

**NETWORK DRIVE AT NORTHWEST  
PARK PDD**

**(NOW KNOWN AS BLUE SKY DRIVE)**

**AS AMENDED THROUGH  
MAY 9, 2022**

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# SECTION 1: ZONING PROVISIONS

**RECEIVED**

By Town Clerk's Office at 10:16 am, Mar 29, 2023

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**SECTION 12.1.4.2.C.**  
**PLANNED DEVELOPMENT DISTRICT ZONING PROVISIONS**  
**NETWORK DRIVE**

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Except as specifically provided in the following Planned Development District Zoning Provisions (hereinafter, the "PDD Zoning Provisions"), the development of the Planned Development District (the "PDD District") bounded by Route 3 and Middlesex Turnpike and Bedford Street (Route 62) with frontage on Bedford Street and Middlesex Turnpike (hereinafter, the "PD Premises") in accordance with the Concept Plan (of which these PD Zoning Provisions are a part) approved at the Burlington Town Meeting (hereinafter, these PD Zoning Provisions including all material submitted to and approved by the Town Meeting in connection with the rezoning of the PD Premises to a PD District are collectively referred to as, the "Concept Plan"), shall be governed by the Zoning By-Laws of the Town of Burlington, Massachusetts in effect on March 13, 1997 (hereinafter, the "Applicable Zoning By-Laws").

**Article I - Use Regulations:**

The PD Premises consists of approximately 140.61 acres. An additional 17.1 acres, consisting primarily of bordering vegetated wetlands, are located in the Town of Bedford (hereinafter, the PD Premises and the property located in Bedford are collectively referred to as, the "Property"). The Concept Plan provides for a mixed use development of the PD Premises as shown on the plan entitled "PD District Rezoning - Application for Mixed Use Development Kent Road - Burlington, Massachusetts" dated March 13, 1997 revised to May 2, 1997 as prepared by Vanasse Hangen Brustlin, Inc., 101 Walnut Street, Watertown, Massachusetts (hereinafter, the "Plan"), as said Plan may be supplemented, altered or amended by the plan entitled "Revised Building Envelope Network Drive at Northwest Park", dated March 21, 2008 prepared by Vanasse Hangen Brustlin, Inc., as approved by the May 12, 2008 Town Meeting and as further amended by the May 10, 2021 Town Meeting. The layout of the building envelope

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*Amy C. Mayfield*  
**TOWN CLERK**  
**BURLINGTON, MASSACHUSETTS**

identified on the Concept Plan has been restated on the plan entitled "Network Drive Planned Development District Burlington, Massachusetts" dated March 14, 2022, prepared by BSC Group. In no event shall development on the entire PD Premises exceed 2,150,000 square feet of Gross Floor Area. In no event shall there be more than 1,950,000 Square Feet of Gross Floor Area of development within the area identified as Parcel 1 on the Concept Plan.

Notwithstanding anything identified on the Concept Plan, it shall not be deemed a material or significant change in the Concept Plan if the Developer elects to combine existing or proposed buildings into one building (subject to the dimensional limitations set forth herein) provided, however, that all development on any such parcel occurs within the confines of the so-called "building envelope" as shown on the Plan entitled "Revised Building Envelope Network Drive at Northwest Park", dated March 21, 2008, prepared by Vanasse Hangen Brustlin, Inc., and as approved by the Planning Board of the Town in connection with the issuance of a PD Special Permit and approval of the Site Development and Use Plan for each building as provided under and in accordance with the procedures of 12.1.5 of the Zoning By-Laws.

The Concept Plan also provides Open Space to be allocated amongst Parcels as shown on the Plan.

The permitted uses at the PD Premises by category ("Office", "Institutional and Recreational", "Retail", "Residential", "Commercial", "Uses in a Wetlands District" and "Accessory Uses" relating to each principal use category) are set forth on the Use Table annexed hereto as Exhibit "A", dated May 2022 and incorporated herein by reference. Uses in a Wetland District shall be subject to the normal jurisdictional review and approval (if applicable) of the Burlington Conservation Commission. All permitted uses at the PD Premises are subject to the issuance by other Town agencies or boards of all required licenses and approvals normally required for such use. No so-called "warehouse superstores" or "box retailers" shall be permitted within the PD Premises or any part thereof.

For the purposes of the PD Premises, a "lot" shall be defined as 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 permitted under the Concept Plan, in one (1) ownership, or condominium form of ownership, and which may be divided by a public or private street. Contiguous parcels may be combined to form a single lot.

On Parcel 1, any single user of a permitted use under Section 1.4 (Retail Uses), as set forth in the Use Table annexed hereto as Exhibit A, shall not occupy more than 7,000 Gross Square Feet and the aggregate of space occupied by all retail uses shall not exceed 55,000 Gross Square Feet. The foregoing limitation shall not apply to any cafeteria permitted in the Use Table.

Notwithstanding anything to the contrary contained herein or in the Use Table, that portion of PD Premises shown as the "Residential Development Parcel" on Exhibit B annexed hereto (the "Residential Development Parcel") shall permit the development of up to nine (9) residential dwelling units in a cluster scheme (2 or more connected units) with accessory uses such as, but not limited to, residential parking garages (attached or detached), a temporary sales office and such other accessory uses customary to such principal use. In addition, the development of the Residential Development Parcel along with any parking garage shall be excluded from the 2,150,000 square feet of Gross Floor Area restriction governing development of the PD Premises (The Gross Floor Area calculation shall exclude any floor area constructed on the Residential Area as shown on the Concept Plan).

## **Article II – Definitions:**

The uses permitted on the PD Premises shall be defined as provided in the Zoning Bylaws unless otherwise noted below:

**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: i) 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 (ii) 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 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.

**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

**Article III - Density and Dimensional Requirements:**

(a) There shall be no density and dimensional requirements applicable to the PD Premises except as summarized below:

- Minimum Frontage ..... 20.0 feet
- Minimum Front Yard ..... 20.0 feet
- Minimum Rear Yard ..... 10.0 feet<sup>1</sup>
- Minimum Side Yard ..... 10.0 feet<sup>1</sup>

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<sup>1</sup> Unless any buildings outside walls are of fireproof construction and any openings in such walls are protected by a suitable fire restrictive door or shutter or water curtain device, subject to the approval of the Building Inspector in which event the minimum side yard and rear yard shall be 0 feet.

- Maximum Building and Structure Height (Building Height as defined in Section 2.13 of the Zoning By-Laws. (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.) ..... 85.0 feet
- Maximum Building and Structure Height  
(Residential Development Parcel) .....40 feet/3 stories
- Maximum Number of Stories (Residential Development Parcel) .....3
- Minimum Spacing Between Buildings ..... 20.0 feet<sup>1</sup>
- Maximum Impervious Surface Ratio <sup>2</sup> ..... Not to Exceed 60.0%

(Except as specifically provided to the contrary herein, the foregoing shall be calculated in accordance with the provisions of the Applicable Zoning By-Laws.)

(b) The owner of the PD Premises shall have the right in its discretion from time to time to change the internal lot lines of the PD Premises in accordance with applicable provisions of the laws of the Commonwealth of Massachusetts.

#### **Article IV - Parking and Land Regulations:**

The maximum parking requirements applicable to the various use categories permitted at the PD Premises shall be as follows. Any use not identified below shall be regulated by the Zoning By-Law relative to parking requirements:

- 4.0 spaces per 1,000 square feet of gross floor area of office use;

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<sup>2</sup> The Maximum Impervious Surface Ratio as shown on the Plan and all other dimensional ratios under the Zoning By-Laws to the extent applicable shall be calculated based upon the Property as a whole and not on a lot by lot or parcel by parcel basis.

- 6.0 spaces for each 1,000 square feet of retail use located on Parcel 2;
- 5.5 spaces for each 1,000 square feet of retail use located on Parcel 1;
- 1.0 space per each keyed hotel room;
- 1.0 space per each 2.5 seats of restaurant use;
- 1.0 space per each 3.0 seats of general assembly/conference space; and
- 2.0 spaces per residential dwelling unit (plus visitor parking spaces) located on the Residential Development Parcel.
- 3.5 spaces for each 1,000 square feet of Life Science uses (See Section 1.5.2 of the Use Table);

Typical parking space dimensions shall be as follows, unless modified by the Planning Board as part of a PD Special Permit/Site Development and Use plan approval or plan modification in accordance with the applicable Site Plan Rules and Regulations:

- Typical parking space -- 9' x 18'
- Compact parking space -- 8' x 15'
- Handicap Accessible Spaces -- 13' x 18', including 5' access aisle
- Handicap Van Accessible Spaces -- 16' x 18', including an 8' access aisle

Upon application of the owner or operator of the PD Premises or any portion thereof to the Planning Board and in accordance with the issuance of a Special Permit by the Planning Board in accordance with the procedures of Section 7.4.0 of the Zoning By-Laws, the Planning Board, in its discretion and subject to such conditions as the Planning Board may impose, shall be permitted to increase the maximum parking ratios aforementioned in Article III from time to time and such change shall not be deemed a material or substantial deviation from the Concept Plan as approved by Town Meeting.

## **Article V - Administration and Procedures:**

(a) As provided in Article 12.1.5 of the Zoning By-Laws, development of any of the improvements at the PD Premises is subject to the issuance of a PD Special Permit in each instance. Any Special Permit required under the Applicable Zoning By-Laws or PDD Zoning Provisions with respect to the PD Premises shall be under the jurisdiction of the Planning Board or Special Permit Granting Authority of the Town in accordance with the then applicable special permit procedures of the Planning Board or special permit granting authority. The granting of any Special Permit under Section 12.1.5 of Article XII of the Applicable Zoning By-Laws shall be deemed to constitute compliance with the provisions of Article XII of the Applicable Zoning By-Laws.

(b) The provisions of these PD Zoning Provisions shall supersede and take precedence over any requirements as to site plan review and approval under the Applicable Zoning By-Laws and shall exclusively govern the development of the PD Premises in accordance with the Concept Plan. Any non-substantial modification (as determined by the Planning Board) of any Site Development and Use Plan approved for the PD Premises by the Planning Board in accordance with Section 12.1.5 of the Zoning By-Laws shall be governed by the procedures for minor engineering changes and modifications of site plans as set forth in the Site Plan Rules and Regulations of the Town as then in effect.

(c) Any substantial changes or amendments of the Concept Plan shall be effectuated in accordance with the provisions of Section 12.1.8 of the Applicable Zoning By-Laws.

## **Article VI - Signage:**

For purposes of signage, the PD Premises shall be governed by and subject to the following signage requirements and limitations:

- 1
- (a) General Administration. All signage permits and applications shall comply with Article XIV Environment, Section 3.2 “Administration” of the General Bylaw of the Town (as the same may be amended from time to time).
  - (b) Special Sign Permit. The Zoning Board of Appeals may vary the dimensions of these sign provisions in specific cases which appear to them not to have been contemplated by these PDD Zoning Provisions and in cases where enforcement of the PDD Zoning Provisions would involve practical difficulties or unnecessary hardship, if in each instance desirable relief may be granted without substantially derogating from the intent and purpose of this section of the PDD Zoning Provisions but not otherwise. Any decision to vary the provisions of this section of the PDD Zoning Provisions shall be pursuant to a Special Sign Permit decision issued by the Zoning Board of Appeals after a properly noticed public hearing and shall specify any sign alteration allowed and the reasons therefore. Each decision of the Zoning Board of Appeals shall be filed with the Office of the Town Clerk within fourteen (14) days after the hearing and a copy of the decision shall be sent by mail or delivered to the applicant and any other persons appearing at the hearing or so requested in writing.
  - (c) Temporary Signage. Temporary Signage shall be permitted pursuant to Section 6.7.3.6.2 of the Zoning Bylaw (as the same may be amended from time to time) or the temporary signage permitted within the underlying zoning designation of the PD Premises existing immediately prior to the adoption of these PDD Zoning Provisions.
  - (d) Route 3 Sign Corridor. The Route 3 Corridor is designated as any area or building in the PD Premises with Parcel 1 as delineated on the plan entitled “Network Drive at Northwest Park, Signage Corridor”, dated April 15, 2008, prepared by Vanasse Hangen Brustlin, Inc.
  - (e) Allowed Signage. All allowed signage within the PD Premises shall be as defined pursuant to Section 3.1 of the General Bylaw, except as otherwise noted below.

All existing signage within the PD Premises shall continue to be permitted until such signage is deemed to be abandoned as determined by the Inspector of Buildings.

- i. Wall Signs - Any sign attached to, erected against, or painted onto a wall or a building with the exposed face of the sign in a plane parallel to said wall. A Wall Sign shall not exceed four (4) feet in height and six (6) feet in length at the first floor. At any floor above the first floor Wall Signs shall not exceed six (6) feet in height by ten (10) feet in length. Wall Signs within the Route 3 Sign Corridor shall not exceed six (6) feet in height by ten (10) feet in length.
- ii. Sign Band - In multiple storefront buildings, including retail uses, signs of similar size, proportion and materials shall be used for each store, defined within a sign band. The sign band is defined vertically as the space between the first floor transom and the upper floor windowsill or first floor eave or cornice. The length of the sign band shall be equal to or less than the length of the tenant space. The lettering used within the sign band shall not exceed two (2) feet in height.
- iii. Projecting Signs - Any sign suspended from or supported by a building or structure and projecting out at any angle to the plane of the wall or structure. Projecting signs shall not project more than six (6) feet from the face of the building. The sign shall be seven (7) feet or more above the ground. The top of the sign shall be located below the upper floor windowsill or first floor eave or cornice, or the eave or cornice of the uppermost floor occupied by the tenant. Projecting signs shall be spaced apart by at least a distance equal to the floor-to-floor height of the building floor they are located at.

- iv. Window Signs - Any sign, picture, symbol, or combination thereof, designed to communicate information about a business or tenant that is placed inside a window or upon the window, so as to be visible from the outside. The lettering on first floor windows should cover no more than ten percent (10%) of the glass area. The lettering and graphics on the second floor windows should cover no more than thirty percent (30%) of the glass area. Any increase in coverage of lettering on the first and second floors shall require the issuance of a Special Sign Permit from the Board of Appeals.
- v. Awning Signs - Any sign located on the front or side of an awning. Awnings shall not project more than ten (10) feet from the face of the building. The bottom of the awning shall be seven (7) feet or more above the ground and the top of the awning shall be located below the upper floor windowsill or first floor eave or cornice. The length of the awning shall be equal to or less than the length of the tenant space.
- vi. Marquee Signs - Any sign attached to, in any manner, or made a part of a marquee. A marquee is defined as any permanent roof-like structure projecting beyond the face of the building. Marquees shall not project more than ten (10) feet from the face of the building. The bottom of the marquee shall be seven (7) feet or more above the ground. The top of the marquee sign shall be located below the upper floor windowsill or first floor eave or cornice. The length of the marquee shall be equal to or less than the length of the tenant space. The lettering used shall not exceed two (2) feet in height.
- vii. Business Directory - A Business Directory shall be either mounted on the face of a building or permanently affixed to the ground through the means of a stonewall, foundation or other decorative device and shall consist of more than 1 tenant or user located within said building or group of

buildings. Each business or tenant listed on the Business Directory sign shall not exceed ten (10) square feet in sign area per side/face of sign. Further, no freestanding business directory shall be permitted within ten (10) feet of a public or private way and shall not be permitted to impede vehicle sight distance.

- viii. Freestanding Signs - Freestanding Signs shall be permanently affixed to the ground through the means of a stone wall, foundation or other decorative device. The total square footage of the Freestanding Sign shall not exceed thirty square feet per side. This maximum sign area shall not include the sign foundation or other decorative or architectural feature. Further, no Freestanding Sign shall be permitted within ten (10) feet of a public or private way nor shall be permitted to impede vehicle sight distance. Any sign foundation shall not exceed six (6) feet in height unless a Sign Special Permit is issued by the Board of Appeals.
- ix. Route 3 Signage - Route 3 Signage shall be permitted on the face of any structure within the Route 3 Sign Corridor subject to the following limitations: The height of the signage shall be: (i) at the first floor, limited to a maximum of six (6) feet or less in height and the length shall not exceed 1/4<sup>th</sup> of the face of the building upon which the sign is attached; and (ii) if located above the first floor be limited to eight (8) feet or less in height and the length shall not exceed 1/3<sup>rd</sup> of the face of the building upon which the sign is attached. Any sign exceeding the aforementioned dimensional limitations shall require a Special Sign Permit issued by the Board of Appeals. The specific face of said structure designated for sign installation shall be fifty percent (50.0%) or more visible from Route 3 at a point perpendicular to the center of the building. Qualification for Route 3 Signage shall be determined by the Building Inspector.

- x. Street Banners - Street Banners advertising public entertainment or advertising a charitable, religious, municipal or educational event may be displayed in locations designated by the Building Inspector (which shall be, at a minimum of thirty (30) feet between banners) for a period of time not to exceed fourteen (14) consecutive days, the first of which shall occur not more than thirteen (13) days prior to such entertainment or event. All Street Banners shall be removed within twenty-four (24) hours after such entertainment or event. The Developer shall obtain approval from the Building Inspector to designate the location for the installation of said Street Banners.
  - xi. Directional and Traffic Safety Signs - Signs indicating "Entrance", "Exit", "Parking", street names or similar traffic directional information as well as their location shall be approved by the Building Inspector in consultation with the Police Department, as applicable.
  - xii. Gateway Signage - The Developer shall be permitted to construct and maintain signage along Network Drive which is intended to identify the project to be developed at the PD Premises as well as individual tenants identities, which signage shall: (i) be limited to the major access roadways to the PD Premises; (ii) may be attached to structures or free standing; and (iii) each identified entity shall be limited to five (5) feet in height per side of said sign. The location of such signage structure(s) shall be setback ten (10') feet from any public way.
- (f) Maximum Number of Signs. (a) Each individual tenant or user shall not be permitted more than three signs advertising said individual tenant. (b) With respect to any building containing more than one tenant/user located within the Route 3 Corridor, up to three signs attached to any building side (either Wall Signs or Route 3 Signs or combination thereof) shall be permitted in compliance with applicable dimensional requirements.

- (g) Signage Lighting – All signage lighting shall be in compliance with the provisions of the General By-Laws of the Town.

**Article VII - Miscellaneous:**

In recognition of the intent and purpose of Article XII of the Zoning By-Laws which is to permit considerable flexibility in the development of individual tracts of land, in the event of: (i) any ambiguity between the provisions of these PD Zoning Provisions and the Applicable Zoning By-Laws or any other by-law or regulation of the Town; or (ii) ambiguity under the PD Zoning Provisions, such conflict or ambiguity shall be resolved or construed in a manner consistent with and to permit satisfaction of the full development intent described in the Concept Plan. These Zoning Provisions supersede and replace the Zoning Provisions adopted at the May 12, 2008 Town Meeting.

**Article VIII - Kendall Road Easement:**

In the event that the Town develops Kendall Road to access the Town's property on the southwest side of Route 3, upon the request of the Town, the Developer shall provide the Town with a right of way easement over the portion of the PD Premises which abuts Kendall Road of sufficient width to permit vehicular traffic over Kendall Road provided that (1) in the event of such easement the land of the Developer encumbered by such easement shall be continued to be counted as area attributable to the PD Premises for any zoning area and compliance calculations; and (2) such easement layout shall not adversely impact the use and development of the PD Premises by the Developer.

## SECTION 2: USE TABLE

# EXHIBIT "A"

## USE TABLE <sup>1</sup>

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.1	Residential Uses		
1.1	Assisted living, congregate living, continuing care retirement community.	SP	2
1.1.1	Residential (as provided in Article I <i>(up to 9 units)</i> – Use Regulations of the Planned Development District Zoning Provisions Network Drive)	YES	2 (See reference to Residential Area on Concept Plan.)
1.2	Institutional and Recreational Uses		

<sup>1</sup> All uses set forth in this Use Table shall be subject to the issuance of any other permits and approvals required under applicable laws, regulations and ordinances.

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*Amy C. Warfield*  
TOWN CLERK  
BURLINGTON, MASSACHUSETTS

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.2.1	Places primarily used for religious purposes.	YES	1, 2
1.2.2	Places primarily used for non-profit educational corporations, museums, libraries, and/or recreational facilities.	YES	1, 2
1.2.3	Child Care and Adult Day Care facilities.	YES	1, 2
1.2.4	Municipal fire stations and sub-fire stations, municipal police stations (exclusive of fuel storage).	YES	1, 2
1.2.5	Public Parks and related facilities.	YES	1, 2
1.2.6	Public libraries, public museums, public art galleries and similar facilities.	YES	1, 2
1.2.7	Community centers, public recreation buildings and performance centers.	YES	1, 2
1.2.8	Non-profit public clubs, recreational centers and facilities.	YES	1, 2
1.2.9	Private museums and private art galleries.	YES	1, 2
1.2.10	Clinic and/or medical office (outpatient services only).	SP	1, 2
1.2.11	Buildings for public services.	SP	1, 2

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.2.12	Theater and cinemas.	SP	2
1.2.13	Public water and sewer distribution structures.	SP	1, 2
1.2.14	Health, sports and fitness clubs and related facilities.	SP	1, 2
<b>1.3</b>	<b>Office Uses</b>		
1.3.1	Professional offices such as, but not limited to, physicians, dentists, opticians, real estate brokers, lawyers, etc.	YES	1, 2
1.3.2	Administrative executive and similar offices.	YES	1, 2
1.3.3	Public Offices.	YES	1, 2
1.3.4	Office of salesmen, agents and representatives of manufacturing, distributing, insurance and wholesale companies.	YES	1, 2

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.3.5	Commercial amusement uses and activities such as, but not limited to, bowling alleys and skating rinks.	SP	1, 2
<b>1.4</b>	<b>Retail Uses <sup>2</sup></b>		
1.4.1	Personal services businesses such as, but not limited to, barbers, hairdressers, etc.	YES	2
1.4.2	Drug stores with drive-thru service with no more than one vehicular access lanes, health supplies, periodicals, none with the sale of food intended for consumption on premises.	YES <sup>3</sup>	2

<sup>2</sup> Any single user of a permitted use under Section 1.4 "Retail Uses" as set forth in the Use Table, located on Parcel 1 shall not occupy more than 7,000 gross square feet and the aggregate of space occupied by all permitted retail users on Parcel 1 shall not exceed 55,000 gross square feet.

<sup>3</sup> Special Permit if vehicular access lane included.

SECTION	USE DESIGNATION	<p><b>PERMITTED AT PD DISTRICT</b></p> <p><b>(YES = PERMITTED AS MATTER OF RIGHT</b></p> <p><b>SP = SPECIAL PERMIT REQUIRED</b></p> <p><b>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</b></p>	<p><b>PERMITTED USES PARCEL 1 &amp; 2</b></p> <p><b>Parcel 1 is all the land southwest of Network Drive &amp;</b></p> <p><b>Parcel 2 is all the land northeast of Network Drive</b></p>
1.4.3	Retail stores and showrooms as follows: (i) 29,999 square feet or less (ii) 30,000 square feet to 89,999 square feet (iii) In excess of 90,000 square feet is permitted by Special Permit following a majority vote of Town Meeting approving a conceptual design plan.	<p>YES</p> <p>SP</p> <p>TM</p>	<p>2</p> <p>2</p> <p>2</p>
1.4.4	Retail stores and showrooms 7,000 gross square feet or less located entirely within a commercial facility.	YES	1
1.4.5	Post Offices and banks, drive-thru service is permitted with no more than one vehicular access lanes. <sup>4</sup>	YES	1, 2
1.4.6	Photographers (with accessory digital/photo imaging), decorators, travel agencies and tailoring.	YES	1, 2
1.4.7	Fast order food establishments, drive thru service is prohibited.	SP	2
1.4.8	Restaurants, drive-thru service is prohibited.	SP	1, 2
1.4.9	Bakeries	YES	1, 2

<sup>4</sup> Special Permit if vehicle access lane included.

SECTION	USE DESIGNATION	<p><b>PERMITTED AT PD DISTRICT</b></p> <p><b>(YES = PERMITTED AS MATTER OF RIGHT</b></p> <p><b>SP = SPECIAL PERMIT REQUIRED</b></p> <p><b>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</b></p>	<p><b>PERMITTED USES PARCEL 1 &amp; 2</b></p> <p><b>Parcel 1 is all the land southwest of Network Drive &amp;</b></p> <p><b>Parcel 2 is all the land northeast of Network Drive</b></p>
1.4.10	Diagnostic medical laboratories appurtenant to offices of physicians and dentists.	SP	1, 2
1.4.11	Kiosks not to exceed 144 square feet.	SP	1, 2
1.4.12	Shoe repair, dry cleaning and laundry – no dry cleaning on premises.	SP	1, 2
1.4.13	Printers and similar shops or trades (provided any chemicals used are delivered in pre-packaged containers and self contained within the equipment during use and provided, further, such stored chemicals do not exceed amounts that would require registration with the Board of Health).	SP	1, 2
1.4.14	Push Carts	SP	1, 2
1.4.15	Automotive Rental Agency	SP	1, 2
1.4.16	Automatic Teller Machine	SP	1, 2
1.4.17	Acceptance from the public of products manufactured on site including but not limited to electronic products and components including, without limitation, computers and telecommunication equipment for servicing	YES	1, 2

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
<b>1.5</b>	<b>Commercial Uses</b>		
1.5.1	Light manufacturing or processing plants.	SP	1, 2
1.5.2	Laboratories engaged in research experimental and testing activities including, but not limited to, the fields of life science (including manufacturing), biology, chemistry, electronics, engineering, geology, medicine and physics subject to the Planning Board making the findings set forth in Section 8.3.7.4 of the Zoning By-Laws where said use is located in the Aquifer or Water Resource Overlay District. Section 1.5.2 shall be deemed to include, as a by-right ancillary use(s), the following Sections: 1.5.1, 1.5.3, 1.5.4, 1.5.5, and 1.5.6. Owners/tenants operating under Section 1.5.2 shall be subject to the applicable rules and regulations of the Board of Health.	YES/Parcel 1 SP/Parcel 2	1, 2
1.5.3	Wholesale trade and warehousing (excluding commercial self-storage facilities).	SP	1, 2
1.5.4	Hazardous and toxic materials/chemical use storage, transport, disposal or discharge.	SP	1, 2
1.5.5	Generation or storage of hazardous waste limited to the volumes classified as very small quantity generator.	SP	1, 2

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.5.6	Generation or storage of hazardous waste in excess of the volumes classified as a very small quantity generator.	SP	1, 2
1.5.7	<p>Hotel with or without amenities such as restaurants, function rooms, lounge facilities, health spa, conference center, etc. (including “Select Service” and “Boutique” hotels).</p> <p>(i) Up to 225 sleeping rooms in the aggregate at the PD Premises.</p> <p>(ii) In excess of 225 sleeping rooms within the PD Premises permitted by Special Permit following a majority vote of Town Meeting.</p>	<p>YES</p> <p>TM</p>	<p>1, 2</p> <p>1, 2</p>
1.5.8	Food processors, bakeries not operated at retail.	SP	2
1.5.9	Electronics Industries.	SP	1, 2
1.5.10	Conference Center	SP	1, 2
1.6	Uses in Wetlands District (as defined in Zoning By-Laws)		

SECTION	USE DESIGNATION	<p><b>PERMITTED AT PD DISTRICT</b></p> <p><b>(YES = PERMITTED AS MATTER OF RIGHT</b></p> <p><b>SP = SPECIAL PERMIT REQUIRED</b></p> <p><b>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</b></p>	<p><b>PERMITTED USES PARCEL 1 &amp; 2</b></p> <p><b>Parcel 1 is all the land southwest of Network Drive &amp;</b></p> <p><b>Parcel 2 is all the land northeast of Network Drive</b></p>
1.6.1	Creation of a pond or pool or other changes in water courses for swimming, fishing or other recreational uses, agricultural uses, scenic features.	SP	1, 2
1.6.2	Structures for essential services, which structures shall include roads, ways, sidewalks and drainage.	YES	1, 2
1.6.3	Dredging expressly for mosquito or flood control by an authorized public agency.	SP	1, 2
1.6.4	Periodic maintenance of existing water courses and maintenance for essential services.	YES	1, 2
1.6.5	Temporary, not to exceed three months, storage of materials (excluding fill materials and hazardous and toxic materials) or equipment.	YES	1, 2
1.6.6	Outdoor noncommercial recreation, including public parks, non paved playfields, tennis, paddle tennis and similar activities, walking and bike paths.	YES	1, 2
1.6.7	Discharges from manmade structures to a Wetlands District.	SP	1, 2

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.6.8	Conservation of soil, water plants, and wildlife including wildlife management shelters.	YES	1, 2
1.6.9	Outdoor noncommercial recreation limited to nature study areas, walkways, boating, ice skating or fishing where otherwise legally permitted, and bike paths.	YES	1, 2
1.6.10	Maintenance or repair of existing structures, roadways and utilities.	YES	1, 2
<b>1.7</b>	<b>Accessory Uses <sup>5</sup></b>		
1.7.1	Cafeterias, delicatessens, lunch counters, coffee shops, dairy or ice cream establishments, not to exceed 7,000 square feet per use (allowed as an accessory use located within a permitted facility).	YES	1, 2

<sup>5</sup> The total combined square footage for accessory uses 1.7.2-1.7.3 shall not exceed 20,000 square feet in the aggregate unless permitted by a Special Permit granted by the Planning Board.

SECTION	USE DESIGNATION	<p><b>PERMITTED AT PD DISTRICT</b></p> <p><b>(YES = PERMITTED AS MATTER OF RIGHT</b></p> <p><b>SP = SPECIAL PERMIT REQUIRED</b></p> <p><b>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</b></p>	<p><b>PERMITTED USES PARCEL 1 &amp; 2</b></p> <p><b>Parcel 1 is all the land southwest of Network Drive &amp;</b></p> <p><b>Parcel 2 is all the land northeast of Network Drive</b></p>
1.7.2	Personal services business such as barbers and hairdressers, not to exceed 2,000 square feet (allowed as an accessory use located within a permitted facility).	YES	1
1.7.3	Accessory convenience store of a maximum of 2,000 square feet. (allowed as an accessory use located within a permitted facility).	YES	1, 2
1.7.4	Digital/photo imaging, copy center (provided any digital and/or photo imaging chemicals are self contained within the equipment and provided, further, such stored chemicals do not exceed amounts that would require registration with the Board of Health) limited to a maximum of 2,000 square feet. (allowed as an accessory use located within a permitted facility).	YES	1, 2
1.7.5	Accessory Health Club (allowed as an accessory use located within a permitted facility).	YES	1, 2
1.7.6	Shoe repair and dry cleaning (drop off and pick-up only).	YES	1, 2
1.7.7	Indoor unmanned Automatic Teller Machine not to exceed a gross floor area of 400 square feet.	YES	1, 2

SECTION	USE DESIGNATION	<p><b>PERMITTED AT PD DISTRICT</b></p> <p><b>(YES = PERMITTED AS MATTER OF RIGHT</b></p> <p><b>SP = SPECIAL PERMIT REQUIRED</b></p> <p><b>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</b></p>	<p><b>PERMITTED USES PARCEL 1 &amp; 2</b></p> <p><b>Parcel 1 is all the land southwest of Network Drive &amp;</b></p> <p><b>Parcel 2 is all the land northeast of Network Drive</b></p>
1.7.8	Sales/Leasing Office; Office of Real Estate Agent.	YES	1, 2
1.7.9	Places and buildings for public assembly such as facilities and conference centers for business, recreation, educational gatherings, seminars and presentations.	YES	1, 2
1.7.10	Buildings and structures accessory to public and/or recreational uses such as, but not limited to, equipment rental, refreshment stands, etc., provided such buildings do not exceed 7,000 square feet.	YES	1, 2
1.7.11	Mail Room	YES	1, 2
1.7.12	Garage space or spaces and/or attached or detached structures (above and below ground and under buildings) for parking.	YES	1, 2
1.7.13	Maintenance shops/garages, power plants, machine shops and similar structures to support permitted uses, provided that said structure is located within the building envelope.	YES	1, 2
1.7.14	The use of roads in the PD Premises for any purposes that roads and ways in the Town of Burlington are used.	YES	1, 2

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.7.15	Commercial boarding, care and treatment of animals.	SP	1,2
1.7.16	Massage therapy, ancillary to a personal service use, health club or other similar use facility.	SP	1,2
1.7.15	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	1, 2
1.7.16	Satellite dish antennas that are 8 feet or less across at their greatest width <u>and</u> which do not exceed 12 feet in height above the ground or above the roof of a building on which they are mounted.	YES	1, 2
1.7.17	This PDD By-Law shall not have the effect of changing or negating the Wireless Communications Overlay District or its permitted uses and such Wireless Communications Overlay District shall be applicable to the PD Premises (including any dimensional restrictions), notwithstanding anything to the contrary contained herein.	SP	1, 2

SECTION	USE DESIGNATION	<p>PERMITTED AT PD DISTRICT</p> <p>(YES = PERMITTED AS MATTER OF RIGHT</p> <p>SP = SPECIAL PERMIT REQUIRED</p> <p>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</p>	<p>PERMITTED USES PARCEL 1 &amp; 2</p> <p>Parcel 1 is all the land southwest of Network Drive &amp;</p> <p>Parcel 2 is all the land northeast of Network Drive</p>
1.7.18	During construction of improvements at the premises, off-street outdoor storage of supplies and non-hazardous materials and overnight parking of freight carrying or materials handling vehicles and equipment, provided that from 7 p.m. to 7 a.m. vehicles shall not operate and/or idle.	YES	1, 2
1.7.19	Storage of oils and fuels/petroleum products including storage for on-site heating purposes and landscaping maintenance equipment (in excess of 50 gallons).	SP	1, 2
1.7.20	Accessory uses in wetlands limited to fences, flagpoles, non-commercial signs and docks.	YES	1, 2
1.7.21	Child Care and Adult Day Care facility.	YES	1, 2
1.7.22	Emergency Generators fueled by natural gas or propane.	YES	1, 2
1.7.23	Fast order food establishments located entirely within a permitted principal use, drive-thru service is prohibited.	SP	1, 2
1.7.24	Restaurant establishment located entirely within a permitted principal use, drive-thru service is prohibited.	SP	1, 2

SECTION	USE DESIGNATION	<p><b>PERMITTED AT PD DISTRICT</b></p> <p><b>(YES = PERMITTED AS MATTER OF RIGHT</b></p> <p><b>SP = SPECIAL PERMIT REQUIRED</b></p> <p><b>TM = SPECIAL PERMIT REQUIRED FOLLOWING TOWN MEETING APPROVAL)</b></p>	<p><b>PERMITTED USES PARCEL 1 &amp; 2</b></p> <p><b>Parcel 1 is all the land southwest of Network Drive &amp;</b></p> <p><b>Parcel 2 is all the land northeast of Network Drive</b></p>
1.7.25	Solar Energy System, Roof-Mounted	YES	1, 2
1.7.26	Solar Energy System, Ground-Mounted	YES	1, 2
1.7.27	Electric Vehicle Charging Stations and associated mechanical systems	YES	1, 2

Water Resource District and Aquifer District

Subject to the findings of Section 8.3.0 of the Zoning By-Laws, the foregoing uses shall be permitted as a matter of right or with a Special Permit in a Water Resource and Aquifer District as set forth in the above Table of Uses. Notwithstanding anything to the contrary contained in this Use Table, a use that is prohibited in the Aquifer District shall be prohibited in any portion of the PD Premises included within the Aquifer Overlay District.

## SECTION 3: SPECIAL CONDITIONS

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SECTION 12.1.4.2.D.  
SPECIAL CONDITIONS  
FOR  
PLANNED DEVELOPMENT DISTRICT

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Pursuant to Section 12.1.4.2.d. of Article XII of the Zoning By-Laws of the Town of Burlington, Massachusetts (hereinafter, the "PDD By-Law") these Special Conditions shall be applicable to the development of the property located off of Route 62 and Middlesex Turnpike, Burlington, Massachusetts and shown as Parcel 3, Map 32 on the Tax Assessor's Map of the Town of Burlington (hereinafter, the "Premises") in accordance with the Concept Plan (hereinafter, together with all other materials submitted herewith pursuant to Section 12.1.4 of the PDD By-Law, the "Concept Plan") filed by Lockheed Martin Corporation and Sun Microsystems, Inc. (hereinafter, with any successor in interest to the Premises, individually and collectively, the "Developer").

I. Development of the Project

The Concept Plan provides for the development and use of a maximum of 1,300,000 square feet of Net Floor Area and 1,430,000 square feet of Gross Floor Area (as each is defined in the PDD Zoning Provisions of the Concept Plan) at the Premises (hereinafter, the "Project"). The Project shall be a mixed use development consisting of office, research and development, hotel and retail principal uses and accessory uses relating to each principal use. Uses shall be limited to those uses set forth in the Planned Development District Zoning Provisions submitted as part of the Concept Plan.

The Project shall be developed in substantial conformity with the Concept Plan as approved by the Town of Burlington at the May, 1997 Town Meeting. The Concept Plan shows in a general manner, among other things, the location of the buildings comprising the Premises, number of stories, maximum Gross Floor Area and maximum height of each building and the approximate distance between buildings. Consistent with the intent of the PDD By-Law, it shall not be deemed a substantial deviation from the Concept Plan if as a result of more definite engineering and other data there occurs a relocation of any building on the Premises within the development envelopes depicted on the Plans entitled "PDD District Rezoning Application for Mixed Use Development, Kent Road, Burlington, Massachusetts" prepared by Vanasse Hangen Brustlin, Inc., dated March 13, 1997 revised to \_\_\_\_\_, 1997 or changes in design or layout of the parking, provided that there shall not occur any change in minimum setbacks, maximum building height,

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maximum total Gross Floor Area (as defined in the PDD Zoning Provisions) of development or uses as provided in the Concept Plan without the approval by Town Meeting as provided in Section 12.1.8 of the Zoning By-Laws.

## II. Developer Responsibilities

(a) The Developer shall undertake or cause to be undertaken and assist the Town in arranging for the preparation of design plans for certain off-site improvements, subject to the provisions of this Paragraph II to mitigate certain off-site impacts of the Project. The Developer's obligations with respect to the preparation of design plans shall relate to the following off-site improvements:

1. **Kent Road (the "Kent Road Improvements")**: The complete reconstruction of Kent Road to provide for four travel lanes plus left turn lanes at major intersections. At the intersection of Kent Road with Route 62, add a second northbound left-turn lane. Route 62, at the intersection with Kent Road, will also be widened to provide for two eastbound right-turn lanes and an exclusive westbound left-turn lane. The intersection of Kent Road with Middlesex Turnpike will be realigned and provide for through and turning lanes. Install traffic signals at both ends of Kent Road and Route 62 and Middlesex Turnpike and coordinate with adjacent signals.

2. **Route 62 Improvements (the "Route 62 Improvements")**:

- **Route 62 Corridor:** Widen Route 62 to provide a four-lane roadway between the Route 3 Southbound ramps and Kent Road. Between Kent Road and Middlesex Turnpike, widen Route 62 and provide one lane eastbound and two lanes westbound. Provide exclusive turning lanes at major intersections. Coordinate traffic signals.
- **Route 62/Route 3 Southbound Ramps:** Widen Route 62 to provide a second eastbound and westbound through lane, exclusive eastbound left-lane, and westbound right-turn lane. Widen the Route 3 southbound off-ramp for a second exclusive left-turn

lane. Install traffic signal and coordinate with adjacent signals.

- **Route 62/Route 3  
Northbound Ramps/  
Crosby Drive:**

Widen Route 62 for an exclusive westbound right-turn lane and an exclusive eastbound left-turn lane. Widen Route 3 northbound off-ramp for an exclusive right-turn lane. Widen Crosby Drive to provide a second southbound right-turn lane. Upgrade traffic signal and coordinate with adjacent signals.

3. **Middlesex Turnpike Improvements (the "Middlesex Turnpike Improvements")**

- **Middlesex Turnpike  
Corridor:**

Widen Middlesex Turnpike to a standard four-lane cross-section from north of Mall Road to the proposed Kent Road intersection south. Provide turning lanes at major intersections. Coordinate traffic signals.

- **Middlesex Turnpike/  
Fourth Avenue:**

Widen Middlesex Turnpike for a second northbound and southbound travel lane and exclusive northbound left-turn lane. Widen Fourth Avenue for exclusive left and right-turn lanes. Install traffic signal.

- **Middlesex Turnpike/  
Third Avenue:**

Widen Middlesex Turnpike for a second northbound and southbound travel lane and exclusive northbound left-turn lane.

- Middlesex Turnpike/  
Terrace Hall  
Avenue:**

Widen Middlesex Turnpike for an exclusive southbound left-turn lane. Widen Terrace Hall Avenue to provide an exclusive westbound left-turn lane and a combined left and right-turn lane. Upgrade traffic signal and coordinate with adjacent signalized intersections.

- (b) Schedule: Subject to the provisions of Section VII, below, the Developer shall have completed the design plans for the Kent Road Improvements, Route 62 Improvements and Middlesex Turnpike Improvements in accordance with the following schedule:

	<u>Improvements</u>	<u>Completion Date for Design</u>
1.	Kent Road Improvements	8/97
2.	Route 62 Improvements	2/98
3.	Middlesex Turnpike Improvements	2/98

### III. Traffic Analysis

The Developer has provided the Town, at the sole cost of the Developer, with a traffic analysis prepared by Vanasse, Hangen Brustlin, Inc., a copy of which has been delivered to the Planning Board as part of the Concept Plan.

### IV. Effective Date of PDD Zoning

The granting and recording of any Special Permit within the time periods specified in Section 12.1.2 of the Zoning By-Laws shall constitute full compliance with Section 12.1.2 of the Zoning By-Laws notwithstanding that Special Permits for future aspects of the Project have not been applied for by the Developer at the time of the issuance of such final Special Permit. The issuance of any Special Permit under Section 12.1.5 of the Zoning By-Laws shall be deemed to constitute, and be conclusive of, the Developer's compliance with all provisions of the Zoning By-Laws at the time of the issuance thereof. Thereafter, the Premises shall be developed in accordance with the Concept Plan and the requirements of Section 12.1.5 of the PDD By-Law. In the event of any amendment to the PDD By-Law, the PD Premises shall continue to be governed by the Concept Plan approved by the May, 1997 Town Meeting and the applicable provisions of the PDD By-

Law in effect on March 13, 1997, the date of the submission of the Concept Plan unless specifically waived by the Owner of the Premises.

V. Lot Lines

Lot lines shall be established by the Developer and may be altered from time to time at the discretion of the Developer in accordance with the procedures of Section 81P of Chapter 41 of the Massachusetts General Laws for so-called "Approval Not Required Plans" and the applicable provisions of Sections 81K-81GG of Chapter 41 of the Massachusetts General Laws for any subdivision of the PD Premises.

VI. Applicable Zoning By-Laws

Except as provided in the Planned Development District Zoning Provisions submitted by the Developer pursuant to Section 12.1.4(c)(2) of the Zoning By-Laws, the Development of the Project shall be governed by the Zoning By-Laws in effect on March 13, 1997.

VII. Conservation Restriction

The Developer shall grant to the Burlington Conservation Commission a conservation restriction on certain designated resource areas under the jurisdiction of the Conservation Commission. The areas to be subject to restriction shall be agreed upon by Developer and the Burlington Conservation Commission and shall include, at a minimum, those areas identified as "Open Space" on the Concept Plan. The form and substance of such restrictions shall be satisfactory to the Burlington Conservation Commission and Developer and shall permit such activities as passive recreation (including, without limitation, hiking trails), flood control and water quality management. To the extent that the Burlington Conservation Commission desires passive recreation activities to be permissible in such areas, the Town shall, to the extent permitted by law, indemnify and hold harmless the Developer from any loss, claim or action arising out of the use of such restricted areas by third parties pursuant to the terms of the agreed upon restrictions. Any such restrictions shall be subject to approval by the applicable state authorities and shall be recorded with the Middlesex (South) Registry of Deeds and shall run with the land in perpetuity. The Developer shall be responsible for the costs associated with the preparation and recording of such restrictions.

VIII. Approval Contingencies

The obligations of the Developer to complete the Developer Responsibilities set forth in Article II, above are expressly contingent upon the Planning Board and/or the Town having granted all Special Permits, subject to all work required under Article II being completed, required under the PDD By-Law and the issuance of all other permits,

approvals, licenses and consents (governmental or private) required for development of the Project.

**SECTION 12.1.4.2.D.**  
**SPECIAL CONDITIONS**  
**FOR**  
**PLANNED DEVELOPMENT DISTRICT**  
**AS OF MAY 18, 2022**

**IX Special Conditions Applicable to Development on Parcel 1.**

**General Infrastructure Assessment:** The Developer; within 24 months of the approval of this May 2022 Amendment, shall, working with the Planning Department of the Town and its consultants and as necessary Town departments, assess potential impacts of the potential build-out of the additional authorized development square footage to various public infrastructure, such as water, sewer, traffic, pedestrian circulation, and identify potential community benefits/enhancements or improvement projects as the Developer and the Town identify (the "Impact Report"). The Impact Report shall also include potential additional projects that have been identified, both public and private, in the general area of the PD Premises. The reasonable cost of the preparation of the Impact Report shall be paid by the Developer.

The Impact Report shall set forth a schedule to govern the timing of the implementation of recommendations (i.e., schedule of implementation based upon development execution/project phasing). This Impact Report shall be consulted by the Developer in connection with individual PD Special Permit applications for components of the future development of new floor area at the PD Premises. The Planning Board shall identify appropriate mitigation with reference to this Impact Report and include as appropriate, such mitigation necessary to address the identified impacts of the proposed components of the project at the PD Premises and the cost obligation attributable to the Developer.

Any PD Special Permit granted for new floor area shall include a condition, that the agreed upon mitigation based on the Impact Report shall include a timeline for the implementation of such mitigation.

In addition, the Town may use the Impact Report to pursue both state and federal funding beyond the scope of Developer's obligations, for certain public infrastructure projects that have a nexus to the development and the Developer shall cooperate with the Town with such funding efforts.

The Developer, in connection with each permit application, shall specifically provide the following:

### **Traffic Analysis**

Prior to the submission of any PD Site Development and Use Plan for the development of new useable floor area, the Applicant shall meet with the Planning Director to review the project and to obtain a determination as to whether a traffic memorandum or full traffic impact analysis is required. A full traffic analysis shall assess the adequacy of the existing or future transportation infrastructure to accommodate the additional trips generated by the new floor area and proposed use. The traffic impact analysis shall detail, if deemed warranted based on the resultant findings, appropriate signalization enhancements, intersection or roadway geometrical improvements and/or preparation of further studies.

### **Water and Sewer**

All PD Site Development and Use Plan filings shall include an infrastructure analysis which calculates the projected sewer and water usage associated with the proposed development.

### **Zoning Compliance**

Following the issuance of a PD Site Development and Use Plan the Applicant shall provide to the Planning Department a current campus wide site layout plan with corresponding zoning and parking compliance charts.

## SECTION 4: CONCEPT PLANS

## SECTION 4A: ORIGINAL APPROVED CONCEPT PLANS

# Site Plans

Issued for: Planned Development (PD) District Rezoning

Date Issued: March 13, 1997

Latest Issue: May 2, 1997

## Index

No.	Drawing Title	Latest Issue
C-1	Title Sheet	3/13/97
C-2	Legend & General Notes	3/13/97
C-3	Existing Conditions Plan	3/13/97
C-4	Layout, Materials and Utilities Plan 1	3/13/97
C-5	Layout, Materials and Utilities Plan 2	3/13/97
C-6	Grading & Drainage Plan 1	3/13/97
C-7	Grading & Drainage Plan 2	3/13/97
C-8	Landscape Plan 1	3/13/97
C-9	Landscape Plan 2	3/13/97
C-10	Locus Context Plan	3/13/97
C-11	Property Rights & Dimensional Standards Plan	5/2/97
C-12	Building Elevations	3/13/97

# PD District Rezoning

Application for Mixed Use Development  
Kent Road - Burlington, Massachusetts



Owner:

**Lockheed Martin Corporation**  
191 Chesapeake Park Plaza  
Baltimore, MD 21220

Applicant:

**Sun Microsystems, Inc.**  
2550 Garcia Avenue  
Mountain View, CA 94043

**VHB**

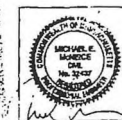
**Vanasse Hangen Brustlin, Inc.**  
Transportation  
Land Development  
Environmental Services

101 Walnut Street, P.O. Box 9151  
Watertown, Massachusetts 02272  
617 924 1770 • FAX 617 924 2286

**h+k**

HELLMUTH, OBATA + KASSABAUM, P.C.  
ARCHITECTURE / ENGINEERING

Canal House  
3223 Grace Street, N.W.  
Washington, DC 20007 USA  
202 339 8700 • FAX 202 339 8800

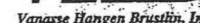


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1. *Journal of the American Medical Association*, 1997; 277: 1033-1038.

1. *Journal of the American Medical Association*, 1997; 278: 1039-1044.

1. *Journal of the American Medical Association*, 1997; 277: 1033-1036.

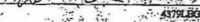
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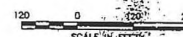
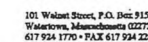
DD District Reporting

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...and the



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### Existing Conditions Plan



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*Amy C. Hanfield*  
TOWN CLERK  
BURLINGTON, MASSACHUSETTS





**VHB**  
Vanasse Hangen Brustlin, Inc.  
Transportation  
Land Development  
Environmental Services  
101 Walnut Street, P.O. Box 9151  
Waltham, Massachusetts 02273  
617 994 1770 • FAX 617 924 2285

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Designed by: [Signature] Date: 12/1/97  
Checked by: [Signature] Date: 12/1/97  
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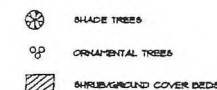
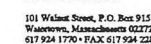
PD District Rezoning  
Application for  
Mixed Use Development  
Burlington, Massachusetts  
PD District  
Rezoning

Grading and  
Drainage Plan 1

SEAL  
MICHAEL E. HANSEN  
P.E.  
No. 35047  
Professional Engineer  
State of Massachusetts  
C-6  
6/12/97  
3013/97

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No.	Revision	Date
Designed by _____	Drawn by _____	CHECKED BY _____
Coll checked by _____	Approved by _____	Date _____
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PD District Rezoning  
Application for  
Mixed Use Development  
Burlington, Massachusetts

PD District  
Rezoning

Drawing Title

Landscape  
Plan 1



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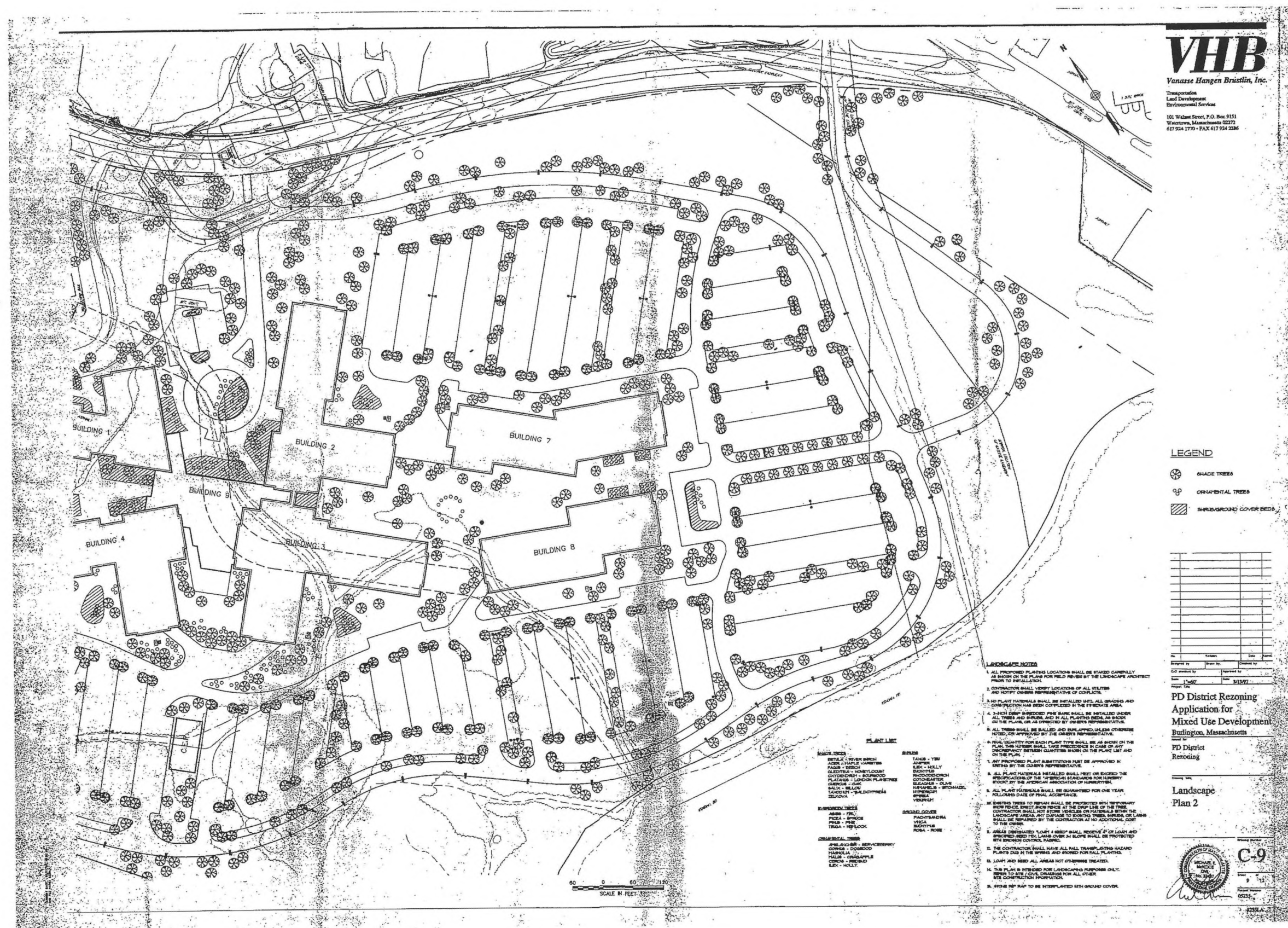
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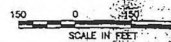
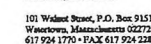
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**BURLINGTON, MASSACHUSETTS**





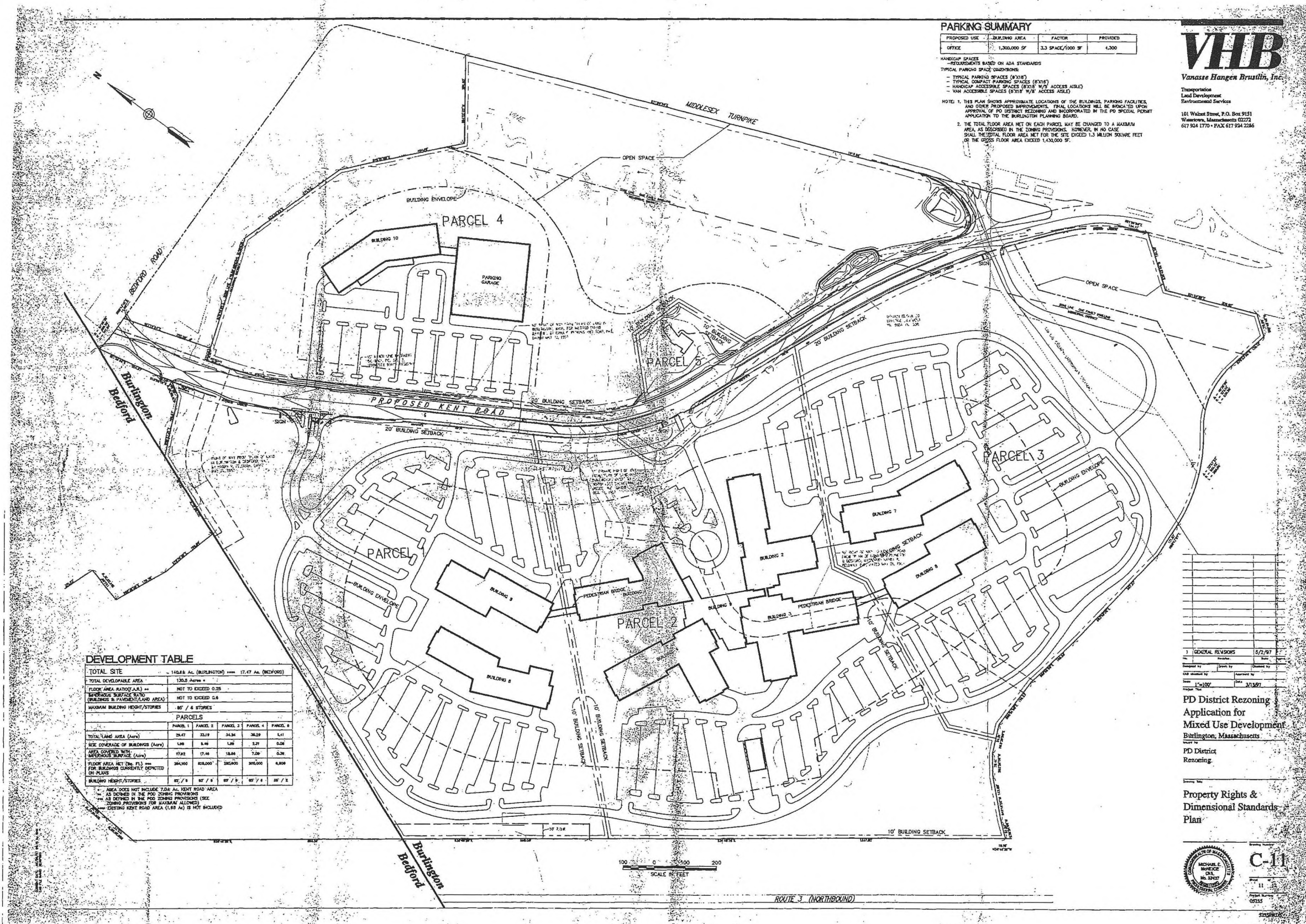
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PD District  
Rezoning

### Locus Context Plan



*Amy E. Warfield*  
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PARKING SUMMARY			
PROPOSED USE	BUILDING AREA	FACTOR	PROVIDED
OFFICE	1,300,000 SF	3.3 SPACE/1000 SF	4,300

HANDICAP SPACES  
REQUIREMENTS BASED ON ADA STANDARDS  
TYPICAL PARKING SPACE DIMENSIONS  
- TYPICAL PARKING SPACES (8'x18')  
- TYPICAL COMPACT PARKING SPACES (5'x10')  
- HANDICAP ACCESSIBLE SPACES (8'x18' W/3' ACCESS AISLE)  
- VAN ACCESSIBLE SPACES (8'x18' W/8' ACCESS AISLE)

NOTES:  
1. THIS PLAN SHOWS APPROXIMATE LOCATIONS OF THE BUILDINGS, PARKING FACILITIES, AND OTHER PROPOSED IMPROVEMENTS. FINAL LOCATIONS WILL BE INDICATED UPON APPROVAL OF PD DISTRICT REZONING AND INCORPORATED IN THE PD SPECIAL PERMIT APPLICATION TO THE BURLINGTON PLANNING BOARD.  
2. THE TOTAL FLOOR AREA NET ON EACH PARCEL MAY BE CHANGED TO A MAXIMUM AREA AS RECORDED IN THE ZONING PROVISIONS. HOWEVER, IN NO CASE SHALL THE TOTAL FLOOR AREA NET FOR THE SITE EXCEED 1.5 MILLION SQUARE FEET OR THE GROSS FLOOR AREA EXCEED 1,400,000 SF.

**VHIB**  
Vanasse Hangen Brustlin, Inc.  
Transportation  
Land Development  
Environmental Services  
101 Walnut Street, P.O. Box 9151  
Watertown, Massachusetts 02272  
617 924 1770 • FAX 617 924 0286

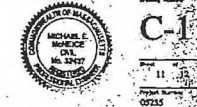
DEVELOPMENT TABLE					
TOTAL SITE	149.8 AC. (BURLINGTON) + 17.47 AC. (BEDFORD)				
TOTAL DEVELOPABLE AREA	130.8 ACRES ±				
FLOOR AREA RATIO (FAR) ±	NOT TO EXCEED 0.25				
PERMISSIBLE SURFACE PAVING (BUILDINGS & PAVEMENTLAND AREA)	NOT TO EXCEED 0.6				
MAXIMUM BUILDING HEIGHT/STORIES	85' / 8 STORIES				
PARCELS					
TOTAL LAND AREA (Acres)	PARCEL 1	PARCEL 2	PARCEL 3	PARCEL 4	PARCEL 5
	29.47	33.19	34.34	38.29	5.11
SIZE COVERAGE OF BUILDINGS (Acres)	1.98	6.46	1.98	3.71	0.06
AREA COVERED WITH IMPERVIOUS SURFACES (Acres)	17.93	17.46	18.86	7.00	0.26
FLOOR AREA NET (Sf ±)	364,500	828,000*	380,000	380,000	6,800
FOR BUILDINGS CURRENTLY IDENTIFIED ON PLANS					
BUILDING HEIGHT/STORIES	85' / 8	85' / 8	85' / 8	85' / 8	25' / 3

\* AREA DOES NOT INCLUDE TOTAL AC. KENT ROAD AREA AS SHOWN IN THE PD ZONING PROVISIONS  
 \*\* AS DEFINED IN THE PD ZONING PROVISIONS (SEE ZONING PROVISIONS FOR MAXIMUM ALLOWED)  
 EXISTING KENT ROAD AREA (1.80 AC) IS NOT INCLUDED

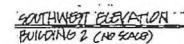
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PD District Rezoning  
Application for  
Mixed Use Development  
Burlington, Massachusetts  
Project No. PD District  
Rezoning

Property Rights &  
Dimensional Standards  
Plan



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BURLINGTON, MASSACHUSETTS



No.	Request	Date
Prepared by	Drawn by	Checked by
CAD checked by	Approved by	
Scale	Sheet	

Drawing, Title \_\_\_\_\_

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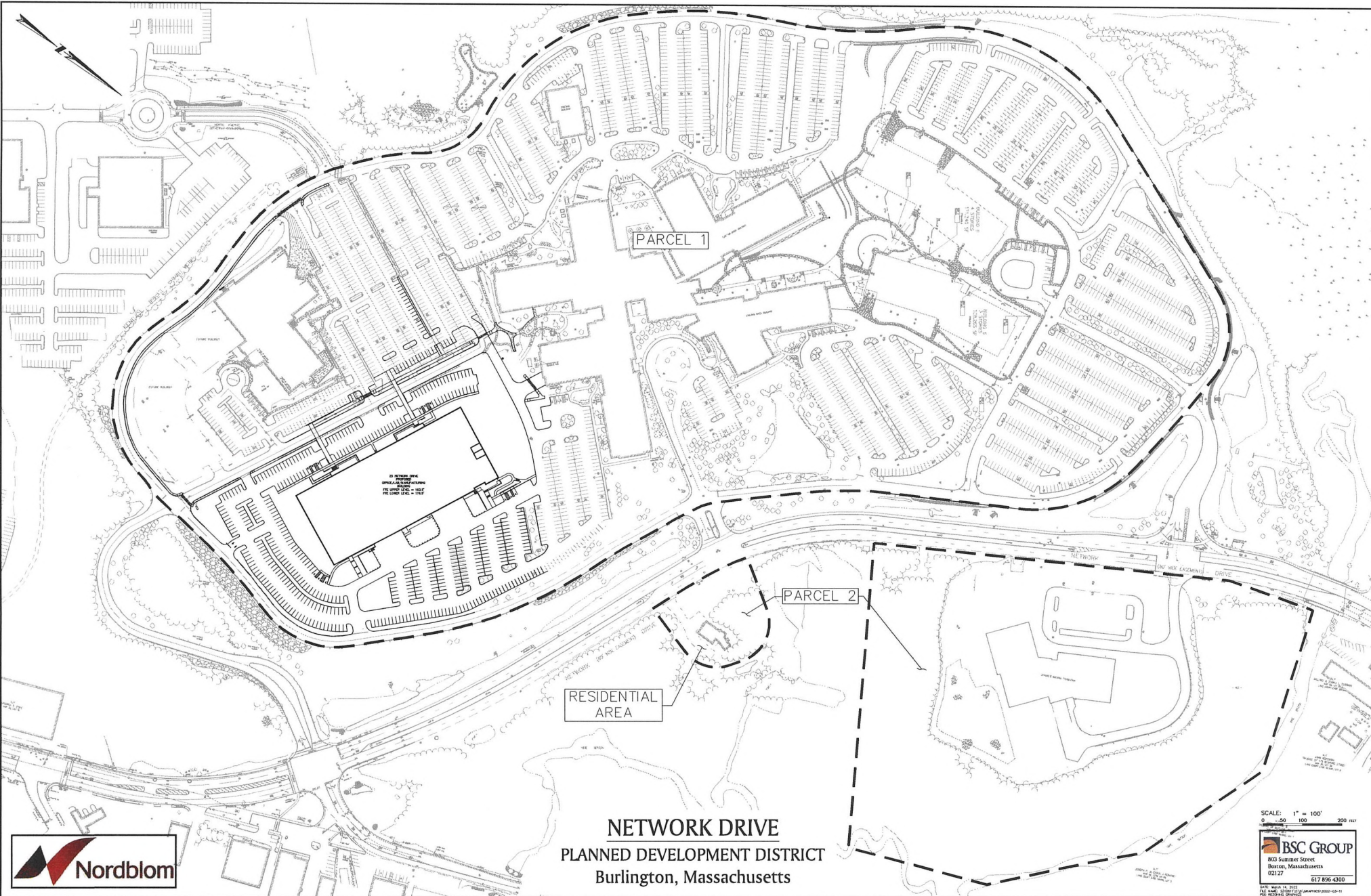
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TOWN CLERK  
BURLINGTON, MASSACHUSETTS



## SECTION 4B. REVISED CONCEPT PLAN (RESIDENTIAL AREA)



**SECTION 5: BURLINGTON ZONING BYLAWS IN  
EFFECT ON MARCH 13, 1997 AS CERTIFIED BY  
THE TOWN CLERK**

# **ZONING BYLAWS**



**TOWN OF BURLINGTON  
MASSACHUSETTS  
01803**

**AS AMENDED THROUGH  
OCTOBER 1996**

A TRUE COPY ATTEST:

*Amy E. Warfield*

**TOWN CLERK  
BURLINGTON, MASSACHUSETTS**

A COMPLETE REVISION OF THE ZONING BYLAWS OF  
THE TOWN OF BURLINGTON

ADOPTED UNDER ARTICLE 37 OF THE  
ADJOURNED (FIRST) TOWN MEETING, JANUARY 24, 1977



ARTICLE 37

By a roll call of 62 in favor and 3 opposed the Town voted to amend the Zoning Bylaws of the Town, by striking the existing Zoning Bylaw in its entirety with the exception of the Zoning Map of 1968, and all amendments thereto, and by substituting therefor ten (10) articles.

Approved by the Att. Gen. 4/21/77, Adv. Burl. News 5/12/19/77.

AS AMENDED THROUGH OCTOBER 1996.

ATTEST:

Jane L. Chew, CMC  
Town Clerk

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TOWN CLERK  
BURLINGTON, MASSACHUSETTS

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**ARTICLE I**  
**PURPOSE**

**SECTION 1.0 PURPOSE**

The purpose of this Bylaw is to promote the health, safety, convenience, morals, and welfare of the inhabitants of the Town of Burlington. The objectives of this Bylaw 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.

**ARTICLE II**  
**DEFINITIONS**

**SECTION 2.0 DEFINITIONS**

**2.1 Accessory Use or Structure - See Use or Structure, Accessory**

**2.1.1 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.

**2.1.2 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.

**2.1.3 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.

**2.1.4 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.

**2.1.5 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.

**2.1.6 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.";

**2.2 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.

2.3 Animal Hospital - See Hospital Veterinary

2.4 Apartment - See Dwelling Garden Apartment

2.4.1 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.

2.5 Awning

A rooflike covering, as of canvas, stretched upon a frame that is affixed to a building and used above or before any place as a shelter from rain or sun.

2.5.1 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.

2.6 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.

2.7 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.

2.8 Building, Accessory - See Use or Structure, Accessory

2.9 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.

2.10 Building, Attached

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

### 2.11 Building Coverage

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

### 2.12 Building, Detached

A building having open space on all sides.

### 2.13 Building Height

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 super-structures above the roof line.

### 2.14 Building, Principal

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

### 2.15 Carport

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

### 2.16 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.

#### 2.16.1 Congregate Living Facility

A non-institutional, shared living environment which integrates shelter and service needs of functionally impaired and/or socially isolated senior persons who are otherwise in good health and can maintain a semi-independent life style and who do not require constant supervision or intensive health care as provided by an institution. Each resident 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.

#### 2.16.2 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)

### 2.17 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.

## 2.18 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.

### 2.18.1 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.

## 2.19 District

A zoning district as established by Article III of this Bylaw. In addition, there are Wetlands, Flood Plain, Aquifer, and Water Resource overlay districts.

## 2.20 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.

## 2.21 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.

## 2.22 Dwelling, Garden Apartments

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.

### 2.22.1 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 Chapter 111 of the Mass General Laws.

## 2.23 Erected

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

### 2.23.1 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.

#### 2.24 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.

#### 2.25 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 take-out 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.

#### 2.26 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;
- (b) Tire servicing and repair, but not recapping or regrooving;
- (c) Replacement of mufflers and tail pipes, 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.

#### 2.27 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.

#### 2.28 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.

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.

#### 2.29 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 and endorsed 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.

### 2.30 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.

### 2.31 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.

### 2.32 Garden Center

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

### 2.33 Golf Course, Standard or Par Three

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

#### 2.33.1 Group Care Facility

A type of group quarters in which a group of 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.

### 2.34 Home Occupation

An occupation conducted in a dwelling unit.

### 2.35 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 non-profit, 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, out-patient 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 Bylaw.

### 2.36 Hospital, Veterinary

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

### 2.37 Hotel, Motor Hotel or Motel

A building or several buildings containing sleeping rooms for resident or transient guests with a provision for serving food in a public dining room, but no cooking in

rooms occupied by guests.

#### 2.38 Impervious Surface

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

##### 2.38.1 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.

##### 2.38.2 Kiosk

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

#### 2.39 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.

#### 2.40 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.

##### 2.40.1 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 24-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.

##### 2.41 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.

##### 2.42 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 side lines of the lot form, or would form if extended, an interior angle or one-hundred five (105) degrees or less.

#### 2.43 Lot Depth

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

#### 2.44 Lot, Interior

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

#### 2.45 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.

#### 2.46 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.

#### 2.47 Lot Line, Side

Any lot line not a front or rear lot line.

#### 2.48 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.

#### 2.49 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.

#### 2.50 Lot Width

The horizontal distance between the side lot lines as measured at the required front set back line.

#### 2.51 Membership Club, Private

A building used to house a nonprofit social, sports or fraternal association or

organization if used exclusively by members and their guests.

2.52 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.

2.53 Municipal

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

2.54 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.

2.55 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.

2.56 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.

2.56.1 Nursing Home - See Long Term Care Facility.

2.57 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.

2.58 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.

2.59 Open Area, Percentage

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

2.60 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.

#### 2.61 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.

#### 2.62 Parking Space

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

#### 2.63 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.

#### 2.64 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 building and structures thereon.

#### 2.65 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.

##### 2.65.1 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.

#### 2.66 Recorded

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

#### 2.67 Recreational Trailer or Vehicle

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) **Pick-up Camper:** A portable dwelling unit designed to be mounted on a pick-up 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 repellant 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.

#### 2.68 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.

#### 2.69 Repair, Auto - See Garage, Auto Repair

##### 2.69.1 Residence hotel/motel

A building or buildings containing not less than fifty (50) sleeping rooms for resident or transient guests which may provide for serving food in a public dining room and/or which may also provide for cooking and private dining in individual rooms. A residence hotel/motel shall be located within 1,500 feet of the layout of a limited access highway which, for purposes of this Bylaw, shall mean a roadway under federal and/or state jurisdiction to which access is limited to certain designated interchange locations. Only Route 3 and Route 128/95 qualify as limited access highways for purposes of this Bylaw.

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

#### 2.71 Restaurant

An establishment serving food and drink to patrons seated in a dining area which seats at least fifty (50) persons, with service being provided to the patrons by wait staff. Take-out orders may be permitted as an incidental and subordinate percentage of the business. A restaurant may not offer drive-through window service.

#### 2.72 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.

#### 2.73 Screening

A solid fence, wall or evergreen planting.

#### 2.74 Special Permit

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.

#### 2.75 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.

#### 2.76 Street

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

#### 2.77 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.

#### 2.78 Structure, Temporary

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

#### 2.79 Toxic or Hazardous Materials

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

#### 2.80 Trailer - See Recreational Trailer

#### 2.81 Use

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

#### 2.82 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.

#### 2.83 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.

2.84 Use, Temporary

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

2.85 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.

2.86 Yard, 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.

2.87 Yard, Side

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.

2.88 Variance

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

**ARTICLE III**  
**ESTABLISHMENT OF 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:

- RO - One-Family Dwelling Districts
- RG - Garden Apartment Districts
- RC - Continuing Care Districts
- BN - Neighborhood Business Districts
- BL - Limited Business Districts
- BT - Continuous Traffic Business Districts
- BG - General Business Districts
- IR - Retail Industrial Districts
- IG - General Industrial Districts
- IH - High-Rise Industrial Districts

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

**3.1.1 Special Districts**

- FP - 100-Year Flood Plain Districts
- WR - Water Resources Districts
- W - Wetlands Districts
- A - Aquifer Districts

**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. Zoning Map 1979." 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." The Zoning Map with all explanatory matter thereon, and the Burlington Zoning Map Booklet, are hereby made a part of this Bylaw.

The location of the special districts are 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.

**3.2.1 Change Through Amendment**

Any change in the location or boundaries of a district hereafter made through the amendments of this Bylaw shall be indicated by the alteration of such map, and the map thus altered is declared to be a part of the Bylaw 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, except RO and FH, 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.

**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.

**4.1.2 Retroactive Special Permit**

Any use existing, and maintained in conformity with law, on the effective date of this Bylaw which requires a special permit shall be deemed to have been granted a special permit subject to the maintenance of the then existing character and extent of operations and structures. A change in use or structure shall require a special permit as provided in Article IX, Sections 9.2.0 through 9.2.7.

**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 off-site 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 off-site 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.

#### 4.1.5 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.

4.1.5.1 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 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.

4.1.5.2 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 center line 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.

SECTION 4.2.0 PRINCIPAL USE REGULATIONS SCHEDULE

USE DESIGNATION		DISTRICT										OVERLAY	
		RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	A	WR
4.2.1	Residence Uses												
4.2.1.1	One family dwellings	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.2.1.2	Garden Apartment dwelling units	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.2.1.3	Motels, hotels, motor hotel	NO	NO	NO	NO	NO	NO	NO	NO	SP	NO	YES	YES
4.2.1.3.1	Residence hotel/motel	NO	NO	NO	NO	NO	NO	NO	SP	SP	NO	YES	YES
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	YES	YES
4.2.1.5	Dormitories primarily used for nonprofit educational corporations, for religious purposes, or for public purposes.	YES	YES	YES	YES	YES	YES	YES	YES	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	NO	NO	NO	NO	NO	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	YES	YES
4.2.1.8	Tents, trailers, campers, and mobile homes	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.2.1.9	Dormitories other than those specified in 4.2.1.5	NO	SP	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.2.1.10	Open space residential	SP	SP	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.2.1.11	Assisted Living, Congregate Living,	-	-	SP	-	-	-	-	-	-	-	YES	YES

Continuing Care Retirement Community

4.2.1.12	Independent living facility	NO	NO	SP	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.2.1.13	Custodial Care Facility, Group Care Facility	-	-	-	-	-	-	-	-	SP	-	YES	YES
4.2.2	<u>Institutional and Recreational Uses</u>	<u>RO</u>	<u>RG</u>	<u>RC</u>	<u>BN</u>	<u>BL</u>	<u>BG</u>	<u>BT</u>	<u>IG</u>	<u>IH</u>	<u>IR</u>	<u>A</u>	<u>WR</u>
4.2.2.1	Places primarily used for religious purposes, including rectories, and parish houses.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
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	YES	YES	YES	YES
4.2.2.3	Child Care Facility	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.4	Cemeteries and related facilities	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	YES	YES
4.2.2.5	Fire stations and sub-fire stations	SP	SP	SP	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.6	Police stations	SP	SP	SP	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.7	Municipal maintenance and garage facilities	NO	NO	NO	NO	NO	YES	YES	YES	YES	YES	NO	SP
4.2.2.8	Public parks	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.9	Related facilities for public parks	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	YES	YES
4.2.2.10	Public libraries, public museums, public art galleries	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.11	Community centers and public recreation buildings	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.12	Nonprofit private clubs, recreational centers and facilities	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.13	Private museums, private art galleries	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP	YES	YES

A TRUE COPY ATTEST:

*Amy E. Warfield*  
TOWN CLERK  
BURLINGTON, MASSACHUSETTS

4.2.2.14	Other than nonprofit educational uses on land not owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, by a religious sect or denomination, or by a nonprofit educational corporation	NO	NO	NO	SP	YES	YES	SP	SP	SP	SP	YES	YES
4.2.2.15	Golf courses and related facilities	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
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	YES	YES
4.2.2.17	Miniature, driving, and novelty golf installations	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.2.18	Places and buildings for public assembly other than above	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.2.19	Hospitals, sanatoria	NO	NO	NO	NO	NO	SP	NO	SP	SP	SP	NO	SP
4.2.2.20	Convalescent, rest homes and nursing homes	NO	NO	YES	NO	NO	SP	NO	SP	SP	SP	YES	YES
4.2.2.21	Clinics	NO	NO	NO	NO	NO	SP	NO	SP	SP	SP	NO	SP
4.2.2.22	Telephone exchanges	NO	NO	NO	YES	YES	YES	YES	YES	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	SP	SP
4.2.2.24	Radio and television transmitting sites	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	YES	YES
4.2.2.25	Theaters and cinemas	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	YES	YES
4.2.2.26	Adult Day Care	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.2.2.27	Public Water & Sewer Distribution Structures	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
4.2.3	Agricultural and Animal Husbandry Uses	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	A	WR

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	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	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	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	SP	SP	SP
4.2.3.5	Manure storage	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP	NO	NO
4.2.3.6	Pesticide herbicide fungicide application, outdoor storage	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
<hr/> 4.2.4 Office Uses <hr/>		BO	BG	BC	BN	BL	BG	BT	IG	IH	IR	A	WR
4.2.4.1	Professional offices such as, but not limited to physicians, dentists, opticians, real estate brokers, lawyers	NO	NO	NO	SP	YES	YES	YES	YES	YES	YES	YES	YES
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	YES	YES
4.2.4.3	Administrative, executive, and similar offices	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES
4.2.4.4	Public offices	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES
<hr/> 4.2.5 Automotive Sales and Service Uses <hr/>		BO	BG	BC	BN	BL	BG	BT	IG	IH	IR	A	WR
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	SP
4.2.5.2	Automotive repair shops	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	SP

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	SP
4.2.5.4	Car wash establishments	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	SP
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	NO	SP	NO	NO	NO	YES	YES
4.2.5.6	Automobile dealership	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.5.7	Used car sales establishment	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.5.8	Automotive rental agency	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
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	NO	SP	SP	NO	NO	YES	YES

4.2.6	Retail, Consumer and Trade Uses	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	A	WR
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	SP	SP
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	YES	YES
4.2.6.3	Retail stores other than above; showrooms	NO	NO	NO	NO	NO	YES	NO	NO	NO	YES	YES	YES
4.2.6.4	Post offices, banks	NO	NO	NO	NO	NO	YES	NO	SP	YES	YES	YES	YES

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
4.2.6.6 Photographers, decorators, stationers, dressmaking or tailoring establishments (excepting photo processing)	NO	NO	NO	NO	YES	YES	NO	NO	NO	YES	YES	YES
4.2.6.7 Travel agencies	NO	NO	NO	NO	YES	YES	NO	NO	YES	YES	YES	YES
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
4.2.6.9 Fast order food establishments	NO	NO	NO	NO	NO	SP	SP	NO	NO	NO	YES	YES
4.2.6.10 Restaurants	NO	NO	NO	NO	NO	SP	NO	NO	NO	SP	YES	YES
4.2.6.11 Bakeries	NO	NO	NO	NO	NO	YES	NO	NO	NO	YES	YES	YES
4.2.6.12 Commercial boarding, care, and treatment of birds, fish, and animals	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	SP	SP
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	YES	YES
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	YES	YES
4.2.6.15 Retail dealers in grain and animal feed	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	YES	YES
4.2.6.16 Funeral parlors however denominated	NO	NO	NO	NO	NO	SP	NO	NO	NO	NO	NO	SP
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	SP
4.2.6.18 Sale of structural and building supplies (Repealed T.M. 5/19//93, Article 25)	NO	NO	NO	NO	NO	NO	NO	SP	NO	NO	YES	YES
4.2.6.19 Kiosk	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES

4.2.6.20	Massage parlors	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.2.6.21	Photo processing	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP	NO	NO
4.2.6.22	Shoe repair, drycleaning and laundry pickup stations	NO	NO	NO	SP	YES	YES	YES	NO	NO	YES	YES	YES
4.2.6.23	Self-service laundry and drycleaning	NO	NO	NO	SP	YES	YES	YES	NO	NO	YES	NO	SP
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	SP	SP
4.2.6.25	Adult Bookstore	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.6.26	Adult Club	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.6.27	Adult Paraphernalia Store	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.6.28	Adult Theater	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.6.29	Adult Video Store	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.2.7	Industrial Uses	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	A	WR
4.2.7.1	Light manufacturing or processing plants	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	SP	SP
4.2.7.2	Printing establishments other than those under 4.2.6.24	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	NO	SP
4.2.7.3	Food processors, bakeries, not operated at retail	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES	YES
4.2.7.4	Laboratories engaged in research, experimental and testing activities including, but not limited to, the fields of biology, chemistry, electronics, engineering, geology, medicine and physics	NO	NO	NO	NO	NO	NO	NO	SP	SP	SP	NO	SP

4.2.7.5 Wholesale trade, warehousing (except toxic and hazardous materials and salts)	NO	NO	NO	NO	NO	NO	NO	SP	SP	SP	YES	YES
4.2.7.6 Electronics industries	NO	NO	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP
4.2.7.7 Electroplating, metal finishing	NO	NO	NO	NO	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	NO	NO	NO	NO
4.2.7.9 Hazardous and toxic materials/chemicals use storage, transport, disposal or discharge	NO	NO	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP
4.2.7.10 Commercial facilities for hazardous waste storage and treatment	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
4.2.7.11 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	SP	SP
4.2.7.12 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	SP

#### SECTION 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	IH	IR	A	WR
4.3.1.1 Renting of rooms without cooking facilities to not more than two persons in an existing dwelling by a family resident therein; provided there is no sign or display to advertise such use	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.3.1.1.1 An accessory apartment (See Section 4.1.5.2) located in a structure constructed as a detached one family dwelling, subordinate in size to the principal	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES

dwelling unit and separated from it, in a manner that maintains the appearance of the structure as a one family unit

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	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.3.1.3 Home occupations provided there is no display or advertising other than a permitted sign	YES	YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.3.1.4 Garage space for parking not more than three automobiles. This subsection does not apply to farms	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	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	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.3.1.6 Swimming pool	YES	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	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	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.3.1.8 Tennis courts	YES	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	YES	YES
4.3.1.9 Bomb shelters	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.3.1.10 Roadside stands for sale of produce grown on the premises	SP	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.3.1.11 Sheds, barns, and similar structures	YES	YES	SP	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.3.1.12 The keeping of animals, other than the usual household pets; subject to restrictions of the Board of Health	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES
4.3.1.13 Buildings and structures normally accessory to garden apartments	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES

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

SP SP SP SP SP SP SP SP SP SP 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 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 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 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 and which are at least 100 feet away from property that is zoned RO - One Family Dwelling

NO SP SP YES YES YES YES YES YES YES YES YES YES

(f) satellite dish antennas that are greater than 8 feet across at their greatest width or which exceed 12 feet in height above the ground or the roof of a building on which they are mounted or 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 YES YES

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

YES YES NO YES YES YES YES YES YES YES YES YES

exceed a period of one (1) year

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
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
4.3.1.18	Child care facility	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.3.2	Uses Normally Accessory to Non-residential Principal Uses	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	A	WR
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	NO	SP	NO	NO	YES	YES
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	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	NO	SP	SP	NO	YES	YES
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	YES	YES
4.3.2.5	Keeping of more than one protective animal	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	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	YES	YES
4.3.2.7	Offstreet outdoor overnight parking of	NO	NO	NO	NO	NO	YES	SP	YES	YES	YES	YES	YES

freight-carrying or material-handling vehicles and equipment or buses

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	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	YES	YES
4.3.2.10 Offstreet 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 offstreet outdoor parking will be located.	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	YES	YES
4.3.2.12 Warehousing incidental to a permitted principal use (except hazardous and toxic materials/chemicals)	NO	NO	NO	NO	NO	NO	NO	SP	SP	SP	YES	YES
4.3.2.13 Kiosks	NO	NO	NO	NO	NO	NO	SP	NO	NO	NO	YES	YES
4.3.2.14 Incidental sale at retail of the same merchandise sold at wholesale	NO	NO	NO	NO	NO	NO	NO	SP	NO	NO	YES	YES
4.3.2.15 Storage and disposal of oils and fuels/petroleum products	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP	NO	SP
4.3.2.16 Storage of hazardous and toxic materials/chemicals for retail sale	NO	NO	-	NO	NO	SP	SP	NO	NO	SP	SP	SP
4.3.2.17 Offstreet outdoor overnight parking of freight-carrying or material-handling vehicles and equipment containing toxic and hazardous materials/chemicals	NO	NO	NO	NO	NO	NO	NO	SP	SP	SP	SP	SP
4.3.2.18 Temporary tents for groups of more than ten persons	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

4.3.2.19	Temporary tents for groups of less than ten persons	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.3.2.20	Child care facility	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

#### SECTION 4.4.0 PERMITTED USES IN THE WETLANDS DISTRICT

4.4.1	Principal Uses in the Wetlands District	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	A	WR
4.4.1.1	Conservation of soil, water plants, and wild-life including wildlife management shelters	YES	YES	YES	YES	YES	YES	YES	YES	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	YES	YES	YES	YES	YES	YES	YES	YES
4.4.1.3	Agriculture, horticulture and floriculture	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	See 4.2.3	
4.4.1.4	Maintenance or repair of existing structures, roadways and utilities	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4.4.1.5	Periodic maintenance of existing water courses and maintenance of essential services	YES	YES	YES	YES	YES	YES	YES	YES	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	SP	SP	SP	SP	SP	SP	SP	SP	SP	NO	SP
4.4.1.7	Structures for essential services	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	YES	YES
4.4.1.8	Dredging expressly for mosquito or flood control by an authorized public agency	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	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	SP	SP	SP	SP	SP	SP	SP	SP	SP	YES	YES

4.4.1.10 Outdoor noncommercial recreation not specifically permitted by right in section 4.4.1.2 including public parks, nonpaved playfields, and similar activities	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	YES	YES
4.4.1.11 Discharges from manmade structures into the wetlands	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
4.4.1.12 Structures for radio or television transmission by participants in emergency broadcast system	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	YES	YES
4.4.2 Accessory Uses in the Wetlands District	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	A	WR	
4.4.2.1 Accessory uses limited to fences, flagpoles, noncommercial signs, docks	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

\* 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) in-patient and out-patient care and services are provided; and (ii) such facility has not less than fifty (50) beds for in-patient 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.

**ARTICLE V**  
**DENSITY REGULATIONS**

**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 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 Exceptions for Hotels, Motels, or Motor Hotels**

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

5.1.2.1 The minimum Lot Area shall be 120,000 square feet.

5.1.2.2 No sleeping rooms shall be located below the mean finished grade of land adjoining the building.

5.1.2.3 Each building must contain fifteen (15) or more sleeping rooms.

**5.1.3 Additional Regulations and Exceptions for Garden Apartments and Dormitories**

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

5.1.3.2 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.

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

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

5.1.3.5 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.

**5.1.4 Limitation of Area of Accessory Uses**

5.1.4.1 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.

5.1.4.2 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.

5.1.4.3 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.

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

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

#### 5.1.5 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.

#### 5.1.6 Additional Regulations for Housing for the Elderly in an RO - One Family Residence District

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

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

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

5.1.7 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 created 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 of process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

#### 5.1.8 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.

#### 5.1.9 Development Incentive for Affordable Housing

5.1.9.1 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.

5.1.9.2 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.

5.1.9.3 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.

5.1.9.4 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.

#### 5.1.10 Floor Area Ratio Incentive

An owner or owners of land in the IG or IH 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:

- . 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.

#### 5.1.11 Additional Regulations in the Continuing Care (RC) District

5.1.11.1 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.

#### 5.1.11.2 Non-residential 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.

5.1.11.3 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.

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

5.1.11.5 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 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.

#### 5.1.12 Additional Regulations for Adult Entertainment Uses

5.1.12.1 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.

5.1.12.2 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.

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

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.

5.1.12.4 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.

5.1.12.5 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 5.2.0 DENSITY REGULATION SCHEDULE

Corrected Copy 1/95  
Min. Lot RG 12/98

	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR
Minimum Lot Area	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*	15 ft*	15 ft*	15 ft*	25 ft*	50 ft*	100 ft
Minimum Side Yard	15 ft	50 ft	25 ft	10 ft*	15 ft*	15 ft*	15 ft*	15 ft*	50 ft*	100 ft
Minimum Rear Yard	15 ft	50 ft	25 ft	10 ft*	15 ft*	15 ft*	15 ft*	15 ft*	50 ft*	100 ft
Minimum Yard Adjoining RO & RG, and Residentially Zoned Land in Contiguous Municipalities	None	50 ft	50 ft	20% depth of lot **	20% depth of lot **	20% depth of lot**	20% depth of lot**	20% depth of lot**	100 ft	20% depth of lot **
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	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft**** 80 ft****	30 ft*** 155 ft***	30 ft**** 80 ft****
Minimum Feet Between Buildings	None	50 ft	20 ft <sup>1</sup>	None	None	None	None	None	50 ft	None
Maximum Floor Area Ratio (FAR)	None	None	None	None	None	None	None	(1) (2) .15	(1) (2) .15	None

<sup>1</sup> but not less than required by the State Building Code

(1) 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 5.1.10 of Article V.

(2) 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.

See notes for Density Regulation Table immediately following.

A TRUE COPY ATTEST:

*Amy E. Warfield*  
TOWN CLERK  
BURLINGTON, MASSACHUSETTS

# SECTION 5.2.0 DENSITY REGULATION SCHEDULE

	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR
Minimum Lot Area	20,000 sf	20,000 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*	15 ft*	15 ft*	15 ft*	25 ft*	50 ft*	100 ft
Minimum Side Yard	15 ft	50 ft	25 ft	10 ft*	15 ft*	15 ft*	15 ft*	15 ft*	50 ft*	100 ft
Minimum Rear Yard	15 ft	50 ft	25 ft	10 ft*	15 ft*	15 ft*	15 ft*	15 ft*	50 ft*	100 ft
Minimum Yard Adjoining RO & RG, and Residentially Zoned Land in Contiguous Municipalities	None	50 ft	50 ft	20% depth of lot **	20% depth of lot **	20% depth of lot**	20% depth of lot**	20% depth of lot**	100 ft	20% depth of lot **
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	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft**** 80 ft*****	30 ft*** 155 ft***	30 ft***** 80 ft*****
Minimum Feet Between Buildings	None	50 ft	20 ft <sup>1</sup>	None	None	None	None	None	50 ft	None
Maximum Floor Area Ratio (FAR)	None	None	None	None	None	None	None	(1) (2) .15	(1) (2) .15	None

<sup>1</sup> but not less than required by the State Building Code

(1) 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 5.1.10 of Article V.

(2) 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.

See notes for Density Regulation Table immediately following.

## NOTES FOR DENSITY REGULATION TABLE

\* 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 fire fighting purposes.

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\*\* 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 remaining 25%.

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\*\*\* 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 155 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.

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\*\*\*\* Same as IH except maximum equals 80 feet.

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\*\*\*\*\* 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.

SECTION 5.3.0 SEPARATE LOT PROTECTION

5.3.1 A Lot Zoned for Single Family Use shall be protected from increased requirements for area, frontage, front, side and rear yards as provided for in Section 9.4.6 of this Bylaw, in addition to protections that may also exist under the provisions of State Law.

5.3.2 A Lot Zoned for Multi-Family and Commercial Use that does not conform to minimum lot area and frontage requirements shall be considered a buildable, but legal nonconforming lot, provided the following provisions are met:

- (a) The lot was legally created.
- (b) The lot met the frontage and area requirements of the Burlington Zoning Bylaw at the time the lot was created.
- (c) The lot has not been held in common ownership with any adjoining lot at or since the time of first public notice for the Planning Board public hearing for the amendment which increased the frontage and area requirements beyond what the lot has.
- (d) The lot is at least 5,000 square feet in area and has at least 50 feet of frontage.

5.3.3 Development of a Lot Protected Under Section 5.3.2 shall be required to conform to all other provisions of the Zoning Bylaws other than frontage and area.

(Adopted 6-8-87)

**ARTICLE VI**  
**GENERAL REGULATIONS**

**SECTION 6.1.0 NONCONFORMANCE**

**6.1.1 Nonconforming Uses**

Any building or structure, part of a building or structure, or any premises which at the time of the adoption or subsequent amendment of the Bylaw is under construction for or being put to a nonconforming use may continue to be used or may be completed and used for the same purpose; but no nonconforming use shall be changed, moved, or extended unless the use is changed to any of those authorized in which the building, structure or premises is located; except that a nonconforming use may be extended, altered or changed if there is a finding by the Planning Board that such extension, alteration or change will not be substantially more detrimental than the existing nonconforming use to the neighborhood.

**6.1.2 Nonconforming Building, Structure or Premises**

Any building or structure, part of a building or structure, or any premises which at the time of the adoption or subsequent amendment of this Bylaw exists or is under construction and does not conform to this Bylaw may continue to be used or may be completed and used for the same purpose, but shall not be structurally changed, enlarged or extended; except that such a building, structure or premises may be altered by order of the Inspector of Buildings for reasons of safety; and except that a nonconforming building, structure or premises may be extended, altered or changed if there is a finding by the Planning Board that such extension, alteration or change will not be substantially more detrimental than the existing nonconforming building, structure or premises to the neighborhood.

**6.1.3 Reversion to Nonconforming Use**

When for two (2) years a nonconforming use has been changed to a permitted use, or has been discontinued, it shall not revert to a nonconforming use.

**6.1.4 Damage to Nonconforming Buildings, Structures or Premises**

When a nonconforming building, structure or premises has been damaged to an extent greater than fifty (50) per cent of the physical value as estimated by the Inspector of Buildings, it shall not be reconstructed unless the building, structure or premises and its uses are made to conform to the use and density regulations of the district in which they are located.

**SECTION 6.2.0 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.

#### SECTION 6.3.0 ACCESS THROUGH OTHER DISTRICTS

No access to or egress from BN, BL, BG, BT, IH, IR, and IG districts shall be permitted in or through RO and RG districts or in or through residentially zoned land in a contiguous municipality except over public ways, and private ways in use as public ways on January 31, 1977.

#### SECTION 6.4.0 SCREENING

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.

#### SECTION 6.5.0 LANDSCAPING

Landscaping, in accordance with an approved site plan, shall be provided, erected and maintained on any part of any BN, BL, BG, BT, IH, 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.

#### SECTION 6.6.0 LOT INTERPRETATION AND RESTRICTIONS

##### 6.6.1 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 8.3.5.5, "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 8.3.5.5.

(Amended 6-2-86)

(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 6.6.1(c).

#### 6.6.2 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 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 taken by eminent domain or conveyed for a public purpose for which the land could have been or was taken by eminent domain shall not be deemed to be transferred in violation of the provisions hereof.

#### 6.6.3 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.

#### 6.6.4 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 6.6.1.

(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 6.6.4(a).

#### 6.6.5 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 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 (10%) percent 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 (10%) percent, 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.

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 (n-10.0), 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.

#### SECTION 6.7.0 SIGNS

For the purpose of this section, SIGN shall include any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to or indicates any premises, person or activity, whatever the nature of material and manner of composition or construction.

Signs are permitted as follows:

##### 6.7.1 One Family Dwelling Districts (RO)

6.7.1.1 A temporary sign advertising rental, lease or sale of the premises which shall be six (6) sq. ft. or less.

6.7.1.2 A sign stating the home occupation or profession of a resident, which shall be one (1) sq. ft. or less.

##### 6.7.2 General Business Districts (BG), Neighborhood Business Districts (BN), Limited Business Districts (BL), Continuous Traffic Business Districts (BT)

6.7.2.1 A temporary sign advertising rental, lease or sale of the premises which shall be six (6) sq. ft. or less.

6.7.2.2 Wall Signs:

6.7.2.2.1 One wall sign shall be permitted for each business side of a building and direct entrance into a store.

6.7.2.2.2 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.

6.7.2.2.3 A wall sign shall be four feet or less in height.

6.7.2.2.4 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.

6.7.2.2.5 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.

6.7.2.3 Projecting Signs:

6.7.2.3.1 One sign shall be permitted for each business.

6.7.2.3.2 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.

6.7.2.4 Marquee Signs:

6.7.2.4.1 Signs shall only be attached to the sides or front of a marquee and shall be seven (7) ft. or more above the ground.

6.7.2.4.2 The sign shall be six (6) sq. ft. or less. An individual letter sign shall be two (2) ft. or less in height.

6.7.2.5 Free Standing Signs:

6.7.2.5.1 No free standing signs shall be permitted except temporary signs which shall be 10 ft. or more from any property line.

6.7.2.5.2 A temporary sign erected during construction of a building shall be 48 sq. ft. or less and 10 ft. or less in any dimension.

6.7.3 Retail Industrial (IR), General Industrial (IG), and High-Rise Industrial Districts (IH)

6.7.3.1 A temporary sign advertising rental, sale or lease of premises not exceeding 24 sq. ft.

6.7.3.2 Wall Signs:

6.7.3.2.1 Wall signs shall be the same as for business zones except that signs shall be six (6) feet or less in height.

#### 6.7.3.3 Roof Signs

6.7.3.3.1 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.

6.7.3.3.2 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.

6.7.3.4 Projecting Signs - Same as Business Districts.

6.7.3.5 Marquee Signs - Same as Business Districts.

6.7.3.6 Free Standing Signs:

6.7.3.6.1 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.

6.7.3.6.2 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.

6.7.3.6.3 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.

6.7.3.6.4 Size and location of traffic control signs to be approved by the Inspector of Buildings when building permit is issued.

#### 6.7.4 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.

#### SECTION 6.8.0 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 and constructed with curbing slopes and similar design features so that water falling on such areas will be directed into an approved system of drainage structures and pipes.

**ARTICLE VII**  
**PARKING AND LOADING REGULATIONS**

**SECTION 7.1.0 GENERAL REQUIREMENTS AND PURPOSE**

Off-street parking and loading spaces in the amounts and sizes specified under the provisions of this Article shall be provided for all uses and buildings. Such spaces may be located on another lot within two-hundred (200) feet of the lot which they serve with the approval of the Planning Board.

7.1.0.1 The purpose of this Article is to require the minimum amount of parking spaces needed to adequately serve all land uses and properties through the accomplishment of the following objectives:

7.1.0.1.1 To prevent the creation of surplus amounts of parking spaces which contribute to additional Single Occupancy Vehicle (SOV) trips being generated, resulting in traffic congestion and traffic service level deterioration on roadways;

7.1.0.1.2 To encourage use of Transportation Systems Management (TSM) and Transportation Demand Management (TDM) strategies, and to provide a basis for the development of Transportation Management Plans (TMP) to reduce new Single Occupancy Vehicle (SOV) trips within the Town, particularly during peak hour periods;

7.1.0.1.3 To increase use of public transportation opportunities and High Occupancy Vehicles (HOV) such as buses, carpools, and vans;

7.1.0.1.4 To reduce unnecessary amounts of impervious surface areas from being created within the Town, and particularly within the Aquifer and Water Resource Districts; and

7.1.0.1.5 To lessen congestion, to prevent the deterioration of air quality, and to reduce the need for expansions and alterations of existing roadways and related infrastructure which result from the growth of new Single Occupancy Vehicle (SOV) trips within the Town.

**7.1.1 Parking Space and Aisle Dimensions.**

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

7.1.1.1 Standard car space: nine (9) feet by eighteen (18) feet.

7.1.1.2 Compact car space: eight (8) feet by fifteen (15) feet.

7.1.1.3 Retail use car space: nine (9) feet by eighteen (18) feet or width to be determined by the Planning Board.

7.1.1.4 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.

7.1.1.5 Aisles: width to be approved by the Planning Board in accordance with accepted engineering practices.

#### 7.1.2 Loading Spaces

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.

#### 7.1.3 Handicapped Parking Space Requirements

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.

### SECTION 7.2.0 MINIMUM AND MAXIMUM PARKING SPACE REQUIREMENTS FOR RESIDENTIAL AND EDUCATIONAL USES

The minimum and maximum parking space requirements and ratios specified in Section 7.2.1 through 7.2.6 shall apply unless the Planning Board approves an alternative requirement.

#### 7.2.1 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.

#### 7.2.2 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.

#### 7.2.3 Multi-Family 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 Dormitories

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

#### 7.2.5 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 7.3.3 for "Places of Assembly", and parking space requirements and ratios of Section 7.3.11 "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 7.3.3 for "Places of Assembly", and parking space requirements and ratios of Section 7.3.11 "Office

Uses", shall apply.

#### 7.2.6 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.

#### 7.2.7 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."

#### 7.2.8 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."

### SECTION 7.3.0 MINIMUM AND MAXIMUM PARKING 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 7.3.1 through 7.3.11, or in accordance with Section 7.3.12.

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 7.3.1 through 7.3.11, or in accordance with Section 7.3.12, 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 8.3.5.5 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 7.3.1 through 7.3.10 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 7.3.1 through 7.3.10 by more than ten percent (10%), a Special Permit must be

granted by the Planning Board pursuant to Section 7.4.0 of this bylaw.

The maximum parking space requirement and ratio specified in Section 7.3.11 may not be increased unless a Special Permit is granted by the Planning Board pursuant to Section 7.4.0 of this bylaw.

7.3.1 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.

7.3.2 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 7.3.3 "Places of Assembly" and/or Section 7.3.10 "Eating Establishments", shall apply.

7.3.3 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.

7.3.4 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 in-patient treatment area, and five (5) parking spaces for every one thousand (1,000) square feet of out-patient treatment Net Floor Area.

7.3.5 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.

7.3.6 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.

7.3.7 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.

7.3.8 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.

#### 7.3.9 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.

#### 7.3.10 Eating Establishments

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

#### 7.3.11 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.

#### 7.3.12 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 7.2.1 through 7.2.6, and 7.3.1 through 7.3.11, the Planning Board shall determine the maximum and minimum parking space ratio and requirement based on the character of use proposed.

### **SECTION 7.4.0 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 7.3.1 through 7.3.10 by more than ten percent (10%), and to increase the maximum parking space requirement and ratio specified in Section 7.3.11, 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:

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.

### **SECTION 7.5.0 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 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, and shall be subject to the provisions of Article IX, Section 9.2.0.

**ARTICLE VIII**  
**SPECIAL 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 areas designated A, AO and A1 through A30 on maps entitled, "Flood Insurance Rate Maps (FIRM), Town of Burlington, Mass.," dated July 5, 1984, Community Panel Numbers 250185-0001B through -0004B, prepared by the Federal Emergency Management Agency. The boundaries of the Floodway within the FP District are the floodway boundaries as delineated on the "Flood Boundary and Floodway Maps, Town of Burlington, Mass.," dated July 5, 1984, Community Panel Numbers 250185-0001B through -0003B, prepared by the Federal Emergency Management Agency. These two sets of maps dated July 5, 1984 and the publication entitled, "Burlington Flood Insurance Study" dated January 5, 1984 and published by the Federal Emergency Management Agency are on file with the Burlington Town Clerk and the Planning Board and are incorporated into this section by reference.

**8.1.3 Definitions**

1. For the purposes of this section, development shall include new construction, substantial improvements to an existing building or an increase in the footprint of a nonresidential building.
2. For the purposes of this section, 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 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.
3. For the purposes of this section, base flood elevation is the height of the flood waters resulting from a flood having a one percent chance of being equalled or exceeded in any given year, which is also known as a 100-year flood.
4. For the purposes of this section, residential shall include one and two family dwellings and multi-family apartment buildings.

5. For the purpose of this section, 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).

6. For the purpose of this section, 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 flood plains 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.

#### 8.1.4 Permitted Land Uses

The FP District is established as an overlay district. Uses which are permitted or approved in accordance with the provisions of the underlying zoning district are allowed in the FP District provided that such uses meet the additional requirements of this section as well as those of the Massachusetts State Building Code dealing with construction in flood plains.

#### 8.1.5 Requirements for Development within the Floodway

Within the floodway portion of the FP District, as delineated on the Flood Boundary and Floodway Maps, 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.

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 residential buildings, including manufactured homes, the lowest floor, including the basement of all development within the Flood Plain District, shall be elevated to or above the base flood elevation, as shown on the FIRM maps.

2. For nonresidential buildings, all development shall either have the lowest floor including the basement elevated to or above the base flood elevation, or shall be designed so that below the base flood elevation the building, together with attendant utility and sanitary facilities, is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base

flood, and a record of such certificates shall be maintained by the Inspector of Buildings.

3. 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.

4. For all development, including manufactured homes and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

- A record of such certification and/or compliance shall be maintained by the Inspector of Buildings.

5. 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.

6. 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.

7. 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.
2. Base flood elevation for the property. Data from the FIRM maps must be used, if they provide data for the subject property.
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."

### 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.

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,

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. 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.

#### 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 this Zoning Bylaw. All regulations of the Zoning Bylaw 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

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

8.3.4.2 Groundwater: All water found beneath the surface of the ground.

8.3.4.3 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.

**8.3.4.4 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.

**8.3.4.4.1 Very Small Quantity Generator of Hazardous Waste (VSOG):** 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 non-acutely 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.

**8.3.4.5 Impervious Surfaces:** Materials or structures on or above the ground which do not allow precipitation to infiltrate the underlying soil.

**8.3.4.6 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 92-01, 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.

**8.3.4.7 Leachable Wastes:** Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

**8.3.4.8 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.

**8.3.4.9 Trucking Terminal:** A business which services or repairs commercial trucks.

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

8.3.4.11 Zone I: The protective radius required around a public water supply well or wellfield.

8.3.4.12 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).

8.3.4.13 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.

#### 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.

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 r

structure;

2. emergency generators required by statute, rule 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 areas 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:

- (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-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 by-products, shall be disposed of off-site 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 Calcium chloride for ice control shall be use 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 run-off or leachate, 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 run-off 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 run-off 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 the Metropolitan District Commission (MDC) 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 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 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 of 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 and constructed with curbing, slopes, and similar design features 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 drainage structures and pipes. Such drainage system 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. The outlet from such 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 Non-Conforming Uses

Non-conforming 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 amendment, may be continued. In addition, such non-conforming 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, an increase in the volume or amount of hazardous material(s) or waste(s) involved in the use, or a change in the substance(s) that constitute the hazardous material(s) or waste(s).

#### SECTION 8.4.0 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:

#### 8.4.1 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 bylaw through a greater flexibility in design; and to allow more efficient provision of municipal services.

#### 8.4.2 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.
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.

(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 bylaw 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.

#### **8.4.3 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.

#### **8.4.4 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 8.4.8. Dimensional Requirements -- Open Space Residential (see page 8-18).

(d) Every two family or multi-family 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 8.4.8 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 multi-family units, and 120 feet for multi-family 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.

(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.

#### 8.4.5 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 useable 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, S131-33, 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 insuring 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.

#### 8.4.6 Further Requirements

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

(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.

#### 8.4.7 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 unit of 2.2 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 2.2 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 with the bonus shall be 4 units per acre.)

(Note B: The Planning Board may grant less than the maximum bonus provision for affordable housing if there are only 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.

TABLE 8.4.8.

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 multi-family
Minimum distance between individual buildings	30 feet
Maximum distance between buildings	100 feet (unless otherwise groups of permitted by the Planning Board)
Minimum percent of open space	40% (Note: 10% of this 40% must be useable 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 multi-family units  120 feet for developments with multi-family units adjacent to an RO District
Maximum base density without bonus per acre	2.2 units

**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 permit is refused, the reasons therefor 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 (\$300) dollars for each offense. Each day that such violation continues shall constitute a separate offense. However, when enforced by way of the non-criminal 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 therefor, 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 to the Town Clerk, together with a filing fee as specified in Section 9.2.2.3, and twelve (12) copies of a Site Plan and/or other supporting documentation. The Town Clerk shall within three (3) days transmit the original application and four (4) copies of the plan and any supporting documentation to the Planning Board; and one (1) copy each of the application, plan, and supporting documentation to the Inspector of Buildings, the Board of Selectmen, the DPW, the Town Engineer, the Board of Health, the Conservation Commission, the Fire Chief, and the Police Chief, who 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 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 require that a site plan and/or supporting documents be submitted with the application.

#### 9.2.2.3 Special Permit Fees

Where Special Permits are required for uses pursuant to this Bylaw, filing fees shall be as shown in the table below:

<u>Section</u>	<u>Uses</u>	<u>Application Fee</u>
4.2.1	Residence uses.	\$100.00
	Except for the following specific uses:	
4.2.1.3	Motels, hotels, motor hotel.	\$750.00
4.2.2	Institutional and Recreational Uses.	\$300.00
	Except for the following specific uses:	
4.2.2.16	Billiard rooms, bowling alleys, dance halls, tennis clubs, ...	\$500.00
4.2.2.19	Hospitals, sanatoria.	\$750.00
4.2.2.20	Convalescent, rest homes, and nursing homes.	\$750.00
4.2.2.21	Clinics.	\$750.00
4.2.2.25	Theaters and cinemas.	\$750.00
4.2.3	Agricultural & Animal Husbandry Uses.	
4.2.3.4	Commercial raising, boarding, breeding or keeping of ... animals.	\$500.00

4.2.3.5	Manure storage.	\$500.00
4.2.3.6	Pesticide herbicide fungicide application, outdoor storage.	\$500.00
4.2.4	Office Uses (in the BN District.)	\$300.00
4.2.5	Automotive Sales and Service Uses.	\$750.00
	Except for the following specific uses:	
4.2.5.1	Retail gasoline ...	\$1,200.00
4.2.5.2	Automotive repair shops.	\$1,000.00
4.2.6	Retail, Consumer and Trade Uses.	\$500.00
	Except for the following specific uses:	
4.2.6.9	Fast order food establishments.	\$1,000.00
4.2.6.10	Restaurants.	\$1,000.00
4.2.6.16	Funeral parlors ...	\$750.00
4.2.6.17	Diagnostic medical labs ...	\$750.00
4.2.7	Industrial Uses.	\$500.00
	Except for the following specific uses:	
4.2.7.9	Hazardous and toxic materials/chemicals use, storage, transport, disposal or discharge.	\$1,200.00
4.2.7.11	Hazardous Waste Generation <VSQG	\$1,000.00
4.2.7.12	Hazardous Waste Generation >VSQG	\$1,000.00
4.3.1	Uses Normally Accessory to Residential Principal Uses.	\$100.00
4.3.2	Uses Normally Accessory to Nonresidential Principal Uses.	\$300.00
	Except for the following specific uses:	
4.3.2.2	Retail uses such as cafeterias,...	\$750.00
4.3.2.3	Retail uses in support of a hotel...	\$750.00
4.3.2.4	Delicatessens, lunch counters, ...	\$750.00
4.3.2.9	Parking garages ...	\$1,000.00
4.3.2.15	Storage and disposal of oils and fuels/petroleum products.	\$1,200.00
4.3.2.16	Retail storage of hazardous materials	\$1,000.00
4.3.2.17	Offstreet outdoor overnight parking of freight-carrying or material-handling vehicles and equipment containing toxic and hazardous materials/chemicals.	\$1,200.00
4.4.1	Principal Uses in the Wetlands District.	\$300.00
8.4.0	Open Space Residential District.	\$500.00*
12.1.0	Planned Development District.	\$500.00*

\*plus any fees specified by the Planning Board in its Rules and Regulations.

#### 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 in Section 9.6 of this Article.

#### 9.2.4 Criteria for Approval

9.2.4.1 The Planning Board shall not approve any application for a special permit unless it finds that all the following conditions are met:

9.2.4.1.1 The specific site is an appropriate location for such a use.

9.2.4.1.2 The use as developed will not adversely affect the neighborhood.

9.2.4.1.3 There will be no nuisance or hazard to vehicles or pedestrians.

9.2.4.1.4 The public convenience and welfare will be substantially served.

9.2.4.2 The Planning Board, in granting a special permit, shall attach such conditions and safeguards as it deems necessary.

9.2.4.3 The Planning Board shall not approve a special permit for a Development Incentive for Affordable Housing (Section 5.1.9) unless it finds that all of the following conditions are met:

9.2.4.3.1 All conditions noted above in Sections 9.2.4.1 through 9.2.4.2.

9.2.4.3.2 All housing units are designed and sited to reflect the character of the neighborhood.

9.2.4.3.3 The site will not cause environmental degradation to the neighborhood.

#### 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.

#### 9.2.6 Implementation

An approved special permit application 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 thereafter, upon application therefor, 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

In all districts except RO and FH, no structure or premises shall be constructed, reconstructed, altered, or used except in conformity with a site plan, prepared by a registered architect, landscape architect, 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 Bylaw 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 approval of a site plan under this section shall submit twelve (12) copies of said plan to the Town Clerk (together with a filing fee as specified in the Planning Board Site Plan Rules and Regulations) who shall within three (3) days transmit two (2) copies to the Planning Board; and one (1) copy each to the Inspector of Buildings, the Board of Selectmen, the DPW, the Board of Health, the Conservation Commission, the Town Engineer, the Fire Department, and the Police Department who shall consider the plan and submit a report thereon with recommendations to the Planning Board. The Planning Board shall not make a finding and determination upon an application until it has received these recommendations 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 Section 9.6.0 of this Article.

### 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.

Final action shall consist of (a) approval of the site plan as submitted, or (b) 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 in Section 9.3.4 of this Article, or (c) 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 in Section 9.3.4 of this Article, 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.

#### 9.3.6 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 therefor, grant such extensions of time, each not longer than one (1) year, as it shall deem necessary to carry the site plan into effect.

### 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 a Zoning Bylaw 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 Bylaw 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 seventy-five (75) days after the date of the filing of an appeal or petition. 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 material 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 Community Affairs, the regional planning agency, and to the planning boards of all abutting municipalities. 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.

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 XI**  
**MORATORIUM ON USES REQUIRING SITE PLANS AND SPECIAL PERMITS**  
**[EXPIRED 7/13/88]**

**SECTION 11.1.0 MORATORIUM ON USES REQUIRING SITE PLANS AND SPECIAL PERMITS**

Notwithstanding anything contained in this Bylaw to the contrary, no use requiring a site plan, site plan waiver, or special permit shall be approved for one year from May 13, 1985 and this time period is further extended for fourteen months from May 13, 1986 to July 13, 1987 and further extended for one year from July 13, 1987 to July 13, 1988, WITH THE FOLLOWING EXCEPTIONS:

(Amended 6-8-87)

11.1.1 Special permit, site plan or site plan waiver applications properly filed with the Town on or before April 4, 1985, the date of the first notice of public hearing for the amendment to adopt this Article, shall be exempt from the moratorium.

11.1.2 Site plan or site plan waiver applications filed after April 4, 1985, the date of the first notice of public hearing for the amendment to adopt this Article, may be approved where the proposed improvements or the new construction does not result in more than an additional 7,500 square feet of floor area for any parcel. This exception shall include the demolition and reconstruction of existing buildings provided that the reconstruction shall not increase the floor area by more than 7,500 square feet.

Calculation of the 7,500 square feet shall include the floor area, as defined in Article II, "Definitions," Section 2.18, of all improvements or new construction shown on site plans approved after April 4, 1985, the date of the first notice of public hearing for the amendment to adopt this Article, to prevent the circumvention of the moratorium by sequential submissions. For the purposes of this section, a parcel shall include all contiguous lots in the same ownership.

11.1.3 Special permit applications filed after April 4, 1985, the date of the first notice of public hearing for the amendment to adopt this Article, may be approved only when filed in conjunction with a site plan or site plan waiver that does not result in more than an additional 7,500 square feet of floor area for any parcel as specified in Section 11.1.2.

**ARTICLE X**  
**MISCELLANEOUS**

**SECTION 10.1.0 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 Bylaw as remains enforceable or its enforcement in other circumstances.

**SECTION 10.2.0 OTHER LAWS**

Nothing herein contained shall be construed so as to repeal or nullify any existing Bylaw 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 Bylaw shall vary from such standards contained herein or in any other Bylaw or lawful regulation of the Town, the standards more strictly regulating such construction, use, occupancy, activity or purpose shall be applied.

**SECTION 10.3.0 DEFECT IN THE FORM OF NOTICES**

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

A TRUE COPY ATTEST:

*Amy E. Mansfield*

TOWN CLERK

BURLINGTON, MASSACHUSETTS

**ARTICLE XII**  
**SPECIAL ZONING DISTRICTS**

**SECTION 12.1.0 PLANNED DEVELOPMENT DISTRICT**

**12.1.1 Purposes**

The Planned Development (PD) District is intended:

To permit a developer to propose, and for the Town 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.

To permit considerable flexibility in the development of individual tracts of land by requiring few predetermined standards.

To permit the use of development standards tailored to a specific site and more detailed than those for the standard zoning districts.

To 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 conform to site development standards approved as part of the rezoning to PD District and intended to mitigate or compensate for the potential impacts.

**12.1.2 General Requirements**

No land shall be rezoned to PD District unless and until a Concept Plan as described in Section 12.1.4 has been submitted to Town Meeting and approved.

No use is permitted and no development may occur in a PD District except in conformity with the Concept Plan approved by the Town Meeting, the provisions of Section 12.1 and a Special Permit with Site Plan review pursuant to a PD District rezoning (hereinafter referred to as a "PD Special Permit") granted by the Planning Board.

The development and uses approved in a rezoning to PD District must be commenced by obtaining a PD Special Permit as required in Section 12.1.5 within two years. Until such time as the required PD Special Permit is granted and recorded by the property owner or if a PD Special Permit is not obtained within two years, the development of 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 PD District.

The PD District does not have any minimum lot size and there is no minimum lot area required to seek a rezoning to the PD District.

**12.1.3 Procedure for Rezoning to "PD" 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 PD 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.

Within 65 days of receiving the rezoning application and 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 PD District must receive a two-thirds vote at Town Meeting.

#### 12.1.4 Submission Requirements for a PD District Rezoning

The application for a PD District Rezoning shall include a Concept Plan and the required submission fee.

1. **Submission Fee:** The Planning Board shall specify submission fees for a PD District rezoning in its Rules and Regulations. In no case shall the fee be less than \$350. The required fee shall be submitted with the rezoning request and Concept Plan.

2. **Concept Plan Requirements:** A Concept Plan shall include the following:

(a) 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.

(b) A preliminary site construction plan showing in a general manner:

1. The 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. The location and dimensions of drives and parking areas.
6. The location and characteristics of any common open space or usable open space.
7. The proposed drainage system.
8. Proposed landscaping.
9. Building elevations.

(c) Uses to be permitted or allowed by special permit in the buildings, 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."

Other zoning provisions; this may be a narrative describing special regulations unique to the development and/or a cross reference to provisions of this Bylaw that will apply to the PD District.

(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 therefor) in behalf of the Town, or other development limitations such as aesthetic features.

(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 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.

(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 such as:
  - 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-foot 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 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.

(h) 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.

(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 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;
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;
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.

#### 12.1.5 PD Special Permit Requirements

Development pursuant to a PD District rezoning is subject to the approval of PD Special Permit as outlined in this subsection.

Application for a PD Special Permit under this section shall be made to the Town Clerk by submitting nine (9) copies of all submission material and paying the required application fee. Circulation of the PD Special Permit application to Town departments shall be as outlined in Subsection 9.2.2.1.

The application for a PD Special Permit under this section shall include a Site Development and Use Plan as described in this section together with the required submission fee.

1. Submission Fee: The Planning Board shall specify a submission fee for a PD Special Permit in its Rules and Regulations and in no case shall the fee be less than \$350.00.
2. Site Development and Use Plan Requirements: The Site Development and Use Plan shall include all of the material and information contained in the Concept Plan with the following modifications and additions:
  - (a) All 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 proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common open space.

(e) A traffic analysis including proposed mitigating measures, if any, to maintain an acceptable traffic level of service.

(f) Preliminary drafts of any deed, easement, offer or agreement to carry out any special condition.

(g) Such other information as the Planning Board may specify in its Rules and Regulations from time to time for special permits pursuant to a PD District rezoning.

#### 12.1.6 Public Hearing

The Public Hearing shall be held in accordance with the provisions of Section 9.6.0.

#### 12.1.7 Criteria for Approval

The Planning Board shall approve the PD Special Permit if the Board finds that all the following conditions are met:

1. The Site Development and Use Plan is substantially in conformance with the Concept Plan approved by Town Meeting. 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 minimum setbacks, maximum building height, maximum total square feet of development, or uses.

2. The Concept Plan 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 included in the Concept Plan have been submitted by the developer.

4. Any land designated as common open space on the Concept Plan shall 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 30% 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.

The Planning Board in granting a PD 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 Town Meeting.

The Planning Board may deny an application for PD Special Permit and base its denial on the finding that the development proposed in the Site Development and Use Plan did not meet one or more of the four criteria for approval.

#### 12.1.8 Changes in a Site Development and Use Plan

Changes in uses or substantial changes in the site development from that shown on the Site Development and Use Plan referenced in the PD Special Permit are not permitted without the approval by Town Meeting of a new Concept Plan in accordance with the procedures outlined in Section 12.1.3 followed by the issuance by the Planning Board of a new PD Special Permit based on the new plan.

12.1.9 Use Allowed by Special Permit in the PD District

Application for a special permit for a particular use within a PD District shall be made concurrent with a PD Special Permit or subsequent to its approval. The approval criteria for the special permit for a particular use shall be those set out in Section 9.2.0.

**ARTICLE XIII**  
**TWO FAMILY UNITS IN THE R2 DISTRICT**

**SECTION 13.1.0 RESIDENTIAL 2 (R2) DISTRICT**

**13.1.1 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, S20-23.

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.

**13.1.2 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 Bylaw.
2. Places primarily used for religious purposes, including rectories and parish houses as described in Section 4.2.2.1 of the Zoning Bylaw.
3. Public parks as described in Section 4.2.2.8 of the Zoning Bylaw.

**13.1.3 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.

#### 13.1.4 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.

#### 13.1.5 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 vote at Town Meeting.

#### 13.1.6 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.

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) in 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:  
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 foot 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 right, 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;

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.

#### 13.1.7 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.
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.

#### 13.1.8 Public Hearing

The Public Hearing shall be held in accordance with the provisions of Section 9.6.0.

#### 13.1.9 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.

#### 13.1.10 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.

**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 Bylaw.

**MINIMUM REQUIREMENTS**

District	Lot Area	Frontage	Y Front	A Side	R Side	D Side	S Rear
<b>RO - One Family Dwelling Districts</b>							
Prior to 11/13/43 for any Residence Zone lots of record at that time.	5,000 s.f.	50'	any	any	any		
On or after 11/13/43 and prior to 8/18/55 for Residence A Zone lots of record at that time.	10,000 s.f.	60'	25'	15'		30'	
On or after 11/13/43 and prior to 1/31/77 for Residence B Zone lots of record at that time.	20,000 s.f.	100'	25'	15'		30'	
On or after 8/18/55 and prior to 1/31/77 for Residence A Zone lots of record at that time.	20,000 s.f.	100'	25'	15'		30'	
<b>BG - General Business Districts</b>							
Prior to 11/13/43 for Business Zone lots of record at that time.	5,000 s.f.	50'	any	any			any
On or after 11/13/43 and prior to 1/41/77 for Business Zone lots of record at that time.	5,000 s.f.	50'	10'	10'		10'	
							(See Note 1)

Note 1: See single asterisk note following the Density Regulation Table, Section 5.2.0.

**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 Procedure-Special 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 Article 17 & 19 at the Adjourned (First) Town Meeting 1/12/83 (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 100-Year 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. Gen. 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, "Lot-Slope 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, "(100-Year 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, "Two-Family 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 "offstreet 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 Educations 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.

A TRUE COPY ATTEST:

*Amy E. Warfield*

TOWN CLERK  
BURLINGTON, MASSACHUSETTS

**SECTION 6: NORDBLOM COMMITMENT LETTER  
REGARDING KENT COTTAGE REZONING  
MAY, 2021**



May 10, 2021

Barbara L'Heureux, Chairman  
Planning Board  
Town of Burlington  
25 Center Street  
Burlington, MA 01803

RE: May 2021 Annual Town Meeting – Network Drive at Northwest Park  
225 Middlesex Turnpike - Kent Cottage Rezoning Petition

Dear Barbara:

We have prepared this letter to memorialize the commitments that Nordblom Company and its related entities (hereinafter, collectively, the “Applicant”) is willing to make to the Town of Burlington with respect to its pending zoning petition (the “Zoning Amendment”) being submitted to the upcoming May 2021 Annual Town Meeting for consideration. The Applicant would commit to the following which the Applicant would have no objection to (and would not challenge) having as conditions in any PD Special Permit governing the development authorized by the Zoning Amendment should the Zoning Amendment be approved by Town Meeting and the Massachusetts Attorney General. These commitments are:

- The Kent Cottage will not be demolished but will be restored to include residential units. A restrictive covenant or deed restriction will be prepared prior to the issuance of a building permit prohibiting the voluntary demolition of the Kent Cottage. The restriction shall be in form and substance satisfactory to the Town.
- The units will be for-sale.
- Prior to the issuance of a Building Permit, the Applicant shall make a \$50,000 contribution to the Town for the development of affordable housing.

We hope that setting forth these conditions and agreeing that they be part of any permit for development of the housing alleviates any concern you may have with respect to the Applicant's commitment.

Very truly yours,

Todd Fremont-Smith  
SVP, Development