ZONING BY-LAWS
OF THE
TOWN OF BILLERICA

THESE BY-LAWS WERE REWRITTEN BY COMMITTEE APPOINTED UNDER SECTION 7-9-B OF THE 1979 CHARTER AS REVISED IN 1997.

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SECTION 1 ENACTMENT, PURPOSE, AND OBJECTIVES

A. ENACTMENT

The Billerica Zoning By-law is enacted in accordance with M.G.L., ch. 40A, as amended, and the Home Rule Amendment, Article 89 of the Amendments to the Massachusetts Constitution.

B. PURPOSE

The purpose of the Billerica Zoning By-law is to promote the public health, convenience, safety, and welfare of the inhabitants of the Town of Billerica.

C. OBJECTIVES

The objectives of the Billerica Zoning By-law are:

1. To lessen congestion in the streets;
2. To conserve health;
3. To secure safety from fire, flood, panic, and other dangers;
4. To provide adequate light and air;
5. To prevent overcrowding of land;
6. To avoid undue concentration of population;
7. To encourage housing for persons of all income levels;
8. To conserve the value of land, buildings and structures;
9. To conserve natural resources;
10. To prevent blight;
11. To prevent pollution of the environment;
12. To encourage the most appropriate use of land throughout the Town
13. To preserve and increase amenities;
14. To preserve and enhance the development of the natural, scenic and aesthetic qualities of the community;
15. To consider recommendations of the Town's master plan, comprehensive plan, strategic plan and the like, if any;
16. To prevent obnoxious, hazardous or injurious uses to the neighborhood or to property; and
17. To facilitate the adequate provision of:
    a. Transportation
    b. Water supply
    c. Drainage
    d. Sewage disposal
    e. Schools
    f. Parks
    g. Open space
    h. Other public requirements

SECTION 2 DEFINITIONS

A. PURPOSE OF DEFINITIONS
The words and phrases that follow shall have the meanings as provided when used throughout this Zoning By-law.

B. RULES OF INTERPRETATION
1. The word "shall" is mandatory; the word "may" is permissive.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. Any ambiguities shall be resolved by giving words and phrases their plain meaning in the context in which the words or phrases are used.

C. DEFINITIONS
The words and phrases used in this Zoning By-law shall have the following meanings:

- ABOVE-GROUND UTIILITY: Structures for communications or other public utility uses that are not underground.

- ACCESSORY BUILDING, STRUCTURE, OR USE: A building, structure, or use that is subordinate to a principal building, structure, or use. An accessory building, structure, or use shall be customarily incidental to, serve the purposes of, and be located on the same lot as the primary building, structure, or use.

- ACCESSORY RESIDENTIAL BUILDING, STRUCTURE OR USE: Any building, structure or use customarily incidental to the principal residential use, such as a private garage; carport; playhouse; private greenhouse; tool shed; tennis court; storage of one recreational trailer, home utility trailer, boat, and snowmobile; or swimming pool.

- ACCESSORY NON-RESIDENTIAL BUILDING, STRUCTURE OR USE: Any building, structure or use customarily incidental to the principal non-residential use, such as a shed or mechanical storage building.

- ADULT DAY CARE: Daytime services, such as skilled care and supervision, group activities, provision of meals, transportation, trips, and light exercise, provided to elderly adults and the physically challenged who require assistance with daily needs of living.

- ADULT ENTERTAINMENT ESTABLISHMENTS:
Adult entertainment establishments shall include:
  - Adult Bookstore: An establishment having a substantial or significant portion (more than 20%) of its business activity, stock in trade, printed matter, books, magazines, picture periodicals, motion picture films, video cassettes or any other media, or coin operated motion picture machines for sale, barter, or rental which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Sexual Conduct" as that term is defined in M.G.L., ch. 272, § 31, as amended; or an establishment having for sale sexual devices which shall mean any device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, or anal area, or an establishment with a segment or section devoted to the sale or display of such materials.
  - Adult Live Entertainment Establishments: Establishments which feature live entertainment which consists of entertainers engaging in "Sexual Conduct" or "Nudity" as defined in M.G.L., ch. 272, § 31, as amended.

  - Adult Motion Picture Theater: An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Sexual Conduct" as defined in M.G.L., ch. 272, § 31, as amended, for observation by patrons therein.

Adult Mini Motion Picture Theater:
An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing, or relating to "Sexual Conduct" as defined in M.G.L., ch. 272, § 31, as amended, for observation by patrons therein.

- AFFORDABLE HOUSING UNIT: A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of the Lowell SMSA median income as reported by the U.S. Department of Housing and Urban Development and for which the town obtains credit with the Commonwealth as affordable housing as required under M.G.L., ch. 40B, §§ 20-23 inclusive ("The Comprehensive Permit Law").

- AFFORDABLE HOUSING UNIT PURCHASER OR TENANT: An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD) and consistent with M.G.L., ch. 40B, §§ 20-23 inclusive ("The Comprehensive Permit Law").

- ALCOHOL AND DRUG REHABILITATION HOSPITAL: Any free-standing building or structure used to house patients for treatment of alcoholism, drug addiction, or both, that shall be staffed full time by doctor(s), nurse(s), and security personnel.

- ALTERATION: A change or modification of a building or structure, or the service equipment thereof, that affects safety or health and that is not classified as an ordinary repair under the Building Code.

- AREA, LOT: Square footage within a lot.

- ASSISTED LIVING RESIDENCE: A residential development subject to certification by the Executive Office of Elder Affairs under M.G.L., ch. 19D, as amended, and defined as an entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:
  - Provides room and board;
  - Provides assistance with activities of daily living and personal care services for three or more non-related residents; and
  - Collects payments or third party reimbursements from or on behalf of residents to pay for the provision of assistance.

- AUTOMOBILE: A two-axle motor vehicle with a ten thousand pound gross vehicle weight maximum and a maximum one hundred thirty-five inch wheel base.

- AUTOMOBILE REPAIR: The repair of motor vehicles, including auto body work and paint spraying.

- AUTOMOBILE SERVICE: The sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances including any sale of motor vehicle accessories, and which may or may not include lubricating, washing, or otherwise servicing motor vehicles, but not including auto body work or paint spraying.

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

- BILLBOARD: Any sign not an accessory sign, regardless of size.

- BUFFER ZONE: A portion of land to be retained in a natural state, excluding those areas where access is necessary and must cross through the buffer zone.

- BUILDABLE LOT: A vacant lot on which a building can be erected under this Zoning By-law, including an undersized lot that is buildable in accordance with M.G.L., ch. 40A, § 6.

- BUILDING: A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed having a roof, which may include an awning or similar covering, to form a structure for the shelter of persons, animals, or property.

- BUILDING PERIMETER: A continuous line on the ground around a building that is perpendicular to the furthest roof extension.

- CAMPING VEHICLE: A registered self-propelled motor home or recreational vehicle that must be towed by another vehicle used as a mobile camping facility.

- CANOPY: A free standing roof structure or a building extension roof structure with one or more side walls omitted.

- CERTIFICATE OF USE AND OCCUPANCY: The certificate issued by the Inspector of Buildings that permits the use of a building in accordance with the approved plans and specifications, which certifies compliance with zoning for the use and occupancy of the building in its several parts together with any conditions or limitations of the use and occupancy of such building.

- CHANGE OF USE: An alteration by change of a use in a building heretofore existing to a new use.

- CHILD DAY CARE CENTER: Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name which receives children under seven years of age or under 16 years of age if such children have special needs for non-residential custody and care during part or all of the day separated from their parents. Child day care centers shall not include any part of a public school system; any part of a private, organized educational system unless the services of such a system are primarily limited to a kindergarten, nursery, or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home, as defined by M.G.L., ch. 28A, § 9; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

- COMMERCIAL VEHICLE, LIGHT: Any vehicle under 10,000 gross vehicle weight, not including equipment for landscaping and/or construction, which is used in construction.

- COMMERCIAL VEHICLE, HEAVY: Any vehicle over 10,000 gross vehicle weight, including equipment for landscaping and/or construction, which is used in construction.

- CONSERVATION: Includes wildlife management, boating, fishing, and hunting.

- CONTRACTOR'S YARD: Land that is used for the storage of construction equipment, materials, and supplies and for the parking of commercial vehicles.

- DISTRICT: An area or areas of the Town designated for buildings, structures, and uses of a certain kind that shall have uniform requirements for each class or kind of building, structure, or use within the District. There are three types of Zoning Districts in the Town:
  - Main: These Zoning Districts consist of the Residential, Business, and Industrial Districts throughout the Town.

- Special: These Zoning Districts, located throughout Town, provide for specific uses that require review before they are permitted; and
- Overlay: These Zoning Districts overlay Main Districts and may limit or allow specific uses within those Districts.

- DRIVE-THROUGH AND DRIVE-UP ESTABLISHMENTS: A service establishment designed to permit customers to be served while they remain in their motor vehicles.

- DWELLING UNIT: A dwelling or portion thereof providing complete living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
  - One-family dwelling:
    A building designed for and occupied exclusively as a residence for one family.
  - Two-family dwelling:
    A building designed for and occupied exclusively as a residence for two families.
    A two-family dwelling includes a duplex.
  - Multi-family dwelling:
    Any building containing more than two dwelling units.

- EARTH MIGRATION: The movement of sod, loam, soil, clay, sand, peat, humus, gravel, or stone from:
  - Any lot of land in the Town to another lot of land in the Town;
  - Out of the Town to any lot of land in the Town;
  - Any lot of land in the Town to anywhere out of the Town.

- ELDERLY: A person who is 55 years of age or older.

- EXTENSION: An enlargement of a building or structure by extending a side or increasing the height. The expansion of a use.

- FAMILY: An individual or two or more persons, related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

- FAMILY DAY CARE: Any private residence, which on a regular basis receives other people for temporary custody and care during part or all of the day, as defined in M.G.L., ch. 28A, § 9.

- 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; (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 that 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.

- FIRE LANE: An open space as designated by the Billerica Fire Department for the purposes of fire protection.

- FLOOR AREA RATIO (F.A.R.): The ratio of floor area to area of the site.

- FOOTPRINT: The land area occupied by a building or structure at the surface of the ground.

- FORESTRY: The cultivating and harvesting of forest products including firewood.

- FREIGHT: Goods or merchandise transported by a carrier generally for compensation.

- FRONTAGE: An uninterrupted distance measured between side lot lines that runs along the street abutting the lot. In the case of a corner lot, frontage shall be on both of the streets that abut the lot. The frontage on a corner lot shall be the distance between a side lot line and the intersection of street lines or of street lines extended. In the case of a through lot, frontage shall be on both of the streets that abut the lot. The measurement of lot frontage shall not include jogs in street width, back-up strips, and other irregularities in street line.

- FRONTAGE STREET: A street, road, or way to which the owner of the lot has a legal right of access and which provides access to the lot.

- FULLY AUTOMATED BUSINESS ESTABLISHMENT: A business where an employee is not generally present when the establishment is open for business, such as an automatic bank teller, kiosk, laundromat, or automat.

- GRADE PLANE: A reference plane representing the average of finished ground level adjoining the building or structure at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

- GOLF COURSES: A mixed use consisting of the principal uses of golf links, pro shop, and clubhouse, and such accessory uses, structures, and buildings as a driving range, restaurant, and function hall.

- GREENHOUSE: A non-agricultural, commercial facility that includes greenhouses for growing plant materials and a salesroom or stand for the sale of nursery, garden, or farm products.

- GROSS FLOOR AREA: The aggregate horizontal area in square feet of all floors of a building or several buildings on the same lot measured from the exterior faces of walls enclosing each building, exclusive of garages, and of cellars and basements used only for storage incidental to the operation or maintenance of such building or buildings.

- GROUP HOME: Premises for residential care in any single principal building that provides resident care services for individuals, of whom one or more are unrelated. These individuals must be designated as emotionally, physically, or intellectually handicapped, or in need of adult supervision and should be provided publicly assisted service and supervision in accordance with their individual needs. It shall not include rooming houses, boarding houses, guest houses, hotels, inns, lodging houses, dormitories, hospitals, sanitariums, convalescent or nursing homes, hospices, boarding homes, temporary shelter facilities, or family foster care facilities.

- HEIGHT:
  See the definition in the most recent edition of the State Building Code.

- HOME OCCUPATION: The practice or conduct of a profession, trade, service, occupation, or business, other than a retail business, which is customarily incidental to and is conducted in a dwelling unit by the residents thereof as an accessory use, not limited to offices of an accountant, agent, architect, attorney, bookkeeper, broker, consultant, counselor, dentist, physician, registered engineer, sales representative, typist or word processor, dressmaker, photographer, tailor, and teacher or tutor. Home occupation shall not include the operation of a barber shop; beauty salon; commercial kennel or stable; or repairing or servicing of motor vehicles, boats, or contractor's equipment.

- INDOOR AMUSEMENT: Includes theatres, concert halls, dance halls, skating rinks, swimming pools, bowling alleys, health clubs, dance studios, video arcades, and other indoor recreation provided for or not for profit.

- INDUSTRIAL ROAD: A road within the interior of a subdivision of industrial land created by the Planning Board under the Subdivision Control Law.

- IN-LAW APARTMENT: A dwelling unit accessory to a single-family dwelling designed to provide complete and separate living facilities for occupancy by a maximum of two individuals who ar4 related to the occupants of the principal residence.

- INSPECTOR OF BUILDINGS: The person appointed as Inspector of Buildings pursuant to the State Building Code.

- KIOSK: A small structure or building used as a refreshment booth, newsstand, photo sales and services booth, automated bank booth, and the like.

- LIGHT MANUFACTURING: Includes uses such as a printing or publishing plant; bottling works, fabrication and packaging, finishing, or processing.

- LODGE OR CLUB: Any social, athletic, or fraternal organization that caters to members and their guests and is not conducted primarily for profit.

- LOT: An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or structures or for any other definite use.
  - Corner Lot:
    A lot bounded by more than one street which has an interior angle of 135 degrees or less formed by the tangents or straight segments of the street lines where they intersect. Both lot lines on the intersecting streets shall be front lot lines.
  - Interior Lot:
    A lot that has no street frontage.
  - Through Lot:
    A lot bounded by two streets that are not connected. The frontage on both streets shall be front lot lines.

- LOT COVERAGE: An aggregate sum of all building and structure footprints on the lot.

- LOT LINES: The boundary lines that enclose a lot and divide a lot from another lot or from a street or any public place.
  - Front lot line:
    The boundary line located on the frontage.
  - Rear lot line:
    The boundary line of a lot that is opposite or approximately opposite the front lot line. Where because of irregular lot shape, no clear determination can be made concerning the designation of a lot line, such line shall be considered a rear lot line. In the case of a corner or through lot, all lot lines other than the front lot lines shall beside lot lines.
  - Side lot line:
    The boundary lines of a lot that connect front lot lines with rear lot lines. In the case of a corner or through lot, the side lot lines run from two front lot lines and intersect.

- MASSAGE/BODYWORK/MOVEMENT EDUCATION: Treatment and education by massage therapists that promote health and well-being including but not limited to Body-Mind

Centering; Body-Oriented Psychotherapy; the Feldenkrais Method; Massage Therapy; Neuromuscular Therapy; Oriental Bodywork Therapies including Acupressure, Shiatsu and Okazari Restorative Massage; Polarity Therapy; Rolfing, the Tager Approach; and Muscular Therapy.

- MIXED USE: Use of a building, structure, or land for any combination of more than one use.

- MULTIPLE TENANT ESTABLISHMENT: A non-residential establishment with more than three occupants or tenants.

- MUNICIPAL: The Town of Billerica including their utility pump stations.

- NEON SIGN: A sign that utilizes neon light in its design. Neon light is produced by applying an electrical current to either neon or argon gas.

- NON-CONFORMING USE, BUILDING, OR STRUCTURE: A use, building, or structure that is lawfully existing by virtue of proper permits or that pre-existed the adoption of zoning in the Town of Billerica, which no longer conforms to the zoning regulations for the District in which such use, building, or structure is located, but which at the time of commencement of the use or construction of the building or structure complied with the zoning then in effect, if any.

- NURSING HOME: An institution or distinct part of an institution which is licensed by the Commonwealth of Massachusetts as a Long-Term Care Facility to provide twenty-four hour care under medical supervision to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

- OPEN AIR SALES: Includes a lumber yard or other facility where the principal use is the sale at wholesale or retail of products and material that cannot easily be sold inside a building or structure.

- OUTDOOR STORAGE: Storage of inventory, equipment, or the like outside of a building or structure and left outside after business hours that is accessory to a principal use located in a building or structure. Such storage shall not exceed 20% of total inventory, equipment, and the like located in the principal building or structure.

- PARCEL: A distinct area of land in one ownership that may or may not be a buildable lot.

- PARKING SPACE: An area in a building, structure, or on a lot available for parking one motor vehicle, with free and unimpeded access to a street, road, or way over unobstructed passageways, aisles or driveways. The unimpeded access requirement does not apply to a single-family house lot.

- PERMIT: An official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

- PERMIT GRANTING AUTHORITY: The Zoning Board of Appeals.

- PERSON: Includes a corporation, firm, partnership, association, LLC, organization, and any other group acting as a unit, as well as individuals. It shall also include an executor, administrator, trustee, receiver, or other representative appointed according to law. Whenever "person" is used in any section of this Zoning By-law to prescribe a penalty or fine, as to partnerships, associations and LLCs, the word shall include the partners or members thereof, and as to corporations, shall include the officer, agent or members thereof who are responsible for any violation of this Zoning By-law.

- PERSONAL SERVICES: Any facility that provides services, such as a barber shop, beauty shop, tailor, dressmaker, laundry, dry cleaner, watch repair shop, or shoe repair shop.

- PHILANTHROPIC: A non-profit use that promotes social welfare.

- PRIVATE AND PUBLIC DUMPING GROUND: Any facility used for a sanitary landfill, a refuse incinerator with a grate area in excess of 10 square feet, an incinerator used for disposing of human or animal parts irrespective of grate area, a refuse composting plant, a residual waste storage or treatment plant, a dumping ground for refuse, or any other works for treating or disposing of refuse, including solid or liquid waste materials, radioactive materials, garbage and rubbish, and sludge and residual waste, but not including sewage.

- PRIVATE WAY: A way which is not 1. Public as defined by Chapter 82 of the Massachusetts General Laws, 2. dedicated for public use prior to 1846 or 3, public by prescriptive use.

- PROFESSIONAL OFFICE: The office of one engaged in such generally recognized professions as physicians, dentists, veterinarians, lawyers, engineers, architects, accountants, or interior designers.

- PUBLIC: The Town, Middlesex County, Commonwealth of Massachusetts, United States Government, or an agency thereof.

- RECONSTRUCTION: The rebuilding of a building or structure in accordance with this Zoning By-law.

- RECORDED: The due recording in the Middlesex North Registry of Deeds, or, as to registered land, the due filing in the Middlesex County Land Registration Office.

- REFUSE TRANSFER STATION: A facility for the transfer of solid or liquid waste materials, including garbage and rubbish, sludge and residual waste, but not including radioactive materials or sewage.

- REPAIR SHOP: A shop for the repair of appliances, office equipment, bicycles, lawnmowers or similar equipment.

- RESEARCH FACILITY: Facility for scientific or medical research.

- RESTAURANT: An establishment serving food and drink to patrons seated in a dining area 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 or drive-up window service. A bakery is not a restaurant.

- RETAIL STORE: Any facility that sells retail goods to the general public, such as a drugstore, book store, stationary and gift shop, florist, television and radio sales store, hardware store, furniture store, floor covering sales store, news store, neighborhood grocery store, and dry good and variety store.

- SANITARY SEWER: A public sanitary sewer of the Town.

- SELF-SERVICE STORAGE FACILITY: An establishment consisting of a structure or group of structures containing individual storage spaces of varying sizes leased or rented for dead storage, as defined in M.G.L., ch. 105A. Truck terminals are specifically excluded from this definition.

- SIGN: Any device designed to inform, direct or attract attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations of this by-law:

1. Flags and insignia of any government, except when displayed in connection with a commercial promotion.

2. Legal notices, identification, informational or directional signs erected or required by governmental bodies.
3. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts of moving lights.

- SIGN, ACCESSORY: Any sign or other advertising device which advertises, calls attention to, or indicates the person or activity occupying the premises on which the sign is erected or that advertises the property or some part of it for sale or lease and which contains no other advertising matter.

- SIGN, LANDSCAPED: A sign characteristically constructed of a mixture or display surface, evergreen shrubbery, flowers and a structure of brick, masonry, stone and the like building materials which are located on a lawn, garden or un-constructed locus of the lot.

- SIGN, NON-ACCESSORY: Any billboard or sign not an accessory sign.

- SIGN, PROJECTING: Any sign which is attached to a building and is not parallel to any wall to which it is attached. A sign in contact with the ground is not a projecting sign.

- SIGN, SIZE: The size of a sign shall include any intermediary removable surface to which it is affixed. The area of a flat two-faced projecting or standing sign is the area of one face. The width of a sign is its horizontal dimensions even when this is the smaller dimension.

- SIGN, STANDING: The term "standing sign" shall include any and every sign that is erected on the land. If a sign support holds more than one sign, each such sign is considered a separate standing sign.

- SIGN, TRAFFIC FLOW: A sign directing and guiding traffic and parking on private property, by bearing no advertising matter, symbols or other characteristics of a sign as defined in this Section.

- SIGN, WALL: A sign securely affixed parallel to the face of a building wall.

- SIGN, WINDOW: A sign affixed to or placed so as to be viewed through a window or transparent door. Signs on the interior of an establishment which are intended to be viewed from inside the establishment are not considered to be window signs even if they can be seen through a window or door. Displays of merchandise inside of a window are not considered to be window signs. (Neon signs are prohibited.)

- SITE: One or more lots or parcels, or combination thereof, which are contiguous or coterminous and under the lawful control and possession of one owner.

- SPECIAL PERMIT: A use permitted in this Zoning By-law after hearing and required findings by the Special Permit Granting Authority that may be subject to limitations and conditions.

- SPECIAL PERMIT GRANTING AUTHORITY: The Special Permit Granting Authority shall be the board designated to issue special permits under this Zoning By-law.

- STORY: See the definition in the most recent edition of the State Building Code.

- STORY, HALF: A story directly under a sloping roof in which the points of intersection of the bottom of the rafters and the interior faces of the walls are less than three feet above the floor level on at least two exterior walls.

- STREET, ROAD, OR WAY: A public way duly laid out by the Town, the Middlesex County Commissioners, or the Commonwealth of Massachusetts; or a way which the Town Clerk certifies is maintained by public authority and is used as a public way; or a way that is shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law; or a way in existence 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. Street, road, and way are synonymous terms.

- STREET LINE: The boundary of a street right-of-way or layout.

- STRUCTURAL CHANGE: Any change in the supporting members of a building or structure such as a change in bearing walls columns, beams, or girders.

- STRUCTURE: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, or platform bin. Fences over six feet height, sign, flagpole, recreational tramway, mast for radio antenna, or the like are structures. The word "structure" shall be construed, where the context requires, as though followed by the words, "or part or parts thereof."

- SUBSTANTIAL EXTENSION: Extension of a use beyond the circumscribed area used prior to such extension or an increase in the time of use, or making the same use in a different and more intense manner.

- SUPERMARKET: A retail establishment primarily in the business of selling food stuffs to the individual consumer and general public.

- SWIMMING POOL: A private, artificial, or semi-artificial receptacle capable of containing a body of water, whether in or above the ground, and all appurtenances, equipment, appliances, and other facilities for its operation, maintenance, or use, having a depth of 24 inches or greater and a surface area of 250 square feet or greater.

- TEMPORARY STRUCTURE: A tent, construction trailer, or similarly portable structure intended for continuous use for not longer than three months. A temporary structure shall also include a manufactured home that is placed on the site of a residence, which has been destroyed by fire or other natural disaster, and which is being rebuilt. The manufactured home shall be removed from the site within twelve months of its placement and shall comply with the provisions of the state sanitary code.

- TEMPORARY USE: Use, operation, or occupancy of a parcel of land, building, or structure for a period not to exceed three calendar months.

- TOWN: Town of Billerica.

- TOWNHOUSE: A dwelling unit with finished living space on more than one story as provided under the Mass. State Building Code.

- TRACTOR TRAILER: An articulated truck consisting of a towing engine and a trailer that carries freight.

- TRADESMAN'S SHOP: Shop of a builder, electrician, mason, plumber, of similar occupation.

- TRAILER: A closed vehicle furnished for housekeeping and designed to be hauled behind another vehicle.

- TRUCK: A motor vehicle other than an automobile as defined in this Zoning By-law.

- TRUCK TERMINAL: A freight facility for the exchange of cargo among trucks; exchange of trailers among trucks; exchange of truck drivers among trucks; and temporary parking of trucks with or without cargo and trailers.

- USE: The specific purpose for which land, a building, or a structure is designed, arranged, intended, or for which it may be occupied and maintained.

- VARIANCE: Relief from the non-use requirements of this Zoning By-law as provided for under M.G.L., ch. 40A, ss 10, as amended.

- WAREHOUSE: A building used primarily for the storage of goods and material, for distribution, but not for sale on the premises.

- WHOLESALE USE: The sale of goods in larger quantities as to retailers, tradesmen or jobbers rather than directly to the general public or individual consumer.

- YARD: An open space on a lot unoccupied by a building or structure or such parts thereof, such as covered or uncovered porches, cornices, and other projections. Fences, gates, or security stations; ornaments and furniture; and customary summer awnings are permitted in any yard but shall be subject to height limitations. Yards include:
  - Front Yard:
    A yard extending between side lot lines across the front lot line. In the case of a corner lot there will be two front yards that extend between a side lot line and a front lot line across the remaining front lot line.
  - Rear Yard:
    A yard extending between the side lot lines across the rear lot line. In the case of a corner or through lot there is no rear yard.
  - Side Yard:
    A yard extending along each side lot line generally between the front and rear lot lines. In the case of a corner or through lot the side yard extends between the front lot line and another side lot line. In some cases, depending on the lot configuration, a side yard may extend along the side lot line between any combination of other lot lines.

SECTION 3 ESTABLISHMENT OF DISTRICTS

A. PURPOSE OF ESTABLISHING DISTRICTS

For the purpose of this Zoning By-law and to provide for the most efficient use of land in the Town of Billerica, the Town is hereby divided into the following Zoning Districts as shown on the Zoning Map approved by the Town Meeting on May 15, 2003 with all subsequent amendments thereto, which is hereby incorporated into and made a part of this Zoning By-law:

1. Main Districts:

a. RESIDENTIAL DISTRICTS
   (1) Village Residence
   (2) Neighborhood Residence
   (3) Rural Residence
   (4) Multi-Family Residence

b. BUSINESS DISTRICTS
   (1) Neighborhood Business
   (2) General Business
   (3) Commercial

c. INDUSTRIAL DISTRICTS
   (1) Industrial

2. Special Districts:

a. Refuse Transfer Station
b. Private and Public Dumping Ground
c. Alcohol & Drug Rehabilitation Hospital
d. Composting
e. Adult Entertainment

3. Overlay Districts:

a. Flood Plain
b. Historic
c. Residential Cluster
d. Townhouse
e. Elderly Housing
f. Self-Service Storage Facility
g. Mill Conversion and Reuse District

SECTION 4 ZONING DISTRICT BOUNDARIES

A. PURPOSE OF ZONING DISTRICT BOUNDARIES

For the purpose of this Zoning By-law, the Zoning District boundaries are shown on the Zoning Map approved by Town Meeting on May 15, 2003 with all subsequent amendments which is hereby incorporated into and is an enforceable part of this Zoning By-law.

B. DETERMINING ZONING DISTRICT BOUNDARIES

1. Where the zoning boundary lines are shown upon the Zoning Map as the street lines of public or private streets or ways, the center lines of such streets or ways shall be the boundary lines.

2. Where zoning boundary lines are shown approximately on the location of existing property or lot lines and the exact location of the zoning boundaries is not indicated by means of figures, distance or otherwise, the property or lot lines shall be the zoning boundary lines.

3. Where the zoning boundary lines are shown upon the Zoning Map outside of street lines and approximately parallel thereto, they shall be considered to be parallel to such street lines. Figures placed upon the Zoning Map between the zoning boundary lines and the street lines indicate measurements at right angles to the street unless otherwise specified.

4. In cases not covered by the provisions of paragraphs 1. 2., and 3. immediately preceding, the location of zoning boundary lines shall be determined by the distances in feet when given upon the Zoning Map, based on the scale of the Zoning Map.

5. Town officials, Town boards, and the public shall determine the boundaries of the Flood Plain District based solely on the locations described below on the listed reference maps, in the custody of the Town Engineer and Board of Health:

a. Green Maps. Any land showing flood plain limits on the 1973 Town of Billerica, Massachusetts, Flood Plain Index Maps and the 147 contour maps at 100 scale prepared by Green Engineering Affiliates, Inc. [hereinafter "Green Maps"];

b. Concord River Adjustment. Any land shown on the Green Maps along the Concord River, after an adjustment of three feet below the flood contour as delineated, which shall be considered within the 100 year flood level.

c. Shawsheen River Adjustment. Any land shown on the Green Maps along the Shawsheen River, after an adjustment of one foot below the flood contour as delineated, which shall be considered within the 100 year flood level.

d. Federal Maps: Any land shown on the Flood Insurance Rate Map (FIRM), community panel number 250183-0001, with an effective date of August 5, 1985, prepared by the U.S. Department of Housing and Urban Development Federal Insurance Administration. This map shall be used to meet the requirements of the National Flood Insurance Program. In all cases, the reference map that delineates the highest flood elevation shall supersede all others. Nothing in this section shall prohibit the Conservation Commission, the Board of Health, or both, from making non-zoning determinations of the flood plain in order to perform its required duties.

6. When a lot in one ownership is situated partly in the Town of Billerica and partly in an adjacent town or city, the provisions, regulations, and restrictions of this Zoning By-law shall be applied to that portion of the lot that lies in the Town of Billerica in the same manner as if the entire lot were situated therein.

7. When a lot in one ownership is situated partly in one Zoning District and partly in another Zoning District, the provisions, regulations, and restrictions for the most restrictive Zoning District shall apply to the entire lot, unless all construction and use of the lot takes place within the least restrictive Zoning District, in which case the least restrictive provisions, regulations, and restrictions shall apply.

