

# ZONING BYLAWS



Town of Burlington  
Massachusetts  
01803

As Amended Through  
**September 2023**  
(Pending Attorney General Approval)

THE ZONING BYLAWS OF  
THE TOWN OF BURLINGTON, MASSACHUSETTS

AMENDED UNDER ARTICLE 29 OF THE  
SEPTEMBER TOWN MEETING, January 26, 2009



Being a reorganization of the Zoning Bylaws originally adopted under Article 37 of the  
Adjourned (First) Town Meeting, January 24, 1977

Approved by the Attorney General, April 16, 2009

**AS AMENDED THROUGH SEPTEMBER 2023**

Approved by the Attorney General \_\_\_\_\_.

Attest:  
Amy E. Warfield, CMC  
Town Clerk

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## Article I

### **ARTICLE I: PURPOSE**

#### SECTION 1.0 PURPOSE

The purpose of these Bylaws are to promote the health, safety, convenience, morals, and welfare of the inhabitants of the Town of Burlington. The objectives of these Bylaws are, among other purposes, to lessen congestion in the streets, to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the town; to preserve and increase amenities; and to accomplish any other purpose for which Zoning Bylaws may now or hereafter be enacted under the laws of the Commonwealth of Massachusetts.

#### SECTION 1.1.0 VALIDITY

If any provision of this Bylaw is declared in whole or in part invalid for any reason or under certain circumstances, such invalidity shall not affect the enforcement of so much of this Bylaws as remains enforceable or its enforcement in other circumstances.

#### SECTION 1.2.0 OTHER LAWS

Nothing herein contained shall be construed so as to repeal or nullify any existing Bylaws or regulations of the Town but shall be in addition thereto. Where the standards for construction, use, occupancy or any other activity or purpose regulated under this Bylaws shall vary from such standards contained herein or in any other Bylaws or lawful regulation of the Town, the standards more strictly regulating such construction, use, occupancy, activity or purpose shall be applied.

#### SECTION 1.3.0 DEFECT IN THE FORM OF NOTICES

No defect in the form of any notice under these Bylaws shall invalidate any action taken thereunder or pursuant thereto unless such defect is found to be misleading.

## Article II

### **ARTICLE II: DEFINITIONS**

#### SECTION 2.0 DEFINITIONS

##### **2.1 A**

###### Accessory Apartment

(See Article XI, Section 11.2.0 Accessory residential uses in One-Family Dwellings: Accessory Apartments)

###### Accessory Use or Structure See Use or Structure, Accessory

###### Adult Day Care

A facility offering daytime programs for older adults providing health care and assessment, personal care, social programs, recreational activities, meals and transportation, but not providing overnight or residential accommodations.

###### Adult Bookstore

An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of books, magazines, videos, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272 Section 31.

###### Adult Club

An establishment having twenty-five (25) percent or more of its entertainment is devoted to a person or persons working or performing in a state of full or partial nudity, or distinguished or characterized by an emphasis on a matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272 Section 31.

###### Adult Paraphernalia Store

An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of devices, objects, tools, or toys, which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter 272 Section 31.

###### Adult Theater

Any building, structure, or premises used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272 Section 31.

###### Adult Video Store

An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of videos, books, magazines, and other matter which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272 Section 31.

###### Affordable Housing Unit

A dwelling unit that qualifies as a local initiative unit under the Commonwealth's Local Initiative Program and meets the requirements of a subsidized housing unit for purposes of listing in the subsidized housing inventory under M. G. L. Chapter. 40B Sections 20-23.

## Article II

### (Qualified) Affordable Housing Unit Purchaser

An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD), for the standard Metropolitan Statistical Area that includes Burlington.

### (DHCD) Affordable Housing Unit Sales Price or Rent

The sales price or rent for each Affordable Housing Unit shall be a price that is affordable to a qualified affordable housing unit purchaser, adjusted for household size depending on the size of the applicable affordable unit(s), which sales price is calculated in accordance with the Commonwealth's Local Initiative Program and acceptable to DHCD for the standard Metropolitan Statistical Area in which Burlington is located. DHCD will determine the sales price for all for-sale units and the rental payment for all rental units.

### Aquifer

Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

### Alteration

Any construction, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

### Animal Hospital See Hospital Veterinary

### Apartment See Dwelling Garden Apartment

### Assisted Living Facility

A facility as defined by MGL Chapter 19D, providing room and board, which provides assistance with activities of daily living and personal care services for three or more non-related adults, and collects payments or third party payments to pay for the provision of assistance with activities of daily living. Assisted living facilities are for frail elders who do not require 24-hour skilled nursing care. Assistance with dressing, bathing, eating, housekeeping, medicine monitoring, and other activities of daily living may be provided, along with an array of services, from meals to social and wellness activities. All assisted living residences are required to be certified by the Executive Office of Elder Affairs.

### Awning

Awning, Continuous A roof like covering, as of canvas, stretched upon a frame that is affixed to a building to cover more than one business front and used above or before any place as a shelter from rain or sun.

## 2.2 B

### Bakery

An establishment that primarily bakes food products such as cakes, breads, cookies, pies, pastries, and similar goods, exclusively intended for off-site consumption. A bakery may not offer drive-through window service.

### Base flood elevation

Base flood elevation is the height of the flood waters resulting from a flood having a one percent chance of being equaled or exceeded in any given year, which is also known as a 100-year flood.

## Article II

### Basement

A portion of a building, partly underground, which has more than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground.

### Bed and Breakfast

An owner-occupied one family dwelling offering temporary lodging accommodations for travelers, operated under an Innkeeper's license from the Board of Selectmen, and subject to any requirements of the Massachusetts Department of Public Health and the Burlington Board of Health. No Bed and Breakfast shall have more than 4 rooms to rent, nor shall any one room be rented by more than 3 unrelated people. Guest rooms shall not be provided with separate cooking facilities. Meals may be prepared and served from a central kitchen facility.

### Body Art

The practice of physical body adornment by licensed practitioners utilizing techniques including, but not limited to, body piercing, tattooing, cosmetic tattooing, branding and scarification. Body piercing shall include puncturing or penetrating the skin of a person, not including the ear, for the purpose of inserting jewelry or other adornment. No practitioner of body art shall practice, and no establishment in which body art is applied shall be operated without a license issued by the Board of Health. Body Art establishments shall not be located within one thousand (1,000) feet of each other, within five hundred (500) feet of the nearest lot line of a place of worship or a building used for religious purposes, or within one thousand (1,000) feet of a school, nonprofit educational use, library, or museum.

### Building

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

### Building, Accessory See Use or Structure, Accessory

### Building Area

The aggregate of the maximum horizontal cross sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, bay windows, balconies, and terraces.

### Building, Attached

A building having any portion of one or more walls in common with adjoining buildings.

### Building Coverage

The building area expressed as a percent of the total lot area.

### Building, Detached

A building having open space on all sides.

### Building Front

A building front is the side of a building that is nearest to the street.

### Building Height

## Article II

The vertical distance measured from the mean finished grade of the ground adjoining the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridges, for gable, hip and gambrel roofs. This definition excludes penthouses, bulkheads and other allowable superstructures above the roof line.

### Building, Principal

A building in which is conducted the principal use of the lot on which it is located.

## 2.3 C

### Carport

A roofed structure, unenclosed on two or more sides, which may serve as a shelter for motor vehicles.

### Cellar

A portion of a building, partly underground, which has less than one-half of its height, measured from finished floor to finished ceiling, above the average grade of the adjoining ground.

### Child Care Facility

Any day care center or school age child care program, as defined under M.G.L. Chapter 28A, Section 9, and as may be amended from time to time, however named, which receives children for temporary custody on a regular basis.

### Congregate Living Facility

A noninstitutional, shared living environment which integrates shelter and service needs of functionally impaired and/or socially isolated seniors who are otherwise in good health and who do not require constant supervision or intensive health care as provided by an institution. Each resident or couple shall have an individual bedroom and may have a separate living room, kitchen, dining area, or bathroom, and may share living, dining, and bathroom facilities with other senior persons, such as in a common dining facility.

### Continuing Care Retirement Facility

A facility that includes combinations of independent living, congregate living, assisted living, and long term care facility (nursing home) within a single facility or on the same tract, offering lifetime housing and a variety of health care, social, and recreational services. (also known as Life Care Community)

### Convalescent Home

Any institution, however named, whether conducted for charity or profit, which is to be maintained for the express or implied purpose of caring for three or more persons admitted thereto for the purpose of nursing, convalescent care or purposes related to the principal use of such institution.

### Conference Center

A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. A conference center must be associated with a hotel, restaurant, municipal building or office park.

### Convenience Store

## Article II

A retail store that is designed and stocked to sell food, beverages, lottery and other household supplies to customers. It is designed to attract a large volume of stop-and-go pass-by traffic.

### Custodial care facility

A facility that provides nonmedical care addressing the patient's personal needs, such as bathing, dressing, and eating. Such care may be provided by people without professional medical skills or training.

### For Profit Educational Uses

For profit/taxable schools or educational uses for the operation of such business which shall include, but not limited to the following uses: trade, music, dance, art.

## 2.4 D

### Demolition

The act of pulling down, destroying, removing, or razing a building or structure, in whole or in part (including the demolition of exterior walls or roof), or commencing such work with the intent of completing the same, all as determined by the Inspector of Buildings; provided, however, that the term "demolition" shall not include the ordinary maintenance or repair or an addition to any building or structure.

### Distribution Facility

A facility where goods are received and/or stored for processing, fulfillment, and delivery to customers.

### District

A zoning district as established by Article III of these Bylaws. In addition, there are Wetlands, Flood Plain, Aquifer, Water Resource, Civic Center and, Central Business overlay districts.

### Dormitory

A dwelling, under the ownership or control of an educational, charitable or philanthropic organization which provides separate rooms or suites for the semi-permanent occupancy of individuals or groups of up to two (2) individuals per room, with common bath and toilet facilities and without individual cooking facilities.

### Drive-through

A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service

### Driveway

An open space, which may be paved, located on a lot, built for access to a garage, or off-street parking or loading space.

### Drugstore/Pharmacy

An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

### Dwelling, Garden Apartments

## Article II

A residential building designed for or occupied by families with the number of families in residence not exceeding the number of dwelling units provided, and each unit containing independent cooking, bathroom and sleeping facilities.

### 2.5 E

#### Elderly Housing

Any residential premises available for lease by elderly or disabled individuals which is financed or subsidized in whole or in part by state or federal housing programs established primarily to furnish housing rather than housing and personal services, as set forth in a listing established by the Secretary of Elder Affairs, and which was never licensed under M.G.L. Chapter 111.

#### Erected

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

#### Essential Services

Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of underground or overhead transmission or distribution systems for gas, electricity, steam, water, communications, supply, or sewage.

### 2.6 F

#### Family

One (1) or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit, provided, that a group of five (5) or more persons who are not within the second degree of kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

#### Farmers Market

A market, usually held out-of-doors, where farmers can sell their produce, other edible farm products, flowers, fireplace wood, preserves and similar products to the public. Products at such markets should be locally and/or regionally grown. Farmers Markets are subject to regulation by the Board of Health.

#### Fast Order Food Establishment

An establishment whose primary business is the sale of food for consumption on or off the premises which is (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; and (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold and (d) primarily prepared in advance of a specific order for such food. Establishments which do not provide direct table service to their patrons shall be considered fast-order food establishments. Establishments providing primarily takeout service or delivery service shall be considered fast order food establishments. Establishments where the patrons order at a counter or window and carry the food order to a table shall be considered fast order food establishments.

#### Filling Station

Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, where the following services may be rendered and sales made, and no other:

- (a) Sales and servicing of spark plugs, batteries, and distributor parts;

## Article II

- (b) Tire servicing and repair, but not recapping or regrooving;
- (c) Replacement of mufflers and tailpipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- (d) Radiator cleaning and flushing, including removal and replacing;
- (e) Washing and polishing, and sale of automotive washing and polishing materials;
- (f) Greasing and lubrication;
- (g) Providing and repairing fuel pumps, oil pumps, water pumps and lines;
- (h) Minor servicing, replacement and repair of carburetors;
- (i) Emergency wiring repairs;
- (j) Adjusting and repairing brakes;
- (k) Servicing of front end including ball joints;
- (l) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (m) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to the principal operation. The maximum floor area that may be allocated to the display and sales of such convenience items, and of customer accessible automotive parts, including aisle, shelving, counters, customer accessible cooler shelves, and transaction area, shall not exceed 350 square feet. Exterior display of such convenience items shall be prohibited;
- (n) Provision of road maps and other informational material to customers; provision of restroom facilities;
- (o) Safety inspections.

### Fire Lane

An open space in which no building or structure may be erected and in which no automotive vehicles may be parked, except that buildings may be interconnected by corridors or walkways if provision is made for access by fire apparatus to all outside walls. The open space shall be between a building and a line parallel to and fifteen (15) feet equidistant from a building.

### Fitness Center

An establishment, providing space or facilities for physical exercise, fitness and health, occupying not more than 5,000 square feet.

### Floor Area, Floor Area Ratio, and Maximum Floor Area Ratio

Floor Area, Gross: Gross floor area shall be the floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

Floor Area, Net: Net floor area shall be the actual occupied area within a building, not including accessory unoccupied areas or thickness of walls.

## Article II

**Floor Area Ratio (FAR):** The ratio of the sum of the gross floor area of all buildings on a lot to the total land area of a lot.

**Floor Area Ratio, Maximum:** Where a Maximum Floor Area Ratio is given, it shall mean that in no case shall the Floor Area Ratio (FAR) provided in Section 5.2.0 of Article V be exceeded, except as otherwise provided for in Section 5.1.10 of Article V. For purposes of this bylaw, the Gross Floor Area of a parking structure or structures shall not apply to the Maximum Floor Area Ratio.

### Frontage

The property line adjacent to (a) a public way which the Town Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved, endorsed and constructed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the Town of Burlington, 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. Frontage shall be measured in a single continuous, uninterrupted line along a street or streets.

### Function Facility

An establishment which is rented for the purpose of hosting private parties, conferences, banquets, weddings or other social events.

## 2.7 G

### Garage, Auto Repair

Any building used for the keeping of motor vehicles and in which a business or industry dealing with the repair or servicing of such vehicles is maintained.

### Garage, Residential

Any building or portion of a building, accessory to and located upon the same lot as a residential building or upon a lot in the same ownership and adjacent to the lot on which the served residential building is located, which is used for the keeping of a motor vehicle or motor vehicles and in which no business or industry dealing with sales, servicing, or repair of such vehicles is carried on.

### Garden Center

Places at which garden plants and equipment are sold, but generally not raised.

### Golf Course, Standard or Par Three

Course, including customary accessory buildings, where tee to hole distance averages not less than 80 yards.

### Green Space

An upland area of grass, trees, or other vegetation set apart for recreational or aesthetic purposes. Retention areas and designated wetlands are not Green Space.

### Groundwater Estimated Seasonal High Groundwater Table (ESHGWT)

The estimated highest level to a zone of saturation in the soil in most years under normal wet season, as determined by a Licensed Soil Evaluator.

## Article II

### Group Care Facility

A type of group quarters operated under the auspices of the Department of Mental Health or the Department of Mental Retardation in which a group of up to eight (8) individuals not related by blood, marriage or adoption live together as a single housekeeping unit under a common housekeeping management plan in which some form of health care is provided.

## 2.8 H

### Hazardous Material

As defined by MGL Chapter 21E:2, material including but not limited to, any material, in whatever form, which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human, health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. This term shall not include oil. The term shall also include all those substances which are included under 42 U.S.C. Section 9601(14), but is not limited to those substances.

### Hazardous Waste

As defined by MGL Chapter 21C:2, a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential threat to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed, however not to include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act of 1967 as amended, or source, special nuclear, or byproduct material as defined by the Atomic Energy Acts of 1954.

### Very Small Quantity Generator of Hazardous Waste (VSQG)

A facility which does not generate more than an average of 100 kilograms (220 pounds) per month on a yearly basis, nor accumulates at any one time 600 kilograms or more, of regulated recyclable material or nonacutely hazardous waste identified or otherwise described in 310 CMR 30.120 through 30.125 and 30.130 through 30.135, and further does not generate or accumulate any regulated recyclable material or acutely hazardous waste listed or otherwise described in 310 CMR 30.136.

### Historically Significant Building or Structure

Any building or structure located within the Town which was, in whole or in part, constructed one hundred (100) or more years prior to the date of application for a demolition permit, and (a) which is listed on or is within an area listed on the National or State Register of Historic Places or is the subject of a pending application for such listing; or (b) which is or has been designated by the Burlington Historical Commission to be a historically significant building or structure, or which the Historical Commission finds to be eligible for such designation, following a finding by the Historical Commission; or (c) which is listed in the Cultural Resources Inventory adopted by the Planning Board:

- (i) is associated with one or more historical persons or events, or with the cultural, economic, social or political history of the Town or Commonwealth; or
- (ii) possesses architectural value or significance in terms of period, style, method of construction, or
- (iii) is associated with a historically prominent architect or builder, either by itself or in conjunction with a group of buildings or structures.

## Article II

### Home Occupation

An occupation conducted in a dwelling unit.

### Hospital

Any institution, however named, licensed by the Commonwealth of Massachusetts as a hospital, acting through the Department of Public Health or any successor agency, whether operated for charity or as a nonprofit, which is maintained for the purpose of caring for persons admitted thereto for diagnosis or medical, surgical or restorative treatment which is rendered within said institution, including related facilities such as hospital diagnostic laboratory, outpatient departments, patient pharmacy, stock room, physical therapy, staff and administrative offices.

This definition is not intended to excuse a hospital from the requirements of Section 4.2.7.4 of the Use Table or any other section of Article IV, "Use Regulations", of the Burlington Zoning Bylaws.

### Hospital, Veterinary

A building providing for the diagnosis and treatment of ailments of animals, including facilities for overnight care.

### Hotel

A building or buildings containing not less than forty (40) sleeping rooms for a fee, for transient guests accessed primarily from interior lobbies or halls, and customary lodging services, including maid service, furnishing and upkeep of furniture and bed linens, and telephone and desk service for resident or transient guests with a provision for serving food in a dining room, but no cooking in rooms occupied by guests. A full service hotel shall include conference and meeting rooms, restaurants and recreational facilities.

### Motor Hotel or Motel

A building or buildings containing sleeping rooms for a fee, for transient guests, accessed through an individual exterior door per unit or room without cooking facilities in rooms occupied by guests.

## 2.9 I

### Impervious Surface

Any surface which sheds water rather than absorbing it, such as roofs and roads, and has a runoff coefficient of ninety (90) percent or higher.

### Independent Living Facility

A facility that provides residential accommodations for senior adults. These residences may include common areas, a common dining facility, and space for the provision of social, psychological, and educational programs. Home health care or other community based services may be used on an individual basis. Meals, linen and housekeeping services may be offered. There may be some maintenance staff, but there is no medical or supervisory staff.

### In-Law Apartment

A second dwelling unit located within a structure constructed as a detached one family dwelling, not exceeding 30% of the net floor area of the structure, and not internally separated from the main dwelling unit, in a manner that maintains the appearance of the structure as a one family unit. The owner of the dwelling shall occupy either of the dwelling units. There shall be no more than one in-law apartment within a one family dwelling.

## Article II

### Inn

A building designed and used to provide temporary (not to exceed 30 days) accommodations for travelers, including sleeping quarters and bathroom facilities, but not cooking facilities, operated under an Innkeeper's license from the Board of Selectmen. Meals may be prepared and served from a central kitchen/dining facility.

### Inspector of Buildings

The person occupying the office of the Inspector of Buildings or is otherwise authorized to issue demolition permits.

### Interim Wellhead Protection District Area

An area of one half (1/2) mile radius may be extended around any proposed public water supply well for which a Zone II has not been defined, within which all regulations and restrictions pursuant to this Bylaw shall apply. For wells with approved yields less than 100,000 gallons per day (GPD), the radius of the Interim Wellhead Protection Area shall be determined in accordance with Massachusetts Department of Environmental Protection (DEP) Division of Water Supply (DWS) Policy for Small Wells, DWS Policy 9201, issued June 10, 1992. An Interim Wellhead Protection Area shall not be in effect unless such radius is reflected as an amendment to the Aquifer and Water Resource District Map and adopted by Town Meeting.

### **2.10 J**

### **2.11 K**

### Kiosk

Free standing business structure, by whatever name, of less than 144 square feet for drive up or walk up window service.

### **2.12 L**

### Leachable Wastes

Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing waterborne contaminants to the environment

### Laboratory

A designated area within a building equipped to conduct scientific experiments, tests, investigations, research, prototype manufacture, experimental and testing activities including, but not limited to, the fields of biology, life science, chemistry, electronics, engineering, geology, medicine and physics.

### Life Science

Research, development and prototype manufacturing utilizing microorganisms or biological substances in the fields of Life Science, biotechnology, medical, pharmaceutical, environmental science, immunology, microbiology, virology, toxicology, rDNA, comparative medicine, genome research, cell biology and apparatus, machines and devices for research, development, pharmaceuticals, biomedical technologies, life systems technologies, environmental and biomedical devices manufacturing and advance and practical application in any such field or areas. Life Science and Biotechnology uses are subject to all federal, state and local regulations and best management practices including but not limited to the Burlington Board of Health Regulations for the Use of Recombinant DNA Technology, the

## Article II

National Institute of Health Guidelines for Research Involving recombinant DNA Molecules, and the Biosafety in Microbial and Biomedical Laboratories (BMBL).

### Life Science (Manufacturing)

A life science or biotechnology laboratory engaged in the manufacturing of life science technologies and medicines for commercial production to the market.

### Light Manufacturing

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

### Loading Space

An off-street space which includes access and maneuvering space used exclusively for loading and unloading of goods and materials from one (1) vehicle.

### Long-Term Care Facility

An institution, or distinct part of an institution, which is licensed or approved by the Massachusetts Department of Public Health to provide twenty-four hour health care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. For the purposes of this bylaw, it includes: extended care facility, intermediate care facility, nursing home, convalescent home, and rest home.

### Lot

A parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other definite purpose, in one (1) ownership and not divided by a street, not including any land within the limits of a public or private way upon which such lot abuts, even if the fee to such way is in the owner of the lot. Land determined to be wetlands shall not be included as part of the lot for purposes of determining the lot area. A lot for the purpose of this Bylaw may or may not coincide with a lot of record.

### Lowest floor

Lowest floor means the lower floor of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lower floor, provided that such enclosure is built in compliance with the provisions of Subsection 8.1.6(4).

### Lot, Corner

A lot bounded by more than one (1) street which has an interior angle of one hundred thirty-five (135) degrees or less formed by the tangents or straight segments of street lines between the side or rear lines of such lot or by an extension of such street lines. A lot bounded by one (1) street shall be considered a corner lot when the tangents or straight segments of the street line between the sidelines of the lot form, or would form if extended, an interior angle of one hundred five (105) degrees or less.

### Lot Depth

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

## Article II

### Lot, Interior

A lot, other than a corner lot, with only one (1) frontage on a street.

### Lot Line, Front

The property line dividing a lot from a street. On a corner lot only one (1) street line shall be considered as an address and the shorter street frontage shall be considered the front line, except in those cases where the latest deed restrictions specify another line as the front line lot line.

### Lot Line, Rear

A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the street frontage.

### Lot Line, Side

Any lot line not a front or rear lot line.

### Lot, Nonconforming

A lawful unoccupied lot which existed as a lot of record at the effective date of this Bylaw or any subsequent amendment thereto, or any occupied lot which is not in conformity with the provisions of this Bylaw.

### Lot, Through

A lot other than a corner lot that is bounded by more than one street. In the case of a through lot, when a lot is bounded by more than one street, any one of them but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is addressed on such frontage street.

### Lot Width

The minimum distance between any two opposing lot lines

## 2.13 M

### Manufactured home

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 a permanent foundation when connected to the required utilities and shall not include prefabricated homes. For floodplain 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.

### Massage Therapy

The act of moving or manipulating superficial or deep tissues, muscles, joints, or bones by rubbing, kneading, guiding, or the like by manual or mechanical means, or as directed by the practitioner, for the purpose of invigorating, relaxing, or increasing physical and/or emotional wellbeing. Massage Therapy shall be accessory to an athletic club, health club, school, gymnasium, reducing salon, spa, medical office, or similar establishment, and may only be administered by a medical practitioner, chiropractor, massage therapist, acupuncturist, physical therapist, or similar professional person licensed, certified, or exempted by the Commonwealth of Massachusetts.

### Membership Club, Private

## Article II

A building used to house a nonprofit social, sports or fraternal association or organization if used exclusively by members and their guests.

### Membership Club, Public

A building used to house a social or sports association or organization used by members and their guests, and open to the public.

### Mixed Use Development

A development containing a mix of residential uses and non-residential uses, including, without limitation: commercial, institutional, industrial or other uses on one lot or a group of contiguous lots owned or controlled by the same entity or unrelated entities that have developed a common development scheme. It also refers to a land use pattern that seeks to increase concentrations of population and employment in well-defined areas with a mix of diverse and compatible land uses all conceived, planned and integrated to create vibrant, workable, livable and attractive neighborhoods.

### Multi-Family Dwelling

A building designed and used as living quarters and habitation by four (4) or more families, containing separate cooking, bathroom and sleeping facilities in each of the living quarters.

### Municipal

Officially owned, operated, or used exclusively by the Town of Burlington.

## 2.14 N

### Nonconforming Use

A use of a building structure, or premises that does not conform to a use regulation prescribed by this Bylaw for the district in which it is located, but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

### Nonconforming Building, Structure, or Premises

A building structure, or premises that does not conform to a dimensional regulation prescribed by this Bylaw for the district in which it is located or to regulations for off-street parking, off-street loading, or accessory structures, or buildings, but which building, structure, or premises was in existence at the time the regulation became effective and was lawful at the time it was established.

### Nursery

The business of propagating plants, including trees, shrubs, vines, seed, grass, live flowers and other plants and the storage and selling of such plants grown on the premises, and premises used therefor.

### Nursing Home See Long Term Care Facility.

## 2.15 O

### Office

A place in which functions such as directing, consulting, record keeping, clerical work, and sales (without the presence of merchandise) of a firm are carried on; also a place in which a professional person conducts his professional business.

## Article II

### One Family Dwelling

A building used exclusively and continuously or at intervals, singly and apart from any other building, as living quarters and habitation by one family, containing cooking, bathroom and sleeping facilities.

### Open Area, Percentage

The percentage of the lot area which is not occupied by any structure.

### Outdoor Storage Area

A space outside of a building which is used to keep merchandise for use, goods to be processed, or machinery for use.

### Owner

The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure or lot in question.

## 2.16 P

### Parapet

A parapet is a wall or railing that runs along the edge of the roof of a building.

### Parking Space

An off-street space inside or outside a structure for exclusive use as a parking stall for one (1) motor vehicle.

### Parking Lot

An off-street ground level improved area including paved parking spaces and drives and aisles for maneuvering, and providing access and for entrance and exit, developed in a way to accommodate the parking of motor vehicles.

### Parking Structure

Parking spaces and adjacent access drives, aisles, and ramps that are located in a structure with one or more levels, used exclusively for the parking or storage of motor vehicles.

#### Detached Parking Structure

A stand-alone Parking Structure composed of more than one level. Detached Structured Parking may be totally below grade (underground) or either partially or totally above grade with those levels being either open or enclosed.

#### Integrated Parking Structure

A Parking Structure integrated within a building. Integrated Structured Parking may be below the finished floor area, and either below grade (underground) or partially or totally above grade with those levels being either open or enclosed.

### Parking Deck

An elevated Parking Structure composed of one level. A Parking Deck may be partially or totally above grade with those levels being open, enclosed or integrated into the grade of the site.

## Article II

### Pedestrian Scale

The proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

### Penthouse

A structure above the roof line of a building, comprising less than thirty-three and one-third (33 1/3) percent of the roof area for equipment incidental to the building.

### Performance Theater

An enclosed space suitable for a variety of cultural arts performances, permanently available for the primary principal use of public performing arts presentations such as plays, dance, and concerts, although incidental use for private meetings, exhibits and presentations shall be permitted. Such space may also include studios, classrooms, and galleries.

### Premises

The term "premises" means one (1) or more abutting lots, or lots separated only by a street, in the same ownership or use, together with all buildings and structures thereon.

### Primary Aquifer Recharge Area

Areas which are underlain by surficial geologic deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.

### Prototype Manufacturing

The manufacture of an original, full-scale or partial scale model of a new product or new version of an existing product which will be mass manufactured elsewhere.

### Public

Officially owned, operated, or used by the Town of Burlington, the Commonwealth of Massachusetts, the United States of America, or any office, department, or agency thereof.

### Public Water and Sewer Distribution Structures

Any building, structure, or facility erected and/or maintained by the Town of Burlington for the purposes of supplying and distributing public drinking water or the collection and disposal of sanitary sewage.

### **2.17 Q**

### **2.18 R**

### Recorded

Duly and properly filed in the appropriate registry of deeds or Land Court registration office.

### Recreational Trailer or Vehicle

## Article II

A vehicular, portable unit designed for travel, camping or recreational use excluding Mobile Homes and House Trailers, and including the following:

- (a) Travel Trailer: A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed forty-five hundred (4,500) pounds, or being of any weight provided its overall length does not exceed twenty-eight (28) feet.
- (b) Pickup Camper: A portable dwelling unit designed to be mounted on a pickup truck or chassis, whether or not so mounted.
- (c) Motorized Camper: A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (d) Tent Trailer: A folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.
- (e) Boat Trailer: A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle.

### Registered Marijuana Dispensary (RMD)

Registered Marijuana Dispensary means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, stores, processes (including development of related products such as edible MIPs (Marijuana Infused Products), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

### Religious Institution (Places primarily used for religious purposes)

A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious activities and purposes.

### Repair

With respect to a building or structure, any construction which replaces materials and does not change the height, number of stories, size, use or location of a structure.

### Repair, Auto See Garage, Auto Repair

### Research and Development

Research, development, and testing activities that do not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard.

### Residential

Shall include one and two and three family dwellings and multifamily buildings.

### Residence Hotel

A building or buildings containing not less than fifty (50) sleeping rooms for a fee, for transient guests which may provide for snacks or continental breakfast, in a public space, but not a formal restaurant or dining room for

## Article II

which additional charges are made, and which may also provide for cooking and private dining in individual rooms. A residence hotel/motel shall be located within 1,500 feet of Route 3 or Route 128/95.

### Rest Home - See Long Term Care Facility.

#### Restaurant

An establishment serving food and drink to patrons seated in a dining area, with service being provided to the patrons by wait staff. Takeout orders may be permitted as an incidental and subordinate percentage of the business. A restaurant may not offer drive-through window service.

#### Experiential Retail & Commercial Interactive Venue

The use of a retail tenant space for in-store experiential uses through engaging activities, sounds, motion, or special settings, including virtual reality and multimedia. Includes interactive uses that may be immersive and or allow for participation such as small-scale bowling, sport-oriented, theaters which may only be permitted in combination with a Restaurant or Fast Order Food Establishment as defined herein.

#### Roadside Stand

Premises for sale of edible farm products, flowers, fireplace wood, preserves and similar products, all of which have been produced or grown within Burlington, on land owned by the owner of the stand; no goods except plants, flowers, fireplace wood and edible farm products shall be stored or offered for sale outdoors.

## 2.19 S

#### Screening

A solid fence, wall or evergreen planting.

#### Self-Storage Facilities

A building or group of buildings consisting of individual, self-contained units with interior or exterior access leased to individuals, organizations, or businesses for self-service storage of non-hazardous personal property, goods, products, materials or objects.

#### Short-Term Rental

The use of a Residential Unit for residential occupancy by a person or persons for a period of fewer than twenty-eight consecutive calendar days for a fee. A Short-Term Rental may or may not be facilitated through a Booking Agent. A Short-Term rental is a property that is not a hotel, motel, lodging house or bed and breakfast establishment, where at least one room or unit is rented. A short-term rental includes but is not limited to an apartment, house, cottage, and condominium or other accommodation.

#### Solar

- Solar Energy System: An active solar energy system that converts solar energy directly into electricity and/or other forms of energy, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy.
- Solar Energy System, Ground-Mounted: An active Solar Energy System that is structurally mounted to the ground and is not mounted to a structure.
- Solar Energy System, Roof-Mounted: An active Solar Energy System that is structurally mounted to the roof of a building or structure;

#### Special Permit

## Article II

A use of structure or lot or any action upon a premises which may be permitted under this Bylaw only upon application to and the approval of the special permit granting authority and in accordance with provisions of Article IX of this Bylaw.

### Storage

Buildings or part of buildings used for the storage of personal items and/or consumer goods.

### Storefront

A storefront is the front side of a store or store building facing a street

### Story

That portion of a building contained between any floor and the floor or roof next above it, but not including a cellar or a basement if its ceiling is less than six (6) feet six (6) inches above the average finished grade or the uppermost portion so contained if under a sloping roof and not designed or intended to be used for human occupancy.

### Street

Any public or private way, road, bridge, alley, right of way, square, court and sidewalk.

### Structure

Anything constructed or erected, the use of which demands a permanent location in the soil, or attached to something having a permanent location in the soil.

### Structure, Temporary

A structure intended for continuous use for not longer than one year.

### Substantial improvements

Substantial improvements shall include rehabilitation, reconstruction and/or extension of an existing building where the value of construction as determined by the Inspector of Buildings exceeds 50% of the appraised fair market value of the buildings as determined by the Town of Burlington Appraiser/Assistant Assessor. For the purposes of this determination, "value of construction" shall include all construction work undertaken on the building for the past three year period together with proposed work. In the case of the repair of a damaged building, fair market value shall be based on the value of a building before it was damaged. Fair market value shall not include the value of the land nor site improvements and land costs or the cost of site improvements shall not be included in the estimate of the value of construction.

### Supermarket

Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

## 2.20 T

### Three-Family Dwelling

## Article II

A building used as living quarters and habitation by three families, containing separate cooking, bathroom and sleeping facilities in each of the three living quarters. The configuration of units must be in a side-by-side layout, not vertically above one another.

### Theaters and Cinemas

An establishment which is regularly used for the exhibition of motion pictures, live broadcasts or other similar performances on a regular basis to the general public

### Town

Any part of the Town of Burlington.

### Toxic or Hazardous Materials

Refer to Article VIII, Section 8.3.4.3 "Hazardous Materials" and Section 8.3.4.4 "Hazardous Waste".

### Trailer

See Recreational Trailer

### Transportation Demand Management (TDM)

Strategies aimed at guiding, distributing and reducing travel demand with a focus on shifting travel away from Single Occupancy Vehicles (SOV) toward mass transit, walking, biking, and ridesharing.

### Trucking Terminal

A business which services or repairs commercial trucks.

### Two-Family Dwelling

A building used as living quarters and habitation by two families, containing separate cooking, bathroom and sleeping facilities in each of the living quarters.

## 2.21 U

### Use

The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

### Use of Structure, Accessory

A use incidental and subordinate to the principal use of a building, structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure.

### Use, Principal

The main or primary purpose for which a building, structure or lot is designed, arranged or intended, or for which it may be used, occupied or maintained under this Bylaw.

### Use, Temporary

Use, operation or occupancy of a parcel of land, building or structure for a period not to exceed one (1) calendar year.

## Article II

### 2.22 V

#### Variance

Such departure from the terms of this Bylaw upon appeal in specific cases, as the Board of Appeals is empowered to authorize.

### 2.23 W

#### Warehouse

A facility engaged in long-term storage and distribution of products, supplies, and equipment.

#### Wholesale Trade

An establishment primarily engaged in selling merchandise to retailers; industrial, commercial, institutional, construction contractors, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for, or selling merchandise to, such persons or companies. Wholesale trade is not direct retail sale to the consumer.

#### Wireless Communication Facilities (WCF)

Wireless Communication Facilities" (WCF) shall mean a facility for the provision of wireless communication service, including, but not limited to, towers, monopoles, antennas, antennas attached to existing structures and associated accessory structures, if any, which facilitate the provision of wireless communication services.

#### Wireless Communication Services (WCS)

Wireless Communication Services" (WCS) shall mean the provision of the following types of services: cellular telephone, personal communications and enhanced specialized mobile radio service.

#### Watershed

Lands lying adjacent to watercourses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

### 2.24 X

### 2.25 Y

#### Yard

##### Front

An open space extending across the full width of the lot and lying between the front lot line and a line parallel to the front lot line that touches the nearest point of the building.

##### Rear

An open space extending across the full width of a lot and lying between a rear lot line of the lot, and a line parallel to the front lot line that touches the furthest point of the building from the front lot line, or the corner of a triangular lot farthest from the front lot line.

##### Side

## Article II

The space extending from the front yard to the rear yard between a building and the adjacent side of the lot on which said building is located.

### 2.26 Z

#### Zone I

The protective radius required around a public water supply well or wellfield.

#### Zone II

That area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams, or lakes may act as recharge boundaries. In all cases, Zone II shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

#### Zone III

That land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface drainage area as determined by topography is commonly coincident with the groundwater drainage area and will be used to delineate Zone III. In locations where surface and groundwater drainage are not coincident, Zone III shall consist of both the surface drainage and the groundwater drainage areas.

## Article III

### **ARTICLE III: DISTRICTS**

#### SECTION 3.1.0 DISTRICTS

For the purposes of this Bylaw, the Town of Burlington is hereby divided into the following types of use districts:

##### **Residential Districts**

- RO One Family Dwelling Districts
- RG Garden Apartment Districts
- RC Continuing Care Districts

##### **Business Districts**

- BN Neighborhood Business Districts
- BL Limited Business Districts
- BT Continuous Traffic Business Districts
- BG General Business Districts

##### **Industrial Districts**

- IR Retail Industrial Districts
- IG General Industrial Districts
- I Innovation Districts

##### **Other Districts**

- PD Planned Development Districts
- OS Open Space Districts

(An Abbreviation shall not be used by itself in a public notice.)

##### **Overlay Districts**

The following special districts are hereby established and are set forth in Article 8.0:

- FP 100 Year Flood Plain Districts
- WR Water Resources Districts
- W Wetlands Districts
- A Aquifer Districts
- WC Wireless Communications Districts
- CC Civic Center District
- CBD Central Business District

## Article III

### SECTION 3.2.0 LOCATION OF DISTRICTS

All districts, except for the Special Districts listed in Section 3.1.1, are as shown on the map entitled, "Town of Burlington, Mass." Prior to 2000, individual zoning district changes, identified by number on the Zoning Map, are shown in more detail in the "Town of Burlington, Mass. Zoning Map Booklet." After 2000, all zoning changes are reflected in the Zoning Map and additional information can be found in the corresponding Town Meeting Warrants. The Zoning Map with all explanatory matter thereon, and the Burlington Zoning Map Booklet, is hereby made a part of these Bylaws.

The location of the special districts is shown on the following maps:

100 Year Flood Plain District: as described in Section 8.1.2 "(100 Year Flood Plain) District Boundaries," and shown on Flood Insurance Rate Maps (consisting of an index sheet and four map pages) and the Flood Boundary and Floodway Maps (consisting of an index sheet and three map pages), Town of Burlington, dated July 5, 1984 and prepared by the Federal Emergency Management Agency.

Wetlands Districts: as shown on maps entitled, "Wetlands, 1977," prepared on the topographic base maps, consisting of an index sheet and 60 map pages.

Aquifer and Water Resource Districts: As shown on the map entitled, "Town of Burlington, Aquifer and Water Resource District Map" prepared by Alan C. Nelson, Senior Engineer, Town of Burlington Engineering Dept., and dated January 9, 1996 and digitized in 2017

Wireless Communications Facilities Overlay Districts: As shown on the map entitled, "Town of Burlington Wireless Communications Overlay Districts" prepared by the Town of Burlington, and dated September 2000 and digitized in 2017.

Town Center Districts: As shown on the map entitled, "Town of Burlington Town Center Districts" prepared by the Town of Burlington, and dated December 2005 and digitized in 2017.

#### 3.2.1 Change Through Amendment

Any change in the location or boundaries of a district hereafter made through the amendments of these Bylaws shall be indicated by the alteration of such map, and the map thus altered is declared to be a part of the Bylaws thus amended.

