

## Select Board Meeting

Monday, April 4, 2022 7:00 PM

School Administration Building

2<sup>nd</sup> Floor School Committee Conference Room

30 Whittier Court, Andover, MA 01810

ANDOVER TOWN CLERK  
RCUD 2022 MAR 31 PM4:05

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I. Call to Order – 7:00 P.M.

II. Opening Ceremonies

A. Moment of Silence/Pledge of Allegiance

B. Recognition of Nicholas Solt for Achieving the Rank of Eagle Scout

III. Communications/Announcements/Liaison Reports

IV. Citizens Petitions and Presentations

V. Regular Business

A. Board of Registrars

Board to consider nominees for appointment to the Board of Registrars of Voters and to appoint a registrar for a term expiring March 31, 2023 and a registrar for a term expiring March 31, 2025. The Democratic Town Committee nominates Amy J. Sennett of 21 Windemere Drive. The Republican Town Committee nominates Brian P. Major of 11 Odyssey Way and Luan Giannone of 12 Strawberry Hill Road.

B. Trustees of the Punchard Free School

Board to discuss and consider voting to approve a process to appoint a member to the Trustees of the Punchard Free School to a term that will expire on March 26, 2024.

C. Annual Town Meeting Articles

Board to consider voting to take a position on the following articles:

P21	Zoning Bylaw Recodification
P29	Retiree Cost of Living Adjustment Maximum Base
P32	Mandating Municipal Employee Participation in Annual Review of Town Manager
P33	Prohibiting the use of Non-Disclosure Agreements (NDA's)
P34	Instructional Assistants Special Articles General Fund
P35	Mental Health & Wellbeing Special Articles General Fund
P36	Annual Public Posting of Every No-Bid Contract or Agreement

**VI. Consent Agenda**

**A. Appointments by the Town Manager**

Board to vote that the following appointments by the Town Manager be approved.

<b>Department</b>	<b>Name</b>	<b>Position</b>	<b>Rate/Term</b>	<b>Date of Hire</b>
Andover Police Department	Joshua Barbosa <i>(James Smith)</i>	Dispatcher	\$53,575.00/yr	4/18/2022
Andover Police Department	Kendra Wilson <i>(Mark Fiorentini)</i>	Part Time Dispatcher	\$26.44/hr	4/18/2022
Andover Fire Rescue	Nicole Swiec <i>(Joan Lemieux)</i>	Office Assistant II Fire Prevention	\$28.08/hr	4/19/2022
Department of Public Works	Jason Ouellette <i>(Eric Guazzaloca)</i>	Water/Sewer Maintenance Specialist II	\$28.74/hr	4/5/2022
Community Services – Elder Services	Andrew Sievert	Per Diem Senior Center Driver	\$27.57/hr	4/5/2022
Community Services – Recreation	Joe Halpern	Kid Care Group Leader 1	\$18.00/hr	3/28/2022
Community Services – Recreation	Jennifer Hurst	Kid Care Assistant Group Leader 1	\$14.25/hr	3/28/2022
Andover Police Department	Kathryn Kozikowski	Inspector of Animals	Term Expires 4/30/2023	5/1/2022
Commission on Diversity, Equity and Inclusion	George Nugent	At-Large Member	Term Expires 6/30/2024	4/4/2022

**VII. 2022 Select Board Meetings**

A. Board to consider voting to accept the following Select Board Meeting Schedule:

May 2, 2022  
May 16, 2022  
June 6, 2022  
June 20, 2022  
July 18, 2022  
August 1, 2022  
August 15, 2022

**VIII. Executive Session**

A. Board to vote to go into Executive Session pursuant to option 3 to discuss strategy with respect to collective bargaining for the America Federation of State, County and Municipal Employees State Council 93 Local 1704 AFL-CIO, Andover Independent Employees Association, Andover Police Patrolman’s Union Massachusetts Coalition of Police Local 477, Andover Police Superior Officers Association NEBPA Local 99, Andover Public Safety Communicators NEBPA Local 109 and International Association of Firefighters Local 1658 AFL-CIO, and to approve and not release

Executive Session Minutes of March 14, 2022, and for the Chair to declare that an open session may have a detrimental effect on the negotiating position of the Town; and not to return to open session.

**IX. Adjourn**

*If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Kathryn Forina in the Town Manager's Office at 978-623-8215 or by email at [kathryn.forina@andoverma.us](mailto:kathryn.forina@andoverma.us)*

MEETINGS ARE TELEVISED ON  
COMCAST CHANNEL 22 AND VERIZON CHANNEL 45

C I T A T I O N

**WHEREAS:**        **NICHOLAS SOLT** is being awarded the rank of Eagle Scout at the Eagle Court of Honor, Troop 77, Boy Scouts of America.

**WHEREAS:**        **NICHOLAS SOLT** is being recognized for his outstanding achievements in scouting.

**WHEREAS:**        **NICHOLAS** carried out his Eagle Service Project which involved building a 16-foot boardwalk and a 24-foot boardwalk at the Harold R. Rafton Reservation of the Andover Village Improvement Society.

**NOW, THEREFORE:** We, the Town of Andover Select Board, offer **NICHOLAS SOLT** our heartiest congratulations on achieving the prestigious rank of Eagle Scout. He has brought favorable acclaim to himself, his family, his Boy Scout Troop, and the Town of Andover.

*IN WITNESS WHEREOF*, we have hereunto set our hands and caused the seal of the Town of Andover to be affixed this fourth day of April in the year two thousand twenty-two.

\_\_\_\_\_  
Christian C. Huntress

\_\_\_\_\_  
Alexander J. Vispoli

\_\_\_\_\_  
Melissa Danisch

\_\_\_\_\_  
Annie Gilbert

\_\_\_\_\_  
Laura M. Gregory



# TOWN OF ANDOVER

## Town Clerk's Office

36 Bartlet Street  
Andover, MA 01810  
978-623-8230  
townclerk@andoverma.gov

TO: Andover Select Board Members  
Andover Democratic Town Committee  
Andover Republican Town Committee

FROM: Melissa K. Ripley, Town Clerk

DATE: March 31, 2022

RE: Board of Registrar Open Seats clarification

As we approach the April 4<sup>th</sup> meeting, I want to clarify the details regarding the open BOR seats. There are two seats with vacancies. One is due to Michael Sassin stepping down prior to his appointment expiration of March 31, 2023. The other, which is held by Brian Major, is a three year term expiring on March 31, 2022. The Clerk's Office has received 2 candidates from the Andover Republican Town Committee and 1 from the Andover Democratic Town Committee.

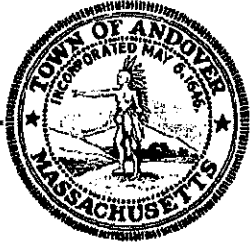
No party can have more than two registrars. Because there is already one Democrat, the Select Board can appoint one more Democrat for one of the two open seats, or two Republicans.

	<b>Seat 1</b>	<b>Seat 2</b>	<b>Seat 3</b>	<b>Seat 4</b>
Current makeup	M. Ripley (U)	Brian Major (R)	B. Willard (D)	Michael Sassin (D)
Scenario 1 makeup	M. Ripley (U)	3 year term (D)	B. Willard (D)	1 year term (R)
Scenario 2 makeup	M. Ripley (U)	3 year term (R)	B. Willard (D)	1 year term (D)
Scenario 3 makeup	M. Ripley (U)	3 year term (R)	B. Willard (D)	1 year term (R)

# Board of Registrars Term Chart

*Updated March 29, 2022*

<b>Name</b>	<b>Party Affiliation</b>	<b>Term Expiration</b>
Michael Sassin	Democrat	March 2023 Resigning 3/31/2022
Robert Willard	Democrat	March 2024
Brian Major	Republican	March 2022
Melissa K. Ripley	Unenrolled	Town Clerk



# TOWN OF ANDOVER

Town Clerk's Office

36 Bartlet Street  
Andover, MA 01810  
978-623-8230  
townclerk@andoverma.gov

Melissa K. Ripley  
Town Clerk

February 7, 2022

Pamela Poindexter  
11 Paulornette Circle  
Andover, MA 01810

Via regular mail

Dear Ms. Poindexter,

Michael Sassin, a Democratic Party member of the Board of Registrars of Voters, has resigned from the Board of Registrars effective March 31, 2022. Mr. Sassin has one year left of a three-year term.

Massachusetts General Laws Chapter 51 Section 15 provides that in the case of a vacancy or expiration of the term of office of a Registrar, the Select Board, as appointing authority, "shall so appoint their successors that as nearly as possible the members of the board (of registrars) shall represent the two leading political parties ... in no case shall an appointment be made as to cause a board (of registrars) to have more than two members ... of the same political party." As currently configured, not including Mr. Sassin's seat, the board has one Democratic member, one Republican member, and myself sitting as an unenrolled member.

In accordance with Massachusetts General Laws, Chapter 51, Section 15, the Town of Andover is hereby notifying the Democratic Town Committee of the right to nominate three (3) persons to fill the seat currently held by Mr. Sassin. The Committee may, within 45 days of receipt of this letter, submit to the Select Board the names of its nominees who must be residents of the Town of Andover and members of the Democratic Party.

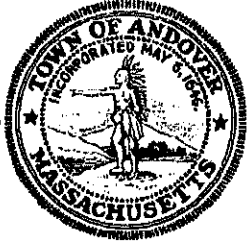
Please note that the elections reform bill, Chapter 111 of the Acts of 2014, has expanded the duties and responsibilities of Registrars of Voters, including periodic election laws training, and responsibility for early voting and post-election audits.

If you have any questions, please do not hesitate to contact me at 978-623-8230.

Sincerely,

Melissa K. Ripley  
Town Clerk

cc: Select Board  
Andrew Flanagan, Town Manager  
Michael Sassin, Registrar



# TOWN OF ANDOVER

Town Clerk's Office

36 Bartlet Street  
Andover, MA 01810  
978-623-8230  
townclerk@andoverma.gov

Melissa K. Ripley,  
Town Clerk

January 27, 2022

Ms. Evelyn Curley  
Chair, Republican Town Committee  
55 Tewksbury Street  
Andover, MA 01810

Dear Ms. Curley,

The term of office of Mr. Brian Major, a Republican Party member of the Board of Registrars of Voters, expires on March 31, 2022. Mr. Major has informed me that he wishes to be re-appointed to another three-year term. In addition, another member of the Board of Registrars has resigned, so we have two open seats.

Massachusetts General Laws Chapter 51 Section 15 provides that in the case of a vacancy or expiration of the term of office of a Registrar, the Select Board, as appointing authority, "shall so appoint their successors that as nearly as possible the members of the board (of registrars) shall represent the two leading political parties ... in no case shall an appointment be made as to cause a board (of registrars) to have more than two members ... of the same political party." As currently configured, not including Mr. Major's seat, the board has two Democratic members, and myself sitting as an unenrolled member.

In accordance with Massachusetts General Laws, Chapter 51, Section 15, the Town of Andover is hereby notifying the Republican Town Committee of the right to nominate three (3) persons to fill the seat currently held by Mr. Major at the expiration of his current term of office and one additional seat vacated by a resignation. The Committee may, within 45 days of receipt of this letter, submit to the Select Board the names of its nominees who must be residents of the Town of Andover and members of the Republican party.

Please note that the elections reform bill, Chapter 111 of the Acts of 2014, has expanded the duties and responsibilities of Registrars of Voters, including periodic election laws training, and responsibility for early voting and post-election audits.

If you have any questions, please do not hesitate to contact me at 978-623-8230.

Sincerely,

Melissa K. Ripley  
Town Clerk

cc: Select Board  
Andrew Flanagan, Town Manager  
Brian Major, Registrar

## Melissa Ripley

---

**From:** Pam Poindexter <ppoindexterpup@gmail.com>  
**Sent:** Sunday, March 20, 2022 11:10 PM  
**To:** Melissa Ripley  
**Cc:** Amy Sennett; Joel Blumstein; Anthony Stankiewicz; michael.x.sassin@gmail.com  
**Subject:** Board of Registrars nomination from Andover DTC  
**Attachments:** IMG-0073-2.jpg

Hi Melissa,

I am writing in response to the attached letter dated February 7 which you sent to me regarding the resignation of Micaheal Sassin from the Board of Registrars effective March 31.

On behalf of the Andover Democratic Town Committee, I would like to submit the nomination of Amy Sennett, a registered Democrat residing at 21 Windemere Drive, Andover to serve out the remainder of Michael's term, which is subject to approval by the Selectboard.

Please let me know if you need any additional information from me.

Thank you for all your insights regarding this matter.

All my best,  
Pam

Pam Poindexter  
Chair, Andover Democratic Town Committee

## Melissa Ripley

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**From:** Evelyn Curley <evelyncurley01@hotmail.com>  
**Sent:** Friday, March 11, 2022 10:30 AM  
**To:** Melissa Ripley  
**Cc:** Keith Saxon  
**Subject:** Republican Nominees for Board of Registrars

Good morning, Melissa,

I am responding to your January 27th letter requesting nominees to be submitted for the Board of Registrars.

The Andover Republican Town Committee is hereby nominating Luan Giannone and Brian Major.

Please let me know if you need any further information.

Thank you,

Evelyn Curley  
Chairman Andover RTC  
us🇺🇸us

Sent from my iPhone

Board of Registrars Motion

I move that the Select Board appoint [NAME] of [ADDRESS – *see agenda*] to serve on the Board of Registrars of Voters to a term expiring on March 31, 2023.