8. Whenever the exact location of a zoning boundary line cannot be precisely determined under the provisions stated above, the identification and location of such boundary line shall be determined by the Planning Board and submitted for Town Meeting approval, subject to any amendments Town Meeting may desire. Until Town Meeting votes, the provisions of the most restrictive Zoning District located on the lot in question shall apply. The zoning districts listed under each of the three categories within the list of Main Districts under Section 3 of this Zoning By-law shall start with (1) as the most restrictive zoning district and ascend in numbered order to the least restrictive.

SECTION 5 REGULATION OF USES, BUILDINGS, AND STRUCTURES

A. PURPOSE
This section of the Zoning By-law regulates the use of land, buildings, and structures, including reconstruction, extensions, and alterations thereto, within each zoning district.

B. IN GENERAL

1. The following uses are expressly prohibited: fertilizer plants; junk yards; open air storage of junk, salvage, unregistered vehicles, and wastes; race tracks; rendering plants; salvage yards; slaughterhouses; group homes with more than six unrelated persons; manufactured housing; hazardous waste facility; trailer or trailer camps.
2. All other uses not expressly authorized in this Zoning By-law are prohibited.
3. In all districts, surface runoff rates existing at predevelopment shall not be increased at post-development. When deemed appropriate by the Inspector of Buildings, applicants shall install erosion and siltation control devices so that sediment laden runoff from disturbed surfaces will be filtered onsite to prevent sediment from migrating onto roads, abutters' properties and into Natural Resource Areas, such as floodplains, wetlands, water bodies, and waterways.
4. In all districts, except Residential Districts, screening shall be provided, erected, and maintained to shield business and industrial uses of land and buildings from adjoining residential and municipal lots and shall consist of a solid fence, wall, landscaped earthen barrier, evergreen planting or combination of these elements not less than six feet in height running along the property line. Screening may be reduced to three and one-half feet where it acts to shield an adjacent public way.
5. Any non-residential building with an aggregate sum of 5,000 square feet gross floor area or greater per site, is subject to a site plan approval special permit by the Planning Board. This includes any additions to an existing, non-residential building that increases the aggregate sum of the gross floor area to over 5,000 square feet per site.
6. Any mixed use shall be subject to the most restrictive provisions of all the uses included within the mixed use as determined by the Inspector of Buildings.

C. USES, BUILDINGS, AND STRUCTURES PERMITTED IN THE MAIN ZONING DISTRICTS
A use that is not expressly permitted by right or by special permit is not listed.

1. **VILLAGE RESIDENCE DISTRICT**
   a. AGRICULTURAL USES
      (1) By right:
         (a) Agriculture on a parcel that is more than five acres
         (b) Facility for the sale of agricultural, floricultural, horticultural, or viticultural produce, so long as the facility is located on a parcel of land that is more than five acres and the majority of the produce sold has been produced by the owner or lessor of the land on which the facility is located.
         (c) Floriculture on a parcel that is more than five acres
         (d) Forestry on a parcel that is more than five acres
         (e) Keeping of horses:
            - One horse on 10,000 to 19,999 square feet
            - Two horses on 20,000 to 29,999 square feet
            - Three horses on 30,000 square feet or more
         (f) Horticulture on a parcel that is more than five acres
         (g) Viticulture on a parcel that is more than five acres
         (h) Keeping of Hens
            1. A residence within a zoning district where the keeping of hens is permitted by right may keep a maximum of six hens and must maintain a minimum coop area of 36 square feet.
            2. The owner of the hens must live in the residence.
            3. Hens and coops are prohibited from the front yard of a residence.
            4. No roosters shall be permitted.
            5. No coop shall be located within one hundred (100) feet of a private well, flood plain,

wetland, as defined per the Billerica Wetland Protection By-Law, or water course as defined in section 5.1.003.

6. No coop shall be located closer than twenty (20) feet to any residential structure occupied by someone other than the hen owner, custodian or keeper. If the owner of the neighboring dwelling consents, a waiver may be granted for this condition.
7. The hens shall be secured in the coop from sunset to sunrise and contained on the property when out of the coop..
8. This use shall meet all current applicable regulations of the Board of Health.

(Amended: Art. 46 ASTM 5/03/2011)

b. BUSINESS USES

(1) By right

(a) Home Occupation

- The activity is administered or operated as a secondary and subsidiary use of the premises by a permanent resident of the premises
- There are no non-residents employed unless authorized by the Special Permit Granting Authority
- The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects
- There shall be no externally visible alterations or additions that alter the residential character of the premises.

c. COMMERCIAL USES

(1) By right

(a) Garaging or parking of one light commercial vehicle

(2) By special permit:

(a) Garaging or parking of two light commercial vehicles

Required Findings:

- The use is on the same lot as the principal use or on an adjacent lot in the same ownership and in the same zoning district
- The use is not obnoxious, hazardous, or injurious to the neighborhood or property in the vicinity of the use

(b) Garaging or parking of one heavy commercial vehicle

Required Findings:

- The use is on the same lot as the principal use or on an adjacent lot in the same ownership and in the same zoning district
- The use is not obnoxious, hazardous, or injurious to the neighborhood or property in the vicinity of the use

(c) Greenhouse (non-agricultural)

Required Findings:

- The use is compatible with the surrounding area
- Traffic increase will not be detrimental to the surrounding area
- Adequate delivery and loading is provided

d. EDUCATIONAL USES

(1) By right:

(a) For profit

(b) Non-profit

e. GOVERNMENTAL USES

(1) By right:

(a) State use

(b) County use
(c) Municipal use

f. PHILANTHROPIC USES
(1) By special permit:
(a) Club
(b) Lodge
(c) Other philanthropic

Required Findings for all philanthropic uses*:*

- The use is compatible with the surrounding area
- Traffic increase will not be detrimental to the surrounding area
- Adequate delivery and loading is provided
- The use is not obnoxious, hazardous, or injurious to the neighborhood or property in the vicinity of the use
- Any use of the club for fairs, bazaars, antique shows, or similar events are with the owner's permission and are conducted on the same lot as the principal use or on an adjacent lot in the same ownership and in the same zoning district

g. RECREATIONAL USES
(1) By right:
(a) Conservation
(b) Driving range
(c) Fairs and bazaars
(d) Non-municipal athletics
(e) Other recreational events

(2) By special permit:
(a) Golf course, private or public

Required Findings:

- Meets minimum acreage of 10 acres
- All accessory uses meet special permit requirements for such uses, if any, as set forth in this Zoning By-Law

(b) Outdoor recreation

Required Findings*:*

- The use will not be detrimental to the neighborhood in which it is located
- The use will not create adverse traffic conditions in the area in which it is located
- The hours of operation of the use are compatible with the uses in the neighborhood
- Parking and access for the use are adequate
- The use will not result in objectionable noise, lighting, or fumes

(c) Riding stable

(d) Swimming pool, non-accessory to residence

Required Findings*:*

- The use will not be detrimental to the neighborhood in which it is located
- The hours of operation of the use are compatible with the uses in the neighborhood
- Parking and access for the use are adequate

h. RELIGIOUS USES
(1) By right:
(a) For profit
(b) Non-profit

i. RESIDENTIAL USES

(1) By right:

(a) Accessory residential uses
(b) Group home for six or less unrelated persons
(c) Rental of five or less rooms
(d) Single family dwelling
(e) Storage of one vehicle or trailer
(f) Temporary manufactured or mobile home that is used while a residence that was destroyed by fire or other natural holocaust is being rebuilt, so long as the manufactured or mobile home complies with the state sanitary code and such temporary residence does not exceed 12 months.

(2) By special permit:

(a) Affordable housing unit on an undersized lot

The purpose of this by law is to allow the construction of single family dwelling units by special permit from the Board of Appeals on lots that do not meet the current lot dimensional requirements of this by law. Dwellings approved under this by law shall be affordable to families and shall be compatible with prevailing residential densities in the neighborhood where they are to be built.

Required Findings:

- All of the following shall be met as a prerequisite for approval. Failure to do so shall result in the outright invalidation of these exceptions. There shall be no waiving any requirement.
- The minimum lot area shall be 15,000 square feet in the Village Residence District; 20,000 square feet in the neighborhood residence district; and 25,000 in the rural residence district.
- The lot area in all districts shall be at last 50% of the minimum area required under the current zoning.
- The frontage shall be at least 75 feet.
- The applicant shall demonstrate that the majority of lots developed with single family dwellings within 300 feet of the subject property lines have less area than the minimum required under current zoning. The applicant shall submit a map of all lots within the 300-foot perimeter of the subject lot and the existing lot areas. Undeveloped parcels and non-single family dwellings shall not be counted.
- All single family dwellings built under this provision shall be affordable as defined elsewhere in this section. In those cases where more than one lot is created under the provisions of the subdivision control law, all lots created shall be utilized as affordable unless a particular lot conforms to all current lot dimensional requirements. In that case the conforming lot does not have to be affordable. Variances shall not be considered in satisfying compliance under this provision.
- Applicants seeking approval shall agree to sign a recordable deed restriction that will guarantee that the subject dwelling(s) will remain affordable in perpetuity. Such restriction shall be approved by the town and reviewed by town counsel.
- The Billerica Housing Authority (BHA) or other agency qualified by the Board of Selectmen shall perform the income verification of the qualified affordable housing unit purchaser or tenant.
- The BHA or other agency qualified by the Board of Selectmen shall be responsible for the long term monitoring of these dwellings.
- The dwellings built under this provision shall be adequate to accommodate a family of three or more. Interior features of affordable units shall comply in all respects to the minimum design and construction standards set forth in Massachusetts' Local Initiative Guidelines of the Division of Housing and Community Development, July 1996 or as amended.
- There shall be no further exception to the dimensional relief provided by this by-law. Failure to meet any provision shall result in the outright invalidation of these exceptions. Lots which require variances in addition to the relief outlined here shall not qualify under this provision.
- The BHA or other agency qualified by the Board of Selectmen shall administer purchaser or tenant selection. The town reserves the right to apply a local preference in the selection process.
- Unless described herein all other district restrictions shall apply to the applicable lot(s).
- The SPGA may condition the granting of this special permit to address any potential impacts on the surrounding neighborhood.

(b) Assisted living residence

Required Findings*:*

- The minimum lot size is five acres in the residential districts and three acres in the business and industrial districts
- The density is 12 units/acre
- Buildings are set back a minimum of 50 feet from all property lines and no building is closer than 200 feet to an existing residential dwelling
- The minimum lot frontage is 150 feet
- The maximum lot coverage is 25%
- There is one parking space for each employee on the maximum shift and one parking space for every three assisted living units
- Adequate site circulation is provided to and from the site, taking into consideration the adjacent sidewalks and streets and the accessibility of the site and buildings thereon for emergency vehicles.
- The facility meets the green strips and green space requirements of this Zoning By-law
- The facility is serviced by public water and sewer of sufficient capacity to serve the facility

(c) In-law apartment

Required Findings*:*

- The living quarters are separate, but located in the principal building
- The living quarters do not exceed 800 square feet
- There are no more than two related persons as occupants
- There is sufficient off-street parking for the use
- The principal building in which the use is located retains its single family dwelling appearance
- The use shall not continue upon vacation of the premises by the occupants

(d) Nursing home

Required Findings:

- The minimum lot size is five acres in the residential districts and three acres in the business and industrial districts
- Buildings are set back a minimum of 50 feet from all property lines
- The minimum lot frontage is 150 feet
- The maximum lot coverage is 25%
- There is one parking space for each employee on the maximum shift and one parking space for every three beds
- Adequate site circulation is provided to and from the site, taking into consideration the adjacent sidewalks and streets and the accessibility of the site and buildings thereon for emergency vehicles.
- The facility meets the green strips and green space requirements of this Zoning By-law
- The facility is serviced by public water and sewer of sufficient capacity to serve the facility
- The nursing home will not constitute a hazard or a nuisance
- The nursing home will conserve the public health, safety, convenience, morals and welfare
- The nursing home will not have a detrimental or injurious effect on the neighborhood

(e) Rental of five or more rooms

Required Findings*:*

- The owner of record of the premises is the prime resident of the dwelling where the use takes place

(f) Storage of more than one vehicle or trailer

Required Findings*:*

- The storage takes place in the rear yard only

j. SERVICE USES

(1) By special permit:

(a) Cemetery

Required Findings*:*

- The use will not be detrimental to the character of the neighborhood
- The use will not create traffic or parking congestion that will adversely affect the neighborhood

k. UTILITY USES

(1) By right:

(a) Above-ground utilities that are municipal

(b) Earth migration of less than 500 cubic yards, as certified by a registered professional civil engineer or certified professional land surveyor, for:

- Construction or repair of roads, utilities, public works, and infrastructure
- Installation or repair of underground sewage disposal systems
- Excavation for foundations

(c) Underground utilities

(2) By special permit:

(a) Above-ground utilities that are non-municipal

Required Findings*:*

- The use is not detrimental to the neighborhood

(b) Earth migration greater than 500 cubic yards

Required Findings*:*

- The use is undertaken only during Monday through Friday, 7:00 AM to 6:00 PM, excluding holidays
- Adequate plans are in place for cleaning of spillage, including provision of the responsible person for remedying spillage together with an address and telephone number
- The site treatment plan is adequate to control dust and mud
- The site plan calls for use of six inches of packed loam and vegetation to be planted on the surfaces of all disturbed areas
- All slopes are created or constructed in the public interest to preserve the health, safety and welfare of the abutters, abutters to abutters, and the public

2. NEIGHBORHOOD RESIDENCE DISTRICT

All uses permitted by right and by special permit in the Village Residence District are permitted by right and by special permit in the Neighborhood Residence District.

3. RURAL RESIDENCE DISTRICT

All uses permitted by right and by special permit in the Village Residence District are permitted by right and by special permit in the Rural Residence District.

4. MULTI-FAMILY RESIDENCE DISTRICT

a. AGRICULTURAL USES

(1) By right:

(a) Agriculture on a parcel that is more than five acres

(b) Facility for the sale of agricultural, floricultural, horticultural, or viticultural produce, so long as the facility is located on a parcel of land that is more than five acres and the majority of the produce sold has been produced by the owner or lessor of the land on which the facility is located.

(c) Floriculture on a parcel that is more than five acres

(d) Forestry on a parcel that is more than five acres

(e) Horticulture on a parcel that is more than five acres

(f) Viticulture on a parcel that is more than five acres

b. BUSINESS USES

(1) By right:

All uses permitted by right in the Village Residence District

c. COMMERCIAL USES

(1) By right:

(a) Garaging or parking of one light commercial vehicle

(2) By special permit:

(a) Garaging or parking of two light commercial vehicles subject to the Required Findings set forth under the Village Residence District

(b) Garaging or parking of one heavy commercial vehicle subject to the Required Findings set forth under the Village Residence District

d. EDUCATIONAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Multi-Family District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Multi-Family District

e. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Multi-Family District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Multi-Family District

f. PHILANTHROPIC USES

(1) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Multi-Family District

g. RECREATIONAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Multi-Family District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Multi-Family District

h. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Multi-Family District

i. RESIDENTIAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Multi-Family District

(2) By special permit:

(a) All uses permitted by special permit in the Village Residence District

(b)-Multi-Family Use

Requirements for Use:

AREA AND FRONTAGE

- The minimum site size for such use shall be 1.5 acres.
- The minimum frontage shall be 150 feet.

DENSITY

- Buildings shall not cover more than 30% of the site.
- At least 40% percent of the site shall be maintained as green space.
- There shall be a minimum distance of 40 feet between residential buildings.
- No open parking or driveway shall be closer than 15 feet to a wall containing habitable space.
- A minimum of 6,800 square feet of land shall be required for each dwelling unit.
- The area used in the calculation shall not include any bordering vegetative wetlands as defined by M.G.L., ch.131, § 40 and by 310 CMR 10.00 nor any flood plain as described in this Zoning By-law.

DENSITY INCENTIVE

In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

YARDS

- On each site there shall be provided a minimum setback of 35 feet from the front lot line, a minimum setback of thirty 30 feet from each of the side lot lines, and a minimum setback of thirty 30 feet from the rear lot lines.
- Where a multi-family dwelling development abuts a single family district, side and rear setbacks shall be increased to 50 feet, which shall be retained in its natural wooded state or landscaped along the perimeter of the site abutting the single family district. In all cases, a landscaped buffer strip shall be provided so as to protect adjoining properties from the effects of noise, light, air, or visual impact.

GREEN STRIPS

- A 25 foot wide green strip shall be provided around the perimeter of the tract, except in the location of curb cuts.
- Green strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover and flowers.
- The green strip shall not be built on, paved or parked on.

HEIGHT

- Multi-Family dwellings buildings shall not exceed two and one-half stories nor be more than 35 feet in height, provided that no habitable space shall be located below the mean finished grade of the ground adjoining the building or above the second story.

PARKING

- There shall be a minimum of two parking spaces per dwelling unit.

INFRASTRUCTURE

- All sites must be served by sewer and water as approved by the appropriate Town board, department, commission or agent.
- All sites shall have fire lanes as designated by the Billerica Fire Department for the purposes of fire protection.

- The requirement for a fire lane surrounding the structure shall not be construed to mean that paved access surrounding the structure is required. The area may be planted with low plantings of a size that would not impede fire vehicles.

ACCESS DRIVE

- All access roads shall be designed and constructed in accordance with the criteria specified by the Billerica Department of Public Works.

AFFORDABLE HOUSING COMPONENT

- Fifteen percent of the units created under these provisions shall be affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". The Billerica Housing Authority is exempt from this requirement because the units under their control are categorically affordable.
  As an alternative to the above requirement, and as allowed by law, an applicant may contribute a fee per unit to the Town of Billerica to be used for the development of affordable housing in lieu of or in conjunction with constructing and offering affordable units within the locus of the proposed development. The fee per unit shall be based upon the calculation of the fair market price of the unit minus the construction cost of the unit or the construction cost whichever is greater.
  Payment of this fee may be made in one-third installments over the projected build-out of the development with the final payment to be made before the last unit is sold. The fee shall be accepted by the Board of selectmen to be used for Affordable Housing and expended in accordance with the provisions of Mass General Laws, Chapter 44, Section 53A.

DWELLING UNITS

- Multi-Family dwellings may be maintained as rental units or may be sold as condominiums. This shall not restrict the allocation of outdoor space adjacent to individual dwelling units for the exclusive use of the occupants of specific dwelling units.

ACCESSORY BUILDINGS AND STRUCTURES

- Swimming pools, garages, and all accessory uses, buildings and structures that are part of a multi-family development shall comply with the green strip and setback requirements of the Zoning By-Law.
- A community building for meetings and social activities of the residents shall be permitted, but shall not exceed 2,000 square feet of gross floor area and shall comply with all green strip and setback requirements of the Zoning By-law.
- All accessory uses, buildings and structures shall provide adequate parking.

Required Findings:

- The use complies with the site plan approval requirements of the Zoning By-law
- The requested use is desirable to the public convenience or welfare
- The requested use will not create or add to undue traffic congestion, or unduly impair pedestrian safety
- The requested use provides for the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property and improvements.
- The requested use will not create or add to undue traffic congestion, or unduly impair pedestrian safety.
- The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
- The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience or welfare
- The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood
- The design and architectural treatment of the use is not incongruous or inappropriate to the character of the neighborhood in which it is proposed to be constructed.
- There is an adequate landscape buffer strip provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
- No building or access facilities shall be placed on any portion of the land determined by the Board of Health to be unsuitable for such construction.

(c) Two-family dwelling

Required Findings:

- The use meets all dimensional and parking requirements of the Zoning By-law
- The use is not detrimental to the character of the neighborhood where it is located

j. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Multi-Family Residence District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Multi-Family Residence District

k. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Multi-Family Residence District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Multi-Family Residence District

5. NEIGHBORHOOD BUSINESS DISTRICT

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Neighborhood Business District

b. BUSINESS USES

(1) By right:

(a) Bank
(b) Loan agency
(c) Offices
(d) Personal services
(e) Tradesman's shop

(2) By special permit:

(a) Accessory uses to scientific research or development even if located on a different parcel from the principal scientific research or scientific development of related production use.

Required Findings*:*

- The accessory use does not substantially derogate from the public good

(b) Funeral home

Required Findings*:*

- The use will not be detrimental to the character of the neighborhood.
- The building or structure is in character with the buildings and structures in the neighborhood.
- The use will not create traffic or parking that adversely impacts the neighborhood.

(c) Research facility

Required Findings*:*

- The use complies with the site plan approval requirements of the Zoning By-law.
- The use will not be detrimental to the character of the neighborhood.
- The building or structure is in character with the buildings and structures in the neighborhood.
- The use will not create traffic or parking that adversely impacts the neighborhood.
- The use is compatible with other uses in the area.
- The use is not detrimental due to the storage or disposal of hazardous wastes and materials, flammable liquids, or highly combustible or explosive materials.
- Adequate disposal for all types of wastes is provided.
- The use will not subject other uses in the area to hazards affecting health, safety, or the general welfare.
- The use will neither impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience, or welfare.

c. COMMERCIAL USES

(1) By right:

(a) Christmas tree sales
(b) Garaging or parking of one light commercial vehicle
(c) Garaging or parking of two light commercial vehicles
(d) Repair shop
(e) Retail store

(2) By special permit:

(a) Garaging or parking of one heavy commercial vehicle subject to the Required Findings set forth under the Village Residence District
(b) Motel or hotel

Required Findings:

- The use is located on at least ten acres of land
- The use has a minimum of 100 guest rooms or suites
- Open space is provided on the lot in addition to any area required for parking and associated to driveways, equal to twice the gross floor area of the hotel or motel
- Rooms or suites of rooms shall not contain cooking facilities unless specifically permitted by the SPGA

(c) Restaurant

Required Findings:

- The use is compatible with the surrounding area
- The food is consumed by persons at tables within the building
- The food is served on chinaware and beverages are served in glasses or china cups
- The incidental sale of food is restricted to "take out," and adequate safeguards are employed to control the disposal of disposable containers
- Traffic increase will not be detrimental to the surrounding area
- Adequate delivery and loading is provided

d. EDUCATIONAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Neighborhood Business District

e. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Neighborhood Business District

f. PHILANTHROPIC USES

(1) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Neighborhood Business District

g. RECREATIONAL USES

(1) By right:

(a) Antique show
(b) Bowling alley
(c) Conservation
(d) Driving range
(e) Fairs and bazaars
(f) Indoor amusement
(g) Non-municipal athletics
(h) Other recreational events
(i) Swimming pool, non-accessory

(2) By special permit:

(a) Golf course subject to the Required Findings set forth under the Village Residence District
(b) Outdoor recreation subject to the Required Findings set forth under the Village Residence District
(c) Riding stable subject to the Required Findings set forth under the Village Residence District
(d) Swimming pool subject to the Required Findings set forth under the Village residence District

h. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Neighborhood Business District

i. RESIDENTIAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Neighborhood Business District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Neighborhood Business District

j. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Neighborhood Business District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Neighborhood Business District

k. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Neighborhood Business District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Neighborhood Business District

6. **GENERAL BUSINESS DISTRICT**

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the General Business District

b. BUSINESS USES

(1) By right:

(a) All uses permitted by right in the Neighborhood Business District
(b) Pet shop
(c) Veterinarian

(2) By special permit:

(a) All uses permitted by special permit in the Neighborhood Business District
(b) Dog kennel for three or more dogs

Required Findings*:*

- The activity is administered or operated as a secondary and subsidiary use of the premises by a permanent resident of the premises
- The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects
- There is 40 square feet per dog of outside kennel space on the site
- There is a maximum of 15 dogs
- All kenneled dogs are kept indoors between the hours of 9:00 PM and 7:30 AM
- The kennel complies with all applicable state laws concerning kenneling of dogs

(c) Dog Daycare

Required Findings:

- The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects
- There is a maximum of fifteen (15) dogs at any one time on the premises
- There is a minimum of one thousand (1000) square feet of interior gross floor area
- There is a minimum of one thousand (1000) square feet of exterior space enclosed by an eight (8) foot non-chain link fence with the finished surface facing in and a similar gate for the dogs to exercise.
- An attendant is on the premises at all times when there are dogs at the site
- There are no dogs on the site before 7:00 a.m. or after 9:00 p.m.

(d) Dog Training

Required Findings:

- The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects
- There is a maximum of fifteen (15) dogs at any one time on the premises
- There is a minimum of (1000) square feet of interior gross floor area
- An attendant is on the premises at all times when there are dogs at the site
- There is no over night kenneling of dogs at the site
- There is no over night in-kennel training
- There are no dogs on the site before 7:00 a.m. or after 9:00 p.m.
- There is no outside on-premise training

c. COMMERCIAL USES

(1) By right:

(a) All uses permitted by right in the Neighborhood Business District
(b) Garaging or parking of one heavy commercial vehicle

(2) By special permit:

(a) All uses permitted by special permit in the Neighborhood Business District

(b) Garaging or parking of two or more heavy commercial vehicles

(c) Auto parking

Required Findings:

- The facility is not within 1,300 feet of another similar business

(d) Auto repair

Required Findings:

- The facility is not within 1,300 feet of another similar business
- All repairs, except minor repairs, shall be conducted entirely within a building housing the use

(e) Auto sales

Required Findings:

- The facility is not within 1,300 feet of another similar business

(f) Auto service

Required Findings:

- The facility is not within 1,300 feet of another similar business
- All maintenance and service, other than minor service at the island and emergency repairs, shall be conducted entirely within a building

(g) Auto washing

Required Findings:

- The facility is not within 1,300 feet of another similar business

(h) Drive-up and drive-through restaurant

Required Findings:

- The customers are served inside the perimeter of a building, enclosure, or canopy
- The green strips and green space as set forth in this Zoning By-law are complied with
- That adequate safeguards are employed to control the disposal of disposable containers including requirements for the use of biodegradable materials
- The use does not adversely impact on traffic or traffic circulation
- The use is not detrimental to the area in which it is located

(i) Fully automated business

Required Findings:

- The use is not detrimental to the area in which it is located
- The use does not adversely impact on traffic or traffic circulation
- The use is compatible with other uses in the area

(j) Garden shop, including open air sale of garden related equipment and supplies

Required Findings:

- All dust, noise, or other objectionable effects of the use are confined to the premises containing the use

(k) Open air sales

Required Findings:

- The use does not include salvage materials
- All dust, noise, or other objectionable effects of the use are confined to the premises containing the use
- The use is not hazardous by reason of the potential for fire, explosion, radiation release, or other casualty

(l) Supermarket

Required Findings:

- The use complies with the site plan review requirements of the Zoning By-law
- The use is not detrimental to the area in which it is located
- All dust, noise, or other objectionable effects of the use are confined to the premises containing the use
- The use is not hazardous by reason of the potential for fire, explosion, radiation release, or other casualty
- There are sufficient loading and unloading facilities
- The use does not adversely impact traffic
- There is adequate landscaping and buffer to screen the use from surrounding uses
- Adequate garbage and rubbish disposal facilities are locate on the property and are adequately screened

(m) Fast-Order Food Establishment

Required Findings:

- Adequate safeguards are employed to control the disposal of disposable containers including requirements for use of biodegradable materials.
- The use does not adversely impact traffic or traffic circulation

d. EDUCATIONAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the General Business District

e. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the General Business District

f. INDUSTRIAL USES

(1) By special permit:

(a) Light manufacturing

Required Findings:

- All disturbing smoke, fumes, dust, odors, and noise are confined to the premises
- No operations constitute a hazard by reason of the potential for fire, explosion, radiation release, or other casualty
- In the General Business and Commercial Districts manufacturing shall consist only of products primarily for sale at retail on the premises where manufactured and there shall be no more than five full-time employees or their equivalent
- The use will not be noxious, offensive or detrimental to the neighborhood or to the Town by reason of special danger of fire or explosion; pollution of waterways; or emission of corrosive, toxic, or noisome fumes, gas, smoke, soot, obnoxious dust, disagreeable orders, offensive noises, vibrations, or other objectionable characteristics
- Warehouse and storage are accessory to the principal use

(b) Wholesale Use

Required Findings:

- The use will not be noxious, offensive or detrimental to the surrounding neighborhood or to the Town of Billerica due to vehicular traffic, noise or operation during early morning or late night hours.
- Accessory storage use allowed only of products available for wholesale sale from the premises.
- The use is not detrimental to the area in which it is located.
- The hours of operation are tailored to safeguard against early morning and late night disturbance of residents in nearly neighborhood.

g. PHILANTHROPIC USES

(1) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the General Business District

h. RECREATIONAL USES

(1) By right:

All uses permitted by right in the Neighborhood Business District are permitted by right in the General Business District

(2) By special permit:

All uses permitted by special permit in the Neighborhood Business District are permitted by special permit in the General Business District

i. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the General Business District

j. RESIDENTIAL USES

(1) By right:

All uses permitted by right in the Neighborhood Business District are permitted by right in the General Business District

(2) By special permit:

All uses permitted by special permit in the Neighborhood Business District are permitted by right in the General Business District

k. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the General Business District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the General Business District

l. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the General Business District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the General Business District

7. **COMMERCIAL DISTRICT**

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Commercial District

b. BUSINESS USES

(1) By right:

(a) Loan agency
(b) Office
(c) Pet shop
(d) Personal services
(e) Tradesman's shop

(2) By special permit:

(a) Accessory uses to scientific research or development subject to the Required Findings set forth under the Neighborhood Business District
(b) Research facilities subject to the Required Findings set forth under the Neighborhood Business District

c. COMMERCIAL USES

(1) By right:

(a) Contractor's yard
(b) Garaging or parking of one or more light commercial vehicles
(c) Garaging or parking of one or more heavy commercial vehicles
(d) Greenhouse that is not agricultural
(e) Open air sales
(f) Truck washing

(2) By special permit:

(a) Auto parking subject to the Required Findings set forth under the General Business District
(b) Auto repair subject to the Required Findings set forth under the General Business District
(c) Auto sales subject to the Required Findings set forth under the General Business District
(d) Auto service subject to the Required Findings set forth under the General Business District
(e) Auto washing subject to the Required Findings set forth under the General Business District
(f) Drive-up and drive-through restaurant subject to the Required Findings set forth under the General Business District
(g) Fully automated business subject to the Required Findings set forth under the General Business District
(h) Truck body work

Required Findings*:*

- The facility is not within 1,300 feet of another similar business
- All body work shall be conducted entirely within a building housing the use

(i) Truck leasing

Required Findings:

- The facility is not within 1,300 feet of another similar business

(j) Truck repair

Required Findings:

- The facility is not within 1,300 feet of another similar business
- All repairs, except minor repairs, shall be conducted entirely within a building housing the use

(k) Truck sales

Required Findings:

- The facility is not within 1,300 feet of another similar business

(l) Truck service

Required Findings*:*

- The facility is not within 1,300 feet of another similar business
- All maintenance and service, other than minor service at the island and emergency repairs, shall be conducted entirely within a building.