## **ARTICLE IV: USE REGULATIONS**

### **SECTION 4.1.0 APPLICABILITY OF REGULATIONS**

Except as otherwise provided by the General Laws or by this Bylaw, no building or structure shall be constructed, and no building, structure or land, or part thereof shall be used for any purpose or in any manner other than for one (1) or more of the uses or accessory uses set forth in Sections 4.2.0 and 4.3.0. In each district any construction, reconstruction or alteration shall also be subject to Site Plan Approval as provided by Article IX, Sections 9.3.0 through 9.3.6. In the RO and FP Districts a Site Plan is required in some cases, as further specified herein.

#### **4.1.1 Symbols in Use Regulation Schedules**

Yes	Permitted as of right
No	Prohibited
SP	Permitted only by a special permit, as provided by Article IX, Sections 9.2.0 through 9.2.7.
YES <sub>1</sub> –	Permitted by right in a CC or CBD overlay district, even if prohibited or allowed only by SP in the underlying zoning district.
SP <sub>1</sub> –	Permitted only by a special permit in a CC or CBD overlay district, even if prohibited in the underlying zoning district.

#### **4.1.2 Pre-existing Uses and Structures**

Any use or structure existing and permitted as of right at the time of establishment, and subsequently subject to a special permit or prohibited shall be considered a pre-existing lawful nonconforming use or structure. Such pre-existing use or structure, may be continued subject to the maintenance of the then existing character and extent of operations and structures. A change in use, degree of use or structure shall be subject to Article VI and shall require a special permit as provided in Article IX, Sections 9.2.0 through 9.2.7 as may be applicable under those provisions.

#### **4.1.3 Temporary Accessory Uses**

The Inspector of Buildings may grant a permit for a temporary building, structure, or use incidental to a construction project. Such permit may be issued for an initial period of not more than one (1) year and may be renewed for periods of six (6) months.

(a) Temporary tents shall be allowed in all districts for a period not to exceed four days for any given event, and shall be subject to the review of the Inspector of Buildings.

Temporary tents shall be allowed for such uses, including but not limited to: weddings, social functions, business gatherings, special promotions related to a permitted use.

Temporary tents related to retail uses or activities shall not generate additional parking demands beyond what can be accommodated by existing on-site parking or offsite parking within 300 feet of the subject property.

Applications for temporary tent permits shall be made to the Inspector of Buildings. Applicants shall provide all such information requested by the Inspector of Buildings, including but not limited to:

1. Means of ingress/egress.
2. Number of available on-site and offsite parking spaces.
3. Estimate number of cars attributable to the event or activity for which the tent is needed.
4. The presence or availability of sanitary facilities on site. Adopted 5-23-88, Art. 72.

#### **4.1.4 Use Limitations**

Any other provisions of this Bylaw notwithstanding, no use shall be permitted which would create a nuisance because of, but not limited to, noise, vibration, smoke, gas, fumes, illumination, odors, and dust; or which would create a hazard of radiation, fire, explosion or contamination of the water supply

## Article IV

### 4.2.0 PRINCIPAL USE REGULATION SCHEDULE

	USE DESIGNATION	DISTRICT										OVERLAY DISTRICTS				
		RO	RG	RC	BN	BL	BG	BT	IG	I	IR	OS	A	WR	CC	CBD
<b>4.2.1</b>	<b>RESIDENCE USES</b>															
4.2.1.1	One family dwellings	YES	NO	NO	NO	NO	YES	YES	YES	YES						
4.2.1.1.A	2-Family Dwellings	NO	NO	NO	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>							
4.2.1.1.B	3-Family Dwellings	NO	NO	NO	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>							
4.2.1.2	Garden Apartment dwelling units (see 11.3.0)	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	NO	NO
4.2.1.3	Hotel (See 10.2.0)	NO	SP	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>						
4.2.1.3.1	Residence hotel (See 10.2.0)	NO	SP	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>						
4.2.1.3.2	Motor Hotel or Motel (See 10.2.0)	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO
4.2.1.3.3	Short-Term Rental	NO	NO	NO	NO	YES	YES	NO	NO							
4.2.1.4	Garden Apartment dwelling units purchased, or erected and maintained by the Burlington Housing Authority for the purpose of providing subsidized housing.	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.1.5	Dormitories primarily used for nonprofit educational corporations, for religious purposes, or for public purposes.	YES	YES	YES	NO	YES	YES	YES	YES							
4.2.1.6	One family dwellings purchased or erected and maintained by the Burlington Housing Authority for the purpose of providing subsidized housing.	YES	NO	NO	NO	NO	YES	YES	YES	YES						
4.2.1.7	Garden apartment dwelling units purchased, or erected and maintained for the purpose of providing subsidized housing.	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES
4.2.1.8	Tents, trailers, campers, and mobile homes	NO	NO	NO	NO	YES	YES	NO	NO							
4.2.1.9	Dormitories other than those specified in 4.2.1.5	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	NO	NO
4.2.1.10	Open space residential	SP	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES
4.2.1.11	Assisted Living	NO	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.2.1.12	Independent living facility	NO	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.2.1.13	Custodial Care Facility, Group Care Facility	NO	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>							
4.2.1.14	Congregate Living Facility	NO	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.2.1.15	Continuing Care Retirement Community	NO	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.2.1.16	Group Care Facility	YES	YES	YES	NO	YES	YES	YES	YES							
4.2.1.17	Multi-Family other than 4.2.1.2	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	NO	NO
4.2.1.18	Inn, Bed & Breakfast	NO	NO	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>							
<b>4.2.2</b>	<b>INSTITUTIONAL AND RECREATIONAL USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.2.1	Places primarily used for religious purposes, including rectories, and parish houses.	YES	YES	YES	YES	YES	YES	YES	YES							

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4.2.2.2	Places primarily used for nonprofit educational corporations, including related museums, libraries and recreational facilities.	YES	YES	YES	YES	YES	YES	YES	YES							
<b>4.2.2</b>	<b>INSTITUTIONAL AND RECREATIONAL USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.2.3	Child Care Facility	YES	YES	YES	YES	YES	YES	YES	YES							
4.2.2.4	Cemeteries and related facilities	SP	SP	SP	SP	YES	YES	YES	YES							
4.2.2.5	Fire stations and sub-fire stations	SP	SP	SP	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES
4.2.2.6	Police stations	SP	SP	SP	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES
4.2.2.7	Municipal maintenance and garage facilities	NO	NO	NO	NO	NO	YES	YES	YES	YES	YES	NO	NO	SP	NO	SP
4.2.2.8	Public parks	YES	YES	YES	YES	YES	YES	YES	YES							
4.2.2.9	Related facilities for public parks	SP	SP	SP	SP	YES	YES	YES	YES							
4.2.2.10	Public libraries, public museums, public art galleries	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.2.11	Community centers and public recreation buildings	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.2.12	Nonprofit private clubs, recreational centers and facilities	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.2.13	Private museums, private art galleries	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.2.14	Educational Use, For Profit	NO	NO	NO	SP	YES	YES	SP	SP	SP	SP	NO	YES	YES	YES	YES
4.2.2.15	Golf courses and related facilities	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO
4.2.2.16	Billiard rooms, bowling alleys, dance halls, tennis clubs, skating rinks, health clubs and similar commercial amusement places, including membership clubs, public	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO
4.2.2.17	Miniature, driving, and novelty golf installations	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO
4.2.2.18	Places and buildings for public assembly other than above	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO
4.2.2.19	Hospitals, sanatoria	NO	NO	NO	NO	NO	SP	NO	SP	SP	SP	NO	NO	SP	NO	NO
4.2.2.20	Convalescent, rest homes and nursing homes	NO	NO	YES	NO	NO	SP	NO	SP	SP	SP	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.2.21	Clinics	NO	NO	NO	NO	NO	SP	NO	SP	SP	SP	NO	NO	SP	SP <sub>1</sub>	SP <sub>1</sub>
4.2.2.22	Telephone exchanges	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES
4.2.2.23	Passenger stations; landing fields; sites, buildings, and facilities for other public services; public works structures	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	NO	SP	SP	SP	SP
4.2.2.24	Radio and television transmitting sites	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	NO	YES	YES	NO	NO
4.2.2.25	Theaters and cinemas	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	NO	YES	YES	NO	NO
4.2.2.26	Adult Day Care	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES
4.2.2.27	Public Water & Sewer Distribution Structures	SP	SP	SP	SP	SP	SP	YES	YES							
4.2.2.28	Fitness Centers	NO	NO	NO	YES	YES	YES	YES	NO	NO	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>

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4.2.2.29	Performance Theater or Center	NO	NO	NO	NO	NO	SP	SP	SP	SP	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>	
4.2.2.30	Registered Marijuana Dispensary (See 10.6.0)	NO	NO	NO	NO	NO	NO	SP	SP	SP	NO	YES	YES	NO	NO	
4.2.2.31	Marijuana Establishment (See 10.8.0)	NO	NO	NO	NO	NO	NO	NO								
<b>4.2.3</b>	<b>AGRICULTURAL AND ANIMAL HUSBANDRY USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.3.1	All kinds of agriculture, horticulture and floriculture on parcels of five acres or more	YES	YES	YES	YES	YES	YES	YES	YES							
4.2.3.2	All kinds of agriculture, horticulture and floriculture on parcels of less than five acres	YES	YES	YES	YES	YES	YES	YES	YES							
4.2.3.3	Garden centers; also commercial greenhouses and nurseries occupying five (5) acres of land or less	NO	NO	NO	NO	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES
4.2.3.4	Commercial raising, boarding, breeding, or keeping of birds, fish, and animals; subject to the regulations of the Board of Health	NO	NO	NO	NO	NO	SP	SP	SP	SP	NO	SP	SP	SP	SP	SP
4.2.3.5	Manure storage	NO	NO	NO	NO	NO	SP	SP	SP	SP	NO	NO	NO	NO	NO	NO
4.2.3.6	Pesticide herbicide fungicide application, outdoor storage	SP	SP	* - disapp'd by A.G.	SP	SP	SP	SP	SP							
<b>4.2.4</b>	<b>OFFICE USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.4.1	Professional offices such as, but not limited to real estate brokers, lawyers	NO	NO	NO	SP	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.4.1.1	Professional medical offices such as, but not limited to physicians, dentists, opticians	NO	NO	NO	SP	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.4.2	Offices of salesmen, agents, and representatives of manufacturing, distributing, insurance, and wholesale companies	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.4.3	Administrative, executive, and similar offices	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.4.4	Public offices	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.4.5	Conference Center	NO	SP	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>						
<b>4.2.5</b>	<b>AUTOMOTIVE SALES AND SERVICE USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.5.1	Retail gasoline, oil and lubrication stations with the incidental sale and installation of tires and other automobile accessories, maintenance and minor repairs of motor vehicles	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	SP	NO	NO
4.2.5.2	Automotive repair shops	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	SP	NO	NO
4.2.5.3	Places for the sale and installation of tires and other automotive parts and accessories, maintenance and minor repairs of motor vehicles	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	SP	NO	NO
4.2.5.4	Car wash establishments	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	SP	NO	NO

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4.2.5.5	Retail sales and rental of other craft, farm and other heavy machinery and vehicles, including the accessories thereof	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO	
4.2.5.6	Automobile dealership	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO	
4.2.5.7	Used car sales establishment	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO	
4.2.5.8	Automotive rental agency	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO	
<b>4.2.5</b>	<b>AUTOMOTIVE SALES AND SERVICE USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.5.9	Outdoor storage of motor vehicles intended for sale to the general public, incidental and subordinate to an Automobile Dealership use existing as of the date of adoption of this subsection, and located on an abutting lot. Such storage must be located at least 1,100 feet from the nearest residential zoning district boundary. The Planning Board shall determine the maximum number of vehicles to be stored on such parcel. Access to the parcel upon which such storage occurs shall be from the lot upon which the Automobile Dealership is located.	NO	NO	NO	NO	NO	SP	SP	NO	NO	NO	YES	YES	NO	NO	
4.2.5.10	Automobile Dealership which may include integrated structured parking, provided said use is located on a lot abutting an Automobile Dealership use existing as of the date of the adoption of this subsection 4.2.5.10, and provided that the lot is located within 200 feet of Route 128/95 highway or ramp layout and at least 200 feet from the nearest One Family Dwelling (RO) residential zoning district boundary. Any Automobile Dealership allowed pursuant to this Section 4.2.5.10 (including the existing Automobile Dealership) shall be limited to a single brand at each location. Said lots comprising the existing and proposed Automobile Dealership uses shall be deemed to be one lot for density regulation and parking purposes (consistent with Section 5.2.0, Note 9.)	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES	NO	NO	
<b>4.2.6</b>	<b>RETAIL, CONSUMER, AND TRADE USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.6.1	Personal service businesses such as, but not limited to, barbers and hairdressers	NO	NO	NO	SP	YES	YES	YES	NO	NO	YES	NO	SP	SP	YES <sub>1</sub>	YES <sub>1</sub>
4.2.6.2	Convenience food stores, drugstores, retail stores for sale of beauty and health aids, smoking supplies, periodicals; none with the sale of food intended for consumption on the premises	NO	NO	NO	SP	SP	YES	SP	NO	NO	YES	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.2.6.3.A	Retail stores other than above and showrooms, each tenant less than 10,000 sq. ft.	NO	NO	NO	NO	YES	YES	YES	NO	NO	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.2.6.3.B	Retail stores other than above and showrooms, any individual tenant greater than 10,000 sq. ft.	NO	NO	NO	NO	NO	YES	NO	NO	NO	YES	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.2.6.2.1	Supermarket	NO	NO	NO	NO	NO	SP	NO	NO	NO	SP	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.2.6.4	Post offices, banks	NO	NO	NO	NO	NO	YES	NO	SP	YES	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>

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4.2.6.5	Establishments for the repair of radios, televisions, appliances, and other household goods	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO	NO	SP	YES <sub>1</sub>	YES <sub>1</sub>	
4.2.6.6	Photographers, decorators, stationers, dressmaking or tailoring establishments (excepting photo processing)	NO	NO	NO	NO	YES	YES	NO	NO	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>	
4.2.6.7	Travel agencies	NO	NO	NO	NO	YES	YES	NO	NO	YES	YES	NO	YES	YES	YES <sub>1</sub>	
4.2.6.8	Laundry and dry cleaning establishments other than pickup stations or self-service	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO	NO	YES	YES	YES <sub>1</sub>	
4.2.6.9	Fast order food establishments	NO	NO	NO	NO	NO	SP	SP	NO	NO	NO	NO	YES	YES	SP <sub>1</sub>	
4.2.6.10	Restaurants	NO	NO	NO	NO	NO	SP	NO	SP (see Article 10.4.0)	NO	SP	NO	YES	YES	SP <sub>1</sub>	
4.2.6.11	Bakeries	NO	NO	NO	NO	NO	YES	NO	NO	NO	YES	NO	YES	YES	YES <sub>1</sub>	
4.2.6.12	Commercial boarding, care, and treatment of birds, fish, and animals	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	SP	SP	SP <sub>1</sub>	
4.2.6.13	Sale of air conditioning, heating, refrigerating and plumbing equipment and supplies	NO	NO	NO	NO	NO	SP	NO	NO	NO	SP	NO	YES	YES	YES <sub>1</sub>	
4.2.6.14	Establishments for contractors in such services as, but not limited to, building, building maintenance, plumbing, landscaping, electrical, masonry, carpentry, well drilling	NO	NO	NO	NO	NO	SP	NO	SP	NO	NO	NO	YES	YES	SP	
4.2.6.15	Retail dealers in grain and animal feed	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	YES	YES	YES	
4.2.6.16	Funeral parlors however denominated	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	NO	SP	YES	
<b>4.2.6</b>	<b>RETAIL, CONSUMER, AND TRADE USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.6.17	Diagnostic medical laboratories appurtenant to offices of physicians and dentists	NO	NO	NO	NO	SP	YES	SP	YES	SP	SP	NO	NO	SP	YES <sub>1</sub>	
4.2.6.18	Sale of structural and building supplies ( <i>Repealed T.M. 5/19/1993, Article 25</i> )	NO	SP	NO	NO	NO	YES	YES	NO							
4.2.6.19	Kiosk	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	
4.2.6.20	Massage parlors	NO	NO	NO	NO	YES	YES	NO								
4.2.6.20.1	Massage Therapy	NO	NO	SP	NO	NO	SP	SP	SP	SP	SP	NO	YES	YES	SP <sub>1</sub>	
4.2.6.21	Photo processing	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP	NO	NO	NO	YES <sub>1</sub>	
4.2.6.22	Shoe repair, dry-cleaning and laundry pickup stations	NO	NO	NO	SP	YES	YES	YES	NO	NO	YES	NO	YES	YES	YES <sub>1</sub>	
4.2.6.23	Self-service laundry and dry-cleaning	NO	NO	NO	SP	YES	YES	YES	NO	NO	YES	NO	NO	SP	SP <sub>1</sub>	
4.2.6.24	Printers and similar shops or trades provided that all work shall be of custom or job order type for sale on the premises and that there shall be no production for stock or for wholesale	NO	NO	NO	NO	NO	YES	NO	NO	NO	YES	NO	SP	SP	YES <sub>1</sub>	
4.2.6.25	Adult Bookstore	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	
4.2.6.26	Adult Club (See 10.3.0)	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	
4.2.6.27	Adult Paraphernalia Store (See 10.3.0)	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	
4.2.6.28	Adult Theater (See 10.3.0)	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	

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4.2.6.29	Adult Video Store (See 10.3.0)	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO	
4.2.6.30	Body Art (See 10.3.0)	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO	
4.2.6.31	Self-Storage Facility	NO	NO	NO	NO	NO	NO	NO								
4.2.6.32	Retail, Experiential & Commercial Interactive Venue 20,000 SF or less	NO	NO	NO	SP	SP	YES	YES	NO	SP	YES	NO	YES	YES	YES	
4.2.6.33	Retail, Experiential & Commercial Interactive Venue above 20,000SF	NO	NO	NO	SP	SP	SP	NO	SP	SP	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>	
<b>4.2.7</b>	<b>INDUSTRIAL USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.7.1	Light manufacturing or processing plants, prototype manufacturing	NO	YES	YES	YES	NO	SP	SP	SP	SP						
4.2.7.1.1	Research and Development	NO	YES	YES	YES	NO	SP	SP	SP	SP						
4.2.7.2	Printing establishments other than those under 4.2.6.24	NO	YES	YES	YES	NO	NO	SP	YES	YES						
4.2.7.3	Food processors, bakeries, not operated at retail	NO	YES	YES	YES	NO	YES	YES	YES	YES						
4.2.7.4	Laboratories engaged in research, experimental and testing activities including, but not limited to, the fields of, chemistry, electronics, engineering, geology, non-biologic medicine and physics	NO	NO	NO	NO	NO	SP	NO	SP	YES	SP	NO	SP	SP	NO	SP
4.2.7.4.1	Life Science laboratories engaged in research, prototype manufacture, experimental and testing activities including, but not limited to, the fields of pharmaceuticals, biomedical technologies and engineering, life systems technologies, environmental and biomedical devicesBiosafety Level 4 (BL-4) laboratories, as defined by the Centers for Disease Control and Prevention, are prohibited in Burlington.	NO	NO	NO	NO	NO	SP	SP	SP	YES	NO	NO	SP	SP	SP	SP
4.2.7.4.2	Life Science laboratories engaged in the manufacture of life science technologies and medicines for commercial production to the market including, but not limited to, the fields of pharmaceuticals, biomedical technologies and engineering, life systems technologies, environmental, biomedical devices Biosafety Level 4 (BL-4) laboratories, as defined by the Centers for Disease Control and Prevention, are prohibited in Burlington.	NO	SP	SP	NO	NO	SP	SP	SP	SP						
<b>4.2.7</b>	<b>INDUSTRIAL USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.2.7.5	Wholesale trade	NO	SP	SP	SP	NO	YES	YES	YES	YES						
4.2.7.5.1	Distribution facility	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	SP	SP	NO	NO
4.2.7.5.2	Warehouse	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	SP	SP	NO	NO
4.2.7.6	Electronics industries	NO	SP	SP	SP	NO	SP	SP	YES	YES						
4.2.7.7	Electroplating, metal finishing	NO	NO	NO	NO	NO	NO	NO	NO							
4.2.7.8	Hazardous and toxic materials/chemicals manufacture	NO	NO	NO	NO	NO	NO	NO	NO							
4.2.7.9	Hazardous and toxic materials/chemicals use storage, transport, disposal or discharge	NO	SP	SP	SP	NO	SP	SP	YES	YES						
4.2.7.10	Commercial facilities for hazardous waste storage and treatment	NO	NO	NO	NO	NO	NO	NO	NO							

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4.2.7.11	Solar (See Section 10.9.0)																
	Solar Energy System, Ground-Mounted																
	(a) Solar Energy System	NO	NO	NO	YES	SP <sub>1</sub>	SP <sub>1</sub>										
4.2.7	INDUSTRIAL USES	RO	RG	RC	BN	BL	BG	BT	IG	I	IR	OS	A	WR	CC	CBD	
4.2.7.12	Generation or storage of hazardous waste, limited to the volumes classified as a very small quantity generator (VSQG)	NO	NO	--	NO	NO	NO	NO	SP	SP	SP	NO	SP	SP	YES	YES	
4.2.7.13	Generation or storage of hazardous waste, in excess of the volumes classified as a very small quantity generator (VSQG)	NO	NO	--	NO	NO	NO	NO	SP	SP	SP	NO	NO	SP	YES	YES	

### 4.3.0 ACCESSORY USE REGULATION SCHEDULE

4.3.1	USES NORMALLY ACCESSORY TO RESIDENTIAL PRINCIPAL USES	RO	RG	RC	BN	BL	BG	BT	IG	I	IR	OS	A	WR	CC	CBD
4.3.1.1.1	An accessory apartment (See Section 112.0) located in a structure constructed as a detached one family dwelling, subordinate in size to the principal dwelling unit and separated from it, in a manner that maintains the appearance of the structure as a one family unit	YES	NO	YES	YES	YES	YES									
4.3.1.1.2	Short-Term Rental	NO	YES	YES	NO	NO										
4.3.1.2	Use of a portion of a dwelling as an office by a physician, dentist or other professional person residing in the dwelling, incidental to such residence provided there is no display or advertising other than a permitted sign	SP	NO	YES	YES	YES	YES									
4.3.1.3	Home occupations provided there is no display or advertising other than a permitted sign	YES	YES	YES	NO	YES	YES	YES	YES							
4.3.1.4	Garage space for parking not more than three automobiles. This subsection does not apply to farms	YES	NO	YES	YES	YES	YES									
4.3.1.5	Outdoor parking of not more than one unregistered motor vehicle or one boat per dwelling unit	YES	YES	NO	YES	YES	YES	YES								
4.3.1.6	Swimming pool	YES	SP	YES	YES	YES	YES									
4.3.1.7	Greenhouses with a ground area of 250 sq. ft. or less not intended and not used for commercial purposes	YES	SP	YES	YES	YES	YES									
4.3.1.8	Tennis courts	YES	SP	YES	YES	YES	YES									
4.3.1.9	Bomb shelters	YES	YES													
4.3.1.10	Roadside stands for sale of produce grown on the premises	SP	SP	NO	YES	YES	YES	YES								
4.3.1.11	Sheds, barns, and similar structures	YES	YES	SP	NO	SP	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>						
4.3.1.12	The keeping of animals, other than the usual household pets or more than 6 hen chickens; subject to restrictions of the Board of Health	SP	NO	YES	YES	YES	YES									
4.3.1.13	Buildings and structures normally accessory to garden apartments	NO	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>								

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4.3.1	USES NORMALLY ACCESSORY TO RESIDENTIAL PRINCIPAL USES	RO	RG	RC	BN	BL	BG	BT	IG	I	IR	OS	A	WR	CC	CBD	
4.3.1.14	Towers, antenna, windmills, and similar structures:																
	(a) towers and antennas for generation or transmission of telecommunication signals other than those covered by subsection 4.2.2.24 and Section 8.4.0	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	NO	YES	YES	YES	YES	
	(b) antennas, other than satellite dish antennas, for the purpose of private reception of telecommunication signals, which antennas do not exceed 12 feet in height above the ground or 12 feet above the roof of a building on which they are mounted	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES	
	(c) towers, windmills and similar structures that do not exceed 12 feet in height measured from the ground	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	SP	YES	YES	YES	YES	
	(d) towers, windmills and similar structures that exceed 12 feet in height measured from the ground	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	NO	YES	YES	YES	YES	
	(e) satellite dish antennas that are 8 feet or less across at their greatest width and which do not exceed 12 feet in height above the ground or above the roof of a building on which they are mounted <u>and</u> which are at least 100 feet away from property that is zoned RO One Family Dwelling	NO	SP	SP	YES	NO	YES	YES	YES	YES							
	(f) satellite dish antennas that are greater than 8 feet across at their greatest width <u>or</u> which exceed 12 feet in height above the ground or the roof of a building on which they are mounted <u>or</u> which are located on or within 100 feet of property that is zoned RO One Family Dwelling	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	NO	YES	YES	YES	YES	
	(g) Wireless Communications Facilities which are subject to Section 8.4.0 shall be permitted in the Wireless Communications Overlay Districts in accordance with the map depicting the districts and the provisions of Section 1.0 of the Zoning Bylaws	(refer to Wireless Communication Overlay Districts map for allowed uses)															
4.3.1.15	A mobile home to be used for a predetermined period of time, which time may be extended by the Inspector of Bldgs. for the occupancy of a family whose dwelling has been damaged by fire or other cause until their permanent dwelling has been repaired or rebuilt. The limit of time, including extensions, shall not exceed a period of one (1) year	YES	YES	NO	YES	* - disapp'd by A.G.	YES	YES	YES	YES							
4.3.1.16	Temporary tents for groups of more than ten persons	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	
4.3.1.17	Temporary tents for groups of less than ten persons	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	
4.3.1.18	Child care facility	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	
4.3.1.19	Garage space for parking more than three automobiles	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>	
4.3.1.20	Solar (See Section 10.9.0)																

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4.3.1.20.1	Solar Energy System, Roof-Mounted	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	
4.3.1.20.2	Solar Energy System, Ground-Mounted	SP	SP	SP	YES	YES	YES	YES	YES	YES	YES	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>	
<b>4.3.2</b>	<b>USES NORMALLY ACCESSORY TO NON-RESIDENTIAL PRINCIPAL USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.3.2.1	Incidental sale at retail of parts or components necessary for the maintenance of articles stored and distributed	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES	YES	YES	
<b>4.3.2</b>	<b>USES NORMALLY ACCESSORY TO NON-RESIDENTIAL PRINCIPAL USES</b>	<b>RO</b>	<b>RG</b>	<b>RC</b>	<b>BN</b>	<b>BL</b>	<b>BG</b>	<b>BT</b>	<b>IG</b>	<b>I</b>	<b>IR</b>	<b>OS</b>	<b>A</b>	<b>WR</b>	<b>CC</b>	<b>CBD</b>
4.3.2.2	Retail uses such as cafeterias, soda or dairy bars, wholly within the same building as the principal permitted use, conducted primarily for convenience of employees and with no exterior advertising display	NO	NO	NO	NO	SP	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES
4.3.2.3	Retail uses in support of a hotel or motor hotel such as dining halls, restaurants, cafeterias, soda or dairy bars, and shops wholly within the hotel or motor hotel building	NO	NO	NO	NO	NO	NO	SP	SP	NO	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>	
4.3.2.4	Delicatessens, lunch counters and soda fountains incidental to the permitted business of a drug store, food store	NO	NO	NO	NO	SP	YES	SP	NO	NO	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>
4.3.2.5	Keeping of more than one protective animal	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	NO	YES	YES	YES	YES
4.3.2.6	Outdoor storage of supplies and equipment incidental to permitted uses, subject to requirements for location, lighting, screening, fencing, cover and safety precautions	YES	NO	SP	NO	NO	SP	SP	SP	SP	SP	NO	YES	YES	SP	SP
4.3.2.7	off-street outdoor overnight parking of freight-carrying or material-handling vehicles and equipment or buses	NO	NO	NO	NO	NO	YES	SP	YES	YES	YES	NO	YES	YES	SP	SP
4.3.2.8	Maintenance shops, power plants, machine shops and similar structures to support permitted uses	NO	NO	NO	NO	NO	SP	SP	YES	YES	YES	NO	SP	SP	SP	SP
4.3.2.9	Parking garages and/or parking structures for more than three (3) vehicles, including both enclosed and open garages and structures, above and below ground	NO	NO	NO	NO	NO	NO	NO	NO*	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.3.2.9.1	Detached Parking Structure	NO	NO	NO	NO	NO	NO	NO	NO*	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.3.2.9.2	Integrated Parking Structure	NO	NO	NO	NO	NO	NO	NO	NO*	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.3.2.9.3	Parking Deck	NO	NO	NO	NO	NO	SP (Section 7.2.7.2)	NO	NO*	SP	NO	NO	YES	YES	SP <sub>1</sub>	SP <sub>1</sub>
4.3.2.10	off-street outdoor parking of vehicles, other than those in 4.3.2.7, only if the principal use to which the parking relates (or is accessory to) is permitted or permitted by special permit in the zoning district in which the off-street outdoor parking will be located	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.3.2.11	Portion of the premises as permanent resident or proprietor or manager of an establishment	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES	YES

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4.3.2	USES NORMALLY ACCESSORY TO NON-RESIDENTIAL PRINCIPAL USES	RO	RG	RC	BN	BL	BG	BT	IG	I	IR	OS	A	WR	CC	CBD	
4.3.2.12	Warehousing incidental to a permitted principal use (except hazardous and toxic materials/chemicals)	NO	SP	SP	NO	NO	YES	YES	NO	NO							
4.3.2.12.1	Distribution facility incidental to a permitted principal use (except hazardous and toxic materials/chemicals)	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	NO	YES	YES	SP	SP	
4.3.2.12.2	Storage incidental to a permitted principal use (except hazardous and toxic materials/chemicals)	NO	NO	NO	YES	NO	YES	YES	YES	YES							
4.3.2.12.3	Self-Storage Facility	NO	NO														
4.3.2.13	Kiosks	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES	NO	NO	
4.3.2.14	Incidental sale at retail of the same merchandise sold at wholesale	NO	SP	NO	NO	NO	YES	YES	YES	YES							
4.3.2.15	Storage and disposal of oils and fuels/ petroleum products	NO	NO	NO	SP	NO	NO	SP	SP <sub>1</sub>	SP <sub>1</sub>							
4.3.2.16	Storage of hazardous and toxic materials/chemicals for retail sale	NO	NO	--	NO	NO	SP	SP	NO	NO	SP	NO	SP	SP	SP <sub>1</sub>	SP <sub>1</sub>	
4.3.2.17	off-street outdoor overnight parking of freight-carrying or material-handling vehicles and equipment containing toxic and hazardous materials/chemicals	NO	SP	SP	SP	NO	SP	SP	YES	YES							
4.3.2.18	Temporary tents for groups of more than ten persons	YES	YES														
4.3.2.19	Temporary tents for groups of less than ten persons	YES	YES														
4.3.2.20	Child care facility	YES	YES														
4.3.2.21	Farmer's Markets	NO	NO	NO	YES	YES	YES	YES	NO	NO	YES	NO	YES	YES	YES <sub>1</sub>	YES <sub>1</sub>	
4.3.2.22	Drive-through	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	NO	SP	SP	NO	SP <sub>1</sub>	
4.3.2.23	Solar (See Section 10.9.0)																
4.3.2.23.1	Solar Energy System, Roof-Mounted	YES	YES														
4.3.2.22.2	Solar Energy System, Ground-Mounted	SP	SP	SP	YES	SP <sub>1</sub>	SP <sub>1</sub>										

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4.4.1	PRINCIPAL USES IN THE WETLANDS DISTRICT	RO	RG	RC	BN	BL	BG	BT	IG	I	IR	OS	A	WR	CC	CBD
4.4.1.1	Conservation of soil, water plants, and wildlife including wildlife management shelters	YES	YES	YES	YES											
4.4.1.2	Outdoor noncommercial recreation limited to nature study areas, walkways, boating or fishing where otherwise legally permitted	YES	YES	YES	YES											
4.4.1.3	Agriculture, horticulture and floriculture	YES	See 4.2.3	See 4.2.3	YES	YES										
4.4.1.4	Maintenance or repair of existing structures, roadways and utilities	YES	YES	YES	YES											
4.4.1.5	Periodic maintenance of existing water courses	YES	YES	YES	YES											
4.4.1.6	Creation of a pond or pool or other changes in water courses for swimming, fishing or other recreational uses, agricultural uses, scenic features, drainage improvements	SP	NO	SP	YES	YES										
4.4.1.7	Structures for essential services	SP	YES	YES	YES	YES										
4.4.1.8	Dredging expressly for mosquito or flood control by an authorized public agency	SP	YES	YES	YES	YES										
4.4.1.9	Temporary, not to exceed three months, storage of materials (excluding fill materials and hazardous and toxic materials) or equipment	SP	YES	YES	YES	YES										
4.4.1.10	Outdoor noncommercial recreation not specifically permitted by right in section 4.4.1.2 including public parks, non-paved playfields, and similar activities	SP	YES	YES	YES	YES										
4.4.1.11	Discharges from manmade structures into the wetlands	SP	SP	YES	YES											
4.4.1.12	Structures for radio or television transmission by participants in emergency broadcast system	SP	YES	YES	YES	YES										
4.4.2	ACCESSORY USES IN THE WETLANDS DISTRICT	RO	RG	RC	BN	BL	BG	BT	IG	I	IR	OS	A	WR	CC	CBD
4.4.2.1	Accessory uses limited to fences, flagpoles, noncommercial signs, docks	YES	YES	YES	YES											

\* (4.3.2.9) Except permitted by Special Permit in an (IG) District only as an accessory use to a Hospital principal use at which, at a minimum (i) inpatient and outpatient care and services are provided; and (ii) such facility has not less than fifty (50) beds for inpatient treatment.

In approving a special permit for such parking structure or structures, the Planning Board may (1) limit the number of structures permitted on any site, and (2) determine the maximum number of parking spaces to be permitted and contained on or within a parking structure or structures, as the Planning Board deems appropriate. Further, in approving a special permit for parking structure or structures, the Planning Board may require that specific numbers of existing surface parking spaces, or existing paved or impervious surface areas on a site or sites, be removed and be converted to pervious surface areas, or landscaped areas. In addition, the Planning Board may require that approval of a special permit for a parking structure or structures not result in a net increase of the total number of parking spaces in existence at the time of application for such special permit.

**LEGEND**

**Aquifer (A) and Water Resource (WR) Districts: See Article VIII, Section 8.3.3 Interpretation and Application**

**Civic Center (CC) & Central Business District (CBD) Districts**

**YES** = Allowed use in the CC and/or CBD only if the underlying zoning permits.

**SP** = Allowed use in the CC and/or CBD by Special Permit only if the underlying zoning permits.

**YES<sub>1</sub> and SP<sub>1</sub>** = Allowed use by right or special permit in the CC and/or CBD districts superseding any underlying zoning.

**NO** = Is not allowed in the CC or CBD regardless of underlying zoning provisions

## Article V

### **ARTICLE V: DIMENSIONAL REQUIREMENTS**

#### SECTION 5.1.0 APPLICABILITY OF REGULATIONS

Except as otherwise provided by the General Laws and this Article, no building or structure, nor any accessory building, shall be erected on a lot in any district unless the lot and building or structure shall conform to the requirements of Section 5.2.0.

##### 5.1.1 Compliance with Density Regulations Schedule

A separate lot of land complying with the requirements specified in Article V, Section 5.2.0 hereof (Density Regulations Schedule) shall be provided for each dwelling or other principal use permitted in an RO District. Every building or structure located on a lot shall comply with the requirements of said Density Regulations Schedule, except where specifically provided otherwise by this Bylaw or by General Laws.

##### 5.1.1.1 Projections

Nothing herein shall prevent the projection of cornices or eaves not exceeding thirty (30) inches in width, or of open steps or window sills into any required yard or other open space.

##### 5.1.2 Lot Interpretation and Restrictions

###### 5.1.2.1 Determination of Area and Frontage

(a) The lot area shall include the horizontal area located within the lot lines, with the following exceptions.

(b) In determining the area and frontage of a lot there shall not be included any land within the limits of a street upon which such lot abuts even if the fee to such street is in the same ownership as the lot, except that if a corner lot has its corner bounded by a curved line connecting other bounding lines, which if extended, would intersect, then area and frontage shall be computed as if such bounding lines were so extended.

(c) Land which is determined by the Burlington Conservation Commission to be wetlands subject to protection as defined by the Massachusetts Wetlands Protection Act, Massachusetts General Laws Chapter 131, Section 40 or as subsequently determined in a superseding Determination of Applicability shall not be included in determining lot area. More particularly, wetlands shall include land under a watercourse, pond or lake, banks bordering on such water bodies, bordering vegetated wetland areas, and marsh and swamp areas but shall not include land subject to flooding.

Notwithstanding the foregoing, land which is determined to be wetlands shall be included as part of the lot area for the purposes of determining how much of the lot must be kept open and landscaped under Section 8.3.8.4, "Impervious Surfaces (in the Aquifer and Water Resource Districts)."

Further, wetlands that are kept in an open and natural state shall be counted as part of the lot kept open and landscaped in satisfaction of the requirements of Section 8.3.8.4.

(d) Any lot in existence or contained in a subdivision filed prior to the effective date of this amendment and subsequently approved shall remain conforming with respect to minimum lot area notwithstanding the provisions of 5.1.2.1(c).

###### 5.1.2.2 Division or Reduction in Area

No lot, upon which is then located any building or with respect to which a permit has been issued and is then outstanding for the erection of any building, shall be divided or reduced in area in any manner unless said lot shall thereafter be of sufficient area and width to meet the requirements of this Bylaw and unless such lot so

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altered and any buildings thereon shall meet all the other requirements of this Bylaw. If land be divided, conveyed, devised or otherwise transferred in violation hereof, no building or other permits shall be issued with reference to any of the land so transferred or to the lot(s) retained until all of such land and lots meets the requirements of this Bylaw. Any land or easement taken by eminent domain or conveyed for a public purpose for which the land or easement could have been or was taken by eminent domain shall not be deemed to be transferred in violation of the provisions hereof.

On or after March 30, 1998, where any land or easement adjacent to an existing public way is taken by eminent domain, or conveyed for a public purpose for which the land or easement could have been taken by eminent domain by the Town or the Commonwealth, the remainder of the lot not so acquired or affected by said easement shall be treated, in calculating the dimensional or density requirements of Section 5.2.0, as though the portion of the lot so acquired or affected were still included as part of the premises. Furthermore, the owner of the remainder of the lot shall not be deemed to have changed a site plan approved under Section 9.3.0. For the purposes of this provision, a public purpose shall be the use of land for public roadway, sidewalk or utility purposes. This provision shall not apply where the Town has taken or accepted land or easements for such public purpose as the result of a petition or request by some or all of the owner(s) of land for the original acceptance of a way as a public way.

### 5.1.2.3 Lots Partially in Burlington

When a lot in one (1) ownership is situated in part of the Town of Burlington and in part in an adjacent town or city, the provisions, regulations, and restrictions of this Bylaw shall be applied to that portion of such lots as lies in the Town of Burlington in the same manner as if the entire lot were situated therein.

### 5.1.2.4 Calculation of Aggregate Building Area to Ground Area Percentage

(a) Aggregate building area to ground area percentage shall be calculated by dividing building area (defined as the sum of the cross sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, bay windows, balconies and terraces) by the lot area and multiplying by 100 to give the percentage. The lot area shall be determined according to the provisions of Section 5.1.2.1.