I move that the Select Board appoint [NAME] of [ADDRESS – *see agenda*] to serve on the Board of Registrars of Voters to a term expiring on March 31, 2025.

<b>ARTICLE P21</b>	<b>ZONING BYLAW RECODIFICATION</b>
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To see if the Town will vote to amend and recodify the Zoning Bylaw Article VIII by making the following changes:

1. Delete, in their entirety, the following provisions of the existing Zoning Bylaw last printed with the date September 2020 and amended through Annual Town Meeting of June 5, 2021:

- Section 1.0 Purpose and Authority
- Section 2.0 Districts
- Section 3.0 Use Regulations
- Section 4.0 Dimensional Requirements
- Section 5.0 General Regulations
- Section 6.0 Special Regulations
- Section 7.0 Special Residential Regulations
- Section 8.0 Special District Regulations
- Section 9.0 Administration and Procedures
- Section 10.0 Definitions
- Appendix A
  - Table 1-Table of Use Regulations
  - Table 2-Table of Dimensional Requirements
  - Table 3-Table of Off-Street Parking Requirements
  - Table 4-Parking Dimensions

2. Substituting the following provisions and their subparts found in the Zoning Bylaw, Article VIII dated March 2022, on file in the offices of the Town Clerk and Community Development & Planning:

- Section 1.0 Purpose and Authority
- Section 2.0 Districts
- Section 3.0 Use Regulations
- Section 4.0 Dimensional Requirements
- Section 5.0 General Regulations
- Section 6.0 Special Regulations
- Section 7.0 Special Residential Regulations
- Section 8.0 Special District Regulations
- Section 9.0 Administration and Procedures
- Section 10.0 Definitions
- Appendix A
  - Table 1-Table of Use Regulations
  - Table 2-Table of Dimensional Requirements
  - Table 3-Table of Off-Street Parking Requirements
  - Table 4-Parking Dimensions

And further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Andover Code of Bylaws, or take any other action related thereto.

*On request of the Planning Board*



# TOWN OF ANDOVER

Town Offices  
36 Bartlet Street  
Andover, MA 01810  
(978) 623-8200  
[www.andoverma.gov](http://www.andoverma.gov)

To: Select Board

From: Jacki Byerley, AICP Planner

Re: 2022 Town Meeting Article P21 – Zoning Bylaw Recodification

Date: March 30, 2022

The Zoning Bylaw Recodification has been a multi-year process, starting with the budget request for funding of a consultant to help Town staff, to the request for proposals to select the consultant, selection of a working group, public input meetings then to a final submission of the recodified bylaw for Town Meeting.

Barrett Planning Group in collaboration with Robert P. Mitchell, FAICP was chosen as the consultant to assist the Town with the recodifying of the bylaw.

The current Zoning Bylaw was adopted by Andover Town Meeting in 2001. Since then the Town has added a new zoning district (ID2); 3 overlay districts (Senior Residential Community Overlay District, Medical Marijuana Overlay District and Historic Mill District); rezoned areas from Single Residence A (SRA) to General Business (GB) and Industrial A (IA) to Single Residence A (SRA), amended sections of the sign bylaw, Table of Uses, home occupations, historic preservation and other key sections of the bylaw. It was time to improve accessibility of the bylaw by reformatting and reorganizing content to make it navigable, eliminate confusing language and to clarify existing provisions without changing policy.

Public information sessions were held in the fall and winter of 2021/2022, a first draft of the bylaw was submitted to the Planning Board for public hearing in late February, revisions/corrections were made based on the Board and public feedback which resulted in the final draft submitted to the warrant on March 21, 2022.

On March 29, 2022 the Planning Board voted 6-0 to recommend Town Meeting Approval.

# Zoning Recodification Project

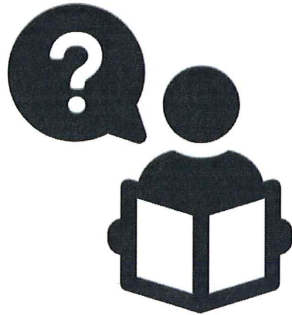
## *What does codification mean?*

Codes have a structure of some kind. Having a clear, easy-to-follow structure makes it possible to classify and organize content in a predictable way. This can make it much easier for everyone to understand where to find information in the code. The process for creating that structure and organizing and arranging content within it is codification.

**The Town of Andover plans to bring a recodified Zoning Bylaw to Town Meeting in 2022!**

## *What is recodification?*

Recodify means to reformat and reorganize content that has fallen out of place, appears in odd locations, is hard to find, or may be divided up oddly due to changes made to the code over time. Recodifying a Zoning Bylaw usually involves taking a close look at the existing organization of the code, figuring out what is out of place or confusing, or relies on words that are used inconsistently from chapter to chapter. Through this kind of close reading process, other issues typically come up, such as missing definitions, or confusing words or syntax problems that make it hard to know what a sentence means. Sometimes requirements that were legal years ago may no longer be legal today due to recent judicial decisions or changes in the state Zoning Act.



*The recodification process is like a “spring cleaning” for ordinances and bylaws.* It introduces formatting and organizational changes, clarifies existing definitions, adds definitions for terms that are currently undefined, eliminates unnecessary or obsolete provisions, and generally aims to create a more navigable, readable ordinance or bylaw. Among other benefits, recodification helps to bring an existing bylaw into compliance with today’s laws. Sometimes, content that does not need to be in the Zoning Bylaw may be removed and transferred to a board’s administrative rules and regulations. This can help to simplify a Zoning Bylaw and make it more accessible to users.

## *Recodification does not:*

- Change the boundaries of existing districts
- Change the fundamental purposes of existing districts
- Introduce major policy changes in the community’s use or dimensional regulations
- Turn special permit uses into as-of-right uses, or as-of-right uses into special permit uses – or outright prohibit something that is allowed today

## ANDOVER ZONING RECODIFICATION PROJECT

### *Potential changes you should know about*

Though not the intent of recodification, the process sometimes requires a community to make changes that may have the effect of setting new policy. For example:

- If an existing provision is so unclear that no one agrees about its meaning, rewriting the bylaw to make it understandable may require the Town to make a policy decision. Otherwise, the recodification consultants will not be able to write clear, alternative text.
- If an existing provision is illegal by today's standards, recodification will require the Town to decide what the substitute provision should be. Example: many towns still have rules that impose a special permit requirement on private non-profit schools in some areas or some districts. Keeping that rule would violate state law and put the rest of the recodified bylaw at risk of being disapproved by the Attorney General.
- Cleaning up an old, partially obsolete section on nonconforming uses, structures, and lots is a common part of recodification and a potentially thorny one, too.

### *What you can expect*

**The overarching intent of recodification is not about changing policy. It is about creating a usable, clean, well-organized, and clearly written document.** The updates, changes, and additions made during recodification are designed to create a streamlined, attractive code that reduces (or ideally eliminates) disputes about the meaning and intent of the Zoning Bylaw.

Common features of a recodified Zoning Bylaw include:

- ✓ A revised or entirely new structure and format
- ✓ Finding aids (such as cross-references) to make the document easier to use
- ✓ Clarity of words, phrases, and sections or subsections
- ✓ Consistency of words and provisions
- ✓ Use and placement of definitions
- ✓ Simplicity in approval processes
- ✓ Consistency with Zoning Act (G.L. c. 40A) and judicial decisions
- ✓ Obsolete or missing provisions, e.g., technology updates

### *How can you get more information?*

You can learn more about the Zoning Recodification Project at these upcoming information and update sessions:

**Monday, October 25, 2021**

**Monday, November 29, 2021**

**January 2022 TBD**

All three sessions will run from 7 to 8:30 and be offered remotely. Zoom registration links will be posted publicly before each meeting. And, be sure to check the Town of Andover website!

<https://andoverma.gov/173/Planning-Economic-Development>

**For more information, contact Jacki Byerley, Andover Planning Department,**

**<[jacki.byerley@andoverma.us](mailto:jacki.byerley@andoverma.us)>**

**Andover Zoning Bylaw**  
**March 21, 2022**

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## SECTION 1.0 PURPOSE AND AUTHORITY

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### 1.1. PURPOSE.

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This Zoning Bylaw is enacted to promote the general welfare of the Town of Andover, to protect the health and safety of its inhabitants, to support the most appropriate use of land throughout the Town, and to preserve and increase the amenities of the Town, all as authorized but not limited by the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of Chapter 808 of the Acts of 1975.

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### 1.2. AUTHORITY.

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This Bylaw is enacted under the authority of Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts and in accordance with G.L. c 40A, as amended.

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### 1.3. SCOPE.

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The construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the town are regulated by this Bylaw.

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### 1.4. APPLICABILITY.

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All buildings or structures erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, after the effective date of this Bylaw shall conform with the provisions of this Bylaw. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which it is located. Where this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

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### 1.5. AMENDMENTS.

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This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s. 5, and any amendments thereto.

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### 1.6. SEVERABILITY.

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

## SECTION 2.0 DISTRICTS

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### 2.1. ESTABLISHMENT.

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For the purposes of this Bylaw, the Town is hereby divided into the types of zoning districts set forth below:

Residence Districts:

SRA — Single Residence A

SRB — Single Residence B

SRC — Single Residence C

APT — Apartment

Business Districts:

LS — Limited Service

OP — Office Park

GB — General Business

MU — Mixed Use

Industrial Districts:

IG — General Industrial

IA — Industrial A

ID — Industrial D

ID2 — Industrial D2

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### 2.2. OVERLAY DISTRICTS.

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Overlay districts shall be superimposed on other districts established by this Bylaw. Any land in an overlay district shall also be subject to and have the benefit of the development and use regulations for the applicable underlying district(s) and shall, in addition, conform to the additional regulations of the one or more overlay districts in which the land lies. In the event of any conflict between the regulations of two or more overlay districts that apply to the same lot of land, or in the event of conflict between an underlying district(s) and an overlay district affecting it, the conflict shall be resolved in favor of the most restrictive regulations. The following overlay districts are hereby established and described in Section 8.0:

Flood Hazard Overlay District (FHOD)

Watershed Protection Overlay District (WPOD)

Senior Residential Community Overlay District (SRCOD)

Medical Marijuana Overlay District (MMOD)

Historic Mill Overlay District (HMOD)

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### 2.3. ZONING MAP.

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The boundaries of districts set forth in Section 2.1 and Section 2.2 are located and described by detailed written descriptions or by delineation on Zoning Maps on file with the Planning

## SECTION 2

Board. The descriptions and delineations shall be deemed a part of the Bylaw. Where detailed written descriptions of a district boundary conflict with the Zoning Map, the detailed written description shall prevail.

### **2.3.1. Map Amendments.**

Any changes in the boundaries or location of zoning districts shall be made by the same procedure as an amendment to the text of the Zoning . See Section 1.5.

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## **2.4. RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES.**

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The following rules shall apply for the interpretation of district boundaries:

### **2.4.1. Lots Along Town Boundaries.**

When a lot is situated in part of the Town of Andover and in part in an adjacent city or town, the regulations and restrictions of this Bylaw shall be applied to that portion of the lot that lies in the Town of Andover in the same manner as if the entire lot were situated therein.

### **2.4.2. Lots Split by Zoning Boundary.**

Where a boundary line between zoning districts divides a lot, the dimensional and use regulations of the less regulated district shall apply to that part of the lot located in the more regulated district that lies within 30 feet of the district boundary. The portion of the lot that falls beyond 30 feet shall comply with the dimensional and use regulations of the more regulated district. For this purpose, for example, a single residence district is deemed more regulated than a business district and an industrial district; and a business district more regulated than an industrial district. For sub-districts within a principal district, the Inspector of Buildings shall determine which sub-district is the less regulated one.

## SECTION 3.0 USE REGULATIONS

### 3.1. GENERAL.

No land shall be used and no structure shall be erected or used except as set forth in the Table of Use Regulations, including the notes to the Table, or as otherwise set forth in this Section 3, or as exempted by the General Laws, or by variance from the Zoning Board of Appeals, as provided in G.L. c. 40A, § 10 and Section 9.2.2.2. Any building or use of premises not specifically permitted is prohibited.

#### 3.1.1. Symbols.

Symbols employed in the Table of Use Regulations shall mean the following:

Y	—	A permitted use
N	—	A prohibited use
Z		
PB	—	A use requiring a special permit from the Planning Board
SB	—	A use requiring a special permit from the Select Board

#### 3.1.2. If Classified Under More than One Use.

1. Where an activity may be classified as more than one of the principal uses in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.
2. A major non-residential project shall require a special permit from the Planning Board in addition to any other requirements of this Bylaw.

#### 3.1.3. Table of Use Regulations.

See Appendix A, Table 1.

### 3.2. ACCESSORY USES.

Except as otherwise set forth, any use permitted as a principal use is also permitted as an accessory use as defined in Section 10.0. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use that exceeds the thresholds established in Section 9.5 shall also require site plan review and approval.