(m) Fast-Order Food Establishment subject to the required findings set forth under the General Business District

d. EDUCATIONAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Commercial District

e. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Commercial District

f. INDUSTRIAL USES

(1) By special permit:

All uses permitted by special permit in the General Business District are permitted by special permit in the Commercial District

g. PHILANTHROPIC USES

(1) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Commercial District

h. RECREATIONAL USES

(1) By right:

All uses permitted by right in the Neighborhood Business District are permitted by right in the Commercial District

(2) By special permit:

(a) Golf course subject to the Required Findings set forth under the Village Residence District

(b) Outdoor recreation subject to the Required Findings set forth under the General Business District

(c) Riding stable subject to the Required Findings set forth under the General Business District

i. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Commercial District

j. RESIDENTIAL USES

(1) By right:

(a) Temporary manufactured or mobile home that is used while a residence that was destroyed by fire or other natural holocaust is being rebuilt, so long as the manufactured or mobile home complies with the state sanitary code and such temporary residence does not exceed 12 months.

(2) By special permit:

(a) Assisted living residence subject to the Required Findings set forth under the Neighborhood Business District

(b) Nursing home subject to the Required Findings set forth under the Neighborhood Business District

k. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Commercial District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Commercial District

l. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Commercial District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are Permitted in the Commercial District

8. INDUSTRIAL DISTRICT

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Industrial District

b. BUSINESS USES

(1) By right:

(a) Loan agency
(b) Personal services
(c) Tradesman's shop
(d) Offices (Amended: 05/06/2008)

(2) By special permit:

~~(a) Accessory uses to scientific research or development subject to the Required Findings set forth under the Neighborhood Business District~~

(b) Bank

Required Findings*:*

- The use is compatible with other uses in the area where located
- There is adequate landscaping and buffer to screen the use from surrounding uses

(c) (deleted Art. 37 – May, 2008)

~~(d) Research facility subject to the Required Findings set forth under the Neighborhood Business District~~

(Amended: Art. 38; AFTM 10-4-2011)

(e) Dog DayCare

Required Findings:

- The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects
- There is a maximum of twenty (20) dogs at any one time on the premises
- There is a minimum of one thousand five hundred (1500) square feet of interior gross floor area
- There is a minimum of one thousand five hundred (1500) square feet of exterior space enclosed by an eight (8) foot non-chain link fence with the finished surface facing in and a similar gate for the dogs to exercise
- An attendant is on the premises at all times when there are dogs at the site
- There is no overnight kenneling of dogs at the site
- There are no dogs on the site before 6:00 a.m. or after 10:00 p.m.

(f) Dog Training

Required Findings:

- The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects
- There is a maximum of fifteen (20) dogs at any one time on the premises
- There is a minimum of one thousand five hundred five hundred (1500) square feet of interior gross floor area
- An attendant is on the premises at all times when there are dogs at the site
- There is no overnight kenneling of dogs at the site
- There is no overnight in-kennel training
- There are no dogs on the site before 6:00 a.m. or after 10:00 p.m.
- There is no outside on-premise training

c. COMMERCIAL USES

(1) By right:

(a) Garaging or parking of one or more light commercial vehicles
(b) Garaging or parking of one or more heavy commercial vehicles
(c) Greenhouse (non-agricultural)
(d) Truck washing
(e) Contractor's yard

(2) By special permit

Required Findings:

- The use is not detrimental to the area in which it is located
- The use will not result in any odors, fumes, noise, vibrations chemical spills, or hazardous wastes

(b) Fully automated business subject to the Required Findings set forth under the General Business District
(c) Motel or hotel subject to the Required Findings set forth under the Neighborhood Business District
(d) Repair shop

Required Findings:

- The use is not detrimental to the area in which it is located
- The use will not result in any odors, fumes, noise, vibrations, chemical spills, or hazardous wastes
- The use will be conducted entirely within a building

(e) Restaurant
(f) Retail store
(g) Fast-Order Food Establishment subject to the required findings set forth under the General Business District

Required Findings*:*

- The use is compatible with the area where located
- The use does not adversely impact traffic
- There are sufficient loading and unloading facilities
- There is adequate landscaping and buffer to screen the use from surrounding uses
- Adequate garbage and rubbish disposal facilities are located on the property and are adequately screened
- The use is not detrimental to the existing business climate or to future business development in the area

d. EDUCATIONAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Industrial District

e. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Industrial District

f. INDUSTRIAL USES

(1) By right:

(a) Light manufacturing

(2) By special permit:

(a) Accessory retail and automotive services

Required Findings:

- The use is incidental and accessory to the principal use
- The accessory use does not comprise more than 10% of the total gross floor area of the principal use or 1,000 square feet, whichever is less

(b) Automotive sales

Required Findings*:*

- The use is not detrimental to the area in which it is located
- The use is not located within 1,300 feet of another similar use

(c) Automotive services

Required Findings*:*

- The use is not detrimental to the area in which it is located
- The use is not located within 1,300 feet of another similar use
- Except for minor services, which take place outside, all services shall be conducted inside a building
- The use will not result in any odors, fumes, noise, vibrations, chemical spills, or hazardous wastes
- There are adequate facilities for disposal of rubbish, waste, and hazardous waste and materials

(d) Wholesale Use

Required Findings:

- The use is not detrimental to the area in which it is located.
- The hours of operation are tailored to safeguard against early morning and late night disturbance of residents in nearby neighborhoods.

g. RECREATIONAL USES

<u>(1) By right:</u>

(a) Antique shows
(b) Bowling alley
(c) Conservation
(d) Driving range
(e) Fairs and bazaars
(f) Non-municipal athletics
(g) Other recreational events
(h) Swimming pool, non-accessory to residence

<u>(2) By special permit:</u>

All uses permitted by special permit in the Commercial District are permitted by special permit in the Industrial District

h. RELIGIOUS USES

<u>(1) By right:</u>

All uses permitted by right in the Village Residence District are permitted by right in the Industrial District

i. RESIDENTIAL USES

<u>(1) By special permit:</u>

All uses permitted by special permit in the Commercial District are permitted by special permit in the Industrial District

j. SERVICE USES

<u>(1) By right:</u>

All uses permitted by right in the Village Residence District are permitted by right in the Industrial District

<u>(2) By special permit:</u>

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Industrial District

k. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the General Business District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Industrial District

D. USES, BUILDINGS, AND STRUCTURES PERMITTED IN THE SPECIAL ZONING DISTRICTS

A use that is not expressly permitted by right or by special permit is not listed.

1. REFUSE TRANSFER STATION SPECIALTY DISTRICT

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Refuse Transfer Station District

b. EDUCATIONAL USES

(1) By right:

(a) Non-profit

c. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Refuse Transfer Station District

d. INDUSTRIAL USES

(1) By special permit:

(a) Private sewage treatment plant

Required Findings*:*

- The use complies with the state sanitary code
- The use is not detrimental to the neighborhood in which it is located
- The use is not noxious due to noise, fumes, vibrations, or other characteristics of the use
- There are adequate provisions for maintenance of the use as a private facility

(b) Refuse transfer station

Requirements:

AREA AND FRONTAGE

- The proposed site shall have a minimum area of 45,000 square feet and a minimum of 500 feet frontage on an accepted street.

BUFFERS

- The proposed site shall have a buffer zone of not less than 500 feet deep when abutting any residentially used or zoned land or 100 foot buffer with a banking at least eight feet high.
- The buffer zone shall have sufficient trees and bankings to completely shield the operations of the transfer station from the street and all abutters.
- Any facility used as a refuse transfer station including buffer zone shall not be located within 250 feet of wetlands, or the flood plain of a brook, stream, river, pond, or lake, or the Town's water supply.

ACCESS

- The access road for the use shall be constructed so that the transfer station is not visible from the street.

BUILDING HEIGHT

- No building or structure associated with the use shall exceed 30 feet in height.

Required Findings:

- The use complies with the site plan approval requirements of the Zoning By-law
- No buildings or access facilities are placed on any portion of the land determined by the Board of Health to be unsuitable for such construction.
- The applicant has demonstrated by written or other exhibits the use of best available control technology
- The proposed use will not be noxious, offensive, or detrimental to the neighborhood or to the Town by reason of special danger of fire or explosion; pollution of water-ways; emission of corrosive, toxic or noisome fumes, gas, smoke, soot, obnoxious dust, disagreeable odors, offensive noises, vibrations, or other objectionable characteristics.

e. RECREATIONAL USES

(1) By right:

All uses permitted by right in the Industrial District are permitted by right in the Refuse Transfer Station District

(2) By special permit:

All uses permitted by special permit in the Commercial District are permitted by special permit in the Refuse Transfer Station District

f. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Refuse Transfer Station District

g. RESIDENTIAL USES

(1) By special permit:

All uses permitted by special permit in the Commercial District are permitted by right in the Refuse Transfer Station District

h. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Refuse Transfer Station District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Refuse Transfer Station District

i. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Refuse Transfer Station District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Refuse Transfer Station District

2. PRIVATE & PUBLIC DUMPING GROUND DISTRICT

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Private & Public Dumping Ground District

b. EDUCATIONAL USES

(1) By right:

(a) Non-profit

c. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Private & Public Dumping Ground District

d. INDUSTRIAL USES

(1) By special permit:

(a) Refuse composting plant
(b) Refuse incinerator
(c) Residual waste storage
(d) Waste treatment plant

Requirements for All Special Permit Uses*:*

AREA AND FRONTAGE

- The proposed site shall contain a minimum area of 45,000 square feet and a minimum frontage on an accepted street of 150 feet

YARDS

- There shall be provided an open yard space of not less than 100 feet along the front property line and not less than 35 feet along each side property line and not less than 50 feet along the rear property line of each lot.

BUILDING HEIGHT

- Buildings shall not exceed 55 feet in height.

Required Findings for all Special Permit Uses*:*

- The use complies with the site plan approval requirements of the Zoning By-law
- No buildings or access facilities are placed on any portion of the land determined by the Board of Health to be unsuitable for such construction.
- The applicant has demonstrated by written or other exhibits the use of best available control technology
- The proposed use will not be noxious, offensive, or detrimental to the neighborhood or to the Town by reason of special danger of fire or explosion; pollution of water-ways; emission of corrosive, toxic or noisome fumes, gas, smoke, soot, obnoxious dust, disagreeable odors, offensive noises, vibrations, or other objectionable characteristics.

e. RECREATIONAL USES

(1) By right:

All uses permitted by right in the Industrial District are permitted by right in the Private & Public Dumping Ground District

(2) By special permit:

All uses permitted by special permit in the Commercial District are permitted by special permit in the Private & Public Dumping Ground District

f. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Private & Public Dumping Ground District

g. RESIDENTIAL USES

(1) By special permit:

All uses permitted by special permit in the Commercial District are permitted by right in the Private & Public Dumping Ground District

h. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Private & Public Dumping Ground District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Private & Public Dumping Ground District

i. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Private & Public Dumping Ground District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Private & Public Dumping Ground District

3. **ALCOHOL & DRUG REHABILITATION HOSPITAL DISTRICT**

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Alcohol & Drug Rehabilitation Hospital District

b. EDUCATIONAL USES

(1) By right:

(a) Non-profit

c. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Alcohol & Drug Rehabilitation Hospital District

d. RECREATIONAL USES

(1) By right:

All uses permitted by right in the Industrial District are permitted by right in the Alcohol & Drug Rehabilitation Hospital District

(2) By special permit:

All uses permitted by special permit in the Commercial District are permitted by special permit in the Alcohol & Drug Rehabilitation Hospital District

e. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Alcohol & Drug Rehabilitation Hospital District

f. RESIDENTIAL USES

(1) By special permit:

All uses permitted by special permit in the Commercial District are permitted by right in the Alcohol & Drug Rehabilitation Hospital District

g. SERVICE USES

(1) By right:

(a) All uses permitted by right in the Village Residence District are permitted by right in the Alcohol & Drug Rehabilitation Hospital District

(b) Alcohol & drug rehabilitation hospital

Requirements for Use:

AREA AND FRONTAGE

- The minimum area per lot shall be 120,000 square feet. The minimum frontage per lot shall not be less than 200 feet.

LOT COVERAGE

- Not more than 25% of the total area of any such lot shall be covered by any buildings, structures, or pavement.

OTHER DIMENSIONS

- Yard space, building height and any other provisions of the Zoning By-law applicable to General Business Districts shall apply to lots within Alcohol and Drug Rehabilitation District.

SCREENING

- Screening shall be provided, erected and maintained to shield the establishment from adjoining residential or municipal properties. Screening shall consist of a solid fence, wall or evergreen planting, in all cases not less than six feet in height.

VEHICLE ACCESS

- Vehicle access curb and sidewalk openings shall be limited to 24 feet in each 50 feet of frontage and no such curb or sidewalk openings shall exceed 24 feet in width measured at the throat of the opening.

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Alcohol & Drug Rehabilitation Hospital District

h. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Alcohol & Drug Rehabilitation Hospital District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Alcohol & Drug Rehabilitation Hospital District

4. **COMPOSTING DISTRICT**

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Composting District

b. EDUCATIONAL USES

(1) By right:

(a) Non-profit

c. GOVERNMENTAL USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Composting District

d. INDUSTRIAL USES

(1) By right:

(a) Composting facilities

Requirements for Use*:*

AREA AND FRONTAGE

- The site shall contain a minimum of three acres of land. The frontage and yard space requirements shall be the same as required in the Industrial District.

BUILDING HEIGHT, GREEN STRIPS, AND GREEN SPACES

- The requirements for building height, green strips, and green spaces shall be the same as those required in the Industrial District.

SIGNS

- All signs on a lot shall be in conformity with the sign provisions of the Zoning By-law and specifically in conformity with regulations pertaining to the Industrial District.

USE RESTRICTIONS

- All facilities shall meet the Department of Environmental Protection guidelines for leaf composting programs.
- The use shall be limited to receipt of clean non-polluted wood chips from yard waste and leaves for processing into compost for the Town or for distribution to residents of the Town.
- Equipment and materials may be stored outdoors on the site.
- There shall be no sale or storage of materials not processed on the subject site.

e. RECREATIONAL USES

(1) By right:

All uses permitted by right in the Industrial District are permitted by right in the Composting District

(2) By special permit:

All uses permitted by special permit in the Commercial District are permitted by special permit in the Composting District

f. RELIGIOUS USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Composting District

g. RESIDENTIAL USES

(1) By special permit:

All uses permitted by special permit in the Commercial District are permitted by right in the Composting District

h. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Composting District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Composting District

i. UTILITY USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Composting District

(2) By special permit:

All uses permitted by special permit in the Village Residence District are permitted by special permit in the Composting District

5. ADULT ENTERTAINMENT DISTRICT

a. AGRICULTURAL USES

(1) By right:

All uses permitted by right in the Multi-Family District are permitted by right in the Adult Entertainment District

b. BUSINESS USES

(1) By right:

(a) All uses permitted by right in the General Business District are permitted by right in the Adult Entertainment District

(2) By special permit:

(a) All uses permitted by special permit in the General Business District are permitted by special permit in the Adult Entertainment District

c. COMMERCIAL USES

(1) By right:

(a) Adult entertainment establishment

Requirements for Use:

AREA AND FRONTAGE

- The minimum area per lot shall be 40,000 square feet.
- There shall not be less than 125 feet of street frontage.

LOT COVERAGE

- Not more than 25% of the total area of any such lot shall be covered by buildings and structures.

OTHER DIMENSIONAL REQUIREMENTS

- Building height and any other provisions of the Zoning By-law applicable to General Business Districts shall apply to lots within the Adult Entertainment District.

(1)By right:

(a) All uses permitted by right in the General Business District are permitted by right in the Adult Entertainment District

(2) By special permit:

(a) All uses permitted by special permit in the General Business District are permitted by special permit in the Adult Entertainment District

d. EDUCATIONAL USES

(1) By right:

(a) Non-profit

e. GOVERNMENTAL USES

(1) By right:

(a) All uses permitted by right in the Village Residence District are permitted by right in the Adult Entertainment District

f. INDUSTRIAL USES

(1) By right:

(a) All uses permitted by right in the General Business District are permitted by right in the Adult Entertainment District

(2) By special permit:

(a) All uses permitted by special permit in the General Business District are permitted by special permit in the Adult Entertainment District

g. PHILANTHROPIC USES

(1) By special permit:

(a) All uses permitted by special permit in the General Business District are permitted by special permit in the Adult Entertainment District

h. RECREATIONAL USES

(1) By right:

(a) All uses permitted by right in the General Business District are permitted by right in the Adult Entertainment District

(2) By special permit:

(a) All uses permitted by special permit in the General Business District are permitted by special permit in the Adult Entertainment District

i. RELIGIOUS USES

(1) By right:

(a) All uses permitted by right in the Village Residence District are permitted by right in the Adult Entertainment District

j. RESIDENTIAL USES

(1) By right:

(a) All uses permitted by right in the General Business District are permitted by right in the Adult Entertainment District

(2) By special permit:

(a) All uses permitted by special permit in the General Business District are permitted by special permit in the Adult Entertainment District

k. SERVICE USES

(1) By right:

All uses permitted by right in the Village Residence District are permitted by right in the Adult Entertainment District

(2) By special permit:

(a) All uses permitted by special permit in the Village Residence District are permitted by special permit in the Adult Entertainment District

l. UTILITY USES

(1) By right:

(a) All uses permitted by right in the Village Residence District are permitted by right in the Adult Entertainment District

(2) By special permit:

(a) All uses permitted by special permit in the Village Residence District are permitted by special permit in the Adult Entertainment District

E. USES, BUILDINGS, AND STRUCTURES PERMITTED IN THE OVERLAY ZONING DISTRICTS
A use that is not expressly permitted by right or by special permit is not listed.

1. **FLOOD PLAIN OVERLAY DISTRICT**
All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Flood Plain Overlay District subject to all other requirements of the underlying district, and also subject to the following requirements that promote the health and safety of the occupants of lands deemed subject to seasonal or periodic flooding.
- The installation of underground utilities, services, and related appurtenances within the Flood Plain Overlay District shall connect to an existing facility and the post development grades and surface permeability shall remain the same as the predevelopment.

- The Inspector of Buildings may issue a building permit for a use permitted by right and the Board of Appeals may issue a special permit for a use permitted by special permit in the underlying district upon receipt of plans showing the proposed use, building, or structure and including an endorsement of approval from the Board of Health with all conditions of approval from the Board of Health specified on said building or special permit.

2. **HISTORIC OVERLAY DISTRICT**
All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Historic Overlay District. In order to foster development that is both compatible and appropriate within historic areas of the Town, the following dimensional requirements shall apply and shall override the dimensional requirements set forth in this Zoning By-Law.
- In the Village Residential, Neighborhood Residential, and Rural Residential Districts, a minimum side yard of 7 ½ feet and a minimum averaged front yard shall be provided.
- In the General Business, Neighborhood Business, Commercial, and Industrial Districts a minimum side yard of 7 ½ feet and an averaged front yard shall be provided. In these districts, the green strip and green space requirements of the Zoning By-law shall not apply.
- In all districts, any building or structure destroyed by fire or natural disaster may be rebuilt with the minimum yard spaces existing prior to such an event notwithstanding other limitations in the Zoning By-law.

3. **RESIDENTIAL CLUSTER OVERLAY DISTRICT**
All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Residential Cluster Overlay District, which is intended to encourage the conservation of open space and the efficient use of land in harmony with its natural features. In addition, the following RESIDENTIAL uses are permitted:
<u>(a) By right:</u>
(1) Accessory residential uses
<u>(b) By special permit:</u>
(1) Cluster development

Requirements for Use:

PERMITTED USES
- Single-family detached residences on separately deeded lots, one residence per lot.

DIMENSIONAL REQUIREMENTS
- Residential cluster development shall be allowed on parcels of land having a minimum contiguous area of 10 acres located within Village Residence, Neighborhood Residence, or Rural Residence Districts.
- Lot area may be reduced to 20,000 square feet in Neighborhood and Rural Residence Districts, and to 15,000 square feet in the Village Residence District. The land designated as open space must equal or surpass the total area by which all lots have been reduced.

- The minimum frontage in all residential districts may be reduced to100 feet, except the frontage on a cul-de-sac turnaround may be reduced to 75 feet provided the entire frontage is located on the cul-de-sac radius and the lot width parallel to the street at the front building line is a minimum of 100 feet.
- All yards shall conform to the yard requirements set forth in the Zoning By-law for the District in which the use is located.
- No residence, temporary structure, driveway, accessory structure, swimming pool, parking area, filling, paving or fencing shall be located within 100 feet of the perimeter of the applicable Residential Cluster Overlay District, except for utility easements or roadways.
- All contiguous areas within any one discrete Residential Cluster Overlay District shall be utilized in the design of the residential cluster development. No overlay district shall be split so as to render one portion cluster and the other conventional. Any such discrete area shall be developed exclusively as either a conventional subdivision or a residential cluster development.
- The total number of building lots in a residential cluster development shall be no greater that the number of building lots that would otherwise be permitted in the district where the land is located

OPEN SPACE

- The area of open space shall equal at least 40% of the total area of the residential cluster development tract.
- The minimum required open space area may contain ponds, marshes, or other protected wetlands, but a minimum of 40% of the entire site's non-wetland area shall be located within the open space area.
- Parking areas, streets, or other areas associated with the residential cluster development shall not be included in the open space area.
- For open space areas, minimum frontage on a public way or subdivision may be reduced to 40 feet.
- Any area designated as open space must contain at least four acres of contiguous open space land.
- Open space areas shall remain undeveloped but may be subject to easements for the construction, maintenance, and repair of utility and drainage facilities serving the residential cluster development or adjacent parcels.
- Open space areas shall have a shape, dimension, character, and location suitable for passive recreation, conservation, or agricultural purposes.
- Open space areas may not be excavated or filled and must be maintained in their natural state.
- Provisions shall be made so that the open space areas are readily accessible to the owners or occupants of the lots in the residential cluster development, or, if the open space areas are under Town ownership, to the residents of the Town.

OPEN SPACE AREA OWNERSHIP

- Open space areas shall be owned by a corporation, non-profit organization, or trust whose owners or beneficiaries are all owners and occupants of the lots, or by the Town, or otherwise as directed at the time of special permit issuance.
- All open space shall be subject to a perpetual restriction of the type described in M.G.L., ch. 184, § 31, as amended, running to or enforceable by the Town. Said restriction shall be recorded at the Middlesex North Registry of Deeds. Such restriction shall provide that the open space areas shall be retained in perpetuity for one or more of the following uses: conservation, agriculture or passive recreation. Such restriction shall be in such form and substance as the SPGA shall prescribe and may contain such additional restrictions on development and use of the open space as deemed appropriate.
- In order to ensure that the corporation, non-profit organization, or trust will properly maintain the open space area, an instrument(s) shall be recorded at the Middlesex North Registry of Deeds, which shall at a minimum provide:
  - a legal description of the open space;
  - a statement of the purposes for which the open space is intended to be used and the restrictions on its use and alienation;
  - the type and name of the corporation, non-profit organization or trust which will own, manage, and maintain the open space;
  - the ownership or beneficial interest in the corporation, non-profit organization, or trust of each owner of a dwelling in the residential cluster development and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately therefrom;

- provisions for the number, term of office and the manner of election to office, removal from office, and the filling of vacancies in the office of directors and/or officers of the corporation or non-profit organization or trustees of the trust;
- procedure for the conduct of the affairs and business of the corporation, non-profit organization, or trust including provision for the calling and holding of meetings of members and directors and/or officers of the corporation or non-profit organization or beneficiaries and trustees of the trust and provision for quorum and voting requirements for action to be taken. Each owner of a residence shall have voting rights proportional to that owner's ownership or beneficial interest in the corporation, non-profit organization, or trust.
- provision for the management, maintenance, operation, improvement and repair of the open space and facilities thereon, including provisions for obtaining and maintaining adequate insurance and levying and collecting from the dwelling owners common charges to pay for expenses associated with the open space area, including real estate taxes. It shall be provided that common ownership or beneficial interests in the corporation, non-profit organization, or trust, and that each dwelling owner's share of the common charge shall be a lien against his real estate in the residential cluster development, which shall have priority over all other liens with the exception of municipal liens and first mortgages of record; and the method by which such instrument or instruments may be amended.

SUBDIVISION APPROVAL REQUIREMENTS

- SPGA approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Law, nor oblige the Planning Board to approve any related definitive subdivision plan, nor reduce any time periods for Board consideration under the law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, permit submission of a combined plan and application which shall satisfy this Section of the Zoning By-law and the Planning Board's Rules and Regulations under the Subdivision Control Law.
- The special permit application shall not be submitted prior to the approval of a conventional preliminary subdivision plan in accordance with the Subdivision Rules and Regulations. Such plan shall provide satisfactory evidence that the number of lots shown on the residential cluster development plan is no greater than the number of lots that could otherwise be developed in a conventional subdivision . Each conventional lot must have enough non-wetland area to site a dwelling. A second preliminary plan showing the proposed cluster plan shall also be submitted along with the conventional preliminary subdivision plan.
- If the residential cluster development does not require approval under the Subdivision Control Law, the applicant shall nevertheless submit a plan or plans in the form and containing the same information required to be shown on a preliminary subdivision plan by the Subdivision Rules and Regulations.
- The application plan for the special permit shall be prepared in accordance with the requirements for a definitive subdivision plan as set forth in the Subdivision Rules and Regulations and shall also include the following:
  - the proposed location, bulk and height of all proposed buildings;
  - an analysis of the site, including wetlands, slopes, soil conditions, areas within the 100 year flood zone, vegetative areas, and other natural features as the SPGA may request; and
  - an evaluation of the open space proposed within the residential cluster development, with respect to the size, shape, location, natural resource value, and accessibility by residents of the development or residents of the Town, as applicable.

Required Findings:

- The use complies with the site plan approval requirements of the Zoning By-law.
- The plan and application meet all requirements for submission.
- The proposed use will not have a detrimental impact on the neighborhood.
- The plan is designed with consideration for health and safety and is superior to a conventional plan in preserving open space, minimizing environmental disruption, and allowing for more efficient provision of services.

4. **TOWNHOUSE OVERLAY DISTRICT**

a. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Townhouse Overlay District.

b. In addition, the following RESIDENTIAL use is permitted by special permit:

(1) Townhouse

Requirements for Use:

OVERLAY APPLICATION

- The Townhouse Overlay District may be applied to the Village Residence, Neighborhood Residence, Rural Residence, Neighborhood Business, and General Business Districts.

AREA AND FRONTAGE

- The minimum site size for such development shall be 200,000 square feet.
- The Townhouse site shall have not less than 150 feet of frontage.

SITE COVERAGE AND DESIGN RESTRICTIONS

- Buildings shall not cover more than 30% of the site.
- At least 40% of the site shall be maintained as green space as required by the Zoning By-law.
- There shall be a minimum distance of 40 feet between two residential buildings or groups of townhouses on the same site
- Townhouse rows shall consist of a minimum of three units and a maximum of 10 units.
- Each townhouse dwelling unit shall be a minimum of 18 feet wide.
- No open parking or driveway shall be closer than 15 feet to a wall containing windows or habitable rooms.
- Townhouses may be maintained as rental units or may be sold as condominiums. Townhouse units may not be sold as row houses with their own individual sites. This shall not restrict the allocation of outdoor space adjacent to individual dwelling units for the exclusive use of the occupants of specific dwelling units.
- Swimming pools or any other structure, other than a dwelling, garages, community building, and all accessory structures that are part of a townhouse development shall comply with the green strip, setback, and parking requirements of the Zoning By-law.
- Garages and a community building for meetings and social activities of the residents shall be permitted, but shall not exceed 2,000 square feet of gross floor area and shall comply with all green strip and setback requirements of the Zoning By-law.

YARDS

- On each site there shall be provided a minimum setback of 35 feet from the front property line.
- The side and rear setbacks shall be 50 feet or 25 feet, which shall be retained in its natural, wooded state or landscaped along the perimeter of the side and may include easements (paved or otherwise) dedicated for public recreational purposes.
- A landscape buffer strip shall be provided so as to protect adjoining properties from the effects of noise, lights, air, or visual impact.

GREEN STRIPS

- A 25 foot wide green strip shall be provided around the perimeter of the tract, except in the location of curb cuts.
- Green Strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover and flowers.
- The green strip shall not be built on, paved or parked on.

HEIGHT

- Townhouse buildings shall not exceed two and one-half stories or be more than 35 feet in height, provided that no living quarters shall be located below the mean finished grade of the ground adjoining the building or above the second story.

DENSITY

- A minimum of 6,800 square feet of land shall be required for each dwelling unit.
- The area used in the calculation shall not include any bordering vegetative wetlands defined by M.G.L., ch. 131, § 40 and by 310 CMR 10.00 or any flood plain as described in this Zoning By-law.

DENSITY INCENTIVE

- In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

PARKING

- There shall be a minimum of two parking spaces per dwelling unit.
- A minimum of 25% of the dwelling units shall have garages.
- The parking space within garages shall count towards the two parking spaces per dwelling unit requirement.
- Driveways leading to garages shall be at least 24 feet long.

SEWER AND WATER

- All sites must be served by the Town water systems.
- All sites must be served by an existing Town sewer, or by an extension of an existing Town sewer line approved by the Board of Selectmen, or by a private septic system approved by the Board of Health.
- Installation of any new sewer line extension, if approved by the Sewer Commission, shall be the financial responsibility of the developer and will be installed in accordance with the specifications provided by the Sewer Extension Commission. Said extension shall be so laid out to serve any residence it passes.

FIRE LANES

- All buildings shall be surrounded by fire lanes.
- The fire lane shall remain an open space and no vehicle may be parked in the lane and no building, structure, fence, stair, covered or uncovered porch, cornice, eaves, or other building projection may be located in or erected in the fire lane without permission from the Chief of the Billerica Fire Department, except that buildings may be interconnected by corridors or walkways, if provision is made for access by fire apparatus to all outside walls.
- The fire lane space shall be vacant between a building and a line parallel to and 15 feet equidistant from a building.

ACCESS ROADS

- All access roads shall be built in accordance with design specifications of the Town's Department of Public Works.

AFFORDABLE HOUSING COMPONENT

- Fifteen (15) percent of the units created under these provisions shall be affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". The Billerica Housing Authority is exempt from this requirement because the units under their control are categorically affordable.
  As an alternative to the above requirement, and as allowed by law, the Planning Board may require an applicant to contribute a fee per unit to the Town of Billerica to be used for the development of affordable housing in lieu of or in conjunction with constructing and offering affordable units within the locus of the proposed development. The fee per unit shall be based upon the calculation of the fair market price of the unit minus the construction cost of the unit or the construction cost, whichever is greater. Payment of this fee may be made in one-third installments over the projected build-out of the development with the final payment to be made before the last unit is sold.

Amended 05/01/2007

Required Findings:

- The use complies with the site plan approval requirements of the Zoning By-law.
- The requested use is desirable to the public convenience or welfare.
- The requested use provides for the convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, and improvements.
- The requested use will not create or add to the undue traffic congestion, or unduly impair pedestrian safety.
- The requested use will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
- The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience, or welfare.
- The requested use will not, by its addition to a neighborhood cause an excess of that particular use that could be detrimental to the character of said neighborhood in which it is proposed to be constructed.
- The design and architectural treatment of the use is not incongruous or inappropriate to the character of the neighborhood in which it is proposed to be constructed.
- There is an adequate landscape buffer strip provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
- No building or access facilities shall be placed on any portion of the land determined by the Board of Health to be unsuitable for such construction.

5. ELDERLY HOUSING OVERLAY DISTRICT

a. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Elderly Housing Overlay District.

b. In addition, the following RESIDENTIAL uses are permitted:

(1) By right:

(a) Accessory residential uses

(2) By special permit:

(a) Elderly housing for purposes of providing people over 55 years of age the opportunity to live in a development designed specifically for their needs, equipped with the appropriate amenities and located within reasonable proximity to shopping and services.

Requirements for Use:

OVERLAY APPLICATION

- The Elderly Housing Overlay District may be applied to the Village Residence, Neighborhood Residence, Rural Residence, Neighborhood Business, and General Business Districts.

AREA AND FRONTAGE

- The site shall have not less than five contiguous acres of land and not less than 150 feet of frontage.

YARDS

- On each site there shall be provided a minimum setback of 35 feet from the front lot line, a minimum setback of 30 feet from each of the side lot lines, and a minimum setback of 30 feet from the rear lot lines.
- If an Elderly Housing Overlay District development abuts a single-family district, the side and rear setbacks shall be increased to 85 feet, of which 25 feet shall be retained in its natural wooded state or landscaped along the perimeter of the site abutting the single family district. In all cases, a landscaped buffer strip shall be provided so as to protect adjoining properties from the effects of noise, lights, air, or visual impact.
- There shall be no structures, retaining walls, covered or uncovered porches, steps or paving within the buffer zone.

GREEN STRIPS

- A 25 foot wide green strip shall be provided around the perimeter of the tract, except in the location of curb cuts.
- Green strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover and flowers.
- The green strip shall not be built on, paved or parked on.

HEIGHT

- Buildings and structures shall not exceed two and one-half stories or be more than 35 feet in height, provided that no living quarters shall be located below the mean finished grade of the ground adjoining the building or above the second story.

DENSITY

- A minimum of 6,800 square feet of land shall be required for each dwelling unit.
- The area used in the calculation shall not include any bordering vegetative wetlands defined by M.G.L., ch. 131, § 40 and by 310 CMR 10.00 or any flood plain as described in this Zoning By-law.

- **DENSITY INCENTIVE**

  In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of additional units created are affordable as defined by Section 2 of this by-law under the entry "affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units.)

SEWER AND WATER

- All sites must be served by the Town water systems.
- All sites must be served by an existing Town sewer, or by an extension of an existing Town sewer line approved by the Board of Selectmen, or by a private septic system approved by the Board of Health.
- Installation of any new sewer line extension, if approved by the Sewer Commission, shall be the financial responsibility of the developer and will be installed in accordance with the specifications provided by the Sewer Extension Commission. Said extension shall be so laid out to serve any residence it passes.

PARKING

- There shall be a minimum of two parking spaces per dwelling unit.
- A minimum of 25% of the dwelling units shall have garages.
- The parking space within these garages shall count towards the two parking spaces per dwelling unit requirement.

ADDITIONAL REQUIREMENTS

- Each dwelling unit shall have no more than two bedrooms and all exterior and interior doorways shall be appropriately wide for wheelchair access, following the applicable codes and guidelines.
- Buildings shall not cover more than 30% of the site.
- At least 40% of the site shall be maintained as green space as required by the Zoning By-law.
- There shall be a minimum distance of 40 feet between two residential buildings or groups of buildings on the same site
- No open parking or driveway shall be closer than 15 feet to a wall containing windows or habitable rooms.
- Swimming pools or any other structure, other than a dwelling, garages, community building, and all accessory structures that are part of an elderly housing development shall comply with the green strip, setback, and parking requirements of the Zoning By-law.
- Garages and a community building for meetings and social activities of the residents shall be permitted, but shall not exceed 2,000 square feet of gross floor area and shall comply with all green strip and setback requirements of the Zoning By-law.

YARDS

- On each site there shall be provided a minimum setback of 35 feet from the front property line.
- The side and rear setbacks shall be 50 feet or 25 feet, which shall be retained in its natural, wooded state or landscaped along the perimeter of the side and may include easements (paved or otherwise) dedicated for public recreational purposes.
- A landscape buffer strip shall be provided so as to protect adjoining properties from the effects of noise, lights, air, or visual impact.

DEED RESTRICTIONS

- Deed restrictions shall be placed on the entire site and shall be referenced in all leases as applicable, requiring that all residents, with the exception of spouses and/or caregivers, shall have reached the age of 55. These restrictions shall be reviewed by Town Counsel for acceptance. The cost of such review shall be the responsibility of the applicant.

FIRE LANES

- All buildings shall be surrounded by fire lanes.
- The fire lane shall remain an open space and no vehicle may be parked in the lane and no building, structure, fence, stair, covered or uncovered porch, cornice, eaves, or other building projection may be located in or erected in the fire lane without permission from the Chief of the Billerica Fire Department, except that buildings may be interconnected by corridors or walkways, if provision is made for access by fire apparatus to all outside walls.
- The requirement for a fire lane surrounding a building shall not be construed to mean that paved access surrounding the building is required. The area may be planted with low plantings of a size that would not impede a fire vehicle.

- The fire lane space shall be vacant between a building and a line parallel to and 15 feet equidistant from a building.

ACCESS ROADS

- All access roads shall be built in accordance with design specifications of the Town's Department of Public Works.

AFFORDABLE HOUSING COMPONENT

- Fifteen (15) percent of the units created under these provisions shall be affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". The Billerica Housing authority is exempt from this requirement because the units under their control are categorically affordable.

  As an alternative to the above requirement, and as allowed by law, the Planning Board may require an applicant to contribute a fee per unit to the Town of Billerica to be used for the development of affordable housing in lieu of or in conjunction with constructing and offering affordable units within the locus of the proposed development. The fee per unit shall be based upon the calculation of the fair market price of the unit minus the construction cost of the unit or the construction cost, whichever is greater. Payment of this fee may be made in one-third installments over the projected build-out of the development with the final payment to be made before the last unit is sold.

  Amended: 05/01/2007

Required Findings*:*

- The use complies with the site plan approval requirements of the Zoning By-law.
- The requested use is desirable to the public convenience or welfare.
- The requested use provides for the convenience and safety of vehicular and pedestrian movement within the site, especially affecting the elderly, and in relation to adjacent streets, property, and improvements.
- The requested use will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
- The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience, or welfare.
- The requested use will not, by its addition to a neighborhood cause an excess of that particular use that could be detrimental to the character of said neighborhood in which it is proposed to be constructed.
- The design and architectural treatment of the use is not incongruous or inappropriate to the character of the neighborhood in which it is proposed to be constructed.
- There is an adequate landscape buffer strip provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
- No building or access facilities shall be placed on any portion of the land determined by the Board of Health to be unsuitable for such construction.

6. SELF-SERVICE OVERLAY DISTRICT

a. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Self-Service Overlay District.

b. In addition, the following COMMERCIAL use is permitted by special permit:

(1) Self-storage service facility

Requirements for Use:

OVERLAY APPLICATION

- The Self-Service Overlay District may be applied to the Industrial District.

AREA, HEIGHT, AND OTHER DIMENSIONAL REQUIREMENTS

- The minimum lot area for a Self-service Storage facility shall be 10 acres.
- Self-service storage facility buildings shall not exceed one story or 13 feet in height.
- All other lot dimensional requirements shall be the same as required in the Industrial District.

GREEN STRIPS AND GREEN SPACE

- A minimum 20 foot green strip shall be provided and maintained along a minimum of 70% of the perimeter of each lot. Curb cuts are excluded from this requirement.
- Green strips shall consist of natural or planted vegetation.
- A green space shall be set aside on each side that is the greater of 25% of the site's area or five acres. This area cannot be used for driveways, roadways, parking areas, and paved areas for vehicular travel of any type.

PARKING AND LOADING

- Self-Service Storage Facilities shall be subject to the parking and loading requirements of this Zoning By-law with the following exceptions:
  - The total number of conventional parking spaces shall be six plus one handicapped space.
  - Additional parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least 26 feet wide when the cubicles open onto one side of the lane only and at least 30 feet wide when cubicles open onto both sides of the lane. No loading docks shall be allowed on the site. No lane shall exceed 30 feet in width at its throat.

USE LIMITATIONS

- Self-Service Storage Facilities shall be limited to personal property use only.
- No activity other than rental of storage units and pick up and deposit of personal property shall be allowed on the lot except for accessory or incidental uses required in administration and security of the site.
- No outside storage shall be allowed.
- The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals shall be prohibited.
- The use of the unit for uses other than dead storage shall be prohibited.
- Servicing or repair of motor vehicles, boats, trailers, lawnmowers, or any similar equipment shall be prohibited.

SIGNS

- All signs on the premises shall be in conformity with the sign requirements of the Zoning By-law.

Required Finding:

- The use complies with the site plan approval requirements of the Zoning By-law
- The use complies with the requirements set forth in this section of the Zoning By-law
- The location of the use will not be detrimental to the neighborhood in which it is located
- The use will not generate undue traffic or create traffic congestion on the site

7. MILL CONVERSION AND REUSE OVERLAY DISTRICT (MCROD)

5. E.7 (1) Purpose and Intent. The purpose of the Mill Conversion and Overlay District is to: facilitate and encourage the reuse of the North Billerica historic mill buildings in a fashion that is appropriate for the individual properties and compatible with the surrounding land uses; promote diverse housing choices in the Town of Billerica; provide flexibility in meeting the Town's housing and economic development needs; prevent disinvestment and deterioration of historic structures; and encourage sustainable mixed-use development, including transit-oriented development, in the area of the North Billerica Commuter Rail Station.

5.E.7 (2) Establishment of the Overlay District. The Mill Conversion and Reuse Overlay District (MCROD) is hereby established and shall be considered an overlay zoning district. Within the MCROD, all requirements of the underlying district(s) shall remain in effect except where these regulations supersede or provide an alternative to such requirements. If a property is developed consistent with the Mill Conversion and Reuse Overlay District, the regulations of the MCROD shall apply. Where the provisions of the Mill Conversion and Reuse Overlay District are silent on a zoning regulation, the requirements of the underlying zoning district shall apply.

5. E.7 (3) Application of District. The Mill Conversion and Reuse Overlay District may be applied to the Neighborhood Business, General Business, Commercial or Industrial Districts. This requires a rezoning of land pursuant to the procedures outlined under Section 17 of this by law and to MGLC 40A Section 5.

5. E.7 (4) Special Permit. Uses other than those allowed within the underlying zone(s) within the MCROD require a special permit by the Planning Board and a site Plan approval pursuant to Section 6 of this zoning by-law. No other uses or structures shall be permitted in conjunction with a project except as specifically stated herein.

5. E.7 (5) Special Permit Granting Authority. The Planning Board shall serve as the Special Permit Granting Authority (SPGA) pursuant to this section. All applications for a special permit shall be governed as follows:

5. E.7 (6) Application. All applications for a mill conversion and reuse project shall be submitted to the Planning Board as to form required of the Board in accordance with its regulations. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of Massachusetts General Law Chapter 41, Section 81 O and 81 T as amended, and the Regulations of the Planning Board, along with a filing fee determined in accordance with said regulations. Additionally, the applicant must submit the following:

1. Plans

a. A site plan and all supporting documents, as set forth in Section 6 of this Bylaw.
b. A plan at a scale of 1" = 40' showing the topography of the site at a minimum of two-foot contour intervals. The plan must use the Massachusetts State Plane (NAD 83) coordinate system and include vegetation and special features including wetlands, perennial streams and ponds, waterways, waterfalls, canals and dams, trees of more that 8 inches caliper, rock outcroppings, slopes in excess of fifteen percent (15%), existing and proposed trails and walkways, vistas, structures of historical importance, biological or wildlife habitats, and proposed and existing conservation or recreation easements.
c. A plan illustrating preliminary landscaping and architectural design, showing types, locations and layout of buildings and elevations as well as the general height, bulk and appearance of structures. Perspectives may be required at Board's discretion.
d. A floor plan to scale for each floor of each building indicating where applicable, the number of units by type, the number of bedrooms per dwelling unit, the proposed use(s) of floor space and the location of affordable dwelling units.
e. A plan for the care, custody and control of all dams, canals and water rights located on the site or owned or controlled by the applicant.

2. Narrative Reports

a. A report regarding the proposed development schedule showing the beginning of construction and relevant or significant stages and the estimated date of completion and occupancy.

b. A development impact statement prepared by a qualified professional detailing the impact of the development at all phases including construction on the Town's capacity to furnish services, including, but not limited to, roads and levels of service, police, fire, emergency service, schools, air quality, noise, light pollution and other environmental concerns.

c. Information pertaining to any organization or entity the applicant proposes to form where the development is to be a condominium or other ownership organization, including forms and plans used to organize and manage the same.

d. Copies of all proposed covenants, easements and other restrictions which the applicant proposes to grant to the Town, Conservation Commission, utility company, the Middlesex Canal Commission or others, including any condominium or ownership organization and the owners thereof, for review by Town Counsel and approval by the Planning Board.

e. A table showing the total number of dwelling units and the number of affordable units by type and size on each floor of each building.

f. If applicable, copies of the proposed regulatory agreement for each affordable housing unit, and where appropriate, the proposed deed rider for each affordable ownership unit.

g. A narrative analysis prepared by a preservation consultant, including any and all historical information to be submitted to the Billerica Historic Districts Commission and the Planning Board. The narrative must include an architectural history of all structures on the site, including period, style, construction details and any association with any particular architect or builder. The narrative must also list any association with one or more historic persons or events and any cultural, political or economic history of the site to the town, Commonwealth of Massachusetts, or the Untied States of America.

h. Evidence the proposed project is consistent with applicable standards of the National Park Service, the Secretary of the Interior, the Secretary of the Commonwealth, Massachusetts Historical Commission, and the Billerica Historic Districts Commission.

i. Any and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

3. Fees. The following fees apply:

a. Technical review fee. The applicant shall pay a technical review fee pursuant to M.G.L. Chapter 44, Section 53G and the rules of the Planning Board.

b. Administrative Fee. The applicant shall pay an administrative fee pursuant to the rules of the Planning Board.

4. Waiver. The Planning Board may waive the submission of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for, or applicable to, the Planning Board's decision pursuant to this section. All such waivers shall be approved by the Planning board prior to application submittal.

5. E.7 (7) Review <u>by Other Boards.</u> Whenever an application for a special permit for a project in the MCROD is filed with the Planning Board, the applicant shall also file, within five (5) working days of the filing of the complete application, copies of the application, accompanying site plan, and other documentation to: the Town Manager, Board of Selectmen, Board of Health, Conservation Commission, Building Inspector, Superintendent of Public Works, Billerica Historic Districts Commission, Police Chief, Fire Chief, and the Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board by the date of the public hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations following receipt of required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the 35-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 35-day period. The Decision/Findings of the Planning Board shall contain a written explanation of any departures from the recommendations of any reviewing party.

5. E.7 (8) Standards. In order to be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all of the following standards:

1. *Buffer.* A buffer area of twenty-five (25) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site, however, existing structures and parking areas shall not be made more non-conforming, except for ADA compliance. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement where the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
2. *Removal and replacement of vegetation.* Within the site, no clear cutting shall be permitted, except as authorized by special permit and incidental to construction of building, roads, trails and parking areas. The Planning Board may require suitable landscaping or placement of vegetation.
3. *Roadways.* The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners, the Applicant, or other entity that owns or manages the development.
4. *Number of Parking Spaces.* The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of Section 8 of this Bylaw or other applicable provisions herein. In the case of a mixed-use project, requirements for each use shall be added, unless the Planning Board determines that a smaller number is adequate. Given the proximity of the MCROD to the North Billerica Commuter Rail Station, the Planning Board may reduce the otherwise required number of parking spaces where the applicant demonstrates that an adequate number of spaces will be provided or can be secured offsite by recordable agreement. Any decrease in the number of parking spaces shall not create undue congestion, a traffic hazard, or a substantial detriment to the neighborhood.
5. *Commercial Vehicles.* Commercial vehicles owned or operated by owners or tenants of the MCROD, or their agents, employees, licensees, suppliers or invitees shall be parked within a suitably screened or designated area, except for delivery or service vehicles in the active service of receiving and delivering goods or services.
6. *Parking Areas.* All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least ten (10) feet in width. Parking lots shall be located to the rear or side of all buildings and shall not be located in front setbacks or in buffer areas, except that the Planning Board may waive these provisions for existing parking lots and/or existing buildings. Parking lot layouts shall be planned to include landscaping, buffers, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing, hedges, walls, or landscape berms to define parking areas is encouraged. In parking areas shall be appropriately landscaped and irrigation shall be provided for all parking lot landscaping.
7. *Pedestrian Accommodations.* Pedestrian access is to be taken into consideration in site and parking lot design. Separate pedestrian walkways and crosswalks are required at appropriate locations. Textured paving or grade separated (elevated) walkways are desired on all pedestrian access ways. The use of stone, brick or cultured stone pavers for entrance walkway borders is encouraged. The Planning Board may require paths which shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways or sidewalks located adjacent to the site. All sidewalk curbing shall be vertical granite.
8. *Loading.* Loading areas may be required by the Planning Board where deemed necessary for the efficient operation of the project. Loading areas must be at least 20 x 9 feet, and have a minimum overhead clearance of 10 feet. Screening and landscaping shall be provided to block all view of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.
9. *Stormwater Management.* The stormwater management system shall be designed in accordance with the Regulations of the Planning Board and the Town of Billerica, and shall meet all federal and state stormwater regulations.

10. *Utilities.* All electric, gas, telecommunications, and water distribution lines shall be placed underground except upon a demonstration of exceptional circumstances. The facility shall be served by the municipal water and wastewater systems. Applicants are encouraged to utilize the principles of Green Building Design as certified by the U.S. Green Building Council.
11. *Emergency Systems.* The project shall have an integrated emergency call, and/or telephone and/or other communications system for its resident and/or other tenants. There shall be sufficient site access fro public safety vehicles. A plan shall be approved by the Billerica Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.
12. *Lighting.* Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not create so much light overspill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources. All lighting must comply with Section 9(J) of the Zoning Bylaws of the Town of Billerica.

1. **E.7. (9) <u>Number of Dwelling Units.</u>** The maximum number of dwelling units shall be established by the Planning Board after reviewing the following criteria:
    1. Existing structures;
    2. Trip generation, traffic safety and internal site traffic
    3. Character of the proposed MCROD and its relation to the surrounding neighborhood(s);
    4. Character of the existing buildings and the potential for reuse thereof;
    5. Number of affordable units, beyond the minimum required, proposed by the applicant; and
    6. Report of the technical consultants of the Planning Board and all other reviewing departments and boards.
    7. In no case shall the number of units be more than what would be permitted in the Multi-Family District given the site were vacant.

5. E.7 (10) <u>Number of Bedrooms.</u> The Planning Board may ensure the diversification of dwelling units within the MCROD by establishing the number of dwelling units with one, two, or three bedrooms.

5. E.7 (11) <u>Expansion of Existing Buildings.</u> Existing buildings within the MCROD may be expanded, provided that such expansion:

1. Is consistent with existing buildings historic character and scale; and is consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation, as determined by the Billerica Historic Districts Commission; and
2. Does not cause substantial detriment after considering the factors set forth in Section 5.F.7.

5. E.7 (12) <u>New Buildings.</u> Within the MCROD, new buildings may be constructed; however, the number, type, scale, architectural style, and uses within such new building shall be subject to Planning Board approval. The new building(s) shall not detract from the historical significance or character of the existing buildings, as determined by the Billerica Historic Districts Commission.

5. E.7. (13) <u>Affordable Dwelling Units.</u> As a condition of the grant of any special permit for a Project in the MCROD, a minimum of twenty five percent (25%) of the total number of dwelling units shall be restricted "in perpetuity" and shall contain some form of subsidy. Dwelling units meeting these requirements would be eligible for inclusion on the Chapter 40B Subsidized Housing Inventory maintained by the Massachusetts Department of Housing and Community Development (DHCD) and would move the Town closer to attaining its 10% affordable housing goal as outlined in its Affordable Housing Planned Production Plan. The specific requirements of this section are as follows:

1. Twenty-five (25%) percent of the units shall be affordable to persons or families qualifying as low or moderate-income residents, whose income is at or below 80% of the median income, adjusted for size, for the metropolitan area, as determined by the U.S. Department of Housing and Urban Development (HUD).
2. An "in perpetuity" affordability restriction shall be established through a regulatory agreement, or Deed Rider, in a form that is acceptable to legal counsel to the Planning Board and DHCD. This regulatory agreement shall be legally enforceable and recorded at the Registry of Deeds. Failure to record the

regulatory agreement shall be deemed a violation of the bylaw and subject to enforcement. A right of first refusal upon the transfer of such restricted units shall be granted to the Billerica Housing Authority for a period not less than 120 days after notice thereof.

3. Affordable units shall be integrated into the overall development of the MCROD so as to prevent segregation of such units.
4. The Applicant shall be encouraged to seek designation of the affordable units referenced in paragraph 5.F.7 (13)1 as affordable units, which qualify as part of the aforementioned Chapter 40B Subsidized Housing Inventory maintained by DHCD. The Planning Board shall require that the Applicant affirmatively take steps to utilize a public agency, non-profit agency, limited dividend organization or other appropriate entity to secure public subsidy in order to finance the affordable housing portion of the project and to complete all forms and information necessary to promote the designation of those units referenced in said paragraph as affordable units qualifying as part of the Subsidized Housing Inventory. The Planning Board shall require submission of the application, forms and appropriate information to DHCD as a condition of approval.

5. E.7. (14) <u>Action by the Planning Board.</u> The Planning Board after considering reports from consultants and other Boards and/or Commissions, may grant a special permit for a project in the MCROD where it make the following findings:

1. The proposed project constitutes an appropriate renovation or new construction project, as defined above;
2. The proposed project does not cause substantial detriment to the neighborhood or the Town, after considering the following potential consequences:
   a. noise, during the construction and operational phases;
   b. pedestrian and vehicular traffic operations and safety;
   c. impact on environmental and historic resources; and
   d. visual and aesthetic impact created by the character and scale of the proposed structures(s).

F. **TABLE OF USE REGULATIONS**

The following Table lists uses permitted by right, uses permitted by special permit, and uses prohibited within each zoning district. All uses permitted by right or by special permit are subject to all applicable regulations set forth in this Zoning By-law.

LEGEND:

Y - uses permitted by right

SZ - uses permitted by special permit with the Zoning Board of Appeals designated as the Special Permit Granting Authority (SPGA)

SA- uses permitted by special permit with the Planning Board designated as the SPGA subject to site plan approval by the Planning Board

SP – uses permitted by special permit with the Planning Board designated as the SPGA

N – uses that are prohibited

NOTES:

All uses permitted in the underlying District by right or by special permit are permitted by right or by special permit, respectively, in the Overlay District, unless otherwise provided in the Zoning By-Law.

ALL NON-RESIDENTIAL BUILDINGS FOR A PARTICULAR USE THAT EXCEED 5,000 SQUARE FEET GROSS FLOOR AREA ARE SUBJECT TO A SITE PLAN APPROVAL SPECIAL PERMIT FROM THE PLANNING BOARD.

(THIS USE TABLE CHANGE PROVIDES FOR A SPECIAL PERMIT FROM THE PLANNING BOARD FOR A WIRELESS COMMUNICATIONS FACILITY, SUBJECT TO THE FINDINGS AND SITE PLAN REQUIREMENTS UNDER THE USE, BUT NOT A SITE PLAN SPECIAL PERMIT UNDER SECTION 6 OF THE ZONING BY-LAW)

DISTRICT ABBREVIATIONS:

MAIN	***MAIN***	***SPECIAL***	***OVERLAY***
VR-Village Residence	**NB**-Neighborhood Business	**RT**-Refuse Transfer Station	**FP**-Flood Plain
NR-Neighborhood Residence	**GB**-General Business	**DG**-Private & Public Dumping Ground	**H**-Historic
RR-Rural Residence Cluster	**C**---Commercial	**AD**-Alcohol & Drug Rehabilitation Hospital	**RC**-Residential Cluster
MF-Multi-Family Residence	**I**----Industrial	**CP**-Composting	**TH**-Townhouse
		AE-Adult Entertainment	**EH**-Elderly Housing
			SS-Self-Service

	MAIN									SPECIAL				OVERLAY						
AGRICULTURAL USES	VR	NR	RR	MF	NB	GB	C	I	N	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Agriculture	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Facility for sale of product	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Floriculture	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Forestry	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Keeping of horses – - 0 on less than 10,000 S.F. - 1 on 10,000 – 19,999 S.F. - 2 on 20,000 – 29,999 S.F. - 3 on 30,000 or more S.F.	Y	Y	Y	N	N	N	N	N		N	N	N	N	N	*	*	*	*	*	*	*
Keeping of Hens	Y	Y	Y	N	N	N	N	N		N	N	*	*	*	*	*	*	*	*	*	*
Horticulture	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Viticulture	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	*	*	*	*	*	*	*

BUSINESS USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Accessory uses to Scientific Research or development	N	N	N	N	SZ	SZ	SZ	~~SZ~~ Y	N	N	N	N	SZ	*	*	*	*	*	*	*
Bank	N	N	N	N	Y	Y	N	SZ	N	N	N	N	Y	*	*	*	*	*	*	*
Dog kennel for 3 – 15 dogs	N	N	N	N	N	SZ	N	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Dog Daycare	N	N	N	N	N	SZ	N	SZ	N	N	N	N	N	*	*	*	*	*	*	*
Dog Training	N	N	N	N	N	SZ	N	SZ	N	N	N	N	N	*	*	*	*	*	*	*
Funeral home	N	N	N	N	SZ	SZ	N	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Home occupation	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	*	*	*	*	*	*	*
Loan agency	N	N	N	N	Y	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*	*	*
Offices	N	N	N	N	Y	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*	*	*
Pet shop	N	N	N	N	N	Y	Y	N	N	N	N	N	Y	*	*	*	*	*	*	*
Personal services	N	N	N	N	Y	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*	*	*
Research facility	N	N	N	N	SA	SA	SA	~~SA~~Y	N	N	N	N	SA	*	*	*	*	*	*	*
Tradesman's shop	N	N	N	N	Y	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*	*	*
Veterinarian	N	N	N	N	N	Y	N	N	N	N	N	N	Y	*	*	*	*	*	*	*

COMMERCIAL USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Adult entertainment establishment	N	N	N	N	N	N	N	N	N	N	N	N	Y	*	*	*	*	*	*	*
Auto parking	N	N	N	N	N	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Auto repair	N	N	N	N	N	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Auto sales	N	N	N	N	N	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Auto service	N	N	N	N	N	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Auto washing	N	N	N	N	N	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Christmas tree sales	N	N	N	N	N	Y	N	N	N	N	N	N	Y	*	*	*	*	*	*	*
Contractor's Yard	N	N	N	N	N	N	N	Y	N	N	N	N	N	*	*	*	*	*	*	*
Drive-up/through restaurant	N	N	N	N	N	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Fast-Order Food Establishment	N	N	N	N	SZ	SZ	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*
Fully automated business	N	N	N	N	N	SZ	SZ	SZ	N	N	N	N	SZ	*	*	*	*	*	*	*
Garaging or parking of one light commercial vehicle	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*	*	*
Garaging or parking of two light commercial vehicles	SZ	SZ	SZ	SZ	Y	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*	*	*
Garaging or parking of one heavy commercial vehicle	SZ	SZ	SZ	SZ	SZ	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*	*	*
Garaging or parking of two or more heavy commercial vehicles	N	N	N	N	N	Y	Y	Y	N	N	N	N	Y	*	*	*	*	*		*
Garden shop	N	N	N	N	N	SZ	N	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Greenhouse (non-agricultural)	SZ	SZ	SZ	N	N	N	Y	Y	N	N	N	N	N	*	*	*	*	*	*	*
Motel or hotel	N	N	N	N	SZ	SZ	N	SZ	N	N	N	N	SZ	*	*	*	*	*	*	*
Open air sales	N	N	N	N	N	SZ	Y	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Repair shop	N	N	N	N	Y	Y	N	SZ	N	N	N	N	Y	*	*	*	*	*	*	*
Restaurant	N	N	N	N	SZ	SZ	N	SZ	N	N	N	N	SZ	*	*	*	*	*	*	*
Retail store	N	N	N	N	Y	Y	N	SZ	N	N	N	N	Y	*	*	*	*	*	*	*
Self-storage service facility	N	N	N	N	N	N	N	N	N	N	N	N	N	*	*	*	*	*	SA	*
Supermarket	N	N	N	N	N	SA	N	N	N	N	N	N	SA	*	*	*	*	*	*	*
Truck body shop	N	N	N	N	N	N	SZ	N	N	N	N	N	N	*	*	*	*	*	*	*
Truck leasing	N	N	N	N	N	N	SZ	N	N	N	N	N	N	*	*	*	*	*	*	*
Truck parking	N	N	N	N	N	N	SZ	N	N	N	N	N	N	*	*	*	*	*	*	*
Truck repair	N	N	N	N	N	N	SZ	N	N	N	N	N	N	*	*	*	*	*	*	*
Truck sales	N	N	N	N	N	N	SZ	N	N	N	N	N	N	*	*	*	*	*	*	*
Truck service	N	N	N	N	N	N	SZ	N	N	N	N	N	N	*	*	*	*	*	*	*
Truck washing	N	N	N	N	N	N	Y	Y	N	N	N	N	N	*	*	*	*	*	*	*