(b) Any building, or set of buildings located on a single lot, which was lawfully constructed, under construction, or not yet under construction but part of a site plan approved prior to March 28, 1985 which has not expired shall remain conforming within the meaning and application of Section 6.1.2, "Nonconforming Buildings, Structures or Premises," and Section 6.1.4, "Damage to Nonconforming Buildings, Structures or Premises," with respect to maximum aggregate building area to ground area percentage notwithstanding the provisions of Section 6.6.1(c). This provision shall not be construed to exempt buildings, structures or premises which were nonconforming with respect to maximum aggregate building area to ground area percentage on or before March 28, 1985. New construction or any improvements to an existing building that increases the footprint of that building approved after March 28, 1985 shall be subject to maximum aggregate building area to ground area percentage as determined by the provisions of 5.1.2.4(a).

### 5.1.2.5 Lot Slope Requirements in One Family Dwelling (RO) Districts

(a) Slope shall be calculated as the change in elevation divided by the horizontal distance over which the change in elevation occurs multiplied by one hundred (100) to result in slope stated as a percentage. Slope shall be measured perpendicular to the contour of the land from one lot boundary to another. Slope shall be measured at least three points and averaged to ensure an accurate determination of the overall slope of the lot.

(b) Where the ground slope is ten percent (10%) or less, the minimum lot area in One Family Dwelling (RO) Districts shall be twenty thousand square feet. Where the average ground slope is more than ten percent (10%), the minimum lot size shall be increased by one thousand additional square feet for each additional one percentage of slope, to a maximum of forty-five thousand square feet.

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Slope shall be measured to the nearest tenth of a percent. Minimum lot size shall be calculated as follows:

minimum lot size = 20,000 sq. ft. + 1,000 sq. ft. x (n10.0), where n is the percentage of slope for the lot, rounded to the nearest one tenth of a percent.

(c) Any lot in existence or contained in a subdivision filed prior to the effective date of this amendment and subsequently approved shall remain conforming with respect to minimum lot area notwithstanding the provisions of this section.

### 5.1.3 Limitation of Area of Accessory Uses

5.1.3.1 No accessory use or uses within a building shall occupy more than a combined total of twenty-five (25) percent of the floor area of the principal building, other than required off-street parking.

5.1.3.2 In all but RO districts, no accessory uses or uses not within a building shall occupy more than a combined total of twenty-five (25) percent of the unbuilt lot area, other than required off-street parking and loading.

5.1.3.3 In RO districts, no accessory use or uses shall occupy part of the required front or side yards and not more than twenty (20) percent of the rear yard, other than required off-street parking.

5.1.3.4 In all districts except RO, no accessory use shall occupy any part of the required minimum yard adjacent to RO and RG districts.

5.1.3.5 In RO districts, no accessory building shall be more than twenty (20) feet in height.

### 5.1.4 Density Requirements for Religious and Educational Uses and Child Care Facilities

In RO and RG districts, churches or educational uses and their related facilities shall be subject only to: the required front, side and rear minimum yards and minimum lot frontage as required in RO districts; to a twenty-five (25) percent maximum aggregate building to ground area percentage; to the parking regulations as provided in Article VII; and to Site Plan approval as provided by Sections 9.3.0 through 9.3.6

In addition to the requirements listed above, child care facilities located on residentially zoned lots shall also be required to provide or erect a landscaped buffer area, or buffer area comprised of existing natural vegetation along the perimeter of the side and rear lot lines where such facility or facilities lot abuts a residentially zoned or used lot. Such landscaped or natural buffer area shall be no less than ten (10) feet in width along the side yard, and no less than twenty feet (20) feet along the rear yard of any such lot used for a child care facility or facilities. Such buffer area shall also be reflected on a Site Plan submitted to the Planning Board in accordance with the provisions of Section 9.3.0 through 9.3.6.

### 5.1.5 Floor Area Ratio

#### 5.1.5.1 Floor Area Ratio Incentive

An owner or owners of land in the IG or I districts may increase the Maximum Floor Area Ratio requirement from .15 to a maximum of .25 if the Planning Board makes the following determinations and findings:

Methods satisfactory to the Planning Board to ensure that the site operator or owner reduces 20% of the estimated Institute of Transportation Engineers (ITE) forecasted trip generation rates related to the development in both the a.m. and p.m. peak hours, based upon the most recent "ITE Trip Generation Manual". This provision being satisfied in the opinion of the Planning Board, the Maximum Floor Area Ratio may be increased from .15 to .20.

Acceptance by the Planning Board of a Transportation Management Plan or System which:

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Mitigates service level deterioration on impacted roadways and affected intersections such that the proposed development does not create a decrease in service levels experienced by roadway users.

Improves service levels or safety characteristics on affected roadways or intersections.

This provision being satisfied in the opinion of the Planning Board, the Maximum Floor Area Ratio may be increased from .15 or .20 to .25.

### 5.1.5.2 Floor Area Ratio Incentive

An owner or owners of land in the IG or I districts may increase the Maximum Floor Area Ratio requirement to a maximum of .50 of the total gross square feet if the following conditions are met:

A laboratory use as defined under Article IV, sections 4.2.7.4.1 – 4.2.7.4.2 occupies at least 15% of the gross square footage of the building.

Methods satisfactory to the Planning Board to ensure that the site operator or owner reduces estimated Institute of Transportation Engineers (ITE) forecasted trip generation rates due to the reduction of employees in a lab use environment from that of all office related to the development in both the a.m. and p.m. peak hours, based upon the most recent "ITE Trip Generation Manual" or comparable real analysis provided for such use

The site operator or owner provides for alternative Transportation options for their employees, including but not limited to bike share, guaranteed ride home and/or membership with an area Transportation Management Association (TMA).

The site operator or owner provides for pedestrian connections in and around the site and improves service levels and/or safety characteristics on affected roadways or intersections.

These provisions being satisfied in the opinion and finding of the Planning Board, the Maximum Floor Area Ratio may be increased from .15 to .50.

### 5.1.6 Distance from Basement, Slab or Crawl Space and Groundwater.

**5.1.6.1 Purpose** The purpose of this bylaw is to preserve and protect groundwater; to maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements; and to establish procedures to control the adverse effects of building basement floors below the ESHGWT, including basement flooding, pumping and discharge of groundwater to neighboring properties, discharging groundwater to the public way, and illicit connections to the Town sewer and stormwater connections.

#### **5.1.6.2 Applicability**

The requirement of this Section 5.1.6 shall apply to all Zoning Districts:

1. All new building construction, including single family dwellings; (New construction shall be teardown & rebuild and new building construction).
2. Alterations, renovations and additions to existing buildings or dwellings and/or separate buildings or dwellings that increases building/dwelling footprint by more than 750 square feet on the lot.

## Article V

### 5.1.6.3 Conditions and Requirements

The bottom elevation of the basement crawl space floors, or slab elevations of any building or dwelling shall not be lower than the ESHGWT. Said ESHGWT shall be determined by a Licensed Soil Evaluator. The Inspector of Buildings shall determine compliance with this bylaw.

- a. All applicable Building Permit applications shall include information required to determine compliance with this bylaw.

5.1.6.4 The basement floor, crawl space floors, or slab elevation may be lower than the ESHGWT if all of the following conditions are met:

- a. Detailed engineering plans, certified by a Professional Civil Engineer showing a foundation and perimeter drain management system that will mitigate and control groundwater discharge and stormwater runoff, are provided;
- b. All additional groundwater discharge shall be mitigated on-site and shall not be permitted to connect into the municipal stormwater system;
- c. A Professional Civil Engineer shall submit certification that all groundwater will be retained on site.

5.1.6.5 As provided by General Law, Chapter 44, Section 53G, the Town of Burlington may impose reasonable fees for the employment of outside consultants.

### 5.1.6.6 Relationship to Other Laws.

Nothing in this by-law shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of any other law or regulation.

## Article V

**SECTION 5.2.0 DENSITY REGULATION SCHEDULE:** No building or structure shall be constructed nor shall any existing building or structure be enlarged or altered except in conformance with the Density Regulation Schedule, as to lot coverage, lot area, land area per dwelling unit, lot width, front, side and rear setbacks, and maximum height of structures except as may otherwise be provided elsewhere herein.<sup>4</sup>

	RO	RG	RC	BN	BL	BG	BT	IG	I	IR
Minimum Lot Area <sup>9</sup>	20,000 sf	120,000 sf	100,000sf	5,000 sf	10,000 sf	10,000 sf	10,000 sf	40,000 sf	120,000 sf	18 Acres
Minimum Lot Frontage	100 ft	100 ft	100 ft	50 ft	100 ft	100 ft	100 ft	150 ft	100 ft	400 ft
Minimum Front Yard	25 ft	50 ft	25 ft	10 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	25 ft <sup>5</sup>	25 ft <sup>5</sup>	100 ft
Minimum Side Yard	15 ft	50 ft	25 ft	10 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	100 ft
Minimum Rear Yard	15 ft	50 ft	25 ft	10 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	15 ft <sup>5</sup>	100 ft
Minimum Lot Width	20 ft	20 ft	20 ft	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Minimum Yard Adjoining RO & RG, OS and Residentially Zoned Land in Contiguous Municipalities <sup>10</sup>	None	50 ft	50 ft depth of	20% depth of lot <sup>6</sup>	20%	100 ft depth of lot <sup>6</sup>	20%			
Maximum Aggregate Building-to-Ground Area Percentage	None	25%	25%	33 1/3%	33 1/3%	33 1/3%	33 1/3%	25%	25%	25%
Maximum Building & Structure Height <sup>11</sup>	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft <sup>8</sup> 80 ft <sup>8</sup>	30 ft <sup>7</sup> 90 ft <sup>7,12</sup>	30 ft <sup>8</sup> 80 ft <sup>8</sup>
Minimum Feet Between Buildings	None	50 ft	20 ft	None	None	None	None	None	50 ft	None
Maximum Floor Area Ratio (FAR)	None	None	None	None	None	None	None	.15 <sup>2,3</sup>	.15 <sup>2,3</sup>	None

See notes for Density Regulation Table immediately following.

## Article VI

### NOTES FOR DENSITY REGULATION TABLE

- 1 but not less than required by the State Building Code
- 2 Except that the Planning Board pursuant to a "Site Plan" or "Special Permit" as described in Section 9.2.0 and 9.3.0 of Article IX, may permit the Maximum Floor Area Ratio (FAR) to increase to .25 if such application or applications meets the performance criteria specified in Section 5.1.5.1 of Article V and further may permit the Maximum Floor Area Ratio (FAR) to increase to .50 if such application or applications meets the performance criteria specified in Section 5.1.5.2 of Article V.
- 3 The Net Floor Area of any structure or building in which a child care facility is to be operated as an accessory or incidental use shall be excluded from the Maximum Floor Area Ratio (FAR) calculation, such that the otherwise allowable FAR of such structure or building shall be increased by an amount equal to the floor area of such child care facility up to a maximum increase of ten (10%) percent. All terms and conditions of M.G.L. Chapter 40A, Section 9 (C) shall apply.
- 4 Reference Section 8.5.5 for additional criteria applicable to the CC and CBD Districts.
- 5 Unless its outside walls are of fireproof construction and any openings in such walls are protected by a suitable fire resistive door or shutter or water curtain device, subject to the approval of the Inspector of Buildings. There shall extend across the rear of every building or structure an open area at least 10 feet wide for firefighting purposes.
- 6 20% of the average depth of the lot measured perpendicularly from the common lot boundary line but not less than 10 feet and not more than 100 feet. Not less than 75% shall be landscaped or, if wooded, left in a natural state. Screening may be placed on the remaining 25%.
- 7 Within 200 feet of RO or RG 30 feet; for each 100 feet in excess of 200 feet from RO or RG 15 additional feet, with a maximum of 90 feet, except that no structure located within 1,800 feet of the center point of the intersection of Cambridge Street and Route 128 shall exceed 80 feet in height.
- 8 Same as I except maximum equals 80 feet.
- 9 Land use principally for a coordinated, integrated retail or industrial use (for example, a shopping center or an industrial park) shall be deemed to be one lot for density regulation and parking purposes notwithstanding that legal ownership in the land is divided, by lease, in fee or otherwise, among two or more owners.
- 10 For any proposed use in the Business or Industrial Districts on property that is adjacent to an Open Space or primarily residential Planned Development District, which requires a special permit as set forth in the Principal Use Regulation Schedule, the Planning Board may require a greater setback (in feet) than is set forth in this Density Regulation Schedule. If the useable square feet of residential space plus the useable square feet of any amenities useable by occupants of the residential component are equal to or more than the useable square feet of non-residential space, then the entire development shall be considered "primarily residential"
- 11 Within 50 feet of OS 30 feet.
- 12 Within 400 feet of an RO or RG use or residentially-zoned land in a contiguous municipality, Structured Parking directly under the finished floor area of a building to a maximum of one level of parking use above the average finished grade around the building can be excluded when calculating structure height.  
Beyond 400 feet of an RO or RG use or residentially-zoned land in a contiguous municipality, Structured Parking directly under the finished floor area of a building to a maximum of two levels of parking use above the average finished grade around the building can be excluded when calculating structure height.  
The equivalent footprint of the parking footprint under the finished floor area of a building shall be set aside as green space unless, through a finding by the Planning Board pursuant to a "Site Plan" or "Special Permit" as described in Section 9.2.0 and 9.3.0 of Article IX, they determine an alternative public benefit.

## Article VI

### **ARTICLE VI: NON-CONFORMING USES AND STRUCTURES**

**6.1.0 Applicability.** This zoning by-law shall not apply to structures or uses lawfully in existence, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, except as authorized hereunder.

#### **6.1.1 Nonconforming Uses.**

##### **6.1.1.1 Alteration of a Nonconforming use**

Nonconforming Uses may be altered upon a determination by the Inspector of Buildings under the following criteria so long as the alteration does not increase the nonconformity of said use. The following shall be deemed to increase the nonconformity of said use:

A change to the nature and purpose of the use as it existed when the zoning bylaw took effect; or

An increase in the degree of use; or,

An increase in impacts of the use on the neighborhood (such as noise, traffic, odor and environmental effects).

In the event that the Inspector of Buildings determines that the alteration of the nonconforming use increases the nonconformities under the above criteria, the Planning Board may, by special permit, allow such alteration where it determines that the proposed alteration will not be substantially more detrimental than the existing nonconforming use to the neighborhood. In making the determination that the alteration will not be substantially more detrimental, the Planning Board shall consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of infrastructure, noise, odor, scale, character and visual effects.

##### **6.1.1.2 Expansion of a Nonconforming Use**

The Planning Board may issue a special permit to expand a nonconforming use in accordance with this section only if it determines that such expansion of use shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The expansion of a preexisting nonconforming use shall be related to the general nature and purpose of the pre-existing nonconforming use. The addition of an unrelated (prohibited) use on the premises shall be deemed a change in nonconforming use. In making the determination that the extension will not be substantially more detrimental, the Planning Board shall consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of infrastructure, noise, odor, scale, character and visual effects. The Planning Board may not issue a special permit to change a nonconforming use to another nonconforming use.

#### **6.1.2 Nonconforming Structures and Premises.**

**6.1.2.1** The Planning Board may issue a special permit to allow for the reconstruction, extension, or alteration, of a nonconforming structure or premises in accordance with this section only if it determines that such reconstruction, extension or alteration is not substantially more detrimental than the existing nonconforming structure to the premises, neighborhood and environment. The following including but not limited to types of changes to nonconforming structures may be considered by the Planning Board:

1. Reconstruction, extension or structural change of a nonconforming structure, including an increase to existing nonconformity, which does not create a new nonconformity. Each side yard setback shall be considered separately in the determination of the nature of the nonconformity.
2. Extension of an exterior wall at or along the same nonconforming distance within a required yard.

## Article VI

3. Alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

4. Modification or alteration of the premises, including but not limited to parking, landscaping, or impervious surface area.

6.1.2.2 The Planning Board may through a favorable administrative finding allow for alteration of a nonconforming structure or premises in accordance with this section only if the alteration to the nonconformity on site is diminimus in nature, unchanged or is improved and after a determination that such alteration is not substantially more detrimental than the existing nonconforming structure or premises to the premises, neighborhood and environment.

**6.1.3 Nonconforming Single and Two Family Residential Structures.** Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Inspector of Buildings under the criteria herein that such proposed reconstruction, extension, alteration, or change does not increase the nonconformity of said structure or premises. The following shall not be deemed to increase the nonconformity of single or two-family structures:

1. Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements, where no new nonconformities are created.
2. Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements, where no new nonconformities are created.
3. Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements, where no additional nonconformities are created. Each side yard setback shall be considered separately in the determination of the nature of the nonconformity.

In the event that the Inspector of Buildings determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension or alteration, the Planning Board may, by special permit, allow such reconstruction, extension, or alteration where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The Planning Board may not authorize new nonconformities, where a pre-existing nonconformity does not exist. Each side yard setback shall be considered separately in the determination of the nature of the nonconformity. Introduction of any new nonconformity would require a variance from the Board of Appeals.

**6.1.4 Abandonment or Non-Use.** A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw. The abandonment of a nonconforming use results from the concurrence of two factors; (1) the intent to abandon and (2) the voluntary conduct that carries the implication of abandonment.

**6.1.5 Reconstruction after Catastrophe.** Any nonconforming structure may be reconstructed after a catastrophe in accordance with the following provisions:

1. Reconstruction of said premises shall commence within two (2) years after such catastrophe. Provided however that if a request to the Planning Board before the expiration of two (2) years, the Planning Board may extend the time for reconstruction for up to four (4) years from the date of the catastrophe if the Board finds that the applicant has exercised due diligence.

**6.1.6 Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## Article VII

### **ARTICLE VII: GENERAL REGULATIONS**

#### SECTION 7.1.0 ACCESS THROUGH OTHER DISTRICTS

No access to or egress from any other zoning district, except OS, through the RO district shall be permitted, and no access or egress from the BN, BL, BG, BT, I, IR, IG and PD districts shall be permitted in or through the RG or RC districts, and no access to or egress from residentially zoned land in a contiguous municipality shall be permitted, except over public ways, and private ways in use as public ways on January 31, 1977..

#### SECTION 7.2.0 GENERAL PARKING REQUIREMENTS AND PURPOSE

##### **7.2.1 Purpose**

- a) To promote traffic safety by assuring the adequate storage of motor vehicles off the public street and for their orderly access and egress to and from the public street;
- b) To prevent the creation of surplus amounts of parking spaces which contribute to additional Single Occupancy Vehicle (SOV) trips, traffic congestion and traffic service level deterioration on roadways;
- c) To advance the efficiency of vehicular traffic on Burlington streets to reduce excessive delay and/or congestion;
- d) To consider and allow for safe and convenient routes for pedestrians and bicyclists;
- e) To permit emergency vehicles to reach homes and businesses with a minimum of delay and to reduce motor vehicle and pedestrian accidents on Town streets;
- f) To prevent, reduce, and mitigate the impacts of development on parking demands, transportation system, neighborhood livability, public safety and the environment through the use of Transportation Demand Management (TDM) measures;
- g) To promote shared parking as a means to reduce the need for an excess pavement in an effort to curtail the heat island effect.

##### **7.2.2 Parking Space and Aisle Dimensions**

Parking spaces and aisles shall have the following dimensions unless otherwise determined by the Planning Board:

- 7.2.2.1 Standard car space: nine (9) feet by eighteen (18) feet.
- 7.2.2.2 Compact car space: eight (8) feet by fifteen (15) feet.
- 7.2.2.3 Retail use car space: nine (9) feet by eighteen (18) feet or width to be determined by the Planning Board.
- 7.2.2.4 Handicapped person car space: thirteen (13) feet by eighteen (18) feet and designed in accordance with the standards set forth in the Rules and Regulations of the Architectural Access Board.
- 7.2.2.5 Aisles: width to be approved by the Planning Board in accordance with accepted engineering practices.

##### **7.2.3 Handicapped Parking Space Requirements**

## Article VII

The required amount of handicapped parking spaces shall be in accordance with the amounts specified in the Rules and Regulations of the Architectural Access Board.

### 7.2.4 Minimum and Maximum Parking Space requirements for Residential and Educational Uses.

The minimum and maximum parking space requirements and ratios specified in Section 7.2.4.1 through 7.2.4.8 shall apply unless the Planning Board approves an alternative requirement.

#### 7.2.4.1 One Family Dwellings

A minimum of two (2) parking spaces for each dwelling, including indoor parking. These spaces may be on a driveway, and spaces other than in a garage may be within the required front, side and rear yard setbacks. A maximum parking space requirement does not apply to this use category.

#### 7.2.4.2 Two Family Dwellings

A minimum and maximum of two (2) parking spaces for each dwelling unit. These spaces may be on a driveway, and spaces other than in a garage may be within the required front, side and rear yard setbacks.

#### 7.2.4.3 Multifamily Dwellings

A minimum and maximum of one and one half (1.5) parking spaces for each dwelling unit, plus an area which may be approved by the Planning Board for the seasonal storage of vehicles such as campers, motor homes, travel trailers, and boats, etc.

#### 7.2.4.4 Dormitories

A minimum and maximum of one (1) parking space for every three beds.

#### 7.2.4.5 Educational Uses

For educational uses below grade 8, a minimum and maximum of two (2) parking spaces for each classroom; additionally, for the floor area within the building not occupied by classroom space, the parking space requirements and ratios of Section 7.2.5.3 for "Places of Assembly", and parking space requirements and ratios of Section 7.2.5.11 "Office Uses", shall apply. For educational uses of grade 8 and above, a minimum and maximum of four (4) parking spaces for each classroom; additionally, for the floor area within the building not occupied by classroom space, the parking space requirements and ratios of Section 7.2.5.3 for "Places of Assembly", and parking space requirements and ratios of Section 7.2.5.11 "Office Uses", shall apply.

#### 7.2.4.6 Library Uses

A minimum and maximum of one (1) parking space for every fifty (50) square feet of reading room floor area. Reading room floor area being defined as that area so designated for public reading and/or research, but specifically excluding shelf, book, and periodical stacking area.

#### 7.2.4.7 Assisted living facilities, congregate living facilities, and continuing care retirement communities

A minimum of one (1) parking space for every four dwelling units and a maximum of one (1) space for every three dwelling units, plus one (1) parking space for every two (2) employees during the largest shift."

#### 7.2.4.8 Independent living facilities, elderly housing

A minimum of one and one-half (1.5) parking space for each dwelling unit and a maximum of two (2) spaces for each dwelling unit."

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### 7.2.5 Minimum and Maximum Parking Space requirements for Non -Residential and Non -Educational Uses.

Except as otherwise provided, the Planning Board shall approve the number and type of parking spaces in accordance with the minimum and maximum parking space requirements and ratios shown in Sections 7.2.5.1 through 7.2.5.11, or in accordance with Section 7.2.5.12.

Where the Gross Floor Area of a building or buildings is divided among various uses, the Planning Board shall apply such parking space requirements and ratios specified in Sections 7.2.5.1 through 7.2.5.11, or in accordance with Section 7.2.5.12, which most appropriately apply to the character and proportion of uses within such building or buildings.

The Planning Board may approve a Site Plan in accordance with Section 9.3.0 of Article IX, which contains less than the minimum parking space requirements and ratios, provided it makes the following findings and determinations:

- a. The amount of parking provided is adequate for the type and nature of the use proposed.
- b. The applicant shall undertake appropriate provisions, to the satisfaction of the Planning Board, to ensure that the subject site would have adequate area for additional parking if greater parking demands arise from the current or future use of such site, and that such additional parking could be constructed in conformity with the Impervious Surfaces requirements in Section 8.3.8.4 of Article VIII of this bylaw, and any other requirements of the bylaw.

The Planning Board may also, when approving a Site Plan in accordance with Section 9.3.0 of Article IX, allow the maximum parking space requirements and ratios listed in Sections 7.2.5.1 through 7.2.5.10 to increase by up to ten percent (10%) above the maximum parking space requirements and ratios specified for such uses. In order to increase the maximum parking space requirements and ratios specified in Section 7.2.5.1 through 7.2.5.10 by more than ten percent (10%), a Special Permit must be granted by the Planning Board pursuant to Section 7.2.6 of this bylaw.

The maximum parking space requirement and ratio specified in Section 7.2.5.11 may not be increased unless a Special Permit is granted by the Planning Board pursuant to Section 7.2.6 of this bylaw.

#### 7.2.5.1 Motels, Hotels, Motor Hotels (Without Function Rooms and/or Eating Establishments)

A minimum and maximum of one (1) parking space for each sleeping room accommodation.

#### 7.2.5.2 Motels, Hotels, Motor Hotels (With Function Rooms and/or Eating Establishments)

A minimum and maximum of one (1) parking space for each sleeping room accommodation; additionally, for the floor area within the building not occupied by sleeping room accommodations, and designated and used as "Function Rooms" or "Eating Establishments", the parking space requirements and ratios of Section 7.2.5.3 "Places of Assembly" and/or Section 7.2.5.10 "Eating Establishments", shall apply.

#### 7.2.5.3 Places of Assembly

A minimum and maximum of one (1) parking space for every three (3) seats or occupants permitted by the Building Code and certified by the Inspector of Buildings.

#### 7.2.5.4 Medically Related Uses

A minimum and maximum of one (1) parking space for every two (2) beds, four (4) parking spaces for every one thousand (1,000) square feet of inpatient treatment area, and five (5) parking spaces for every one thousand (1,000) square feet of outpatient treatment Net Floor Area.

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### 7.2.5.5 Manufacturing and Industrial Uses

A minimum and maximum of two and one half (2.5) parking spaces for every one thousand (1,000) square feet of Gross Floor Area of manufacturing and industrial use.

### 7.2.5.6 Automotive Sales and Service Uses

A minimum and maximum of five (5) parking spaces for every one thousand (1,000) square feet of Gross Floor Area of automotive sales and service use.

### 7.2.5.7 Storage Uses

A minimum and maximum of one (1) parking space for every one thousand (1,000) square feet of Gross Floor Area of storage use.

### 7.2.5.8 Consumer Services Uses

A minimum of four (4) parking spaces and a maximum of four and one half (4.5) parking spaces for every one thousand (1,000) square feet of Gross Floor Area of consumer service use.

### 7.2.5.9 Retail Business Uses

A minimum of four (4) parking spaces and a maximum of four and one half (4.5) parking spaces for every one thousand (1,000) square feet of Gross Floor Area of retail use.

### 7.2.5.10 Eating Establishments

A minimum and maximum of one (1) parking space for every three (3) seats in customer food service areas.

### 7.2.5.11 Office Uses

A minimum of two and one-half (2.5) parking spaces and a maximum of three (3) parking spaces for every one thousand (1,000) square feet of Gross Floor Area of office use.

### 7.2.5.12 Other Uses

When a use is proposed to be developed or implemented, and is not described or specified in the parking space requirements and ratios listed in Sections 7.2.4.1 through 7.2.4.8, and 7.2.5.1 through 7.2.5.11, the Planning Board shall determine the maximum and minimum parking space ratio and requirement based on the character of use proposed.

### 7.2.5.13 Laboratory Use

A minimum and maximum of one (1) parking space for every one thousand (1,000) square feet of Gross Floor Area of Laboratory use as defined in 4.2.7.4 - 4.2.7.4.2.

### 7.2.6 Special Permit for increasing the maximum parking space requirements for specific Non-Residential and Non-Educational Uses.

The Planning Board may grant a Special Permit to increase the maximum parking space requirements and ratios specified in Sections 7.2.5.1 through 7.2.5.10 by more than ten percent (10%), and to increase the maximum parking space requirement and ratio specified in Section 7.2.5.11, pursuant to the requirements and provisions of Article IX, Section 9.2.0. In addition, the Planning Board must determine that all of the following findings and conditions are met:

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a. The applicant, site operator, or owner agrees to reduce the estimated Institute of Transportation Engineers (ITE) trip generation rates related to the subject development or use in both the a.m. and p.m. peak hours by twenty (20%) percent, based upon the latest edition of "ITE Trip Generation" manual, or other comparable manual or document acceptable to the Planning Board. The method or methods by which such reduction is accomplished is subject to the approval of the Planning Board.

The Planning Board may determine compliance with this condition by monitoring traffic movements at the site after project completion and occupancy. The applicant, site operator, or owner shall fund this monitoring program in an amount agreed upon when the Special Permit is issued.

b. The applicant has submitted data and evidence, including but not limited to parking accumulation and utilization data that demonstrate the need for additional parking spaces for such use or buildings, in the opinion of the Planning Board.

### 7.2.7 Parking Structures and Garages for Uses other Than One-Family Dwellings

Any parking structure or garage which is authorized by a Special Permit pursuant to Article IV, Section 4.3.2.9, shall NOT be included in the Maximum Aggregate Building-to-Ground Area Percentage (pursuant to Section 5.2.0 of Article V) of the district within which it is built (exclusive of a parking structure within the BG District), and shall be subject to the provisions of Article IX, Section 9.2.0.

7.2.7.1 Maximum Aggregate Building-to-Ground Area Percentage: Any parking structure or garage which is authorized by a Special Permit pursuant to Article IV, Section 4.3.2.9, 4.3.2.9.1, 4.3.2.9.2 and 4.3.4.9.3 shall NOT be included in the Maximum Aggregate Building-to-Ground Area Percentage (pursuant to Section 5.2.0 of Article V) of the district within which it is built (exclusive of a parking structure within the BG District), and shall be subject to the provisions of Article IX, Section 9.2.0.

7.2.7.2 Parking Structures restrictions in the General Business (BG) Zoning District The use of Parking Structures in the BG District shall not be allowed unless ALL of the following criteria are met:

- The parcel boundary within which a Parking Structure is located cannot be within two hundred (200) feet of a Residential District.
- The lot area must be a minimum of 150,000 sf
- The Parking Structure must be an accessory use to a restaurant with a Function Facility having a minimum occupancy of 400.

7.2.7.3 Green Space Requirement Parking Structures shall not be allowed in the BG District unless the parcel within which the Parking Structure is located has an equivalent square footage of Green Space equal to 200% of the footprint of the Parking Structure, unless through a finding of the Planning Board pursuant to a "Site Plan" or "Special Permit" as described in Section 9.2.0 and 9.3.0 of Article IX, they determine an alternative public benefit; or to act in any other manner in relation thereto.

### 7.2.8 Shared Parking

#### 7.2.8.1 On-Site Shared Parking

To implement shared on-site parking, the applicant shall provide analyses as part of a Site Plan or Special Permit demonstrating that proposed uses are either competing or non-competing.

- a) Non-competing Uses: In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to [75%] of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two (2) or more uses do not overlap. An applicant may use the

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latest peak demand analyses published by the Institute of Traffic Engineers (ITE) or other source acceptable to the Planning Board.

- b) Competing Uses: In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to 15%.

### 7.2.8.2 Off-Site Parking

Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements. As part of Site Plan or Special Permit Review, the applicant shall provide the Planning Board with the necessary information to comply with the following standards:

- a) Off-site parking shall be within five hundred (500) feet of the property for which it is being requested.
- b) Off-site parking may only be provided if the off-site lot has an excess number of spaces or if the applicant can demonstrate that the on-site and off-site uses have non-competing peak demands.
- c) The amount of required parking spaces being reduced on-site shall be equal to the amount being provided off-site and can account for up to 100% of the minimum required on-site parking.
- d) Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement securing the necessary spaces and which shall be presented to the Planning Board during the Site Plan Review process or as a condition of approval. The Planning Board may condition their approval on the continued existence of the written and binding shared parking agreement, the failure of which may render the permit null and void and subject to enforcement by the Inspector of Buildings.
- e) On-street parking spaces that intersect or are completely contained within the frontage of the property may be counted toward the minimum parking requirements.
- f) Uses sharing a parking facility shall provide for safe, convenient walking between uses and parking, including safe, well-marked pedestrian crossings, signage, and adequate lighting.

## SECTION 7.3.0 GENERAL LOADING REQUIREMENTS AND PURPOSE

Loading space dimensions and locations shall be approved by the Planning Board, and loading spaces shall be so placed as not to require maneuvering within a public way or way used by the public.

7.3.1 General. Adequate off-street loading spaces or loading areas shall be provided and maintained by the owner of the property for each nonresidential building or use which is erected, enlarged or altered after the effective date of this Bylaw.

7.3.2 Same Lot. All loading spaces or loading areas required by this Bylaw shall be on the same lot as the building or use which they are intended to serve, and in no case shall any required loading area be part of an area used to satisfy the off-street parking requirements of this Bylaw.

7.3.3 No Queues or Backing onto Street. No loading facility shall be designed to require trucks to queue on a public way while awaiting off-loading. No loading facility shall be designed to require vehicles to back onto a public way; all turning maneuvers shall be accommodated on the premises.

7.3.4 Shared Loading. No part of an off-street loading area required by this Bylaw for any nonresidential building or use shall be included as part of an off-street loading area similarly required for another building or use, unless the type of buildings or uses indicates that the usage of such loading area would not occur simultaneously, as determined by the Planning Board.

## Article VII

7.3.5 Screening. Loading areas shall be screened in accordance with Section 7.4.0 of this Bylaw.

7.3.6 Location. No loading dock or bay shall be located within a required buffer area to an adjoining residential zoning district in accordance with Section 5.2.0 of this Bylaw. The Planning Board shall have final say on the siting of any loading dock;

### SECTION 7.4.0 GENERAL LANDSCAPING REQUIREMENTS

7.4.1 Purpose. This section is designed to accomplish the following objectives:

1. Provide a suitable boundary or buffer between residential uses and nearby nonresidential uses;
2. Separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots;
3. Provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas; and
4. Offer property owners protection against diminution of property values, if any, due to adjacent nonresidential use.

7.4.2 Applicability. The requirements of this section shall apply to any nonresidential use and to multifamily dwellings.

#### 7.4.4 Landscaping Requirements.

1. Screening, in accordance with an approved site plan, shall be provided, erected and maintained to shield RO and RG districts and municipal properties from adjoining business and industrial uses of land, and to shield RO districts from adjoining apartment uses. Screening shall be erected or planted before the premises are first occupied. Alternatively, the Planning Board may accept a financial guarantee in the amount of the cost of installing the screening and an agreement to complete the screening within a specified time and permit occupancy before the screening is installed.
2. Landscaping, in accordance with an approved site plan, shall be provided, erected and maintained on any part of any BN, BL, BG, BT, I, IR, IG, or RG lot which is not occupied by a structure or by required parking areas, service areas, and driveways; except that all or part of the required landscaping may be in its clean original wooded state. Landscaping features shall be erected or planted before the premises are first occupied. Alternatively, the Planning Board may accept a financial guarantee in the amount of the cost of installing the landscaping and an agreement to complete the landscaping within a specified time and permit occupancy before the landscaping is installed.
3. Property line(s) which also bound residential districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential use and multifamily dwellings. No part of any building or structure or any paved or unpaved surface intended for or used as a parking area may be located within the buffer area required by Section 5.2.0 of this Bylaw.
4. Dumpsters and similar accessory receptacles over one cubic yard capacity shall be screened from all adjacent premises and streets from which such features would otherwise be visible in accordance with this Section.
5. Any loading area or HVAC equipment or other electrical equipment placed on the ground level shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with this Section.

## Article VII

6. Planted areas shall contain an appropriate mix of plant species that are appropriate to the proposed use, site layout, soils, and other environmental conditions. Vegetation is preferable to mulch where practical.

7. Existing trees with a diameter at breast height (DBH) of twelve inches (12") or more shall not be removed except by prior approval of the Planning Board, and if removed, shall be replaced with a minimum 3" caliper tree, unless waived by the Planning Board.

**7.4.5 Coordination with Site Plan Approval.** The Planning Board shall require a landscaping plan as part of an overall site plan for any premises subject to site plan review pursuant to Section 9.3.0 of this Bylaw. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

**7.4.6 Maintenance of Landscaped Areas.** The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the provisions set forth herein. All plant materials required by this Section shall be maintained in a healthful condition, or replaced as necessary, in perpetuity.

### SECTION 7.5.0 GENERAL PERFORMANCE REGULATIONS

#### 7.5.1 Corner Clearance

To provide a clear view across a corner for a driver of a vehicle, no structure or planting shall be allowed between a plane two (2) feet above street level and a plane seven (7) feet above street level within that part of a corner lot which is within a triangle bounded by the street lot lines and a straight line drawn between points on each such lot line twenty-five (25) feet from the intersection of said lot lines or extension thereof.

#### 7.5.2 Streets, Driveways, Parking and Service Areas

In all districts except "RO" One Family Dwelling Districts, all streets, driveways, parking areas, service areas, ramps, loading docks and exterior storage areas shall be paved or surfaced with impervious materials. In areas where contamination or other environmental factors do not preclude infiltration, porous pavement, porous concrete, and/or permeable pavers may be used in streets, driveways and parking areas. All systems shall be designed and constructed so that water falling on such areas will be directed into an approved system of pipes, or drainage structures, or Low Impact Development (LID) features.

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### ARTICLE VIII: OVERLAY DISTRICTS

#### SECTION 8.1.0 100 YEAR FLOOD PLAIN DISTRICT

##### 8.1.1 Purpose

The purposes of the 100 Year Flood Plain (FP) District are: to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, and to preserve the natural flood control characteristics and the flood storage capacity of the Flood Plain.

##### 8.1.2 District Boundaries

The District includes all special flood hazard areas within the Town of Burlington designated zones A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Burlington are panel numbers 25017C0287E, 25017C0288E, 25017C0289E, 25017C0293E, 25017C0401E, 25017C0402E, 25017C0404E, and 25017C0406E dated June 4, 2010. The exact boundaries of the District may be defined by the 100 year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Burlington Town Clerk and the Planning Board.

##### 8.1.3 Definitions

For the following definitions refer to Article II: Definitions, “substantial improvements”, “base flood elevation”, “residential”, “lowest floor” and “manufactured home”.

##### 8.1.4 Permitted Land Uses

The FP 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 must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- 1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G “Flood Resistant Construction and Construction in Coastal Dunes”);
- 2) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- 3) DEP Inland Wetlands Restrictions (currently 310 CMR 13.00);
- 4) DEP Minimum Requirements for Subsurface Disposal of Sanitary Sewage (currently 310 CMR 15, Title 5).

##### 8.1.5 Requirements for Development within the Floodway

Within the floodway portion of the FP District, as delineated on the **FIRM** the following requirements apply:

1. All encroachments, which include fill, new construction, substantial improvements to existing buildings, and other development, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating that such encroachment will not result in any increase in flood levels during the occurrence of a 100-year flood. Such certification shall be to the satisfaction of the Planning Board where site plan approval or a special permit is required and shall be to the satisfaction of the Inspector of Buildings where such approvals are not required.

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2. Any encroachment permitted within the floodway in accordance with Section 8.1.5.1 shall comply with the flood plain requirements of the Massachusetts State Building Code.

### 8.1.6 Requirements for Development within the Flood Plain District

1. For all development, and for proposed subdivisions, the related utilities and utility facilities, such as sewer, water, gas and electrical systems, shall be located and constructed to minimize or eliminate flood damage.

2. The design standards for utilities are as follows:

(a) Mechanical and utility equipment must be elevated above the base floor elevation or designed so as to prevent water from entering or accumulating within the equipment components.

(b) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) New or replacement water supply systems shall be designed to minimize, or eliminate infiltration of flood waters into the systems.

(d) New or replacement 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.

(e) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

3. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated so that the lowest floor of the manufactured home is at or above the base flood elevation and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

4. Where base flood elevation data and/or flooding data provided on the Flood Insurance Rate Maps (FIRM) or on the Flood Boundary and Floodway Maps (FB FM),, base flood elevation and floodway data available from a federal, state or other source may be used. The determination of a base flood elevation or floodway boundaries pursuant to this subsection shall be subject to the review and approval of the Planning Board or the Inspector of Buildings, as provided for in Section 8.1.7.

### 8.1.7 Determination of Compliance with Requirements

For development that requires site plan approval or a special permit, the Planning Board shall have the responsibility to determine whether the proposed building or buildings and related site work conform to the requirements of the FP District. For development for which site plan approval or a special permit is not required, the Inspector of Buildings shall have the responsibility to make this determination.

### 8.1.8 Submission Requirements

All applications for permission to undertake development within the FP District must be accompanied by sufficient information to permit determination regarding the compliance of the proposed development with the provisions of the FP District. Such information includes, but is not limited to:

1. A plot plan showing the property boundaries, the location of existing buildings and site improvements, the location of new construction or improvements to existing buildings and the boundaries of the floodway and the 100 Year Flood Plain District within the property.