#### 3.2.1. Specific Accessory Uses.

The following regulations shall apply to specific accessory uses:

## SECTION 3

1. *Temporary Dwelling.* A mobile home may be used as a temporary dwelling on the site of a single-family residence that has been destroyed or rendered uninhabitable by fire or other catastrophe; provided that a temporary permit for a period not to exceed six months is issued by the Building Inspector with the approval of the Director of Health and the Town Manager. If reconstruction of the original dwelling is not completed in six months, the permit may be renewed for an additional six months on concurrence of the above three persons, but in no event may the mobile home remain on the site in excess of one year.
2. *Keeping or Boarding Animals.* Horses, ponies, cows, or other large domestic animals may be kept or boarded solely as pets or for private noncommercial use provided that:
  - a. There is a minimum of one additional acre for each additional animal up to a maximum of six animals;
  - b. Any relevant Board of Health regulations are met;
  - c. Any structure for housing the animals which is larger than six feet by seven feet is located at least 50 feet from any property line; and
  - d. Fencing adequate to restrain the animals is installed and is no closer than five feet to the property line.
3. *Commercial Motor Vehicle Parking on Residential Property.* The parking or keeping of a truck or other commercial-type vehicle on property used for residential purposes provided that it:
  - a. Shall not exceed three-fourths-ton capacity, manufacturer's rating;
  - b. Is used as a means of transport to and from the resident's place of business;
  - c. Is parked or kept in a closed garage, and
  - d. Is not loaded with flammable, noxious, or dangerous material.
4. *Other Commercial-Type Vehicles or Equipment.* For dwellings in all districts, the parking or keeping of commercial-type vehicles or equipment other than those included in subsection 3.2.1.3 above shall be subject to a special permit from the Zoning Board of Appeals, provided that:
  - a. The parking will not be detrimental to the neighborhood; and
  - b. The use may be permitted subject to conditions deemed necessary to safeguard the neighborhood, including limitations of time, number of vehicles, or weight or capacity of vehicles.
5. *Take-out Service in Sit-down Restaurants.* A sit-down restaurant may offer take-out service only during the hours when sit-down service is also available.
6. *Temporary and Seasonal Placement of Tables and Chairs and Retail Fixtures.* A permitted commercial structure may place tables and chairs or retail fixtures and

products on public or private property for the convenience of patrons as a use incidental and accessory to a permitted food or retail sales establishment where the principal activity is the service or sale of food for consumption on or off the premises, or the retail sale of merchandise. An application for temporary and seasonal placement of tables and chairs or for retail fixtures on private property shall be made to the Building Division and a copy shall be submitted to the Board of Health and Public Safety Officer for their respective reviews. The annual permit shall be issued by the Inspector of Buildings for or within the period from March 1st to November 30th. An application for public property placement shall be made in accordance with the General Bylaw Article XI Section 9 Outdoor Dining or Retail License Bylaw and Regulations.

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### **3.3. NONCONFORMING USES AND STRUCTURES.**

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#### **3.3.1. Applicability.**

This Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, § 5 at which this Bylaw, and any amendments, were adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished unless authorized under this section 3.3

#### **3.3.2. Nonconforming Uses.**

The Zoning Board of Appeals may grant a special permit to change a nonconforming use in accordance with this section only if it determines that the change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

#### **3.3.3. Nonconforming Structures.**

The Zoning Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure other than single or two-family dwellings in accordance with this section only if it determines that the reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Zoning Board of Appeals:

1. Reconstructed, extended, or structurally changed; or
2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

#### **3.3.4. Variance Required.**

Except as provided in Section 3.3.5, below, the reconstruction, extension, or structural change of a nonconforming structure other than single or two-family dwellings in such a manner as to increase an existing nonconformity or create a new nonconformity shall require the grant of a variance by the Zoning Board of Appeals. For the purposes of this section, the extension of an exterior wall at or along the same nonconforming distance within a required yard shall require the grant of a variance by the Zoning Board of Appeals.

## SECTION 3

### **3.3.5. Nonconforming Single- and Two-Family Residential Structures.**

Nonconforming single- and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Inspector of Buildings that the proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of the structure.

1. The following circumstances, individually or in combination, shall not be deemed to increase the nonconforming nature of the structure:
  - a. Alteration to a structure that complies with all current setback and building height requirements on a Lot with insufficient area, where the alteration will also comply with all current requirements.
  - b. Alteration to a structure that complies with all current setback and building height requirements on a lot with insufficient frontage, where the alteration will also comply with all current requirements.
  - c. Alteration to a structure that presently encroaches upon one or more required setback areas, where the alteration will comply with all current setback, yard, and building height requirements.
2. If the Inspector of Buildings determines that the nonconforming nature of the structure would be increased by the proposed reconstruction, extension, alteration, or change, the Zoning Board of Appeals may, by special permit, allow the reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

### **3.3.6. Abandonment or Non-Use.**

A nonconforming use or structure that has been abandoned or not used for a period of two consecutive years shall lose its protected status and be subject to all of the provisions of this Bylaw.

### **3.3.7. Catastrophe or Demolition.**

Any nonconforming structure may be reconstructed after a fire, explosion or other catastrophe, or any demolition, provided that reconstruction is completed within 24 months after such catastrophe or demolition, and provided that the building as reconstructed shall be only as great in volume or area as the original nonconforming structure unless a larger volume or area is authorized by special permit from the Zoning Board of Appeals. The time for completing reconstruction may be extended by the Zoning Board of Appeals for good cause.

### **3.3.8. Reversion to Nonconformity.**

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## SECTION 4.0 DIMENSIONAL REQUIREMENTS

### 4.1. GENERAL.

#### 4.1.1. Conformance.

No building or structure shall be erected, altered, enlarged, extended, or moved on any lot, nor shall any lot containing any building or structure be altered in size or dimension, unless the resulting premises meet or exceed the minimum requirements specified in the Table of Dimensional Requirements, except where otherwise provided for in this Bylaw or G.L. c. 40A. Not more than one building designed or available for use for a dwelling shall be erected or converted to a dwelling on any lot, parcel, or tract of land in the town except where specifically provided for in this Bylaw.

#### 4.1.2. Table of Dimensional Requirements.

All buildings and structures shall conform to the Table of Dimensional Requirements as shown in Appendix A, Table 2.

#### 4.1.3. Exceptions and Special Requirements.

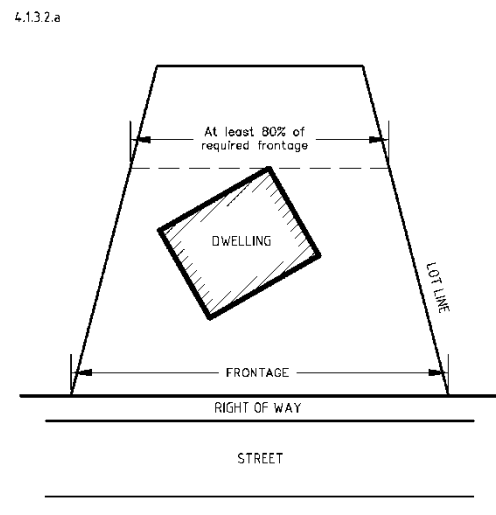
1. *Dwellings in Districts Other than Single Residence.* For dwellings in districts other than single residence, the lot size and frontage requirements that apply in the adjoining single residence district sharing the longest common boundary shall apply. In the event there is no adjoining single residence district, the requirements of the nearest single residence district shall apply.

2. *Yards.*

a. Each lot shall have a width of not less than 80 percent of the required frontage at all points between the street line along which the frontage of the lot is measured and the furthest point of the rear wall of the dwelling upon the lot. The width shall be measured along lines parallel to the street line.

b. The minimum yard depth requirements shall not apply in any district to covered or uncovered stairs, small bays, bay windows, eaves, or cornices, provided they are unenclosed and do not extend more than five feet into a front or side yard or 10 feet into a rear yard.

c. The yard depth from an existing way shall be measured from the right-of-way line where a plan of the way is on file with the Registry of Deeds or Land Court, or Town Clerk's office or, in the absence of a plan or if the way is less than 40 feet

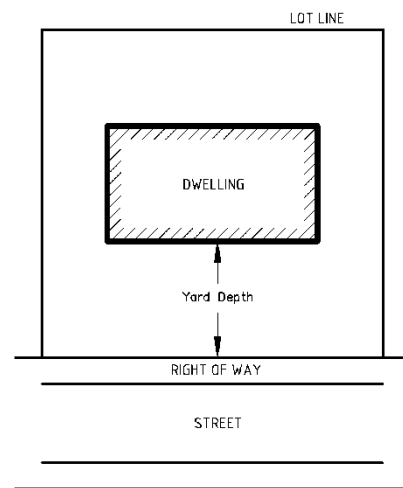


SECTION 4

wide, from a line 20 feet from and parallel with the center line of the traveled way as determined by the Town Engineer.

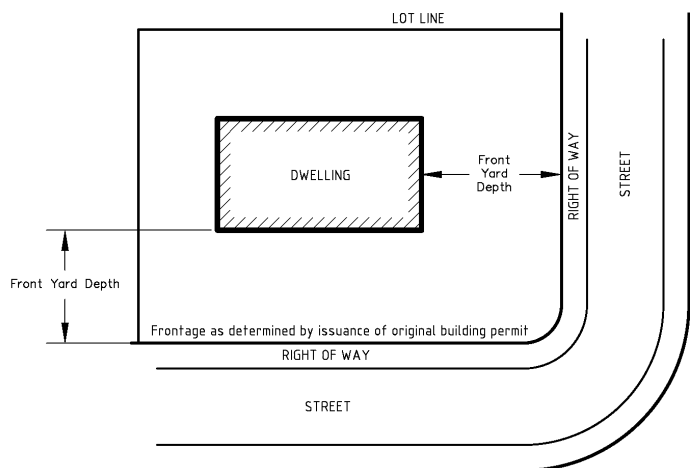
- d. In SRA, SRB, and SRC districts, where other buildings exist within 200 feet on both sides of the lot in question and within the same block and district, the principal structure may extend as near the way as the average setback of the other buildings; but if the other buildings are setback more than 30 feet from the way, the principal structure shall not extend nearer to the way than the average setback of such other buildings.

4.13.2.c



- e. In the case of lots abutting on more than one way, the minimum front yard depth requirement shall apply to each such way, but the lots shall be required to have the minimum required frontage on only one of the ways. In addition, one minimum side yard depth requirement and one minimum rear yard depth requirement shall apply to the lot and determined at the time of building permit issuance.

4.13.2.e

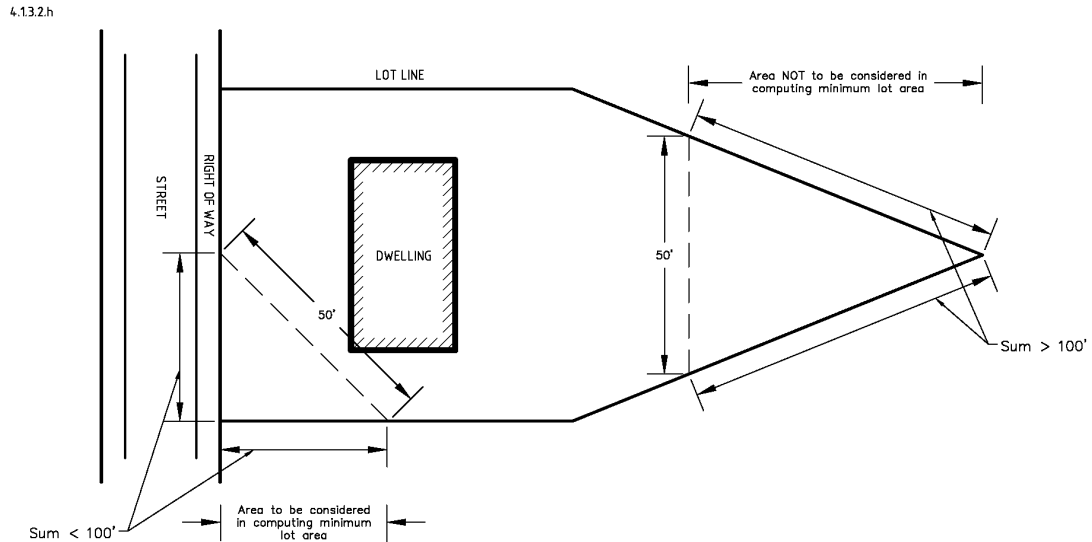


Lots approved prior to the adoption of this provision and the Rules and Regulations governing the Subdivision of Land in the Town of Andover shall be exempt from this requirement.

- f. In the case of lots that abut on a limited access highway, the minimum yard depth requirement from the highway shall be the same as the applicable side or rear yard minimum depth.
- g. No fence or sign shall be erected or installed and no trees, shrubs or other growth shall be planted or permitted to grow or exist in any district requiring a minimum front yard depth that will dangerously obstruct the view of traffic by operators of vehicles at street intersections. This requirement shall be deemed to include, but not be limited to, any such obstruction that is more than three feet and less than eight feet above the grade of the adjoining way, and is located within an area bounded by the side lines of the intersecting ways and the line joining points on such ways 25 feet from the intersections of such side lines or the intersections of the side lines projected so as to interfere with traffic visibility across the corner.

## SECTION 4

- h. When the distance between any two points on lot lines is less than 50 feet, measured in a straight line (the threshold line), the smaller portion of the lot that lies between the lot lines and the threshold line shall not count toward the minimum lot area unless the cumulative distance along the lot lines between the two points and along the threshold line is less than 150 feet.



### 3. *Building Height.*

- a. The limitation on height of buildings shall not apply in any district to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings that are not used for living purposes and do not constitute more than 25 percent of the ground floor area of the building.
  - b. Buildings in any residence district or the Apartment District used for municipal or educational purposes may be three stories in height but shall not exceed 45 feet.
4. *Lots Resulting from Public Acquisition.* Public acquisition of any portion of a lot for the purpose of laying out or altering a public road shall not cause the resulting lot or existing structures on the lot to be dimensionally nonconforming or disqualify the lot for separate sale or legal building, provided that the width of the strip acquired does not exceed 10 feet. Front yard and coverage requirements on the lot shall be measured from the street right-of-way line in existence immediately prior to the public acquisition.

#### **4.1.4. Special District Regulations.**

##### 1. *Apartment Districts.*

- a. The minimum lot area and frontage requirements shall be the same as applies to the adjoining single residence sharing the longest common boundary. In the event there is no adjoining single residence district, the requirements of the nearest single residence district shall apply.

## SECTION 4

- b. For multiple dwellings, there shall be at least 3,500 square feet of lot area for each dwelling unit. See Section 7.7.3 of this Bylaw.
  2. *Business Districts (LS, OP, GB, MU).*
    - a. No building in a business district shall be erected or expanded within 15 feet of a building containing a residential use, regardless of the district in which the building containing a residential use is located.
    - b. In the General Business District, the front setback shall be the average front setback of existing buildings on the block.
  3. *Industrial Districts and Office Park Districts.*
    - a. In the Industrial A, Industrial D, and Office Park Districts, the front, side, and rear minimum yard depth requirements in Appendix A, Table 2 shall apply to all nonresidential facilities, including structures, parking areas, driveways, tanks, loading bays, outdoor storage or work areas, and similar accessory operations on any lot in nonresidential use if the lot abuts a lot in residential use or a lot zoned Single Residence A or B or C, or abuts a public or private way that abuts in whole or in part a Single Residence A or B or C District.
    - b. In Industrial A and Industrial D2 and Industrial D and Office Park Districts, no nonresidential structure shall be erected nearer than 300 feet to the outside wall of any existing dwelling, regardless of the district in which the dwelling is situated, and whether or not a public or private way lies within the 300 feet.
    - c. In the case of lots that are located in industrial districts and abut railroad property, the minimum yard depth requirement from the railroad property shall not apply if a railroad siding is to be constructed.
    - d. In all industrial districts, yard depth requirements shall be measured from the street line of a public way or internal access road, whichever applies.
    - e. In the Industrial D2 District, required yard areas shall be developed and maintained only for lawns, landscaping, walks, driveways, and off-street parking. No off-street parking shall be located within 50 feet of the street line of any public way or internal access road on which the building fronts unless the Zoning Board of Appeals grants a special permit to reduce this requirement upon determining that the site and proposed site plan provide adequate control of visual intrusion and traffic.
    - f. In an Industrial A District, the maximum height of a building shall be four occupiable stories, but not more than 60 occupiable feet or 80 total feet, provided that the existing municipal water pressure must be sufficient for adequate water supply to reach the portion of the building over 60 feet for both fire protection and service needs without any artificial means to increase the existing pressure; and the space above 60 feet shall be:
      - i. Used solely for building mechanicals, heating, ventilation, and air conditioning, utilities and other building services uses;

## SECTION 4

- ii. Setback at least 10 feet on all sides from the outside face of the top story of the building; and
  - iii. Excluded from both the calculation of maximum coverage in the table of dimensional requirements and the calculation of off-street parking requirements in Appendix A, Tables 2 and 3.
  - iv. The outside face of any building greater than 60 feet shall be at least 1,000 feet from the district boundary line of any residence district.
  - v. All lighting of the buildings and grounds, including light posts, shall be screened and shielded from the abutting residential neighbors.
- g. No single Retail Sales Establishment shall exceed 25,000 SF of gross floor area in the ID2 District. A single establishment shall be defined as having independent access, egress, and exit ways as required by State Building Code.
- h. Multiple Buildings: In the IA, ID, and ID2 Districts, more than one building may be erected on a single lot.
4. *Mixed Use District.*
- a. New structures and additions to existing structures shall not be erected within 50 feet of the nearest outside wall of an existing residential structure.
  - b. No single establishment of a Business or Commercial Use in Appendix A, Table 1 shall exceed 65,000 SF of gross floor area. A single establishment shall be defined as having independent access, egress, and exit ways as required by State Building Code.
5. *Lot/Slope Requirements in the Single Residence Districts.*
- a. Except as provided in subsection 4.1.4.5(c) below, in the SRA, SRB and SRC districts, the following requirements shall apply:
    - i. The slope of land at any point, stated as a percentage, shall mean the change in elevation over a horizontal distance measured perpendicular to the contours divided by the distance over which the change occurs, multiplied by 100.  
Slope = (Change in elevation/horizontal distance measured perpendicular to contours) x 100
    - ii. All natural slopes exceeding 35 percent, measured over a horizontal distance of 10 feet, shall be protected and remain undisturbed.
    - iii. All areas with natural slopes exceeding 25 percent over a horizontal distance of 30 feet shall be excluded from the calculation of the minimum lot area required in the applicable district.
  - b. The Planning Board may grant a special permit to waive the requirements of this subsection 4.1.4.5 if, in the Board's opinion, the applicant's proposal is sufficient

## SECTION 4

for preserving and enhancing the landscape, minimizing grading, runoff, and soil erosion; and encouraging innovative site design.

- c. The provisions of this subsection 4.1.4.5 shall not apply to:
- i. Building lots in a definitive subdivision plan submitted in accordance with G.L. c. 41 in order to obtain the protections provided by G.L. c. 40A, s. 6;
  - ii. Building lots in a definitive subdivision plan approved prior to the enactment of this subsection 4.1.4.5; or
  - iii. Building lots on a plan subject to G.L. c.41, s. 81P approved prior to the first date of publication of notice of this Bylaw.

### 4.1.5. Special Use Regulations.

1. *Motels and Hotels.* The minimum lot area per rentable unit shall be 2,000 square feet.
2. *Motor Vehicle Service Station and Car Wash.* Any building used for a gasoline service station, car wash, or automobile repair garage or service station shall be located at least 15 feet from the property line and at least 50 feet from the property line of any lot in a residential district. In addition, no premises used for any of these purposes shall have any driveway access within 300 feet of the lot line of any public or private school, public library, church, playground, or institution for older adults, the sick, the dependent, or children under 16 years of age.

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## 4.2. ACCESSORY BUILDINGS AND STRUCTURES.

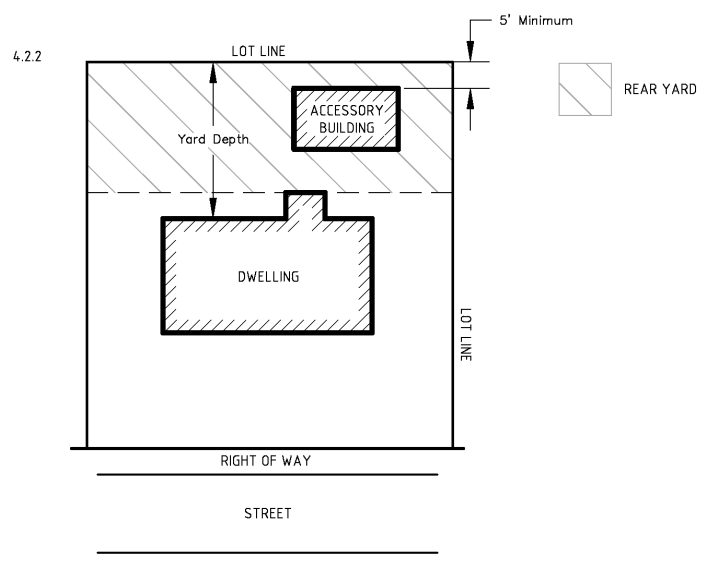
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### 4.2.1. Location.

Except as provided in Section 4.1.4.3, above, accessory buildings and structures shall conform to the following regulations.

### 4.2.2. Yard Depth.

The minimum requirements for yard depth shall not preclude the placing of an accessory building in the minimum yard area, provided that it (a) is located in the rear yard; (b) does not exceed 1 1/2 stories in height; (c) covers not more than 30 percent of the yard area; (d) is not located nearer than five feet to any property line; and (e) is not used for housing domestic animals or livestock. This section shall not apply to multiple dwellings in the Apartment District.



## SECTION 4

### **4.2.3. Floor Area.**

The ground floor area of a building accessory to a dwelling may exceed the ground floor area of the dwelling only if granted a special permit by the Zoning Board of Appeals upon its determination that the proposed accessory building will not cause visual or functional disruption to the character of the neighborhood.

### **4.2.4. Recreational Structures.**

Subject to other provisions of this Bylaw, swimming pools, tennis courts, sports courts, and courts for nonpublic athletic and recreational activity, and their associated equipment and paraphernalia, constructed and employed for the private use without fee or charge of the occupant of the lot, are permitted as an accessory use in rear yards and in side yards, but not in front yards, in all districts, provided that they are not located nearer than 10 feet to any property line of the rear yard and that they comply with the minimum side yard setback requirements for the district.

## SECTION 5.0 GENERAL REGULATIONS

### 5.1. OFF-STREET PARKING AND LOADING.

#### 5.1.1. Purpose.

The objectives of this section are as follows:

1. Promote traffic safety by assuring adequate places for storing of motor vehicles off the street and for their orderly access and egress to and from the streets;
2. Increase the traffic-carrying capacity of streets and highways in the town and obtain a more efficient utilization of on-street curbside parking;
3. Reduce hazards to pedestrians upon public sidewalks; and
4. Protect adjoining lots and the general public from nuisances and hazards such as:
  - a. Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles;
  - b. Glare and heat from parking lots;
  - c. A lack of visual relief from expanses of paving;
  - d. Accelerated runoff of surface water from land covered by impervious materials.

#### 5.1.2. Applicability.

No building permit or certificate of occupancy shall be issued for the construction of a new building, the enlargement of an existing building, the development of a use not located in a building, the redevelopment of an existing building, or the change from one type of use to another, unless off-street parking is provided in accordance with this Section 5.1.

#### 5.1.3. Interpretation of this Section.

The following rules for interpretation of this section shall apply:

1. *Fractional Numbers.* In the computation of required parking spaces, only the fraction of 1/2 or more shall be counted as one space.
2. *Number of Employees.* Where the parking requirement is based on the number of employees, the number shall be based on the number of employees on the largest shift.
3. *Change of Use.* A change of use for the purposes of this section 5.1 shall be a change in part or all of an existing building or lot from one use category to another as permitted in the Table of Use Regulations.
4. *Maximum Rate Occupancy.* The maximum floor area allowances permitted per occupant as required in the Massachusetts State Building Code.

**5.1.4. Parking Space Requirements.**

Appendix A, Table 3, Off-Street Parking Requirements, establishes the minimum number of parking spaces required for the corresponding type of use. Where a use is not specifically included in Table 3, the regulations for the most nearly comparable use, as determined by the Inspector of Buildings, shall apply.

**5.1.5. Design Standards.**

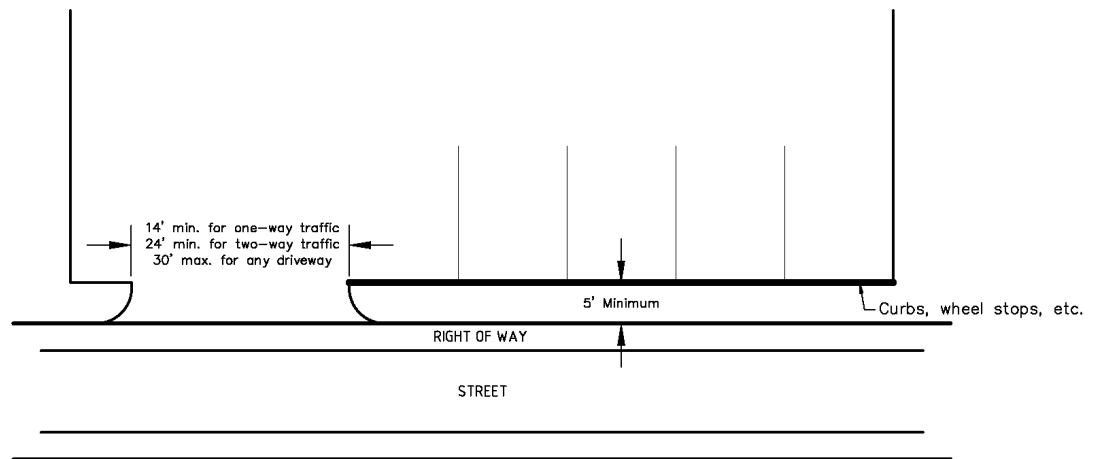
The following design standards shall apply to parking areas for uses other than a one-family or two-family dwelling:

1. *Parking Dimensions.* The minimum dimensions of parking spaces and maneuvering aisles shall be as shown in Appendix A, Table 4, Parking Dimensions.
2. *Parking Layout.*
  - a. Access to and egress from all parking areas shall be only via driveways that meet the design standards of Section 5.1.5.4;
  - b. All portions of all parking spaces, loading areas, and maneuvering aisles shall be set back a minimum of five feet from any street or way and a minimum of five feet from any property line. Curbs, wheel stops, screening, or similar barriers shall be installed along the setback line for parking and loading to prevent vehicles from being parked or driven within required setback areas or required landscaped areas;
  - c. Each required off-street parking space and loading area shall be designed so that any motor vehicle may proceed to and from it without requiring the moving of any other vehicle or the passing over any other parking space or loading area;
  - d. The circulation system in each parking area shall be designed so that all vehicles may exit from and enter into the adjacent street or way by being driven in a forward direction and no vehicle shall be required to enter or leave by backing;  
and

## SECTION 5

- e. All required parking areas shall be paved and parking spaces marked to provide delineation between parking spaces and aisles.

SECTIONS  
5.1.5.2a  
5.1.5.2b  
5.1.5.4b



### 3. *Parking for People with Disabilities.*

- a. Parking facilities shall provide parking spaces designed for people with disabilities in accordance with the rules and regulations of the Massachusetts Architectural Access Board (AAB);
- b. Each parking space shall be clearly marked by a sign and shall be located near the entrance of the building served.

### 4. *Driveways.*

- a. The maximum number of driveways permitting entrance to and exit from a lot shall be limited to two per street line;
- b. The minimum width of a driveway used for two-way traffic shall be 24 feet. The minimum width of a driveway used for one-way traffic shall be 14 feet. The maximum width shall not exceed 30 feet;
- c. Driveways shall be located to minimize conflict with traffic on the street and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.

### 5. *Loading Areas.*

- a. An adequate number of off-street loading areas shall be provided for any use that may be serviced by delivery vehicles;
- b. Loading areas shall be located in the side or rear yards only;
- c. Each loading area shall be located separately from employee and customer parking and shall be designed to protect pedestrian safety and avoid traffic

## SECTION 5

conflicts with vehicles within, without, and entering and leaving the lot where the loading area is located;

- d. No area may be utilized and counted as both a required parking space and a required loading area;
  - e. Each loading area shall consist of a bay measuring at least 30 feet long, 12 feet wide, and 14 feet high if covered and a maneuvering space equal to the length of the bay.
6. *Maintenance.* Parking areas, loading spaces, and landscaping shall be continuously maintained, and whenever necessary, surfacing, lighting, parking space markings and plantings shall be replaced or repaired, and drainage structures maintained. Failure to adequately maintain parking facilities shall be considered a violation of this Bylaw.

### **5.1.6. Parking in Apartment Districts.**

The following parking requirements shall apply to APT districts:

1. Required spaces shall be located either in an off-street paved area or in a garage or carport.
2. The spaces shall be located within 200 feet from the outside entrance to the dwelling unit served.
3. Any spaces located in a driveway providing access to more than one dwelling unit shall not reduce the effective width of the driveway to less than 12 feet.
4. Any way or driveway providing principal access to six or more dwelling units or eight or more parking spaces shall conform to applicable provisions of the Planning Board regulations for minor residential ways. To confirm the extent of conformity, the Zoning Board of Appeals shall request a report from the Planning Board before granting a special permit.

### **5.1.7. Parking in General Business Districts.**

The following parking requirements shall apply to GB Districts:

1. *Location.* The required number of off-street spaces shall be provided on the same lot as the use or uses in question unless the Planning Board grants a special permit for a change in parking space requirements pursuant to Section 5.1.12.
2. *No Additional Spaces.* No additional parking spaces shall be required for a proposed use in an existing building if:
  - a. The change of use or rearrangement of uses does not result in an increase in the number of required parking spaces;
  - b. The total number of parking spaces required for a particular use, including a particular use in an existing multi-use building, is six spaces or less. This shall not apply to proposals involving the total renovation/redevelopment of a structure; and

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- c. Having applied subsections a. and b. above, a proposed change of use results in a net increase of three spaces or less. If the change of use results in a net increase of more than three spaces, then the total number of parking spaces shall be provided.
3. *Multiple Uses Sharing a Common Parking Lot.* Required parking spaces may be provided for two or more uses on a common lot if the total number of spaces available is not less than the sum of the spaces required for each use individually. The required number of spaces on a common lot may be reduced by a special permit under Section 5.1.12 if it can be shown that a lower total number of spaces will serve all uses adequately, as determined by the Planning Board or special permit granting authority.
4. *Extension or Alterations of Nonconforming Buildings and Uses.* Extensions or alterations of a preexisting, nonconforming building or use that requires a special permit under Section 9.4 shall provide only the additional number of parking spaces that would be required for the extension or alteration.
5. *Replacement After Catastrophe.* The following parking requirements shall apply to a building or structure that has been damaged by fire, explosion, or other catastrophe:
  - a. If a building or structure that did not conform to Table 3, Off-Street Parking Requirements, is rebuilt not to exceed its pre-catastrophe size and if no change in use occurs, continuance of that nonconformance will be allowed;
  - b. Any change in use shall require the building or structure to conform to Table 3, Off-Street Parking Requirements;
  - c. If a building or structure is rebuilt to exceed its pre-catastrophe size, the additional number of parking spaces that would be required for the excess floor area must be provided.
6. *Compact Car Spaces.* In parking lots of more than 40 parking spaces, up to 30 percent of the spaces may be designed for compact cars to service all-day parkers in accordance with the design standards of Appendix A, Table 4. Compact car stalls shall be grouped in one or more contiguous areas and conspicuously identified by signs or pavement markings.

### **5.1.8. Parking in Industrial Districts.**

The following parking requirements shall apply to Industrial Districts:

1. Adequate off-street parking must be provided on the premises to service all parking demand created by new construction, whether through new structures or through additions to existing ones, or by change of use creating higher parking demands.
2. In applying for building or occupancy permits, the applicant must demonstrate that the minimum parking requirements set forth below shall be met for the new demand without counting existing parking.
3. Only one driveway or entranceway will be permitted in any 150 feet of frontage unless the frontage is less, in which case, only a driveway or entrance way to the property will be permitted.

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4. Each parking area shall contain no more than 240 parking spaces.
5. There shall be no more than 30 parking spaces in any uninterrupted row.
6. Each parking area shall be enclosed (except for access points) by a landscaped buffer not less than 12 feet wide, planted with shade trees.
7. Each parking area shall have interior landscaping areas, primarily planted with trees, equivalent in size to 5 percent of the parking area's total pavement area.
8. The size of a parking space may be reduced to a compact car space as presented in Appendix A, Table 4, for those spaces serving all-day parkers. Uses that generate frequent parking space turnover shall be required to have the standard size parking spaces.

### **5.1.9. Special Permit to Reduce Number of Parking Spaces.**

In the Industrial Districts, the Planning Board may grant a special permit to reduce the number of parking spaces required by Appendix A, Table 3 upon finding that special circumstances render a lesser number of spaces adequate for all parking needs. To qualify for a special permit, the petitioner must present a site plan showing that all parking spaces needed to meet the requirements of Appendix A, Table 3 could be built on the site. The spaces to be waived shall be marked "Reserve Parking Area(s)" on the plan, which shall be kept on file with a copy of the Planning Board's special permit decision. The reserve parking area(s) shall be maintained as landscaped areas unless and until the Planning Board requires construction of additional parking spaces. No improvement other than parking spaces will ever be allowed in this area. In the ID2 District, the Planning Board may grant a special permit to reduce the number of parking spaces required by Appendix A, Table 3 upon finding that special circumstances, such as shared or remote parking opportunities as defined in Section 5.1.12, render a lesser number of spaces adequate for all parking needs.

### **5.1.10. Special Permit for Main Street Access.**

In the General Business and Mixed Use Districts, where alternative access locations are feasible, parking lot driveways shall not provide access onto Main Street unless the Planning Board grants a special permit upon determining that access onto Main Street is dictated by consideration of safety, congestion, or conflict with other premises.

### **5.1.11. Special Permit for Alternative Parking Lot Design.**

In the General Business District, the design of a parking lot may differ from the requirements of Appendix A, Table 4 if granted a special permit by the Planning Board, provided that such design satisfies the objectives of Section 5.1. and the design is prepared by a professional engineer or landscape architect.

### **5.1.12. Special Permit for Change in Parking Space Requirements.**

In the General Business District, the provision of off-street parking spaces required by Appendix A, Table 3 may be changed if the Planning Board grants a special permit in accordance with the following provisions:

1. *Shared Private Parking Facilities.* Shared private parking facilities for different buildings or uses may be allowed by special permit subject to the following provisions:

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- a. Up to 50 percent of the parking spaces serving a building may be used jointly for other uses not normally open, used, or operated during similar hours. The applicant must show that the peak parking demand and principal operating hours for each use are suitable for a common parking facility.
  - b. A written common parking facility agreement defining the joint use acceptable to the Planning Board shall be executed by all parties concerned and approved by the Planning Board as part of the special permit process. The agreement shall be recorded with the Registry of Deeds; and
  - c. Any subsequent change in land uses for which the shared parking proposal was approved, and that results in the need for additional parking spaces, shall require a new special permit application under this subsection.
2. *Remote (Satellite) Parking Areas.* The Planning Board may grant a special permit for remote (satellite) parking areas, subject to the following provisions:
- a. The satellite parking spaces will be used solely by the employees and, where practicable, clientele of the commercial use; and
  - b. The off-site parking spaces shall be located to adequately serve the proposed use and shall be within 600 feet of the building served for clientele of the commercial use. Off-site parking for employees of the business may be located within 1,200 feet unless shuttle vehicle arrangements are provided as a condition of the special permit. The parking distance shall be measured by the shortest route of pedestrian access, entrance to entrance.
3. *Pedestrian Access.* Any proposals submitted under this section which, in the opinion of the Planning Board, provide direct and vital pedestrian access to other abutting commercial properties and serve to improve pedestrian accessibility may reduce the number of parking spaces required by 15 percent. Pedestrian access shall be provided through improved pathways, stairway access or other physical improvements, and shall be clearly marked.
4. *Joint Driveways.* Joint driveways shall be permitted by special permit, subject to the following provisions:
- a. Joint driveways, for the purposes of Section 5.1 shall be regulated by a binding agreement satisfactory in form to Town Counsel and recorded with the Registry of Deeds;
  - b. Joint driveways shall serve no more than two lots and shall be designed to provide access to another parking area or may straddle two lots if both lots are located in the General Business District; and
  - c. Joint driveways shall be designed to minimize conflict with traffic on streets and with due regard to interior circulation and separation of pedestrian and vehicular traffic.

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5. *Special Permit Decision.* Remote parking lots, shared parking lots, or any enforceable alternatives that the Planning Board deems reasonable, may be allowed based on the following criteria and other applicable provisions presented in this subsection:
  - a. The capacity, location, and current level of use of existing parking facilities, both public and private;
  - b. The efficient and maximum use of the General Business District in terms of parking needs and services provided;
  - c. The relief of traffic and parking congestion;
  - d. The safety of pedestrians;
  - e. The provision of reasonable access either by walking distance or shuttle vehicle arrangements; and
  - f. The maintenance of the character of the area.

### **5.1.13. Parking in Single-Family Residential A (SRA).**

For the creation of new multifamily dwellings, accessory dwelling units, or the conversion to two-family or multifamily dwellings in the SRA District, all parking spaces shall be located in a side yard, rear yard, or garage. Only driveways may be located in the front yard. (Single-family houses are excluded from this regulation.)

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## **5.2. SIGNS.**

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### **5.2.1. Purpose.**

The following sign regulations are intended to:

1. Preserve the historical ambiance, small-town character, and aesthetic appeal of the town;
2. Preserve views of greenery and landscapes;
3. Maintain public safety by eliminating potential hazards to motorists and pedestrians;
4. Preserve the value of private and public property; and
5. Preserve the non-commercial character of residential neighborhoods.

The following sign bylaws are crafted to be compatible with the 2015 decision of the Supreme Court in the case of *Clyde Reed v. Town of Gilbert, Arizona* and are intended to avoid constitutionally suspect regulations related to time limits on legal signs on private property. The Reed decision stated that content-based sign bylaws must withstand strict scrutiny. That is, the government must have a compelling reason to regulate speech based on content.

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For definitions of terms used in this Section 5.2, see Section 10, Sign and associated definitions.

### **5.2.2. General Provisions.**

1. Exemptions. The following signs are exempt from the provisions of this Bylaw:
  - a. Flags and insignia of any government, except when they are displayed in connection with the advertising or promotion of a commercial product or service;
  - b. Legal notices or informational devices erected or required by public agencies;
  - c. Signs affixed to a pump from which motor fuel is sold at retail that are required by G.L. c. 94, Section 295C or 202 CMR 2.06;
  - d. Integral decorative or architectural features of buildings, except for lettering, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights;
  - e. On-premises signs intended to guide and direct traffic and parking, not exceeding two square feet in area and four feet in height and bearing no elements, as described in the definition of Sign in Section 10, that are not necessary to guide and direct traffic and parking, and having no internal illumination;
  - f. On valances of awnings or similar devices, lettering, symbols, or graphic elements not exceeding six inches in height and not exceeding 75 percent of the height of the valance;
  - g. On awnings or similar devices, one symbol or graphic element, without text, not exceeding five square feet per awning; and
  - h. Signs located on facilities or land under the care and control of the Massachusetts Bay Transportation Authority.
2. Maintenance. All signs shall be maintained in a safe and neat condition to the satisfaction of the Inspector of Buildings and in accordance with the Commonwealth of the Massachusetts State Building Code, 780 CMR.
3. Nonconforming Signs.
  - a. Any nonconforming sign and/or support structure, legally permitted and erected prior to the adoption of this provision, or any amendments thereto, which remains un-altered in any way, may be continued and maintained.
  - b. Nonconforming signs shall not be enlarged, rebuilt, restored or altered except in conformity with this Bylaw.
  - c. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed 1/3 of the replacement value as of the date of such damage or destruction shall not be repaired, rebuilt, restored, or altered except in conformity with this Bylaw.

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4. Liability. No sign shall project more than five feet over any public right-of-way or other public property. Any sign projecting over a public right-of-way shall be covered by liability insurance in the amount of \$2,000,000 as verified by a certificate of insurance filed with the Town Clerk. The Town of Andover shall be named as additional insured on all such certificates.

### **5.2.3. Sign Permit.**

Unless specifically exempted or provided for elsewhere in this section, no sign shall be installed, erected, enlarged, redesigned, or structurally altered without a sign permit issued by the Inspector of Buildings.

1. Application and Review.
  - a. Sign Permit Application: A completed sign permit application, fulfilling all requirements for requested materials and documents and specifying all pertinent dimensions and materials, shall be submitted to the Inspector of Buildings prior to the installation or alteration of any sign for which a permit is required.
  - b. Review by the Design Review Board: Prior to the issuance of a sign permit, the Design Review Board (DRB) shall, within 30 days of submission of an application for a sign permit, review an application for: (a) a municipal sign in any district; and (b) a sign greater than four square feet in the General Business (GB) and Mixed Use (MU) Districts. Applications for review by the Design Review Board shall be submitted on a standard application form specified by the DRB. See § 5.2.14, Design Guidelines for Signs.
2. Criteria for a Special Permit. When acting on an application for a special permit, the Zoning Board of Appeals shall consider the following:
  - a. The character of the proposed sign and its suitability to the building and the surrounding neighborhood;
  - b. Its relationship to the architectural style, size, and scale of the building;
  - c. The impact of the size and illumination of the sign on other establishments and the surrounding neighborhood; and
  - d. The criteria specified in § 9.6.4 of this Bylaw, and such other factors as the Zoning Board of Appeals deems appropriate in order to assure that the public interest is protected.

### **5.2.4. Prohibited Signs and Devices.**

1. No sign shall be lighted, except by a steady external and stationary light source which is shielded and directed solely at the sign, unless specifically provided for in this Bylaw.
2. No illumination shall be permitted which casts glare onto any residential premises or onto any portion of a way so as to create a traffic hazard.

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3. No signs shall be illuminated in any residential district, or within 200 feet of a residential district, between the hours of 9:00 p.m. and 7:00 a.m., unless the establishment is open to the public.
4. No sign shall be illuminated by any color other than colorless or white light, except for temporary holiday lighting.
5. No animated, revolving, flashing, backlit, exposed neon or similar exposed gaseous tube illuminated signs shall be permitted.
6. No signs shall be attached to motor vehicles, trailers or other movable objects regularly or recurrently located for fixed display.
7. Visibility for motorists and pedestrians shall not be obstructed at any intersection, driveway, or crosswalk. See also Article VIII, § 4.1.3.2.g.
8. No portable or removable sign shall be allowed in any zoning district except as permitted under § 5.2.6.
9. No attached exterior sign shall cover any portion of a window or door casing.
10. No signs shall be allowed on the uppermost roof of any building.
11. No portion of a sign shall extend above the highest point of the roof or parapet of the building to which it is attached.
12. No commercial sign is allowed in zoning districts SRA, SRB, SRC and APT unless the sign pertains to an allowed commercial activity relating to or occurring on the property.

### **5.2.5. Signs Allowed without a Permit.**

The following signs are allowed in addition to the signs allowed in other sections of these bylaws and not otherwise prohibited.

1. Limitations.
  - a. A sign allowed by Section 5.2.5.2.a may be lighted or illuminated. No other sign allowed in Section 5.2.5 shall be lighted or illuminated.
  - b. A projecting sign always requires a permit.
  - c. No sign allowed in Section 5.2.5 may be erected on premises occupied by a business or organization until a sign permit has been issued for at least one other sign on the premises, except in the following cases:
    - i. Signs allowed by Section 5.2.5.2.a, Section 5.2.5.2.b and Section 5.2.5.2.c may always be erected.
    - ii. When a building, or of a unit of a building, in which a business or organization may operate is unoccupied, signs allowed in Section 5.2.5 may be erected.

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- iii. When land is undeveloped, signs allowed in Section 5.2.5 may be erected.
  - iv. When a residence contains a customary home occupation, signs allowed in Section 5.2.5 may be erected.
2. Signs allowed without a permit in all zoning districts.
- a. One sign, either attached or freestanding, does not require a sign permit if it does not exceed two square feet in area.
  - b. Open Space signs. A sign on open space or other undeveloped property open to the public, requires no sign permit if the sign is less than 35 square feet in area. For purposes of this Section 5.2., open space shall mean undeveloped land available to the public at no cost, for passive recreation such as hiking, bird watching, fishing, photography, picnicking, cross country skiing, biking, horseback riding or other activities which do not alter or disturb the terrain and at the same time to conserve natural and scenic resources, protect air, streams or water supply, and enhance the value of the land to the public.
  - c. Interior signs that do not exceed 30 percent of the transparent area of the window and/or door on which they are affixed or displayed do not require a sign permit.
  - d. One or more exterior signs not exceeding 15 square feet in aggregate area do not require sign permits. Each residential unit in multiple-family residences and each unit in multiple-unit nonresidential properties may erect such signs. No additional signs are allowed beyond the 15 square feet in aggregate area because of the existence of a customary home occupation at a residence.
  - e. One exterior sign per property shall be allowed on the premises associated with the maintenance or improvement, subject to if it meets the following conditions:
    - i. The sign shall have an area not to exceed six square feet.
    - ii. The sign shall be set back a minimum of 15 feet from the nearest vehicular public or private way and shall not obstruct the line of sight for vehicles entering or exiting the property or adjacent properties.
3. Sign allowed without a permit only in zoning districts SRA, SRB and SRC. One exterior sign per property does not require a permit if it meets the following conditions:
- a. The sign area shall not exceed 15 square feet.
  - b. A freestanding sign shall have a height not to exceed five feet and a sign attached to a structure shall have a height not to exceed 10 feet above the ground level.
4. Sign allowed without a permit in all zoning districts except SRA, SRB and SRC. One exterior sign per property does not require a permit if it meets the following conditions:
- a. The sign area shall not exceed 25 square feet.

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- b. The sign height shall not exceed 10 feet.

### **5.2.6. Portable or Removable Sign**

The Inspector of Buildings may issue a permit for the placement of a portable or removable sign in any zoning district, subject to the following conditions:

1. The sign shall be securely anchored so as not to be dislodged or blow over.
2. The sign must be placed along a street, road, or parking lot on which the property has frontage and only one sign is allowed per tenant on each street, road, or parking lot.
3. The sign shall have an area not to exceed six square feet and a height not to exceed four feet.
4. The sign shall not obstruct a public or private walkway.

### **5.2.7. Signs in Residential Districts (SRA, SRB, and SRC, APT).**

1. Single Family Residential Districts (SRA), (SRB), and (SRC). In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed:
  - a. One sign, either attached or freestanding, does not require a sign permit and shall not exceed two square feet in area.
  - b. Any sign, either attached or freestanding, that exceeds two square feet in area may be allowed by special permit from the Zoning Board of Appeals. In no case, however, shall the sign area exceed six square feet or the sign height exceed four feet.
2. Apartment Districts (APT). In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed:
3. One freestanding sign on each street on which the complex has street frontage, provided that the frontage also provides vehicular or pedestrian access to the complex. The sign area shall not exceed 15 square feet and the sign height shall not exceed eight feet.

### **5.2.8. Signs in General Business (GB) Districts.**

In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed for commercial or business uses:

1. One attached sign shall be allowed, oriented to each street and parking lot on which the commercial or business use has a facade, providing that such facade has either a window or a direct entryway into the use's space.
  - a. The sign may be either attached flat against the wall or placed on an awning or fixed canopy of the building.
  - b. No portion of the sign shall extend above the highest point of the roof or parapet of the building to which it is attached.

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- c. The sign area of a flat attached sign for any individual commercial or business use shall not exceed 15 percent of the portion of the facade associated with that use.
  - d. Flat attached signs oriented to the street shall not exceed 50 square feet in area.
  - e. Flat attached signs oriented to a parking lot shall not exceed 25 square feet in area unless they mark the primary entrance to a building or establishment, in which case the sign area shall not exceed 50 square feet.
  - f. Attached signs displayed on the body of awnings or canopies shall not exceed 20 percent of the area of the awning or canopy, and in no case shall they exceed 25 square feet.
2. In addition to the above, each building that is set back a minimum of five feet from the property line may install one freestanding sign, with a sign area not to exceed 12 square feet and a sign height not to exceed six feet above ground level.
  3. In addition to the above, each commercial or business use may install one projecting sign on each facade providing that such facade has either a window or a direct entryway into the use's space, subject to the following conditions:
    - a. The sign area shall not exceed nine square feet, excluding sign support structure.
    - b. The bottom of a projecting sign shall be at least eight feet above the ground, and the top of the sign shall be no more than 25 feet from the ground.
    - c. No sign shall project more than five feet from the facade to which it is attached.
    - d. A larger sign may be allowed by special permit from the Zoning Board of Appeals; in no case, however, shall the sign area exceed 15 square feet.
  4. A building occupied by multiple commercial or business uses may install a single sign, either attached to or projecting from the building. The total area of the sign shall not exceed one square foot per occupant.
  5. Unlighted graphics, lettering or symbols with transparent background mounted on the inside of windows or transparent entry doors shall require no sign permit if their area does not exceed 30 percent of the glass or transparent area.

### **5.2.9. Signs in Mixed Use (MU) Districts.**

In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed:

1. One attached sign shall be allowed, oriented to each street and parking lot on which the commercial or business use has a facade, providing that such facade has either a window or a direct entryway into the use's space.
  - a. The sign may be either attached flat against the wall or placed on an awning or fixed canopy of the building.
  - b. No portion of the sign shall extend above the highest point of the roof or parapet of the building to which it is attached.

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- c. The sign area of a flat attached sign for any individual commercial or business use shall not exceed 10 percent of the portion of the facade associated with that use and in no case shall the sign area exceed 80 square feet.
    - d. Attached signs displayed on the body of awnings or canopies shall not exceed 20 percent of the area of the awning or canopy, and in no case shall they exceed 25 square feet.
  2. In addition to the above, each building that is set back a minimum of five feet from the property line may install one freestanding sign, with a sign area not to exceed 25 square feet and a sign height not to exceed eight feet above ground level.
  3. In addition to the above, each commercial or business use may install one projecting sign on each facade of the building, subject to the following conditions:
    - a. The facade shall have either a window or a direct entryway to the premises.
    - b. The sign area shall not exceed nine square feet, excluding any sign support structure.
    - c. No sign shall project more than five feet from the facade to which it is attached. The bottom of a projecting sign shall be at least eight feet above the ground, and the top of the sign shall be no more than 25 feet from the ground.
    - d. A larger sign may be allowed by special permit from the Zoning Board of Appeals; in no case, however, shall the sign area exceed 15 square feet.
  4. A building occupied by multiple commercial or business uses may install a single sign, either attached to or projecting from the building. The total area of the sign shall not exceed one square foot per occupant.
  5. Unlighted graphics, lettering or symbols with transparent background mounted on the inside of windows or transparent entry doors shall require no sign permit if their area does not exceed 30 percent of the glass or transparent area.

### **5.2.10. Signs in Office Park Districts (OP) and Limited Service Districts (LS).**

In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed:

1. One freestanding sign shall be allowed for each street upon which a building or complex has frontage, subject to the following conditions:
  - a. The sign area shall not exceed 25 square feet and the sign height shall not exceed eight feet.
  - b. The Zoning Board of Appeals may grant, subject to the criteria of § 5.2.3.2, a special permit for a larger sign if required for legibility, up to 16 feet in height, if the property fronts on a high-speed, limited access highway.
2. In addition to the above, one attached sign for each street upon which a building or complex has frontage. The sign may be either attached flat against the wall or placed on an awning or fixed canopy of the building. No portion of the sign shall extend

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above the highest point of the roof or parapet of the building to which it is attached. The sign area of a flat attached sign shall not exceed 25 square feet. Attached signs displayed on the body of awnings or canopies shall not exceed 20 percent of the area of the awning or canopy, and in no case shall they exceed 25 square feet.

3. In addition to the above, each business or tenant shall be limited to one sign (attached or projecting) for each street and parking lot on which the business or tenant has an entryway. The sign area shall not exceed three square feet.
4. The Zoning Board of Appeals may grant, subject to the criteria of § 5.2.3.2, a special permit for a second sign on a building facing a limited access, high-speed highway.

### **5.2.11. Signs in Industrial G (IG) Districts.**

In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed:

1. One sign attached flat against the wall or placed on an awning or fixed canopy of the building, subject to the following conditions:
  - a. The sign area of a flat attached sign shall not exceed 20 percent of the area of the side of the building to which it is attached, or 80 square feet, whichever is less. Attached signs displayed on the body of awnings or canopies shall not exceed 20 percent of the area of the awning or canopy, and in no case shall they exceed 25 square feet.
  - b. No portion of the sign shall extend above the highest point of the roof or parapet of the building to which it is attached.
2. In addition to the above, one freestanding sign for each street on which the property fronts, subject to the following conditions:
  - a. The area of each sign shall not exceed 50 square feet.
  - b. No part of any such sign shall be more than eight feet above ground level.
  - c. No such sign shall be located closer than five feet to any property line or the line of any street or way.
3. The Zoning Board of Appeals may grant, subject to the criteria of § 5.2.3.2, a special permit for a larger or an internally illuminated sign.

### **5.2.12. Signs in Industrial A (IA) Districts.**

In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed:

1. One or more signs attached flat against the wall or placed on an awning or fixed canopy of a building, subject to the following conditions:
  - a. The total area of all such signs on a building shall not exceed 20 percent of the area of the side of the building to which they are attached, or 200 square feet, whichever is less. Attached signs displayed on the body of awnings or canopies

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shall not exceed 20 percent of the area of the awning or canopy, and in no case shall they exceed 25 square feet.

- b. No portion of the sign shall extend above the highest point of the roof or parapet of the building to which it is attached.
2. One freestanding sign for each street on which the property fronts, subject to the following conditions:
    - a. The area of each sign shall not exceed 100 square feet.
    - b. No part of any such sign shall be more than 25 feet above ground level.
    - c. No such sign shall be located closer than five feet to any property line or the line of any street or way.
  3. Internally illuminated signs are allowed.

### **5.2.13. Signs in Industrial D (ID) and Industrial D2 (ID2) Districts.**

In addition to the signs allowed in § 5.2.5 and § 5.2.6, the following signs are allowed:

1. One or more signs attached flat against the wall or placed on an awning or fixed canopy of a building, subject to the following conditions:
  - a. The total area of all such signs on a building shall not exceed 10 percent of the area of the side of the building to which they are attached, or 200 square feet, whichever is less. Attached signs displayed on the body of awnings or canopies shall not exceed 20 percent of the area of the awning or canopy, and in no case shall they exceed 25 square feet.
  - b. No portion of the sign shall extend above the highest point of the roof or parapet of the building to which it is attached.
2. In addition to the above, one freestanding sign for each street on which the property fronts, subject to the following conditions:
  - a. The area of each sign shall not exceed 100 square feet.
  - b. No part of any such sign shall be more than 12 feet above ground level.
  - c. No such sign shall be located closer than five feet to any property line or the line of any street or way.
3. Internally illuminated signs are allowed.

### **5.2.14. Design Guidelines for Signs.**

The following are further means by which the objectives for signs stated in Section 5.2.1 can be served. These guidelines are not mandatory, but the degree of compliance with them shall be considered by the Special Permit Granting Authority in acting upon special permits, and by the Design Review Board as authorized hereunder.

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- a. Sign content normally should not occupy more than 40 percent of the sign background, whether a signboard or a building element.
  - b. Non-verbal devices should be considered, in addition to text, as such graphic images can provide rapid and effective communication as well as character.
2. Environmental Relationship. Sign brightness should not be excessive in relation to background lighting levels, e.g., averaging not in excess of one-hundred-foot-lamberts in the downtown or similarly bright areas and not in excess of twenty-foot-lamberts in unlighted outlying areas.
  3. Relationship to Buildings.
    - a. Signs should be sized and located so as to not interrupt, obscure or hide the continuity of columns, cornices, eaves, sill lines or other architectural elements of the building and, wherever possible, should reflect and emphasize the building's architectural form.
    - b. Sign materials, colors and lettering should be representative of and appropriate to the character of the building to which the sign relates, just as sign size should be related to building size.

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### **5.3. LANDSCAPING, BUFFERING, AND LIGHTING.**

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#### **5.3.1. Office Park District.**

In the Office Park District, landscaping shall be provided and maintained in accordance with planting approved by the Planning Board and incorporated as part of the plans on which the special permit of the Zoning Board of Appeals is based.

#### **5.3.2. Industrial Districts.**

In the Industrial Districts, landscaping shall be provided and maintained in front yards and in side yards abutting public ways for aesthetic reasons to break up lines of buildings, in parking areas (as per Section 5.1.8), and for screening accessory facilities under the requirements discussed below.

1. Specifically, in Industrial Districts IA and ID, landscape screening shall be provided adjacent to:
  - a. Abutting properties situated in residential or office park districts;
  - b. Abutting existing residential properties in industrial districts; and
  - c. Abutting limited access highways and rivers in addition to the landscaping in front and side yards mentioned above.
2. Landscape screening shall consist of plantings, including evergreens, of sufficient height and depth to screen from view from abutting area any unshielded light source, either inside or outside a building, or to screen parking lots, tanks, loading bays, outdoor storage and work areas, and similar accessory operations or facilities not

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hidden by building. Fences or walls may be included in the screening where deemed necessary but shall not be a substitute for landscaping or left unscreened from abutting areas. The adequacy of the screening and landscaping shall be approved by the Inspector of Buildings on the advice of the Planning Board and shown on planting plans that shall be incorporated in the Inspector of Buildings records. In cases requiring a special permit, these plans shall also be incorporated as part of the findings of the Zoning Board of Appeals.

### **5.3.3. General Business and Mixed Use Districts.**

In the General Business District and Mixed Use District, all lots in use other than solely as single-family residential shall meet the following standards:

1. A buffer area shall be provided for screening purposes along the entire length of each property line (excluding driveway access points) that abuts either a lot zoned Single Residence A, B or Cor a lot that contains a residential use, regardless of the district in which the lot is located. The following standards shall apply:
  - a. Width: the buffer area dimensions shall meet the following standards:
    - i. In a General Business District, the buffer area shall measure at least five feet in width;
    - ii. In a Mixed Use District, the buffer area shall measure at least 10 feet in width.
  - b. If a landscaped treatment is selected, minimum requirements are plantings of evergreen shrubs measuring at least four feet high at time of planting and which may be expected to form a six-foot high screen within three years, the entire length of the buffer area to be 80 percent or more opaque when viewed horizontally.
  - c. If a fencing treatment is selected, minimum requirements are a solid fence six feet in height with 20 percent or more of the fence face planted with evergreens, such screening to be compatible with the character of the neighborhood.
2. Where landscaped areas abut parking areas or driveways, the landscaped areas shall be protected from vehicular encroachment by curbs or berms.
3. The owner of the property shall be responsible for the proper maintenance and replacement of all landscape materials. All fences shall be maintained in a safe condition. Planted screening shall be maintained, and dead portions of any natural screening shall be promptly replaced.

### **5.3.4. Limited Service District.**

In the Limited Service District, landscape screening shall be provided and maintained as required in Section 5.3.2 of this Bylaw. Parking areas shall be enclosed (except for access points) by a landscaped buffer not less than 12 feet wide, planted with shade trees. Each parking area shall have interior landscaping areas, primarily planted with trees, equivalent in size to 5 percent of that parking area's total pavement area.

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### **5.3.5. Exterior Lighting.**

Where exterior lighting is installed on a lot, it shall be designed and installed so as to prevent glare or overspill from the light source onto adjacent property or into any public way.

## SECTION 6.0 SPECIAL REGULATIONS

### 6.1. ADULT USES.

#### 6.1.1. Purpose.

It is the purpose and intent of Section 6.1 is to address and mitigate the secondary effects of the adult uses referenced herein, which include increased crime, adverse impacts on the public health, safety and welfare, decreased property values and neighborhood blight, all of those secondary effects having been clearly confirmed in numerous nationwide studies, in addition to reports given by public safety officials, all of which have been relied upon in considering the enactment of Section 6.1.

#### 6.1.2. Standards.

The following standards shall apply to adult uses as defined in Section 10.0.

1. *Separation Distances.* Adult uses may be permitted only when located outside the area circumscribed by a circle which has a radius consisting of the following distances from specified uses or zoning district boundaries:
  - a. Five hundred feet from the district boundary line of any residence district (SRA, SRB, SRC, APT);
  - b. Five hundred feet from any other adult use as defined herein;
  - c. Three hundred feet from any establishment licensed under G.L. c. 138, s. 12: and
  - d. Fifteen hundred feet from the boundary of any school.
2. *Radius Distance.* The radius distance shall be measured by following a straight line from the nearest point of the property parcel upon which the proposed adult use is to be located to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult use is to be separated. In the case of the distance between adult uses (see subsection 6.1.2.1.b) and between an adult use and an establishment licensed under G.L. c. 138, § 12 (see subsection 6.1.2.1.c), the distances shall be measured between the closest points of the buildings in which the uses are located.
3. *Size.* With the exception of an adult cabaret or an adult motion-picture theater, adult uses may not exceed 3,500 square feet of net floor area.
4. *Parking Requirements.* The following parking requirements shall apply:
  - a. Parking for adult bookstores, adult paraphernalia stores, and adult video stores shall meet the requirements of Appendix A, Table 3, subsection C.4.a.
  - b. Parking for adult cabarets and adult motion-picture theaters shall meet the requirements of Appendix A, Table 3, subsection C.4.b.

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- c. Parking shall be provided in the side or rear yard area only.
  - d. All parking areas shall be illuminated, and all lighting shall be contained on the property.
  - e. Parking areas shall be landscaped in conformance with subsection 5 below and Section 5.3 of the Bylaw.
5. *Screening and Buffering.* A five-foot wide landscaped buffer shall be provided along the side and rear property lines of an adult use establishment consisting of:
- a. evergreen shrubs; or
  - b. trees not less than five feet in height at the time of planting; or
  - c. a solid fence not less than six feet in height.
6. *Building Openings.* All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

### **6.1.3. Application.**

The application for a special permit for an adult use establishment shall include the following information:

1. Name and address of the legal owner of the establishment;
2. Name and address of all persons having lawful equity or security interests in the establishment;
3. Name and address of the manager;
4. Number of employees;
5. Proposed provisions for security within and without the establishment; and
6. The physical layout of the interior of the establishment.

### **6.1.4. Prohibition.**

No adult use special permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, s. 63 or G.L. c. 272, s. 28.

### **6.1.5. Lapse.**

Any adult use special permit issued under this Section 6.1 shall lapse within one year, in addition to any time required to pursue or await the determination of an appeal from the grant thereof, if 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.

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## **6.2. AGRICULTURE AND LIVESTOCK.**

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### **6.2.1. General.**

The following provisions shall apply to all agricultural operations listed under Table 1, Table of Use Regulations, subsections E.1, E.2, and F.6.b, whether the use is a principal or accessory use:

1. Adequate provision shall be made for the garaging or screening of all tools, farm machinery, or vehicles incidental to the proposed use.
2. Any new structure larger than six feet by six feet by seven feet, used for the above purpose or for providing housing, pens, or enclosures for livestock, shall be located at least 50 feet from any property line.
3. In a residential district, site plan review per Section 9.5 shall be required for any new accessory structure in excess of 2,000 square feet of ground floor area to ensure landscaping and screening thereof.
4. Adequate provision must be made for the sanitary disposal of animal wastes and for complying with all relevant Board of Health regulations.

### **6.2.2. Livestock.**

The following additional conditions shall apply to the keeping of horses or ponies:

1. Fencing adequate to restrain such animals shall be installed and shall be no closer than five feet to a property line.
2. A minimum lot size of two acres for the first animal and one acre for each additional animal is required. For lots larger than 10 acres, this requirement may be reduced upon the issuance of a special permit by the Zoning Board of Appeals upon its finding that all other conditions of Section 6.2 are met; that under the particular circumstances the proposed reduction will not be detrimental to the neighborhood; and that the Board of Health approves the keeping of the number of animals proposed.
3. In acting upon such special permits under Appendix A, Table 1, Table of Use Regulations, subsection F.6.b, the Zoning Board of Appeals shall consider the proximity of existing dwellings, provisions of sound, odor, dust and drainage control and potential problems caused by the movement and storage of horse trailers.

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## **6.3. ALTERNATIVE MODES OF TRANSPORTATION.**

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### **6.3.1. Purpose.**

This section has been adopted to ensure public safety by reducing the interaction of pedestrians, bicyclists, runners and recreational users with automotive traffic; to reduce reliance on autos for in-town travel; to reduce the impact of heavy traffic volumes on local roads; to encourage safe, healthful and self-reliant means of transportation; to encourage linkages between neighborhoods.

### **6.3.2. Pedestrian and Bicycle Paths.**

To achieve these objectives, it is the goal of the Town to promote, whenever possible in the development process, provision for pedestrian and bicycle paths connecting residential housing, adjacent neighborhoods, school, recreational sites, open space, downtown services, places of work or any other connections that will provide safe, efficient, alternative ways of transportation and encourage a greater sense of community.

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## **6.4. AMATEUR RADIO FACILITIES.**

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### **6.4.1. Applicability.**

The Zoning Board of Appeals may issue a special permit for an amateur radio facility (tower or antenna) subject to the requirements of Section 6.4.

### **6.4.2. Design Standards.**

The application shall include a site plan showing the dimensions of the lot upon which the amateur radio tower is to be erected; the location of the tower base, and a notation as to the height of the tower; distances to property lines; the location of any anchor guys; and such other reasonable information as the Board may require to properly review the application. The applicant shall submit information giving the specifications for the tower materials and details for footing and guying.

1. The height of an amateur radio tower, inclusive of its appurtenant devices, shall not exceed 100 feet, and no dish antenna may be mounted on an amateur radio tower.
2. For purposes of public safety an amateur radio tower may not be erected nearer to any property line than a distance equal to the vertical height of the tower inclusive of any appurtenant devices measured from the base of the tower.
3. A ground mounted amateur radio tower shall be located in the rear yard only. A tower or antenna affixed to a residential structure shall be located on the side or rear of such structure.
4. In order to provide for visual buffering the Board may require fencing or vegetative screening at the base of an amateur radio tower.
5. For purposes of safety the Board may require a fence or locked gate surrounding the base of an amateur radio tower of a height determined by the Board to be sufficient to restrict unauthorized access.
6. No portion of an amateur radio tower shall be utilized as a sign or have signage attached to it.
7. An amateur radio tower shall be dismantled by the applicant if the Inspector of Buildings determines the tower to be structurally unsound and a danger to life and limb.

**6.4.3. Nontransferable.**

A special permit for an amateur radio tower is not transferable. Within 120 days of the transfer of the lot upon which the tower is situated, the new owner shall either apply for a new special permit or dismantle the tower.

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**6.5. CHILD CARE FACILITY.**

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**6.5.1. General.**

A proposal for a child care facility to be located in a new building shall be subject to the site plan review provisions of Section 9.5.

**6.5.2. Standards.**

A child care facility shall comply with the zoning requirements of the zoning district in which it is located, with the following additional requirements:

1. A child care facility proposed as new construction or in existing structures in the SRA, SRB and SRC Districts shall meet the following zoning requirements:
  - a. The minimum lot area for a facility shall be one acre;
  - b. The facility shall be located in the principal structure on the property; and
  - c. The maximum building coverage of the facility shall not exceed 3,000 square feet.
2. At least 35 percent of the minimum lot area shall be retained in open space. Open space shall mean areas without structures, parking lots, or driveways.
3. A minimum of one off-street drop-off/pickup area per 25 children shall be provided on the premises.
4. Outdoor play areas and parking lot areas located along property lines common with residential property or property zoned as SRA, SRB or SRC shall be screened with not less than a six-foot high sight obscuring fence or wall or with evergreen plants five feet in height at the time of planting.
5. A copy of the license from the Massachusetts Department of Early Education and Care or successor department or agency fulfilling substantially the same function authorizing the child care facility and indicating the number of children the facility is licensed for shall be filed with the Planning Department prior to the issuance of a certificate of occupancy.

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**6.6. EARTH MOVEMENT.**

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**6.6.1. Applicability.**

This section shall apply to the importing, exporting, or regrading of earth materials as defined in Section 10.0. Except on land in public use, no person shall conduct or cause to be made any earth movement activities for purposes not in conformity with the intent and purpose of

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Section 6.6. Earth movement activities as described above and defined shall be in accordance with one of the following procedures.

### **6.6.2. Regrading, Importing or Exporting of Earth Materials Incidental to Subdivision Development in Single Residence Districts.**

1. A special permit from the Planning Board shall be required for any earth movement undertaken in connection with the construction of streets in a subdivision. Whenever and wherever possible, cuts and fills associated with the construction of streets shall be balanced to minimize movement of materials on or off the right-of-way.
2. A special permit from the Planning Board shall be required for earth movement associated with the preparation of lots in a subdivision. Under such a permit, regrading shall be in conformity with the slope requirements set forth in Section 4.1.4.5. Changes in the final elevations from those shown on the definitive plan shall be limited to less than one foot.
3. Applications for special permits for earth movement shall, at a minimum, indicate the quantity and composition of materials to be regraded, imported or exported, the estimated number of truckloads involved, the purpose for which the materials are to be moved and the location of the site on which the earth movement will be conducted. All calculations pertaining to the quantity of earth materials involved shall be prepared and certified by a registered professional engineer.
4. Before granting any special permit under Section 6.6.2.1, 6.6.2.2, or 6.6.2.3, the Planning Board must find that the subdivision plan as a whole makes the best feasible design of existing topography, and in making such finding the Board shall take into account the magnitude of the change in topography resulting from the subdivision plan, the extent of cuts and fills, the amounts of earth materials involved, the removal of existing vegetation, the preservation and protection of significant natural topographic features such as eskers, streams, mature vegetation, and rock outcrops, and the type and size of the subdivision plan, whether it be conventional or cluster. The Board shall consider the effects on adjacent properties and streets resulting from the earth movement activities and may impose and set forth in the permit restrictions and conditions as deemed reasonable and in the public interest, including but not limited to the following:
  - a. The duration of time during which the special permit may be exercised;
  - b. The extent, depth and contours of the land;
  - c. The grades of slopes;
  - d. The proximity to any public way;
  - e. The hours during the day during which the activities may be conducted;
  - f. The hours of the day during which vehicles may be loaded or unloaded and the times during which such vehicles may enter or leave the property;



**6.6.5. Miscellaneous Earth Movement.**

A special permit from the Zoning Board of Appeals shall be required for earth movement not covered under the provisions of sections 6.6.2, 6.6.3, and 6.6.4. Regrading or importing of less than 300 cubic yards or exporting of less than 50 cubic yards of earth materials during any three-year period is allowed without special permit.

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**6.7. SOLAR.**

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**6.7.1. Purpose.**

The purpose of this Section 6.7 is to encourage and regulate the creation, construction, and operation of new solar energy installations by defining requirements for the placement, design, construction, operation, monitoring, modification, and removal of such installations that:

- a. address public safety;
- b. minimize impacts on scenic, natural, and historic resources; and
- c. provide adequate financial assurance for the eventual decommissioning of such installations.

**6.7.2. Applicability.**

Section 6.7 applies to solar energy systems proposed to be constructed after the effective date of this section, excluding those installed by or on behalf of the Town or on Town property. The section also pertains to physical modifications that materially alter the type, configuration, or size of such installations or related equipment.

The Planning Board shall act as the Special Permit Granting Authority.

**6.7.3. Standards.**

Any installation of ground-mounted solar shall meet the following standards.

1. The construction and operation of all solar energy systems shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar energy installation shall be constructed in accordance with the State Building Code.
2. Solar energy systems, ground-mounted small-scale and medium-scale, shall be allowed as an accessory use in rear yards and side yards, but not in front yards, provided that they:
  - a. Are not located nearer to any property line of the rear yard than 10 feet or the system height, whichever is greater;
  - b. Comply with the minimum setback requirements for side yards in the particular district, and
  - c. Do not exceed 15 feet in height in a residential district.

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3. Landscaping that visually buffers the solar energy system from adjacent properties, including, but not limited to, walls and fences, shall be properly maintained.
4. Solar energy systems and access drives shall not be allowed within critical habitats, wetlands and wetland buffer zones unless approved by the Conservation Commission or Massachusetts Department of Environmental Protection.

### **6.7.4. Special Permit Standards.**

In addition to the standards in Section 6.7.3, the following standards shall apply to Medium-Scale and Large-Scale Solar Energy Systems.

1. The size of a solar energy system as an accessory use within the residential and business districts shall be limited to that needed to generate energy consumed on-site on an annual basis as documented by prior energy usage and any permitted improvements within the next year and included in the special permit application.
2. For ground-mounted installations requiring a special permit, reasonable efforts, as determined by the Planning Board, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures. The Planning Board may also require that ground-mounted installations not occlude building signage or entry ways.
3. Any solar carport system for non-residential use must have a minimum clearance for emergency vehicles.
4. Lighting of ground-mounted solar energy systems shall be consistent with local, state, and federal law. Lighting of the system's components, including appurtenant structures, shall be limited to what is required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
5. Signs affixed to or associated with ground-mounted solar energy installations shall comply with section 5.2. A sign consistent with section 5.2 shall be required to identify the owner and provide an up-to-date 24-hour emergency contact phone number.
6. Reasonable efforts shall be made to place all utility connections from the solar installations underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
7. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the installation or otherwise prescribed by applicable laws, regulations, and bylaws.
8. For large-scale ground-mounted solar energy systems, height, front, side and rear setbacks shall meet the dimensional requirements of the district.

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9. The installation owner or operator of a ground-mounted solar energy system may be required to provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
10. The solar energy system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar energy installation and any access road(s), unless accepted as a public way.
11. Any ground-mounted solar energy system that has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall remove all structures associated with the solar energy system within one year of the cessation of said use. The owner or operator shall notify the Inspector of Buildings by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - a. Physical removal of all medium-scale and large-scale ground-mounted solar energy installations, structures, equipment, security barriers and transmission lines from the site.
  - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - c. Stabilization or re-vegetation of the site as necessary to minimize erosion.
12. The Planning Board may impose a condition requiring the owner/operator to post a bond or other financial surety acceptable to the Town in an amount sufficient to cover the cost of removal and disposal of the solar energy system.
13. Access driveways for large-scale ground mounted solar energy systems shall be constructed to a minimum of 20 feet wide and constructed for perimeter access. Aisle width access should be reviewed by the fire department for access for emergency vehicles with a turnaround. Access drives do not have to be paved.
14. The land area being disturbed for the installation of large-scale ground mounted solar installations shall be landscaped to minimize surface water run-off and soil erosion.

### **6.7.5. Application.**

A special permit application shall follow the provisions of sections 9.5.3 and 9.5.4.

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## **6.8. UNREGISTERED VEHICLES AND VEHICLES NOT IN CONDITION FOR TRAVEL.**

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### **6.8.1. General.**

This section shall apply to all unregistered vehicles or vehicles not in condition for travel.

### **6.8.2. Exceptions.**

The following vehicles are exempted from this Section 6.8:

1. Vehicles defined in Appendix A, Table 1, Table of Use Regulations, subsections F.9 and F.10.
2. Vehicles with current registrations and current inspection stickers; and
3. Vehicles stored in a garage or other enclosed structure.

### **6.8.3. Standards.**

Vehicles that are not currently registered and inspected shall not be stored within view of any public way or abutting residential property, unless one of the following exceptions applies:

1. One unregistered but operable vehicle may be stored in public view on a lot if it can be demonstrated that the vehicle was registered and passed inspection within the twelve-month period from the date on which the owner of the vehicle is issued written notice that the vehicle may be in violation of this section.
2. The vehicle is covered with a standard vehicle cover of a type manufactured and sold for that purpose.

### **6.8.4. Vehicle Not in Condition for Travel.**

A vehicle not in condition for travel shall be a vehicle that is in such disrepair that it is inoperable and/or is undergoing major repairs. The vehicle shall be removed from public view or from the premises within 48 hours of receipt of written notice from the Inspector of Buildings.

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## **6.9. WIND ENERGY TOWER.**

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### **6.9.1. General.**

A special permit for the construction of a tower to secure wind-energy conversion systems designed to service the principal use may be granted by the Zoning Board of Appeals in districts where authorized by Appendix A, Table 1, Table of Use Regulations, subject to the following requirements and the special permit provisions of section 9.4.

### **6.9.2. Application.**

Application for the construction of a wind-energy tower shall include the following information:

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1. A site plan certified by a registered land surveyor or registered professional engineer indicating the dimensions of the lot, the proposed tower location and distances to property lines, existing and/or proposed building locations, existing and/or proposed overhead utility lines and such other reasonable information as the Board may require to properly review the merit and safety of the proposed tower.
2. A construction plan indicating the manufacturer's specifications for the tower materials, construction details, and details for footing and guying.

### **6.9.3. Design Requirements.**

1. No tower inclusive of its appurtenant device(s) shall exceed 100 feet in height nor be erected nearer to any property line than a distance equal to the vertical height of the tower inclusive of its appurtenant device(s) measured at the mean finished grade of the tower base unless the Board determines such restriction to be unnecessary due to the shape, topography, use, or ownership of the abutting property and the Board determines that a reduction to this setback requirement will not substantially derogate from the intent or purpose of this subsection.
2. The tower shall be erected in a manner to inhibit unauthorized access, either in the form of a suitable locked gate and fence surrounding the base of the tower, an unclimbable section of tower to a height of 10 feet above the ground or other means determined suitable by the Board.

### **6.9.4. Operating Requirements.**

1. The operation of any device authorized by the Board shall not cause interference to neighboring television and radio reception, and, if such occurs any time after installation, the applicant shall, in a timely manner and at their expense, correct the cause of the interference as determined by a qualified engineer/technician.
2. The operation of any device authorized by the Board shall not emit noise in excess of the background noise levels measured at the applicant's property lines, and, if such excess noise occurs any time after installation, the applicant shall, in a timely manner and at their expense, correct the cause of the noise as determined by a qualified engineer/technician.
3. The applicant shall maintain the tower and all devices authorized by the Board in a manner that ensures its continued performance and safety. It shall be the responsibility of the applicant to annually inform (in writing) the Inspector of Buildings that the tower and all devices are in good operating condition and in continued use.
4. The tower shall be dismantled by the applicant if:
  - a. The use of the tower and its devices is discontinued for a period of two years; or
  - b. The Inspector of Buildings determines the tower to be structurally unsound and a danger to life and limb; or

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- c. The land upon which the tower is situated is transferred and the new owner does not receive a new special permit for the tower within 90 days of transfer of the property; or
- d. For any reason the applicant is unable to correct in a timely manner the interference or excessive noise referred to herein.

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### **6.10. WIRELESS COMMUNICATION FACILITIES OR OTHER SIMILAR COMMUNICATIONS USE.**

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#### **6.10.1. Applicability.**

The Zoning Board of Appeals may issue a special permit for a wireless communications facility or other similar communications use as defined herein in districts where allowed by Appendix A, