxes, the chairman of the school committee, the chairman of the trustees of the public library, the chairman of the board of health, the chairman of the park commissioners, the tree warden, the chairman of the planning board, the chairman of the assessors of taxes, the chairman of the board of trustees of the cemetery, the chairman of the warrant committee, and the chairman of the board of Personnel Administration.

The secretary or clerk of each of the above-named boards and commissions shall file with the town clerk a certificate of election of a chairman.

Any elected town meeting member who becomes by appointment or election one of the officers designated as town meeting members, ex officios, shall notwithstanding such appointment or election continue to serve as an elected town meeting member rather than as ex officio member. The town clerk shall notify the town meeting members of the time and place at which representative town meetings are to be held, such notices to be sent by mail at least three days before any such meeting, but failure to comply with this provision shall not affect the validity of any act of the meeting, and this provision shall be in addition to the warrant for such meeting duly published and served according to law. The representative town meeting shall have authority to determine the election and qualifications as set forth in this act, of its members. A majority of the town meeting members shall constitute a quorum for doing business; but a less number may organize temporarily and may adjourn from time to time. All town meetings shall be held in public. Town meeting members shall receive no compensation as such. Subject to such conditions as may be determined from time to time by the representative town meeting, any voter of the town who is not a town meeting member may speak at any representative town meeting, but he shall not vote. An elected town meeting member may resign by filing a written resignation with the town clerk, and such resignation shall take effect on the date of such filing. An elected town meeting member who removes from the precinct from which he was elected shall cease to be a town meeting member.

SECTION 3. Nominations of candidates for town meeting members to be elected under this act shall be made by nomination papers which shall bear no political designation, but to the name of a candidate for re-election there may be added the words "Candidate for Reelection." Nomination papers shall be signed by not less than ten registered voters of the precinct in which the candidate is nominated for office. Any incumbent town meeting member may become a candidate for re-election by given written notice thereof to the town clerk not later than fourteen days prior to the last day and hour for filing nomination papers notwithstanding any contrary provision in any special law. No nomination papers shall be valid in respect to any candidate unless his written acceptance is filed therewith.

SECTION 4. All articles in the warrant for every town meeting, so far as they relate to the election of the town moderator, town officers and town meeting members, and as herein provided, to referenda and all matters to be acted upon and determined by ballot, shall be so acted upon and determined by registered voters of the town in their respected precincts. All other articles in the warrant for any town meeting, beginning with the annual town meeting in the year when said town meeting members are first elected, shall be acted upon and determined exclusively by town meeting members at a representative town meeting to be held at such time and place as shall be set forth by the selectmen in the warrant for the meeting, and subject to the referendum provided for by section seven.

SECTION 5. A moderator shall be elected by the registered voters of the town by ballot for a three (3) year term, and shall serve as the moderator of all town meetings except as otherwise provided by law until his successor is elected and qualified. Nominations for moderator and his election shall be as in the case of other elective town officers, and any vacancy in such office may be filled by the town meeting members at a representative town meeting held for that purpose. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members.

SECTION 6. In the event of any vacancy in the full number of elected town meeting members from any precinct, the remaining elected members of the precinct may choose from among the registered voters thereof a successor to serve until the next annual town election. The town clerk may, and upon a petition therefore signed by not less than ten elected town meeting members from the precinct shall, call a special meeting for the purpose of filling such vacancy and shall mail notices thereof to the remaining elected members from the precinct specifying the object and the time and place of such meeting which shall be held not less than four days after the mailing of such notice. At such meeting a majority of such members shall constitute a quorum and shall elect from their own number a chairman and a clerk. The election to fill such vacancy shall be by ballot and a majority of the votes cast shall be required for a choice. The clerk shall forthwith file with the town clerk a certificate of such election, together with a written acceptance by the members so elected, who shall thereupon be deemed elected and qualified as an elected town meeting member, subject to the provisions of section two respecting the election and qualifications of elected town meeting members.

SECTION 7. No article in the warrant shall at any representative town meeting be finally disposed of by a vote to lay upon the table, to indefinitely postpone, or to take no action thereunder. No vote passed at any representative town meeting under any article in the warrant, except a vote to adjourn or a vote for the temporary borrowing of money in anticipation of revenue or a vote declared by a two thirds vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town, shall take effect until after the expiration of seven days, exclusive of Sundays and holidays, from date of such vote. If, within said seven days a petition, signed by not less than five percent of the registered voters of the town, containing their names, together with their street addresses, is filed with the selectmen asking that the question or questions involved in such vote be submitted to the voters of the town at large, then the selectmen within fourteen days of the filing of such petition shall call a special town meeting which shall be held within twenty-one days after notice of the call, for the sole purpose of presenting to the voters at large the question or questions so involved. All votes upon any questions submitted shall be taken by ballot, and the check lists shall be used in the several precincts in the same manner in which they are used in the election of town officers. The polls shall be opened at two o'clock in the afternoon and shall be closed not earlier than eight o'clock in the evening and no ballots shall be removed or counted before the closing of the polls. The question or questions submitted to be voted upon at said town meeting shall be stated upon the ballot in substantially the same language and form in which they were stated when finally presented to said representative town meeting by the moderator as appears upon the records of said meeting, and such question or questions shall be determined by vote of the same proporation of the voters at large voting thereon as would have been required by law had the question been finally determined at a representative town meeting. If such petition be not filed within said period of seven days, the vote in the representative town meeting shall take effect upon the expiration of said period.

SECTION 8. The Town of Milton, after the acceptance of this act, shall have the capacity to act through and be bound by its said town meeting members who shall, when convened from time to time as herein provided, constitute representative town meetings, and the representative town meetings shall exercise exclusively so far as will conform to the provisions of this act, all powers vested in the municipal corporation. Action in conformity with all provisions of law now or hereafter applicable to the transaction of town affairs in town meetings shall, when taken by any representative town meeting in accordance with the provisions of this act have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as heretofore organized and conducted.

SECTION 9. No right secured to the inhabitants of the Town of Milton by the constitution of this commonwealth shall be abridged by this act; nor shall this act confer upon any representative town meeting the power to commit said town to any proposition affecting its municipal existence, or the form of its government without action thereon by the voters of said town at large using the ballot and check lists therefor.

SECTION 10. This act shall be submitted to the registered voters of the Town of Milton at any annual or special town meeting called for the purpose within two years from the passage of this act. The vote shall be taken in precincts by ballot in accordance with the provisions of the general laws, so far as the same shall be applicable, in answer to the question, which shall be placed, in the case of a special meeting, upon a ballot to be used at said meeting, or, in case of an annual meeting upon the official ballot to be used for the election of town officers: "Shall an act passed by the general court in the year nineteen hundred and twenty-seven, entitled 'An Act to erect and constitute in the Town of Milton representative town government by limited town meetings', be accepted by this town?"

SECTION 11. So much of this act as authorizes its submissions for acceptance to the registered voters of the town shall take effect upon its passage and the remainder shall take effect upon its acceptance by a majority of the voters voting thereon.

CHARTER

AMENDMENTS TO CHARTER:

Section 1 was amended by Chapter 306 of the Acts of 1936, to fix the number of Town Meeting Members at 279.

The provisions of Section 3 relative to re-election of Town Meeting Members were modified by Chapter 63 of the Acts of 1948. (G.L. Chap. 53 Sec. 10)

The Chairman of the Board of Personnel Administration was added to the first paragraph of Section 2 by Chapter 67 of the Acts of 1957.

The third paragraph of Section 2 was amended relative to elected Town Meeting Members by Chapter 597 of the Acts of 1958.

The position of Chairman of the Sewer Commissioners formerly referred to in Section 2 was abolished by vote on Article 10 of the Warrant at the 1967 Town Meeting.

The position of the Chairman of the Board of Public Welfare formerly referred to in Section 2 was abolished.

The position of Tree Warden formerly referred to in Section 2 was abolished by vote of the town at the 1970 March Election, and gave the Selectmen the right to appoint a Tree Warden.

The position of Chairman of the Water Commissioners formerly referred to in Section 2 was abolished by Chapter 319 of the Acts of 1971.

GENERAL BYLAWS
Town of Milton, March 10, 1934
AS AMENDED

CHAPTER 1

GENERAL PROVISIONS

Section 1. The bylaws of the Town adopted March 2, 1902 may be designated as heretofore, as the "Revised Bylaws," but said revised bylaws as heretofore or at this meeting may be designated as the General Bylaws.

Section 2. So far as the provisions of these bylaws are the same in effect as those of previously existing bylaws, they shall be construed as a continuation of such bylaws but, subject to said limitations and the provisions of the next section, all bylaws of the Town heretofore in force are hereby repealed; provided that this repeal shall not apply to or affect any bylaw, order, or article heretofore adopted, accepting or adopting the provisions of any statute of the Commonwealth.

Section 3. These bylaws and the repeal of all bylaws heretofore in force shall not affect any act done, any right accrued, any penalty or liability incurred, or any suit, prosecution, or proceeding, pending at the time when they take effect; nor shall the repeal of any bylaw thereby have the effect of reviving any bylaw theretofore repealed or suspended.

Section 4. When in a bylaw anything is prohibited from being done without the license or permission of a certain officer, officers or board, such officer, officers, or board shall have the power to license or permit such thing to be done.

Section 5. In all these bylaws the following words and expressions shall, unless inconsistent with the manifest intent, be severally construed as follows: -

The word public way shall include any highway, town way, road, bridge, street, avenue, boulevard, roadway, parkway, lane, sidewalk or square; the owner or occupant of a building or land shall include any sole owner or occupant, and any joint tenant and tenant in common of the whole or of any part of a building or lot of land; words proporting to give a joint authority to three or more officers or other persons shall give such authority to a majority of such officers or persons; the word person may include corporation; words importing the singular number may apply to the plural number, and words importing the masculine gender may apply to the feminine gender.

Section 6a. Whoever violates any of the provisions of these bylaws whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine not exceeding three hundred dollars for each offense.

Section 6b. 1. Whoever violates any provision of these bylaws regarding the Board of Health may be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D. The non-criminal disposition may also be used for violations of any rule or regulation of the Board of Health, which is subject to a specific penalty. Without intending to limit the foregoing, it is the intention of this section that any Board of Health regulation be included within the scope of this subsection, that the speccific penalties listed here shall apply in such cases, and that in addition to the Board of Health members, sho shall in all cases be considered enforcing persons for the purpose of this section, the Health Agent and his or her designee and any such other official the Board of Health may designate from time to time, shall also be enforcing persons.

2. Each violation of such a bylaw, rule or regulation shall be punished by a fine of:

First Offense	$ Twenty-Five Dollars ($25.00)
Second Offense	$ Fifty Dollars ($50.00)
Third and Subsequent Offense	$ One Hundred Dollars ($100.00)

3. Each day on which any violation exist shall be deemed to be a separate offense

Section 7. Whoever shall refuse or neglect to obey any lawful order of any Town officer, issued under any of these bylaws, directed to him and properly served upon him, shall, in cases not otherwise provided for, forfeit and pay for every such offense a fine not exceeding twenty dollars.

Section 8. Prosecutions for the breach of any of the provisions of these bylaws shall be commenced within six months from such breach.

Section 9. Any or all of these bylaws may be repealed or amended or other bylaws may be adopted, at any Town meeting, annual or special, an article containing the subject matter of the proposed change having been inserted in the warrant for such meeting.

CHAPTER 2

TOWN MEETINGS

Section 1. The warrants for all Town meetings shall be directed to the constables of the Town, and notice of such meetings shall be given by posting attested copies of the warrant in each of the post-offices of the Town at least seven days, and by leaving printed copies thereof at the dwelling-houses in the Town at least four days before the day of such meetings.

Section 2. The annual meeting for the election of Town officers shall be held upon the last Tuesday of April, the polls to be open from seven o' clock in the morning until eight o' clock in the evening for the election of such Town officers and the determination of such matters as by law are required to be elected or determined by ballot. All such officers shall be voted for and all such matters shall be determined on official ballots.

Section 3. All business except the election of such officers and the determination of such matters as by law are required to be elected or determined by ballot shall be considered at an adjournment of the annual meeting to the first Monday of May at 7:30 o'clock in the evening.

Section 4. All motions shall, if required by the Moderator, be reduced to writing before being submitted to the meeting. If a motion is susceptible of division it shall be divided and the question put separately upon each part thereof if ten town meeting members so request.

Section 5. Upon taking the question, the sense of the meeting shall be taken by the voices of the town meeting members and the Moderator shall first announce the vote as it appears to him by the sound.

If the Moderator is unable to decide by the sound of the voices or if his announcement made thereupon is doubted by seven town meeting members arising in their places for that purpose, the Moderator shall request the town meeting members to be seated, and shall appoint tellers; the question then shall be distinctly stated, and those in the affirmative and negative respectively shall be requested to rise and stand in their places until they are counted by the tellers, who shall report their count to the Moderator, who thereupon shall announce the vote. If the vote is further doubted and twenty-five town meeting members arise in their places and ask for a division of the meeting by the taking of the yeas and the nays, then the roll of the meeting shall be called in alphabetical order by the Town Clerk, and each town meeting member shall rise in his place if he answers yea or nay when his name is called, and the Moderator shall announce the vote. No town meeting member shall be allowed to vote after the vote is declared.

Section 6. No vote shall be reconsidered at the same meeting, except upon a motion made within one hour of the adoption of such vote, unless ordered by two-thirds of the town

meeting members present and voting thereon, provided that the time which shall elapse between any adjournment and the next calling to order of the meeting following such adjournment shall be excluded in computing the hour since the adoption of said vote.

Section 7. If a motion for the previous question is adopted by vote of the meeting no person shall speak to the motion then under consideration more than once or for longer than five minutes without a vote of permission of the meeting, except that the Chairman of the Warrant Committee may speak again to close the debate but not for more than five minutes.

Section 8. When a question is before the meeting, the following motions, viz: -
to adjourn
to lay on the table,
for the previous question,
to postpone to a certain time,
to commit (or recommit) or refer,
to amend or substitute,

shall have precedence in the order in which they are placed in this section; but no article in the warrant shall be finally disposed of by a vote to lay on the table, to postpone indefinitely, or to take no action thereunder. In proposed amendments, involving amounts or dates, the smallest amount and the shortest time shall be put first.

Section 9. Any person who is employed as an attorney by another person interested in any matter under discussion at a Town meeting shall disclose the fact of his employment before speaking thereon.

Section 10. No appropriation of a sum of money exceeding five hundred dollars shall be made until the subject matter thereof has been considered and estimates reported to the Town, either by the Selectmen or other town officers, or by the Warrant Committee or some committee chosen for the purpose in pursuance of a vote of the Town.

Section 11. Whenever, pursuant to General Laws, Chapter 39, Section 10, any subject is inserted in the Warrant for an Annual Town Meeting at the request of ten or more registered voters, the fact of said request and the names and addresses of the first ten registered voters making the request shall be printed in the Warrant immediately following the Article involved.

Section 12. Whenever an Article is inserted in the Warrant for an Annual or Special Town Meeting at the request of a town department, board, committee or authority, the name of such requesting organization shall be printed in the Warrant immediately following the Article involved.

Section 13.Except as hereinafter provided, the term of any non-elected committee of the Town established by vote of an Annual or Special Town Meeting, other than a committee established by or pursuant to a statute or bylaw, shall expire upon the final adjournment of the third Annual Town Meeting following the meeting at which it was voted to establish or to extend the term of such committee, unless a different term is specified by Town Meeting or unless such committee is earlier discharged; notwithstanding the foregoing, the term of any committee heretofore or hereafter authorized by vote of an Annual or Special Town Meeting, to expend more than $2,000 in any one fiscal year for the construction, renovation or repair of any facility, or for the acquisition of any goods or equipment, or for consultant work or personal services, shall be extended upon such appropriating vote until such committee is specifically discharged by a vote of an Annual or Special Town Meeting.

CHAPTER 3

THE WARRANT COMMITTEE

Section 1. The Town shall have an advisory committee to be known as the Warrant Committee consisting of fifteen legal voters of the Town. On or before the fifth day of July in each year the Moderator shall appoint fifteen members to the Warrant Committee each of whom shall serve for a term of one year beginning on the fifth day of July in the year of the appointment.

Section 2. The Warrant Committee shall, prior to the fifteenth day of July in each year, meet, at the call of the member thereof first named, for organization by the choice of a chairman and secretary. And they shall meet thereafter from time to time as they may deem advisable.

a. They shall have the power to fill vacancies in their number by vote, attested copy of which shall be sent by the secretary to the Town Clerk.

Section 3. It shall be the duty of the Warrant Committee to inform themselves concerning those affairs and interest of the Town, the subject-matter of which is generally included in the warrants for its Town meeting; and the officers of the Town shall, upon their request, furnish them with facts, figures, and any other information pertaining to their several departments; provided, however, that any such information may be withheld when, in the opinion of the officer or board of officers so requested, the communication thereof might injuriously affect the interests
of the Town or its citizens.

Section 4. The Warrant Committee shall consider the various articles in the

warrants for all the Town Meetings held during the period for which they were appointed including the various articles in the warrant for the annual Town Meeting next after their appointment; they shall also consider all questions submitted to the voters of the Town at any meeting, excluding State elections; and they shall report in print before all such meetings their estimates and recommendations for the action of the Town. Copies of such reports shall be left at the dwelling houses in the Town at least four days before the day set for consideration of the various articles in the warrant considered by them and at least four days before the day upon which the voters are to consider questions submitted to them at any meeting.

a. On or before December first of each year each board, committee or officer of the Town shall file with the Selectmen, who shall transmit the same to the Warrant Committee, a preliminary budget, with a statement in detail of the appropriation or appropriations recommended by such board, committee or officer for the work under its or his charge for the ensuing year, with a final copy of said budget due to the Warrant Committee by January thirty-first.

b. The Warrant Committee shall include in its report of recommendations for the annual Town Meeting a statement setting forth the total appropriations so requested, the appropriations recommended, and the totals of such appropriations requested and recommended, and an estimate of the tax rate for the ensuing year if such recommendations are adopted. The copies of such reports may be combined with the warrants of the Selectmen for publication and delivery as provided in Section 1 of Chapter 2.

CHAPTER 4

FINANCES AND PROPERTY

Section 1. The Selectmen shall annually, not less than seven days before the annual town meeting, cause to be printed such number of copies of the annual town report as they shall determine to be sufficient for the use of the inhabitants. Such report shall contain a detailed report of all moneys received into and paid out of the Town treasury during the financial year next preceding, with such information and recommendations as the Selectmen may deem proper; the report of the school committee; the records of the meetings of the Town held since the last annual report; the report of the collector of taxes, of receipts, payments and abatements; statements concerning the conditions and funds of the public library and the cemetery to be furnished by the trustees thereof respectively, and statements of all other funds belonging to the Town or held for the benefit of its inhabitants; a statement of the liability of the Town on bonds, notes, certificates of indebtedness, or otherwise, and the total money paid the Town for perpetual

care of cemetery lots; and such other matters as the said report is required by law to contain, or as may be inserted by the Selectmen under the discretion granted them by law.

Section 2. No officer of the Town shall in his official capacity make or pass upon or participate in making or passing upon, any sale, contract or agreement or the terms or amount of any payment in which the Town is interested and in which such officer has any personal interest.

Section 3. The Warrant Committee shall send to the Selectmen and to the town accountant certified copies of all votes whereby transfers are made out of the Reserve Fund for extraordinary or unforeseen expenditures.

Section 4. The Selectmen shall have full authority as agents of the Town to institute and prosecute suits in the name of the Town or its officers in their official capacity and to appear and defend suits brought against it or its officers in their official capacity unless otherwise ordered by a vote of the Town.

Section 5. Whenever it shall be necessary to execute any deed conveying land or other instrument required to carry into effect any vote of the Town, the same shall be executed by the Selectmen, or a majority thereof, in behalf of the Town, unless otherwise ordered by a vote of the Town.

Section 6. The Selectmen shall appoint a Town Accountant who shall perform the duties prescribed by law. There shall annually be an audit of the accounts of the Town under the supervision of the State Director of Accounts, as provided in General Laws, Chapter 44, Section 35.

Section 7. Whenever damages may be recovered against the Town under General Laws Chapter 79, entitled "Eminent Domain," the Selectmen, unless otherwise provided by vote of the Town, may exercise in the name and behalf of the Town all the powers granted in Section 39 of said chapter relative to settlement of damages, assumption of betterments, offers of settlement, and any other matters in said section contained.

Section 8. The collector of taxes shall collect, under the title of Town Collector, all accounts due the Town, excepting interest on investments of sinking or trust funds. If it shall seem advisable to the town collector that suit or suits should be instituted and prosecuted in the name of the Town in connection with the collection of any accounts due to the Town, he shall so advise the Selectmen who shall have authority as agents of the Town to institute and prosecute the same.

Section 9. In addition to the authority to them granted by Section 8, the Selectmen shall have authority as agents of the Town to settle claims against the Town, after receiving the advice of the town counsel, payment for such settlement to be taken from the appropriation for the law department.

Section 10. Any Board or Officer in charge of a department may, with the approval of

the Selectmen, sell any personal property or material not required by said department to an aggregate amount not exceeding $20,000 in value in any one fiscal year.

Section 11. Except as otherwise provided by law the Selectmen shall have custody of deeds, of bonds of Town officers, of insurance policies and of other similar documents owned by the Town.

Section 12. Competitive Bidding

a. Contracts for the procurement of supplies, services or real property by the Town of Milton and contracts for disposing of supplies or real property by the Town of Milton, shall be governed by the provisions of Chapter 30B of the Massachusetts General Laws, as amended, or other applicable provisions of Massachusetts law, as amended.

b. Contracts for construction, reconstruction, alteration, remodeling or repair of a public work or for the purchase of any material including any article, assembly system or component part thereof, shall be governed by the provisions of applicable Massachusetts law, including without limitation Chapter 30B and Chapter 30, Section 39M, as amended.

c. Contracts for the construction, reconstruction, installation, demolition, maintenance of repair of a public building shall be governed by the provisions of applicable Massachusetts law, including without limitation Chapter 30B, Chapter 30, Section 39M, and Chapter 149, Section44A through L, as amended.

d. In all cases where a Town of Milton department seeks quotations for a supply or service, that department shall maintain a written record of the names and addresses of all persons from whom quotations were sought, the name and addresses of each person or entity who submits a quotation, the date and amount of each quotation, and a copy of the quotation.

Section 13. Every contract for construction work, whether for alterations, repairs or original construction, the estimated cost of which amounts to $25,000 or more, shall be accompanied by a suitable bond for the performance of same, or by the deposit of money or security to the amount of the estimated cost.

Section 14. The Town Treasurer shall be the custodian of all moneys, properties and securities of all trust funds, including Cemetery trust funds, heretofore or hereafter given, devised or bequeathed to the Town, and shall with the approval of the Board of Selectmen invest and reinvest the same and expend therefrom moneys as directed by the Board of Selectmen. The Town Treasurer shall have power with the approval of the Board of Selectmen in the name and behalf of the Town to sell, transfer and deliver any and all securities and properties so held for such prices or considerations and on such terms and conditions as he and they shall determine. The foregoing provisions shall be subject to and not in derogation of any and all directions or provisions made by donors in wills or other instruments of gift in respect to any such fund or

funds.

Section 15. All Town Officers are required to pay all fees received by them by virtue of their office into the Town Treasury. Each Town Department shall on or before July 1st of each year file with the Town Clerk a schedule of the fees charged by that Department.

Section 16. The Selectmen are authorized to appoint a Town Administrator as provide in the General Laws Chapter 41, Section 23A for a term of one or three years.

Section 17.

1. The Board of Selectmen shall establish and appoint a committee of seven (7) persons to be known as the Capital Improvement Planning Committee. Said committee shall be composed of one member of the Board of Selectmen, one member of the Warrant Committee, one member of the Planning Board, one member of the School Committee, the Town Accountant, and two (2) members of the community at large. Members shall serve for a one year term beginning on the fifteenth day of August in the year of appointment. The Committee shall choose its own officers.

2. The Committee shall study proposed capital projects and improvements involving major tangible assets and projects which have a useful life of at least five years and cost over $10,000. All officers, boards and committees, including the Selectmen and the School Committee, shall, by October 1 of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action during the ensuing five (5) years. The Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town. No appropriation shall be voted for a capital improvement requested by a department, board or commission unless the proposed capital improvement is first submitted to the committee as herein provided.

3. The Committee shall prepare an annual report recommending a capital improvement budget for the next fiscal year, and a Capital Improvement Program including recommended capital improvements for the following five (5) fiscal years. The report shall be submitted to the Board of Selectmen for its consideration and approval. The Board shall submit its approved Capital Budget to the Warrant Committee, which shall make its recommendation to Town Meeting for adoption by the Town.

4. Such Capital Improvement Program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for survey, architectural or engineering advice, options or appraisals, but no such expenditure shall be incurred on projects which have not been so approved by the town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five (5) years in the future.

5. The Committee's report and the Selectmen's recommended Capital Budget shall be

published in the Town Report.

CHAPTER 5

THE CEMETERY

Section 1. The sole care, superintendence, management and control of the Cemetery shall be intrusted to a Board of five Trustees to serve for the period of five years; one of said Board shall retire and a new member be elected at each annual meeting of the Town.

Section 2. Citizens of Milton who are heads of families and have been residents of the Town not less than five years shall be entitled to lots in the Cemetery, allowing one lot to a family subject to these bylaws and the regulations of the Trustees, upon payment of the charges for putting the lot in order; but by unanimous consent of the Trustees the five years' residence requirement may be waived.

Section 3. The Trustees may sell lots, when and at such rates as they may deem advisable; provided that the rate shall not be less than two dollars a square foot, and the purchasers shall in some way be connected with Milton people.

Section 4. The proprietor of each lot shall cause to be erected, at his own expense, cornerstones, and a step with his name and the number of the lot inscribed on the same, and shall cause his lot to be kept in proper order; and if the proprietor shall omit for thirty days after notice to erect such landmarks and to keep the lot in order, the Trustees shall have authority to have the same done at the expense of said proprietor.

Section 5. No lot shall be used for any other purpose than as a place of burial for the dead, and no proprietor shall suffer the remains of any person to be deposited within the bounds of his lot for hire; nor shall any proprietor sell or transfer the whole or any part of his lot without the consent of the Trustees.

Section 6. If in the judgment of the Trustees any trees or shrubs in any lot shall become detrimental to the adjacent lots or avenues, or dangerous or inconvenient, it shall be the duty of the Trustees to enter upon said lot and to remove said trees and shrubs, or such parts thereof as are thus detrimental, dangerous or inconvenient.

Section 7. There shall be no structure or inscription placed in, upon, or around any lot which the Trustees shall deem offensive or improper; and it shall be the duty of the Trustees to remove all offensive or improper objects.

Section 8. The Trustees shall have the authority to purchase any tomb in the Cemetery offered for sale, paying the same such sums as, in their judgment, may be fair and reasonable.

They shall also have authority to give for any tomb a lot to be constructed on the land occupied by the tomb, or to be selected at some other point in the Cemetery grounds, as they may agree with the proprietor of the tomb. Should there be no living proprietors, or legal representatives of deceased proprietors, the Trustees may take possession of such Tomb, carefully remove its contents to a lot prepared for the purpose and erect over the remains a suitable memorial stone.

Section 9. The following regulations shall be posted within the Cemetery: -

1. All persons are prohibited from driving on the borders.

2. No horse shall be left upon the grounds without a keeper, unless fastened to posts provided for the purpose.

3. All persons prohibited from discharging firearms within the grounds of the Cemetery, except in connection with military memorial services.

4. All persons are prohibited from writing upon or otherwise defacing any sign, monument, fence, or other structure.

5. All persons are prohibited from gathering flowers, or breaking any tree, plant or shrub.

6. Dogs are not allowed within the Cemetery grounds.

CHAPTER 6

POLICE REGULATIONS

Section 1. No person shall move or assist in moving any building, over any way which the Town is obliged to keep in repair, without the written permit of the Selectmen being first obtained; nor having obtained such permit, without complying with the restrictions and provisions thereof.

Section 2. No person shall place or cause to be placed, upon any public way or sidewalk, any lumber, iron, wood, coal, trunk, bale, box, crate, cask, barrel, package or other thing, and allow the same to remain for more than one hour, or more than ten minutes after being notified by a police officer; provided that the provisions of this section shall not apply to the placing of ashes, refuse or garbage in proper receptacles for collection under public authority.

No person shall attach to a pag, barrel, container or any other receptacle placed for rubbish pickup and altered or otherwise invalid Town of Milton sticker. Any person who violates this section shall be punished by a fine of not less that thirty-five dollars and not more than three hundred dollars for each offense.

Section 3. Any person who intends to erect, repair or take down any building on land

abutting on any way which this Town is obliged to keep in repair, and desires to make use of any portion of said way for the purpose of placing thereon building materials or rubbish shall give notice thereof to the Selectmen. And thereupon the Selectmen may grant a permit in writing to occupy such portion of said way to be used for such purpose as in their judgment the necessity of the case demands and the security of the public allows; such permit in no case to be in force longer than ninety days and to be on such conditions as the Selectmen may require; and especially in every case, upon condition that during the whole of every night, from twilight in the evening until sunrise in the morning, lighted lanterns shall be so placed as effectually to secure all travellers from liability to come in contact with such building materials or rubbish.

Section 4. No person shall throw or place or cause to be thrown or placed, any ice or snow into or upon any public way in such a manner as to obstruct traffic or endanger travel upon the public way.

Section 5. Whoever, without the written permission of the Selectmen, shall place or cause to be placed in or upon any public way, or sidewalk, any ashes, dirt, rubbish or filth of any kind, or any animal or vegetable substance, shall forfeit and pay a sum not less than one dollar nor more than ten dollars for each offense.

Section 6. No person shall stand on any sidewalk or in any public place in such a manner as to obstruct a free passage for foot passengers, after having been requested by a police officer to move on. Any person who shall violate the provisions of this section shall forfeit and pay a sum not less than twenty-five dollars nor more than one hundred dollars for each offense.

Section 7. No person shall dig up or obstruct any portion of any way which the Town is obliged to keep in repair without the permit, in writing, of the Selectmen, nor, having obtained such permit, shall fail to comply with the conditions thereof; and in addition to any penalty to which he may be subjected under these bylaws for such failure, he shall reimburse the Town for all expenses and damages which, or for which, the Town may be compelled to pay by reason of such unauthorized use, or any failure to comply with said conditions.

Section 8. No person shall ride or drive any beast of burden, carriage or draught, or shall drive or propel or cause to be driven or propelled any bicycle, tricycle, motor vehicle or any vehicle whatsoever, in or over any crossing in any public way at such a rate of speed as to endanger the lives and safety of the public.

Section 9. No person shall permit any vehicle under his care or control to stand across any public way in such a manner as to obstruct the travel over the same for an unnecessary length of time; no person shall stop with any vehicle in any public way so near to another vehicle as to obstruct public travel; and no person shall stop with any vehicle upon or across any crossing in any public way.

Section 10. No person shall coast upon ice or snow upon any public way except one on which the Selectmen or Chief of Police by public notice permit such coasting and no person shall ride any animal or drive, wheel or draw any coach, cart, wheelbarrow, hand cart, velocipede,

bicycle, or any vehicle except children's carriages, or coast upon any sidewalk in the Town except that nothing in this section shall be construed to prohibit the Selectmen or Chief of Police from permitting the use of bicycles upon any sidewalk in the Town, outside business districts, which may by them be specifically designated for such use, provided public notice of such designation shall have been made in the interests of safety. Whoever violates the provisions of this section shall forfeit and pay a sum not less than one dollar nor more than ten dollars for each offense.

Section 11. Whoever shall behave in an indecent or disorderly manner, or use profane, indecent, or insulting language in or upon any sidewalk, public way, or other public place, to the annoyance or disturbance of any other person there being or passing in a peaceable manner, shall forfeit and pay a sum not less than twenty-five dollars nor more than one hundred dollars for each offense.

Section 12. Any person or persons who shall play or perform on any musical instrument, or sing, parade, march, or congregate in any public way or public place, except in connection with a funeral, without the written permit of the Selectmen shall forfeit and pay a sum not less than one dollar nor more than twenty dollars for each offense.

Section 13. Whoever shall be or remain on any doorstep, portico, or other projection from any house or building, or upon any wall or fence on or near any public way or public place, after being requested by the occupant of the premises or by any police officer to remove therefrom shall forfeit and pay a sum not less than twenty-five dollars nor more than one hundred dollars for each offense.

Section 14. No person shall throw stones, snowballs, sticks, or other missiles, or kick a football or play at any game in which a ball is used, or fly any kites or balloons in any public way.

Section 15. Whoever shall affix, by paste or otherwise, any handbill, placard, notice, or advertisement, or paint, draw or stamp the same, or any marks or figures, to or upon any sign board of the Town, or to or upon any building, fence, wall, tree or structure, without the permission of the owner of such building, fence, wall, tree or structure, shall forfeit and pay a sum not less than one dollar nor more than ten dollars for each offense; and if such handbill, placard, notice, advertisement, mark, or figure be obscene or indecent, the penalty shall be not less than twenty dollars for each offense.

Section 16. Whoever shall undertake to enter a particular drain into a common sewer without a permit in writing from the Sewer Commissioners or without complying with the conditions and directions of such permit, shall forfeit and pay a sum not exceeding ten dollars.

Section 17. Whoever shall lead or cause to be led into any public way, or running stream, any drain or pipe from any house or other buildings whereby filthy water or other unclean matter may be emptied into or upon any such public way or running stream; and whoever shall throw, lead or discharge of cause to be thrown, led or discharged, into any public way, or running

stream, any noxious or poisonous matter or substance, or any matter or substance which shall cause an offensive smell or odor, or which shall be destructive of, or injurious to, animal life, shall forfeit and pay a sum not less than five dollars nor more than twenty dollars.

Section 17A. Whoever shall throw or cause to be thrown into any brook or stream any substance, rubbish, debris or waste matter whatsoever which will obstruct or tend to obstruct, or alter or tend to alter the flow of water in such brook or stream, or which will pollute or tend to pollute or cause an offensive smell or odor in such brook or stream, shall forfeit and pay a sum not less than five dollars nor more than twenty dollars.

Section 18. The Selectmen may license hackney carriages or motor vehicles for the conveyance of persons for hire from place to place within the town, and they may revoke such licenses at their discretion, and a record of all licenses so granted or revoked shall be kept by the Selectmen.

No person shall set up, use or drive in the town any unlicensed hackney carriage or motor vehicle for the conveyance of passengers for hire from place to place within the town under a penalty not exceeding twenty dollars for each offense.

Licenses shall expire on the thirtieth day of April next after the date thereof, and shall not be transferred without the consent of the Selectmen endorsed thereon. For each license the sum of ten dollars shall be paid to the town treasurer for the use of the town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his license within ten days after notice that it has been granted.

The Selectmen may grant to the holder of a license under the preceding paragraphs of this section a license to use a certain portion of a public way as a carriage stand for the solicitation of passengers for hire and no person shall use any portion of any public way for such purposes without such license.

Any person who violates any of the provisions of this section shall be punished by a fine of not more than twenty dollars for each offense.

Section 19. No person shall distribute papers, circulars or advertisements through the Town or any portion thereof in such manner as to make a litter or otherwise cause public annoyance.

Section 20. No person shall fire, discharge, explode or set off any torpedo, firecracker or fireworks in such manner as to disturb the peace or quiet of any neighborhood. No person shall hunt or fire, discharge, explode or set off any firearm within the limits of any park, playground or other public property except with the consent of the Board of Selectmen or within the limits of any private property except with the consent of the owner or the lawful occupant thereof. With respect to firearms, this Section shall not prohibit the lawful defense of life or protection of property nor be applicable to any law enforcement officer acting in the discharge of his duties.

Section 21. No person shall willfully deface or injure any public playground, planting space, flower bed, tree, shrub or grass border.

Section 22.

A. No person shall own or keep a dog which by barking, biting, howling or in any other manner disturb the peace and quiet of any neighborhood or endangers the safety of any person.

B. The owner, keeper, parent or guardian of a minor owner or keeper of a dog shall not allow said dog to be off the premises of its said owner or keeper except:

1. in the immediate restraint and control of some person by means of a leash or by effective command, or
2. on the premises of another with the permission of such other.

C. Any violation shall be punished by a fine of $ 30.00 for the first offence, $40.00 for the second offense and $ 50.00 for the third offense. In addition, any violation shall permit the dog officer to order the dog restrained or to impound the dog. Return of the dog to the owner or keeper shall not be made until after the payment to the Town of the sum of $ 35.00 together with $ 10.00 for each day the dog is helf. Dogs impounded and unclaimed by the owner or keeper after ten (10) days shall, for a fee of $ 15.00 paid by the purchaser, be put up for adoption by the Dog Officer. There will be a fee of $ 25.00 payable by the owner for removal of dead animals from private property or emergency service for animals injured or after twenty (20) days shall be disposed of by the Dog Officer on the Monday or Tuesday after the expiration of the twenty (20) day period from the date of impounding.

D. 1. No dog shall be tethered to a stationary object for more than one (1) hour at a time.

2. Dogs shall be tethered to a stationary object with a tether which is manufactured specifically for dogs or which is made of a material with sufficient strength for that purpose, including without limitation coated steel cable. No dog shall be tethered to a stationary object with a material which may cause death or injury to a dog or which could become entangled around the body or limbs of a dog or could otherwise cause discomfort to a dog, including without limitation rope, clothesline or chain.

3. No dog shall be tethered to a stationary object with a tether which is less than five (5) times the length of the dog, measured from the tip of the dog's nose to the tip of the dog's tail.

4. No dog shall be tethered to a stationary object by a tether which is attached to a training collar on the dog's neck which, if the tether became tangled, could tighten, causing death, injury or discomfort to the dog.

5. No dog shall be penned in a space which is not large enough for the dog to move around comfortably. Each such pen shall meet the then current requirements for space as recommended by the Humane Society of the United States.

The minimum space requirements for such a pen shall be:

Number of dogs	Total weight of dogs less than fifty (50) pounds	Total weight of dogs fifty (50) pounds or more
1	6 feet x 10 feet (60 square feet)	8 feet x l0 feet (80 square feet)
2	8 feet x l0 feet (80 square feet)	8 feet x l2 feet (96 square feet)
3	8 feet x l2 feet (96 square feet)	l0 feet x l4 feet (140 square feet)

6. No dog shall be penned for more than four (4) hours at a time.

7. Any person who violates any provision of this Subsection D of Section 22 shall be punished by a fine of not less than twenty-five dollars ($25.00) and not more than two hundred dollars ($200.00) for each offense. Each day of such violation shall constitute a separate offense. Proof that a dog which is the subject of such a violation has been spayed or neutered shall be a basis for reduction of a fine.

Section 23. No person shall burn anything so as to emit noxious odors to the discomfort of the neighborhood.

Section 24. No person shall place or suffer to accumulate on his premises any refuse, animal or vegetable matter, rubbish or filth, whereby any offensive or noxious stench or effluvia shall be created so as to endanger the health or comfort of the neighborhood.

Section 25. The Selectmen may license suitable persons to be dealers in and keepers of shops for the purchase, sale, or barter of junk, old metals, or second-hand articles from place to place in the Town. They may also license suitable persons as junk collectors to collect, by purchase or otherwise, junk, old metals, and second-hand articles from place to place in the Town; and they may provide that such collectors shall display badges upon their persons, or upon their vehicles, or upon both, when engaged in collecting, transporting, or dealing in junk, old metals, or second-hand articles; and may prescribe the design thereof. They may also provide that such shops and all articles of merchandise therein, and any place, vehicle or receptacle used for the collection or keeping of the articles aforesaid, may be examined at all times by the Selectmen or by any person by them authorized thereto. The aforesaid licenses may be revoked at pleasure, and shall be subject to the provisions of law. Whoever violates any provision of this section shall forfeit and pay for each offense a fine not exceeding twenty dollars.

Section 26. The Selectmen may order numbers to be affixed to or painted on the buildings on any street in their discretion. The owner of every house shall comply with such order within thirty days thereafter. Whoever violates any provision of this section shall forfeit and pay for each offense a fine not exceeding twenty dollars.

Section 27. Except when otherwise provided by law, prosecutions from offenses under the bylaws of the Town may be made by any police officer of the Town.

Section 28. The Superintendent of Streets or other officer having charge of ways is authorized, for the purpose of removing or plowing snow or for removing ice from any way, to remove or cause to be removed to some convenient place including in such term a public garage any vehicle interfering with such work and said Superintendent of Streets or other officer having charge of ways is authorized to impose liability for the cost of such removal and of the storage charges if any resulting therefrom upon the owner of such vehicle.

Section 29A. No person, or organization, or corporation may sell any merchandise or services on any public park or playground, with the exception of the Town Landing, shown on the Town of Milton Assessors' maps as Section F, Block 11, Lot 1, nor erect or maintain a booth, stand, tent or apparatus of any kind for the purpose of a financial profit, after July 1, 1965.

Section 29B. Notwithstanding anything to the contrary in Section 29A of this Chapter 6, pursuant to a written permit issued by the Board of Park Commissioners (with respect to which the Board may impose a reasonable fee), any not-for-profit organization or corporation operating

for the purpose of providing athletic and/or recreational activities for citizens of the Town (herein a "Qualified Organization") may operate on a public park or playground in the Town of Milton a non-permanent concession selling food, non-alcoholic beverages and souvenirs relating to such Qualified Organization's athletic and/or recreational activities if (i) the prodeeds from such concession are utilized for the furtherance of the athletic and/or recreational purposes for which such Qualified Organization is operating (which could include, without limitation, maintaining, improving or equipping one or more public parks or playgrounds) and (ii) an annual accounting of such proceeds and the uses thereof is submitted by such Qualified Organization on an annual basis to the Board of Park Commissioners and the Town Accountant.

Section 30. No utility company shall install or construct, except by way of replacement or upgrading of existing facilities, any poles, overhead wires or associated overhead structures upon, along or across any public way within the Town of Milton. Any person violating this Section shall be punished as provided by General Laws, Chapter 166, Section 22C.

Section 31. No person shall sell, solicit or display goods, articles, wares or merchandise upon the public ways of the Town unless duly licensed to do so by first having obtained a written permit from the Board of Selectmen.

Section 32. It shall be unlawful for anyone to solicit from house to house for the sale of any articles or thing in the Town from sunset to sunrise on any day, or at any time on Sunday or any legal holiday.

Section 33. No person shall break or dig up the ground in any street or sidewalk for any purpose whatever nor construct a driveway in such a manner as to cause vehicles leaving or entering said driveway to pass over a public sidewalk, tree lawn or shoulder without first obtaining from the Board of Selectmen a permit, which permit may provide limitations, conditions or restrictions on the size and location of the opening or curb cut.

Section 34. Drinking or possession of alcoholic beverages, as defined in Chapter 138 of the Massachusetts General Laws, while in or upon any school building or school grounds, library grounds, park, playground, or other municipal building or land is prohibited. With respect to the use of Town of Milton property in accordance with a written lease agreement with the Town of Milton which has been entered into or amended after May 6, 2004, drinking or possession of alcoholic beverages may be permitted on the leased premises upon such terms and subject to such conditions as the Board of Selectmen shall determine. Whoever violates any provision of this section shall be fined an amount of not less than twenty-five dollars nor more than one hundred dollars for each offense.

Section 35. No person shall drink any alcoholic beverages as defined in Chapter 138, Section l of the Massachusetts General Laws while on, in or upon any public way or upon any way in which the public has a right to access or in any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person in control thereof. All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until final adjudication of the charge against the person

arrested or summoned before the court. Whoever violates any provision of this section shall be fined in an amount of not less than twenty-five dollars nor more than one hundred dollars for each offense.

Section 36. No person owning or operating a gasoline filling station shall allow the pumping of gasoline for retail sale without an attendant employed by the station present to hold the gas nozzle while gasoline is being pumped into the tank of the vehicle. No gasoline filling station shall be open for business in the Town of Milton between the hours of 11:00 P.M. and 6:00 A.M.

Section 37. No yard, garage, porch, or barn sale shall be held on any property in the Town of Milton without the property owner or occupant of said property first obtaining a permit from the Board of Selectmen. Not more than two yard, garage, porch, or barn sales shall be held by any property owner or occupant of said property within a one year period, but the Board of Selectmen may grant more than two permits per year to a religious, educational or other charitable organization.

Only articles and items owned by the property owner or occupant shall be sold at the yard, garage, porch, or barn sale, unless in the judgment of the Board the sole intent of the sale is to benefit a charitable organization located in the Town of Milton.

Each permit granted by the Board of Selectmen shall not be for more than two consecutive days of sale.

Signs will be permitted only on private property. No signs will be permitted on Town streets, on poles, trees or sidewalks. Signs may be erected no more than two days prior to the sale and must be removed no later than the day following the sale.

Section 38. A police officer may arrest without a warrant anyone who violates the provisions of Sections 34 or 35 of this Chapter.

Section 39. Burglar Alarm Systems

A. Definitions

PREAMBLE - It is determined that the number of false alarms being made to the Police Department hinder the efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and the police. The adoption of this bylaw will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Milton.

1. The term “Burglar Alarm System” means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire Alarm systems and alarm systems which monitor temperature, smoke, humidity or

any other condition not directly related to the detection of an unauthorized intrusion into a premise or an attempted robbery at a premise are specifically excluded from the provisions of this by-law. The provisions of Section C of this bylaw shall apply to all users.

2. The term "False Alarm" means (a) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents; (b) any signal or automatic dialing device transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary, or attempted threat. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

3. The term "Automatic Dialing Device" refers to an alarm system which automatically send over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

B. Control and Curtailment of Signals Emitted by Alarm Systems

1. Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Police Department, to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Milton Police Department of any changes in the list of authorized employees or other persons to respond to alarms.

2. All alarm systems installed after the effective date of this by-law which use an audible horn or bell shall be equipped with a device that will shut off such bell or horn within fifteen (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Milton must have a shut-off device installed within six (6) months of passage of this by-law.

3. Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 p.m. and 6 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (1) of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (1) of this section in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.

4. No alarm system which is designed to transmit emergency messages or signals of intrusion to the Police Department will be tested until the Police Dispatcher has been notified.

5. The provisions of this by-law shall not apply to alarm devices on premises

owned or controlled by the town, nor to alarm devices installed in a motor vehicle or trailer.