	MAIN								SPECIAL					OVERLAY						
EDUCATIONAL USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
For profit	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	*	*	*	*	*	*	*
Non-profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

	MAIN								SPECIAL					OVERLAY						
GOVERNMENTAL USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
State	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
County	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Municipal	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

	MAIN								SPECIAL					OVERLAY						
INDUSTRIAL USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Accessory service and repair	N	N	N	N	N	N	N	SZ	N	N	N	N	N	*	*	*	*	*	*	*
Automotive sales	N	N	N	N	N	N	N	SZ	N	N	N	N	N	*	*	*	*	*	*	*
Automotive services	N	N	N	N	N	N	N	SZ	N	N	N	N	N	*	*	*	*	*	*	*
Composting facilities	N	N	N	N	N	N	N	N	N	N	N	Y	N	*	*	*	*	*	*	*
Light manufacturing	N	N	N	N	N	SZ	SZ	Y	N	N	N	N	SZ	*	*	*	*	*	*	*
Private sewage treatment plant	N	N	N	N	N	N	N	N	SP	N	N	N	N	*	*	*	*	*	*	*
Refuse composting plant	N	N	N	N	N	N	N	N	N	SA	N	N	N	*	*	*	*	*	*	*
Refuse incinerator	N	N	N	N	N	N	N	N	N	SA	N	N	N	*	*	*	*	*	*	*
Refuse transfer station	N	N	N	N	N	N	N	N	SA	N	N	N	N	*	*	*	*	*	*	*
Residual waste storage	N	N	N	N	N	N	N	N	N	SA	N	N	N	*	*	*	*	*	*	*
Temp. Construction Trailer	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Truck terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	*	*	*	*	*	*	*
Waste treatment plant	N	N	N	N	N	N	N	N	N	SA	N	N	N	*	*	*	*	*	*	*
Wholesale	N	N	N	N	N	SZ	N	SZ	N	N	N	N	N	*	*	*	*	*	*	*

PHILANTHROPIC USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	FH	SS	MC
Club	SZ	SZ	SZ	SZ	SZ	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Lodge	SZ	SZ	SZ	SZ	SZ	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Other Philanthropic	SZ	SZ	SZ	SZ	SZ	SZ	SZ	N	N	N	N	N	SZ	*	*	*	*	*	*	*

	MAIN								SPECIAL					OVERLAY						
RECREATIONAL USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Antique shows	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Bowling alley	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Conservation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Driving range	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Fairs and bazaars	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Golf course	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*
Indoor amusement	N	N	N	N	Y	Y	Y	N	N	N	N	N	Y	*	*	*	*	*	*	*
Non-municipal athletics	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Other recreational events	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Outdoor recreation	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*
Riding stable	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*
Swimming pool, non-accessory	SZ	SZ	SZ	SZ	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*

RELIGIOUS USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
For profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Non-profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*

RESIDENTIAL USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Accessory residential uses	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	*	*	Y	*	*	*	*
Affordable housing on an undersized lot	SZ	SZ	SZ	SZ	Y	N	N	N	N	N	N	N	N	*	*	*	*	*	*	*
Assisted living residence	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*
Cluster development	N	N	N	N	N	N	N	N	N	N	N	N	N	*	*	SA	*	*	*	*
Multi-family residence	N	N	N	SA	N	N	N	N	N	N	N	N	N	*	*	*	*	*	*	SA
Elderly housing	N	N	N	N	N	N	N	N	N	N	N	N	N	*	*	*	*	SA	*	*
In-law apartment	SZ	SZ	SZ	SZ	SZ	SZ	N	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Nursing home	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*
Room rental (5 or less)	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	Y	*	*	*	*	*	*	*
Room rental (5 or more)	SZ	SZ	SZ	SZ	SZ	SZ	N	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Single family dwelling	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	Y	*	*	*	*	*	*	*
Storage of more than one vehicle or trailer	SZ	SZ	SZ	SZ	SZ	SZ	N	N	N	N	N	N	SZ	*	*	*	*	*	*	*
Storage of one vehicle or trailer	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	Y	*	*	*	*	*	*	*
Temp. manufactured home while residence is being reconstructed	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Townhouse	N	N	N	N	N	N	N	N	N	N	N	N	N	*	*	*	SA	*	*	*
Two family dwelling	N	N	N	SZ	N	N	N	N	N	N	N	N	N	*	*	*	*	*	*	*

	MAIN								SPECIAL					OVERLAY						
SERVICE USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Alcohol and drug rehabilitation hospital	N	N	N	N	N	N	N	N	N	N	Y	N	N	*	*	*	*	*	*	*
Cemetery	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*

	MAIN								SPECIAL					OVERLAY						
UTILITY USES	VR	NR	RR	MF	NB	GB	C	I	RT	DG	AD	CP	AE	FP	H	RC	TH	EH	SS	MC
Above-ground utilities, non-municipal	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*
Above-ground utilities, Municipal	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Earth migration of less than 500 cubic yards for: Construction or repair of roads, utilities, public works, and infrastructure Installation or repair of underground sewage disposal systems Excavation for foundations	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Earth migration over 500 cubic yards	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	*	*	*	*	*	*	*
SOLAR ENERGY CONVERSION SYSTEMS (SECS) Non-freestanding	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	SP	SP	SP	*	*	*	*	*	*	*
SOLAR ENERGY CONVERSION SYSTEMS (SECS) Freestanding	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	*	*	*	*	*	*	*
Underground utilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*	*	*	*	*
Wireless communications facility	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	*	*	*	*	*	*	*

* All uses permitted in the underlying District by right or by special permit are permitted by right or by special permit, respectively, in the Overlay District, unless otherwise provided in the Zoning By-law.

5.G Wireless Communication Facilities

I. PURPOSE:
The purpose of this by-law is to provide for a special permitting process for the siting of Wireless Communication Facilities while minimizing adverse impacts from the provision of wireless communication services, especially to all properties that are in or abut residential zoned neighborhoods. These regulations seek to minimize the number and height of associated facilities, provide standards and criteria regulating siting, promote the sharing of facilities, and help to promote, preserve and protect the quality of life for the residents of Billerica while seeking to remain in compliance with the Federal Telecommunications Act of 1996.

II. DEFINITIONS:

1. ABOVE GROUND LEVEL (AGL): A measurement of height from the natural grade of a site to the highest point of a structure.

2. ACOUSTICAL ENGINEER: An engineer or company registered with an accredited noise standard organization.

3. ADEQUATE COVERAGE: The geographic area in which the carrier provides a level of service defined as a range of 70-100% coverage over 70-100% of the Town.

4. ANTENNA: The surface from which wireless signals, at varying frequencies, are sent and received by a wireless service facility. Whether a dish, rod, mast, pole, set of wires, plate, omnidirectional, panel, whip line, cable, or other arrangement serving such purpose.

5. CAMOUFLAGED: Disguising, incorporating, or concealing any or all components of a WCF as part of or within an existing or proposed structure or natural surrounding or making it to resemble an architectural feature of the building or structure on which it is placed.

6. CARRIER: A Company, authorized by the FCC that provides WCS.

7. CO-LOCATION: The use of a single mount by more than one carrier and/or several mounts on a tower, monopole, building, or structure by multiple carriers for the purpose of providing WCS. Each service on co-locations is a separate wireless communication facility.

8. EMISSIONS: The frequencies emitted in conjunction with the operation of WCS.

9. ENVIRONMENTAL ASSESSMENT - EA: Document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a WCF is placed in certain designated areas.

10. EQUIPMENT SHELTER / BASE FACILITY / BASE AREA TRANSCEIVER STATION: A building, structure, cabinet, or shed used to house mechanical and electrical equipment accessory to a wireless communications facility used by a commercial telecommunications carrier to provide wireless communication services or data services.

11. FALL ZONE: The ground area within a prescribed radius from the base of a WCF.

12. FUNCTIONALLY EQUIVALENT SERVICES: Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging. The services are equal under this bylaw.

13. GUYED TOWER: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

14. LATTICE TOWER: A structure that is self-supporting with multiple legs and cross bracing usually of structured steel.

15. MONOPOLE TOWER: A single, self supporting vertical shaft of wood, steel, or concrete with a platform for panel antennas at the top and a below grade foundation.

16. MOUNT: Structure or surface upon which antennas are mounted, including:

-- ROOF-MOUNTED: Mounted on the roof of a building.
-- SIDE/SURFACE MOUNTED: Mounted on the side of building.
-- GROUND MOUNTED: Mounted on the ground.
-- STRUCTURE-MOUNTED: Mounted on a structure.

17. PANEL ANTENNA: A flat surface antenna usually developed in multiples.

18. RADIOFREQUENCY RADIATION (RFR): The emissions from Wireless Communications Facilities.

19. SECURITY BARRIER: A locked area completely sealed from unauthorized entry or trespass.

20. SITE: The location of a Wireless Communications Facility.

21. VENDOR/CARRIER: A company that provides wireless services.

22. WIRELESS COMMUNICATION FACILITIES - "WCF": A facility for the provision of wireless communication service, including, but not limited to, towers, monopoles, antennas, antennas attached to existing structures and associated accessory structures, if any, which facilitate the provision of wireless communication service.

23. WIRELESS COMMUNICATION SERVICES – "WCS": The provision of the following types of services: Cellular Telephone, Personal Communications and Enhanced Specialized Mobile Radio Service as described in the Telecommunication Act of 1996.

III. SITING CRITERIA

1. The Special Permit Granting Authority (SPGA) for this section 5.C.1.j. (2) (c) shall be the Planning Board. Every application submitted under this section of the Bylaw shall meet the criteria set forth herein and under Section 13 of the Billerica Zoning Bylaw.
2. WCFs shall be allowed in all zoning districts by Special Permit only. Whenever possible, WCFs shall be located in non-residential zoned districts. A WCF that must exceed any height restrictions within its zoning district may still seek a special permit provided the proposed facility complies with the remaining required regulations within the applicable zoning district.
3. Preferred siting of WCFs is provided in the following order: Existing WCF sites; town property, exclusive of school locations; Industrial Districts; Commercial Business Districts; General Business Districts; Neighborhood Business Districts; and Village, Neighborhood, and Rural Residential Districts. WCFs shall not be placed within 250 feet of all municipal buildings which house employees for their scheduled working hours.

Amended: 5/01/2007

4. Any new freestanding tower shall be of monopole construction. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are prohibited.
5. Wireless Communication Facilities and Services are dependent upon multiple sitings to complete a network. Therefore the application process requires the identification of all projected network sites, so the Town can evaluate the application within the contents of the entire network. Each carrier shall provide a geographic coverage map and narrative showing existing WCFs in the town and those outside the town within one mile of its corporate limits whether or not it has a legal or equitable interest, whether by ownership, leasehold or otherwise. The map shall contain the following: a legend and scale; exact addresses of existing antenna locations and any identification numbers; labeled town borders; street names; and landmarks, both natural and man made. The map shall show by color-coded overlay both current and proposed coverage, differentiating by both in-building and in-vehicle coverage. Said documentation shall demonstrate that these facility sites do not already provide, nor have the potential to provide by site adjustment, adequate coverage. The carrier shall present a description of the site's capacity, the number and type of panels, antenna, and/or transmitter, receivers it can accommodate and estimates of the cumulative emissions that will be generated on the site including but not limited to RFR.

6. The applicant shall provide written documentation that the proposed facility uses the least disruptive technology available, at the time of application, by which it can provide adequate coverage in conjunction with all facility sites proposed and existing.
7. No WCF shall be considered exempt from this section by sharing a tower or other structure.
8. Antennas and directly related facilities used exclusively for communication for the purpose of federally licensed amateur radio operators shall be exempt from this section 5.C.1.j.(2) (c).
9. Equipment shelters/Base Facilities ("shelter") shall be designed to match other accessory buildings on the site, shall be compatible with the surrounding area, or constructed underground where possible, or camouflaged by the planting of an evergreen hedge not less than 75% of the height of the structure at the time of planting and shall be used only for the housing of equipment related to the particular site but may be used by more than one carrier. Only one such shelter shall be allowed per WCF.
10. Clustering of several wireless communications facilities on an individual lot may be allowed if the Planning Board finds that the visual and aesthetic impact on surrounding residential neighborhoods or dwellings would not be significantly more detrimental than having only a single wireless communications facility.

IV. SETBACKS

1. For new construction regardless of the yard setbacks required under this Bylaw, in the applicable zoning district, monopoles and accessory structures shall be set back from all property lines at least the vertical height of the monopole structure, including other antennas and appurtenances, as measured from the base of said structure, plus 10 feet. There shall be no exception to this provision
2. To preserve the character of residential neighborhoods and to minimize the associated negative visual images and auditory impacts on adjacent property and its value, and to minimize accessibility of the equipment storage facilities to children, WCFs regardless of sited zoning district shall not be placed within 250 feet of adjacent residential dwellings, and 800 feet of adjacent public schools and 250 feet of all municipal buildings which house employees for their scheduled working hours. This measurement is taken from the base of the structure and the equipment storage facility to the nearest point of such residential dwellings.

Amended: 05/01/2007

V. FALL ZONE

1. All free standing towers shall maintain a fall zone of at least the height of the tower plus 10 feet from any adjacent building or structures not associated with the telecommunications facility. Antennas, panels, whip antennas, satellite dishes, which are attached to existing structures or erected on building tops will comply with a direct fall zone area as described in the second and third bullets directly below.
2. All side/surface antenna and satellite dishes which are attached to existing structures/building mount shall have a fall zone directly below the antenna, as measured from the base of the structure/building to which it is attached, equal to one-half (½) the height of the antenna above ground level (AGL) in order to protect against falling debris such as ice.
3. All rooftop antenna mounts and satellite dishes erected on building tops shall have a fall zone surrounding the antenna equal to the height of the antenna as measured from its base to the highest point in a radius. Facilities mounted on rooftops shall be stepped back the height of the antenna from the facade in order to limit the impact on the building silhouette.
4. Antenna mounts and satellite dishes attached to structures shall comply with the individual applicable fall zone requirements for said structure identified within the Zoning By-laws or the height of the structure plus 10 feet including antenna extensions, whichever is greater.

VI. HEIGHT CRITERIA

1. All freestanding towers shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future users. The maximum allowed height of towers in their respective zoning districts shall be as follows unless the applicant demonstrates that a greater height is required to allow for provision of the wireless communications services or unless the Planning Board finds that co-location on said tower is both practical and preferable. (a) Town owned property, excluding school locations and all municipal buildings which house employees for their scheduled working hours – the maximum height allowed for structures in the underlying zoning district plus ten (10) feet. (b) Industrial District – one hundred eighty (180') feet. (c) Commercial Business and General Business Districts – eighty (80') feet. (d) Neighborhood Business Districts – sixty (60') feet. (e) Village, Neighborhood and Rural Residential Districts – forty-five (45') feet.

Amended: 05/01/2007

2. A Wireless Communication Facility may be attached to an existing structure/building, if such structure/building meets the height requirements set forth under this Bylaw in the applicable zoning district, or met the height requirements of the Bylaw when built (nonconforming building/structure), or received a separate special permit pursuant to Section 10.D of the Zoning Bylaws.

3. No tower, including the antenna attached thereto, shall significantly exceed the height requirements set forth under this Bylaw in the applicable zoning district. Significantly for this purpose is defined as "no higher than 10' above the height limitation contained herein. If there are no structures/buildings within 250' of the proposed facility, such facility shall be no higher than 10' above the average tree canopy height, measured from ground level (AGL).

4. Antennas or panels, which are located on non-residential buildings/structures, shall be mounted so as to be less than 12 feet in height above the roofline of the building/structure. Dish antennas shall be dimensionally proportional to mount area. Panels shall be no more than 7 feet in height.

VII. CAMOUFLAGE

1. All towers, associated equipment, antennas, buildings, structures and appurtenances shall be painted, treated, shielded or camouflaged so as to blend in with the landscape and/or made to resemble an architectural feature of the building or structure on which it is placed.
2. To the extent that any WCF extends above the height of the vegetation immediately surrounding it, it shall be painted light gray or light blue which blends with the sky/ clouds /skyline and horizon.
3. All WCFs shall be sited so as to minimize visibility from abutting streets and nearby buildings and to limit the need to remove existing vegetation. If deemed applicable by the SPGA, WCFs shall provide a year round vegetated buffer of sufficient height and depth to effectively screen the WCF.

VIII. SECURITY

1. Accessory structures and equipment required for the operation of WCFs, including but not limited to, batteries, generators, electric, and electronic equipment shall be secured from unauthorized entry or trespass by means of a locked enclosure. Said enclosure shall be consistent and compatible with the provisions of the zoning district in which the facility is located.

IX. LIGHTING

1. WCFs shall be lighted only if required by the Federal Aviation Administration. No exterior night lighting of WCFs is permitted except for manually operated emergency lights for use when operating personnel are on site and shall be shielded from abutting properties. There shall be total cutoff of all light at the lot lines of the site of the WCF.

X. SIGNAGE

1. Signs shall be limited to those needed to identify property owner/operator, a 24 hour emergency number, and to warn of any danger. All signs shall be consistent with the sign requirements of the Town's sign regulations (Section 9 of the Zoning By-laws). Advertisement on any antenna, tower, fencing, accessory building or equipment is prohibited.

XI. PARKING

1. The SPGA shall determine the maximum and minimum parking space ratio and access road requirements based on the character of the proposed use.

XII. INTERFERENCE

1. No interference to existing television, cable television, on-line phone components, hearing or health assisting devices, electronic or electrical equipment or radio signals, including police, fire, public safety and ambulance systems shall be permitted from the tower or related components. If interference occurs, it shall be the responsibility of the facility owner/operators to correct the problem within 30 days.

XIII. EMISSIONS

1. All equipment proposed for the WCF shall comply with the most current Federal Communications Commission (FCC) guidelines (Guide Lines of Evaluating the Environmental Effects of Radiofrequency Radiation).
2. Annual random testing of any and all emissions shall be required for all sites, by an independent engineer, hired by the SPGA at the owner's expense. Timely test results will be submitted to the Town. The WCF emissions shall comply with FCC RF standards or services shall be immediately terminated.
3. The applicant shall provide a certification from an RF engineer listing the existing and maximum future projected measurements of any and all emissions, including RFR, from the proposed WCF, for the following situations and that those emissions meet FCC Guidelines:

- Existing, or ambient: the measurements of existing emissions.
- Existing plus proposed WCF: maximum estimate of emissions from the proposed personal WCF plus the existing emissions environment.

4. Within 90 days upon the WCF becoming operational, and annually from the date of issuance of the special permits thereafter, the applicant shall submit, measurements of emissions from the wireless facility. Such measurements shall be signed by a RF engineer, stating the RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Standards section of the Guideline.

XIV. NOISE

1. WCFs shall not generate noise from equipment and/or wind in excess of the following Noise Standards:

RECEIVING PROPERTY CATEGORY	*Residential property, or residential portion of a multi-use property*	*Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility*
TIME	*7am-9pm* *9 pm-7am*	*24 hours*
Maximum A-Weighted sound level standard, dB	*50* *40*	*65*

•Acoustical terminology referred to in this by-law relative to these Noise Standards are as defined in ANSI S1.1-1994(R1999) American National Standard Acoustical Terminology.

•Sound level meter specifications referred to in this by-law relative to these Noise Standards are as defined in "ANSI S1.4A-1983 (R1997) Amendment 1 – American National Standard Specification for Sound Level Meters"

•American National Standards Institute (ANSI) standards referred to relative to these Noise Standards shall be superseded by the latest available versions.

2. The Noise Standards apply at the nearest property line for both ground-mounted and roof and side/surface mounted WCFs.
3. Sound shall be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum, and fluctuating rates.

4. Measurements shall be collected with a Sound Level Meter, integrating sound level meter or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI Standard S1.4-1983.

5. The measuring instrument must be calibrated using a calibrator recommended by the measuring instrument manufacturer before and after each series of readings. The measuring instrument must be re-certified and the

calibrator must be re-calibrated at least once each year by the manufacturer or by a person that has been approved by the manufacturer. A copy of written documentation of such re-certification and re-calibration shall be kept with the equipment to which it refers.

6. No outdoor measurements shall be taken:
   - During periods when wind speeds (including gusts) exceed 15 miles per hour;
   - Without a windscreen, recommended by the measuring instrument manufacturer, properly attached to the measuring instrument;
   - Under any condition that allows the measuring instrument to become wet (e.g., rain, snow or condensation); or
   - When the ambient temperature is out of the range of the tolerance of the measuring instrument.

7. The report for each measurement session shall include:
   - The date, day of the week, and times at which measurements are take;
   - The times of calibration;
   - The weather conditions;
   - The identification of all monitoring equipment by manufacturer, model number and serial number;
   - The normal operating cycle of the sources in question with a description of the sources;
   - The ambient sound level, in dB (A), with the sources in question operating;
   - The background sound level, in dB (A), without the sources in question operating; and
   - A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.

8. When measuring continuous sound, or sound that is sustained for more than 1 second at a time, the measuring instrument shall be set for A-weighting, slow response, and the range (if the measuring instrument is designed to read levels over different ranges) shall be set to that range in which the meter reads closest to the middle of the scale. The minimum and maximum readings shall be recorded to indicate the range of monitored values along with the central tendency average most often displayed. The measuring instrument shall be placed at a minimum height of 3 feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the measuring instruments' manufacturer. The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question.

9 The applicant shall provide, as part of their Special Permit Application, a statement listing the existing (pre-development) and maximum future projected measurements of noise from the proposed wireless service facilities, measured in decibels, for the following:
   - Existing, or ambient: the measurements of existing noise.
   - Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.

     Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards listed above.

10. Within 90 days upon the WCF becoming operational, and annually (semi-annually if the WCF is Located within 250 feet of a residential dwelling or within 800 feet of a public school or 250 feet from a municipal building which houses employees for their scheduled working hours) from the date of issuance of the special permit, the applicant shall submit noise measurements from WCF. An acoustical engineer, engaged by the SPGA at the applicant's expense, shall certify that noise measurements are accurate and meet the standards established in this by-law.

11. If noise levels exceed the limits specified herein, the source of the noise emission shall be immediately terminated. Operations shall not continue until the entity responsible for the operation of the WCF corrects any such noise violation.

12. For the Construction period the applicant shall describe, as part of the Special Permit application, how noise will be controlled during construction. Noise limits at any residential boundary shall not exceed 65 dB (A) during the construction period, which will be limited to 8:00 AM to 6:00 PM Monday through Friday.

XV. ENVIRONMENTAL

1. The National Environmental Policy Act (NEPA) applies to all applications for wireless services facilities. The FCC via procedures adopted as Subpart l, Section 1.1301 et seq, administers NEPA. (47 CRF, Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any WCF proposed in or involving any of the following: Wilderness areas, wildlife preserves, endangered species habitat, historical site, Indian religious site, flood plain, wetlands, high intensity white lights in residential neighborhoods and excessive Radiofrequency radiation exposure.
2. At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each WCF site that requires such an EA to be submitted to the FCC.
3. The applicant shall list the location, type, and amount (including trace elements) of any materials proposed for use with the wireless service facility that are considered hazardous by the federal, state and local governments.
4. The SPGA may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed WCF.

XVI. CO-LOCATION

1. Licensed carriers shall share WCF sites where feasible and appropriate, thereby reducing the number of WCFs that are stand-alone facilities.
2. All applicants for a special permit for a WCF shall demonstrate a good faith effort to co-locate with other carriers if applicable and appropriate. Such good faith effort includes:
   - A survey of all existing structures that may be feasible sites for co-locating WCFs.
   - Contact with all licensed carriers for WCFs operating in the county; and
   - Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
3. The SPGA may retain a technical expert in the field of RF engineering, at the applicant's expense, to verify if co-location at the site is feasible and the design configuration most accommodating to co-location.
4. Carriers proposing co-locating shall provide certification by an RF engineer demonstrating the appropriateness of co-location.

XVII. AESTHETICS

1. The applicant shall submit existing condition photos and superimposed proposed photos showing what will be seen from the nearest abutter lot line.
2. The applicant shall arrange, at its own expense, for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days prior to the test.

XVIII. CESSATION

1. A special permit issued for any WCF shall be valid for a fixed or conditioned period of time as determined by the SPGA or a maximum of twenty (20) years. At the expiration of the permit, the WCF shall be removed by the owner or a new special permit shall be required.
2. No less than 30 days prior to abandonment or discontinuation of operations of a WCF, the owner shall notify the Town by certified mail of the proposed date of abandonment or discontinuation.
3. All structures and/or equipment erected for providing WCS shall be removed within 6 months of cessation of use at the owner's expense. Removal shall include, but not be limited to the removal of any and all equipment necessary for the operation of wireless communication services by a WCF; disposal of waste materials and the restoration of the location to its natural condition, grading and landscaping.
4. If a carrier fails to remove a WCF in accordance with this section, the Town shall have the authority to enter the site and physically remove the WCF. A bond, or other form of financial security, posted at the issuance of a building permit, may be required to cover the costs of removal and restoration.

XIX. MAINTENANCE

1. The applicant and co-applicant shall maintain the WCF in good condition. Such maintenance shall include, but shall not be limited to painting, structural integrity of the mount and security barrier, and maintenance of the buffer area and landscaping.

XX. MODIFICATIONS

1. Any proposed change in technology for an existing WCS, adjusted power input or output change, extension in the height, addition of cells, antennas, panels or carriers, or construction or modification of a new or replacement WCF shall require a new application for a special permit to Section 13 of Billerica's zoning bylaws.

XXI. SPECIFICATIONS

The applicant shall follow the application process set forth under Section 13 of this Bylaw and the rules and regulations of the SPGA and shall submit complete, dated and revised documentation so as to demonstrate compliance with this section. The applicant shall submit the following:

1. Evidence that the applicant has filed a notice of proposed construction with the Federal Aviation Administration if the proposed facility exceeds 200' in height or in the event such notice is otherwise required.
2. The special permit holder shall file annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance with the Inspector of Buildings.
3. Copies of all applicable permits, including but not limited to all State and Federal permits required for this project and a certification of compliance with the terms and provisions of the license issued for this purpose by the Federal Communications Commission (FCC).
4. All WCF carriers shall periodically file information with the Town, upon request of the SPGA, information of the operational aspects of the facility including but not limited to: power consumption, power radiation, noise compliance, frequency transmission; the number, location, and orientation of antenna, and types of services provided.
5. Two photographic super-impositions of the WCF within the subject property. Photographic superimpositions shall be provided for the antennas, mounts, equipment shelters and related equipment, cables as well as cable runs, access roads, parking, and security barrier, if any.
6. In addition, the applicant shall submit the following:
   - The number, type, and functional description of antenna proposed. The frequency modulation and class of service.
   - The direction of the maximum lobes
   - Equipment brochures for the proposed WCF such as manufacturer's specifications or trade journal reprints for the antennas, mounts, equipment shelter, cables as well as cable runs, and security barrier, if any
   - A description of all WCF related fixtures, including but not limited to electronic and electric equipment generators, battery packs, power cabinets, transceivers, etc. , appurtenances and apparatus, structures including height, materials, color and lighting
   - Materials of the proposed WCF specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters and related equipment, cables as well as cable runs, and security barrier, if any.
   - Colors of the proposed WCF represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters and related equipment, cables as well as cable runs, and security barrier, if any.
   - Dimensions of the WCF specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters including but not limited to: electronic and electric equipment, generators, battery packs, power cabinets, transceivers, etc., and security barrier if any.
7. A construction bond, or other form of financial security, posted at the issuance of a building permit, may be required to insure that the WCF is built as documented before the SPGA, and meets all SPGA requirements.

XXII. APPLICATION SPECIFICATIONS

1. A report shall be submitted by the applicant, including, but not limited to, the following:
   a. A locus-context map of all land within 500 feet of any part of the tract.
   b. Property lot lines for subject property and all adjacent properties within 500 feet.
   c. All dwellings and principal buildings located on the site and all within 250 feet of the proposed WCF.Gross floor area of all non-residential buildings and elevations.

d. The land use of each lot and total land area including developable site area, common or usable open space, if any.
e. Location of rights-of way, roads; public and private, on said property and adjacent properties within 500 feet. Area ratio of all impervious surfaces.
f. Proposed changes for temporary or permanent roads and driveways.
g. Existing contours at two-foot intervals for subject property and adjacent property within 500 feet.
h. Principal natural features in general such as: significant rock outcroppings, tree cover, dominant species, average heights of vegetation, 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.
i. Zoning district boundaries.
j. Recorded easements on the site and within the 500' locus.
k. Public facilities, such as conservation or recreation land, footpaths, bicycle paths, or streets within 500' of the site.
l. Significant noise/visual impact (including views from the site and sources of noise affecting the site.)
m. Historically or architecturally significant structures and sites on the site.
n. Proposed location of antenna mount and equipment shelter.
o. Proposed security barrier indicating type and extent as well as point of controlled entry.
p. Grading and landscape plan including existing trees and shrubs and those to be removed an/or added, identified by size of specimen at installation and species. Grade changes, cuts and fills, to be shown as original grade and new grade line, with 2-foot contours above mean sea level.
q. The proposed drainage system.
r. The application for Special Permit shall be prepared in by-law order.
s. The SPGA shall provide a check list of what is required in an application for a WCF Special Permit. A potential WCF vendor shall obtain this check list before applying for a Special Permit and shall by signature of an authorized agent affirm its reception to the SPGA.
t. A WCF vendor, at the time of submittal of their application, shall verify with an authorized agent of the SPGA that all information identified in the checklist is contained in the application. The checklist shall be used to verify all information required is provided.

XXIII. APPROVAL CRITERIA

1. Special permit may be granted under this section only if the SPGA finds the project is in compliance with the purpose, intent and criteria contained in this section 5.C.1.j. (2) (c) and section 13 of this Bylaw. In addition, the SPGA shall make the applicable findings before granting the special permit as follows:
2. That the applicant is not already providing adequate coverage or is unable to provide adequate coverage as defined within the contents of this By-law.
3. That the applicant is using the most preferred site available, see Section 5.C.1.j. (2) (c).III.3.
4. That the proposed wireless communications services and facility minimizes and does not substantially adversely impact any historic resources, scenic views, residential property values, and natural or man made resources. The SPGA shall consider the cumulative impact of all related applications in the same geographic area.
5. That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities, including but not limited to, the aesthetic and auditory concerns of the residential neighborhoods.
6. That the applicant has agreed to rent or lease available space on any tower it controls within Billerica or its contiguous towns, when appropriate and applicable, as determined by SPGA and/or supportive documentation submitted by the applicant, under the terms of a fair-market lease, without discrimination to other providers to the extent it is technically feasible.
7. That the facility shall comply with the appropriate FCC regulations regarding emissions and arrangements for monitoring said emissions.
8. That there is a substantial gap in telecommunications service and the proposal is the least intrusive means to fill the gap.
9. If a special permit is granted, in addition to such terms and conditions as may be authorized by Section 5.C.1.j.(2) (c) of this Bylaw the SPGA may impose such additional conditions and safeguards as public safety, welfare and convenience may require.

XXIV. DENIAL CRITERIA

1. Should the applicant substantially fail to meet any of the requirements set forth in Section 5.C.1.j. (2) (c). XXIII, and then the Special Permit shall be denied.
2. The SPGA shall deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location if applicable and appropriate.
3. A special permit shall not be denied if the denial of the special permit would unreasonably discriminate among providers of functionally equivalent services. Note that only "unreasonable" discrimination among providers is prohibited, and that the Federal Telecommunications Act of 1996 allows facilities that create different visual, aesthetic or safety concerns to be treated differently.
4. A special permit shall not be denied if the denial of the special permit would prohibit, or have the effect of prohibiting, the provision of personal wireless services within the town of Billerica. Note that applications to construct a WCF in an under-served area, if the service gap can be filled by less intrusive means, may still be denied. The SPGA shall not use this clause for granting of the special permit unless an independent assessment of the applicant's proposal is certified by an independent RF engineer, hired by the Town at the applicant's expense, stating that the applicant can not build a town-wide network without this site.

XXV. SEVERABILITY

If any clause or provision herein shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect.

SECTION 5.H - SPECIAL REGULATIONS FOR SOLAR ENERGY CONVERSION SYSTEMS (SECS)

A. Purpose:
The purpose of these regulations is to provide standards for the placement, design, installation, monitoring, maintenance and operation of solar energy conversion systems that address public safety, minimize impacts on scenic, natural and historic resources and allow individual homeowners and/or businesses to reduce energy costs and increase the availability of clean, renewable energy.

B. General Provisions:

1. Where allowed, all freestanding SECS shall require special permit approval from the Planning Board prior to installation. Non-freestanding SECS, allowed by right, shall require a building permit from the Inspector of Buildings
.
2. Nothing in this section is intended to supersede any non-zoning requirement in any other local, state or federal regulation. If not specifically exempted, all zoning regulations of the zoning district in which the SECS are proposed are applicable.

3. Maintenance: SECS shall be operated and maintained in good condition. Should any part of the system suffer damage or deterioration so as to become a threat to public health or safety as determined by the Inspector of Buildings, the system shall be immediately removed or repaired by the property owner. Operation of the SECS shall not be allowed to resume until such time as the Inspector of Buildings has determined that the SECS has been repaired and is in compliance with all applicable regulations.

4. Setbacks: Unless otherwise indicated, freestanding SECS shall conform to the current setback and height requirements for the zoning district in which it is to be located.

5. On public property, no new plantings shall be allowed, and existing plantings shall be trimmed, so as to allow continuous solar access to SECS.

6. Connections to the power grid:
    a. For freestanding SECS, all utility connections, except transformers, shall be placed underground.
    b. All applicants for SECS must notify the local electrical utility provider of said permit and submit documentation to that effect to the permitting authority, as outlined in Section B10 below, as part of the application.
    c. A SECS shall be designed to prevent unauthorized access to the power grid.

7. SECS are not allowed in Historic Districts without written approval from the appropriate Historic Districts Commission.

8. No advertising unrelated to the production of electrical energy, of any type shall be allowed on any SECS except for the following:
    a. Educational signs providing information about the facility and the benefits of renewable energy;
    b. Reasonable identification of the manufacturer or operator of the SECS, not to include advertising displays;
    c. There shall be a sign placed on all freestanding SECS that identify the owner/operator, provide a 24-hour emergency contact number and warn of any danger.

9. No additional off street parking shall be required for any freestanding SECS, unless deemed necessary in the opinion of the Planning Board.

10. Height:
    a. A non-freestanding SECS shall not exceed 15 feet in height as measured from the base of the energy conversion system(s), at the point of attachment(s) to the highest possible point of the SECS.
    b. The total height of the non-freestanding SECS, and the structure to which it is attached, shall not exceed the building height allowed in the zoning district in which the structure is located.
    c. The total height of a freestanding SECS shall not exceed that which is permitted in the subject zoning district.

11. The Special Permit Granting Authority (SPGA) for freestanding SECS shall be the Planning Board. The Planning Board may impose reasonable stipulations, conditions, safeguards and limitations, and may require the applicant to implement reasonable measures to mitigate unforeseen adverse impacts of the SECS. In addition to other special permit criteria, in order to grant a special permit under this section, the Planning Board must find that:
    a. The specific site is an appropriate location for the use;
    b. The use is not expected to adversely affect the neighborhood and surrounding properties;
    c. The use is not expected to create a nuisance; and
    d. Adequate and appropriate facilities will be provided for the proper operation of the SECS.

C. Definitions:

As used in this By-law, the following definitions shall apply. All words not defined in this section shall fall under the definitions in Section 2 of the Zoning By-law. Should there be any conflict between this section and the definitions found in Section 2 of the regulations, the more restrictive definition, as determined by the Inspector of Buildings, shall apply.

1. As-of-right-siting: As-of-right-siting shall mean that permit approval may proceed without the need for a special permit or other discretionary approval and cannot be prohibited if consistent with all zoning by-laws and regulations, as well as all state and federal rules and regulations.

2. Occupied building: Any building or structure used for work, meetings or habitation, including but not limited to, residences, schools, churches, office buildings, libraries, retail and wholesale sales and manufacturing.

3. Public Property: All land under the Town of Billerica's ownership but expressly not including State and Federal lands.
   (Art. 44 ASTM 5/03/2011)

4. Rated nameplate capacity: the maximum rated output of electrical power production equipment as specified by the manufacturer.

5. Solar energy conversion system (SECS): All of the equipment, machinery and structures that taken together are utilized to convert solar energy to electrical power.

D. Permitting Procedures and Requirements:

1. Residential zones: In addition to the General Provisions in Section B above, the following procedures and requirements shall apply in all residential zones:
    a. All non-freestanding SECS shall be allowed as an "as-of-right-siting".
    b. All freestanding SECS shall be allowed only after special permit approval from the Planning Board.
    c. Only one freestanding SECS shall be allowed per property of one acre, or more. Freestanding SECS shall be considered accessory uses to the primary use of the property.
    d. A permit application for freestanding SECS shall be submitted to the Planning Board for special permit approval. Unless specifically exempted by this section of the By-law, Section 13 of the Zoning by-law, and the following requirements of Section 6 of the Zoning By-law, shall apply to an application for freestanding SECS:
        (1) A, B, E except subsection 1, G, I, J, and K; and
        (2) The plan for special permit approval shall be prepared by a licensed professional engineer (PE) or registered land surveyor (RLS), as appropriate. If prepared by a RLS, the Planning Board may require certification by a licensed engineer as to the structural integrity of the SECS itself.
    e. Multiple, non-freestanding SECS may be permitted if attached to existing primary or accessory structures on the site.

2. Non-residential zones: In addition to the General Provisions in Section B above, the following procedures and requirements shall apply in all non-residential zones:
    a. Freestanding SECS are subject to special permit approval from the Planning Board and may be subject to the conditions and requirements of previously granted special permit/site plan and special permit approvals for the subject property and/or uses.
    b. SECS may be the primary use or an accessory use on a property and more than one structure may be placed on a property and/or building.
    c. A permit application for freestanding SECS shall be submitted to the Planning Board for special permit approval. Unless specifically exempted by this section of the By-law, the following requirements of Section 6 of the Zoning By-law shall apply to special permit applications for freestanding SECS:
        (1) A, B, E (except subsection 1), G, I, J, and K; and
        (2) The plan for special permit approval shall be prepared by a professional engineer (PE) and/or registered land surveyor (RLS), as appropriate. If prepared by a RLS, the Planning Board may require certification by a licensed engineer as to the structural integrity of the SECS itself.

3. In addition to sections D1 and D2 above, the following requirements shall apply to all SECS permit applications submitted for Planning Board or building permit approval:
    a. An operation and maintenance plan (OMP) for the structure(s);
    b. Documentation of the SECS manufacturer, outlining specifications of the system(s);
    c. All requirements of Section 6 of the Zoning By-law that are applicable to this section must be addressed in the permit application. If certain requirements of Section 6 are not appropriate or applicable, this must be indicated in the permit application and the reason for the inapplicability explained; and

d. If deemed appropriate, the Planning Board may require the filing of a surety instrument for a SECS sufficient to secure performance of the conditions and observance of the safeguards and limitations of the special permit approval. However, in no case shall the Planning Board place such conditions on the approval so as to make the installation of a SECS impractical or unusable. This requirement may not apply to the DPU or DTC per the provisions of Mass. General Law Chapter 81R.

(Amended: 10/05/2010, Art. 41)
(Amended 05/03/2011, Art. 44)

2. All non-freestanding SECS shall be allowed as an as-of-right use.

SECTION 6 SITE PLAN APPROVAL

A. PURPOSE

This section of the Zoning By-law encourages well planned site developments which are harmonious with established land uses, circulation systems, and the natural environment in the Town, in addition to being efficient in function and maintaining or improving public health and safety.

B. OBJECTIVES

Objectives of site plan approval include:

1. Protection of adjoining premises against detrimental or offensive uses on the site;
2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property, or improvements;
3. Adequacy of the methods for disposal of sewage, refuse, and other waste resulting from the uses permitted or permissible on the site;
4. Adequacy of surface water drainage including protection of groundwater;
5. Adequacy of ingress and egress;
6. Adequacy of off-street loading and unloading of vehicles, goods, products, and materials incidental to the uses permitted or permissible on the site;
7. Adequacy of lighting such that all lighting and other sources of illumination, whether interior or exterior, and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from adjacent properties;
8. Adequacy of landscaping and open space to screen, buffer, and separate adjoining uses;
9. Compatibility with the surrounding neighborhood including size and character of the proposed buildings and site improvements; well-designed site planning which acts to enhance and highlight site features and the surrounding neighborhood; and buildings which not only relate functionally and aesthetically to each other but also which are sensitive to the context of the surrounding area. (Amended: 05/06/2008)
10. Preservation of historical buildings and sites including their renovation, conversion and alteration.

C. SPECIAL PERMIT GRANTING AUTHORITY

The Special Permit Granting Authority (SPGA) for Section 6 shall be the Board designated in the Table of Use Regulations at the end of Section 5 of this Zoning By-law.

D. APPLICABILITY

Site plan approval is required for all uses listed as subject to site plan approval as set forth in the Table of Use Regulations at the end of Section 5 of this Zoning By-law.

E. APPLICATION REQUIREMENTS

The applicant shall file the following information together with an Application and the required filing fee as set forth in the rules of the SPGA:

1. Form: A Civil Engineer, registered in Massachusetts, shall prepare and certify the site plan, which shall be clearly and legibly drawn on mylar to a maximum scale of 1" = 40'.
2. Size of Plan: All sheets that make up the original plan shall be 24" x 36".
3. Number of Copies: The applicant shall provide copies of each plan for purposes of review by other boards, agencies, officers, and outside consultants, as designated in the SPGA Rules. The number of copies to be provided shall be set forth in the SPGA Rules.
4. Contents: A site plan and supporting documents shall at a minimum show the following information:
   a. Metes and bounds of the property, area of the property, north point, scale, and date;
   b. Name, address, and signature of the person preparing the site plan stamped with that person's Massachusetts Registration number and seal;
   c. Name and address of the record owner or owners of the property and street address of the property with street number, if one exists at the time of application;
   d. Names of all abutters to the property as they appear in the most recent certified tax list;
   e. The existing topography of the land at two (2) foot contour intervals, Mean Sea Level Datum;
   f. Location, width, and names of all existing and proposed streets that affect the property and are within 100 feet of the property;

g. Location and width of all existing and proposed easements that affect the property;
h. Existing and proposed carrying capacity and level of service of the streets that serve the property;
i. Location and outline of all existing and proposed buildings and structures on the property;
j. The basement and first floor elevations, the height, and use of all existing and proposed buildings on the property;
k. Location and outline of cesspools, septic tanks, leaching areas, and wells on the property;
l. Location and outline of existing public sewers available to serve the site;
m. Location and outline of proposed access to trunk lines, capacity of the trunk lines, and available increases in flow;
n. The location of all present and proposed utility systems, including sewage disposal; water supply lines; and telephone, cable, and electrical lines;
o. Location, size, and type of all existing and proposed storm drains, culverts, catch basins, headwalls, invert elevations and depths, endwalls, hydrants, manholes, drainage swales, percolation tests, storm drainage, and drainage facilities, including adjacent existing water ways and drainage ditches to serve the site and with all calculations for the proposed drainage system;
p. Profiles of the proposed drainage system together with details of all proposed structures.
q. An illumination plan showing the location, height, intensity, and bulb type (e.g., fluorescent, sodium, incandescent) of all external lighting fixtures, and including the direction and illumination and methods proposed to eliminate glare onto adjoining properties;
r. The location, height, size, and design of all proposed signage;
s. The location, type of surface, and type of screening of rubbish collection areas and type of container(s);
t. The location of existing major site features, such as rock ridges, ledge outcroppings, wetlands, water retention or detention areas, brooks, bodies of water, waterways or canals, treelines and isolated trees to be cleared that are of a 12 inch diameter or greater;
u. A landscape plan showing all buffer areas and the size and type of plant materials to be provided, and indicating all proposed changes to existing major site features.
v. The proposed finished topography of the site at two (2) foot contour intervals, Mean Sea Level Datum;
w. The location and description of a permanent type bench mark on or adjacent to the property;
x. The location and description of the bench mark used in establishing the topography;
y. Zoning classification for the property and zoning district lines if the property lies in one or more zoning districts or abuts a zoning district;
z. Where applicable, the location of wetlands and flood plain protection district boundaries;
aa. Description of plans to prevent erosion of soil during and after construction, excessive run-off, and flooding of other properties, if applicable;
bb. The location and type of surface of all existing and proposed parking areas, loading areas, maneuvering areas, driveways, fire lanes, accesses, and walkways, which shall include wheelchair ramps and crosswalks;
cc. The delineation of each parking space, showing the size of a typical parking space for domestic and imported cars, block totals for number of spaces, with the final number of parking spaces noted on the plan in an obvious place;
dd. Traffic flow patterns within site entrances and exits and existing and proposed daily and peak traffic and street capacity levels of ingress and egress streets and drives; site distances of ingress and egress streets and drives onto adjacent streets; loading and unloading areas on the site; and curb cuts on the site and within 100 feet of the site;
ee. For new construction or alterations to any existing building or structure, the area of the building or structure to be used for the proposed use or uses; maximum number of employees; and where applicable, maximum seating capacity; and identification of any federal or state permits required for the project.
ff. A description of the hours of operation of the proposed use.

5. Deed: A copy of the owner's deed giving a legal description of the site, and/or other evidence of authority or interest of the applicant, whenever the applicant is not the owner of the subject property, such as an executed purchase and sales agreement or appointment as agent of the owner.
6. Other Permits: Copies of existing variances or special permits applicable to the property, including the book and page where recorded at the Middlesex North Registry of Deeds.

F. APPROVAL PROCESS

A site plan special permit shall be subject to the approval process set forth in the rules adopted by the SPGA. This may require a Technical Review performed by an engineer or other applicable consultant and may include an Architectural Review of those issues called out elsewhere in this section.

(Amended: 05/06/2008_

G. REVIEW CRITERIA

In making its decision, the SPGA shall consider the following:

1. Buildings, Structures, and Site Character: All buildings, structures, and uses of the property shall comply with the use and special permit requirements and dimensional, parking and loading, and signs and lighting regulations of this Zoning By-law. Any property subject to a variance shall comply with the provisions of the variance and need not comply with the section of the Zoning By-law that was varied. Unless otherwise provided by this Zoning By-law, any change, substantial extension of a use, reconstruction, extension, or alteration of a pre-existing nonconforming building, structure, or use that requires site plan approval shall comply with this section.
2. Traffic: Adequate access shall be provided to serve the proposed use, building, or structure. Adequate access shall include provision for emergency and fire access and convenient and safe vehicular and pedestrian movements within the site and in relationship to adjoining streets and surrounding properties. If access is not adequate, the applicant shall apply for approval of a definitive subdivision plan from the Planning Board in accordance with M.G.L., Ch. 41, §§ 81K – 81GG.
3. Parking, Loading, and Lighting: Safe and adequate parking, lighting, internal traffic control, and off-street loading and unloading shall be provided to permit normal operation of the proposed use.
4. Storm Water and Site Drainage: All storm water and site drainage shall comply with the requirements of any Town by-laws or rules and regulations pertaining to storm water and site drainage, other than Subdivision Rules and Regulations.
5. Utilities: All utilities shall comply with the requirements of any Town by-laws or rules and regulations pertaining to utilities. Moreover, all utilities shall be designed in accordance with the requirements of the particular utility company to which they are associated.
6. Town Services: Unreasonable demands shall not be placed on Town services and infrastructure.
7. Vegetation and Landscaping: Whenever possible, existing vegetation and landscaping amenities shall be preserved to lessen the impact of the proposed use, building, or structure on surrounding properties, and the proposed use, building, and structure shall be integrated into the existing landscape through use of vegetative buffers, introduction of plant materials, slope protection, and retention of open space.
8. Wetlands: The issuance of a site plan approval special permit shall be conditioned on obtaining and complying with any Order of Conditions issued by the Billerica Conservation Commission under the Wetlands Protection Act, M.G.L., Ch. 131 and on the Rules and Regulations of the Billerica Board of Health.

H. SECURITY FOR SITE PLAN APPROVAL SPECIAL PERMITS

The SPGA, as a condition of granting a site plan approval special permit may require that the performance of the conditions and observance of the safeguards and limitations imposed on such special permit be secured by a proper bond or a deposit of money or negotiable security sufficient in the opinion of the SPGA to secure performance of the conditions and observance of the safeguards and limitations of such special permit.

I. EFFECTIVE DATE

No site plan approval special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex North Registry of Deeds. Such decision shall bear the certification of the Town Clerk that twenty (20) days has elapsed after the decision has been filed in the office of the Town Clerk and that no appeal has been filed, or if an appeal has been filed, it has been dismissed or denied.

J. TIME LIMITATION AND REQUIRED REPORT ON SITE PLAN APPROVAL SPECIAL PERMIT

A site plan approval special permit shall lapse if a substantial use thereof has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause within a period of time to be specified by the SPGA, not to exceed two years from the date of grant thereof.

K. APPEAL

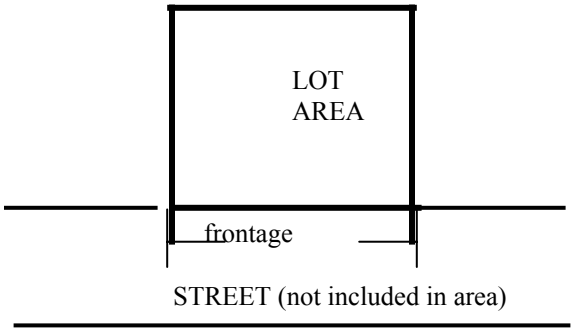
An appeal from a decision of the SPGA may be taken in accordance with the provisions of M.G.L., Ch. 40A, § 17.

SECTION 7 DIMENSIONAL REGULATIONS

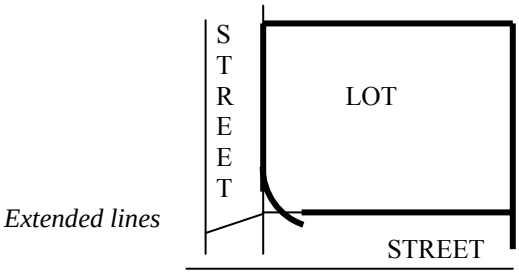
A. PURPOSE OF DIMENSIONAL REGULATIONS
These dimensional regulations control the density of development in the Town in order to carry out the overall purposes of this Zoning By-law. Unless otherwise provided in this Zoning By-law, all uses, buildings, and structures shall comply with these dimensional regulations.

B. IN GENERAL

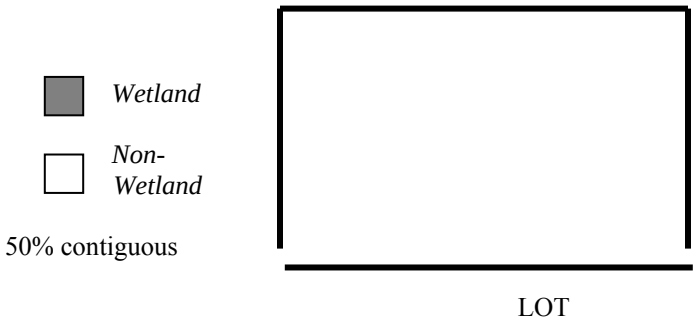
1. In determining the area and frontage of a lot there shall not be included any land within the limits of a street upon which such lot abuts, even if the owner of the lot also has title to such street.



2. If a corner lot has its corner bounded by a curved line connecting other bounding lines which, if extended, would intersect, the area and frontage shall be computed as if such bounding lines were so extended.

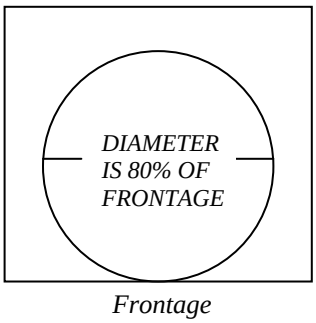


3. When determining compliance with the minimum lot area requirements in all zoning districts, except the Multi-Family District, Townhouse Overlay District, and Elderly Housing Overlay District, no less than50% of the minimum lot area shall be free of bordering vegetative wetlands as defined by M.G.L., Ch. 131, § 40. Such non-wetland area shall be contiguous.

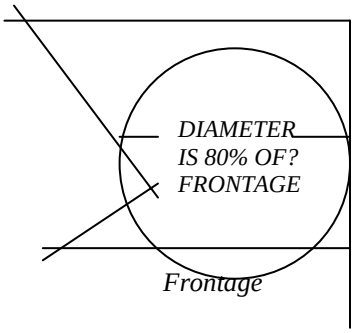


4. No lot shall be reduced in area, or changed in size or shape so that the location of a building or structure on the lot, or the lot itself, fails to comply with the dimensional or other provisions of this Zoning By-law. is prohibition shall not apply, however, when a portion of a lot is taken by eminent domain or conveyed for a public purpose.

5. When a lot in one ownership is situated in part in the Town of Billerica and in part in an adjacent town or city, the provisions, regulations and restrictions of this Zoning By-law shall be applied to that portion of the lot that lies in the Town of Billerica in the same manner as if the entire lot were situated in the Town of Billerica.
6. In the case of an easement for high tension power lines or gas transmission lines, the area of such easements shall be added to the minimum lot sizes for a lot, as specified in this Zoning By-law.
7. All lots shall be so far as possible regular and symmetrical.
8. All buildable lots shall be able to encompass a circle that touches the frontage and has a diameter equal to 80% of the lot's frontage requirement within the interior of the lot.



A BUILDABLE LOT



NOT A BUILDABLE LOT
(Circle will not fit within lot lines)

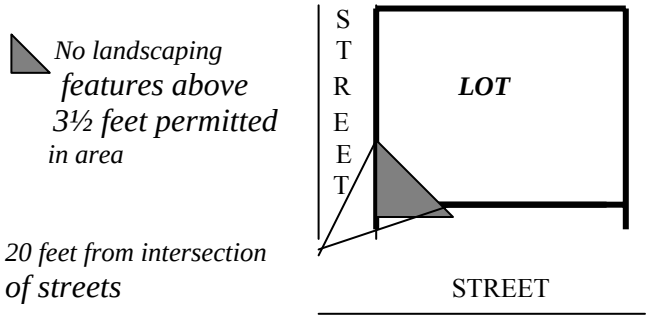
9. A corner lot or through lot shall have access through one frontage only.

10. If a lot has more than four lot lines, the additional lot lines shall be deemed to be side lot lines, unless the Inspector of Buildings determines otherwise.

11. Except in a Multi-Family District, Townhouse Overlay, or Elderly Housing Overlay District, only one residential building shall be erected upon any individual lot, regardless of the size or dimension of the lot.

12. On a corner lot in a residential district no fence, wall, structure, planting or shrubbery, or foliage more than three and one-half (3 1/2) feet in height above the plane of the established grade of the street shall be erected in any part of

    the area that is included within the street lines and a line drawn diagonally across the lot connecting the street lines at points twenty (20) feet distant from the point of intersection measured along said street, which would obstruct the view of a driver of a vehicle approaching the intersection.



13. Any use for agriculture, floriculture, forestry, horticulture, viticulture, or a facility for the sale of such products shall be located on a lot with a minimum area of five acres. All other dimensional requirements shall not apply to such uses.

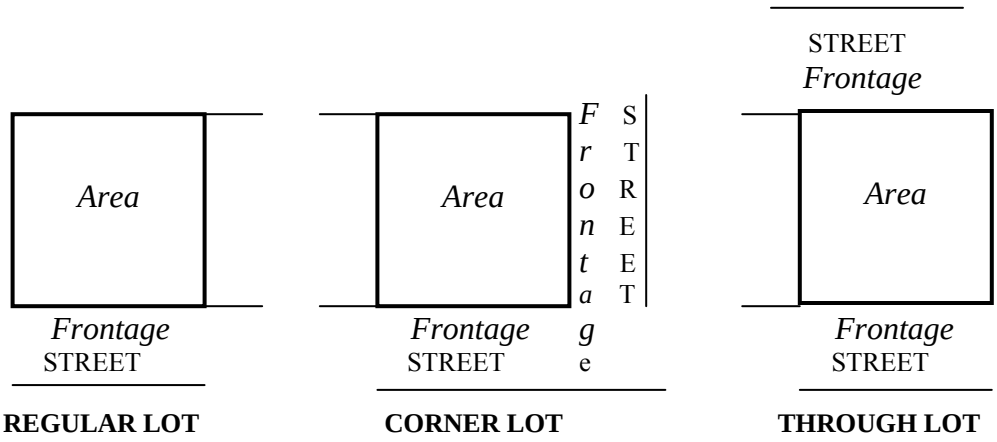
14. The dimensional requirements for the neighborhood business district shall apply to all religious and education uses, regardless of the zoning district in which they are located, but such dimensional requirements may not result in the prohibition of such uses.

15. Any parcel of land purchased under the provision of Article II, § 5.3 of the General By-laws shall not be utilized to satisfy the lot area, coverage, and frontage requirements of this Zoning By-law. If the subject parcel is held in common ownership with any other abutting property it shall be treated as if it were under separate ownership for purposes of meeting the dimensional requirements of the Zoning By-law.

C. AREA AND FRONTAGE

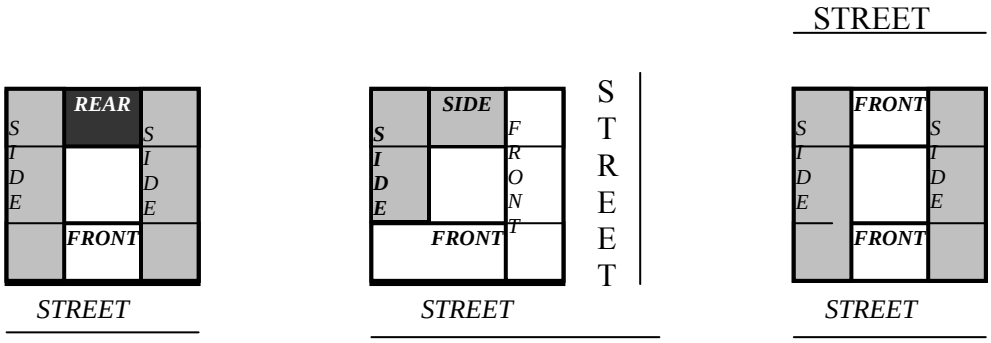
1. Access to a lot must be over the legal frontage.

2. Lot area and frontage for a regular, corner, and through lot are as shown below:



D. YARDS

1. Front yards, side yards, and rear yards for a regular, corner, and through lots are as shown below:



REGULAR LOT **CORNER LOT** **THROUGH LOT**

2. All nonresidential and nonagricultural uses within residential districts shall meet the yard requirements for the neighborhood business district.
3. In residential districts, any lot in existence when this Zoning By-law allowed a side yard of not less than 7 ½ feet and which has less than 125 feet of frontage, shall be required to maintain side yards of 7 ½ feet.
4. In residential districts, any lot in existence when this Zoning By-law allowed a front yard of not less than 20 feet shall be required to maintain a front yard of 20 feet.
5. In residential districts, uncovered steps in the front and rear yards, bulkheads in the rear yard~~s~~, and eaves in the front yard are not subject to the yard requirements, except that all side yards shall be a minimum of 7 ½ feet, all rear yards shall be a minimum of 20 feet, and all front yards shall be a minimum of 20 feet. Unless a building, structure, or use of a lot is covered by the pre-existing, nonconforming provisions of this Zoning By-law, in which case the minimum yard requirements apply, any other principal building, structure, or use of the lot, whether covered or uncovered shall maintain a front yard of 35 feet, a side yard of 15 feet, and a rear yard of 20 feet.
6. In all nonresidential districts, EXCEPT Industrial, uncovered steps in the front and rear yards, bulkheads in the rear yard~~s~~, and eaves in the front yard are not subject to the yard requirements, except that all side yards shall be a minimum of 7 ½ feet, all rear yards shall be a minimum of 20 feet, and all front yards shall be a minimum of 20 feet. Unless a building, structure, or use of a lot is covered by the pre-existing, nonconforming provisions of this Zoning By-law, in which case the minimum yard requirements apply, any other principal building, structure, or use of the lot, whether covered or uncovered, including loading platforms, shall maintain a front yard of 50 feet, a side yard of 25 feet, and a rear yard of 35 feet.
7. An accessory building, structure, or use with a gross square footage of 100 or less may be placed in the side or rear yard of a lot with a 7 ½ foot side yard and a 10 foot rear yard. All other accessory buildings, structures, or uses shall comply with the minimum yard requirements for principal buildings, structures, or uses.
8. Except for an access drive, no accessory building, structure, use shall be located in the front yard of a lot.
9. Notwithstanding the other provisions of this section municipal utility pump stations with gross floor areas less than 900 square feet shall not be subject to a front yard requirement but shall maintain a 7 ½ foot side and rear yard in all zoning districts, measured from the property or easement line.

E. LOT COVERAGE

1. In the Industrial District, the floor area ratio (FAR) cannot exceed 1.0.

2. The maximum coverage of lots with principal and accessory buildings, structures, and uses, not including off-street parking and loading, shall not exceed the percentages shown in the Dimensional Table at the end of this section.

F. HEIGHT

1. Height limitations for each Zoning District shall be as set forth in the Dimensional Table at the end of this section.

2. The foregoing limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other accessory structural features usually carried above roofs, nor to domes, towers or spires of churches or other buildings, provided such features are in no way used for living purposes, and further provided that no such structural feature of any non-manufacturing building shall exceed a height of sixty-five (65) feet from the ground, and no such structural feature of any manufacturing building shall exceed a height of eighty-five (85) feet from the ground.
3. To offset any gains in the maximum allowable building heights offered by building retaining walls adjacent to other buildings or structures constructed on the same lot together with walls, barriers, retaining structures, and the like, the calculation of all building and structure heights will additionally include the height of any walls, barriers, retaining structures, and the like.

G. GREEN STRIPS AND SCREENING

1. In all nonresidential zoning districts, screening shall be provided, erected, and maintained to shield business and industrial uses of buildings, structures, and land from adjoining residential and municipal lots and shall consist of a solid fence, wall, landscaped earthen barrier, evergreen planting or combination of these elements not less than 6 feet in height along the property line. Screening may be reduced to 3 ½ feet where it acts to shield an adjacent public way. Where planting is used, the minimum height, distance from the lot line, and type of materials used shall provide an effective barrier in the opinion of the Inspector of Buildings.
2. Green Strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover, and flowers. At least one native tree with a minimum diameter of three inches at chest level and eight shrubs per 50 feet of green strip are required. If there is a 10 foot green strip around a building, up to 50% of the trees may be replaced with two shrubs for each tree. Ground cover should also be specified and if non-vegetative (bark dust, mulch, stones larger than one foot in diameter, etc.) the depth must be adequate to assure proper cover. The green strip shall not be built on, paved, or parked on, except as otherwise provided in this Zoning By-law.
3. Green Strips may be interrupted by sidewalks or walkways parallel to the adjacent building up to six feet in width for the purpose of accessing a building. If a green strip contains a sidewalk or walkway the green strip shall be widened by the width of the sidewalk or walkway parallel to the adjacent building in order to compensate for the resulting green strip reduction.
4. Green strips shall be provided around the perimeter of all lots, except in the location of curb cuts. Lot perimeter green strips may not be built on, paved, or parked on.
5. Green strips shall be maintained on each lot around the perimeter of all buildings. Building perimeter green strips may not be used for off-street parking and outdoor storage if permitted
6. Green strip requirements are set forth in the Dimensional Table at the end of this section.
7. The provisions of this section may be reduced or waived as part of and in conjunction with the Site Plan Special Permit Process described under Section 6. In which case the SPGA shall make a finding that doing so does not effectively detract from the enhancement of the natural, scenic and aesthetic qualities of the development. (Amended: 05/06/2008)

H. GREEN SPACE

In all districts, except residential districts, each lot, or that portion of the lot within the district, shall set aside 25% of its area as a green space which cannot be used for driveways, roadways, parking areas, paved areas or for vehicular travel of any sort.

I. SLOPES

The creation or construction of slopes or a series of slopes in excess of one foot rise per three feet of run, otherwise known as a 3:1 slope, and over five feet in height is prohibited. The Planning Board may grant a special permit for exceptions to this provision if they find that the change is safe and is not detrimental to the surrounding area.

J. WALLS, FENCES, AND RETAINING WALLS

Walls, fences, barriers, retaining walls and the like over six feet in height shall be considered structures and shall be subject to all applicable dimensional controls in this section of the Zoning By-law.

K The dimensional requirements for Child Daycare Centers in the Village Residential, Neighborhood Residential and Rural Residential Districts shall be as follows;

1. In order to control bulk daycare structures, structures shall not have foot prints totaling more than 5,000 square feet.
2. Parking spaces shall not be located within yard setbacks.
3. The minimum lot size shall be the current minimum lot size required in the applicable district.
4. Yard space requirements shall be the same as those in the Neighborhood Business District, except that side yards shall be increased to 50 feet.
5. Maximum height shall be limited to 35 feet.
6. Impervious surfaces shall not cover more than 50% of the subject site.
7. Unless otherwise described within this section, the provisions of Section 7.D.2 apply.

(Amended Art. 43, ASTM 5/03/2011)

L. DIMENSIONAL TABLE

DIMENSIONAL REQUIREMENTS

ZONING DISTRICT	MIN LOT AREA	MIN LOT FRONT-AGE	MIN FRONT YARD (6)	MIN SIDE YARD (6)	MIN REAR YARD	MAXIMUM LOT COVERAGE	MAXIMUM HEIGHT	GREEN STRIP	GREEN SPACE
Village Residence	30,000 S.F.	150 ft.	35 ft.	15 ft.	20 ft.	25%	2 ½ stories or 35 ft. (7)	10 ft. lot per. (2) (non-residential) 75% build. per.	25% (2)
Neighborhood Residence	40,000 S.F.	175 ft.	35 ft.	15 ft.	20 ft.	25%	2 ½ stories or 35 ft. (7)	10 ft. lot per. (2) (non-residential) 75% build. per.	25% (2)
Rural Residence	50,000 S.F.	200 ft.	35 ft.	15 ft.	20 ft.	25%	2 ½ stories or 35 ft. (7)	10 ft. lot per. (2) (non-residential) 75% build. per.	25% (2)
Neighborhood Business	25,000 S.F.	125 ft.	50 ft.	25 ft.	35 ft.	25%	2 ½ stories or 35 ft. (7)	10 ft. lot per. (2) 75% build. per.	25%
General Business	25,000 S.F.	125 ft.	50 ft.	25 ft.	35 ft.	25%	3 stories or 45 ft (7)	10 ft. lot per. (2) 75% build. per.	25%
Commercial	25,000 S.F.	125 ft.	50 ft.	25 ft.	35 ft.	25%	3 stories or 45 ft.	10 ft. lot per. (2) 75% build. per.	25%
Industrial	60,000 S.F.	150 ft.	100 ft. (4)	35 ft. (1)	50 ft.	50%	45 ft. above grade plane (5)	20 ft. lot per. (2), (3) 75% build. per.	25% (3)

(1) Side yard shall be increased to 50 feet on any lot that abuts land in a residential district.
(2) The green strip and green space requirements in the residential districts apply to nonresidential and nonagricultural uses only and not to principal and accessory residential uses. See subsection G of this section of the Zoning By-law for specific requirements.
(3) These requirements also apply in the following special districts: Refuse Transfer Station, Private and Public Dumping Ground, Alcohol and Drug Rehabilitation Hospital, Composting, and Adult Entertainment Districts.
(4) In Industrial Districts, the required front setback may be reduced to 40 feet along industrial roads. This front yard must be used for landscaping, pedestrian walkways, and curb cut access driveways only.
(5) The highest roof surface shall not exceed 55 feet above the grade plane.
(6) These yards are reduced in the Historic Overlay District
(7) The maximum height shall be twenty-eight for lots with areas of 7,500 square feet or less.

SECTION 8 PARKING AND LOADING REGULATIONS

A. PURPOSE OF PARKING AND LOADING REGULATIONS
parking and loading requirements shall ensure that each use, building, or structure shall have the minimum, necessary parking and facilities for loading and unloading to serve that use, building, or structure.

B. IN GENERAL

1. Parking and loading requirements shall be considered dimensional requirements, except that parking or loading to serve a use that is not permitted in a zoning district shall also not be permitted in that district.

2. Not less than the required parking and loading space requirements set forth in this section of the Zoning By-law shall be provided to service all new buildings and structures, additions to old buildings and structures, or new uses of existing buildings, structures, or lots.

3. Loading areas shall not be considered part of parking areas.

4. Required parking and loading shall be located on the same lot as the activity they serve and shall have free and unimpeded access to a street over unobstructed passageways or driveways.

5. Driveway openings may be located every 50 feet along a street. A driveway opening shall be a minimum width of 24 feet measured at the throat of the opening, not at the radius.

6. Required parking and loading areas shall have adequate provisions for access, turning, and exiting without endangering or inconveniencing the users of such areas or the traffic in the streets adjacent thereto. Egress shall not require backing into the street in any district other than residential.

7. All parking and loading areas shall be suitably landscaped. Such landscaping shall be designed to minimize the impact of the parking area upon adjacent property and within the lot by the use of existing vegetation to the extent practicable and new trees, shrubs, walls, fences, or other landscaping elements. In the case of parking areas for more than 40 spaces, at least five percent of the area within the limits of the parking area shall be set aside for landscaped areas, and such areas shall be provided with a minimum width of ten feet, through use of curbing and shade trees or other types of landscaping. Areas provided to satisfy the green strip requirements as set forth in the dimensional provisions of this Zoning By-law cannot be used to satisfy this requirement.

8. All parking and loading areas, except single family home parking areas, along with associated access shall be paved with a two inch binder and a one inch top mix or at least a four inch thick concrete pad and shall be striped and marked so as to clearly satisfy all applicable requirements.

9. All parking and loading areas shall be adequately drained to eliminate surface water.

10. All parking and loading areas shall comply with the signage and lighting requirements set forth in this Zoning By-law.

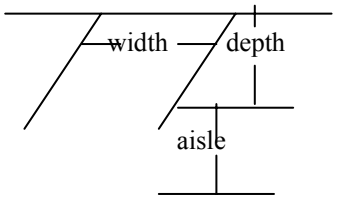
11. Parking spaces shall not be stacked except for single-family residential and duplex properties. All other parking spaces shall have unimpeded and free access to a street, road or way over unobstructed passageways, aisles or driveways.

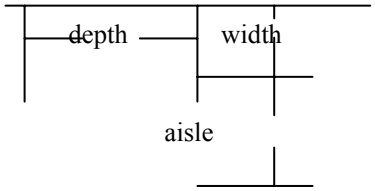
C. PARKING REQUIREMENTS

1. All parking spaces shall comply with the following minimum dimensions:

Angle of Parking	Width of Parking	Depth of Space	Width of Aisle
61 - 90 Degrees	9 Feet	19 Feet	24 Feet
45 - 60 Degrees	9 Feet	19 Feet	18 Feet
Parallel Degrees	8 Feet	22 Feet	14 Feet

ANGLE PARKING PARALLEL PARKING





2. Additional parking requirements:

a. In parking areas containing more than 40 parking spaces, 15% of such parking spaces may be for small car use. Such small car spaces, if provided, shall have a depth of at least fifteen (15) feet. The width of the parking space and the maneuvering aisle shall not vary from the requirements set forth above. Such small car stalls shall be located in contiguous areas and shall be conspicuously designated.

b. In addition to the parking requirements in this by-law, all parking areas must comply with the currently applicable Rules and Regulations of the Massachusetts Architectural Access Board.

3. All uses shall comply with the following minimum off-street parking requirements:

Uses	Minimum Parking Spaces Required
AGRICULTURAL	
Agricultural uses not specifically listed	None, unless the Building Inspector determines that the use requires parking, in which case the use shall comply with the requirements for facility for sale of products
Facility for sale of products	Ten (10) spaces, plus one (1) space per fifty (50) square feet of floor area
BUSINESS	
Business uses not specifically listed	One (1) space per three hundred (300) square feet of floor area
Bank	One (1) space per three hundred (300) square feet of floor area
Barber or beauty shop	Two (2) spaces per each chair
Funeral home	One (1) space per each fifty (50) square feet of floor area in parlors and individual funeral service rooms, plus one (1) space per each four (4) seats in chapels and auditoriums
Offices	One (1) space per three hundred (300) square feet of floor area
COMMERCIAL	
Commercial uses not specifically listed	One (1) space per two hundred fifty (250) square feet of floor area
Greenhouse	Ten (10) spaces, plus one (1) space per one hundred (100) square feet of floor area
Mixed use	One (1) space per two hundred fifty (250) square feet of floor area

Motel or hotel	One (1) space per each sleeping room or suite, plus one (1) space per each fifteen (15) guest rooms for employee parking, plus one (1) space per each two hundred fifty (250) square feet of commercial floor area contained therein
Motor vehicle salesroom and used car lots	One (1) space per each eight hundred (800) square feet of sales floor or lot area, whichever is greater
Repair shop	One (1) space per three hundred (300) square feet of floor area
Retail store	One (1) space per two hundred fifty (250) square feet of floor area
Restaurant	One (1) space per 2 ½ seats, including all outdoor sitting areas and deck areas used for seating, plus one (1) space per employee
Supermarket	One (1) space per one hundred (100) square feet of floor area for the first five thousand (5,000) square feet, plus one (1) space per two hundred (200) square feet of floor area above five thousand (5,000) square feet of floor area
EDUCATIONAL	
College or higher education facility	One (1) space per each one and one-half (1 ½) seats
Educational uses not specifically listed	One (1) space per each four (4) seats in the auditorium or main assembly room or four (4) spaces per each classroom, whichever is greater
Elementary school, middle school, kindergarten, nursery, or day care	One (1) space per each four (4) seats in the auditorium or main assembly room or two (2) spaces per each classroom, whichever is greater
High school	One (1) space per each four (4) seats in the auditorium or main assembly room or six (6) spaces per each classroom, whichever is greater
GOVERNMENTAL	
All governmental uses	One (1) space per three hundred (300) square feet of floor area, plus one (1) space per each three (3) employees
INDUSTRIAL	
All industrial uses	One (1) space per each two (2) employees of the maximum working shift, plus one (1) space per each six hundred (600) square feet of floor area
PHILANTHROPIC	
Philanthropic uses not specifically listed	Ten (10) spaces, plus one (1) additional space per each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet
Clubs and lodges	One (1) space per each two hundred (200) square feet of floor area
RECREATIONAL	
Recreational uses not specifically listed	One (1) space per three (3) patrons, based on the design capacity of the use or facility
Bowling alley	Five (5) spaces per alley
Driving range	One (1) space per two tees and one (1) space per employee
Golf course	Three (3) spaces per hole for the principal golf course use. All accessory uses to the golf course shall meet the parking requirements set forth in this table for that use.
Indoor amusement	One (1) space per three (3) patrons, based on the design capacity of the facility
Outdoor recreational facility	One (1) space per three (3) patrons, based on the design capacity of the use
Theater or cinema	One (1) space per each four (4) seats or bench seating spaces

RELIGIOUS	
All religious uses	One (1) space per each five (5) seats or pew space
RESIDENTIAL	
Residential uses not specifically listed	One and one-half (1 ½) spaces for the first bedroom, plus one-half (½) space per each additional bedroom
Multi-family residence	Two (2) spaces
Elderly	Two (2) spaces
Room rental	One (1) space per sleeping room
Single family	Two (2) spaces
Townhouse	Two (2) spaces
Two family	Two (2) spaces per unit
SERVICES	
Service uses not specifically listed	One (1) space per each two hundred fifty (250) square feet of floor area
Alcohol and drug rehabilitation hospital	Ten (10) spaces, plus one (1) additional space per each four (4) beds, plus one (1) space per each two (2) employees, plus adequate space for parking emergency vehicles
Nursing home	One (1) space per each six (6) beds, plus one (1) space per each two (2) employees, plus adequate space for parking emergency vehicles
UTILITIES	
All utility uses	None, unless the Building Inspector determines that the use requires parking, in which case the use shall comply with the requirements for offices

4. Further interpretation of parking requirements:

   a. Floor area shall mean the gross floor area of the specific use, unless otherwise specified, exclusive of areas used strictly for storage. In the absence of information as to what portion of a building will be used for storage and services, 80% of the aggregate floor area shall be deemed to be the floor area for the purposes of computing the required off-street parking.

   b. Fractional parking spaces shall be rounded to the next higher whole space.

   c. Buildings or structures containing mixed uses shall provide off-street parking spaces equal to the sum of the various uses computed separately.

D. SPECIAL PERMIT

If a use is permitted by right, the Board of Appeals may grant a special permit for an exception to not less than one-half the parking requirements set forth in this section. If a use is permitted by special permit or by site plan approval special permit, the special permit granting authority responsible for permitting the use may also grant a special permit for an exception to not less than one-half the parking requirements set forth in this section. In granting the special permit, a finding shall be made that sufficient open space exists for the required parking should it be necessary to increase parking in the future. In addition, a finding shall be made that the complete development of the required parking area is currently unnecessary before granting the special permit. Should additional parking become necessary, the special permit may be modified after hearing and notice.

E. LOADING REQUIREMENTS

1. All uses that generate truck traffic into or out of a site must provide adequate loading space for any delivery and collection vehicles.

2. A loading space shall contain a minimum of 420 square feet and shall be approximately 12 feet in width and sufficient in depth to accommodate the largest delivery truck expected to serve the use, but no less than 35 feet in depth. A minimum of 14.5 feet of height shall be available for purposes of clearance.

3. There shall be no more than one loading space, consisting of one dock and one door, per 10,000 square feet of floor area.

SECTION 9 SIGNS AND LIGHTING

A. PURPOSE OF SIGNS AND LIGHTING REGULATIONS

The purpose of regulating signs and lighting is to:

1. Permit signs that will, by reason of their location, shape, size or color, protect the public health, safety, and welfare;
2. Complement land uses to which a sign is related;
3. Promote economic development and growth;
4. Preserve and enhance the aesthetic environment;
5. Provide uniform standards and processes for governing the erection, change, alteration, and removal of signs; and
6. Ensure consistent enforcement.

B. IN GENERAL

1. Definition of a Sign: A sign includes any letter, word, symbol, drawing, picture, design, device, flag, banner, pennant, article, light, or object that is designed to advertise, inform, direct, or attract attention to or indicate any premises, person, or activity.

2. Applicability: All signs and lighting are subject to this Zoning By-law and shall be considered structures for which a variance may be sought. All signs and lighting shall comply with such other provisions of this Zoning By- law, as deemed applicable by the Inspector of Buildings.

3. Application for a Sign Permit:
   a. All persons desiring to erect, change, or alter a sign shall apply to the Inspector of Buildings for a sign permit, unless a permit is not required by this Zoning By-law.
   b. All signs associated with uses permitted by special permit or site plan review special permits shall be permitted by special permit also.
   c. No sign shall be changed or altered in size, shape, construction, location, or illumination, except in compliance with this Zoning By-law.
   d. Changing background colors, re-lettering and using the same color, or maintaining a sign shall not be considered a change or alteration of a sign.
   e. All applications for sign permits shall include a drawing to scale showing the following:
      1. The proposed sign including the proposed size, shape, location, coloring and lettering;
      2. All existing signs maintained on the premises;
      3. A plot plan and a sketch of the building facade indicating the location of the proposed and any existing signs; and
      4. Site distances from adjacent streets to proposed signs.
   f. If a proposed sign complies with this Zoning By-law, the Inspector of Buildings shall assign such sign a unique serialized sign number, where the first two digits represent the year of issuance of the sign permit.

4. Signs and Lighting Cannot Interfere with Traffic: No signs or lighting shall by reason of their location, shape, size or color interfere with traffic or be confused with or obstruct the site distance or the effectiveness of any official traffic sign, traffic signal, or traffic marking. Red, green, and yellow signs that interfere with or cause confusion with respect to any official traffic sign, signal, or marking are prohibited. All signs and lighting shall have a minimum setback of 10 feet from all property lines. The Inspector of Buildings may require a greater setback from a street based on necessary site distance for the class of a street and speed on such street as set forth in the current edition of the Massachusetts Highway Department Manual.

5. Maintenance: Every sign shall be maintained in good condition. If a sign shows corrosion or deteriorated paint over 25% of the area of one side; or if damage to the sign causes a loss of 10% of its substance; or if the sign suffers damage or deterioration which creates a risk of harm to the person or property of another;

or if the establishment is no longer in business, such sign shall be repaired or removed by the property owner.

6. Area of a Sign: Sign area shall be the smallest, regularly-shaped ellipse or rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop, building, or structure against which it is placed. Sign supports shall be excluded in determining the area of a sign. A double-faced sign having the identical message on both sides shall be considered to have the area of a single face.

C. DEFINITIONS

As used in this Zoning By-law, sign types shall be defined as follows:

1. Architectural. A sign that is an integral, decorative or architectural feature of a building, which may include letters or numbers relating to the building.
2. Artisan's. A temporary sign of a mechanic, painter, or other artisan performing work to the premises on which the sign is located.
3. Awning. A temporary or permanent covering or shelter which is supported entirely from the exterior wall of a building.
4. Banner. A temporary sign made of a piece or strip of cloth, paper, canvas, plastic or similar material, on which a message, slogan or emblem is painted, drawn or otherwise projected, colored, or shaped with no enclosing framework.
5. Billboard. Any sign or other advertising device subject to licensing by the State Outdoor Advertising Board, or signs subject to the provisions of M.G.L., ch. 93, §§ 29-33 or ch. 93D.
6. Construction. A temporary sign located on the premises where construction or development is taking place and which identifies the contractors, engineers, architects, and financial institutions that are involved in projects
7. Directory. A sign listing the occupants of a building and the street address or room number of the occupants.
8. Filling station. A combination of signs permitted in the Business District only, including movable letter motor vehicle fuel price signs; signs indicating separate operations or departments on the premises, such as a mini market; and brand or name of motor vehicle fuel being sold
9. Freestanding. A sign directly or indirectly connected to the ground and not attached to any buildings or other structures. If a sign support holds more than one sign, each sign is considered a separate freestanding sign.
10. Governmental. A sign erected by or on behalf of or pursuant to the authorization of a governmental body, or required by any law, governmental order or regulation, including legal notices; identification and informational signs; and traffic, directional, or regulatory signs.
11. Home occupation. A sign that identifies a home occupation in any residential district.
12. Identification. A sign that indicates the place name and address of a use, building or structure in a Multi-family District.
13. Industrial directory. A sign that identifies the occupants in an industrial development.
14. Institutional. A type of freestanding sign for a religious or educational institution.
15. Monument. A low-profile freestanding sign erected with a wide base on the ground.
16. Moveable letter or message board. A temporary or permanent sign on which the letters are temporary and interchangeable, but not including changeable letters in a filling station sign, governmental sign, or institutional sign.
    16.1. Off-Premise A sign which is located on a parcel other than the parcel on which the business to which the sign refers is located.
17. Portable. A sign that is constructed of any material and is designed to be easily relocated from one location to another, whether or not it is fastened to any object, vehicle, trailer, building or staked to the ground in any manner at any given time.

18. Projecting. A sign that is attached to a building and is not parallel to any wall to which it is attached. A sign in contact with the ground is not a projecting sign.
19. Real estate. A temporary sign advertising the sale, rent or lease of the property on which it is located.
20. Real estate subdivision. A sign that advertises the sale of land or a building for a whole subdivision.
21. Roof. A sign erected upon and above a roof structure and wholly supported by the roof structure or a structure placed upon the roof. Roof signs shall also constitute any signage placed upon sloped building faces intended to appear as or actually be roof elements of the building.
22. Traffic flow. A sign that directs and guides traffic and parking on private property, which bears no advertising matter, symbols, or other characteristics of a sign.
23. Wall A sign fastened, placed or painted upon or parallel to the exterior wall of the building or structure itself, whether front, rear, or side of the building or structure.
24. Window. A sign placed on or within 2 feet of any glass or transparent area of a window or door.

D. SIGNS NOT REQUIRING A PERMIT

The following types of signs may be erected, changed, or altered without a sign permit:

1. One, maximum 1 square foot non-commercial sign per residential lot;
2. One, maximum 6 square foot real estate sign. Such sign shall be removed from the property within three calendar days after the transfer of real estate takes place;
3. One, maximum 12 square foot construction sign in a Multi-family; Townhouse, or Elderly Housing District or for an assisted living residence;
4. Signs of a maximum size of 24" x 30" within a street right-of-way erected for the purpose of identifying that a particular sponsor is a participant in the Adopt-A-Street Program and approved by the program administrator,
5. Signs of a maximum size of 24" x 30" on public property or property of a similar nature erected for the purpose of identifying that a particular sponsor is maintaining the property;
6. Flags or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device;
7. A governmental sign;
8. Signs carried by hand;
9. Traffic flow signs, which shall not exceed 3 square feet in area and 4 feet in height, except that standard traffic control signs consistent with state and federal transportation regulations and also recommended by the Chief of Police, such as stop, one-way, yield, merge, and the like, shall not be subject to the dimensional limitations, but shall be the standard size permitted by such state and federal regulations;
10. Handicapped parking space signs, as required by M.G.L., ch. 40, § 21 (23) (b), as amended, shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "HANDICAPPED PARKING: Special Plate Required. Unauthorized Vehicle May Be Removed at Owner's Expense."
11. An official sign of a non-commercial nature erected by a public utility;
12. One square foot "circa" sign indicating the year of construction and located on historic buildings;
13. Well water signs pursuant to the Water Conservation By-Law

E. PROHIBITED SIGNS

The following types of signs are prohibited in all zoning districts:

1. Signs which incorporate in any manner flashing, moving or intermittent lighting, excluding public service signs showing time and temperature.
2. Neon signs.
3. Wind signs, including pennants, spinners, streamers, and other wind actuated components.
4. String lights used in conjunction with commercial sign.
5. Signs erected so as to obstruct any door, window that opens, or fire escape.

6. A billboard or off-premise sign
7. Banners, unless declared by the Board of Selectmen to provide a public service, in which case the sign shall be permitted without a permit.
8. Portable signs.
9. Moveable letter or message board signs.

F. SIGNS PERMITTED IN EACH ZONING DISTRICT

The following types of signs are permitted in the various zoning districts as set forth below:

1. Residential Districts (Village Residence, Neighborhood Residence, Rural Residence, Multi-Family Residence):
   a. Artisan's
   b. Construction
   c. Directory for multi-family uses
   d. Home occupation
   e. Identification
   f. Institutional
   g. Real Estate
   h. Real Estate Subdivision

2. Business Districts (Neighborhood Business, General Business, Commercial)

   By Right:
   a. Architectural
   b. Artisan's
   c. Awning
   d. Construction
   e. Directory
   f. Filling Station
   g. Institutional
   h. Monument
   i. Projecting
   j. Real Estate
   k. Real Estate Subdivision
   l. Wall
   m. Window

   By Special permit from the Zoning Board of Appeals:
   a. Freestanding
   b. Roof Signs

Required Findings:
- The sign does not derogate from the character of the area
- The sign is needed due to site constraints

  Required Findings:
  - The sign maintains vehicle site distance and provides for traffic safety.
  - The sign shall be located a minimum of ten (10) feet from all property lines.

3. Industrial District
   a. Artisan's
   b. Construction
   c. Industrial Directory
   d. Institutional
   e. Monument
   f. Real Estate

g. Real Estate Subdivision
h. Wall

4. All signs permitted in the Industrial District shall be permitted in the Specialty Districts (Refuse Transfer Station, Private & Public Dumping Ground, Alcohol & Drug Rehabilitation Hospital, Composting, Adult Entertainment).
5. All signs in Overlay Districts (Flood Plain, Historic, Residential Cluster, Townhouse, Elderly Housing, and Self-Service Storage Facility) shall comply with the sign regulations for the underlying district.

G. SIGN REQUIREMENTS

Prior to issuance of a sign permit, each sign type shall comply with the following requirements:

1. Architectural
   The maximum area of such sign shall not exceed 2 square feet per linear foot of the building wall on which the sign appears.

2. Artisan's
   The maximum area of such sign shall not exceed 16 square feet.
   Such sign shall be removed promptly upon completion of the work.

3. Awning
   a. The awning shall fully fill the width of a window or door opening.
   b. A continuous awning shall be supported at points on the piers and at the bottom of the frieze.
   c. There shall be a minimum clearance of 7 ½ feet above the sidewalk or driveway to the bottom of the awning frieze.
   d. No more than 30% of the awning area shall be occupied with graphics and lettering.
   e. Graphics and lettering shall be a maximum height of 3 feet.

4. Construction
   a. The maximum area of such sign shall not exceed 20 square feet.
   b. No dimension shall exceed 10 feet.
   c. All construction signs shall be removed 10 days after issuance of the final use and occupancy permit.

5. Directory
   a. The maximum area of such sign shall not exceed 54 square feet.
   b. No dimension of such sign shall exceed 9 feet.
   c. A directory wall sign for a multiple-tenant establishment shall be affixed to a first story, exterior wall of the building in which the multiple tenants are located; and the sign shall be comprised of only those establishments that choose to be represented and only those establishments that are situated with their main building entrance lying approximately perpendicular to the frontage street.
      (1) A multiple-tenant establishment is a building composed of three or more independent and physically separate business establishments where all access and egress is exclusively to/from the outdoors and not to/from any other establishment.
      (2) A directory wall sign is comprised of a group of individual signs or changeable plates relating to each individual establishment within the multiple-tenant establishment.
      (3) Each individual sign shall not exceed 1 foot in height and 3 feet in width.
      (4) The aggregate sign area shall not exceed 6 feet in height and 9 feet in width.

6. Filling Station Sign
   a. In the case of a freestanding sign usage, the display surface area shall be located under the freestanding landscaped sign and the price sign shall not be more than 1 foot in height.
   b. The display surface area of a wall sign shall not be more than 12 square feet, or for a free standing sign, more than 7 square feet.

c. Only one price sign is permitted per site and no more than four different motor vehicle fuel prices may be comprised of movable letters.
d. Changes in motor vehicle fuel prices may be made without a sign permit.
e. The standard unlighted, moveable letter motor vehicle fuel price sign attached to each pump shall have a display surface that complies with state requirements.
f. The standard type of motor vehicle fuel pump, bearing thereon the unlighted name or type of fuel being sold, shall not be deemed to be a sign within the meaning of this Zoning By-law.

7. Freestanding:
   - The maximum message area of such sign shall not exceed 21 square feet in the business and industrial districts and shall contain the place name and street address using minimum 6 inch letters.
   - The maximum height of such sign shall not exceed 8 feet to the top of the sign above the nearest pavement grade.
   - The minimum height of such sign shall be 5 feet to the bottom of the sign above the mean finished grade where the sign is located. For purposes of site distance, a minimum of 3 feet shall remain unobstructed from the bottom of the sign to the mean finished grade.
   - The maximum width of such sign message area shall be 7 feet.
   - The sign and associated landscaping shall be located a minimum of 10 feet from all property lines, and where deemed necessary by the Inspector of Buildings, the setback shall be increased so that the sign and associated landscaping does not obstruct views from or onto other properties or site distance of a driver of oncoming, intersecting, or merging traffic.
   - Where such sign consists of two parallel, flat, sign faces the maximum thickness between the two sign faces is 2 feet.
   - All freestanding signs shall have two posts, maximum 8 inches across, attached to the ground.
   - All freestanding signs shall be landscaped with well-maintained plantings at a maximum height of 2 feet that are located within a 2 foot perimeter around the sign posts
   - There shall be only one freestanding sign permitted on the site on which the sign is located.

8. Home Occupation
   a. In all residential districts, one sign shall be permitted to identify a home occupation.
   b. The maximum size of such sign shall not exceed 2 square feet.
   c. The maximum height of such sign shall not exceed 5 feet.
   d. Such sign shall be externally lit if lighting is provided.
   e. The sign and any associated landscaping shall be located a minimum of 10 feet from all property lines, and where deemed necessary by the Inspector of Buildings, the setback shall be increased so that the sign and associated landscaping does not obstruct views from or onto other properties or site distance of a driver of oncoming, intersecting, or merging traffic.

9. Identification
   a. In the Multi-Family Residence, Townhouse Overlay, and Elderly Housing Overlay Districts, a single identification sign shall be permitted for any multi-family residential use not exceeding 12 square feet and located at the entrance to the development.
   b. The maximum height of such sign shall be 5 feet to the top of the sign above the mean finished grade where the sign is located.
   c. No more than one sign shall be placed upon any property, unless such property fronts upon more than one street, in which case one sign may be erected on each frontage.
   d. Identification signs shall contain the street address of the property using minimum 6 inch letters.

10. Industrial Directory
    The Zoning Board of Appeals may issue a special permit for an industrial development sign to identify multiple properties within an industrial subdivision or development after hearing and making the following findings:
    a. The sign is located on private property adjacent to a main thoroughfare at an entrance to an industrial development or subdivision;

b. The sign identifies occupants of the industrial development or subdivision;
c. The maximum height of the sign does not exceed 11 feet above the mean finished grade where the sign is located;
d. The maximum width of the sign does not exceed 12 feet; and
e. The individual identification placards for each tenant shown on the industrial directory sign are uniform in size and shape.

11. Monument
a. The maximum message area of such sign shall not exceed 28 square feet in the business and industrial districts and shall include the place name, if applicable, and street address using minimum 6 inch letters.
b. The maximum height of such sign shall not exceed 5 feet to the top of the sign above the nearest pavement grade.
c. The maximum width of such sign shall be 7 feet.
d. The sign structure shall consist of a brick or masonry construction, complete with an adequate footing.
e. The sign message area shall be comprised of only one flat face or two parallel flat faces limited to a maximum thickness of 2 feet from face to face.
f. The sign shall be located a minimum of 10 feet from all property lines, and where deemed necessary by the Inspector of Buildings, the setback shall be increased so that the sign and associated landscaping does not obstruct views from or onto other properties or site distance of a driver of oncoming, intersecting, or merging traffic.
g. All monument signs shall be landscaped with well-maintained plantings 10 feet around the entire base of the sign.
h. There shall be only one monument sign permitted on the site on which the sign is located.

12. Projecting
a. The maximum area of such sign shall not exceed 6 square feet.
b. Only one such sign is permitted for each business.
c. The sign shall not project more than 3 feet from the building.
d. The sign shall be hung at a 90 degree angle from the face of the building or structure to which it is attached.
e. The bottom of the sign shall have a minimum clearance of 10 feet above a pedestrian walkway or sidewalk or 15 feet above a vehicular driveway.
f. The sign shall not encroach into minimum yard areas.

13. Real Estate
a. The maximum area of such sign shall not exceed 6 square feet in residential districts.
b. The maximum area of such sign shall not exceed 32 square feet in non-residential districts.
c. Only one sign shall be permitted per lot.
d. The sign shall be removed immediately after completion of the sale or lease of the real estate.

14. Real Estate Subdivision
a. The maximum area of such sign shall not exceed 32 square feet.
b. No dimension shall be greater than 8 feet.
c. Only one sign shall be permitted to face each street that abuts the tract of land subdivided.
d. The sign shall be solely to advertise the selling of land or buildings thereon in said subdivision.
e. The sign shall be removed immediately after completion of the sale or lease of the real estate.

15. Wall
a. The maximum area of such sign shall not exceed 3 square feet for each linear foot of the building face on which the wall sign is affixed.
b. The maximum height is 3 feet.
c. One principal wall sign is permitted on the front of the establishment to which it relates.
d. A secondary wall sign may be installed marking a direct entrance on a parking lot or another street in addition to the front wall sign. There shall be no more than two such secondary wall signs. Said sign shall have a width no greater than 50% of the width of the principal wall sign.

e. Wall signs shall be affixed to a wall and parallel to it.
f. No wall sign shall project more than 12 inches from the face of such wall.
g. In cases where a building has multiple establishments, wall signs must be of a uniform height and lettering. Such signs may only be located in the space permitted for single-establishment buildings.

16. Window
    a. Combined window signage shall not exceed 30% of the total glass area of the window and/or door to which the signage is related.
    b. All window signs shall be temporary and removable.
    c. Internal illumination is prohibited unless granted by a special permit.

H. SUMMARY OF SIGN TYPES PERMITTED IN EACH ZONING DISTRICT

Within the zoning districts listed below, the type of signs permitted include:

DISTRICTS

Sign Type	Residential	Business and Commercial	Industrial	Specialty
ARCHITECTURAL	NO	YES	NO	NO
ARTISAN'S	YES	YES	YES	YES
AWNING	NO	YES	NO	NO
CONSTRUCTION	YES	YES	YES	YES
DIRECTORY	YES	YES	NO	NO
FILLING STATION	NO	YES	NO	NO
FREESTANDING	NO	SZ*	NO	NO
HOME OCCUPATION	YES	NO	NO	NO
IDENTIFICATION	YES	NO	NO	NO
INDUSTRIAL DIRECTORY	NO	NO	YES	YES
INSTITUTIONAL	YES	YES	YES	YES
MONUMENT	NO	YES	YES	YES
PROJECTING	NO	YES	NO	NO
REAL ESTATE	YES	YES	YES	YES
REAL ESTATE SUBDIVISION	YES	YES	YES	YES
ROOF	NO	SZ*	NO	NO
WALL	NO	YES	YES	YES
WINDOW	NO	YES	NO	NO

* SZ = Special permit from the Zoning Board of Appeals

I. NUMBER OF SIGNS PERMITTED

1. No property shall have more than two signs unless a special permit is granted by the Board of Appeals if it finds that such additional sign will not be detrimental to the neighborhood and that such sign is necessary to properly advertise or identify the use or uses proposed on the property.
2. A multiple-tenant establishment may have one sign on the site for the multiple-tenant establishment identifying the place name, if applicable, and street address; and each tenant within the multiple-tenant establishment may have two signs advertising its business or establishment. A directory wall sign for the multiple-tenant establishment is also permissible if such sign complies with the requirements in this section for a directory sign for a multiple-tenant establishment.
3. Only one freestanding or monument sign shall be permitted on a site.

J. ILLUMINATION AND LIGHTING

1. Signs may be externally or internally illuminated, unless otherwise provided by the Zoning by-law.
2. The light from any sign shall be so shaded, shielded, or directed or shall be maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighboring premises, reflect or shine on or into residential lots, or impair the safe vision of operators of vehicles moving on public roads and highways.
3. No illumination shall be permitted which casts glare beyond the perimeter of the property on which the sign is located.
4. Light bulbs shall be enclosed in a housing, can, sleeve, or other container.
5. The illumination of any sign shall not exceed seventy-five (75) foot lamberts. A written certification of the foot lamberts of each illuminated sign shall be obtained from a licensed electrician, the sign manufacturer or a qualified consultant, which certification shall accompany the sign permit application and the sign shall be maintained in conformance to this certification.
6. No internal or external sign illumination is permitted between the hours of 12:00 midnight and 6:00 A.M., except for signs on premises open for business.
7. Internal or external sign illumination shall be steady and stationary.
8. Exterior sign illumination shall be shielded and directed solely at the sign.

SECTION 10 NON-CONFORMING USES, BUILDING, AND STRUCTURES

A. PURPOSE OF NONCONFORMITY REGULATIONS

Pre-existing, nonconforming buildings, structures, or uses of land or buildings may be continued and are not subject to this Zoning By-law or any amendments thereto, unless there is a proposed change, extension, alteration, or reconstruction of such building, structure, or use, in which case the provisions of this Zoning By-law shall apply.

B. IN GENERAL

1. Pre-existing, nonconforming buildings, structures, and uses of land or buildings are defined as ones that existed before the Town adopted zoning or ones where the building or structure was constructed or the use commenced in accordance with a legally issued permit, including those buildings and structures lawfully begun and uses lawfully commenced before the first notice of a public hearing to change this Zoning By-law, and which were constructed and commenced in accordance with the issued permits and the Zoning By-law in effect at the time of constructing the structure or building or commencing the use.
2. Any structure or building constructed or use commenced without proper permits, without complying with all issued permits and the provisions of the Zoning By-law in effect at the time of permit issuance, or both, shall be illegal and shall not be considered a pre-existing, nonconforming building, structure, or use.
3. Any structure, building, or use that is permitted by issuance of a variance shall not be considered a pre-existing, nonconforming building, structure, or use, and shall require another variance if any proposed change, extension, alteration, or reconstruction of such building, structure, or use, does not comply with the provisions of this Zoning By-law at the time of permit application.

C. ALTERATION, RECONSTRUCTION, EXTENSION, OR STRUCTURAL CHANGE TO A SINGLE OR TWO FAMILY DWELLING

1. Any alteration, reconstruction, extension, or structural change to a pre-existing, nonconforming single or two family dwelling shall be permitted by right without increasing the nonconforming nature of such dwelling, so long as:
   a. The dwelling is located on a lot of 5,000 square feet or greater;
   b. In the case of a proposed alteration, extension, or structural change, the proposal complies with the yard requirements in effect at the time the dwelling was constructed, but in no case shall the width of a side or rear yard be less than 7 ½ feet and in no case shall the width of a front yard be less than 20 feet, notwithstanding the non-compliance of the lot with area and frontage requirements;
   c. In the case of reconstruction, such reconstruction complies with the requirements of a. and b. above;
   d. In the case of reconstruction that does not meet the requirements of a. and b. above, such reconstruction may take place if it is within the same footprint as the pre-existing, nonconforming dwelling and does not increase the height and bulk of the pre-existing, nonconforming dwelling.

2. Any alteration, reconstruction, extension, or structural change of a pre-existing, nonconforming single or two family dwelling that does not satisfy conditions 1.a., 1.b., 1.c., and 1.d. shall not be permitted by right, unless there is a determination by the Permit Granting Authority that such extension, alteration, or reconstruction does not increase the nonconforming nature of the dwelling.

3. Any alteration, reconstruction, extension, or structural change of a pre-existing, nonconforming single or two family dwelling that increases the nonconforming nature of the dwelling shall not be permitted, unless there is a finding by the Permit Granting Authority that such alteration, reconstruction, extension, or structural change is not substantially more detrimental to the neighborhood than the pre-existing, nonconforming dwelling.

D. OTHER CHANGE, SUBSTANTIAL EXTENSION OF A USE, RECONSTRUCTION, EXTENSION, OR ALTERATION OF A PRE-EXISTING, NONCONFORMING BUILDING, STRUCTURE, OR USE THAT IS NOT A SINGLE OR TWO FAMILY DWELLING

1. No change or substantial extension of a pre-existing, nonconforming use that is not a single or two family dwelling is permitted by right. A change or substantial extension of a use shall be a change from a pre-existing, nonconforming use to a use that is not permitted by this Zoning By-law or an extension that substantially increases the extent and intensity of a pre-existing, nonconforming use as determined by the Inspector of Buildings.
2. Any pre-existing, non-conforming building or structure that is not a single or two family dwelling, destroyed or damaged by fire, flood, lightening, wind, or otherwise, to the extent of sixty-five percent (65%) or more of its reproduction cost at the time of such damage, shall not be rebuilt, repaired, reconstructed, nor altered except for a use permitted in the zoning district in which such building or structure is located, and which is in compliance with all dimensional and other provisions of this Zoning By-law. Any building or structure so effected to the extent of less than 65% of its reproduction cost can be reconstructed within two (2) years to its size and use immediately prior to damage or destruction, so long as such reconstruction is within the same footprint as the pre-existing, nonconforming building or structure and does not increase the height and bulk of the pre-existing, nonconforming building or structure.
3. No extension or alteration of a pre-existing, nonconforming building or structure that is not a single or two family dwelling, in order to provide for the building's or structure's use for a purpose that is not permitted by this Zoning By-law or for the same purpose, but to a substantially greater extent or in a substantially different manner, as determined by the Inspector of Buildings, is permitted by right.
4. Extension or alteration of a pre-existing, nonconforming use, building, or structure that is not a single or two family dwelling shall be permitted only after a public hearing, notice to parties in interest, and a finding by the Permit Granting Authority that the extension or alteration is not substantially more detrimental to the neighborhood than the pre-existing nonconforming building, structure or use.

E. ABANDONMENT, DISCONTINUANCE, AND NON-USE

1. Any pre-existing, non-conforming building, structure, or use that is abandoned, discontinued, or not used for a period of two or more years shall comply with all provisions of this Zoning By-law. This provision shall not apply to single or two family dwellings on lots with areas of 5,000 square feet or greater and having at least fifty feet of frontage. Any abandoned, discontinued, or not used single or two family dwelling shall comply with the provisions of section C, as set forth above.

2. Once a pre-existing, nonconforming building, structure, or use is changed to a conforming building, structure, or use, it may not be changed back to the pre-existing, nonconforming building, structure, or use, as conformance to this Zoning By-law shall be considered abandonment, discontinuance, and non-use of the pre-existing, nonconforming building, structure, or use.

SECTION 11 ZONING BOARD OF APPEALS

A. PURPOSE OF REGULATIONS

The purpose of these regulations is to describe the Zoning Board of Appeals, which is also known as the Permit Granting Authority under this Zoning By-law.

B. APPOINTMENT

1. Within thirty (30) days after the adoption of this Zoning By-law and thereafter as terms expire or vacancies occur, the Board of Selectmen shall appoint members to the Zoning Board of Appeals pursuant to M.G.L., ch. 40A, § 12.

2. The Zoning Board of Appeals shall consist of five members and two associate members, one or both of whom may be designated from time to time by the Chairman of the Zoning Board of Appeals to sit in the place of any regular member who is absent, unable from any cause temporarily to perform his/her duties, or is unable to sit because of personal interest in the subject matter involved.

3. All regular and associate members shall be appointed for a term of three years.

C. POWERS AND DUTIES

1. The Board of Appeals shall have and exercise all the powers provided under M.G.L., Ch. 40A, § 14, including the following powers:

   a. To hear and decide appeals in accordance with M.G.L., Ch. 40A, § 8;
   b. To hear and decide applications for special permits upon which the Zoning Board of Appeals is empowered to act under this Zoning By-law; and
   c. To hear and decide petitions for variances as set forth in M.G.L., Ch. 40A, § 10.

D. The Zoning Board of Appeals shall adopt rules, not inconsistent with this Zoning By-law, for the conduct of its business, including procedures for filing applications and petitions; holding public hearings; obtaining review by other Town boards, agencies, and outside consultants, before and after construction of a use, and including the design specifications for such use; and making decisions.

E. All notices of public hearings by the Zoning Board of Appeals shall be in accordance with the Board's rules and M.G.L., Ch. 40A, § 11.

SECTION 12 SPECIAL PERMIT GRANTING AUTHORITY

A. PURPOSE OF REGULATIONS

The purpose of these regulations is to describe the Special Permit Granting Authority under this Zoning By-law.

B. DESIGNATION OF SPECIAL PERMIT GRANTING AUTHORITY

The Special Permit Granting Authority shall be that Board designated to issue special permits for a particular use, building, or structure, as set forth under this Zoning By-law.

C. POWERS AND DUTIES

1. The Special Permit Granting Authority shall hear and decide applications for special permits for uses as provided in this Zoning By-law.

2. Each Special Permit Granting Authority shall adopt rules, not inconsistent with this Zoning By-law for the conduct of its business, including procedures for filing applications and petitions; holding public hearings; obtaining review by other Town boards, agencies, and outside consultants, before and after construction of a use, and including the design specifications for such use; and making decisions

SECTION 13 SPECIAL PERMITS

A. PURPOSE OF SPECIAL PERMIT REGULATIONS
The purpose of these regulations is to describe the requirements for issuance of a special permit.

B. FILING AN APPLICATION FOR A SPECIAL PERMIT
All applications for a special permit to the Special Permit Granting Authority (SPGA) shall be in writing on required forms; shall contain the required information; and shall be reviewed by such other boards, agencies, and agents as prescribed by the Special Permit Granting Authority in its rules for the conduct of its business unless otherwise noted herein..

C. REQUIREMENTS FOR ISSUANCE OF A SPECIAL PERMIT

1. The Special Permit Granting Authority may issue a special permit for all uses permitted by special permit under this Zoning By-law, if it finds that the use is:
   a. In harmony with the general purpose and intent of this Zoning By-law; and
   b. In compliance with all other requirements set forth in this Zoning By-law for issuance of a special permit for such use.

2. To carry out the purposes and objectives of this Zoning By-law the Special Permit Granting Authority may:
   a. subject special permit applications to review by other boards, agencies, officers, and outside consultants as set forth in its rules on file with the Town Clerk;
   b. grant special permits subject to appropriate conditions, safeguards and limitations on time or use; and
   c. require security to ensure compliance with all conditions, safeguards, and limitations.

3. All notices of public hearings by the Special Permit Granting Authority shall be in accordance with the Board's rules and M.G.L., ch. 40A, § 11, as amended.

D. CONFORMANCE TO SUBSEQUENT AMENDMENTS

1. Construction on or use of property under a special permit shall conform to any subsequent amendment of this Zoning By-law unless the use or construction is commenced within six months after the issuance of a building permit, or where a building permit is not required, after the issuance of a use and occupancy permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

2. A use is commenced on land or within a building once activity has begun under a use or occupancy permit. Construction is commenced upon completion of any foundation and continuation of construction thereafter in accordance with an issued building permit, or in the case of a structure, upon beginning construction of a structure in accordance with an issued building permit.

3. A special permit shall lapse within two years from the granting thereof or such shorter time as specified in said special permit, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. Such period shall be extended by the time required to pursue or await determination of a court appeal.

E. EFFECTIVE DATE
Any special permit issued by the Special Permit Granting Authority shall not be in effect until recorded at the Middlesex North Registry of Deeds at the expense of the applicant.
The Inspector of Buildings shall issue neither a use or occupancy permit nor a building permit until the applicant provides the Inspector of Buildings with a copy of the first page of the record that proves the special permit was recorded at the Middlesex North Registry of Deeds.

SECTION 14 VARIANCES

A. PURPOSE OF VARIANCE REGULATIONS
The purpose of these regulations is to describe the requirements for issuance of a variance.

B. FILING A VARIANCE PETITION
All petitions for a variance to the Permit Granting Authority shall be in writing on required forms; shall contain the required information; and shall be reviewed by such other boards, agencies, and agents as prescribed by the Permit Granting Authority in its rules for the conduct of its business.

C. USE VARIANCE
Use variances are expressly prohibited under this Zoning By-law. If a use is not permitted by right or by special permit, a petitioner may not seek a variance for such.

D. REQUIREMENTS FOR ISSUANCE OF A NON-USE VARIANCE

1. The Permit Granting Authority may issue a variance, if the petitioner proves and the Permit Granting Authority finds that:
   a. Owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located; a literal enforcement of the provisions of this Zoning By-law would involve substantial hardship, financial or otherwise, to the petitioner;
   b. Desirable relief may be granted without substantial detriment to the public good; and
   c. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this Zoning By-law.

2. To carry out the purposes of this Zoning By-law, the Permit Granting Authority may:
   a. subject variance petitions to review by other boards, agencies, officers, and outside consultants as set forth in its rules on file with the Town Clerk;
   b. grant variances subject to conditions, safeguards, and limitations both of time and of use, including the continued existence of any particular buildings or structures, but excluding any conditions, safeguards, or limitations based upon the continued ownership of the land , buildings, or structures to which the variance pertains by the petitioner or any owner;
   c. require security to ensure compliance with all conditions, safeguards, and limitations.

3. The Permit Granting Authority shall hear and decide any variance as prescribed by M.G.L., Ch. 40A, as amended.

E. TIMELY EXERCISE AND EXTENSION
If the rights authorized by a variance are not exercised by obtaining a building permit, or if no building permit is required, by obtaining a use or occupancy permit, within one year of the date of grant of such variance, such variance rights shall lapse and may be reestablished only after notice and a new hearing. The Permit Granting Authority may grant a six month extension of the variance rights, if the petitioner applies for such extension before the expiration of the one year time period.

F. EFFECTIVE DATE
Any variance granted by the Permit Granting Authority shall not be in effect until recorded at the Middlesex North Registry of Deeds at the expense of the petitioner. The Inspector of Buildings shall issue neither a use or occupancy permit nor a building permit until the petitioner provides the Inspector of Buildings with a copy of the first page of the record that proves the variance was recorded at the Middlesex North Registry of Deeds.

SECTION 15 ADMINISTRATIVE APPEALS

A. PURPOSE OF REGULATIONS
The purpose of these regulations is to describe the requirements for an administrative appeal.

B. FILING AN APPEAL
All appeals to the Zoning Board of Appeals shall be in writing on required forms; shall contain the required information; and shall be reviewed by such other boards, agencies, and agents as prescribed by the Zoning Board of Appeals in its rules for the conduct of its business.

C. REQUIREMENTS FOR DETERMINING AN ADMINISTRATIVE APPEAL

1. An appeal to the Zoning Board of Appeals may be made by any person aggrieved by reason of his or her inability to obtain a permit or enforcement action from the Inspector of Buildings or other administrative officer under the provisions of this Zoning By-law. An appeal may also be filed by the Regional Planning Agency, an officer or board of the Town, or an officer or Board of every abutting city or town.

2. Any appeal of an order or decision shall be taken within 30 days after the date of the order or decision which is being appealed.

3. The Zoning Board of Appeals shall obtain all documents and papers constituting the record of the case in which the appeal is taken from the officer or administrative official whose decision is being appealed.

4. The Zoning Board of Appeals shall hear and decide any appeal as prescribed by M.G.L., Ch. 40A, as amended.

5. In exercising its powers, the Zoning Board of Appeals may issue or direct the issuance of a permit, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision of the officer or administrative official whose decision is being appealed, and to that end shall have all the powers of the officer or administrative official from whom the appeal is taken.

D. EFFECTIVE DATE
The decision of the Zoning Board of Appeals shall not be in effect until recorded at the Middlesex North Registry of Deeds at the expense of the appellant. The Inspector of Buildings shall issue neither a use or occupancy permit nor a building permit until the appellant provides the Inspector of Buildings with a copy of the first page of the record that proves the special permit was recorded at the Middlesex North Registry of Deeds.

SECTION 16 ADMINISTRATION AND ENFORCEMENT

A. INSPECTOR OF BUILDINGS

This Zoning By-law shall be administered and enforced by the Inspector of Buildings, as provided in M.G.L., Ch. 40A, § 7, as amended.

B. ISSUANCE OF BUILDING AND USE AND OCCUPANCY PERMITS

1. No building permit or use and occupancy permit shall be issued until the buildings, structures, their uses, primary and accessory, and uses of land comply in all respects with this Zoning By-law. All buildings, structures, or uses subject to conditions, safeguards, or limitations of a special permit, variance, or administrative appeal must comply with such conditions, safeguards, or limitations before the Inspector of Buildings can issue a building or use and occupancy permit. If security is required by any Town board to ensure compliance with any condition, safeguard, or limitation, the Inspector of Buildings can issue a building permit or use and occupancy permit when, in the opinion of the Inspector of Buildings, the security is sufficient to ensure full compliance with such conditions, safeguards, or limitations.

2. Notwithstanding any language or conditions in this Zoning By-law, the use of materials or methods of construction of buildings or structures is regulated by the State Building Code, 780 CMR.

3. As a prerequisite to the issuance of a building or use and occupancy permit, an applicant shall provide the following to the Inspector of Buildings:
   a. a properly completed pre-application with all required approvals;
   b. an approved permit for vehicle access curb and sidewalk openings from the appropriate Town authority;
   c. a valid sewage disposal permit issued by the Board of Health for all new buildings, structures, or uses, or additions thereto, that will not be serviced by Town sewer or in the case of connection to the Town sewer, a valid Town Sewer Connection Permit;
   d. the book and page of the recorded deed for the owner of record;
   e. a copy of the first page of any special permit, variance, or administrative appeal decision recorded at the Middlesex North Registry of Deeds; and
   f. such filing fee as is set by the Town for filing a building or use and occupancy permit application.

4. Applications for building and use and occupancy permits shall be filed with the Inspector of Buildings on forms furnished by him or her and shall be signed by the owner of record or the owner's agent. An owner represented by an agent shall provide a written statement that the agent is authorized to represent such owner's interests. Every such application shall be accompanied by two copies of a plot plan certified and stamped by a land surveyor or civil engineer registered by the Commonwealth of Massachusetts of the lot upon which said building(s) or structure(s) is to be erected or use commenced, drawn to scale and showing the dimensions of the lot and yards; easements of record; water and sewer lines; streets upon which said lot abuts; and the location and size of the building(s) or structure(s), if any, existing and to be constructed upon said lot. A notation shall be made on the plan of the intended use of the land, building(s), or structures(s) or additions thereto. The plan shall contain a certification that all buildings, structures, and uses proposed comply with this Zoning By-law. Any building used for agricultural purposes that does not have a foundation shall be exempt from this provision.

5. Once a foundation is constructed, a certified plot plan shall be submitted to the Inspector of Buildings showing all building(s), structure(s), and uses, and such other information and specifications as is necessary to prove that the building(s), structure(s), or uses of the land comply with this Zoning By-law. The Inspector of Buildings shall determine compliance with the provisions of this Zoning By-law based on the certified plat plan, and may request such additional information as he or she deems necessary to make such determination of compliance with this Zoning By-law. This provision shall not preclude the Inspector of Buildings from requiring such other information and specifications required on plans submitted under the State Building Code, 780 CMR.

6. No applicant for a use and occupancy permit for any building or structure hereinafter erected, altered, or changed as to construction or use, for which said building permit has been issued, shall allow such building or structure to be occupied or used without a use and occupancy permit issued by the Inspector of Buildings.

7. Whenever any building or use or occupancy permit application is denied by the Inspector of Buildings based on non-compliance with this Zoning By-law, the Inspector of Buildings shall clearly state his/her reasons therefor in writing to the applicant.

8. Construction on or use of property under a building permit shall conform to any subsequent amendment of this Zoning By-law unless the use or construction is commenced within a period of six months after the issuance of the building permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

C. ENFORCEMENT

1. If the Inspector of Buildings is informed or has reason to believe that any provision of this Zoning By-law is being violated, he shall make or cause to be made an investigation of the facts and inspect the property where such violation may exist.
2. If upon such investigation and inspection the Inspector of Buildings finds evidence of such violation, he/she shall give notice thereof in writing to the owner and occupant of said premises and demand that such violation be abated within such time as the Inspector of Buildings deems reasonable. Such notices and demand may be given by certified mail, addressed to the owner at the owner's address as it then appears on the records of the Board of Assessors of the Town, to the occupant at the address of the premises, and to the complainant(s), if any, of record.

3. If after such notice and demand the violation has not been abated within the time specified therein, the Inspector of Buildings shall institute appropriate action or proceedings in the name of the Town to prevent, correct, restrain or abate such violation of this Zoning By-law.

4. Any person who abates a violation, but subsequently re-instates such violation shall be deemed to have never abated such violation; and any proceedings previously commenced by the Inspector of Buildings to prevent, correct, restrain, or abate such violation, including any request for fines or penalties, shall continue from the date on which the Inspector of Buildings first provided notice of the violation by certified mail.

D. PENALTY FOR VIOLATIONS

Anyone who violates a provision of this Zoning By-law, any of the conditions under which a permit is issued, or any conditions of a variance or special permit issued under this Zoning By-law shall be subject to a fine of not more than three hundred dollars ($300.00) for each offense. Each day during which any portion of a violation continues shall constitute a separate offense.

E. NON-CRIMINAL DISPOSITION

In addition to the penalties described above and the provisions for enforcement as set forth under M.G.L., Ch. 40A, § 7, as amended, the provisions of this Zoning By-law may also be enforced by non-criminal disposition, as provided in M.G.L., Ch. 40, § 21D, as amended. The penalty for such violation shall be a warning or $100.00 fine for the first offense, $200.00 fine for the second offense, $300.00 fine for the third offense, and $300.00 fine for the fourth and each subsequent offense.

(1) Failure to pay fines and penalties shall cause a lien to be placed on the real property located in the Town of Billerica pursuant to M.G.L. Chapter 40, Section 58.

SECTION 17 ZONING AMENDMENTS

A. PURPOSE OF REGULATIONS

The purpose of these regulations is to describe the procedure for making zoning amendments.

B. PROPOSALS

1. A change in this Zoning By-law through amendment, addition, or repeal may be initiated by the Board of Selectmen, Board of Appeals, Planning Board, Regional Planning Agency, individual to be affected by the change, 10 registered voters at an annual town meeting, 10 registered voters at a special town meeting, and such other methods as provided by the Town Charter.

2. Any such proposal to rezone land shall explicitly state the nature, extent and location of the zone change proposed, and shall include a perimeter plan on a mylar or cloth stamped by a registered professional land surveyor in Massachusetts showing all metes and bounds and the total area of the rezoning along with a complete legal description. A sketch showing the general location of such land in the Town shall also be submitted.

C. PLANNING BOARD PUBLIC HEARING AND REPORT

1. The Planning Board shall hold a public hearing on any written proposal to change either the Zoning By-law or the Zoning Map, and shall report its recommendations thereon, if any, to the Town Meeting within 21 days of the close of the hearing, as set forth in M.G.L., Ch. 40A, § 5, as amended.

2. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of said hearing. Notice of said hearing shall also be sent to the Department of Housing and Community Development, the regional planning agency, and the planning boards of all abutting cities and towns.

3. Any applicant shall cover the costs of newspaper advertising, posting, and mailing the public hearing notice for the applicant's zoning change proposal.

SECTION 18 SEVERABILITY

The invalidity of any section or provision of this Zoning By-law shall not affect the validity of any other section or provision thereof.

SECTION 19 EFFECTIVE DATE

This Zoning By-law and any amendments thereto as have been approved by the Attorney General shall take effect upon their approval by the Attorney General and publication according to law.