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2. Base flood elevation for the property. Data from the FIRM maps must be used, if they provide data for the subject property.

- a) 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.
- b) Floodway Data – In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which could result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. Elevation of the lowest floor in the building.

4. Elevation of the lowest habitable floor, if different from the lowest floor.

### 8.1.9 Exemption from Flood Plain District Requirements

Development may be exempted from the requirements of FP District when the property owner, lessee, or other party of interest submits documentation that the Federal Government has reevaluated its designation of the property upon which the development would be located from that indicated in the July 5, 1984 "Floodway and Flood Boundary" and "Flood Insurance Rate" Maps and concluded that the property is not subject to flooding during a 100 year flood. For development which requires the approval of the Planning Board, including but not limited to site plan approval or a special permit, the documentation must be found to be satisfactory by the Planning Board before an exemption may be granted.

For development for which Planning Board approval is not required, the documentation must be found to be satisfactory by the Inspector of Buildings before an exemption may be granted. Such documentation may include, but is not limited to, a "Letter of Map Amendment."

### 8.1.10 Notification of Watercourse Alteration

In a riverine situation, the applicant shall notify the following of any alteration or relocation of a watercourse:

- 1) Planning Board and Conservation Commission of adjacent communities;
- 2) NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
- 3) NFIP Program Specialist  
Federal Emergency Management Agency, Region 1  
99 High Street, 6<sup>th</sup> Floor  
Boston, MA 02110

## SECTION 8.2.0 WETLANDS DISTRICT

### 8.2.1 Purpose

The purpose of this district is:

To preserve and protect the water bodies, water courses and wetlands in the Town of Burlington and their adjoining lands.

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To protect the health and safety of persons and property against the hazards of flooding and contamination.

To preserve and maintain the groundwater table for water supply purposes.

To protect the natural environment.

To conserve the watershed areas of the Town of Burlington for the health, safety, and welfare of the public.

### 8.2.2 Definition of Wetlands District

The wetlands district is superimposed over other districts established by this Bylaw. It includes all lands shown with the boundaries designated as wetlands on the Topographic Sheets, Town of Burlington entitled Wetlands 1977. These maps, as may be amended from time to time, are hereby made a part of this Bylaw. The wetlands have been delineated in accordance with the definitions in Chapter 131, Section 40 of the Massachusetts General Laws.

### 8.2.3 Interpretation and Application

Any use within the limits of the Wetland District shall be governed by this section and all other applicable provisions of this Bylaw. All uses not specifically permitted by Section 4.4.1 or 4.4.2 are prohibited.

### 8.2.4 Special Permit Procedure

Any person(s) desiring a special permit under Section 4.4.1 of this Bylaw shall submit an application to the Planning Board in accordance with the procedures set forth in Article IX, Section 9.2.0 and, when required by the Planning Board, a Site Plan in accordance with the procedures set forth in Section 9.3.0 and shall comply with the conditions set forth in that section. The limits and type of wetlands on the lot in question shall be shown on the site plan.

In granting a special permit under this article, the Planning Board shall insure that no discharge allowed by this section shall by virtue of its chemical or biological characteristics affect the natural productivity of the wetland into which it is discharged, except as approved.

Issuance of a special permit under this section does not constitute approval under the Wetlands Protection Act, Chapter 131, Section 40. Notice of intent to undertake activities governed by the Wetlands Protection Act must be filed with the Conservation Commission.

## SECTION 8.3.0 AQUIFER AND WATER RESOURCE DISTRICTS

### 8.3.1 Purpose

The purposes of the Aquifer and Water Resource Districts are:

To promote the health, safety, and general welfare of the community;

To protect, preserve, and maintain the existing and potential groundwater supply and groundwater recharge areas within the known aquifers of the Town;

To preserve and protect present and potential sources of water supply for the public health and safety;

To conserve the natural resources of the town;

To protect the groundwater and groundwater recharge areas of the town from adverse development or land use practices; and,

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To prevent blight and the pollution of the environment.

### 8.3.2 Definition of Aquifer and Water Resource Districts

The Aquifer and Water Resource Districts are superimposed over other districts established by this Bylaw. They include all lands shown with the boundaries designated as Aquifer Districts and Water Resource Districts shown on the map entitled Aquifer and Water Resource Districts, prepared by Town of Burlington Engineering Department, and dated January 9, 1996, and presented to Town Meeting for adoption on September 30, 1996 and digitized in 2017. This map, as may be amended from time to time, is hereby made a part of this Bylaw.

The Aquifer District shall encompass all properties or portions of properties whose ground and surface waters directly recharge the Vine Brook wellfield, including all lands designated as "Zone I" and "Zone II" by the Massachusetts Department of Environmental Protection (DEP). Lands identified as "Zone I" or "Zone II" pursuant to an adjacent community's water supply shall not be considered as an Aquifer District under this Bylaw unless and until the above referenced map is amended and approved by Town Meeting to include such additional land area.

The Water Resource District shall encompass all properties or portions of properties whose ground and surface waters drain into the watershed contributing to the Vine Brook aquifer, including all areas designated as "Zone III" by the DEP. For purposes of identifying applicable groundwater categories under the Massachusetts Contingency Plan, 310 CMR 40.00 (MCP), the Water Resource District shall be considered a Potential Drinking Water Source under the MCP.

### 8.3.3 Interpretation and Application

The Aquifer and Water Resource Districts are overlay districts and shall be superimposed on all other districts established by these Zoning Bylaws. All regulations of the Zoning Bylaws applicable to such underlying districts shall remain in effect. Where the Aquifer and Water Resource Districts impose additional regulations, such regulations shall be in addition to the requirements of the underlying district. Where the Aquifer and Water Resource Districts impose a prohibition of a use, such prohibition shall control even where the underlying districts impose less strict requirements.

### 8.3.4 Pertinent Definitions

For the following definitions refer to Article II: Definitions, "Aquifer", "Groundwater", "Hazardous Material", "Hazardous Waste", "Very Small Quantity Generator of Hazardous Waste (VSQG)", "Impervious Surface" "Interim Wellhead Protection District Area", "Leachable Wastes", "Primary Aquifer Recharge Area", "Trucking Terminal", "Watershed", "Zone I", "Zone II" and "Zone III"

### 8.3.5 Prohibited Uses and Activities in the Aquifer District

8.3.5.1 Business and industrial uses, not agricultural, which manufacture, generate, use, treat, process, store, or dispose of hazardous materials or wastes as a principal or accessory activity or use, or which involve on-site disposal of process waste waters, except for the following, which may be allowed by special permit in accordance with sections 8.3.7 and 9.2.0 of this Bylaw:

- (a) very small quantity generators (VSQG) of hazardous waste, as defined by 310 CMR 30.00;
- (b) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
- (c) waste oil retention facilities required by MGL Chapter 21, Section 52A; and,
- (d) treatment works approved by the Massachusetts DEP and designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

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8.3.5.2 Trucking terminals, bus terminals, car washes, motor vehicle gasoline sales, automotive service and repair shops.

8.3.5.3 Solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge, and septage with the exception of the disposal of brush or stumps.

8.3.5.4 Storage of liquid petroleum products of any kind, except for the following:

(a) Storage which is incidental to:

1. normal household use and outdoor maintenance or the heating of a structure;
2. emergency generators allowed by statute or regulation;
3. waste oil retention centers required by MGL Chapter 21, Section 52A, or
4. treatment works approved by the DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

provided that such storage shall be in a free standing, above ground container within a structure or within the basement of a structure, within a diked, impermeable area sufficient to contain the volume of the tank plus ten percent (10%) to prevent spills or leaks from reaching groundwater or surface water. Above ground tanks must comply with all applicable provisions of Massachusetts Board of Fire Prevention regulation 527 CMR 9.00.

(b) Replacement of storage tanks or systems for the keeping, dispensing or storing of gasoline, which existed at the time of adoption of this Bylaw, provided that:

1. all replacement storage tanks shall be registered with the Board of Health and the Fire Department;
2. all such replacement storage tanks or systems shall be located underground as required by the Massachusetts Board of Fire Prevention regulation 527 CMR 14;
3. all such storage systems shall be protected by one of the secondary containment systems specified in Mass. Board of Fire Prevention regulation 527 CMR 9.08 (3); and,
4. the Fire Department may deny the installation and use of replacement underground storage systems, or approve it subject to conditions if it is determined that such replacement constitutes a danger to public or private water supplies, in accordance with 527 CMR 9.26 (4) (d).

Replacement of all other storage tanks for liquid petroleum products other than gasoline must be above ground, in accordance with Section 8.3.5.5 (a) above.

8.3.5.5 Storage of deicing chemicals, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

8.3.5.6 Stockpiling and disposal of snow or ice removed from highways and streets located outside of Zone II that contain sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.

8.3.5.7 Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichloroethane, or other household hazardous wastes.

8.3.5.8 Treatment works that are subject to a Groundwater Discharge Permit, pursuant to 314 CMR 5.00; except the following:

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- (a) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
- (b) the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s); and ,
- (c) treatment works approved by the DEP designed for the treatment of contaminated ground or surface waters.

8.3.5.9 Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons on any one-quarter (1/4) acre under one ownership per day, or 440 gallons of sewage on any acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design.

8.3.5.10 Any use which is not permitted either as of right or by special permit in the Aquifer District or Water Resource District, as listed in Article IV of this Bylaw.

### 8.3.6 Restricted Uses and Activities in the Aquifer District

The following uses are subject to the Use Regulation Schedules of Sections 4.2.0, 4.3.0, and 4.4.0, and to the restrictions and performance standards as specified below.

8.3.6.1 Excavation for removal of earth, loam, sand, gravel, and other soils or mineral substances shall not extend closer than four (4) feet above the historical high groundwater table (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey). A minimum of three (3) on-site monitoring wells shall be installed by the property owner to verify groundwater elevations. The monitoring wells shall be installed at the lowest points on the property that is proposed for excavation. A Site Plan indicating the proposed monitoring well locations must be submitted to the Planning Board and the Board of Health for review and approval prior to well installation. Water level measurements to be used to determine the annual high ground water table depth shall be collected during the months of March, April, October, and November, when the underlying soil is most likely to be saturated by groundwater.

This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal, however, the lowest point of the excavation for the installation of a sewage disposal system shall not be within four (4) feet of the historical high groundwater table elevation.

Access road(s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.

Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings. All fine materials, such as clays and silts, removed as part of the earth removal operation and leftover as byproducts, shall be disposed of offsite to prevent damage to aquifer recharge characteristics.

The above requirements shall be in addition to the requirements for earth removal or fill specified in Article XIV Section 4.2 of the General Bylaws.

8.3.6.2 The use of calcium chloride for ice control shall be consistent with public highway safety requirements, pursuant to Article XIV Section 4.4 of the General Bylaws.

8.3.6.3 The storage of calcium chloride, chemically treated abrasives, and other chemicals used for the removal of ice and snow on roads or other impervious surfaces shall be covered and located on a paved surface, with berms within a structure designed to prevent the generation and escape of contaminated runoff or leachate,

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subject to the restrictions on the storage of chlorides on parcels abutting Vine Brook, pursuant to Article XIV Section 4.3 of the General Bylaws.

8.3.6.4 Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended, with the manufacturer's label instructions, and all other necessary precautions to minimize adverse impacts on surface and groundwater.

8.3.6.5 The storage of commercial fertilizers and soil conditioners shall be within structures designed to prevent the generation and escape of contaminated runoff or leachate.

8.3.6.6 All existing permanent animal manure storage areas shall be covered and contained in accordance with the specification of the United States Soil Conservation Service to prevent the generation and escape of contaminated runoff leachate.

8.3.6.7 On-site sewage disposal systems shall not be installed in areas where soil percolation rates are faster than two (2) minutes per inch without additional measures imposed by the Board of Health.

8.3.6.8 All liquid hazardous materials, as defined in MGL Chapter 21E, must be stored either in a free standing container within a building, or in a free standing container above ground level with protection adequate to contain a spill the size of the container's total storage capacity plus ten percent (10%) to prevent spills or leaks from reaching groundwater or surface waters.

### 8.3.7 Special Permit Procedure

8.3.7.1 Any use or activity identified in the use regulations schedule contained in Sections 4.2.0 through 4.4.0 of this Bylaw which requires a Special Permit in the Aquifer or Water Resource Districts shall require the submission of an application to the Planning Board for approval of such use or activity in accordance with Section 9.2.0.

8.3.7.2 Submittal: The following shall be submitted in addition to the requirements of Section 9.2.0 in applying for a special permit within the Aquifer or Water Resource Districts:

- a) A complete list of all chemicals, pesticides, fuels, and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect from vandalism, corrosion, and leakage, and to provide for spill prevention and countermeasures.
- b) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method.
- c) Evidence of joint permit approval under relevant State Regulations Covering Discharge of Sewage, Drainage Substances, or Wastes to Sewerage Works within the Metropolitan Sewerage District, and the Town of Burlington's Regulation of Sewer Use for any discharge of industrial wastes to the sewer system.
- d) For storage of toxic and hazardous materials, evidence of qualified professional supervision of system design, installation, and operational management.
- e) Analysis by a qualified professional engineer experienced in groundwater evaluation and/or hydrology certifying compliance with Section 8.3.7.3 below.

8.3.7.3 Special Permit Criteria: Special permits shall only be granted if the Planning Board determines that at the boundaries of the premises the groundwater quality resulting from on-site waste disposal, other on-site operations, natural recharge, and background water quality will not fall below the standards established by the Department of Environmental Protection in "Drinking Water Standards of Massachusetts", or for parameters

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where no standard exists, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result on no further degradation.

8.3.7.4 Approval: Special permit shall be granted only if the Planning Board determines that the intent of this bylaw and the criteria of Section 9.2.4 are met. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measure(s) were to fail.

### 8.3.8 Design and Operations Requirements

Within Aquifer and Water Resource Districts, the following design and operations requirements shall be observed:

8.3.8.1 Safeguards: Provision shall be made to protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials, and indoor storage provisions for corrodible or dissolvable materials.

8.3.8.2 Location: Where the premises are partially outside of the Aquifer or Water Resource Districts, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the District.

8.3.8.3 Disposal: Provisions shall be made to assure that any waste disposed into the sewers shall conform with the MWRA's Rules and Regulations Covering Discharge of Sewage, Drainage Substances, or Wastes to Sewerage Works within the Metropolitan Sewerage District and the Town of Burlington's Sewer Use Regulations. Connecting sewers from the building shall be vitreous clay pipe or any other pipe shown to provide equivalent protection against corrosion.

8.3.8.4 Impervious Surfaces: Within the Aquifer and Water Resource Districts, not less than forty percent (40%) of the lot shall be landscaped or if wooded, may be left in a natural state. Within the Aquifer and Water Resource Districts all streets, sidewalks, parking areas, driveways, ramps, service areas, loading docks, and exterior service areas shall be paved or surfaced with impervious materials; in areas where contamination or other environmental factors do not preclude infiltration, porous pavement, porous concrete and/or permeable pavers may be used. All systems shall be designed and constructed so that water falling on such areas and on buildings on the same premises, and spilled liquid substances on such areas and in adjacent buildings, will be contained and controlled and directed into an approved system of pipes and/or drainage structures. Such drainage systems shall trap for removal, all oil based pollutants and suspended sediment and materials and shall provide for the full recharge of stormwater and precipitation to the ground beneath the site by the use of leaching structures, pipes, and fields, or an approved low impact development technique. The outlet from such a drainage system shall be designed to obtain the efficient operation of the leaching structures and to allow the passage of excess amounts of water so that no flooding of the site will occur. Residential lots which render impervious not more than fifteen percent (15%) or 2,500 square feet of the lot, whichever is greater, shall be exempt from this recharge and maintenance requirement. A drainage maintenance schedule shall be developed, subject to the approval of the Board of Health and the Town Engineer, which provides for the periodic inspection and maintenance of all drainage structures and systems. The property owner shall be responsible for continually implementing such drainage system maintenance.

8.3.8.5 Monitoring: Periodic monitoring may be required as a condition of approval of a special permit or site plan by the Planning Board, including sampling of wastewater disposed to off-site systems or drywells and sampling from groundwater monitoring wells to be located and constructed as specified in the special permit with reports to be submitted to the Planning Board and the Board of Health, and costs to be borne by the owner or operator of the premises.

### 8.3.9 Nonconforming Uses

Nonconforming uses which were lawfully existing or having been begun in reliance upon application or receipt of a building permit or special permit prior to the first publication of the notice of the public hearing of this Bylaw

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amendment, may be continued. In addition, such nonconforming uses may be extended or altered, as specified in MGL Chapter 40A, Section 6, and Section 6 of this Bylaw, provided that, in addition to the other requirements of Section 6.1.0 of this Bylaw, there is a finding by the Planning Board that such extension or alteration does not increase the danger of surface water or groundwater pollution or adversely affect surface water or groundwater quality from such use. The terms extended or altered shall include, but not be limited to, a change in the substance(s) that constitute the hazardous material(s) or waste(s).

### SECTION 8.4.0 WIRELESS COMMUNICATIONS FACILITIES

#### 8.4.1 Purpose and Intent

The Town of Burlington recognizes the quasi-public nature of wireless communications systems and finds that these regulations are necessary to protect public safety, to protect the ecological, scenic, historical and recreational values of the Town and to ensure that adverse visual and operational effects will not contribute to blighting, deterioration or other deleterious effects upon the surrounding neighborhood.

It is the intent of this Section to provide for establishment and/or expansion of cellular telephone, mobile radio and personal communication and similar systems within the Town of Burlington while protecting neighborhoods and minimizing the adverse visual and aesthetic effects of wireless telecommunications facilities through careful design, siting and screening and in furtherance of the requirements of the federal Telecommunications Act of 1996. More specifically the Section has been developed in order to:

- a) Comply with the intent and obligations of the Federal Telecommunications Act of 1996;
- b) Increase and promote competition in the telecommunications industry;
- c) Regulate the siting of wireless communications facilities relative to visual and aesthetic concerns;
- d) Encourage the use of screening and camouflaging techniques to minimize adverse visual and aesthetic impacts of wireless communications facilities on adjacent properties and residential neighborhoods;
- e) Minimize the overall number of wireless communications facilities and structures as may be necessary to provide wireless communications services within the community, by promoting shared use of facilities among multiple providers while providing reasonable opportunity for all providers to operate facilities within the community;
- f) Maximize use of existing and approved towers and other structures to accommodate new antennas and transmitters in order to reduce the number of wireless communications facilities needed to serve the community;
- g) Minimize the location of facilities in visually sensitive areas;
- h) Site facilities below visually prominent ridge lines;
- i) Protect historic and residential areas from potential adverse impacts of such facilities;
- j) Avoid potential damage to adjacent properties from facility failure through engineering and careful siting of facilities.

#### 8.4.2 Definitions

For the following definitions refer to Article II: Definitions, “Wireless Communication Facilities” (WCF) and “Wireless Communication Services” (WCS).

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### 8.4.3 General Requirements

- a) Wireless communications facilities, including towers, poles, antennas, satellite dishes, and accessory equipment cabinets, shall be considered structures under these Zoning Bylaws and shall be subject to the density and dimensional requirements of Section 5.2.0.
- b) No wireless communications facility, including towers, poles, antennas, and satellite dishes shall be erected or installed except in compliance with the provisions of this Section. Unless otherwise noted in Section 4.3.0 "Accessory Use Regulations Schedule" or in subsection "c" below, a special permit is required from the Planning Board. Any proposed construction of a new freestanding support structure, extension in height of an existing freestanding facility, or replacement of an existing freestanding facility, shall be subject to a new application for a special permit.
- c) Wireless communication facilities may only be located within the overlay districts identified on the map entitled "Town of Burlington - Wireless Communications Overlay Districts". Such properties are also enumerated by Assessor's Map and Parcel number in the "Comprehensive Plan for Wireless Communication Facilities in Burlington, MA." WCF's involving new freestanding support structures, or any facility proposed to be located within 200 feet of a property occupied by a residence shall be permitted in these overlay districts by special permit, pursuant to the criteria set out under Section 9.2.0 of this Bylaw, in addition to the approval criteria of this Section. WCF's proposed to co-locate on a previously approved free-standing support structure shall be permitted by right in these overlay districts. Building facade-mounted facilities and building rooftop facilities which are more than 200 feet from a property occupied by a residence shall be permitted by right in the overlay districts. (Municipal communication facilities shall be exempt from this section).
- d) Wireless communications facilities shall be screened and/or camouflaged to minimize their visual and aesthetic impacts upon the surrounding neighborhood.
- e) Wireless communications facilities shall be sited so as to minimize visibility from abutting streets and nearby buildings and to limit the need to remove existing vegetation.
- f) Collocation is generally viewed as preferable to construction of a new freestanding support structure where it is assumed that collocation may often be less imposing on the landscape. To minimize the number of wireless communications facility sites in the community in the future, the proposed facility shall be designed and constructed so it is reasonably capable of accommodating other users, including other wireless communication companies and local police, fire and ambulance companies, unless the Planning Board determines that such use is technically infeasible, based upon the evidence submitted.
- g) Where a new freestanding support structure is proposed, alternative structures that employ "stealth" or camouflage techniques, such as artificial trees and flagpoles, shall be considered preferred. Free standing monopoles are less preferential, but may be acceptable where the applicant can successfully demonstrate to the Planning Board that the proposed facility will have minimal visual impact on the landscape. Lattice towers and guyed towers shall not be permitted unless the Planning Board determines that no other structure is feasible due to subsurface conditions, topography, or other extenuating geologic or geographic circumstances. (Structures that were existing when this bylaw became effective shall be exempt from this provision)
- h) For freestanding support structures, any principal part of the structure shall be setback from the nearest residential dwelling by a minimum distance equal to the height of the facility (as measured to its highest point, including antennae, etc.), or a distance of two hundred feet (200'), whichever is greater.

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- i) Wireless communication facilities shall not be permitted within eight hundred (800) feet of a public school building.
- j) No artificial lighting shall be installed unless required by the Federal Aviation Administration. If such lighting is required, it shall be screened so as not to project its light below the horizontal plane in which it is located.
- k) No interference to existing television, cable television or radio signals, including emergency systems and public safety communications, shall be permitted from the facility or components thereon. If interference occurs, it shall be the responsibility of the facility owner to immediately remedy it.
- l) A wireless communications facility may be sited on a lot which already accommodates a lawful principal use. Due consideration will be given to the use, size, and other structures on the lot, and other applicable sections of this bylaw, during the Board's review of the special permit application.
- m) All structures and/or equipment erected for providing wireless communication services shall be removed within six (6) months of cessation of use at the owner's expense.
- n) Antennas and directly related facilities used exclusively for communication for the purpose of federally licensed amateur radio operators shall be exempt from this section.

### 8.4.4 Design Criteria

The following guidelines shall be used when preparing plans for the siting and construction of all wireless communications facilities:

- a) All free standing towers and monopoles shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future users.
- b) All satellite dishes and antennas attached to a structure shall be screened or camouflaged so as to minimize visibility from abutting streets and residences. All support equipment shall be painted, colored, molded, and/or installed to blend into the structure or background horizon/landscape.
- c) Free standing wireless communications facilities shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to minimize the need to remove existing vegetation. All equipment shall be painted, colored, molded, and/or installed to blend into the landscape.
- d) Wireless communications facilities shall be designed to accommodate the maximum number of users. The intent of this requirement is to reduce the total number of structures which will be required to provide service throughout the community by multiple providers.
- e) All free standing towers, poles, and similar support structures shall maintain a fall zone from any adjacent residential buildings or structures not associated with the wireless communications facility, or the proponent shall submit a structural analysis from a professional structural engineer certifying that the proposed structure does not need a fall zone due to its design specifications. A fall zone shall not be required for antenna panels, whip antennas, or satellite dishes, which are attached to existing structure facades or erected on building rooftops.
- f) Fencing shall be provided to provide security and control access to freestanding wireless communications facilities and ground mounted support equipment. Additional landscaping shall be required to provide additional screening for safety as well as to enhance the visual and aesthetic appearance of the facility, in consideration of the character of the neighborhood in which the facility is proposed. The fencing style and specific landscaping species and quantities

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shall be shown on a landscaping plan to be approved by the Planning Board as part of the special permit approval process.

- g) There shall be no signs, except for “no trespassing” signs, and any required safety signage. No advertising shall be permitted on the facility. All signs shall conform with the sign regulations of Article XIII of this Bylaw.
- h) Night lighting of facilities shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA. If such lighting is required, it shall be screened so as not to project its light below the horizontal plane in which it is located.
- i) For free standing towers, monopoles, or satellite dishes, there shall be a minimum and maximum of one (1) off-street parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment. When abutting residential districts, such parking space shall be suitably situated and screened to minimize its potential visual impact on such abutting residences.
- j) Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, facilities shall be painted noncontrasting gray or blue in color, or camouflaged with some other treatment deemed acceptable by the Board. Facade mounted antenna(e) shall be non-contrasting or camouflaged to match the background color of the surface to which they are attached.
- k) Any related equipment and appurtenances shall not be more than twelve (12) feet in height.
- l) All utilities proposed to serve the facility shall preferably be installed underground.
- m) Dish antennae shall be no more than six (6) feet in diameter, and shall be mesh (rather than solid). Panel antennae shall be no more than five (5) feet in height.
- n) Antennas or panels which are located on nonresidential buildings shall be mounted so as to be less than twelve (12) feet in height above the roof of the building.

### 8.4.5 Additional Submittal Requirements for WCF Requiring a Special Permit

In addition to the submittal requirements of Section 9.2.2 of the zoning bylaw, the following items and information are required to be submitted at the time an application under this section is filed:

- a) A locus plan at a suitable scale, which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods, and all buildings within three hundred (300) feet of the proposed facility.
- b) A color photograph or rendition of the proposed wireless communications facility. A rendition shall also be prepared illustrating a view of the proposed facility from the nearest street or streets.
- c) A description of the facilities and structures, and the technical, economic and other reasons for the proposed location, height, and design in relation to the regional network of facilities existing and proposed by the provider.
- d) A description of the capacity of the proposed facility with respect to the number and type of panel antennas, drum antennas, and or transmitter receivers that it can accommodate and the basis for these calculations, and the technical specifications for the antennas proposed.

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- e) Coverage Maps reflecting current coverage and proposed coverage, including a breakdown of “excellent”, “good”, “fair”, and “poor” reception areas, using the same criteria as the Comp Comm analysis in the “Comprehensive Plan for the Siting of Wireless Communications Facilities in Burlington”: > -74.0 DBM, -74.0 to -80.0 DBM, -80.0 to -86.0 DBM, -86.0 to -93.9 DBM, and < -93.0 DBM (nonexistent), with each range to be illustrated by a different color or shading pattern. Such coverage maps shall include facilities existing or proposed in Burlington and adjoining towns which provide coverage in Burlington.
- f) If a rooftop installation, the layout of the equipment on the rooftop, and/or a floor plan of any interior space to be occupied by such supporting equipment cabinets or backup power sources.
- g) If a ground installation, a site plan layout of all equipment and structures, access drives, and any other site improvements or alterations involved.
- h) Documentation that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration and the Federal Communications Commission.
- i) A report by a professional or radio frequency engineer describing the general design and capacity of any proposed installation, including but not limited to the following:  
The number and type of antenna(e) proposed; A description of the proposed antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height, materials, color and lighting; A description of the proposed antenna(e) function and purpose; The frequency, modulation and class or service;  
Direction of maximum lobes; An evaluation of the potential to utilize existing facilities for the proposed facility; An evaluation of the feasibility of attaching the proposed facility to existing buildings; Copies of all applicable permits, including but not limited to all State and Federal permits required for this project and a certification of compliance with the terms and provisions of the license issued for this purpose by the Federal Communications Commission (FCC).
- j) Site Justification or Appropriateness Statement, including a description of the selection process that eliminated other potential sites;
- k) Evidence that the applicant has filed a notice of proposed construction with the Federal Aviation Administration if the proposed facility exceeds 200 feet in height or in the event such notice is otherwise required.
- l) Material describing a specific plan for a “balloon” or similar test, including the date and time, as well as a rain date and time, suitably and clearly described for inclusion in a legal notice in the newspaper and for inclusion in a notice to abutters. The expense of such publication and notice shall be paid by the applicant.
- m) A statement indicating how the proposal meets, in the opinion of the applicant, the intents and purposes of this Bylaw.
- n) For free standing structures proposed to be sited closer to the lot line than the height of the proposed structure, the proponent shall submit a structural analysis from a professional structural engineer certifying that the proposed structure does not need a fall zone due to its design specifications.
- o) An application may be required to undergo review by an independent technical consultant to be selected by the Planning Board for the purposes of evaluating the evidence submitted by the applicant, such review to be performed at the applicant’s expense.

### 8.4.6 Approval Criteria

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8.4.6.1 In addition to the approval criteria for special permits pursuant to Section 9.2.4 of this bylaw, the Planning Board shall make findings on which to base its determination on the specific issues of:

- a) how well the use and proposal meet all required conditions and specifications of the Zoning Bylaws;
- b) how well the use and proposal meet the policies and recommendations of the Comprehensive Plan for the Siting of Wireless Communications Facilities in Burlington;
- c) whether the proposed facility employs available stealth techniques, or is otherwise camouflaged to the extent possible, in order to minimize the visual impact of the facility upon the adjoining streets and surrounding neighborhood.
- d) the proximity of the facility to residential dwellings and the visual and aesthetic impacts on such residences.

8.4.6.2 Annual RF emissions monitoring is required for all sites by an independent RF engineer to be hired with the Planning Board approval and at the applicant's expense. Test results will be submitted to the Town as soon as available, and not later than the close of the calendar year. Annual testing of electromagnet emission shall be required to ensure continual compliance with the FCC regulations.

8.4.6.3 A special permit shall only be granted if the Planning Board determines that the intent of this Bylaw and the criteria of Section 9.2.4 are met.

### 8.4.7 Severability

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

## SECTION 8.4.8 SMALL WIRELESS FACILITIES OUTSIDE OF RIGHTS-OF-WAY

### 8.4.8.1 Purpose and Intent

The purpose and intent of this bylaw section is to permit regulation of the installation of Small Wireless Facilities outside of rights-of-way so as to respect the neighborhood characteristics in which they are proposed to be installed consistent with the purposes set forth in Section 8.3.1 and with federal and state law.

### 8.4.8.2 Special Permit

All installations of Small Wireless Facilities outside of rights-of-way require a Special Permit. The Special Permit Granting Authority under this Section 8.4.8 is the Planning Board.

### 8.4.8.3 Policies and Procedures

The Planning Board shall adopt and from time to time amend policies, rules, and regulations relative to the issuance of special permits under this Section 8.4.8. A copy of the policies, rules, and regulations shall be on file with the Town Clerk. Such rules shall prescribe the form, contents, style, and number for application forms, the fees collectible with the applications, the process by which the application will be reviewed, the design and location criteria for approval, the time within which the Planning Board will issue a decision, and requirements for recertification. These policies, rules, and regulations supersede the requirements of Section 9.2.0.

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### SECTION 8.5.0 TOWN CENTER OVERLAY DISTRICTS

#### 8.5.1 The Town Center is hereby adopted to achieve the following purposes and objectives:

The fulfillment of goals and strategies enumerated in the 1993 Land Use Element of the Master Plan and the 2004 Community Development Plan involving aesthetic and functional improvements to the Town Center;

The enhancement and improvement of existing historic structures and properties around the Town Common;

The enhancement and improvement of existing properties and/or structures relative to pedestrian access, vehicular circulation, and signage;

The implementation of design and development standards to guide future development and re-use proposals which reflect the historic and governmental features of the neighborhood;

The implementation of design and development standards that encourage parking areas to be subordinated in relation to buildings, landscaping, and pedestrian access;

The encouragement of communication and shared redevelopment efforts among adjoining property owners to help achieve their long term goals and objectives; and,

The promotion of increased density where utility and transportation infrastructure already exist to better accommodate future growth;

The promotion of a mixture of uses to reduce vehicle trips, such that residents and area employees can walk to needed services and amenities, and to conversely provide a built-in demand for the local commercial and retail uses;

The encouragement of in-fill development;

The reutilization of properties that have reached their market or physical obsolescence;

The clustering of buildings and mixing of uses in exchange for some portion of land to be set aside as public area or green space;

The application of "Smart Growth Principles" as enumerated by the Commonwealth of Massachusetts to the future redevelopment of the Town Center;

The provision of incentives to accomplish the above objectives.

#### 8.5.2 District Boundaries

The Town Center is herein incorporated as two (2) overlay districts, superimposed over other districts established by this Bylaw said districts to be known as: the "Civic Center" (CC) and the "Central Business District" (CBD). The districts shall include all areas as reflected on a map titled "Town Center Overlay Map: Civic Center and Central Business Districts", prepared by Town of Burlington Planning Department, dated December 2005. This map as may be amended from time to time is hereby made a part of this Bylaw.

#### 8.5.3 General Requirements and Applicability

All land located within the Civic Center and Central Business Districts shall be subject to the use restrictions or prohibitions as identified in Sections 4.2.0, 4.3.0 and 4.4.0 of these Zoning Bylaws. Uses not specifically permitted in these schedules shall be prohibited. Where land falls within the 100-Year Flood Plain District, Wetlands Districts, Aquifer or Water Resource Districts, such land shall be governed by the additional requirements or prohibitions of such districts.

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### 8.5.4 Permitted Uses

#### 8.5.4.1 Uses permitted by Site Plan and Special Permit

A Site Plan for all uses and activities proposed in the Town Center, except for single family dwellings, shall be required to be submitted in accordance with Section 9.3.0 of this Bylaw and the Site Plan Rules and Regulations of the Planning Board.

In the use regulations schedules of Sections 4.2.0, 4.3.0 and 4.4.0 of these Zoning Bylaws:

Where a use is designated as “YES” in the CC and CBD Districts, such use shall be permitted only if said use is permitted in the underlying zoning district, and any requirement for a special permit in the underlying zoning district shall govern.

Where a use is designated as “YES1” in the CC or CBD Districts, such use shall be permitted by right, even where the underlying zoning district may prohibit such use or require a special permit for such use.

Where a use is designated as “SP” in the CC or CBD Districts, such use shall require a Special Permit in accordance with the procedures specified in Section 9.2.0 of this Bylaw, even where the underlying zoning district may permit such use by right. Such designation shall not supersede a prohibition of an underlying zoning district.

Where a use is designated as “SP1” in the CC or CBD Districts, such use may be permitted by a Special Permit, even where the underlying zoning district may prohibit such use.

Where a use is designated as “NO” in the CC or CBD Districts, such use shall be prohibited regardless of the provisions of the underlying zoning district.

#### 8.5.4.2 Housing Production and Residential Uses in the Town Center

##### 8.5.4.2.1 *(This section deleted in its entirety at the Town Meeting of September 2010)*

###### 8.5.4.2.2 Maximum Residential Component:

No additional Multiple Family Dwellings shall be permitted beyond those units already permitted or applied for as of June 8, 2010

### 8.5.5 Dimensional Requirements

#### 8.5.5.1 Minimum Lot area

Lot area requirements shall be as required in the underlying zoning district pursuant to Section 5.2.0 of this Bylaw.

#### 8.5.5.2 Minimum Lot Frontage

Frontage requirements shall be as required in the underlying zoning district pursuant to Section 5.2.0 of this Bylaw.

#### 8.5.5.3 Minimum Front Yard

Front yard setback may be zero, subject to inclusion of minimum 10 feet wide pedestrian area along the front face of any structure, where such area may include walkways and other pedestrian amenities including seating areas, benches, landscaping, lighting, awnings, trash receptacles, and similar features as may be approved by the Planning Board pursuant to a Site Plan.

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### 8.5.5.4 Minimum Side Yard and Rear Yard

Side yard setback may be zero, except where abutting use is a one family dwelling, in which case a minimum 15' landscaped buffer is required.

### 8.5.5.5 Minimum Buffer to Adjoining RO Districts

The minimum buffer to adjoining residentially zoned property shall be 20% of the average depth and/or width of the lot as applicable, with a minimum of 25' and a maximum requirement of 50'. Abutting residentially zoned property shall include lots that are adjacent to a private or public way, connecting said residential property and the CC or CBD Districts. This buffer is not applicable to front yard setbacks on Cambridge Street, Center Street, and Winn Street. The buffer shall consist of natural vegetation and/or landscaping designed and constructed to mitigate the impact of any commercial use within the CC or CBD Districts on the abutting residential district. The buffer shall be designed and constructed to minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights, or signs, and shall be kept free of encroachment by all buildings, structures, storage areas, and parking, except that bicycle paths and fences may be sited within such buffer area if approved pursuant to a site plan review by the Planning Board but subject to a minimum 20' setback for bicycle paths.

### 8.5.5.6 Maximum Aggregate Building-to-Ground Area Percentage

33 1/3 %, except that the Planning Board pursuant to a Site Plan or Special Permit may permit the Maximum Aggregate Building to Ground Area Percentage to increase to 40% where such application is consistent with the purposes of the Town Center and meets one or more of the following criteria:

- a) Pedestrian and bicycle amenities are provided that are distinctly separated from drive aisles and parking, that provide active public spaces to foster social interaction, that encourage walking between businesses, that offer ease of access to public transit systems, and that enhance safety and access to adjoining properties and streets;
- b) Landscaping is provided of a density, diversity, and maturity that fosters the creation of public spaces, and that promotes connections to landscaped spaces on adjoining properties;
- c) Any housing component where at least 15% of the units are set aside as permanently affordable housing units.
- d) Offsite mitigation is implemented within the Town Center that substantially advances the purposes and objectives of the Town Center.

Pursuant to a special permit granted under Section 8.5.9 Transfer of Development Rights, the Planning Board may permit a Maximum Aggregate Building to Ground Area Percentage to increase to 50% where such application is consistent with the purposes of the Town Center and meets the criteria of any design review guidelines established by the Planning Board.

### 8.5.5.7 Maximum Building & Structure Height

For nonresidential and mixed use structures within 100' of abutting residential districts, including measurement across public or private ways = 30'.

For nonresidential and mixed use structures greater than 100' but less than 200' from abutting residential districts, including measurement across public or private ways = 35'.

For nonresidential and mixed use structures greater than 200' from abutting residential districts, including measurement across public ways = 40'.

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For multi-family structures within 100' of abutting residential district = 30'

For multi-family structures greater than 100' from abutting residential district = 40'.

For one family dwellings = 30'.

### 8.5.5.8 Minimum Feet between Buildings

Not less than required by the State Building Code.

### 8.5.5.9 Maximum Floor Area Ratio

For properties whose underlying zoning designation is General Industrial, the Floor Area Ratio may be increased to 0.50 pursuant to a special permit granted by the Planning Board in accordance with the provisions of Section 8.5.5.6. Floor Area Ratio shall not apply to other properties in the CC or CBD.

### 8.5.6 Nonconforming Uses, buildings, structures and premises

In addition to the criteria of Sections 6.1.1 and 6.1.2 of this Bylaw, proposed alteration, expansion, and/or change of nonconforming uses, buildings, structures or premises shall be subject to site plan review and aesthetic criteria of any design review regulations adopted by the Planning Board.

### 8.5.7 Parking Requirements

Parking requirements shall be as specified in Article VII of this Bylaw.

### 8.5.8 Design Requirements

The Planning Board shall adopt and maintain design review regulations to govern the future construction and reuse of properties in the Town Center. Adoption and amendment to such regulations shall require a public hearing in accordance with Section 9.6.0 of this Bylaw, and with notice to Town Meeting Members. Such regulations shall address:

1. Facade and exterior building treatment, including the style and sizes of all signage affixed to buildings;
2. A minimum percentage of landscaped surface area;. All open space, landscaped and usable, shall be designed to add to the visual amenities of the area by maximizing, in so far as practical, its visibility for persons passing the site or overlooking it from nearby properties.
3. A reduction in the number of existing curb openings that exist on the premises;
4. The placement of utilities and wiring underground to the extent possible;
5. The placement of HVAC equipment, fans, generators, and other site related structures and items so that they are not visible on roofs or building frontage areas, or that such features are suitably screened from view;
6. The layout & design of parking and loading spaces;
7. Other design standards and conditions deemed appropriate by the Planning Board; and,
8. Pedestrian amenities - sidewalks to provide access between parking areas and uses, and between properties.

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9. Preservation and enhancement of landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance or neighboring developed area.

10. Relation of buildings to the environment. The proposed development shall be related harmoniously to the terrain and to the design, scale, and architecture of existing buildings in the surrounding area that have visual relationship to the proposed buildings, insofar as practical. Proposed buildings shall be related to their surroundings with respect to:

- a) Street facade and exterior walls visible from public ways.
- b) Variations and breaks in wall and/or roof planes.
- c) Materials, textures and color
- d) Roof slopes and materials
- e) Domestic scale should be produced through massing devices such as breaks in wall and roof planes and through design of architectural features.
- f) The building should not be made, in effect, a sign, through painting with bold patterns, checks, logos or other graphic devices, use of lighting or use of unconventional building form.
- g) External lighting
- h) External windows

11. Heritage. Proposals to remove or disrupt historic or traditional structures, or architectural elements shall be minimized.

12. Cost. The Planning Board shall be obligated to be sensitive to potential financial burden to the applicant, where the applicant is only making improvements to comply with the Americans with Disabilities Act requirements.

### 8.5.9 Transfer of Development Rights

The Planning Board may, by Special Permit, consider requests to transfer development capacity between parcels of land in the Town Center. The Planning Board shall base its decision on the purposes and objectives criteria of Section 8.5.1. A major purpose of this provision is to provide a buffer between the adjoining established neighborhoods and the Town Center where no such buffer currently exists. Transferred development rights may be used for residential or nonresidential uses.

Development rights may not be transferred from land which may not be otherwise developed because of deed restrictions, easements, prior transfer of development rights, or other reasons that render the land not developable, including land with conservation restrictions, land owned by a government agency or a nonprofit corporation or other entity for park, open space, agricultural, historical, or conservation purposes.

Transfer of development rights is contingent upon placing a permanent deed restriction and recording such restriction at the South Middlesex Registry of Deeds, the form of which is subject to approval by Town Counsel, on the land from which the development rights are being transferred and restricting the use of the land to agriculture, forestry, open space, passive or active recreation, or deeding the land to the Town of Burlington as permanent open space or parkland.

Development rights may be transferred from a sending parcel with the accompanying deed restriction and held indefinitely by the owner of the parcel before being transferred to a receiving parcel. Development rights may be

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transferred by sale or other means and may subsequently be transferred to any owner of receiving parcels in the Town Center allowed pursuant to this bylaw.

### 8.5.10 Criteria for approval

The Planning Board shall not approve any application for approval of a site plan or special permit in the Town Center District unless it finds that all the following conditions are met:

1. The use or uses as proposed to be developed, and as reflected on the Site Plan and/or Special Permit application, will further the goals enumerated in the 1993 Land Use Element of the Master Plan and 2004 Community Development Plan for the Town Center, and the objectives listed in this section;
2. The use or uses proposed to be developed will enhance and improve pedestrian access, vehicular circulation, and the aesthetic appearance and function of the property and the area; and,
3. All criteria for approval listed in Sections 9.2.4 and 9.3.4 of this Bylaw.

## **ARTICLE IX: ADMINISTRATION AND PROCEDURES**

### **SECTION 9.1.0 ENFORCEMENT**

The Inspector of Buildings shall be primarily responsible for enforcing this Bylaw, but it shall be binding upon all employees and officers of the Town including the police, and they shall, when acting within the scope of their duties, fully enforce this Bylaw.

#### **9.1.1 Building Permit**

The Inspector of Buildings shall issue no permit nor approve any application of any kind unless the plans, specifications and intended use are in all respects in conformity with this Bylaw. Whenever such a permit is refused, the reasons therefore shall be clearly stated in writing to the applicant within fourteen (14) days after receipt of the application.

#### **9.1.2 Occupancy Permit**

No building or structure hereafter erected, altered or changed as to construction or use, shall be occupied or used, nor shall any owner of the building or structure allow such building or structure to be occupied or used, nor shall any owner, builder or contractor allow such building or structure to be sold or occupied or used without any occupancy permit issued by the Inspector of Buildings with the approval of the Board of Health. No such permit shall be issued unless the building or structure and its uses and accessory use shall comply in all respects with this Bylaw and the Laws of the Commonwealth. Return of a non-approval of the occupancy permit from the Board of Health will have to be received by the Inspector of Buildings within ten (10) days of notification or he will consider the permit approved. Notification of the granting of an occupancy permit shall be sent to the Board of Assessors, the Fire Chief, the DPW, the Conservation Commission and the Planning Board.

#### **9.1.3 Penalty**

Any person violating any of the provisions of this Bylaw shall be fined not more than three hundred dollars (\$300) for each offense. Each day that such violation continues shall constitute a separate offense. However, when enforced by way of the noncriminal disposition method, the fine for each violation shall be \$50.00.

#### **9.1.4 Request for Enforcement**

If the Inspector of Buildings is requested in writing to enforce this Bylaw against any person allegedly in violation of the same, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

### **SECTION 9.2.0 SPECIAL PERMIT**

#### **9.2.1 Requirements**

In all districts, any use or accessory use designated by SP in the Principal Use Regulations Schedule and the Accessory Use Regulations Schedule (Article IV, Sections 4.2.0 and 4.3.0) shall require a Special Permit granted by the Planning Board.

#### **9.2.2 Procedure**

9.2.2.1 Any person desiring a special permit shall submit an application pursuant to the Special Permit Rules and Regulations. The Planning Board shall not make a finding and determination upon the application until it has received the reports from the Inspector of Buildings, the Board of Selectmen, the Board of Health, the Fire Chief or designated representative, the Police Chief or designated representative, the Town Engineer, and the Conservation Commission or until thirty-five (35) days shall have elapsed without such reports being submitted and until a public hearing has been held.

9.2.2.2 The Planning Board shall adopt and from time to time amend rules and regulations relative to the issuance of such permits and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of application forms, plans and specifications and the procedure for a submission and approval of such permits.

9.2.2.3 **Special Permit Fees**

Where Special Permits are required for uses pursuant to this Bylaw, filing fees shall be as established in the Planning Board Rules and Regulations for Special Permits, as may be amended from time to time to offset the cost of interdepartmental review.

9.2.3 **Public Hearing**

The Planning Board shall hold a public hearing within sixty-five (65) days after the special permit application has been transmitted to the Planning Board giving notice as prescribed G.L. c. 40A, s. 11.

9.2.4 **Criteria for Approval**

Special permits shall be granted by the Planning Board, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in these Zoning Bylaws, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

9.2.5 **Final Action**

The Planning Board shall take final action on a special permit application within ninety (90) days after the public hearing has been closed. The failure to do so will constitute a favorable action by the Planning Board. Final action shall consist of (1) a written approval of the special permit, or (2) a written denial of the special permit application, stating reasons for such approval or denial. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Planning Board may deem necessary to serve the purposes of these Zoning Bylaws.

9.2.5.1 **Expedited Permitting for Priority Development Sites**

Town Meeting may, by majority vote, accept the expedited permitting provisions of G.L. c. 43D and designate any particular lot or lots as Priority Development Sites. In such cases, the Planning Board shall undertake review and render a decision on any special permit application so affected within 180 days of submission. The Planning Board may address provisions for such expedited permitting in its rules and regulations.

9.2.6 **Implementation**

Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk. The Planning Board may at the time of approval or thereafter, upon application therefore, grant such extensions of time, each not longer than one (1) year, as it shall deem necessary to carry the use into effect.

#### 9.2.7 Repetitive Application

No application for a special permit which has been unfavorably and finally acted upon by the Planning Board shall be acted favorably upon within two (2) years after the date of final unfavorable action, unless the Planning Board by a three-fourths vote finds specific and material changes in the conditions upon which the previous unfavorable action was based.

### SECTION 9.3.0 SITE PLAN

#### 9.3.1 Requirements of Plan

##### 9.3.1 Requirements of Plan.

In all districts except RO and FP, no structure or premises shall be constructed, reconstructed, altered, or used except in conformity with a site plan, prepared by a professional land surveyor, or registered professional engineer, and bearing an endorsement of approval by the Planning Board. Said site plan shall show, among other things, all existing and proposed buildings with ground floor plan and elevations, structures, parking spaces, driveway openings, driveways, service areas, and other open uses; all facilities for sewage, refuse and other waste disposal and for surface water drainage; and all principal landscape features, such as fences, walks, walls, signs, exterior lighting, and planting areas showing size and kind of plants to be used.

The Planning Board may in any particular case where such action is in the public interest and not inconsistent with the intent and purpose of this section, waive strict compliance with its rules and regulations and with the requirements herein.

9.3.1.1 Waived Requirements: When in the opinion of the Planning Board, the alteration or reconstruction of a structure does not substantially change the relationship of the structure to the site and to abutting properties and structures, the Planning Board may determine, without a public hearing, that submission of a site plan is not required. Upon application, such a determination may be made by an affirmative vote of not less than all members of the Planning Board present except one, and in no event less than four members, and all abutters must be notified by certified mail, return receipt requested, at least seven days prior to the meeting at which such vote is to be taken. The involved structure shall be as shown on a site plan previously approved under this section or on a plan determined by the Planning Board to be equivalent to a site plan. Such plan, with all proposed changes shown thereon, shall be included with the application. The structure, as changed, shall comply in every respect with all provisions of the Zoning Bylaws and other applicable laws and bylaws. Notice of final action shall be sent to the Inspector of Buildings and to the applicant.

#### 9.3.2 Procedure

Any person desiring a Site Plan shall submit an application pursuant to the Site Plan Rules and Regulations. The Planning Board shall not make a finding and determination upon an application until it has received the reports from the Inspector of Buildings, the Board of Selectmen, the Board of Health, the Fire Chief or designated representative, the Police Chief or designated representative, the Town Engineer, and the Conservation Commission or until thirty-five (35) days have elapsed without such recommendations being submitted and until a public hearing has been held;

9.3.2.1 A filing fee shall be submitted to the Town Clerk with an application for a site plan or site plan waiver. The filing fees shall be as set by the Planning Board in its Site Plan Rules and Regulations from time to time. In no case shall the filing fee for a site plan or site plan waiver be less than \$350.00.  
(Amended 9/11/95)

#### 9.3.3 Public Hearings

The Planning Board shall hold a public hearing within sixty-five (65) days after the site plan has been transmitted to the Planning Board, giving notice as prescribed in G.L. c. 40A, s. 11.

#### 9.3.4 Criteria for Approval

In considering a site plan under this section, the Planning Board shall require conformance with the following conditions:

9.3.4.1 Internal circulation and egress shall provide for traffic safety, and access to and from minor streets servicing one family dwellings shall be minimized.

9.3.4.2 Visibility of parking and service areas from adjoining streets and districts shall be minimized.

9.3.4.3 Adequate access to each structure for fire and service equipment shall be provided.

9.3.4.4 Utilities and drainage in the vicinity shall be adequate.

9.3.4.5 Exterior lighting shall not shine on adjoining properties.

9.3.4.6 Effective use shall be made of topography, landscaping, and building placement to enhance the neighborhood.

9.3.4.7 All other requirements of the Bylaw have been satisfied.

#### 9.3.5 Final Action

The Planning Board shall take final action on an application for site plan approval within ninety (90) days after the public hearing has been closed. The failure to do so shall constitute approval of the site plan as submitted.

The Planning Board shall take final action on an application for site plan approval within ninety (90) days after the public hearing has been closed. The failure to do so shall constitute approval of the site plan as submitted. Final action shall consist of (1) approval of the site plan as submitted; or (2) approval of the site plan subject to conditions, modifications, and/or restrictions set forth thereon which in the opinion of the Planning Board are necessary to cause the site plan to meet the criteria for approval set forth herein; or (3) denial of the application for site plan approval if in the opinion of the Planning Board the site plan fails to meet any one or more of the criteria for approval set forth herein, and the applicant fails or refuses to make such amendments to the site plan as are necessary in the opinion of the Planning Board to cause the site plan to meet the criteria for approval.

#### 9.3.5.1 Expedited Permitting for Priority Development Sites

Town Meeting may, by majority vote, accept the expedited permitting provisions of G.L. c. 43D and designate any particular lot or lots as Priority Development Sites. In such cases, the Planning Board shall undertake review and render a decision on any site plan application so affected within 180 days of submission. The Planning Board may address provisions for such expedited permitting in its rules and regulations.

#### 9.3.6 Implementation and Completion of Plan

An approved or conditionally approved site plan shall be carried into effect and completed by the applicant within one (1) year of the date of approval. The Planning Board may at the time of the approval or conditional

approval of any site plan or thereafter, upon application therefore, grant such extensions of time, each not longer than one (1) year, as it shall deem necessary to carry the site plan into effect.

### **9.3.7 Appeal**

The appeal of a decision of the Planning Board pursuant to this Section 9.3.0 shall be made to a court or competent jurisdiction as set forth in G.L. c. 40A, s. 17.

## **SECTION 9.4.0 AMENDMENT**

### **9.4.1 Initiation**

Amendments to this Bylaw may be initiated by an elected or appointed Town Board, committee, officer or other person permitted by law, an individual owning land to be affected by an amendment, ten (10) registered voters, or a regional planning agency. Unless initiated by the Board of Selectmen, the proposed amendment shall be submitted to that Board. The Board of Selectmen shall within fourteen (14) days of receipt of such a proposal submit it to the Planning Board for review.

### **9.4.2 Public Hearing**

The Planning Board shall hold a public hearing within sixty-five (65) days after the proposed amendment is submitted to it by the Board of Selectmen, giving notice as prescribed in Section 9.6.0.

### **9.4.3 Report of the Planning Board and Town Meeting Action**

After the Public Hearing the Planning Board shall report its recommendations to the Town Meeting. No vote to adopt a proposed amendment shall be taken until a report or recommendations by the Planning Board has been submitted to the Town Meeting or twenty-one (21) days after said hearing have elapsed without submission of such report or recommendations. A Town Meeting may adopt, reject, or amend and adopt a proposed amendment only by a two-thirds vote. If a Town Meeting fails to vote on any proposed amendment within six (6) months after the public hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as above provided.

### **9.4.4 Effective Date**

The effective date of an amendment to this Bylaw is the date when voted upon by a Town Meeting.

### **9.4.5 Repetitive Petition for Amendments**

No proposed Zoning Bylaw amendment which has been unfavorably acted upon by a Town Meeting shall be considered by the Town Meeting within two (2) years after the date of such unfavorable action unless the adoption of such proposed Bylaw amendment is recommended in the report of the Planning Board on the current petition.

### **9.4.6 Lots Excluded from Amendment Changes**

Any increase in area, frontage, width, yard, or depth requirements of the Zoning Bylaws shall not apply to a lot for one family residential use which at the time of the first notice of the public hearing was not held in common ownership with any adjoining land, conformed to the then existing requirements, and had less than the proposed requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage.

## **SECTION 9.5.0 APPEALS**

### **9.5.1 Board of Appeals**

There shall be a Board of Appeals comprised of five (5) members appointed by the Board of Selectmen for terms of five (5) years and so arranged that the term of one (1) member expires each year. The members of the Board of Appeals duly appointed on the effective date of this Bylaw shall continue to serve until the expiration of their term, but in all other respects this Bylaw shall be binding upon said Board. Associate members shall be appointed by the Board of Selectmen to sit on the Board of Appeals in case of absence, inability to act, or conflict of interest. The Board of Appeals shall also act as the Board of Appeals under the Building Regulations. No member of such Board shall entertain, hear, vote upon, or take action upon any matter before the Board in which such member has an interest, direct or indirect, personal or professional. For the purposes of this Bylaw, interest shall include membership in a firm, partnership, or corporation which has a direct or indirect financial interest in the subject. No Town Officer elected or appointed, may represent any petitioner other than himself before the Board of Appeals.

#### 9.5.2 Duties

The duties of the Board of Appeals shall be to hear and decide appeals, and to hear and decide petitions for variances, except that no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure in question is located.

#### 9.5.3 Appeal Notice and Variance Petition

Any person or any municipal officer or Board aggrieved by any order, act or refusal of the Inspector of Buildings or other administrative officer, having authority under this Bylaw or under the Building Regulations, may within thirty (30) days from the date of the order or decision which is being appealed, file a notice of appeal, specifying the grounds thereof, with the Town Clerk, who shall transmit copies thereof to such officer whose order or decision is being appealed and to the Board of Appeals. Such officer shall forthwith transmit to the Board of Appeals all documents constituting the record of the case in which the appeal is taken. Actions of the Board of Appeals and the Planning Board under the Zoning Bylaws may be appealed to the Massachusetts Courts in accordance with the provisions of Section 17 of Chapter 40A of Massachusetts General Laws.

Any person desiring a variance from the provisions of this Bylaw may file a petition with the Town Clerk who shall transmit the petition to the Board of Appeals.

#### 9.5.4 Hearing

The Board of Appeals shall hold a hearing on any appeal or petition for a variance within sixty-five (65) days after the notice for such appeal or petition has been transmitted to the Board by the Town Clerk, giving notice in the manner prescribed in Section 9.6.0.

#### 9.5.5 Decision

The decision of the Board of Appeals shall be made within one hundred (100) days after the date of the filing of an appeal or petition, or other deadline pursuant to Massachusetts General Law, Chapter 40A, Section 15. The concurring vote of all except one (1) member of the Board of Appeals shall be necessary to reverse any order or decision of the Inspector of Buildings or Board having authority under this Bylaw or under the Building Regulations to effect any variance.

#### 9.5.6 Repetitive Appeal or Petition

No appeal or petition which has been unfavorably acted upon by the Board of Appeals shall be acted favorably upon within two (2) years after the date of final unfavorable action unless the Board finds, by a vote of four (4) members of the Board, specific and materials changes in the conditions upon which the previous unfavorable action was based; and unless all but one (1) of the members of the Planning Board consent thereto and after notice is given to parties in interest of the time and place at the proceedings when the question of such consent will be considered.

## SECTION 9.6.0 NOTICE OF PUBLIC HEARINGS

### 9.6.1 Method of Publication

In all cases where notice of a public hearing is required by the provisions of Sections 9.2.0, 9.3.0, 9.4.0, and 9.5.0, or by any statute of the Commonwealth, it shall be given by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing; except that where a different means of notice is provided by statute the statute shall be followed.

### 9.6.2 Notices to be Mailed, Post Prepaid

In the case of Special Permit, Site Plan Approval, Appeal, and Variance, notice shall be mailed, post prepaid, to the petitioner, abutters, owners of land directly opposite on any public or private street or way, and owners of land within three hundred (300) feet of the property line all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; to the Planning Board; and to the Planning Board of every adjoining city or town. In the case of amendments to this Bylaw, notice shall be mailed to the Department of Housing and Community Development, the regional planning agency, and to the planning boards of every adjoining city or town. In cases involving boundary or use changes within a district, notice shall be sent to any such nonresident property owner who has filed a request with the Town Clerk and whose property lies in the district where the change is sought. In the case of all Rezoning Petitions, notice shall be mailed, by the applicant, post prepaid, to all Town Meeting Members, based upon the active list of Town Meeting Members as maintained by the Town Clerk at the time of submission of the petition.

### 9.6.3 Content for Publications and Notices for Amendments

Publications and notices shall contain the date, time, and place of the public hearing; the subject matter sufficient for identification; and the place where texts and maps thereof may be inspected.

### 9.6.4 Content for Publications and Notices for All Other Hearings

Publications and notices shall contain (a) the name of the petitioner; (b) a description of the area or premises; (c) street address, if any, or other adequate identification of the location of the subject area or premises; (d) the date, time, and place of the public hearing; (e) the subject matter of the hearing; and (f) the nature of action or relief requested, if any.

### 9.6.5 Days When Public Hearings Shall Not Be Held

No public hearing shall be held on any day on which a national, state or municipal election, caucus or primary is held; or any day on which a Town Meeting is held.

## Article X

### **ARTICLE X: MISCELLANEOUS AND SPECIAL REGULATIONS**

#### SECTION 10.1.0 ADDITIONAL REGULATIONS FOR HOME OCCUPATIONS

An occupation conducted in a dwelling unit, provided that:

- (a) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building;
- (d) No traffic shall be generated by such occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (e) No equipment or process shall be used in such home occupation which creates noise, vibrating, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

#### SECTION 10.2.0                   EXCEPTIONS FOR HOTELS, MOTELS OR MOTOR HOTELS

Hotels, motels, or motor hotels shall be subject to the following density regulations:

- 10.2.1 The minimum Lot Area shall be 120,000 square feet.
- 10.2.2 No sleeping rooms shall be located below the mean finished grade of land adjoining the building.
- 10.2.3 Each building must contain fifteen (15) or more sleeping rooms.

#### SECTION 10.3.0 ADDITIONAL REGULATIONS FOR ADULT ENTERTAINMENT USES

10.3.1 This bylaw is enacted pursuant to MGL, Chapter 40A, Section 9A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect in generating crime and blight.

10.3.2 Any establishment or business enterprise which is comprised of a use or uses classified as adult entertainment, including but not limited to adult bookstore, adult club, adult paraphernalia store, adult theater, or adult video store, which singly or in combination constitute more than twenty-five (25) percent of the stock in trade and/or floor area of the establishment shall be considered as an adult entertainment use.

10.3.3 Adult bookstores, adult clubs, adult paraphernalia stores, adult theaters, and adult video stores, shall be subject to the following regulations:

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Adult bookstores, adult clubs, adult paraphernalia stores, adult theaters, and adult video stores may not be located:

1. Within one thousand (1000) feet of each other;
2. Within five hundred (500) feet of the nearest lot line of a place of worship or a building used for religious purposes; and,
3. Within one thousand (1000) feet of a school, nonprofit educational use, library, or museum.

10.3.4. Adult bookstores, adult clubs, adult paraphernalia stores, adult theaters, and adult video stores must meet the setback requirements of the appropriate district. All signage must meet the requirements of the sign bylaw. No advertisement, display, or other promotional material which contains sexually explicit graphics or sexually explicit text is to be visible to the public from any public way, including but not limited to pedestrian walkways and sidewalks.

10.3.5. No special permit may be issued under this section to any person convicted of violating the provisions of G.L. c.119, '63 or G.L. c.272, '28.

### SECTION 10.4.0 ADDITIONAL REGULATIONS FOR RESTAURANTS IN AN (IG) DISTRICT

The Planning Board may grant a Special Permit for a restaurant use within a General Industrial (IG) District, subject to the following restrictions:

#### 10.4.1 Purpose

The purpose of allowing restaurants by Special Permit within an office/commercial park setting is to enhance previously established commercial areas by permitting a mixture of uses which reduce the number of vehicular trips generated during peak hour periods and promote pedestrian activities through the interconnection of compatible uses and facilities.

#### 10.4.2 Procedures

All requests for consideration by the Planning Board for a Special Permit pursuant to this section shall be consistent with Section 9.2.0 "Special Permit" of this bylaw.

#### 10.4.3 Approval Criteria

In addition to the approval criteria for special permits pursuant to Section 9.2.4 of this bylaw, the applicant shall comply with additional criteria as detailed below and the Planning Board shall make findings pursuant to these specific requirements:

- a) Any proposed restaurant within an IG District shall be located within a previously established office/commercial park of 600,000 square feet or more.
- b) Prior to the submission of any formal application to the Planning Board for consideration of a Special Permit under this section, the Planning Board shall make a determination as to whether the property qualifies as part of a previously established office/commercial park. An "office/commercial park" shall be defined as a property which, when taken as a whole with other properties in the general area, possesses a commonality of purpose, use, management, maintenance, and other indicia which provides to the general public a perception of a unified operation and character. In an office/commercial park, the individual parcels do not have to be under the same ownership. The delineation of a particular office/commercial park may change over time based upon the Planning Board's determination that other properties have been incorporated into a commonality of operation and character. The determination of whether a

## Article X

property qualifies under this definition shall be at the discretion of the Planning Board.

c) Once an area has been designated by the Planning Board as an office/commercial park, any addition or removal of a parcel, shall require authorization by the Planning Board prior to the submission of any Special Permit application under this Section.

d) Any proposal for a restaurant submitted pursuant to this section of the bylaw shall be required to incorporate pedestrian enhancements which interconnect adjacent commercial buildings/properties through a network of sidewalks and/or bike paths. These amenities shall be considered by the Planning Board when analyzing any applicable traffic analysis and/or transportation demand management alternatives.

e) The total square footage of each restaurant pad and the total number of restaurants within an office/commercial park shall not exceed the following criteria:

- i) No individual restaurant pad shall exceed 12,000 square feet.
- ii) An office/commercial park with a square footage of 600,000 square feet or more shall be limited to no more than two (2) restaurant pads.
- iii) In no case shall the maximum permitted square footage of a restaurant space within an office/commercial park include existing or proposed accessory cafeteria space.

f) Any restaurant proposed under this bylaw shall be a full service, sit down restaurant.

## SECTION 10.6.0 REGISTERED MARIJUANA DISPENSARY

### 10.6.1 Purpose and Intent

Applications for a Registered Marijuana Dispensary (RMD) shall be subject to additional criteria herein.

### 10.6.2 Procedures

All requests for consideration by the Planning Board for Special Permit approval of an RMD shall be consistent with this section and Section 9.2.0 of the Zoning Bylaws. All RMDs must be licensed by the state Department of Public Health (DPH) or successor agency. At the time of application for approval of a Special Permit, the proponent is required to submit documentation to the Town that the state DPH has issued a valid license and/or permit to operate a Registered Marijuana Dispensary.

### 10.6.2.1 Notification

The abutter notification requirement is hereby extended to a distance of one thousand feet (1000), to correspond with the buffer requirements below.

### 10.6.3 Approval criteria

In addition to the approval criteria for Special Permit in Section 9.2.4 of the Zoning Bylaws, the Planning Board shall incorporate the recommendations of the Board of Health, Police Department, Fire Department, Building Department as conditions of approval for any Registered Marijuana Dispensary.

### 10.6.4 Additional Dimensional Requirements

In addition to the dimensional requirements set forth in Section 5.2.0 Density Regulation Schedule of the Zoning Bylaws, the following requirements shall apply.

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### 10.6.4.1 Buffer Requirement

The parcel boundary within which a Registered Marijuana Dispensary is located shall not be:

1. Within one thousand (1000) feet of the nearest parcel boundary of another RMD;
2. Within five hundred (500) feet of the nearest parcel boundary of a religious institution;
3. Within one thousand (1000) feet of the nearest parcel boundary of a place where children commonly congregate.
  - 3.1. For these purposes, a place where children commonly congregate shall include: Dance schools; gymnastic schools; technical schools; vocational schools; public and private K-12 schools; facilities that offer tutoring or after school instruction; licensed daycare facilities (including private home daycare); parks that have play structures and athletic fields intended for use by children; accredited Headstart facilities; commercial establishments that host children's parties. This bylaw regulates intentional congregation of children--such as at schools, play structures, athletic fields, and the like, rather than incidental congregation of children, such as at ice cream parlors, pediatrics offices, and shopping venues, and the like. The applicant shall demonstrate compliance with buffer requirements under this regulation by provision of maps, and by an inventory of tenants and owners within the buffer, or by any other means the Planning Board might require. The buffer requirement applies to facilities in adjacent communities as well as facilities within Burlington.

### 10.6.4.2 Amending the buffer requirement

The Planning Board shall have discretion to amend the buffer requirement as follows:

- 1) Where the Planning Board clearly distinguishes between uses within a single parcel, and finds that the intent of the buffer requirement can be met, as set forth in 10.6.4.1 above, the Board, in the exercise of its reasonable discretion, may waive the requirement that the 1,000 foot buffer be measured between the nearest points of parcel boundaries and instead require that measuring between nearest points of facilities, for example, measuring building to building, shall be the method of measurement where circumstances warrant the change.

### 10.6.4.3 Adjacency to residentially zoned land

A RMD shall not be located on a parcel that touches residentially zoned property (excluding Town-owned property that is zoned RO and is not used for residential purposes).

### 10.6.5 Parking Requirements

Parking requirements shall be regulated under 7.2.5.12 "Other Uses" of the Zoning Bylaws.

### 10.6.6 Nuisance

No equipment or process shall be used in such Registered Marijuana Dispensary which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the parcel.

### 10.6.7 Compliance and Suspension of License

The Special Permit for this use is subject to review for compliance on an annual basis by the Planning Board. Any new owner and or operator shall require a new Special Permit. In the event that the state Department of Public Health (DPH) (or any successor agency) suspends the license or registration of a RMD, the Planning Board may require the licensee's appearance at a public meeting.

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### SECTION 10.7.0 TEMPORARY MORATORIUM ON MARIJUANA RETAIL SALE

Section 10.7.0Temporary Moratorium on Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use):

#### Section 10.7.1. PURPOSE

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law that would legalize recreational marijuana. The law requires a newly appointed Cannabis Control Commission, made up of three (3) members appointed by the Massachusetts Treasurer that would be responsible for regulating and supervising marijuana businesses. The law, as amended, provides that the commission must adopt initial regulations by March 15, 2018. If the commission fails to develop regulations by July 1, 2018, the ballot question, as amended, allows existing medical marijuana treatment centers to begin selling recreational marijuana to adults without any additional regulations. The commission would develop procedures for issuing and renewing licenses. It would develop requirements for the security of marijuana businesses, for preventing marijuana sales to minors, for record keeping, health and safety standards, packaging and labeling requirements, testing requirements, marketing restrictions and enforcement mechanisms. The commission would have authority to limit the total amount of marijuana grown in Massachusetts. Cities and towns can adopt ordinances and bylaws that impose "reasonable safeguards" on the operation of marijuana shops, including limiting the number or type of marijuana establishments.

The regulation of recreational marijuana and associated sales raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of recreational marijuana sales and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaws regarding regulation of Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use). The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use) so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.

#### Section 10.7.2. DEFINITIONS

The definitions contained in the AN INITIATIVE PETITION FOR A LAW RELATIVE TO THE REGULATION AND TAXATION OF MARIJUANA shall be the definitions used in the Moratorium. These definitions include but are not limited to the following:

"Marijuana" or "Marihuana", all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include: (1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

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"Marijuana establishment", a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

"Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

"Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

### Section 10.7.3 TEMPORARY MORATORIUM

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaws to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, the on-site consumption of marijuana and marijuana products, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use). The moratorium shall be in effect through December 31, 2018 or six (6) months after the effective date of the Cannabis Control Commission regulations, whichever is later. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the regulations of the Cannabis Control Commission regarding recreational Marijuana and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use); or to take any action relative thereto.

### Section 10.8. PROHIBITION ON MARIJUANA ESTABLISHMENTS

Prohibition on Marijuana Establishments In accordance with Massachusetts General Laws Chapter 94G, Section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law, to include, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, and any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Burlington. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time), nor shall it be construed to include registered marijuana dispensaries as defined by Article II, Section 2.18.2.1 of the Zoning Bylaws;

### 10.9.0 SOLAR

#### 10.9.1

In the residential districts (RO, RG, and RC), solar energy systems are permitted pursuant to the following criteria:

- a. Roof mounted systems are allowed on any existing structures within the district(s).
- b. Ground mounted systems pursuant to Article IV, Section 4.2.0 and are permitted to be erected only to provide for the average energy needs of the structure(s) on the subject property. For example, the average one family dwelling uses 1,000 kWh per month. The system shall be relational to this usage taking into account the fluctuations due to seasonal sunlight changes.
- c. Ground mounted solar energy systems in any and all positions shall adhere to all setbacks and are prohibited from the front yard of the subject property.

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- d. Ground mounted solar systems shall not exceed fifteen (15) feet in height in any and all positions and cannot exceed the height of the principal use on the premises.
- e. Ground mounted solar systems shall be sited and adequately screened to minimize the view from abutting properties. Light or reflection from the ground mounted solar system shall not shine or reflect onto abutting properties. System installation shall include measures to prevent contact with live current.
- f. Abandonment – A solar energy system shall be considered abandoned when it fails to operate or is unused for more than one (1) year.
- g. Removal Requirements – Any roof and/or ground mounted system which has reached the end of its life or has been abandoned shall be removed. The owner shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner shall notify the Building Department in writing of the proposed date of discontinued operations and plans for removal.

### 10.9.2

In all other zoning districts solar energy systems are permitted pursuant to the following criteria:

- a. Roof mounted systems are allowed on any existing structure(s) within any zoning district other than those identified in 10.9.1.
- b. Ground mounted systems permitted pursuant to Article IV, Section 4.2.0. Ground mounted solar energy systems in any and all positions shall adhere to all setbacks and height requirements and are prohibited from the front yard of the subject property.
- c. Abandonment – A solar energy system shall be considered abandoned when it fails to operate or is unused for more than one (1) year.

Removal Requirements – Any roof and/ or ground mounted system which has reached the end of its life or has been abandoned shall be removed. The owner shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner shall notify the Building Department in writing of the proposed date of discontinued operations and plans for removal.

## SECTION 10.10 OUTDOOR SEATING

10.10.1 Purpose: The purpose of this section is to enhance safe and attractive outdoor seating options for local qualified businesses to address health conditions, enliven commercial spaces, and promote business activity.

10.10.2 Procedure: An Applicant for an outdoor seating permit shall submit the required application to the Inspector of Buildings who may, notwithstanding any other requirement under this bylaw or any existing special permit or site plan review for the applicant or its establishment or the property on which it is located, issue a permit for outdoor seating if the threshold requirements are met per section 10.10.3. The Inspector of Buildings shall be authorized to promulgate regulations consistent with this bylaw which shall, at a minimum, set forth specific procedures and required submittals for any permit hereunder.

### 10.10.3 Requirements for the Issuance of an Outdoor Seating Permit

10.10.3.1 The outdoor seating capacity shall not exceed 50% of the authorized internal capacity and shall not exceed the number of seats in total for which bathrooms are provided at the establishment.

10.10.3.2 The outdoor seating shall be located on the parcel and adjacent or near the building.

10.10.3.3 The outdoor seating, if adjacent to a street or parking lot, shall be protected by barriers approved by the police department for safety of the customers per regulations.

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10.10.3.4 The Inspector of Buildings shall have the discretion to determine if the proposed change to any parking requirements is consistent with public safety including but not limited to pedestrian and traffic safety.

10.10.3.5 If the Applicant for a permit for outdoor seating is someone or some entity other than the owner of the real property, the owner of the real property shall also sign the application.

10.10.3.6 If the location for which the outdoor seating is sought is located on real property or in a building where there is more than one tenant, then the property owner shall have the responsibility to manage all parking between tenants of the real property.

10.10.3.7 If alcohol is served at the premises, prior to issuing a permit hereunder, the Inspector of Buildings shall require proof of modification of the alcohol license.

10.10.3.8 All outdoor seating proposed hereunder shall be temporary in nature as determined by the Inspector of Buildings. In the event it is determined that the proposed outdoor seating is permanent, then the Applicant is required to seek a modification to any existing permits which govern the use of the property or establishment.

10.10.3.9 The Inspector of Buildings may include conditions to any permit issued hereunder and which are consistent with the intent and purpose of this bylaw.

### 10.10.4 Term of Permit.

Any permit issued by the Inspector of Buildings hereunder shall be valid for the term, which shall not exceed one year, written in the Outdoor Seating Permit Regulations and Guidelines, so long as there are no changes to the number of seats or configuration of the seating area of the establishment. In the event there are any changes to the foregoing, the Applicant must reapply for a new permit.

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### **ARTICLE XI: SPECIAL RESIDENTIAL REGULATIONS**

#### **SECTION 11.1.0 DEVELOPMENT INCENTIVE FOR AFFORDABLE HOUSING**

11.1.1 An owner or owners of land in all residential districts may, in connection with the submission of an application for a special permit and site plan to the Planning Board, pursuant to the requirements for particular uses within such districts, apply for a special permit to increase the number of dwelling units which would otherwise be permitted under this Bylaw up to a maximum of 10% of the units otherwise permitted on the tract under this Bylaw and provided that a minimum of 10% of all units in the tract are affordable to persons of low and moderate income. In all cases, affordable units shall be reasonably mixed with market rate housing units.

11.1.2 No development shall take place pursuant to a special permit under this section until and unless a site plan is submitted to and approved by the Planning Board.

11.1.3 In the event that a special permit under this section is granted, the lot area, frontage, width of lot at building and yards of the development shall be as shown by a site plan submitted to and approved by the Planning Board, which site plan shall conform generally to the pattern of development permitted in the district in which the land lies with such deviations as are reasonable, in the judgment of the Planning Board, to permit the increased density.

11.1.4 The Board may require, as a condition of said permit that, in lieu of all or some of the units for use by low and moderate income being provided within the development, the developer shall:

1. Make a cash payment to be used for low and moderate income units, which payment, as determined by the Board using accepted valuation methods, is equivalent in value to the units which otherwise would have been provided within the development;
2. Provide all or some of the required low and moderate income units on a site different from the development; and provided that in all cases it is reasonably mixed with market rate housing.
3. Provide all or some of the required low and moderate income housing through an alternative means other than those already listed in this subsection; or
4. Provide all or some of the required low and moderate income housing through a combination of any or all of the methods in this subsection.

If the Board allows the provision of some or all of the low and moderate income housing by a method different from this subsection, the Board shall first find that such alternative method will help alleviate the undue concentration of population and encourage housing for persons of all income levels; and will (a) encourage the most appropriate use of land and buildings, or (b) avoid undue hardship to land and buildings.

#### **SECTION 11.2.0 ACCESSORY RESIDENTIAL USES IN ONE-FAMILY DWELLINGS: ACCESSORY APARTMENTS**

An accessory apartment is a second dwelling unit located within a structure constructed as a detached one family dwelling, subordinate in size to the principal dwelling unit and separated from it, in a manner that maintains the appearance of the structure as a one family unit.

##### **11.2.1 General Objectives**

The provision of accessory dwelling units in owner occupied one family dwellings is intended to: 1) increase the number of small dwelling units available for rent in town, 2) increase the range of choice of housing accommodations, 3) encourage greater diversity of population with particular attention to young

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adults and senior citizens, and 4) encourage a more economic and energy efficient use of the town's housing supply while maintaining the appearance and character of the town's single family neighborhoods.

### 11.2.2 Conditions and Requirements:

The Building Inspector shall issue a building permit for an accessory apartment in a detached, one family dwelling in any residential district provided that the unit meets the standards of the building code and each of the following conditions and requirements is met:

#### (a) General

1. The owner of the dwelling in which the accessory apartment is created, shall occupy either of the dwelling units in the located structure in question, except for temporary absences of up to six months. For the purposes of this section, the "owner" shall be one or more individuals residing in a dwelling, who hold title and for whom the dwelling is the primary residence for voting and tax purposes.
2. There shall be no more than one accessory apartment within a one family dwelling.
3. There shall be no boarders or lodgers within either unit of a dwelling with an accessory apartment.
4. The gross floor area of the dwelling, including the basement, shall have been at least 1,800 square feet as of January 1, 1989, which amount shall be verified in the records of the Building Inspector. (Note: Gross floor area is defined as the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces or any space where the floor to ceiling height is less than six feet.)
5. The maximum net floor area of the accessory apartment shall not exceed 30 percent of the net floor area of the dwelling as of January 1, 1989.
6. There shall be no more than two bedrooms in an accessory apartment.

#### (b) Exterior Appearance of a Dwelling with an Accessory Apartment: The accessory apartment shall be designed so that the appearance of the structure remains that of a one family dwelling, subject further to the following conditions and requirements:

1. All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling.
2. There shall be no enlargements or extensions of the dwelling in connection with any accessory apartment except for minimal additions necessary to comply with building, safety or health codes, or for enclosure of an entryway, or for enclosure of a stairway to a second or third story.
3. Any new entrance shall be located on the side or in the rear of the dwelling.
4. Where there are two or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and the other entrances appear to be secondary.

#### (c) Off-street Parking: There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least two off-street parking spaces for the accessory unit.

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### SECTION 11.3.0 ADDITIONAL REGULATIONS AND EXCEPTIONS FOR GARDEN APARTMENTS AND DORMITORIES

11.3.1 No building shall contain less than six (6) nor more than twelve (12) units.

11.3.2 No apartment dwelling unit shall contain more than two (2) bedrooms, and not less than fifty (50) percent of the apartment dwelling units in a district shall have one (1) bedroom only. Dormitories shall have one (1) bedroom units only and may have dining and lounging facilities.

11.3.3 No living spaces or rooms shall be located below the finish grade of the adjoining ground or above the second story.

11.3.4 Not more than three (3) buildings may be constructed in an attached group.

11.3.5 No space in an apartment building or dormitory shall be used for storage of gasoline powered vehicles and equipment or combustible materials not part of the building.

### SECTION 11.4.0 ADDITIONAL REGULATIONS FOR HOUSINGS FOR THE ELDERLY IN AN RO-ONE FAMILY RESIDENCE DISTRICT

11.4.1 No building shall contain less than four nor more than eight units.

11.4.2 Minimum lot size shall be 60,000 square feet.

11.4.3 No building shall exceed two (2) stories in height.

### SECTION 11.5.0 ADDITIONAL REGULATIONS IN THE CONTINUING CARE (RC) DISTRICT

11.5.1 The following types of senior housing facilities may be proposed in a RC District: Assisted Living, Congregate Living, Continuing Care Retirement Community, Elderly Housing, Independent Living, Long Term Care Facility, Nursing Home, Rest Home.

#### 11.5.2 Nonresidential Uses

The operator of a senior housing facility may also provide optional accessory use services on the site including but not limited to local transportation, barber/beauty services, sundries for personal consumption, and other amenities, provided:

- a) such uses serve primarily the residents of the development;
- b) such uses are conducted within and may be entered only from within a principal building;
- c) there is no external evidence of such uses visible beyond the property; and,
- d) the appearance and character of the commercial uses are compatible with a residential development.

11.5.3 All senior housing facilities proposed in or adjacent to residential districts shall be constructed so as to be residential in appearance. No structure shall exceed three (3) stories in height, and shall have sloped roofs. No driveways, parking areas, or circulation aisles may be constructed in a side or rear yard setback abutting a residential district. Side and rear yard setbacks shall be landscaped to provide a buffer between adjacent uses. However, walking paths for the residents of a senior housing facility may be located within the side or rear yard setbacks.

11.5.4 No living space shall be located below the finish grade of the adjoining ground.

11.5.5 The maximum number of residential units or beds on a site shall be determined by the Planning Board based on such factors as but not limited to, impact on the neighborhood, affordability for residents, quality of life, and provisions for adequate open space, recreational facilities, parking, landscaping, and

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buffers: provided, however, that the number of residential units or the density of the development shall be at least as large as was permitted under the zoning for the site immediately before it was rezoned to RC.

### SECTION 11.6.0 OPEN SPACE RESIDENTIAL DEVELOPMENT

The Planning Board may grant a special permit for an Open Space Residential Development in any residential district subject to the following:

#### 11.6.1 Purpose

The purpose of Open Space Residential Development is to encourage the preservation of common land for conservation, agriculture, open space and recreational use; to provide increased opportunities for affordable housing; to preserve historical or archaeological resources; to protect existing or potential municipal water supplies; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to promote better utilization of land in harmony with its natural features and with the general intent of the zoning bylaws through a greater flexibility in design; and to allow more efficient provision of municipal services.

#### 11.6.2 Procedures

(a) **Filing of Application:** Each application for a special permit for Open Space Residential Development shall be filed with the Planning Board, with a copy filed forthwith with the Town Clerk, and shall be accompanied by 10 copies of a plan, pursuant to Section B below, of the entire parcel under consideration, prepared by a professional architect, engineer or landscape architect.

(b) **Contents of Application:** Said application and plan shall be prepared in accordance with the requirements of special permits and with the Planning Board's Site Plan Review Rules and Regulations, and where applicable, the filing of a Subdivision Plan, and shall include proposed location, bulk and height of all proposed buildings. In addition, the applicant shall provide the following information:

1. The number of dwellings which could be constructed under the zoning provisions which govern the parcel at the time of application, considering the whole parcel, excluding water bodies, flood plain, and land prohibited from development by legally enforceable restrictions, easements or covenants. The number of dwelling units shall be determined by the Planning Board using the standards the Board would normally apply to a One-Family Dwelling District (RO) residential subdivision plan submitted according to the Subdivision Control Law and Zoning Bylaws of the Town of Burlington, including but not limited to Section 6.6.0 Lot Interpretation and Restrictions. The number of dwelling units so determined by the Planning Board shall be divided by the total gross acreage of the parcel to establish the base density of units per acre. In no event may the base density of units per acre exceed the Maximum base density of 2.2 units per acre.
2. An analysis of the site, including wetlands, wetlands zoning district boundaries, water bodies, slopes, soil conditions, areas within the 100 year flood, and such other natural features as the Planning Board may request. As well, an existing topographic map and a proposed topographic map at two feet intervals must be provided.
3. A summary of the environmental concerns relating to the proposed plan.
4. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.
5. Evaluation of the open land proposed within the Open Space Residential Development, with respect to use, size, shape, location, natural resource value, and accessibility by residents of the Town or of the Open Space Residential Development.

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(c) Review by Other Boards: Before acting upon the application, the Board shall submit it with the plan to the following boards, which may review it jointly or separately: the Building Inspector, the Department of Public Works, the Board of Selectmen, the Police Department, the Board of Health, the Town Engineer, the Conservation Commission, and the Fire Department. Any such board or agency to which petitions are referred for review shall submit such recommendations as it deems appropriate to the Planning Board and the applicant. Failure to make recommendations within 35 days of receipt shall be deemed lack of opposition.

(d) Public Hearing: After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of G.L. Chapter 40A, S9, and of the zoning bylaws and regulations of the Planning Board. The hearing shall be held within 65 days after filing of the application with the Board and the Clerk. Notice shall be given by publication and posted and by first class mailings to "parties in interest" as defined in G.L. Chapter 40A, #11. The decision of the Board, and any extension, modification or renewal thereof, shall be filed with the Board and Clerk within 90 days following the public hearing. Failure of the Board to act within 90 days shall be deemed a grant of the permit applied for. The required time limits for a public hearing and Board action may be extended by written agreement between the applicant and the Planning Board. Issuance of the permit requires an affirmative vote of two thirds of the Planning Board.

(e) Relation to Subdivision Control Act: Planning Board approval of a special permit hereunder shall not substitute for compliance with the subdivision control act, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for Board consideration under that law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, adopt regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board's regulations under the subdivision control act.

### 11.6.3 Findings of Board

The Board may grant a special permit under this section only if it finds that the applicant has demonstrated the following: that the Open Space Residential Development plan will be in harmony with the general purpose of the bylaw and the requirements of G.L. Chapter 40A, and the long range plan of the town; that it will not have a detrimental impact on the neighborhood, will be designed with due consideration for health and safety, and is superior to a conventional plan in preserving open space, minimizing environmental disruption, allowing for more efficient provision of services, or allowing for greater variety in prices or types of housing.

### 11.6.4 Minimum Dimensional Requirements

(a) The area of the parcel to be developed is not less than ten acres.

(b) The minimum parcel frontage shall be 50 feet.

(c) Every single family detached dwelling is placed upon a lot with the height, frontage, side and rear yard requirements in accordance with the requirements of Table 11.6.8. Dimensional Requirements Open Space Residential.

(d) Every two family or multifamily building is built with the setbacks from lot lines and other buildings, and the limitations as to size and height in accordance with the requirements of Table 11.6.8 Dimensional Requirements Open Space Residential.

(e) The minimum buffer in width around the perimeter of the parcel shall be 30 feet for clusters comprised of single family units, 50 feet for multifamily units, and 120 feet for multifamily units adjacent to an RO District.

(f) Except as specified in a special permit granted under this section, all requirements of the Zoning Bylaw shall continue to apply.

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(g) The requirements related to the ownership, upkeep, liability, and maintenance of the open land are in perpetuity and as such become the responsibility of the owners' heirs and assigns.

### 11.6.5 Required Open Land

(a) At least 40% of the parcel exclusive of land set aside for roads and parking, shall be open land.

(b) The open land and such other facilities as may be held in common shall be conveyed to one of the following, as determined by the Planning Board, subject to the following guidelines. In general, natural resource land such as wetlands not suitable for any public use, or suitable for extensive public recreational use, should be conveyed to the Town or to a trust; whereas land which will be principally used by the residents of the Open Space Residential Development should be conveyed to a home association. At least 10% of the open land shall be usable for active or passive recreation.

1. To a corporation or trust comprising a home association whose membership includes the owners of all lots or units contained in the parcel. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the Town of Burlington over such land pursuant to M.G.L. Chapter 184, Sections 131-33, to insure that such land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by S33 of Chapter 184 of M.G.L. In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the homes association is capable of assuming said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Middlesex South County Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

Mandatory membership in an established homes association, as a requirement of ownership of any lot in the parcel.

Provisions for maintenance assessments of all lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the homes association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homes association or the owner of any lot. (Note: At no time shall the Town assume the responsibility for maintenance.)

Provision which, so far as possible under the existing law, will ensure that the restriction placed on the use of the open land will not terminate by operation of law.

2. To a nonprofit organization, the principal purpose of which is the conservation of open space.

3. To the Conservation Commission of the Town for a park or open space use, subject to the approval of Town Meeting, with a trust clause ensuring that it be maintained as open space.

(c) Subject to the above, the open space may be used for recreational purposes including golf courses, riding trails, tennis courts, gardens, swimming pools and temporary structures (i.e., tents, stages for special events and other structures that are intended to be assembled and disassembled within a 14 day period). The Board may permit open land owned by a homes association to be used for individual septic systems, or for communal septic systems if it, and the Board of Health so recommends.

### 11.6.6 Further Requirements

(a) No use of the parcel other than residential or recreational shall be permitted.

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- (b) No lot shown on a plan for which a permit is granted under this section may be further subdivided, and a notation to this effect shall be shown upon the plan.
- (c) No certificate of occupancy shall be issued by the Building Inspector until he has certified to the Planning Board that the premises have been built in accordance with the plan approved by the Board hereunder.
- (d) The Planning Board may impose other conditions, safeguards, limitations on time and use, pursuant to its regulations.
- (e) The Planning Board may grant a special permit hereunder for Open Space Residential Development even if the proposed development is not subject to the subdivision control law.
- (f) Special Permits granted under this section shall lapse within two years (or less), excluding time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use has not sooner commenced or if construction has not begun, except that the Planning Board may grant an extension for good cause and shall grant an extension if the delay was caused by the need to seek other permits.
- (g) Subsequent to granting of the permit, the Planning Board may permit relocation of lot lines within the Open Space Residential Development. However, any change in overall density, street layout, or open space layout will require further hearings.

### 11.6.7 Optional Units Incentive

- (a) Notwithstanding the limitations set out above, the Planning Board, if it deems it otherwise advisable to do so, shall as a provision of a special permit issued hereunder authorize increases in the permissible intensity of use in the proposed Open Space Residential Development over the base units per acre providing that the tract is tied to the public sewer system and that the number of units within the tract shall not exceed a density of 4 dwelling units per acre. The additional units may be obtained at the discretion of the Planning Board over the base density of units per acre by providing one or more of the following:
  - 1. Traffic or pedestrian improvements (e.g., bike paths, bridle paths, screened parking): up to 0.3 units added.
  - 2. Open space which is landscaped or has unusual value to the community or to the residents and comprises an unusually large percent of the tract: up to 0.5 units added.
  - 3. Units that permanently contribute to the Town's Affordable Housing Action Plan: up to 1.0 units added.

(Note A: The maximum density per acre with bonus shall be no more than 180% of the base density as determined by the Planning Board pursuant to Section 11.6.2, subsection (b)1.)

(Note B: The Planning Board may grant less than the maximum bonus provision for affordable housing if there are only a minimal number of units that are affordable and/or where severe environmental constraints exist on the parcel.)

- (b) Such bonus may include any or all of the following:

- 1. Decrease of minimum lot size.
  - 2. Increase in number of lots.

- (c) Off Premises Improvements: The Planning Board may approve a density bonus when the applicant agrees to make public improvements or improvements in the public interest on property not under the applicant's control.

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**TABLE 11.6.8: OPEN SPACE RESIDENTIAL DIMENSIONAL REQUIREMENTS**

Minimum area of parcel feet	10 Acres (435,600 square feet)
Maximum height of buildings	40 feet 30 feet when within 100 feet of an RO District
Minimum frontage of the tract on the existing street	50 feet
Minimum frontage setback	25 feet for single family 50 feet for multifamily
Minimum distance between individual buildings	30 feet
Maximum distance between	100 feet (unless otherwise groups of buildings permitted by the Planning Board)
Minimum percent of open space	40% (Note: 10% of this 40% must be usable for active or passive recreation purposes and must be unpaved.)
Buffer requirements	30 feet in width for developments with single family units 50 feet for developments with multifamily units 120 feet for developments with multifamily units adjacent to an RO District
Maximum base density without bonus per acre	2.2 units

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### SECTION 11.7.0 RESIDENTIAL 2 (R2) DISTRICT

#### 11.7.1 Purposes

The Residential 2 (R2) District is intended:

To stimulate more affordable housing units through the creation of two family or duplex development on individual lots, or on a larger single lot in which internal lot lines may have been drawn and established and where open space and other site amenities may be held or used in common by all unit owners.

To permit a developer, public agency, or developer in conjunction with a public agency, to propose two family or duplex development and units which shall be affordable to individuals of low and moderate incomes, and to first time home buyers, as defined by the Massachusetts Housing Finance Agency, the Executive Office of Communities and Development, or the income and price guidelines for Middlesex County, and as may be periodically amended.

To help the community to meet the requirements and objectives of Massachusetts General Laws, Chapter 40B, Sections 20-23.

To achieve a broader range of housing choice within the community.

To permit such development on parcels which can be divided into numerous lots, or which can contain numerous units, so as to form a well-planned district rather than a single or substantial deviation from surrounding land uses and neighborhood pattern.

To encourage such development on parcels zoned for industrial and commercial purposes, but which may be appropriate for residential purposes.

#### 11.7.2 Uses by Special Permit and Permitted Uses in an R2 District

The following use shall require a special permit as set forth in Section 13.1.7:

(a) Two Family Dwellings: The following uses shall be permitted by right without need of a special permit once R2 zoning is obtained:

1. One family dwellings and one family dwellings purchased or erected and maintained by the Burlington Housing Authority or any other nonprofit housing development agency developing affordable housing as described in Section 4.2.1.6 of the Zoning Bylaws.
2. Places primarily used for religious purposes, including rectories and parish houses as described in Section 4.2.2.1 of the Zoning Bylaws.
3. Public parks as described in Section 4.2.2.8 of the Zoning Bylaws.

#### 11.7.3 Dimensional Requirements

Where lots within an R2 District are proposed for subdivision, all two family structures/dwellings must be situated on individual lots which conform to the density and dimensional regulations of an RO One Family Dwelling District specified in Article V, Section 5.2.0 of these Bylaws.

All two family structures/dwellings which are proposed to be developed within a single consolidated parcel must also be developed and laid out so that all two family structures within the site conform to the density and dimensional regulations of an RO One Family Dwelling District specified in Article V, Section 5.2.0 of these Bylaws.

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### 11.7.4 General Requirements

No land shall be rezoned to R2 unless a Concept Plan as described in Subsection 13.1.6 is presented to Town Meeting and approved as part of the Warrant Article with the rezoning petition.

No development may occur in an R2 District except in conformity with the Concept Plan approved by Town Meeting.

Further, two family development in an R2 District may only occur by obtaining an R2 Special Permit as described in Section 13.1.7. The obtaining of a special permit as outlined in Section 13.1.7 must commence within two years or the property shall be governed by the provisions presently in effect in the zoning district for which the land was zoned immediately prior to its inclusion in the R2 District.

Where a subdivision plan shall not be presented and proposed, Site Plan review will occur concurrently with the review of the special permit process outlined in Section 13.1.7.

### 11.7.5 Procedure for Rezoning to an R2 District

The developer and property owner, if different from the developer, shall submit a Concept Plan to the Board of Selectmen together with a letter petitioning for a rezoning to the R2 District requesting that the matter be placed on the next Town Meeting warrant.

The Board of Selectmen shall refer the rezoning application and the Concept Plan to the Planning Board within 14 days, and within 65 days of receiving the rezoning application from the Board of Selectmen and the Concept Plan, the Planning Board shall hold a public hearing on the requested rezoning.

Following the public hearing, the Planning Board shall prepare a detailed report regarding the requested rezoning and Concept Plan and shall recommend to Town Meeting whether the requested rezoning should be approved, amended and approved or denied.

In order to be approved a rezoning to the R2 District must receive a two-thirds (2/3) vote at Town Meeting.

### 11.7.6 Submission Requirements for an R2 District Rezoning

The application for an R2 District rezoning shall include a Concept Plan and the required submission fee.

(a) Submission Fee: The Planning Board shall specify submission fees for an R2 District Rezoning in its Rules and Regulations. In no case shall the fee be less than \$350, however the Planning Board may waive the fee if the developer is the Town or other public agency. The required fee shall be submitted with the rezoning request and Concept Plan.

(b) Concept Plan Requirements: A Concept Plan shall include the following:

1. In addition to the submission requirements outlined in this section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for an R2 District Rezoning.

2. A preliminary site plan showing in a general manner:

The location of buildings; number of stories, approximate floor area and maximum height of each building.

Existing and proposed contours.

Proposed lot lines.

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Grading and landscape treatment.

The location and dimensions of driveways and anticipated parking areas and capacity.

The location and characteristics of any common open space or usable open space to be conveyed to the Town or to be dedicated for use by adjoining lots and the general neighborhood.

The proposed drainage system.

General building elevations (cross section including a general rendering and building treatment.)

The approximate location of the affordable units.

(c) A project narrative which details specific project conditions and amenities proposed. The narrative shall also include information about the project development team and marketing approach to attract individuals and families seeking affordable housing within the community.

Further, the project narrative shall specify which affordable housing program(s) and/or guidelines are being utilized within the development to achieve the thirty (30%) percent low/moderate income unit affordability which will be required as part of the granting of the R2 Special Permit.

The applicant shall agree not to file a subdivision plan or plan showing a division of land pursuant to M.G.L. Chapter 41.

(d) Special conditions, if any, applicable to the proposed development which may include grants of benefits to the Town such as land for public purposes, construction of improvements (or financial contributions therefore) on behalf of the Town.

(e) A table showing:

1. Total land area.
2. Developable site area.
3. Common or usable open space, if any.
4. Site coverage of buildings.
5. Area covered with impervious surface.
6. Impervious surface ratio.
7. Gross floor area of all proposed two family buildings.

(f) A locus context map of all land within 500 feet of any part of the tract and showing:

1. All dwellings and principal buildings.
2. The land use of each lot.
3. Lot and right-of-way lines.
4. Existing contours at two foot intervals.
5. Principal natural features in general use such as:

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Significant rock outcroppings.

Water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the 100 year flood elevation).

Significant vegetation (including mature trees, unique specimens of vegetation, and vegetation that indicates wetness).

6. Zoning district boundaries.
7. Recorded easements on the site and within the 500 feet locus.
8. Public facilities, such as conservation or recreation land, footpaths, bicycle paths, or streets.
9. Significant noise/visual impact (including views from the site and sources of noise affecting the site).
10. Historically or architecturally significant structures and sites on or adjacent to the site.

(g) A property rights and dimensional standards plan showing:

1. The location of existing easements or other property rights affecting the development.
2. The approximate location of any sections of the land to which the Town would be granted property rights, either easements or transfer of ownership for street, utility, conservation or other purposes.
3. The anticipated size and dimensions of each lot to be certified, and internal lot lines when applicable.
4. The minimum yard setback lines and distances from the adjacent zoning district boundaries.
5. The boundaries of any common open space or usable open space.

(h) The following information shall be required for all R2 rezonings which shall not involve the presentation and proposal of a subdivision plan after rezoning:

1. The location and size of the Town's existing water mains, fire hydrants, sanitary sewers, and storm drains.
2. The proposed location and the approximate size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development.

(i) A traffic analysis to be conducted by a traffic engineer who will certify that he/she qualifies for the position of member of the Institute of Transportation Engineers (ITE). The analysis shall include:

1. Traffic counts on arterial streets that provide access to the development site showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into fifteen minute segments);
2. Intersection turning movement counts at intersections likely to be affected by the proposed development (conducted for two hours in the a.m. peak and the p.m. peak divided into fifteen minute segments);
3. An inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their conditions and existing traffic control devices;

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4. Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and a typical one hour off-peak trip generation;
5. The estimated distribution of new trips by approach streets and each intersection likely to be affected;
6. The effect of additional traffic generated by the development on traffic "levels of service" on each approach street;
7. Estimated off-street parking and loading requirements and time of peak accumulation.

### 11.7.7 Special Permit Requirements

Two family development pursuant to an R2 District rezoning is subject to the approval of R2 Special Permit as outlined in this subsection.

Application for an R2 Special Permit under this section shall be made to the Town Clerk by submitting ten (10) copies of all submission material and paying the required application fee. Circulation of the R2 Special Permit application to Town departments shall be outlined in subsection 9.2.2.1.

The application for an R2 Special Permit under this section shall include a Site Development Plan as described in this section together with the required submission fee.

Application for an R2 Special Permit under this section shall include a project narrative and Site Development Plan which specifies that no less than thirty (30%) percent of all proposed units will be set aside for persons of low and moderate income levels.

- (a) Submission Fee: The Planning Board shall specify a submission fee for an R2 Special Permit in its Rules and Regulations and in no case shall the fee be less than \$350.
- (b) Site Development Plan and Application Requirements: The Site Development Plan and Special Permit Application shall include all of the material and information contained in the Concept Plan with the following modifications, additions, and provisions:
  1. All information typically required on a site plan in accordance with Planning Board Site Plan Rules and Regulations.
  2. Long-term provisions, in the form of a recordable instrument to provide for retention of all affordable housing units proposed.
  3. The location and size of the Town's existing water mains, sanitary sewers, storm drains and fire hydrants.
  4. Proposed utilities, including the location, size of mains, materials and any proposed connection to existing Town facilities.
  5. A property rights plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement.
  6. A site grading plan showing proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common open space.
  7. A traffic analysis including proposed mitigating measures, if any, to maintain an acceptable traffic level of service.

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8. An assessment of the impacts that the proposed project will have on community character, the environment, and municipal finances.
9. Such other information as the Planning Board may specify in its Rules and Regulations from time to time for special permits pursuant to an R2 District rezoning.

### 11.7.8 Public Hearing

The Public Hearing shall be held in accordance with the provisions of Section 9.6.0.

### 11.7.9 Criteria for Approval

The Planning Board may approve the R2 Special Permit if the Board finds that all the following conditions are met:

1. The Site Development Plan is substantially in conformance with the Concept Plan approved by Town Meeting, and meets the affordable housing criteria and objectives set forth in Sections 13.1.1 and 13.1.7 of this Article. The Planning Board may permit minor changes in light of the more detailed survey and engineering design, provided that they do not conflict with the intent of the Concept Plan, but the Board shall not approve any change in proposed setbacks, maximum building height, or maximum total square feet of two family development.
2. The Concept Plan approved by Town Meeting and the Site Development Plan are incorporated into the R2 Special Permit by reference.
3. Methods satisfactory to the Planning Board of ensuring the performance of any special conditions included in the Concept Plan have been submitted by the developer.
4. Any land designated as common space on the Concept Plan shall be either conveyed to the Town or protected by an easement granted to the Town.

The Planning Board in granting an R2 Special Permit may impose such additional conditions as the Planning Board finds will serve the public interest and are consistent with the intent of the Concept Plan approved by the Town Meeting.

The Planning Board may deny an application for R2 Special Permit and base its denial on the finding that the development proposed in the Site Development Plan did not meet one or more of the four criteria for approval.

### 11.7.10 Changes in a Site Development and Use Plan

Substantial changes in the site development from that shown on the Site Development Plan referenced in the R2 Special Permit are not permitted without the approval by Town Meeting of a new Concept Plan in accordance with the procedures outlined in Section 13.1.5 followed by the issuance by the Planning Board of a new R2 Special Permit based on the new plan.

## SECTION 11.8.0 INCLUSIONARY ZONING REQUIREMENTS FOR MULTIFAMILY HOUSING

### 11.8.1 Purpose and Intent

The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the 2004 Burlington Community Development Plan, G.L. c. 40B sec. 20-23 and ongoing initiatives of the Burlington Housing Partnership to promote a reasonable percentage of housing that is affordable to low and moderate income buyers. It is intended that the affordable housing units that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Massachusetts Department of Housing and

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Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth or its agencies, and that said units count toward the Town's requirements under G. L. c. 40B sec. 20-23, as amended.

### 11.8.2 Definitions

For the following definitions refer to Article II: Definitions, "Affordable Housing Unit", "(Qualified) Affordable Housing Unit Purchaser" and "(DHCD) Affordable Housing Unit Sales Price or Rent".

### 11.8.3 Applicability

Beginning with the adoption of this Bylaw by Town Meeting, applications for approval of all multifamily housing developments creating 4 or more new or converted units, including housing within mixed use developments, whether on one or more contiguous parcels, owned or controlled by the applicant or a related entity, now or in the future, shall provide an affordable component within the project pursuant to the provisions in this Bylaw. The Affordable Housing Units to be provided shall remain affordable in perpetuity. This provision shall apply whether the proposal is for rental or ownership units. The Affordable Housing Units required above shall be affordable to persons and households of low and moderate income as defined by G.L. c. 40B, Section 20. The applicant shall be responsible for preparing a Massachusetts Local Initiative Program Units Only Application, as administered by the DHCD or any successor program, or an application for any other program that provides for inclusion of such Affordable Housing Units as part of the Town's affordable housing inventory under G.L. c. 40B Section 20.

11.8.3.1 For multifamily housing developments, the applicant shall provide one and a-half (1.5) Affordable Housing Unit within the development for every ten (10) housing units constructed. When the calculation of the number of Affordable Housing Units to be provided yields a fraction, the applicant shall round up to the next whole number of Affordable Housing Units (Figure 1). The applicant may choose to provide an Affordable Housing Unit off-site, pursuant to the off-site provisions in Section 11.8.3.2.

**Figure 1**

<b>Proposed Units</b>	<b>Required Affordable Units</b>
<b>4-6</b>	<b>1</b>
<b>7-13</b>	<b>2</b>
<b>14-20</b>	<b>3</b>
<b>21-26</b>	<b>4</b>
<b>27-33</b>	<b>5</b>
<b>34-40</b>	<b>6</b>
<b>41-46</b>	<b>7</b>
<b>47-52</b>	<b>8</b>
<b>53-60</b>	<b>9</b>
<b>61-66</b>	<b>10</b>
<b>And so on...</b>	

### 11.8.3.2 Provisions for off-site affordable units

Affordable Housing Units shall be provided within any multifamily housing project, unless the Planning Board finds that unique or extraordinary circumstances exist and that the public purpose may be better served by authorizing off-site Affordable Housing Units. The off-site Affordable Housing Units shall be affordable to persons and households of low and moderate income as defined by G.L. c. 40B, Section 20. The applicant shall be responsible for preparing a Massachusetts Local Initiative Program Units Only Application, as administered by the Department of Housing and Community Development, or any successor program, or an application for any other program that provides for inclusion of such affordable units as part of the Town's affordable housing inventory under G.L. c. 40B Section 20. The units shall be equivalent or better in bedroom count to the on-site project and be phased with the project pursuant to 11.8.5. Timing of construction or provision of off-site Affordable Housing Units shall be provided

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coincident to the development of market rate units, but in no event shall the development of the Affordable Housing Units be delayed beyond the schedule noted in Section 11.8.5

### 11.8.3.3 Payments to the Affordable Housing Fund

If the Affordable Housing Trust Fund has not yet been established at the time of said payment, the payment shall be placed in such fund(s) as the Town Treasurer shall determine appropriate for the purpose of being held and used for affordable housing purposes. Such fund shall be established by the Town Treasurer to receive all payments made under this Section, and shall be kept separate and apart from other monies by the Town Treasurer. Any monies in said fund shall be expended in accordance with G.L. c. 44 Section 55C or other applicable statutes, to support the creation of low and moderate income housing units which meet the definition of "low or moderate income housing" as defined by MGL Chapter 40B, Section 20. All moneys which are collected as a result of any contribution to this fund shall be transferred to the principal of said fund, and the Town Treasurer shall be the custodian of the fund and shall deposit the proceeds in a bank or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth of Massachusetts, or in federal savings and loan associates situated in the Commonwealth. Any interest earned thereon shall be credited to and become a part of such fund.

### 11.8.4 Monitoring

The monitoring of affordability for rental units, including changes in tenants, shall be supervised by the Burlington Housing Partnership (BHP) pursuant to a Memorandum of Agreement (MOA) between the applicant and the BHP. Such MOA shall provide for monitoring fees for the administration of such affordable units by the BHP and shall be subject to approval by the Board of Selectmen.

The monitoring of home ownership units shall be supervised by the BHP. Affordability of these units shall be established by deed rider, covenant, or equivalent mechanism, subject to review and approval of the Board of Selectmen. Funding for oversight of conducting a lottery and other administrative actions shall be provided by the applicant for first sale. Subsequent sales shall be subject to the guidelines and requirements established by the DHCD.

### 11.8.5 Provisions Applicable to Affordable Housing Units

1. Siting of Affordable Housing Units – All Affordable Housing Units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space or recreational facilities, as the market-rate units.
2. Minimum design and construction standards for Affordable Housing Units – Affordable Housing Units within market rate developments shall be integrated with the rest of the development and shall be compatible in size, design, appearance, construction and quality of materials with other units.
3. Timing of construction or provision of Affordable Housing Units or lots – Where feasible, Affordable Housing Units shall be provided coincident to the development of market rate units, but in no event shall the development of Affordable Housing Units be delayed beyond the schedule noted below:

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### **Timing of construction or provision of affordable units or lots**

MARKET RATE UNIT %	AFFORDABLE HOUSING UNIT %
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
Up to 90%	100%

#### **11.8.6 Administration**

The Planning Board shall adopt and maintain regulations incorporating the necessary policies, procedures and requirements to implement the provisions of this Section. Such regulations may include criteria of maximum incomes, sales or rental prices, resale price, preservation of affordability and calculation of payments for fractional units.

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### **ARTICLE XII: PLANNED DEVELOPMENT DISTRICT**

#### **SECTION 12.1.0 PLANNED DEVELOPMENT DISTRICT**

##### **12.1.1 Purpose and Intent**

The Planned Development District (PDD) is intended to:

Permit an entity to propose, and for Town Meeting to vote on, a development proposal that specifies a mixture of commercial, industrial, residential, open space or other uses and the site development requirements to be used for a specific site.

Permit some flexibility in the development of individual tracts of land by required and predetermined standards.

Permit the use of development standards tailored to a specific site and more detailed than those for the standard zoning districts.

Permit the Town to evaluate the potential impacts of a proposed development and to authorize the Planning Board, as the Special Permit Granting Authority, to require that the development of the site substantially conforms to site development standards approved as part of the rezoning to a PDD, including mitigation of a project's impacts.

##### **12.1.2 Permissible Uses and Requirements**

A Planned Development District may be composed of commercial, industrial, residential, open space, or other uses, alone or in combination. A Planned Development District requires a rezoning amendment to the Burlington Zoning Bylaws. The minimum lot size for a PDD is 10 acres, pursuant to the lot area calculation of Article V, Section 5.1.2. of the Zoning Bylaws.

##### **12.1.3 Procedures**

Proponents for a PDD Rezoning Amendment shall follow the following procedures in order to promote review of the proposed amendment and to facilitate public-private cooperation in the establishment of the PDD.

###### **12.1.3.1 Pre-Application Review**

a. Proponents are strongly encouraged to schedule a pre-application review with The PreApplication Review Committee. This Committee shall be appointed by the Planning Board Chair and the Land Use Committee Chair and the Zoning Bylaw Review Committee Chair and shall consist of at least two (2) members from the Planning Board and two (2) Members from the Land Use Committee and two (2) Members from the Zoning Bylaw Review Committee. A meeting shall be scheduled at least 180 days before the anticipated Town Meeting date at which the PD rezoning proposal will be considered. Pre-application review meetings shall be coordinated through the Planning Department.

b. The Pre-Application Review should precede the preparation of detailed plans or specifications. Documents recommended for the Pre-Application review include, but are not limited to: An existing conditions plan of subject property(s), a project description (either in narrative or sketch form), a listing of proposed uses to be permitted or allowed by special permit, which may be a narrative describing the type and character of uses and/or a listing, by cross reference, of uses to be permitted as they appear in Section 4.2.0, 4.3.0 and 4.4.0 "Use Regulations Schedules." An explanation of why existing zoning districts do not meet the needs of the proposal shall also be submitted.

###### **12.1.3.2 Planning Board Rezoning Application Submission**

a. Proponents must submit an Application for Rezoning to a Planned Development District ("the Application") to the Planning Department at least 120 days prior to the anticipated Town Meeting date at

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which the Rezoning Warrant Article will be considered. The application shall contain the requirements set forth in Section 12.1.4. Incomplete applications will not be accepted. Refer to Section 12.1.5 for Administrative Requirements.

b. Review: When reviewing an application for Planned Development District Rezoning, the Planning Board may determine that the assistance of outside consultants, including attorneys, is warranted. This review shall include but is not limited to the size, scale and/or complexity of a proposed project and a project's potential impacts. The Planning Board shall request that Proponent enter into a Memorandum of Agreement with the Board of Selectmen to set up an account, under MGL Chapter 44, Section 53A consisting of the reasonable costs incurred by the Town for the employment of outside consultants to conduct a review engaged by the Town to assist in the review of a proposed project.

### 12.1.3.3 Rezoning Warrant Article Submission Schedule

At least 90 days before the Town Meeting at which it is anticipated to be considered, the Proponent shall submit a proposed warrant article to the Board of Selectmen, in hard copy and electronic format for the PDD rezoning as developed in consultation with the Planning Board, the Land Use Committee and the Zoning Bylaw Review Committee.

### 12.1.3.4 Statutory Requirements

The zoning amendment shall thereafter be processed in accordance with M. G.L. c. 40A, s. 5.

### 12.1.4 Submission Requirements for a PDD Rezoning

The application for a PDD Rezoning shall include a Development Proposal which consists of the following 5 (five) requirements and detailed in the PD Rules and Regulations. All materials shall be submitted in both hard copy and electronic format.

1. Completed Application to the Planning Board
2. Submission Fee
3. Development Plan (Site Plan)
4. Zoning and Special Conditions
5. Impact Analysis

#### 12.1.4.1 Completed PDD Rezoning Application

PDD rezoning Applications can be obtained from the Planning Department.

#### 12.1.4.2 Submission Fee

The Planning Board shall specify submission fees for a PDD rezoning in the PD District Rules and Regulations. The required fee shall be submitted with the PD rezoning Application to the Planning Board.

#### 12.1.4.3 Development Plan (Site Plan)

a. A Development Plan shall include the following, at a scale of no smaller than 1:40 unless otherwise noted, containing all of the following proposed site construction information:

1. Location of buildings; number of stories, approximate floor area and maximum height of each building; the distance in feet between buildings.
2. Existing and proposed contours.
3. Proposed lot lines.
4. Grading and landscaping.
5. Location and dimensions of drives and parking areas.
6. Location and characteristics of any common open space or usable open space.

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7. Proposed drainage system.
8. Proposed landscaping.
9. Building elevations.
10. Building Envelope.

b. A table within the plan set containing all of the following information:

1. Total land area (square feet).
2. Building envelope (square feet and percentage of the total land area).
3. Common and open space, if any (square feet and percentage of the total land area).
4. Site coverage of buildings (square feet and percentage of the total land area).
5. Impervious surface area (square feet and percentage of the total land area).
6. Pervious surface area (square feet and percentage of the total land area).
7. Gross floor area of all nonresidential buildings.
8. Floor area ratio if applicable
9. Density of dwelling units, or their equivalent, if applicable.
10. Number of off-street parking spaces and, if applicable, loading bays.

c. A locus context map of all land within 500 feet of any part of the proposed PDD containing all of the following information (the scale on this map may be no smaller than 1:600):

1. All dwellings and principal buildings.
2. Land use of each lot.
3. Lot and right--of--way lines.
4. Existing contours at two-foot intervals.
5. Principal natural features in general, including but not limited to: Significant rock outcroppings, Water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the 100 year flood elevation.)
6. Significant vegetation, including, but not limited to: mature trees, unique specimens of vegetation, and vegetation that indicates wetlands.
7. Zoning district boundaries.
9. Recorded easements on the proposed PDD and within the 500-foot limit.
10. Public facilities, including, but not limited to: conservation or recreation land, footpaths, bicycle paths, and streets.
11. Significant noise/visual impact, including, but not limited to: views from the site and sources of noise affecting the site.
12. Historically or architecturally significant structures and sites on or adjacent to the proposed PDD.
13. Areas of known contamination and a delineation of the disposal site area within 500 feet.

d. A property rights and dimensional standards plan containing the following information:

1. The location of existing easements or other property rights affecting the proposed development.
2. The approximate locations of any sections of the land to which the Town would be granted property rights, either easements or transfer of ownership for street, utility, conservation or other purposes.
3. The anticipated division of the property into parcels in private ownership, if any, if it affects zoning provisions.
4. The yard setback in feet for buildings and parking lots from lot lines and, where applicable, a zoning district boundary, a brook or a pond.
5. The boundaries of any common open space or usable open space.

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- e. A utilities analysis showing:
  1. The location and size of the Town's existing water mains, fire hydrants, sanitary sewers, and storm drains.
  2. The proposed locations and the approximate size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development.
- f. An existing conditions plan.

### 12.1.4.4 Zoning and Special Conditions

- a. Completed Templates (Templates can be found in the Planned Development Rules and Regulations)
  1. Template A: "Use Table" - Uses to be permitted by right or allowed by special permit in the buildings by cross reference, of uses to be permitted as they appear in Article IV Sections 4.2.0, 4.3.0 and 4.4.0 "Use Regulations Schedules."
  2. Template B: "Zoning Provisions" - Describing special regulations unique to the development and/or a cross reference to provisions of this Bylaw that will apply to the PD District.
  3. Template C: "Special Conditions" - Applicable to the proposed development which may include but are not limited to, grants of benefits to the Town such as land for public purposes, traffic mitigation, drainage mitigation, construction of improvements or financial contributions on behalf of the Town, or other development limitations such as but are not limited to aesthetic features.

### 12.1.4.5 Impact Analysis

The Proponent shall submit an impact statement, the purpose of which is to enable the officials of the Town to determine what methods are used by the Proponent to promote the environmental health of the community and to minimize adverse effects on the natural resources and the Town's roads and utilities. The analysis must include the following components: Traffic, Drainage, Utility, Environmental, and Community Impact as set forth below.

In reviewing the statement, the Planning Board shall consider the degree to which impact on Town roads and utilities is mitigated, to which stormwater is recycled back into the ground, the maintenance and improvement of the flow and quality of surface water, the preservation or promotion of wildlife refuges, historic sites, unique geological, botanical and archaeological features, existing or potential trails, access to open space areas, and the health and safety of the inhabitants of the area.

#### a. Traffic Analysis

To address traffic flow and safety, including parking and loading. To be conducted by a traffic engineer certified as qualified as a member of the Institute of Transportation Engineers (ITE). The analysis shall include:

1. Traffic counts on arterial streets that provide access to the proposed PDD showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into fifteen minute segments).

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2. Intersection turning movement counts at intersections likely to be affected by the proposed development.
3. An inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their conditions.
4. Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and a typical one hour off peak trip generation.
5. The estimated distribution of new trips by approaching streets.
6. The effect of additional traffic generated by the development on traffic "levels of service" on each approach street.
7. Estimated off-street parking and loading requirements and time of peak accumulation.

b. Stormwater and Drainage Analysis

1. Infiltration, including soils analysis and contamination if applicable.
2. Watershed analysis.
3. Pre and Post Development Drainage Calculations, including Peak Flow analysis (2, 10, 25, and 100-year storm events).
4. Narrative of how the proposed project meets the State Stormwater Standards (including how LID features have been incorporated)
5. Proposed land grading and permanent vegetative cover.

c. Utility Analysis

1. Describe the effect of the project on the public sewer system.
2. Describe the effect of the project on the Town water supply and distribution system.
3. Describe the effect of the project on the natural gas and electrical power distribution system.

d. Environmental Impact report

1. Neighborhood character: Describe how the proposed development proposal fits in with the neighborhood, surrounding properties and land uses.
2. Impacts on the natural environment: Describe any impacts on archaeological or historical resources, rare or irreplaceable natural areas, including the habitat of endangered species. Describe how the proposal will affect these features.

e. Community Impact Report

1. Social, economic, or community needs which are served by the proposed development.
2. Preliminary fiscal impact, including impact on town services, tax base, and employment.
3. The special impact, if any, on municipal and governmental services.

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4. If the proposed project includes a residential component, an estimate of the number of additional children who will attend school and the number of total new persons added to the Town's population.

### 12.1.4.6 Additional Requirements

In addition to the submission requirements outlined in this section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for a PD District rezoning.

### 12.1.5 Administrative Requirements

The Proponent of a PD Rezoning shall submit an application and all supporting documentation to the Planning Department, together with the required filing fee as specified in this Article XII and in the Planning Board's PD Rules and Regulations:

#### 12.1.5.1 Distribution:

The Proponent shall submit PDF's of all application material and hard copies as requested by each committee. The applicant shall include all of the items required under Section 12.1.4 of the electronic data to be distributed as follows:

Land Use Committee - The Planning Board shall deliver (1) hard copy and (1) electronic copy of the full application and supporting materials to the Land Use Committee.

Zoning Bylaw Review Committee - The Planning Board shall deliver (1) hard copy and (1) electronic copy of the full application and supporting materials to the Zoning Bylaw Review Committee.

Interdepartmental review: The Planning Board shall distribute one (1) hard copy each of the application and all supporting documentation to the Inspector of Buildings, the Board of Selectmen, the Town Engineer, the Board of Health, the Conservation Commission, the Fire Chief, and the Police Chief, all of whom shall consider the application and submit a report thereon with recommendations to the Planning Board. The Planning Board shall not make a finding and determination upon the application until it has received the reports from the Building Commissioner, the Board of Selectmen, the Board of Health, the Fire Chief or designated representative, the Police Chief or designated representative, the Town Engineer, and the Conservation Commission or until thirty-five (35) days shall have elapsed without such reports being submitted and until a public hearing has been held.

Town Clerk: The Planning Board shall distribute one (1) hard copy each of the application and all supporting documentation to the Town Clerk

The Planning Board: shall retain the remaining (4) hard copies and (1) electronic copy for review

Additional distribution requirements can be found in the Planned Development District (PDD) Rules and Regulations.

#### 12.1.5.2 Hearing: A hearing shall be held pursuant to M.G.L Chapter40A, Section 5 with the following additional criteria and requirements.

- a. The Planning Board shall prepare the legal notice for the rezoning.
- b. The legal notice of the public hearing shall be mailed, by the Proponent, post prepaid, to all current Town Meeting Members, based on the active list of Town Meeting Members as maintained by the Town Clerk at the time of submission of the application.

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- c. The Planning Board shall open the public hearings within 30 days of receipt of a completed application submission. If within 30 days there is not a regularly scheduled Planning Board, then the hearing for the rezoning must be scheduled for the next regularly scheduled Planning Board Meeting and noticed pursuant to M.G.L. Chapter 40A Section 5.
- d. Any supplemental and/or revised documents from the Proponent must be submitted to the Planning Department no later than the Friday prior to Planning Board meetings at which the rezoning will be considered.

### 12.1.5.3 Warrant Preparation and distribution

- a. After the original warrant submission to the Selectboard by the Proponent, the Planning Department staff shall be responsible for preparation and editing of all zoning requirements and special conditions.
- b. All zoning documents and special conditions submitted to Town Meeting Members shall be sent by the Planning Department staff. All postage shall be paid by the Proponent.
- c. The Planning Board Chair shall review and confirm that the draft motion submitted to the Town Clerk that is to be voted on at Town Meeting is the same as the version recommended and voted by the Planning Board. This is not meant to preclude further amendments at Town Meeting.

### 12.1.5.4 Covenant Agreement

After any Special Conditions have been approved by the Planning Board in consultation with the Land Use Committee and the Zoning Bylaw Review Committee, the Land Use or Zoning Bylaw Review Committees may request the Board of Selectmen to include any special conditions in the PDD rezoning article in a Covenant Agreement with the Proponent. The Proponent shall prepare the Covenant Agreement in consultation with the Planning Department, Land Use Committee and the Zoning Bylaw Review Committee. If agreed to, the Board of Selectmen shall execute the Covenant Agreement on behalf of the Town.

### 12.1.5.5 Covenant Administration

The Covenant shall be held in escrow until such time as Town Meeting votes on the article to rezone the PDD. If Town Meeting votes to approve the PDD rezoning, the Covenant shall be recorded, at the Middlesex South Registry of Deeds. Within fifteen (15) days of recording the Proponent must promptly inform the Selectboard and the Planning Board of the book and page reference as proof of the recording.

### 12.1.6 Lapse

The development and uses approved in a rezoning to a PDD may not be commenced unless the Planning Board issues a PD Special Permit, as required in Section 12.2.0, for substantial development or reuse within the PD, within two (2) years from the date of approval by Town Meeting. Until such time as a PD Special Permit is granted by the Planning Board pursuant to Section 12.2.0 and recorded by the property owner the development of the property shall be governed by the zoning provisions in effect for the zoning district for which the land was zoned immediately prior to its inclusion in a PDD.

If a PD Special permit is not obtained within two (2) years, the PDD zoning shall lapse and the development of the property shall be governed by the zoning provisions in effect for the zoning district in which the land was zoned immediately prior to its inclusion in a PDD.

The foregoing two (2) year time period shall not be applicable to any Planned Development District which involves land owned by the Town. For any such Planned Development District involving such Town owned land

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as part of the original PD rezoning proposal, the zoning established by the Planned Development District shall be effective upon the date of approval by Town Meeting.

### 12.2.0 PD Special Permit Requirements

Development pursuant to a PDD rezoning is subject to the approval of a PDD Special Permit as set forth in this section.

An application for a PDD Special Permit will be made electronically to the Town Clerk. The materials shall include a Final Site Development and Use Plan, as described in this section, together with the required submission fee. The PDD Special Permit application to Town Departments shall be distributed as outlined in Article IX Section 9.2.2.1. The Planning Board shall specify a submission fee for a PDD Special Permit in its PDD Rules and Regulations. The required submission fee shall be submitted with the Final Development and Use Plan and following accompanying materials:

#### 12.2.1 Final Site Development and Use Plan Requirements:

The Final Site Development and Use Plan shall include the following information.

- a. Information typically required on a site plan in accordance with Planning Board Site Plan Rules and Regulations.
- b. A Utilities Plan showing the location, size, materials and connections to the Town's utilities
- c. A Property Rights Plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement
- d. A Site Grading Plan showing changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any open space
- e. A Traffic Analysis including proposed mitigating measures, if any, to maintain an acceptable traffic level of service
- f. A Storm water and Drainage Analysis
- g. A Utility Analysis
- h. An Environmental Impact report
- i. A Fiscal Impact Report
- j. Preliminary drafts of any deed, easement, offer or agreement to carry out any special condition, and
- k. Such information as the Planning Board may specify in its Rules and Regulations or in response to matters which may arise in the course of public hearings.
- l. A PD Zoning Block table

#### 12.2.2 Additional Requirements

Application for a special permit for a particular use within a PD District shall be made concurrent with a PDD Special Permit or at any time following approval of a PDD Special Permit. The approval criteria for the special permit for a particular use shall be those set forth in Article IX Section 9.2.0.

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In addition to the submission requirements set forth in this section, the Planning Board may adopt Rules and Regulations for a PD District rezoning that establish additional submission requirements.

### 12.2.3 Public Hearing

The Public Hearing shall be held in accordance with the provisions of Article IX Section 9.6.0. Additionally, notice of the public hearing shall be mailed, by the Proponent, post prepaid, to all current Town Meeting Members, based on the active list of Town Meeting Members as maintained by the Town Clerk at the time of submission of the Application.

### 12.2.4 Criteria for Approval

The Planning Board may approve the PD Special Permit if the Board finds that all the following conditions are met:

1. The Final Site Development and Use Plan is substantially in conformance with the PDD Rezoning Amendment approved by Town Meeting. The Planning Board may permit insubstantial changes in view of the more detailed survey and engineering design, provided that such changes do not conflict with the intent of the PDD Rezoning Amendment. The following changes are not “insubstantial” and thus may not be approved by the Planning Board as part of a PD Special Permit:
  - a. Any change in the composition or number of uses that result in any increase over the maximum limitations specified in the PDD Zoning Provisions and/or Special Conditions.
  - b. A use(s) which results in an increase in traffic generation above the vehicle trips predicted in the traffic study submitted as part of the PDD Rezoning Application.
  - c. A proposal that is inconsistent with the PDD Rezoning Amendment as approved by Town Meeting.
  - d. A use(s) which results in an increase in Town services or infrastructure needs above the predicted impacts identified within the impact analyses submitted as part of the PDD Rezoning Application and that cannot or will not be mitigated by the Applicant.
2. The PDD Rezoning Amendment approved by Town Meeting and the Site Development and Use Plan are incorporated into the PD Special Permit by reference.
3. Methods satisfactory to the Planning Board of ensuring the performance of any Special Conditions and/or applicable Covenant Agreement included in the PDD Rezoning Amendment have been submitted by the developer.
4. Any land designated as common or open space on the PDD Rezoning Amendment shall, at the Town’s discretion, be either conveyed to the Town or protected by an easement granted to the Town.
5. The Planning Board reserves the right to require that up to thirty (30) percent of all new housing units be made affordable to persons of low and moderate income, according to the standards of the State and/or Town of Burlington, as determined by the Planning Board.
6. The project meets the criteria specified in the Planning Board’s Planned Development District Rules and Regulations.

The Planning Board may impose additional mitigation conditions if it finds that the proposed development results in impacts that differ from those identified during the PDD rezoning process.

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The Planning Board in granting a PDD Special Permit may impose such additional conditions as the Planning Board finds will serve the public interest and are consistent with the intent of the PDD Rezoning Amendment approved by Town Meeting.

The Planning Board may deny an application for PDD Special Permit and base its denial on the finding that the development proposed in the Final Site Development and Use Plan did not meet one or more of the above listed criteria for approval.

In the event the Planning Board determines that the Final Site Development and Use Plan is not in substantial conformance with the PDD Rezoning Amendment approved by Town Meeting, the application for a PDD Special Permit shall be denied. A new PDD Rezoning would be required in order to proceed.

No changes to the obligations contained in the special conditions or to the specifications contained in the PD Zoning Table, or changes in uses as shown on the Development Proposal, may be permitted except by a vote of Town Meeting.

### 12.2.5 Changes in a Final Site Development and Use Plan

All improvements shall be constructed in accordance with the Approved Site Development and Use Plan. No deviations from the Site Development and Use Plan may be permitted without prior approval from the Planning Board. If the Proponent and property owner seek to make minor modification to the Approved Site Development and Use Plan, prior to undertaking any such modification they must consult with the Planning Staff, who shall determine if the proposed modification is minor and may be undertaken without further approval, or if an application must be filed for further review and determination by the Planning Board.

### 12.3.0 Changes in a Proposed PD District While a PD Rezoning is pending

12.3.1 Alterations to existing buildings prior to the adoption of the PD District shall be governed by the zoning district provisions for which the land was zoned immediately prior to its inclusion in a PD District.

12.3.2 Minor changes to existing structures after the commencement of the PD premises but prior to the submission of a Site Development and Use Plan for the affected area shall be governed by the PDD Zoning Provisions but may be submitted under the Site Plan Waiver, Minor Engineering Change or Insignificant Change requirements specified in the Planning Board Site Plan Rules and Regulations as may be applicable.

12.3.4 In addition to the requirements outlined in this section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for a PD District rezoning.

### 12.4.0 Amendment

12.4.1 Proposed amendments to any existing Planned Development District that change any allowable uses or the size/land area of the PDD or the permitted building square footage within the PDD, shall be made pursuant to the procedures set forth as stated in Article XII, Section 12.1.0 Planned Development District, to the same extent as if the proposed amendment was a new PDD.

12.4.2 Hearings on proposed amendments to the PDD Rules and Regulations as established by the Planning Board shall require mailing of a legal notice by the Planning Board to all: Town Meeting Members, members of the Land Use Committee and members of the Zoning Bylaw Review Committee.

### 12.5.0 Existing Planned Development Districts

The following existing Planned Development Districts Zoning Bylaws may be accessed at the Burlington Planning Department:

## Article XII

- 12.5.1 Corporate Center - January 25, 1988  
(Amended May 1993, September 25, 2000, January 27, 2014)
- 12.5.2 Grandview Farm - May 6, 2001
- 12.5.3 Wall Street - May 16, 2001 (Amended September 25, 2017)
- 12.5.4 Arborpoint - January 26, 2004
- 12.5.5 South Avenue I - November 13, 1995
- 12.5.6 Northwest Park - January 27, 2007
- 12.5.7 South Avenue II - September 24, 2007
- 12.5.8 Network Drive at Northwest Park - May 12, 2008
- 12.5.9 90 Middlesex Turnpike-October 5, 2009
- 12.5.10 New England Executive Park (The District) - October 5, 2009

## Article XIII

### **ARTICLE XIII: SIGN REGULATIONS**

#### SECTION 13.1.0 SIGNS

##### 13.1.0 Signs Purpose:

The purpose of this sign bylaw is the following:

- A. To facilitate efficient communication to ensure that people receive the information they need or want;
- B. To encourage signs which are harmonious with both the buildings, the sites where they are displayed and their larger environs;
- C. To protect public and private investments in buildings and open spaces;
- D. To support business vitality by accomplishing the above objectives without burdensome procedures and restrictions.

Signs are permitted as follows:

##### 13.1.1 One Family Dwelling Districts (RO)

13.1.1.1 A temporary sign advertising rental, lease or sale of the premises which shall be six (6) sq. ft. or less.

13.1.1.2 A sign stating the home occupation or profession of a resident, which shall be one (1) sq. ft. or less.

##### 13.1.2 Continuing Care Districts (RC)

###### 13.1.2.1 Wall Signs

- 13.1.2.1.1 One wall sign shall be permitted for each building.
- 13.1.2.1.2 A wall sign shall be less than 4 feet in height.
- 13.1.2.1.3 A wall sign shall be less than 6 feet in length
- 13.1.2.1.4 One building directory shall be permitted on the exterior wall of the building at each entrance. Each building directory shall be 5 square feet or less.

###### 13.1.2.2 Marquee Signs

- 13.1.2.2.1 Signs shall only be attached to the sides or front of a marquee and shall be 7 feet or more above the ground.
- 13.1.2.2.2 The sign shall be 6 square feet or less.

###### 13.1.2.3 Free Standing Signs

- 13.1.2.3.1 A temporary sign erected during construction of a building shall be 48 square feet or less and 10 feet or less in any other dimension.
- 13.1.2.3.2 A free standing sign may be permitted provided that no such sign shall exceed 48 total square feet, and shall not exceed twelve (12) feet in height.

##### 13.1.3 General Business Districts (BG), Neighborhood Business Districts (BN), Limited Business Districts (BL), Continuous Traffic Business Districts (BT)

## Article XIII

13.1.3.1 A temporary sign advertising rental, lease or sale of the premises which shall be six (6) sq. ft. or less.

13.1.3.2 Wall Signs:

13.1.3.2.1 One wall sign shall be permitted for each business side of a building and direct entrance into a store.

13.1.3.2.2 At gasoline stations and garages the front wall sign may be divided into separate signs indicating operations or departments, provided the total width of the separate signs does not exceed the maximum permitted for a wall sign.

13.1.3.2.3 A wall sign shall be four feet or less in height.

13.1.3.2.4 At the first floor level a sign may extend across the full width of the wall. At other than the first floor level, a sign shall be six (6) feet or less in length.

13.1.3.2.5 One building directory shall be permitted on the exterior wall of the building at each entrance. A building directory shall be one (1) sq. ft. or less for each tenant or occupant of the building.

13.1.3.3 Projecting Signs:

13.1.3.3.1 One sign shall be permitted for each business.

13.1.3.3.2 The sign shall be four (4) ft. or less in height and shall not project more than six (6) ft. from the face of the building, nor closer than 15 ft. from the property line.

13.1.3.4 Marquee Signs:

13.1.3.4.1 Signs shall only be attached to the sides or front of a marquee and shall be seven (7) ft. or more above the ground.

13.1.3.4.2 The sign shall be six (6) sq. ft. or less. An individual letter sign shall be two (2) ft. or less in height.

13.1.3.5 Free Standing Signs:

13.1.3.5.1 No free standing signs shall be permitted except temporary signs which shall be 10 ft. or more from any property line.

13.1.3.5.2 A temporary sign erected during construction of a building shall be 48 sq. ft. or less and 10 ft. or less in any dimension.

### 13.1.4 Retail Industrial (IR), General Industrial (IG), and Innovation Districts (I)

13.1.4.1 A temporary sign advertising rental, sale or lease of premises not exceeding 24 sq. ft.

13.1.4.2 Wall Signs:

13.1.4.2.1 Wall signs shall be the same as for business zones except that signs shall be six (6) feet or less in height.

13.1.4.3 Roof Signs

## Article XIII

13.1.4.3.1 One roof sign shall be permitted for each building, but no roof sign shall be permitted for a building exceeding eighty (80) feet in height.

13.1.4.3.2 A roof sign shall be ten (10) ft. or less in height and shall not exceed 100 sq. ft. An individual letter roof sign shall be six (6) ft. or less in height.

13.1.4.4 Projecting Signs Same as Business Districts.

13.1.4.5 Marquee Signs Same as Business Districts.

13.1.4.6 Free Standing Signs:

13.1.4.6.1 No free standing signs shall be permitted except temporary, traffic control, or directory signs which shall be ten (10) ft. or more from any property line.

13.1.4.6.2 A temporary sign erected during the construction of a building shall be 48 sq. ft. or less and 10 feet or less in any dimension.

13.1.4.6.3 A free standing sign may be permitted for purposes of a business directory provided that no more than 20 sq. ft. shall be permitted for each business.

13.1.4.6.4 Size and location of traffic control signs to be approved by the Inspector of Buildings when building permit is issued.

### **13.1.5 Municipal Uses (Town of Burlington)**

#### **13.1.5.1 Wall Signs**

13.1.5.1.1 Wall Signs shall be the same as Business Districts

13.1.5.1.2 One (1) Building Directory shall be permitted on the exterior wall of the building at each entrance. A building directory shall not exceed one (1) s.f. for each Town Department.

#### **13.1.5.2 Marquee Signs**

13.1.5.2.1 Marquee Signs shall be the same as Business Districts.

#### **13.1.5.3 Freestanding Ground Signs**

13.1.5.3.1 One (1) freestanding sign shall be permitted for each Town owned property.

13.1.5.3.2 The freestanding sign shall be at least ten (10) ft. or more from any property line.

13.1.5.3.3 The maximum size for any freestanding sign shall be six (6) ft. in height and ten (10) ft. in length. The height of the sign shall be measured from the average adjoining grade to the top of the sign. The free standing sign is permitted to be double sided.

13.1.5.3.4 The freestanding sign shall be landscaped around its base so as to help diminish the exposure above grade of the sign structure. The freestanding sign is permitted to have a base. The base shall be included in the height calculation.

#### **13.1.5.4 Freestanding Message Monument Sign**

13.1.5.4.1 The Town of Burlington shall be permitted to install two (2) manually changeable letter freestanding signs. The location of said signs shall be determined by the Board of Selectmen.

13.1.5.4.2 The freestanding sign(s) shall be subject to the provisions of sections 13.1.5.3.2 through 13.1.5.3.4 for size and landscaping requirements,

## Article XIII

### SECTION 13.2.0

### SPECIAL SIGNS

In particular instances, the Board of Appeals may permit signs of larger maximum sizes than specified herein when any such sign is located at least 100 feet from the nearest residential zoning district boundary or public way, whichever is more distant, and within a Business or Industrial Zoning District, and when such a permit is in the public interest.

## **APPENDIX A: HISTORIC DIMENSIONAL REQUIREMENTS**

The following is a summary of the dimensional requirements for various zoning districts that were contained in the Burlington Zoning Bylaws from time to time. This information is included to assist individuals in determining what the dimensional requirements were at the time a lot was created or a building was constructed. This appendix is informational only and shall not be considered a part of the Zoning Bylaws.

### **MINIMUM REQUIREMENTS**

District Area	Lot Frontage	Front	Side	Rear	Y A R D S
<hr/>					
<b>RO - One Family Dwelling Districts</b>					
Prior to 11/13/43 for any Residence 50' Zone lots of record at that time.	5,000 s.f. any	any	any	any	
On or after 11/13/43 and prior to 60' 8/18/55 for Residence A Zone lots of record at that time.	10,000 s.f. 25'	15'	15'	30'	
On or after 11/13/43 and prior to 100' 1/31/77 for Residence B Zone lots of record at that time.	20,000 s.f. 25'	15'	15'	30'	
On or after 8/18/55 and prior to 100' 1/31/77 for Residence A Zone lots of record at that time.	20,000 s.f. 25'	15'	15'	30'	
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### **BG - General Business Districts**

Prior to 11/13/43 for Business Zone 50' lots of record at that time.	5,000 s.f. any	any	any	
On or after 11/13/43 and prior to 50' 1/31/77 for Business Zone lots of record at that time. (See Note 1)	5,000 s.f. 10'	10'	10'	10'

Note 1: See single asterisk note following the Density Regulation Table.

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### MINIMUM REQUIREMENTS

District Area	Lot Frontage	Front	Side	Rear	Y A R D S
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#### **BL - Limited Business Districts**

Prior to 11/13/43 for Limited 50' Business District lots of record at that time.	5,000 s.f. any	any	any	
On or after 11/13/43 and prior to 50' 1/31/77 for Limited Business District lots of record at that time.	5,000 s.f. 10'	10' (See Note 1)	10'	

Note 1: See note 5 following the Density Regulation Table.

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#### **BT - Continuous Traffic Business Districts**

Prior to 11/13/43 for High Density 50' Traffic Business Districts of record at that time.	5,000 s.f. any	any	any	
On or after 11/13/43 and prior to 50' 1/31/77 for High Density Traffic Districts of record at that time.	5,000 s.f. 10'	10' (See Note 1)	10'	

Note 1: See note 5 following the Density Regulation Table.

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#### **IG - General Industrial Districts**

Prior to 11/13/43 for Industrial 50' lots of record at that time.	5,000 s.f. any	any	any	
On or after 11/13/43 and prior to 50'	10,000 s.f. 10'	10'	10'	

1/31/77 for Industrial Zone  
lots of record at that time.

(See Note 1)

Note 1: See note 5 following the Density Regulation Table.

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## **APPENDIX B: AMENDMENTS TO ZONING BYLAWS**

Amended under Article 63 at the Adjourned (Second) Town Meeting June 8, 1977 (Housekeeping Article). Approved by the Att. Gen. 9/16/77. Adv. Burl. News 9/22,29/77.

Amended under Article 22 at the Adjourned (Third) Town Meeting September 28, 1977. (Kiosk) Section 2.38.1, Sections 4.2.6.19 & 4.3.2.13. Approved by the Att. Gen. 12/8/77. Adv. Burl. News 12/15,22/77.

Amended under Article 24 at the Adjourned (First) Town Meeting, 1/25/78. (9.3.1.1 Waived Requirements site plan approval by Planning Board.) Approved by the Att. Gen. 4/13/78. Adv. Burl. News 4/20,27/78.

Amended under Article 71 at the Adjourned (Second) Town Meeting, June 7, 1978. (4.3.2.14 Accessory Use Regulations Schedule.) Approved by failure of Att. Gen. to act within 90 days. Adv. Burl. News 10/12,19/78. Amended under Article 15 at the Adjourned (First) Town Meeting 1/24/79. (9.3.1.1 Waived Requirements site plan approval by Planning Board.) Approved by the Att. Gen. 3/20/79. Adv. Burl. News 3/29, 4/5/79.

Amended under Article 23 at the Adjourned (First) Town Meeting 1/24/79. (Art. VIII, Sec. 8.2.0 Wetlands District.) Approved by the Att. Gen. 3/20/79. Adv. Burl. News 3/29, 4/5/79.

Amended under Article 24 at the Adjourned (First) Town Meeting 1/24/79. (Art. IV, Sec. 4.4.0, Permitted uses in the Wetlands District.) Approved by the Att. Gen. 3/20/79. Adv. Burl. News 3/29, 4/5/79.

Amended under Article 25 at the Adjourned (First) Town Meeting 1/24/79. (Art. II, Definitions Essential Services.) Approved by the Att. Gen. 3/20/79. Adv. Burl. News 3/29, 4/5/79.

Amended under Article 61 at the Adjourned (Second) Town Meeting 6/11/79 (Art. V, Sec. 5.1.8, Compliance with Density Regulations Schedule) Approved by the Att. Gen. 10/9/79, Adv. Burl. News 10/18,25/79.

Amended under Article 18 at the Adjourned (First) Town Meeting 1/21/80. Article V, Section 5.2.0, Density Regulations Table. Approved by the Att. Gen 5/14/80, Adv. Burl. News 5/22,29/80.

Amended under Article 28 at the Adjourned (First) Town Meeting 1/26/81. (9.3.1 Requirements of Site Plan.) Approved by the Att. Gen 5/14/81. Adv. Burl. News 5/21,28/81.

Amended under Article 29 at the Adjourned (First) Town Meeting 1/26/81. (9.3.1.1 Waived Requirements of Site Plan.) Approved by the Att. Gen. 5/14/81. Adv. Bur. News 5/21,28/81.

Amended under Article 30 at the Adjourned (First) Town Meeting 1/26/81. (9.2.2.1 ProcedureSpecial Permits.) Approved by the Att. Gen. 5/18/81. Adv. in Burl. News 5/28, 6/4/81.

Amended under Article 33 at the Adjourned (Second) Town Meeting 5/18/81. (8.1.1 Definition Flood Hazards.) Approved by the Att. Gen. 10/6/81. Adv. in Burl. News 10/22,29/81.

Amended under Article 34 at the Adjourned (Second) Town Meeting 5/18/81. (9.3.2.1 Filing Fee Site Plan.) Approved by the Att. Gen. 10/6/81. Adv. in Burl. News 10/22,29/81.

Amended under Article 36 at the Adjourned (Second) Town Meeting 5/18/81. (4.2.6.4 Post Offices, Banks.) Approved by the Att. Gen. 10/6/81. Adv. in Burl. News 10/22,29/81.

Amended under Article 37 at the Adjourned (Second) Town Meeting 5/18/81. (2.66 Definition of Public Assembly striking in its entirety.) Approved by the Att. Gen. 10/6/81. Adv. in Burl. News 10/22,29/81.

Amended under Article 35 at the Adjourned (Second) Town Meeting 6/22/81. (Article VII Parking and Loading Regulations.) Approved by the Att. Gen. 10/6/81. Adv. in Burl. News 10/22,29/81.

Amended under Article 18 at the Adjourned (Third) Town Meeting 10/21/81. (4.2.6.20 Massage Parlors.) Approved by the Att. Gen. 2/4/82. Adv. in Burl. News 2/11,18/82.

Amended under Articles 17/19 at the Adjourned (First) Town Meeting 1/12/83 (4.3.2.9 – Use Designation; Water Resource & Aquifer Zoning Districts. Approved by the Att. Gen. 3/22/83. Adv. in Burl. News 3/31 and 4/7/83.

Amended under Article 59 at the Adjourned (Second) Town Meeting 5/25/83. (8.3.5.5 Impervious Surfaces.) Approved by the Att. Gen. 8/10/83. Adv. in Burl. News 8/18,25/83.

Amended under Article 61 at the Adjourned (Second) Town Meeting 6/1/83. (4.3.2.9 Use Designation.) Approved by the Att. Gen. 8/10/83. Adv. in Burl. News 8/18,25/83.

Amended under Article 35 at the Adjourned (Third) Town Meeting 9/28/83. (6.8.0 Streets, Driveways, Parking and Service Areas.) Approved by the Att. Gen. 11/8/83. Adv. in Burl. News 11/17,24/83.

Amended under Article 36 at the Adjourned (Third) Town Meeting 9/28/83. (2.38 Definitions.) Approved by the Att. Gen. 11/8/83. Adv. in Burl. News 11/17,24/83.

Amended under Article 37 at the Adjourned (Third) Town Meeting 9/28/83. (9.2.5 Final Action.) Approved by the Att. Gen. 11/8/83. Adv. in Burl. News 11/17,24/83.

Amended under Article 38 at the Adjourned (Third) Town Meeting 9/28/83. (9.3.5 Final Action.) Approved by the Attn. Gen. 11/8/83. Adv. in Burl. News 11/17,24/83.

Amended under Article 19 at the Adjourned (First) Town Meeting 1/23/85. (8.1.0 Adoption of the 100Year Flood Plain District.) Approved by the Att. Gen. 4/12/85. Adv. in Burl. News 4/25 and 5/2/85.

Amended under Article 20 at the Adjourned (First) Town Meeting 1/23/85. (9.5.1 Duties of the Board of Appeals in Flood Hazard Districts.) Approved by the Att. en. 4/12/85. Adv. in Burl. News 4/25 and 5/2/85.

Amended under Article 21 at the Adjourned (First) Town Meeting 1/23/85. (6.1.1, 6.1.2 Nonconforming Structures & Nonconforming Uses.) Approved by the Att. Gen. 4/12/85. Adv. in Burl. News 4/25 and 5/2/85.

Amended under Article 22 at the Adjourned (First) Town Meeting 1/23/85. (9.5.3 Appeals under the Zoning Bylaws.) Approved by the Att. Gen. 4/12/85. Adv. in Burl. News 4/25 and 5/2/85.

Amended under Article 23 at the Adjourned (First) Town Meeting 1/23/85. (8.3.5.5 Revision to Aquifer and Water Resource District.) Approved by the Att. Gen. 4/12/85. Adv. in Burl. News 4/25 and 5/2/85.

Amended under Article 24 at the Adjourned (First) Town Meeting 1/23/85. (6.4.0, 6.5.0 Performance of Screening and Landscaping Requirements.) Approved by the Att. Gen. 4/12/85. Adv. in Burl. News 4/25 and 5/2/85.

Amended Section 6.6.1, "Determination of Area and Frontage," and Section 2.41, "Lot," in Article II, "Definitions," and Section 8.2.3, "Interpretation and Application (of the Wetlands District)." Public notice published 3/28 and 4/4/85. Planning Board public hearing 4/18/85. Adopted Adj. (Second) Town Meeting 6/5/85, Art. 59. Approved by the Att. Gen. 9/5/85. Adv. in Burl. News 9/12,19/85.

Adopted Section 6.6.4, "Calculation of Aggregate Building Area to Ground Percentage." Public notice published 3/28 and 4/4/85. Planning Board public hearing 4/18/85. Adopted Adj. (Second) Town Meeting 6/5/85, Art. 60. Approved by the Att. Gen. 9/5/85. Adv. in Burl. News 9/12,19/85.

Adopted Section 6.6.5, "LotSlope Requirements in One Family Dwelling (RO) Districts." Public notice published 3/28 and 4/4/85. Planning Board public hearing 4/18/85. Adopted Adj. (Second) Town Meeting 6/5/85, Art. 61. Approved by the Att. Gen. 9/5/85. Adv. in Burl. News 9/12,19/85.

Amended Section 8.3.5.5, "Impervious Surfaces (In the Aquifer and Water Resource District)." Public notice published 3/28 and 4/4/85. Planning Board public hearing 4/18 and 5/2/85. Adopted Adj. (Second) Town Meeting 6/3/85, Art. 56. Approved by the Att. Gen. 9/5/85. Adv. in Burl. News 9/12,19/85.

Amended Section 9.1.3, "Penalty." Public notice published 3/28 and 4/4/85. Planning Board public hearing 4/18/85. Adopted Adj. (Second) Town Meeting 6/5/85, Art. 58. Approved by the Att. Gen. 9/5/85. Adv. in Burl. News 9/12,19/85.

Adopted Article XI, "Moratorium on Uses Requiring Site Plans and Special Permits." Public notice published 4/4,11/85. Planning Board public hearing 4/18/85. Adopted Adj. (Second) Town Meeting 5/13/85, Art. 63. Approved by the Att. Gen. 9/5/85. Adv. in Burl. News 9/12,19/85.

Amended Section 3.1.1, "Special Districts," and Section 3.2.0, "Location of Districts." Public notice published 8/22,29/85. Planning Board public hearing 9/5/85. Adopted Adj. (Third) Town Meeting 9/30/85, Art. 28. Approved by the Att. Gen. 11/19/85. Adv. in Burl. News 11/28 and 12/5/85.

Amended Subsection 4.3.1.14, "Towers, Antenna, etc." Public notice published 3/17,24/86. Planning Board public hearing 5/1,15/86. Adopted Adj. (Second) Town Meeting 6/2/86, Art. 66. Approved by Att. Gen. 7/25/86. Adv. in Burl. News 8/7,14/86.

Amended Section 6.6.1, "Determination of Area & Frontage." Public notice published 3/17,24/86. Planning Board public hearing 5/1,15/86. Adopted Adj. (Second) Town Meeting 6/2/86, Art. 65. Approved by Att. Gen. 7/25/86. Adv. in Burl. News 8/7,14/86.

Amended Section 11.1 of Article XI, "Moratorium on Uses Requiring Site Plans and Special Permits." Public notice published 3/17,24/86. Planning Board public hearing 5/1/86. Adopted Adj. (Second) Town Meeting 5/12/86, Art. 69. Approved by Att. Gen. 7/25/86. Adv. in Burl. News 8/7,14/86.

Amended Article III, Section 3.2.0, "Location of Districts," and Article VIII, Section 8.3.2, "Definition of Aquifer and Water Resource Districts" to adopt a new map. Public notice published 4/23 and 4/30/87. Planning Board public hearing 5/7/87. Adopted Adj. (Second) Town Meeting 6/8/87, Art. 72. Approved by Att. Gen. 9/16/87. Adv. in Burl. News 9/24 and 10/1/87.

Deleted Article V, existing Section 5.3.0, "Exemptions" and Adopted a new Section 5.3.0 "Separate Lot Protection," and informational appendix for historic setback, frontage and area requirements. Public notice published 4/23,30/87. Planning Board public hearing 5/7/87. Adopted Adj. (Second) Town Meeting 6/8/87, Art. 75. Approved by Att. Gen. 9/16/87. Adv. in Burl. News 9/24 and 10/1/87.

Amended Article VIII, Section 8.1.2, "(100Year Flood Plain District)Definitions" and Section 8.1.6, "Requirements for Development within the Flood Plain District." Public notice published 4/23,30/87. Planning Board public hearing 5/7/87. Adopted Adj. (Second) Town Meeting 6/8/87, Art. 73. Approved by Att. Gen. 9/16/87. Adv. in Burl. News 9/24 and 10/1/87.

Amended Article IX, Section 9.3.2, "(Site Plan) Procedure," Subsection 9.3.2.1. Public notice published 4/23,30/87. Planning Board public hearing 5/7/87. Adopted Adj. (Second) Town Meeting 6/8/87, Art. 74. Approved by Att. Gen. 9/16/87. Adv. in Burl. News 9/24 and 10/1/87.

Amended Article XI "Moratorium." Public notice published 4/23,30/87. Planning Board public hearing 5/7/87. Adopted Adj. (Second) Town Meeting 6/8/87, Art. 76. Approved by Att. Gen. 9/16/87. Adv. in Burl. News 9/24 and 10/1/87.

Adopted Article XII, "Special Zoning Districts," Section 12.1, "Planned Development District." Public notice published 4/23,30/87. Planning Board public hearing 5/7/87. Adopted Adj. (Second) Town Meeting 6/8/87, Art. 77. Approved by Att. Gen. 9/16/87. Adv. in Burl. News 9/24 and 10/1/87.

Amended Article II, "Definitions," Section 2.29, "Frontage," and Section 2.49, "Lot, through." Public notice published 8/13/20/87. Planning Board public hearing 9/3/87. Adopted Adj. (Third) Town Meeting 9/28/87, Art. 12. Approved by Att. Gen. 10/16/87. Adv. in Burl. News 10/26 and 11/3/87.

Adopted Article IV, "Use Regulations," Sections 4.1.3 and 4.3.0, "Temporary tents." Public notice published 3/17,24/88. Planning Board public hearing 4/7/88 continued to 4/21/88. Adopted Adj. (Second) Town Meeting 5/23/88, Art. 72. Approved by Att. Gen. 7/28/88. Adv. in Burl. News 8/4,11/88.

Adopted Article V, "Density Regulations," Section 5.1.9, "Development Incentive for Affordable Housing." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 1. Approved by Att. Gen. 10/20/88. Adv. in Burl. News 10/27, 11/4/88.

Amended Article IX, "Administration and Procedures," Section 9.2.4, "Criteria for Approval of a Special Permit." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Amended Adj. (Third) Town Meeting 9/19/88, Art. 1. Approved by Att. Gen. 10/20/88. Adv. in Burl. News 10/27, 11/4/88.

Adopted Article IV, "Use Regulations," Section 4.1.5 "Accessory Residential Uses in One Family Dwellings: Accessory Apartments." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 2. Approved by Att. Gen. 10/20/88. Adv. Burl. News 10/27, 11/4/88.

Adopted Article IV, "Use Regulations," Section 4.3.1.1.1 Accessory Apartment." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 2. Approved by Att. Gen. 10/20/88. Adv. Burl. News 10/27, 11/4/88.

Adopted Article XII, "Special Zoning Districts," Section 12.1.7 5. Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 3. Approved by Att. Gen. 10/20/88. Adv. Burl. News 10/27, 11/4/88.

Adopted Article VIII, "Special Districts," Section 8.4 "Open Space Residential Development." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 4. Approved by Att. Gen. 10/20/88. Adv. Burl. News 10/27, 11/4/88.

Adopted Article IV, "Use Regulations," Section 4.2.1.10 "Open Space Residential." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 4. Approved by Att. Gen. 10/20/88. Adv. Burl. News 10/27, 11/4/88.

Adopted Article XIII, "TwoFamily Units in the R2 District." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 5. Approved by Att. Gen. 10/20/88. Adv. Burl. News 10/27, 11/4/88.

Amended Article IX, "Penalty." Public notice published 11/30/88 and 12/7/88. Planning Board public hearing 1/5/89. Adopted Adj. (First) Town Meeting 1/9/89, Art. 11. Approved by Att. Gen. 3/16/89. Adv. Burl. News 3/23, 3/30/89.

Amended Article II, Section 2.28 "Floor Area, Floor Area Ratio, and Maximum Floor Area Ratio." Public notice published 4/11,18/89. Planning Board public hearing 5/4/89. Adopted Adj. (Second) Town Meeting 4/10/89, Art. 53. Approved by Att. Gen. 7/5/89. Adv. Burl. News 7/13,20/89.

Amended Article V, Section 5.2.0 "Density Regulation Schedule." Public notice published 4/11,18/89. Planning Board public hearing 5/4/89. Adopted Adj. (Second) Town Meeting 4/10/89, Art. 54. Approved by Att. Gen. 7/5/89. Adv. Burl. News 7/13,20/89.

Adopted Article V, "Floor Area Ratio Incentive". Public notice published 4/11,18/89. Planning Board public hearing 5/4/89. Adopted Adj. (Second) Town Meeting 5/10/89, Art. 55. Approved by Att. Gen. 7/5/89. Adv. Burl. News 7/13,20/89.

Amended Article XI, Section 9.1.2 "Occupancy Permit". Public notice published 4/19,26/89. Planning Board public hearing 5/4/89. Adopted Adj. (Second) Town Meeting 5/22/89, Art. 56. Approved by Att. Gen. 7/5/89. Adv. Burl. News 7/13,20/89.

Amended Article II, Section 2.35 "Hospital". Public notice published 10/25/89 and 11/1/89. Planning Board public hearing 11/16/89. Adopted Adj. (First) Town Meeting 1/8/90, Art. 16. Approved by Att. Gen. 3/26/90. Adv. Burl. news 4/5,12/90.

Amended Article IV, Section 4.3.2.9 "Parking Garages". Public notice published 11/1,8/89. Planning Board public hearing 11/16/89. Adopted Adj. (First) Town Meeting 1/8/90, Art. 17. Approved by Att. Gen. 3/26/90. Adv. Burl. news 4/5,12/90.

Amended Article VII, "Parking and Loading Regulations" and Article IV, Section 4.3.2.16 "parking area for more than 200 spaces". Public notice published 8/16,24/90. Planning Board public hearing 09/6/90. Adopted Adj. (Third) Town Meeting 9/17/90, Art. 10. Approved by Att. Gen. 11/7/90. Adv. Burl. News 11/22,29/90.

Amended Article IV, Section 4.3.2.10 "off-street outdoor parking". Public notice published 7/10,17/91. Planning Board public hearing 8/1/91. Adopted Adj. (Third) Town Meeting 9/16/91, Art. 14. Approved by Att. Gen. 11/26/91. Adv. Burl. News 12/5,12/91.

Adopted Article IV, "Automobile Sales and Service Uses", Section 4.2.5.9 "outdoor storage of motor vehicles." Public notice published 8/8,15/91. Planning Board public hearing 9/5/91. Adopted Adj. (Third) Town Meeting 9/16/91, Art. 15. Approved by Att. Gen. 11/26/91. Adv. Burl. News 12/5,12/91.

Amended Article II, Section 2.18 "Day Nursery". Public notice published 11/20,27/92. Planning Board public hearing 12/5/1991. Amended Adj. (First) Town Meeting 1/13/92, Art. 16. Approved by Att. Gen. 2/21/92. Adv. Burl. Times Union 2/27, 3/5/92.

Amended Article IV, Section 4.2.2.3, 4.3.0 "Day Nursery". Public notice published 11/20,27/92. Planning Board public hearing 12/5/1991. Amended Adj. (First) Town Meeting 1/13/92, Art. 16. Approved by Att. Gen. 2/21/92. Adv. Burl. Times Union 2/27, 3/5/92.

Amended Article V, Section 5.1.5 "Density Requirements for Religious and Educational Uses". Public notice published 11/20,27/92. Planning Board public hearing 12/5/1991. Amended Adj. (First) Town Meeting 1/13/92, Art. 16. Approved by Att. Gen. 2/21/92. Adv. Burl. Times Union 2/27, 3/5/92.

Amended Article IV, Section 4.2.6.18 "Sale of Structural and Building Supplies". Public Notice published 3/17, 3/24/93. Planning Board public hearing 4/1/93. Amended Adj. (Second) Town Meeting 5/19/93, Art. 25. Approved by Att. Gen. 6/1/93. Adv. Burl. News 6/9, 6/16/93.

Amended -- Article IX, Section 9.2.2 - "Special Permit Fees". Public notice published 6/16, 6/23/93. Planning Board public hearing 7/8/93. Amended Adj. (Third) Town Meeting 9/13/93, Art. 9. Approved by Att. Gen. 11/22/93. Adv. Burlington Union 12/9, 12/16/93.

Amended -- Article II, Section 2.26 - "Filling Station". Public notice published 12/15, 12/22/94. Planning Board public hearing 1/5/95. Amended Adj. (First) Town Meeting 1/9/95, Art. 12. Approved by Att. Gen. 2/13/95. Adv. Burlington Union 2/23, 3/2/95.

Amended -- Article VII, Section 7.1.1.4 - "Handicapped person car space". Public notice published 8/24, 8/31/95. Planning Board public hearing 9/7/95. Amended Adj. (Third) Town Meeting 9/11/95. Art. 14. Approved by Att. Gen. 10/17/95. Adv. Burlington Union 10/26, 11/2/95.

Amended -- Article IX, Section 9.3.2, 9.3.2.1 - "Procedure". Public notice published 8/24, 8/31/95. Planning Board public hearing 9/7/95. Amended Adj. (Third) Town Meeting 9/11/95. Art. 15. Approved by Att. Gen. 10/17/95. Adv. Burlington Union 10/26, 11/2/95.

Amended -- Article II, Section 2.5.1, 2.25, 2.71 - "Definitions". Public notice published 11/22, 11/29/95. Planning Board public hearing 12/7/96. Amended Adj. (First) Town Meeting 1/17/96. Art. 21. Approved By Att. Gen. 1/30/96. Adv. Burlington Union 2/8, 2/15/96.

Amended -- Article IV, Section 4.2.6.9 - "Fast Order Food Establishment". Public notice published 11/22, 11/29/95. Planning Board public hearing 12/7/96. Amended Adj. (First) Town Meeting 1/17/96. Art. 21. Approved By Att. Gen. 1/30/96. Adv. Burlington Union 2/8, 2/15/96.

Amended -- Article II, Section 2.0 - "Definitions". Article III, Section 3.1.0 - "Districts". Article IV, Sections 4.2.0, 4.3.0, 4.4.0 - "Use Regulations". Article V, Section 5.1.0 - "Applicability of Regulations". Article V, Section 5.2.0 - "Density Regulation Schedule". Article VII, Section 7.2.0 - "Minimum/Maximum Parking Requirements". Public notice published 3/20, 3/27/96. Planning Board public hearing 4/4/96. Amended Adj. (Second) Town Meeting 6/10/96. Art. 23. Approved by Att. Gen. 9/16/96 (amended). Adv. Burlington Union 12/12, 12/19/96.

Amended -- Article II, Section 2.71 - "Restaurant Definition". Public notice published 3/21, 3/28/96. Planning Board public hearing 4/4/96. Amended Adj. (Second) Town Meeting 6/10/96. Art. 25. Approved by Att. Gen. 9/6/96. Adv. Burlington Union 9/19, 9/26/96.

Amended -- Article II, Section 2.5.1 - "Bakery". Public notice published 3/21, 3/28/96. Planning Board public hearing 4/4/96. Amended Adj. (Second) Town Meeting 6/10/96. Art. 26. Approved by Att. Gen. 9/6/96. Adv. Burlington Union 9/19, 9/26/96.

Amended -- Article IV, Section 4.2.6.11 - "Bakeries", Section 4.2.6.24 - "Printers...". Public notice published 3/21, 3/28/96. Planning Board public hearing 4/4/96. Amended Adj. (Second) Town Meeting 6/10/96. Art. 27. Approved by Att. Gen. 9/6/96. Adv. Burlington Union 9/19, 9/26/96.

Adopted -- Article II, Section 2.65.1 - "Public Water & Sewer Distribution Structures". Article IV, Section 4.2.2.27 - "Public Water & Sewer Distribution Structures". Public notice published 4/3, 4/10/96. Planning Board public hearing 5/16/96. Adopted Adj. (Second) Town Meeting 6/10/96. Art. 28. Approved by Att. Gen. 9/6/96. Adv. Burlington Union 9/19, 9/26/96.

Adopted -- Article II, Section 2.69.1 - "Residence Hotel/Motel". Article IV, Section 4.2.1.3.1 - "Residence Hotel/Motel". Public notice published 4/3, 4/10/96. Planning Board public hearing 4/18/96. Amended Adj. (Second) Town Meeting 6/10/96. Art. 29. Approved by Att. Gen. 9/6/96. Adv. Burlington Union 9/19, 9/26/96.

Adopted -- Article II, Section 2.1.2 - "Adult Bookstore", Section 2.1.3 - "Adult Club", Section 2.1.4 - "Adult Paraphernalia Store", Section 2.1.5 - "Adult Theater", Section 2.1.6 - "Adult Video Store". Article IV, Section 4.2.6.24-28 - "Retail, Consumer and Trade Uses". Article V, Section 5.1.12 - "Additional Regulations for Adult Entertainment Uses". Public notice published 5/22, 5/29/96. Planning Board public hearing 6/6/96. Amended Adj. (Special) Town Meeting 6/17/96. Art. 5.

Approved by Att. Gen. 9/9/96. Adv. Burlington Union 9/19, 9/26/96.

Amended -- Article II, Section 2.79 - "Toxic or hazardous Materials"; Article III, Section 3.2.0 - "Location of Districts"; Article IV, Section 4.2.0 - "Principal Use Regulations Schedule"; Article IV, Section 4.3.0 - "Accessory Use Regulations Schedule"; Article VIII, Section 8.3.0 - "Aquifer and Water Resource Districts"; Article IX, Section 9.2.2.3 - Special Permit Fees. Public notice published 8/22, 8/29/96. Planning Board public hearing 9/5/96. Amended Adj. Town Meeting 10/02/96. Art. 16. Approved by Att. Gen. 10/18/96. Adv. Burlington Union 12/2, 12/19/96.

Adopted -- Article VI, Section 67.1(A) - "Continuing Care Districts (RC)". Public notice published 4/2/97, 4/9/97. Planning Board public hearing 4/17/97. Adopted Adj. Town Meeting 5/28/97. Art. 28. Approved by Att. Gen. 6/17/97. Adv. Burlington Union 6/26/97, 7/3/97.

Adopted -- Article II, Section 2.50.1 - "Massage Therapy". Public notice published 4.2.97, 4/9/97. Planning Board public hearing 4/17/97. Adopted Adj. Town Meeting 5/28/97. Art. 28. Approved by Att. Gen. 6/17/97. Adv. Burlington Union 6/26/97, 7/3/97.

Amended -- Article XII, Section 12.1.7 - "Criteria for Approval". Public notice published 11/20/97, 11/26/97. Planning Board public hearing 12/5/98. Amended Adj. Town Meeting 1/12/98. Art. 16. Approved by Att. Gen. 3/13/98. Adv. Burlington Union 3/26/98, 4/2/98.

Amended -- Article VI, Section 6.6.2 - "Division or Reduction in Area". Public notice published 3/5/98, 3/12/98. Planning Board public hearing 3/19/98. Amended Spec. Town Meeting 3/30/98. Art. 2. Approved by Att. Gen. 5/4/98. Adv. Burlington Union 5/21/98, 5/28/98.

Amended -- Article VIII, Section 8.3.2 -- "Definition of Aquifer and Water Resource Districts". Public notice published 2/19/98, 2/26/98. Planning Board public hearing 3/19/98. Adjourned Town Meeting 5/20/98. Art. 28. Approved by Att. Gen. 7/3/98. Adv. Burlington Union 7/16/98, 7/23/98.

Amended -- Article VIII, Section 8.4.7 -- "Optional Units Incentive"; 8.4.2 -- "Open Space Residential Development, Procedures". Public notice published 4/1/98, 4/8/98. Planning Board public hearing 4/16/98. Adjourned Town Meeting 5/20/98. Art. 30. Approved by Att. Gen. 7/3/98. Adv. Burlington Union 7/16/98, 7/23/98.

Amended -- Article IX, Section 9.6.2 -- "Notices to be Mailed, Post Prepaid". Public notice published 4/1/98, 4/8/98. Planning Board public hearing 4/16/98. Adjourned Town Meeting 5/20/98. Art. 31. Approved by Att. Gen. 7/3/98. Adv. Burlington Union 7/16/98, 7/23/98.

Amended -- Article XII, Section 12.1.0 -- "Planned Development District". Public notice published 4/1/98, 4/8/98. Planning Board public hearing 4/16/98. Adjourned Town Meeting 5/20/98. Art. 32. Approved by Att. Gen. 7/3/98. Adv. Burlington Union 7/16/98, 7/23/98.

Adopted -- Article IV, Section 4.1.6 -- "Temporary Partial Moratorium on Personal Wireless Services Facilities". Public notice published 4/22/98, 4/29/98. Planning Board public hearing 5/7/98. Adjourned Town Meeting 5/20/98. Art. 34. Approved by Att. Gen. 7/3/98. Adv. Burlington Union 7/16/98, 7/23/98.

Amended - Article II, Section 2.0 - "Definitions". Public notice published 12/24/98, 12/31/98. Planning Board public hearing 1/7/99. Adjourned Town Meeting 1/11/99. Art. 18. Approved by Att. Gen. 2/24/99. Adv. Daily Times 3/4/99, 3/11/99.

Adopted - Article IX, Section 9.1.3 - "Demolition Permit Delay". Public notice published 12/24/98, 12/31/98. Planning Board public hearing 1/7/99. Adjourned Town Meeting 1/11/99. Art. 18. Approved by Att. Gen. 2/24/99. Adv. Daily Times 3/4/99, 3/11/99.

Amended - Article VII, Section 7.3.0(b)- "Parking Requirements for Non-Residential and Non-Educational Uses". Public notice published 3/31/99, 4/7/99. Planning Board public hearing 4/15/99. Adjourned Town Meeting 5/10/99. Art. 5. Approved Att. Gen. 7/28/99. Adv. Daily Times 8/5/99, 8/12/99.

Amended - Article VIII, Section 8.3.9 - "Non Conforming Uses in Aquifer & Water Resource Districts". Public notice published 3/31/99, 4/7/99. Planning Board public hearing 4/15/99. Adjourned Town Meeting 5/10/99. Art. 3. Approved Att. Gen. 7/28/99. Adv. Daily Times 8/5/99, 8/12/99.

Amended - Article IX, Section 9.5.5 - "Decision" and 9.6.2 - "Notices to be Mailed, Post Prepaid". Public notice published 8/18/99, 8/25/99. Planning Board public hearing 9/16/99. Adjourned Town Meeting 9/29/99. Articles 3 and 4. Approved Att. Gen. 11/8/99. Adv. Daily Times 11/18/99, 11/24/99.

Amended - Article IV, Section 4.1.6 - "Wireless Communications Facilities" and Section 4.3.1.14 - "Towers and Antennas...". Public notice published 11/24/99 and 12/1/99. Planning Board public hearing 9/7/00. Adjourned Town Meeting 9/25/00. Article 4. Approved Att. Gen. 1/1/01. Adv. Daily Times 1/19/01, 1/26/01.

Adopted – Article II, Section 2.6.1 – “Body Art” and Article IV, Section 4.2.6.30 – “Body Art”. Public Notice published 4/4/01 and 4/11/01. Planning Board public hearing 4/19/01. Adjourned Town Meeting 5/14/01, Article 3. Approved Att. Gen. 8/21/01. Adv. Daily Times 8/30/01, 9/6/01.

Amended – Article IX, Section 9.2.2.3 – “Special Permit Fees”. Public Notice published 4/4/01 and 4/11/01. Planning Board public hearing 4/19/01. Adjourned Town Meeting 5/14/01, Article 4. Approved Att. Gen. 8/21/01. Adv. Daily Times 8/30/01, 9/6/01.

Amended – Article III – “Establishments of Districts” – 3.1.0 “Planned Development Districts”, 3.1.1 “Wireless Communications Districts” and 3.2.0 “Location of Districts”. Public Notice published 4/4/01 and 4/11/01. Planning Board public hearing 4/19/01. Adjourned Town Meeting 5/14/01, Article 5. Approved Att. Gen. 8/21/01. Adv. Daily Times 8/30/01, 9/6/01.

Amended – Article XII – “Special Zoning Districts” – 12.1.2 “General Requirements”. Public Notice published 4/17/03 and 4/24/03. Planning Board public hearing 5/1/03. Adjourned Town Meeting 5/14/01, Article 4. Approved Att. Gen. 8/7/03. Adv. Daily Times 8/27/03, 9/3/03.

Amended – Article II – “Definitions” – 2.16.1 “Congregate Living Facility”, 2.33.1 “Group Care Facility” and Article IV – “Use Regulations”, 4.2.1.11, 4.2.1.13, 42.1.14, 4.2.1.15, 4.2.1.16. Planning Board public hearing 4/15/04. Adjourned Town Meeting 5/12/04, Article 2. Approved Att. Gen. 6/9/04. Adv. Daily Times 6/17/04, 6/24/04.

Amended – Article IV – “Principal Use Regulations Schedule” 4.2.0, 4.2.6.10 “Restaurant” and new section 4.1.7 “Additional Regulations for Restaurants in an IG District”. Planning Board public hearing 8/19/04. Adjourned Town Meeting 9/27/04, Article 13. Approved Att. Gen. 10/18/04. Adv. Daily Times 10/27/04, 11/3/04.

Amended – Article IV – “Principal Use Regulations Schedule” 4.2.0, 4.2.6.10 “Restaurant” and new section 4.1.7 “Additional Regulations for Restaurants in an IG District”. Planning Board public hearing 1/6/05. Adjourned Town Meeting 1/31/05, Article 17. Approved Att. Gen. 2/10/05. Adv. Daily Times 2/17/05, 2/24/05.

Amended – Article II – “Definitions” by adding 2.6.0.1 “Bed & Breakfast”, 2.241 “Farmers Market”, 2.27.1 “Fitness Center”, 2.38.1.1 “In-Law Apartment”, 2.28.1.2 “Inn”, 2.52.1 “Multi-Family Dwelling”, 2.63.1 “Performance Theater”, 2.78.0.1 “Three-Family Dwelling”, 2.80.1 “Two-Family Dwelling”. Planning Board public hearing 1/5/06. Adjourned Town Meeting 1/23/06, Art. 9. Approved Att. Gen 3/8/06. Mailed to each household 3/23/06.

Amended – Article III – “Establishment of Districts”, Section 3.1.1. “Special Districts” by adding “CC” and “CBD” Districts and amending Section 3.2.0 “Location of Districts”. Planning Board public hearing 1/5/06. Adjourned Town Meeting 1/23/06. Art. 9. Approved Att. Gen 3/8/06. Mailed to each household 3/23/06.

Amended – Article IV – “Use Regulations”, Section 4.1.1 “Symbols in Use Regulations Schedules”, Section 4.2.0 “Principal Use Regulations Schedule”, 4.3.0 “Accessory Use Regulations Schedule”, 4.4.0 “Permitted Uses in the Wetlands District” and adding 4.2.1.1.A “2-Family Dwelling”, 4.2.1.1.B “3-Family Dwelling”, 4.2.1.17 “Multi-Family Dwelling other than 4.2.1.2”, 4.2.1.18 “Inn, Bed and Breakfast”, 4.2.2.28 “Fitness Center”, 4.2.2.29 “Performance Theater”, 4.2.6.3.A “Retail stores other than above and showrooms, each less than 20,000 square feet”, 4.2.6.3.B “Retail stores other than above and showrooms any individual tenant greater than 20,000 square feet”, 4.3.1.19 “Garage space for parking more than three automobiles”. Planning Board public hearing 1/5/06. Adjourned Town Meeting 1/23/06. Art.9. Approved Att. Gen 3/8/06. Mailed to each household 3/23/06.

Amended – Article V – “Density Regulations”, Section 5.2.0. Planning Board public hearing 1/5/06. Adjourned Town Meeting 1/23/06. Art.9. Approved Att. Gen 3/8/06. Mailed to each household 3/23/06.

Amended – Article VIII – “Special Districts” by adding Section 8.5.0 “Town Center”. Planning Board public hearing 1/5/06. Adjourned Town Meeting 1/23/06. Art.9. Approved Att. Gen 3/8/06. Mailed to each household 3/23/06.

Amended – Article IV – “Symbols in Use Regulations Schedules” and Article VIII – “Town Center Overlay District”. Planning Board public hearing 5/4/06. Adjourned Town Meeting 9/25/06, Art. 14. Approved Att. Gen 10/31/06. Posted 11/20/06.

Amended – Article III – “Establishment of Districts” and Article IV – “Use Regulations – Open Space Districts” Planning Board public hearing 5/4/06. Adjourned Town Meeting 9/25/06, Art. 15. Approved Att. Gen 10/31/06. Posted 11/20/06.

Amended – Article IV – “Principal Use Regulation Schedule – Section 4.2.6 Retail, Consumer, and Trade Uses”. Planning Board public hearing 1/17/08. Adjourned Town Meeting 1/28/08, Art. 15. Approved Att. Gen 2/25/08. Posted 3/1/08.

Amended – Article VIII – “Town Center Overlay District”. Planning Board public hearing 4/19/08. Adjourned Town Meeting 5/12/08, Art. 9. Approved Att. Gen. 7/22/08. Posted 7/25/08.

Amended – Article IX, Section 9.2.2 “Special Permit Fees”. Planning Board public hearing 11/20/08. Adjourned Town Meeting 1/26/09, Art. 17. Approved Att. Gen. 4/16/09. Posted 4/22/09.

Deleted – Article IX, Section 9.1.3 “Demolition Permit Delay”. Planning Board public hearing 11/20/08. Adjourned Town Meeting 1/26/09, Art. 18. Approved Att. Gen. 4/16/09. Posted 4/22/09.

Amended and reorganized - Article I: “Purpose”, Article II: “Definitions”, Article III: “Establishment of Districts”, Article IV: “Use Regulations”, Article V: “Density Regulations”, Article VII “Parking and Loading Regulations”, Article VIII: “Special Districts” and IX: “Administration and Procedures”; by renaming Article VI from “General Regulations” to “Nonconforming Uses and Structures”, renaming Article XII “Special Zoning Districts” to “Planned Development Districts”; relocating the text of Article X: “Miscellaneous” and replacing with Article X: “Special Residential Regulations”; eliminating Article XI: “Moratorium” and replacing it with Article XI: “Special Regulations” and relocating the text of Article XIII: “Two Family Units in the R2 District” and replacing with Article XIII: “Signs”. . Planning Board public hearing 11/20/09. Adjourned Town Meeting 1/26/09, Art. 19. Approved Att. Gen. 4/16/09. Posted 4/22/09.

Amended – Article I: “Purpose and Authority”. Planning Board public hearing 4/16/09. Adjourned Town Meeting 5/11/09, Art. 42. Approved Att. Gen.8/21/09. Posted 8/28/09.

Amended – Article VII “Parking and Loading Regulations”, Section 7.5.2 Streets, Driveways, Parking and Service Areas and Article VIII “Overlay Districts”, Section 8.3.8.4 “Impervious Surfaces” to accommodate Low Impact Development. Planning Board public hearing 3/19/09. Adjourned Town Meeting 5/11/09, Art. 43. Approved Att. Gen.8/21/09. Posted 8/28/09.

Amended – Article IX: “Administration and Procedures”, Sections 9.2.0 “Special Permit” and Section 9.3.0 “Site Plan”. Planning Board public hearing 4/16/09. Adjourned Town Meeting 5/11/09, Art. 45. Approved Att. Gen.8/21/09. Posted 8/28/09.

Amended – Articles II and IV “2.50.1 Massage Therapy” and Section 4.2.6.20.1 “Massage Therapy” Planning Board public hearing 12/3/2009. Adjourned Town Meeting 2/1/2010, Art. 19. Approved Att. Gen. 9/9/2010

Amended – Article VII , Section 7.4.0 “Landscaping Requirements” :Planning Board public hearing 4/16/09. Adjourned Town Meeting 2/1/10, Art. 20. Approved Att. Gen. 9/9/2010

Amended – Article VII: Section 7.3.0 “Loading Requirements” Planning Board public hearing 4/16/09. Adjourned Town Meeting 2/1/10, Art. 21. Approved Att. Gen. 9/9/2010

Amended – Article VIII, Section 8.1.0 “100-Year Flood Plain District”: Planning Board public hearing 3/4/2010 Adjourned Town Meeting 5/17/10, Art. 39. Approved Att. Gen. 9/9/2010

Amended – Article IV, Section 4.2.0 “Use Regulation Table” and Article XI Adding a new Section 11.8.0 Inclusionary Zoning Requirements for Multifamily Housing. Planning Board public hearing 12/3/09. Adjourned Town Meeting 5/17/10, Art. 41. Approved Att. Gen. 9/9/2010

Amended – Article XIII, Adding a new Section 13.1.5 “Municipal Uses (Town of Burlington)”, Planning Board public hearing 3/4/10. Adjourned Town Meeting 5/17/10, Art. 43. Approved Att. Gen 9/9/2010.

Amended – Article XI “Special Residential Regulations”, Section 11.8.0 “Inclusionary Housing Requirements for Multifamily Housing”, by amending Section 11.8.3 “Applicability”, and Subsections “11.8.3.1” and “11.8.3.2”. Planning Board public hearing 8/19/2010. Adjourned Town Meeting 9/29/2010, Art. 16. Approved Att. Gen. 1/7/2011.

Amended – Article II Definitions, Amend Section 2.50 Lot Width and to amend the Zoning Bylaws Article V Dimensional Requirements, Section 5.2.0 Density Regulations, by inserting a new row for Minimum Lot Width. Planning Board public hearing 6/17/2010. Adjourned Town Meeting 9/29/2010, Art. 17. Approved Att. Gen. 1/7/2011.

Amended – Article VIII Overlay Districts, Section 8.5.0 Town Center Overlay Districts by deleting in its entirety Section 8.5.4.2.1 Annual Permit Cap and further vote to amend Section 8.5.4.2.2 Maximum Residential Component by deleting the existing language and change to “No additional Multiple-Family Dwellings shall be permitted beyond those units already

permitted or applied for as of June 8, 2010". Planning Board public hearing 7/15/2010. Adjourned Town Meeting 9/29/2010, Art. 18. Approved Att. Gen. 1/7/2011.

Amended – Article IV Section 4.2.0 Principal Use Regulation Schedule – Town Center Multifamily **to** amend Zoning By-Law Article IV, Section 4.2.0 Principal Use Regulation Schedule, Sections 4.2.1.2 “Garden Apartment Dwelling Units” and 4.2.1.17 “Multi-Family Housing other than 4.2.1.2” by striking SP<sup>1</sup> and replacing with a NO within the Civic Center (CC) and Central Business (CBD). Planning Board public hearing 1/6/2011. Adjourned Town Meeting 1/24/2011, Art. 21. Approved Att. Gen. 1/7/2011

Amended – Article V, Dimensional Requirements, Section 5.2.0, Density Regulation Schedule to amend Zoning Bylaws Article V, Dimensional Requirements, Section 5.2.0, Density Regulation Schedule by adding introductory text and renumbering the footnotes for consistency, but not amending the text, within the table. Planning Board public hearing 1/6/2011. Adjourned Town Meeting 1/24/2011, Art. 22. Approved Att. Gen. 1/7/2011

Amended - Article II: Definitions and Article IV: Use Regulation Schedule to amend the Zoning Bylaws Article II: Definitions by adding the following definitions: “Accessory Apartment”, “Convenience Store”, “Drive-through”, “Drugstore/Pharmacy”, and “Supermarket” and further to amend Article IV: Use Regulations Schedule by adding new sections, 4.2.6.2.1 “Supermarket”, and amending existing section 4.2.6.10. “Restaurant by striking “(over 50 Seats)” to the Principal Use Table and 4.3.2.22 “Drive-through to the Uses Normally Accessory to Non-Residential Principal Uses. Planning Board public hearing 3/17/2011. Adjourned Town Meeting 9/26/2011, Art. 19. Approved Att. Gen. January 25, 2012

Amended - Article II: Definitions and Article IV: Use Regulation Schedule to amend the Zoning Bylaws Article II: Definitions by adding the following definitions: “Conference Center”, “Prototype Manufacturing” and “Research and Development” and further to amend Article IV: Use Regulations Schedule by adding new sections, 4.2.4.5 “Conference Center”, 4.2.7.1.1 “Research and Development” to the Principal Use Regulation Schedule and further to amend existing section 4.2.4.1 to strike “physicians, dentists and opticians” and to create a new section 4.2.4.1.1 “Professional medical offices such as, but not limited to physicians, dentists, opticians” and further to amend existing section 4.2.7.1 “Light Manufacturing or processing plants” by adding the term “prototype manufacturing” and striking YES and replacing with SP in the CC and CBD Overlay Districts Planning Board public hearing 3/17/2011. Adjourned Town Meeting 9/26/2011, Art. 20. Approved Att. Gen. January 25, 2012

Amended - Article II: Definitions to amend the Zoning Bylaws of the Town of Burlington by amending Article II: Definitions by adding the new definitions as described in Articles 19 and 20 above, relocating and consolidating definitions from Article VIII, Section 8.3.0 Aquifer and Water Resource Districts, Section 8.3.4 Pertinent Definitions, Article VIII, Section 8.4.0 Wireless Communication Facilities , Section 8.4.2 Definitions and Article VI, Section 11.8.0 Inclusionary Zoning requirements for Multifamily Housing, Section 11.8.2, Definitions of the zoning Bylaws and re-numbering the entire article for consistency. Planning Board public hearing 5/5/2011. Adjourned Town Meeting 9/26/2011, Art. 21. Approved Att. Gen. January 25, 2012

Amended - Article V, Section 5.2.0, Density Regulation Schedule to amend the Zoning Bylaws of the Town of Burlington by amending the row label Minimum Yard Adjoining RO & RG, and Residentially Zoned Land in Contiguous Municipalities by changing “RO & RG” to “RO, RG & OS” and inserting a new footnote “10” under the Density Regulation Schedule notes. Planning Board public hearing 7/15/2010. Adjourned Town Meeting 9/26/2011, Art. 22. Approved Att. Gen. January 25, 2012

Amended - Article V, Section 5.2.0, Density Regulation Schedule to amend the Zoning By-Laws of the Town of Burlington by inserting a new footnote “11” under the Density Regulation Schedule notes to the row entitled “Maximum Building & Structure Height”. Planning Board public hearing 7/15/2010. Adjourned Town Meeting 9/26/2011, Art. 23. Approved Att. Gen. January 25, 2012

Amended - Article XII: Planned Development District by deleting the Article in its entirety and replacing it with the new text. Planning Board public hearing 6/2/2011. Adjourned Town Meeting 1/25/2012, Art. 25. Approved Att. Gen. August 25, 2012

Amended - Article II: Definitions and Article IV: Use Regulation Schedule to amend the Zoning Bylaws Article II: Definitions by adding the following definition: “Biotechnology” and further to amend Article IV: Use Regulations Schedule by adding new sections, 4.2.7.4.1 “Biotechnology (Biosafety Level 1&2)” and 4.2.7.4.2 “Biotechnology (Biosafety Level 3)” and further to amend Article X “Miscellaneous and Special Regulations by adding a new Section 10.5.0 “ Additional regulations for Biotechnology”. Planning Board public hearing 1/5/2012. Adjourned Town Meeting 1/25/2012, Art. 25. Approved Att. Gen. August 25, 2012

Amended - Article VII “General Regulations”, Section 7.1.0 “Access through other Districts” to add all residential districts. Planning Board public hearing 10/18/2012. Adjourned Town Meeting 1/28/2013, Art. 1. Approved Att. Gen. March 13, 2013.

Amended - Article IV, Section 4.1.2 "Retroactive Special Permit" and deleted in the entirety and replaced with new text Article VI "Nonconforming Uses and Structures" Planning Board public hearing 10/18/2012. Adjourned Town Meeting 1/28/2013, Art. 2. Approved Att. Gen. March 13, 2013.

Amended - Zoning Bylaws Amendments to Article II "Definitions" and Article IV "Use Regulation Schedule" Hotel, Motor Hotel, Motel and Residence Hotel. Planning Board public hearing 10/18/2012. Adjourned Town Meeting 1/28/2013, Art. 3. Approved Att. Gen. March 13, 2013.

Amended - Article IV, Section 4.3.1.12 "The keeping of animals other than the usual Household pets, subject to the restrictions of the Board of Health" to allow for the keeping of up to six chickens in the RO District. Planning Board public hearing 10/18/2012. Adjourned Town Meeting 1/28/2013, Art. 3. Approved Att. Gen. March 13, 2013.

Amended - Article X, to add a new Section 10.6: "Temporary Moratorium on Medical Marijuana Treatment Centers" to evaluate impacts of the new legislation until June 30, 2014. Planning Board public hearing 1/3/2013. Adjourned Town Meeting 1/28/2013, Art. 3. Approved Att. Gen. March 13, 2013.

Amended - Article X, to add a new Section 10.6: "REGISTERED MARIJUANA DISPENSARY". Planning Board public hearing 3/6/2014. Adjourned Town Meeting 5/7/2014, Art. 29. Approved Att. Gen. July 3, 2014.

Amended - Article XII, amend Section 12.4.0 "Amendment. Planning Board public hearing 5/14/2014. Adjourned Town Meeting 9/22/2014, Art. 11. Approved Att. Gen. November 6, 2014.

Amended - Article II, amend Section 2.20.1.2 Theaters and Cinemas. Planning Board public hearing March 19, 2015. Adjourned Town Meeting 5/18/2015, Art. 26. Approved Att. Gen. August 28, 2015.

Amended - Article XI, amend Section 11.8.3 "Applicability" pertaining to Inclusionary Housing. Planning Board public hearing June 4, 2015. Adjourned Town Meeting 5/18/2015, Art. 14. Approved Att. Gen. December 23, 2015.

Amended - Article XI, amend Section 10.7: "Temporary Moratorium on Marijuana Retail Sale (which includes dispensing, processing, and cultivation activities, the on-site consumption of marijuana and marijuana products, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use)" in order to undertake a planning process to evaluate regulation of marijuana and other uses related to the regulation of marijuana and address the potential impact of the state regulations on local zoning. Planning Board public hearing January 5, 20175. Adjourned Town Meeting 5/15/2017, Art. 30. Approved Att. Gen. August 28, 2017.

Amended - Article X, create new Section 10.8.3 "Prohibition on Marijuana Establishments" and further to amend Article IV, Section 4.2.0 by creating a new use code Marijuana establishment, public hearing July 20, 2017. Adjourned Town Meeting 9/25/2017, Art. 17. Approved Att. Gen. January 16, 2018.

Amended - Article II "Definitions" of the Zoning Bylaws, by adding new definitions relating to solar energy. And further to amend Article IV, Section 2 of the Use Regulation Schedule, by adding new uses relating to Solar Energy and to amend Article X by creating a new Section 10.9.0 "Solar", public hearing October 5, 2018. Adjourned Town Meeting January 22, 2018. Approved Att. Gen. April 23, 2018.

Amended - Article IV, Section 2 of the Use Regulation Schedule, by adding a new section 4.2.5.10 "Automobile Dealership which may include integrated structured parking, provided said use is located on a lot abutting an Automobile Dealership..." public hearing March 15, 2018. Article 33, Adjourned Town Meeting May 21, 2018. Approved Att. Gen. May 10, 2019.

Amended – Article II, modify existing Biotechnology definition to replace with Life Science (2.2.14), add new definition for Laboratory (2.12.1.1) and Life Science Manufacturing 2.12.1.2 and further amend existing Use Table 4.2.7.4 and add new sections 4.2.7.4.1 and 4.2.7.4.2 for Life Science. And to amend section 5.1.5, by adding subsections 5.1.5.1 and 5.1.5.2 and amend the density table notes accordingly and lastly to add a parking ratio for

laboratory use under 7.2.5.13. Public Hearing on November 15, 2018. Article 2, Adjourned Town Meeting January 28, 2019. Approved Att. Gen. May 10, 2019.

Amended – Article VIII, create a new section 8.4.8 to further regulate wireless technology specifically Small Cell, 4G and 5G and similar installations outside of the right-of-way. Public Hearing on April 4, 2019, Adjourned Town Meeting May 2019. Article 39. Approved Att. Gen. October 16, 2019.

Amended – Article XII, to modify the Planned Development District to include the Zoning Bylaws Review Committee within the process as well as list the existing Planned Development Districts. Public Hearing on April 4, 2019, Adjourned Town Meeting May 2019. Article 38. Approved Att. Gen. September 13, 2019.

Amended – Article V, to modify the High Rise Industrial District dimensional criteria. Public Hearing on November 21, 2019. Adjourned Town Meeting January 27, 2020. Article 2. Approved Att. Gen. May 15, 2020.

Amended – Article II to create definitions for “Parking Structure” “Integrated Parking” and “Parking Deck” and “Greenspace”. Public Hearing March 5, 2020, Adjourned Town Meeting June 10, 2020. Article 37. Approved Att. Gen. July 30, 2020.

Amended – Article II to create a definition for “Function Facility”. Public Hearing November 7, 2019, Adjourned Town Meeting October 5, 2020. Article 10. Approved Att. Gen. January 13, 2021.

Amended – Article IV and VII to allow for Parking Decks in the General Business District with certain provisions outlined in the new Section 7.2.7.2 and 7.2.7.3. Public Hearing November 7, 2019, Adjourned Town Meeting October 5, 2020. Article 11. Approved Att. Gen. January 13, 2021.

Amended – Article II and IV to create new definitions and use provisions for “Distribution Facility”, “Warehouse” and “Storage”. Public Hearing August 20, 2020, Adjourned Town Meeting October 5, 2020. Article 15. Approved Att. Gen. January 13, 2021.

Amended – Article VII and Article IV, to create a new definition and use table line items for “Self-Storage Facility” and prohibit across all districts. Public Hearing August 20, 2020, Adjourned Town Meeting October 5, 2020. Article 16. Approved Att. Gen. January 13, 2021.

Amended – Article IX, to modify the procedures for submission of a Special Permit and Site Plan Application to move all specific administration to the Planning Board Rules and Regulations for each respectively, including the provision to allow for electronic permitting. Public Hearing on April 2, 2020, Adjourned Town Meeting October 5, 2020. Article 17. Approved Att. Gen. January 13, 2021.

Amended – Article II and IV to add a new definition for “Short Term Rentals” as well as add the use and prohibit across all districts. Public Hearing on April 2, 2020, Adjourned Town Meeting October 5, 2020. Article 18. Approved Att. Gen. January 13, 2021.

Amended – An Act Relative to Changing the Name of the Board of Selectmen to Selectboard throughout the Zoning Bylaws. Public Hearing on 1/7/2021, Adjourned Town Meeting January 25, 2021. Article 2. Approved Att. Gen. May 18, 2021

Amended – Zoning Bylaw Housekeeping Amendment throughout the Zoning Bylaws. Public Hearing on 1/7/2021, Adjourned Town Meeting January 25, 2021. Article 2. Approved Att. Gen. May 18, 2021.

Amended – Zoning Bylaw Article VII: Parking Structures. Public Hearing on 1/7/2021, Adjourned Town Meeting May 17, 2021. Article 34. Approved Att. Gen. August 31, 2021.

Amended – Zoning Bylaws Article VII: Parking Structures. Public Hearing on 1/7/2021, Adjourned Town Meeting May 17, 2021. Article 34. Approved Att. Gen. August 31, 2021.

Amended – Zoning Bylaws – District Name Change from High-Rise Industrial (IH) District to Innovation (I) District, affecting the Zoning Bylaw in all instances where the district was referred. Public Hearing on July 15, 2021, Adjourned Town Meeting September 2021. Article 18. Approved Att. Gen. January 25, 2022.

Amended – Zoning Bylaws Modernizing Retail Uses. Public Hearing on November 4, 2021, Adjourned Town Meeting February 16, 2022. Article 2. Approved Att. Gen. October 26, 2022.

Amended – Zoning Bylaws Outdoor Seating. Public Hearing on November 4, 2021, Adjourned Town Meeting February 16, 2022. Article 3. Approved Att. Gen. October 26, 2022.

Amended – Zoning Bylaws Definitions (Signage Article II and XIII). Public Hearing on November 18, 2021, Adjourned Town Meeting February 16, 2022. Articles 4 & 5. Approved Att. Gen. October 26, 2022.

Amended – Zoning Bylaws Definitions (Groundwater Article II and V). Public Hearing on September 18, 2022, Adjourned Town Meeting September 28, 2022. Article 15. Approved Att. Gen. \_\_\_\_\_.

Amended – Zoning Bylaw Amend Zoning Bylaw Article IV Section 4.2.7 Principal Use Regulation Schedule regarding numbering. Public Hearing on August 3, 2023. Adjourned Town Meeting on September 27, 2023. Article 15. Approve Att. Gen. \_\_\_\_\_.

Amended – Zoning Bylaws Article II “Definitions” and Article VII “General Regulations” Section 7.2.0 “General Traffic and Parking Requirements” regarding purpose and shared parking. Public Hearing on August 3, 2023. Adjourned Town Meeting on September 27, 2023. Article 16. Approve Att. Gen. \_\_\_\_\_.