C. Penalties

1. The user shall be assessed twenty-five (25) dollars as a false alarm service fee for each false alarm in excess of three (3) occurring within a calendar year. The Police Chief shall notify the alarm user either by certified mail or by service in hand by a police officer of such violation and said user shall submit payment within fifteen (15) days of said notice to the Town Treasurer for deposit to the General Fund.

2. The owner of a system which occasions six (6) or more false alarms within a calendar year or fails to pay the fine after said notice may be ordered to disconnect and otherwise discontinue the use of the same by the Board of Selectmen after a public hearing.

Section 40. Water Supply Protection

A. Authority

This Bylaw is adopted by the Town of Milton under its home rule powers and its police powers to protect public health and welfare and the authorization conferred by the Massachusetts General Laws, including without limitation G.L. c. 40, S.2l and 2lD.

B. Purpose

The purpose of this Bylaw is to protect, preserve, and maintain the public health, safety and welfare whenever there is in force a state of water supply emergency by providing for enforcement of any duly imposed provisions, restrictions, requirements, or conditions imposed by the Town of Milton or by the Massachusetts Department of Environmental Protection and included in the Town's plan approved by the Department of Environmental Protection to abate the emergency.

C. Applicability

This Bylaw shall apply to all users of water supplied by the Town of Milton.

D. Definitions

For the purpose of this Bylaw:

enforcement authority shall mean the Milton Board of Selectmen or its designee, or any other Board or department having responsibility for the operation and maintenance of the Town's water supply, or its designee, the Milton Police Department, Milton Special Police, or any other board, commission or department of the Town of Milton which has police powers.

state of water supply emergency shall mean a state of water supply emergency declared by the

Department of Environmental Protection pursuant to G.L. c. 2lG, G.L. c. lll, S. l60, or by the Governor.

E. Following notification by the Town of Milton of the existence of a state of water supply emergency, no person or entity shall violate any provision, restriction, condition or requirement included in a plan approved by the Department of Environmental Protection which has as its purpose the abatement of a water supply emergency.

F. Penalty

Any person or entity who violates this By-Law shall receive a warning for the first violation and shall be liable to the Town of Milton in the amount of $50. for the second violation and in the amount of $l00. for each subsequent violation, which money shall inure to the Town of Milton for such uses as the Board of Selectmen may direct. Fines shall be recovered by indictment or on complaint before the District Court or by noncriminal disposition in accordance with MGL c. 40 S. 2lD. Each separate instance of noncompliance following the issuance of any warning or citation pursuant to this section shall constitute a separate violation.

G. Severability

The invalidity of any portion or provisions of this Bylaw shall not invalidate any other portion, provision or section.

Section 41. No Fouling of Public Areas

A. Duty to Dispose: It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street or other public area in the Town.

B. Duty to Possess Means of Removal: No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street, park or other public area without the means of removal of any feces left by such dog.

C. Method of Removal and Disposal: For the purposes of this bylaw, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces, unexposed to said person or the public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of canine feces, or as otherwise designated as appropriate by the Board of Health.

D. Enforcement: Enforcement of this bylaw may be a Town Police Officer, Animal Control Officer, agent of the Town's Board of Health, or any person designated by the Board of Selectmen.

E. Violation of this section shall be punishable as follows:

First offense: warning
Second offense: by a fine of $50
Third and each subsequent occurrence: $100

F. Exemption: This bylaw shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this bylaw, or to any individual who utilizes a guide dog.

CHAPTER 6A

SCHOOL TRAFFIC CONTROL

Section 1. There shall be a School Traffic Control Unit in the Police Department consisting of not less than five nor more than eighteen Special Police Officers appointed by the Board of Selectmen to serve at the pleasure of the Board. The duties of such special police officers shall be supervised by and be under the direction of the Chief of Police.

Section 2. Special Police Officers appointed under this Chapter shall be designated as School Traffic Supervisors and shall have all the power and authority of regular police officers in the enforcement of Chapter 90 of the General Laws and Acts and amendment thereof and in addition thereto, and of all other Laws and of the Bylaws of the Town relating to the operation, standing or use of vehicles.

CHAPTER 6B

TRAFFIC COMMISSION

Section 1. A Town Traffic Commission is hereby created.

Section 2. The Traffic Commission shall be composed of eight members as follows:

Chief of the Police Department
Chief of the Fire Department
Director of Public Works/Town Engineer
Director of Facilities, Milton Public Schools
Wire Inspector
Safety Officer, Police Department
Town Planner
Assistant Town Engineer

Section 3. The members of the Traffic Commission shall receive no compensation for

their services as commissioners, but all expenses incurred shall be paid by the Town out of an appropriation for such services.

Section 4. The Chief of Police shall act as the Chairman of the Traffic Commission.

Section 5. The Traffic Commission shall designate one of its members as Secretary. The Secretary shall arrange meetings, supply records, obtain data, prepare reports and attend to such other duties as shall be decided by the Traffic Commission.

Section 6. The Traffic Commission shall study the traffic situation in the Town and shall suggest and advise the Selectmen in ways and means to regulate traffic in the Town and recommend changes and amendments to the Traffic Rules and Orders of the Town with a view towards reducing accidents and relieving traffic congestion.

Section 7. All Bylaws, Traffic Rules and Orders, complaints or suggestions relative to traffic conditions in the Town shall first be submitted through the Secretary of the Traffic Commission to the Commission for study and recommendation before being acted on by the Selectmen.

CHAPTER 7

BUILDING DEPARTMENT

The Building Department functions are governed by the General Laws of the Commonwealth of Massachusetts

CHAPTER 8

TOWN WAYS

Section 1. Every way that shall be laid out for the acceptance of the Town as a town way shall be not less than fifty feet in width, provided, however, that upon written certification by the Planning Board, with respect to the layout of a particular way, that the requirement of a width of fifty feet will cause practical difficulty or unnecessary hardship, such way may be laid out less than fifty feet in width.

Section 2. If an existing private way the fee of which is in the abutters shall be laid out for the acceptance of the Town as a town way such way shall not be accepted unless and until the Selectmen shall have certified in writing that such way is well built, and as constructed it is equal to the average construction of existing highways of the Town; provided, however, that this section shall not apply to ways laid out subject to the provisions of law relating to the assessment of betterments and shall not apply to ways shown on plans approved by the Planning Board and constructed in accordance with rules and regulations of the Planning Board.

Section 3. Whoever cuts down or removes any tree or whoever tears down or destroys a stone wall or portions thereof in violation of the provisions of General Laws Chapter 40, Section 15C shall be fined $200. and shall also be ordered to restore the damaged property or forfeit to the Town the fair and reasonable charge for replacing said property.

CHAPTER 9

BILLBOARDS

Section 1. No person or corporation shall erect or maintain a billboard sign or other outdoor advertising device, except as provided in Section 32 of Chapter 93 of General Laws, on any location within three hundred feet of any public park or playground of Metropolitan Park or Parkway, if within public view from any portion of such parks, playgrounds, or parkways; or within three hundred feet of any other public way and within public view from any portion of the same, if such billboard, sign or device exceeds five feet in height or eight feet in length, and no billboard, sign or device placed within three hundred feet of any such public way and within public view shall be nearer than fifty feet to any other such billboard, sign or device; or at the corner of any public ways and within the radius of one hundred and fifty feet from the point where the center lines of such ways intersect; or in any place unless the lowest portion of such billboard, sign or device is at least three feet from the ground, and the entire structure, including its braces and supports, is maintained in good repair, painted, and free from accumulation of rubbish and filth and from the pupae, eggs and caterpillars of gypsy and brown-tail moths and other tree and shrub destroying pests; provided that this section shall not apply to signs or other devices which advertise or indicate either the person occupying the premises in question or the business transacted thereon, or advertise the property itself or any part thereof if for sale or to let.

CHAPTER 10

ZONING

Separate publication together with the Chapter 15 Wetlands

CHAPTER 11

PLANNING BOARD AND BOARD OF APPEALS

Section 1. A Planning Board is hereby established under the provisions of General Laws (Ter. Ed.), Chapter 41, Section 81A (Acts of 1936, Chapter 211) and any amendments thereto, with all the powers and duties therein and in any existing bylaws of the Town provided, to consist of five members to be elected by ballot at the annual Town Meeting in March, 1939, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years and thereafter in accordance with the provisions of

the statute.

Section 2. The existing Board of Appeals appointed from time to time pursuant to Chapter 7 of the General Bylaws (known as the Building Code) shall act as and by the Board of Appeals under Chapter 10 of the General Bylaws (known as the Zoning Bylaw), act as and be the Board of Appeals under General Laws (Ter. Ed.) Chapter 40A and amendments thereto (known as the Zoning Enabling Act), and act as and be the Board of Appeals under General Laws (Ter. Ed.), Chapter 41, Section 81Z and amendments thereto (known as the Subdivision Control Law).

CHAPTER 12
WATER COMMISSIONERS

The Board of Water Commissioners may from time to time, on such conditions as may be determined by the Board, receive from prospective developers of lands in the Town, respectively, sums of money sufficient, in the opinion of the Board, to cover the estimated expense to the Town, as certified by the Planning Board or such part thereof as is to be incurred by the Town, of constructing water mains with all appurtenances necessary or proper in private ways approved by the Planning Board under the provisions of General Laws (Ter. Ed.), Chapter 41, as amended by St. 1936, C2ll, or as otherwise amended such sums to be paid to the Town Treasurer to the Credit of the Town, each such sum to be held as a special fund marked with the name of the depositor and the way or ways to which the same is applicable, and subject to retention and appropriation by the Town for the purpose of reimbursing the Town for moneys expended in constructing water mains and appurtenances in the respective ways designated for the respective funds and for the return to the depositor of any unexpended balance as certified by the Board of Water Commissioners after completion of such water mains and appurtenances. If such deposit of estimated expense in any case is not sufficient for the work, the developer shall make deposit of a sufficient additional amount.

This bylaw shall be additional to and not in limitation of the powers otherwise vested in said Board of Water Commissioners.

* Voted March 13, 1971 under Article 14 to petition the Massachusetts Legislature to enact legislation to permit the Board of Selectmen to serve as Water Commissioners effective March 5, 1972. Chapter 319, Sections 1 and 2 of the Acts of 1971. Approved May 20, 1971.

CHAPTER 13

PERSONNEL ADMINISTRATION

Section I. Enabling Laws

By virtue of authority established under General Laws, Chapter 4l, Section l08A and l08C as amended, and all other acts thereto enabling, there is hereby established a plan pertaining to wage and salary determination and personnel administration of the Town to be known as the Personnel Administration Plan, and sometimes hereinafter referred to in this Chapter as the

"Plan."

Section II. Application Coverage

All Town departments and positions in the Town service for which compensation is paid (whether full-time, part-time, seasonal, casual, special, Civil Service or others) shall be considered as being within the scope of coverage unless otherwise stated, and shall be subject to, and have the benefits of this Chapter with the following exceptions and/or limitations:

A. In conformance with Chapter 4l, Section l08, of the General Laws, as amended, salaries paid to elected Town Officials shall be established annually by vote of the Town. The Personnel Board shall, however, maintain the required records to properly evaluate the worth of such service, and on request, shall make recommendations as to equitable salaries for these positions.

B. Positions under the direction and control of the School Committee in conformance with Chapter 4l, Section l08A, of the General Laws, as amended, shall not be included unless such inclusion shall be at the specific request of the School Committee.

C. Youth Department

l. A Town Youth Department is hereby established.

2. The head of the Youth Department shall be the Youth Coordinator who shall be appointed annually by the Board of Selectmen.

D. Town Office and Library Buildings Department

1. A Town Office and Library Buildings Department is hereby established.

2. The head of the Town Office and Library Buildings Department shall be the Superintendent of the Town Office and Library Buildings who shall be appointed annually by the Board of Selectmen.

Section III. Administration (General)

A. Personnel Board

1. Appointment Procedure

There shall be a Personnel Board, consisting of five (5) unpaid members, each of whom shall be appointed by the Moderator for a term of five (5) years, beginning the first day of June in the year of appointment. Terms of service shall be so arranged that the term of one (1) member expires each year. Every member shall serve until his successor has been appointed. There shall be a Chairman of the Board, designated by the Moderator each year and he shall hold office for one (1) year beginning on the first day of June and until his successor is appointed.

Vacancies in the membership of the Board shall be filled by the Moderator to cover the unexpired term of the vacated member. In the event of a vacancy in the office of Chairman, the members of the Board shall elect a Chairman to serve until the next first of June.

2. Board Membership

No Board members shall be in a paid service of the Town, either elected, appointed or hired.

B. General Administration Authority of Personnel Board

The Personnel Board shall administer the provisions of this Chapter and shall determine all questions arising thereunder. The Personnel Board shall, from time to time, establish rules for the administration of the Plan and the conduct of its affairs not inconsistent with this Chapter, and may at any time amend or revoke the same. Such rules shall include specifications for minimum requirements of every classified position and no person shall be employed by the Town, unless in the opinion of the Personnel Board, such person meets said requirements. A majority of the Board shall constitute a quorum. Within its appropriation the Personnel Board may employ such personnel and incur such expenses as it deems necessary. The Personnel Board shall from time to time review the work of all positions covered by the Plan and the salary schedules provided in the Plan.

The plan shall not be amended except at Annual Town Meetings, but the Personnel Board may add positions, abolish positions, or reclassify positions in the Plan, and so far as permitted by law, change salary rates, all such action to be effective until the final adjournment of the next Annual Town Meeting.

The Personnel Board shall make an annual report in writing to the Town on or before July first of each year.

C. Records and Information

The Personnel Board shall maintain adequate records, including detailed Personnel records of all employees. Each department, committee and board of the Town shall, in accordance with procedures prescribed by the Personnel Board, furnish the Board with all facts, figures and other information pertaining to the employees of the Town under their respective jurisdiction, as the Personnel Board shall require.

Section IV. Wage and Salary Determination

A. The Plan

A classification and compensation plan utilizing clearly defined formal evaluation procedures and a consideration of general current wage levels, as a basis for determining

equitable rates of compensation is hereby established. The Plan requires the maintenance, on a certain basis, of accurate and detailed descriptions of job or position requirements, the proper evaluation of same through the use of job and Staff Evaluation provided herewith and their classification into job and salary grades.

B. Current Classifications and Compensation Values

All positions are hereby classified into groups or grades which represent substantially similar over-all requirements, as evaluated, in accordance with the the classification and compensation plan procedures indicated in Section IV - A above. These values are contained in Salary and Job Schedules attached hereto and made a part hereof. These schedules include minimum and maximum wage and salary rates, with intermediate step-rate increases, and reflect the value of specific services as currently performed and in accordance with detailed descriptions contained in supporting records. It shall not be a requirement to include the current schedule of weekly employee pay rates in a warrant article which seeks to amend the Salary Schedule of the Personnel Board Pay Plan.

C. Installing the Plan

No present employee's wage or salary or paid vacation shall be reduced as a result of the installation of this Plan. Any existing rates of present employees above the maximum shall become Personal Rates and shall apply only to the present incumbent. Such rates are not subject to general increases until such time as these rates conform to the Grade Value as currently indicated in the Compensation Plan. When the incumbent leaves the employ of the Town, or is transferred to another position which carries a higher rate than his Personal Rate, or voluntarily changes to another position, the Personal Rate shall disappear. No other employee assigned to or hired for the position shall advance beyond the maximum of the job.

D. Operating the Plan

1. Job and Position Descriptions

The Personnel Board shall maintain up-to-date descriptions for each job or position in the Plan, describing the specific duties, requirements and characteristics of each, in sufficient detail as to make available the necessary information to insure a fair evaluation and/or re-evaluation. These descriptions shall not be interpreted as being a complete or limiting definition of job requirements and it is expected that the employee will perform any duties assigned by those delegated to supervisory functions.

2. Job and Position Evaluation and Re-evaluation

As new jobs or positions are added to the Plan, or as changes take place in the specific

requirements of those already evaluated, they shall be evaluated in accordance with the established procedures to determine the grade or change in grade, if any, resulting from such evaluation.

3. Changes of Grade

An employee advancing to a higher grade shall start at the lowest step in the new grade which does not reduce his compensation, provided, however, that the Personnel Board may start such employee in a higher step than prescribed when it concurs with the opinion of the Department Head that special circumstances warrant such action.

4. Step Rate Advances:

Employees may be advanced by merit increases within their salary grade, one step each year as of July first, until the maximum is reached. A new employee may be eligible to advance on July first to the next higher step of his grade if he has been in continuous town employment for at least three (3) months. If the employee has not been so employed for at least three (3) months, the employee shall not be eligible for advancement until the second July first after employment. Every increase shall be made on the basis of merit only, upon the recommendation of the Department Head and with the approval of the Personnel Board. Where differences may exist, the employee may be granted a hearing for the purpose of receiving a clarification of the basis or decision in this area.

5. Classification of New Employees

The Personnel Board shall be notified of all requisitions for persons to fill positions or perform duties, subject to the compensation plan and shall advise upon the appropriate classification to which such person shall be assigned. No new employees shall start work, receive wages or receive compensation in any form without the prior approval of the Personnel Board, or, for seasonal employees without the prior approval of the Chairman of the Personnel Board. Persons who have resided in the Town for one year immediately prior to the date of the filing of the requisitions to fill a position shall be granted a preference to be hired for said position ahead of persons who have not so resided. The Personnel Board may waive this requirement in any case where the appointing authority furnishes written reasons which the Board deems sufficient.

6. Hours of Employment

The base used in establishing each evaluated rate of compensation is the hour. Normal hours of employment are thus made a part of the salary and job grade schedules attached hereto. Deviation from these normal hours after forty hours/week, with the exception of the Fire Department whose normal work week is forty-two hours, becomes the basis for overtime consideration except as otherwise stated. It is to be assumed that all work hour schedules will be determined with a consideration of all laws affecting hours of employment. For services rendered beyond forty hours in any one week, or forty-two hours in the case of the Fire Department, overtime may be paid up to one and one-half times the regular rate of pay, time off equal to the overtime served may be granted, or such extra pay and time off may be combined to compensate for the overtime hours. The payment of overtime to Heads of departments and other employees will be determined under federal and state wage and hour laws.

The Personnel Board shall have the authority to allow a work schedule for individual employees which provides for work between hours other than 8:30 a.m. to 5:00 p.m., provided that the Personnel Board determines that such a schedule is in the best interests of the Town of Milton.

7. The Personnel Board shall establish policies and procedures governing fringe benefits to be granted to employees who are covered by this Chapter, including without limitation paid holidays, vacations, sick leave, paid leave for jury duty or for military duty, retirement, extra compensation for extended service, bereavement leave, accumulated sick leave, personal days and maternity-adoption leave. Such fringe benefits shall comply with applicable requirements of federal law and Massachusetts law. The Personnel Board shall maintain written records of all fringe benefit policies and procedures.

Section V. Miscellaneous General Provisions and Policies

A. The number of persons employed by the Town temporarily or otherwise shall not be increased without the approval of the Personnel Board.

B. No head of Department receiving compensation from the Town shall at any time engage in private work which has or could have any relation to Town affairs.

C. Employees shall not receive compensation by way of salaries, wages or fees from more than one department, Board or Committee unless otherwise provided for in this Plan, or unless such compensation is approved by the Personnel Board.

D. Provisions in this Chapter requiring or authorizing payments of compensation are in every case subject to appropriations being made, from time to time, by Town Meetings unless such payments are otherwise authorized by law.

E. If any provision of this Plan shall conflict with any Civil Service Law or any other law presently or hereinafter in force, such a provision of this Plan shall be deemed modified, but only to the extent required to conform to law.

F. The invalidity of any section or provision of this Chapter shall not

invalidate any other section or provision thereof.

G. All Personnel Bylaws referring to regular part-time employees' proportionate benefits will be calculated based on the number of part-time hours worked per week as compared to the number of full-time hours worked per week within the same position classification.

Section VI. Grievance Procedure

There shall be a grievance procedure available to those employees of the Town whose positions were removed from Civil Service under Article l2 of the Warrant of the l978 Annual Town Meeting. As used in this section, the word "grievance" shall be construed to mean a dispute between an employee and his supervisor(s) concerning discharge, removal, suspension, layoff, transfer, or reduction in compensation or rank. Only employees who have completed a six month probationary period shall be eligible to file a grievance.

Step I. The employee shall take up his grievance orally with his immediate supervisor who shall reach a decision and communicate it orally to the employee within three (3) working days from the date on which the incident giving rise to the grievance has occurred.

Step II. If the grievance is not settled at Step I, the employee shall within five (5) working days thereafter present his grievance in writing to his supervisor who shall forward it to the department head who shall hold a hearing within five (5) working days. Within five (5) working days of the hearing the department head shall render his decision in writing to the employee.

Step III. If the grievance is not settled at Step II in those cases where the department involved is under the jurisdiction of a Board or Commission, the grievance shall be reviewed by said Board or Commission. Within ten (10) working days of the hearing, the Board or Commission shall render its decision in writing to the employee.

Step IV. If the grievance is not settled at Step III, all records and facts in the case shall be referred to the Personnel Board for adjudication. If the Personnel Board finds that the action of the supervisor was justified, such action shall be affirmed, otherwise the action relating to the employee may be reversed and/or modified and the grievant may be returned to his position with or without loss of compensation. Within ten (10) working days of the hearing the employee shall be notified in writing through the department head as to the decision of the Personnel Board which shall be final.

This Bylaw shall take effect upon the enactment of the aforementioned legislation.

The foregoing Chapter 13 entitled "Personnel Administration" was first added to the General Bylaws as voted under Article 8 of the warrant of the 1956 Annual Town Meeting.

CHAPTER 14

COUNCIL ON AGING

Section 1. Council on Aging is hereby established for the purposes and with the rights and duties provided by General Laws Chapter 40, Section 8B.

Section 2. Said Council shall consist of nine members appointed by the Selectmen for terms of three years, except that the initial appointments shall be three members for one year, three members for two years, and three members for three years.

CHAPTER 15

WETLANDS

Separate publication together with Chapter 10-Zoning

CHAPTER 16

ACCESS TO TOWN PROGRAMS AND SERVICES

Section 1. The purpose of this bylaw is to make reasonable accommodations to all citizens of the Town of Milton by improving access to town government programs and services.

Section 2. All public meetings held under the authority of the Town of Milton, its boards, committees, commissions, departments, offices or other bodies, shall be held in locations which are wheelchair accessible to the public.

Section 3. In any proceeding before a board, committee, commission, department, office or other body of the Town of Milton, involving a hearing-impaired person, such body shall appoint a qualified interpreter to interpret the proceedings, unless such hearing impaired person knowingly, voluntarily and intelligently waives in writing the appointment of such interpreter.

In no event shall the failure of a deaf or hearing-impaired person to request the appointment of an interpreter constitute a waiver of such appointment.

Section 4. Upon written request, the Town of Milton shall provide access to written material

produced by any Town of Milton board, committee, commission, department, office or other body including without limitation the annual reports, for the purpose of recording by a representative of the person making the request on audio-cassette tape for the visually impaired, at the expense of the person making the request.

Section 5. All Town boards, committees, commissions, departments, offices or other Town bodies shall make a good faith effort to submit to radio and print media notice of municipal events such as recreational activities, public meetings, public health, school programs and employment opportunities for publication as public service announcements at no cost to the Town.

Section 6. Failure to follow the procedure set forth in this bylaw shall not invalidate any action taken at any such public meeting.

CHAPTER 17

FIRE ALARM SYSTEMS AND FALSE ALARMS

Section l. Definitions

For the purposes of this chapter the following terms shall have the following meanings:

(a) Fire Alarm System - An assembly of equipment and devices or a single device, such as a solid state unit which plugs directly into an AC line, arranged to signal the presence of a hazard or emergency requiring urgent attention and to which the Milton Fire Department is expected to respond, including, but not limited to, systems which monitor temperature, smoke, humidity or any other conditions indicating a fire emergency.

b) False Alarm

1. The activation of a fire alarm system by an agency other than a bona fide hazard or emergency of a type which the system is designed to warn against. For the purposes of this section, activation of a fire alarm system by acts of vandals, by acts of God, including, but not limited to, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances or power failure shall not be deemed to be a false alarm. For the purposes of this section, a vandal is defined as a trespasser and does not include the owner, the owner's agents, and lawful occupants of the premises containing the fire alarm system.

2. Any signal, telephonic or oral communication transmitted to the Fire Department requesting, requiring, or resulting in a response on the part of the Milton Fire Department to any premises or location in the absence of any bona fide hazard or emergency.

(c) Bona Fide Hazard or Emergency - a situation in which a threat to life, limb, health or property in fact exists, or a situation in which the person requesting or requiring a response on the a part of the Milton Fire Department has reasonable cause to believe such a threat exists.

(d) User

1. The owner, occupant, or person in charge in charge of the premises containing a fire alarm system, and their agents.

2. A person transmitting any signal, telephonic or oral communication requesting, requiring, or resulting in a response on the part of the Milton Fire Department to any premises or location.

(e) Chief - The Chief of the Milton Fire Department, the senior fire officer in charge of said department, or the designee of said Chief or senior officer.

Section 2. Curtailment of Signals Emitted by Fire Alarm Systems

(a) Every user shall submit to the Chief the names, addresses and telephone numbers of the owner, occupant and person in charge of the premises, and the names, addresses and telephone numbers of at least two (2) other persons who can be reached at any time during the day and night and who are authorized to respond to an emergency signal transmitted by a fire alarm system and who can open the premises wherein the fire alarm system is installed. The names, addresses, and telephone numbers of the responders must be kept current at all times by the user.

(b) All fire alarm systems employing an audible horn, siren, or bell shall be equipped with a device that will shut off such horn, siren or bell within fifteen (15) minutes after activation of the system or as the Chief directs.

(c) All users must notify the Chief in advance of any testing of a fire alarm system. Failure to notify the Chief in advance of such testing shall constitute a false alarm.

Section 3. Registration and Permits

(a) All existing fire alarm systems shall be registered with the Chief within thirty (30) days of the effective date of this chapter. All fire alarm systems newly installed after the effective date of this chapter shall be registered with the Chief within fourteen (14) days of the date of installation.

(b) Any user shall be required to obtain from the Chief a permit to install or alter a fire alarm system. The Chief may require that a re-set box be installed on the exterior of a building containing a fire alarm system.

Section 4. Orders of the Chief; False Alarm Service Fee; Penalties

(a) Upon receipt of three (3) or more false alarms from the same fire alarm system or user within a calendar year, the Chief may, in writing, order:

1. That the user discontinue the use of the fire alarm system.

2. That any direct connections to the Milton Fire Department be discontinued.

3. That any further connection to the Milton Fire Department be contingent upon the user equipping the fire alarm system with a device that will shut off any audible horn or bell within fifteen (15) minutes after activation of the system or as the Chief directs.

(b) The user shall be assessed a false alarm service fee of one hundred ($100.00) dollars for each false alarm in excess of three (3) occurring within a calendar year. The Chief shall notify the user by mail or by service in hand that an alarm has been determined to be a false alarm, or that a false alarm service fee has been assessed. All fees assessed hereunder shall be paid within fifteen (15) days of said notice to the Town Treasurer and Collector for deposit in the general fund, unless said assessment is rescinded by the Chief after review.

(c) Any user violating Section 3(b) above after receiving from the Chief due notice of said violation, or violating a written order issued by the Chief under paragraph (a) of this section shall be subject to a fine of fifty ($50.00) dollars per day for each day of violation. Each day of violation shall be considered a separate offense. Users of existing fire alarm systems will have six months after adoption of this chapter to bring their premises up to code.

(d) Any user receiving a written order under paragraph (a) of this section, or receiving a notification under paragraph (b) of this section, shall be entitled to a hearing for the purpose of reviewing the correctness of such order or notification. Said review hearing shall be conducted by the Chief upon a written request delivered to the Chief within seven days of receipt of such order or notification.

Section 5. Applicability

The provisions of this chapter shall not apply to fire alarm systems on premises owned or controlled by the Town.

CHAPTER 18

PARK AND RECREATION REVOLVING FUND

SECTION 1: A Park and Recreation Revolving Fund is hereby established under the provisions of Chapter 44, Section 53D.

SECTION 2: The continued use of this fund shall be subject to annual authorization by a vote of the Annual Town Meeting.

CHAPTER 19

BOARD OF HEALTH

1.) The fee for each original or renewal license for a recreation camp for children, shall be fifty dollars ($50.00)

CHAPTER 20

CHIEF OF POLICE

Section 1 - Upon the occurrence of a vacancy in the office of police chief, the Board of Selectmen shall appoint a committee of six persons to be called the "Police Chief Screening Committee" (hereinafter the Committee) which shall be comprised of (a) the Executive Secretary of the Board of Selectmen; (b) a member of the Personnel Board; (c) a current sworn member of the Milton Police Department; and (d) three residents of the Town not in a paid service of the Town, either elected, appointed or hired, at least one of whom shall have had substantial experience in law enforcement or a related field. The Board of Selectmen shall fill vacancies on the Committee as they may occur. The Committee shall make all decisions by majority vote, including the election of the Committee Chair. No person appointed to the Committee shall be eligible for appointment to the then current vacancy in the office of police chief. The Committee shall be dissolved upon the swearing in of the newly chosen police chief.

Section 2 - Upon their appointment, and except in the situation described in the next paragraph herein, the Committee shall review applications for the office of police chief only from persons who satisfy the following requirements on the date of application for the position of police chief: (a) having at least eight years of experience in law enforcement work; and (b) currently serving as a sworn member of the Milton Police Department in the permanent rank of sergeant or lieutenant with at least one year of prior service in either rank.

In the event the Committee shall receive a publicly-announced first application deadline, fewer than six applications from persons fulfilling both requirements (a) and (b) as set forth in the previous paragraph, then the Committee shall review such applications already received from permanent sergeants and/or lieutenants of the Milton Police Department, together with applications from any other currently serving sworn members of the Milton Police Department (whether in the permanent rank of patrolman, sergeant, or lieutenant) having at least eight years of experience in law enforcement work and who submit applications for the position of police chief by a publicly-announced second application deadline.

Section 3 - The Committee may, at their discretion, and subject to appropriation, employ the services of professional search consultants. In examining the qualifications of applicants, the Committee shall apply the following criteria (in addition to other reasonable criteria deemed appropriate by the Committee): (a) the results of a written examination or other assessment of leadership ability and management skills administered by a qualified testing agency or company recommended by the Committee and selected by the Board of Selectmen; (b) educational credentials; (c) experience in law enforcement and related fields; and (d) familiarity with problems of law enforcement in the Town of Milton. The Committee may interview as many of such applicants as the Committee deem necessary to form reasoned judgments.

Section 4 - Upon completion of the process required under Sections 2 and 3, the Committee shall select three qualified finalists, prepare a written analysis of each, and forward a list of such qualified finalists to the Board of Selectmen. In the event one or more of said qualified finalists withdraws from consideration at any time prior to the swearing in of the newly chosen police chief, the Committee shall upon a request of the Board of Selectmen, select and forward as recommended additional qualified finalists, equal in number to those finalists having withdrawn, to be added to the list of recommended finalists. In seeking additional qualified finalists, the Committee may reconsider applications already submitted and may set additional deadlines for late applications to be considered. All said additional qualified finalists must meet the requirements of Section 2.

Section 5 - The Board of Selectmen shall investigate the qualified finalists recommended by the Committee and shall choose the police chief from the list of qualified finalists recommended by the Committee. The Committee and the Board of Selectmen shall conduct this selection process in an expeditious manner.

CHAPTER 21

Stormwater Management

SECTION 1. PURPOSE

The purpose of this Bylaw is to: implement the requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the U.S. Environmental Protection Agency; protect the public health, safety, and welfare of Milton residents; protect the natural resources, water bodies, groundwater resources, environment, and municipal facilities of the Town; satisfy the appropriate water quality requirements of the Federal Clean Water Act; eliminate and prohibit illicit connections and discharges to the Municipal Storm Drain System of the Town; eliminate or reduce the adverse effects of soil erosion and sedimentation as a result of land disturbing

activities; and manage stormwater runoff to minimize adverse impacts to the Town, its citizens, and the environment.

Chapter 21 is adopted under authority granted by the Home Rule Amendments of the Massachusetts Constitution, the Massachusetts Home Rule statutes, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34. The provisions of Chapter 21 apply to all property owners in the Town.

The Department of Public Works (DPW) shall administer, and the Board of Selectmen shall enforce Chapter 21. Any powers granted to or duties imposed upon the DPW or the Board of Selectmen to promulgate rules and regulations shall not have the effect of suspending or invalidating this Bylaw.
The DPW may promulgate rules and regulations to effectuate the purpose of this Bylaw. The Board of Selectmen shall approve such rules and regulations after a public notice in a newspaper of general circulation and a public hearing. Failure to promulgate such rules and regulations or a determination of their invalidity by final order or of a court of competent jurisdiction shall not have the effect of suspending or invalidating Chapter 21.

SECTION 2. DEFINITIONS
Unless otherwise defined in this section, the terms in this Chapter correspond to definitions found in the Federal Clean Water Act (33 U.S.C. section 1251 et seq.) and the General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems issued by the U.S. Environmental Protection Agency.

The following definitions apply to this Chapter:

(a) Applicant - The property owner.
(b) Clean Water Act - The Federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.) as it is amended from time to time.
(c) Clearing - Any activity that removes the surface cover from land and exposes soil to the potential influence of stormwater.
(d) Illicit Connection - A surface or subsurface drain or conveyance which allows an illicit discharge into a storm drain, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously constructed, permitted, or approved before the effective date of this Bylaw.
(e) Illicit Discharge - Direct or indirect discharge to the storm drain that is not composed entirely of stormwater, except as exempted in Section 3.
(f) 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.
(g) Project - A Land disturbance conducted on either a single property or multiple properties as part of a single proposal (e.g., residential subdivision).
(h) Stormwater - A Runoff from rain, snowmelt, or stream of water, including a river, brook

or underground stream.

SECTION 3. APPLICABILITY

This Chapter applies to all property owners that undertake Projects that discharge or propose to discharge stormwater off their property into the Municipal Storm Drain System of the Town of Milton. This Chapter also applies to property owners that have an Illicit Discharge into the Municipal Storm Drain System of the Town of Milton. To the extent a Project is required to obtain approval from the Milton Conservation Commission pursuant to the Wetland Protection Act (MGL Chapter 131, Section 40) the provisions of this Chapter do not apply.

The following discharges are exempt from this Chapter:

(a) DPW ice and snow control operations;
(b) Flow resulting from fire fighting activities;
(c) Natural flow from riparian habitats and wetlands;
(d) Dye testing, provided verbal notification is given to the DPW prior to the time of the test;
(e) Non-stormwater discharge permitted under an NPDES permit administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and,
(f) Projects that commenced prior to the effective date of this Bylaw provided they are completed within one year from such effective date.

The following discharges are exempt from Chapter 21 provided they do not significantly increase pollutant loads to the Municipal Storm Drain System:

(g) Waterline flushing;
(h) Flow from potable water sources;
(i) Uncontaminated groundwater or uncontaminated pumped groundwater;
(j) Water from exterior foundation drains, footing drains, crawl space pumps, or air conditioning condensation;
(k) Water from sump pumps and other pumps that remove floodwaters from basements;
(l) Water discharge from irrigation or watering of lawns, trees, landscaping, and gardens;
(m) Water from property management activities including washing walkways, patios, house siding, windows, vehicles garaged at that property, or similar property management activities;
(n) Discharge from de-chlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance.

SECTION 4. STORMWATER MANAGEMENT REQUIREMENTS

All Projects shall prevent the discharge of polluted stormwater to the Municipal Storm Drain System of the Town. Projects involving either clearing of more than 7,500 square feet of land or stockpiling more than 100 cubic yards of excavate or fill shall:

(a) Notify DPW in writing of the date and nature (including a sketch) of the proposed project at least 30 days prior to commencement of site clearing or stockpiling activities;
(b) Implement measures to prevent the offsite discharge of sediment;
(c) Control wastes to prevent discharge of stormwater contacting the wastes;
(d) Implement other stormwater management measures at the direction of the DPW;
(e) Implement a program of inspection and maintenance to ensure proper operation of stormwater management measures; and,
(f) Provide additional stormwater-related information at the request of DPW.

In addition to the requirements of subparagraphs (a) through (f), Projects clearing more than one acre of land or stockpiling more than 1000 cubic yards of excavate or fill shall also prepare and submit to DPW for approval an Erosion and Sedimentation Control Plan including the following elements:

(g) Name, address and telephone number of the owner and person responsible for implementation of the plan and for proper inspection and maintenance of erosion and sedimentation controls;
(h) One or more plans depicting property lines, existing and proposed topography in one-foot increments, boundaries of wetlands and natural or artificial water storage or conveyance structures, and location of all existing and proposed buildings and impervious surfaces;
(i) A narrative description of proposed erosion control measures and sedimentation control measures;
(j) Location and design details of erosion and sediment control measures proposed to prevent off-site sediment transport during construction;
(k) A locus map showing the site in relationship to the surrounding area's watercourses, water bodies and other significant geographic features, and roads and other significant structures;
(l) A plan showing the extent of clearing, construction equipment access and storage areas, and material laydown and soil stockpile areas;
(m) A construction schedule including estimated dates for initiation and completion for such tasks as clearing and grading, construction of utilities and infrastructure, construction of buildings, and final grading and landscaping; and,
(n) A written program of documented inspections of stormwater management systems and a corrective action program for identified deficiencies.

In addition to the requirements of subparagraphs (a) through (n), Projects clearing more than one acre of land shall prepare and submit to DPW for approval a Stormwater Management Plan prepared by a Registered Professional Engineer or a Registered Land Surveyor, including the following elements:

(o) Drainage area map showing drainage area and stormwater flow paths;
(p) Location of all existing and proposed stormwater utilities including structures, pipes, swales and detention basins;
(q) Topographic survey showing existing and proposed contours in one-foot intervals;
(r) Soil permeability data for areas where infiltration stormwater management systems will

be installed;

(s) Description of all watercourses, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
(t) Delineation of 100-year floodplains, if applicable;
(u) Groundwater levels at the time of probable high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
(v) Location of any existing and proposed easements to be used for stormwater management;
(w) Calculations necessary to prove that the project will not increase peak stormwater flows off site;
(x) A narrative description of proposed measures for permanent management and treatment of stormwater;
(y) Structural details for all components of the proposed drainage systems and stormwater management facilities; and,
(z) A written program of documented inspections and maintenance of the stormwater management systems and a corrective action program for identified deficiencies.

All projects subject to this Bylaw shall comply with the Stormwater Management Policy of the Massachusetts Department of Environmental Protection. The DPW may require any additional information or data which is reasonably necessary to review compliance with this Chapter.

SECTION 5. APPLICATION & REVIEW PROCEDURES

The Applicant shall file with the DPW two (2) copies of plans required under Section 4 on forms specified by the DPW. Within 30 calendar days after receiving such plans, the DPW shall, in writing:

(a) Approve the plans as submitted and issue a permit;
(b) Approve the plans subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Chapter, and issue a permit subject to these conditions;
(c) Disapprove the plans, specifying the reason(s) and procedure for submitting a revised application and/or submission; or
(d) Request additional information or data.

Failure of the DPW to act on an original or revised plan within 30 calendar days of receipt shall authorize the applicant to proceed in accordance with the plan as filed unless such time is extended by agreement between the applicant and the DPW.

SECTION 6. ENFORCEMENT

The Board of Selectmen or an authorized agent of the Board of Selectmen shall enforce this Bylaw and any regulation, decision, permit or order issued under this Bylaw and may pursue all civil and criminal remedies for such violations. Any property owner who violates any provision of this Bylaw, or of any regulation, decision, permit or order issued pursuant to this Bylaw shall be punished by a fine of not more than $25. Each day or portion thereof during which a violation continues shall constitute a separate offense. If the property owner violates more than one provision of this Bylaw or any condition of an approval issued hereunder, each provision, or condition, so violated shall constitute a separate offense.

If in the estimation of the Board of Selectmen, corrective work is required to protect the environment, and the property owner fails to perform said corrective work within a reasonable period of time as set by the Board of Selectmen, the Board of Selectmen may order the same to be performed by a party to be determined by the Board of Selectmen. The property owner shall be required to reimburse the Town for all costs incurred. These costs will be in addition to the fines described above.

This Bylaw may be enforced pursuant to Massachusetts General Laws. Ch. 40, Sec. 21D by a Town police officer or other officer having police powers. Fines issued and costs assessed by the Board of Selectmen shall constitute a municipal lien upon the property and shall accrue interest as provided by applicable law. Upon request of the Board of Selectmen, Town Counsel shall take legal action as may be necessary to enforce this Bylaw and permits issued pursuant to it. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Selectmen, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties and may make or cause to be made such examinations, surveys or sampling as the Board of Selectmen deems reasonably necessary. The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.

SECTION 7**.** SEVERABILITY
The provisions of Chapter 21 are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any property owner, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of said bylaw, to the extent permitted by law.

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CHAPTER 22
DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS.

1. **Intent and Purpose**

This Chapter is adopted for the purpose of protecting the historic and aesthetic qualities of the Town of Milton by preserving, rehabilitating or restoring whenever possible, buildings which constitute or reflect distinctive features of the architectural or historical resources of the town, thereby promoting the public welfare and preserving the cultural heritage of the community.

2. **Definitions**

For the purposes of this Chapter 22, the following words and phrases shall have the following meanings:
Commission: The Milton Historical Commission
Commissioner: The Building Commissioner of the Town of Milton
Demolition permit: A permit issued by the Commissioner for demolition or removal of a building.
Historically significant building: Any building which is (a) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic, or social history of the Town of Milton, the Commonwealth of Massachusetts or the United States of America, or (b) is historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings.
Preferably preserved building: Any historically significant building, which, because of the contribution made by such a building to the town's historical and/or architectural resources, is in the public interest to preserve, rehabilitate or restore.

3. **Regulated Buildings**

A. The provisions of Chapter 22 shall not apply to any building which is owned by the Town, it's departments, boards or commissions.
   (i) A building listed on the National Register of Historic Places or the State Register; or which has been found eligible for listing on the National Register; or
   (ii) Any building which in whole or in part was built prior to and including 1919.

B. The provisions of Chapter 22 shall not apply to any building concerning which the Building Commissioner has issued a "Notice of Unsafe Building" prior to the passage of this Article and for which a demolition permit application has been filed with the town.

4. **Procedure**

A. The building commissioner shall forward a copy of each demolition permit application for a regulated building to the Commission within seven (7) days of the filing of such application. No regulated building shall be demolished without a demolition permit application being filed and a demolition permit issued. The

application shall specify whether the building is regulated.

B. Within forty-five (45) days from its receipt of a demolition permit application the Commission shall determine whether the building is an historically significant building. The applicant for the permit shall be entitled to make a presentation to the Commission if the applicant so chooses. If the Commission determines that the building is not historically significant, the Commission shall so notify the Building Commissioner in writing and the Building Commissioner may issue a demolition permit. If the Commission determines that the building is historically significant, the Commission shall notify the Building Commissioner in writing that a demolition plan review must be made prior to the issuance of any demolition permit. If the Commission fails to notify the Building Commissioner of its determination within forty-five (45) days of its receipt of the application, then the building shall be deemed not historically significant and the Building Commissioner may issue a demolition permit.

5. **Demolition Plan Review**

A. Not more than sixty (60) days after the Commission's determination that the building is historically significant, the applicant for the permit shall submit to the Commission four (4) copies of a demolition plan which shall include the following information:

(i) A map showing the location of the building to be demolished on its property with reference to neighboring properties. (A zoning map shall be sufficient);

(ii) Photographs of all facade elevations;

(iii) A description of the building to be demolished;

(iv) The reason for the proposed demolition and data supporting said reason, including if applicable, any economic justification for demolition;

(v) A brief description of the proposed reuse of the property on which the building to be demolished is located.

B. After public notice, the Commission shall hold a public hearing with respect to the application for a demolition permit. Public notice of the hearings shall provide the time, date and place of the hearing and the address of the property to be considered at the hearing. Public notice shall require posting with the town clerk and notice in a newspaper of general circulation in the town, and notification to the building commissioner, to the town planner, to the applicant, to the owners of all abutting property and to other property owners deemed by the commission to be materially affected not less than seven (7) days prior to the date of said hearing. The applicant shall pay in advance for advertising and notification costs. Failure to make payment on request shall toll the running of time required for the Commission's report until payment is made.

C. Within sixty (60) days from its receipt of the demolition plan, the Commission shall file a written report with the Building Commissioner which shall include the following:

(a) A description of the age, architectural style, historical associations

and importance of the building to be demolished;

(b) A determination as to whether or not the building is a preferably preserved building.

D. If the building is not determined to be a preferably preserved building or if the Commission fails to file its report with the Building Commissioner within the sixty days, then the Building Commissioner may issue a demolition permit.

E. If the building is determined to be a preferably preserved building; then the Building Commissioner shall not issue a demolition permit for a period of nine (9) months from the date the Commission's report is filed with the Building Commissioner unless the Commission informs the Building Commissioner prior to the expiration of such nine (9) month period that the Commission is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building who is willing to preserve, rehabilitate or restore the building under consideration. The Commission reserves the right to specify reasonable conditions regarding the disposal of parts or portions of the building or property to be demolished.

6. Emergency Demolition

If a regulated building poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such regulated building may request the issuance of an emergency demolition permit from the Building Commissioner. As soon as practicable, after receipt of such a request, the Building Commissioner shall arrange to have the property inspected by himself, the Fire Chief (or designee) and a member of the Historical Commission (or designee). After inspection of the building the Building Commissioner shall determine whether the condition of the building represents a serious and imminent threat to public health and safety and whether there is any reasonable alternative to immediate demolition. If the Building Commissioner determines there is a serious and imminent threat to public health and safety, then the Building Commissioner may issue an emergency demolition permit. Nothing in Chapter 22 shall be inconsistent with the procedures for the demolition and/or securing of buildings established by M.G.L. Chapter 143 § 8-10.

7. Non-Compliance

Anyone who demolishes a regulated building without first obtaining, and complying fully with the provisions of a demolition permit in accordance with this chapter shall be subject to prosecution in the District Court which may impose the maximum fine allowable by law. In addition, the Building Commissioner shall not issue a building permit pertaining to any property on which a regulated building identified in Section 3 has been demolished without compliance with this chapter for a period of two (2) years from the date of demolition.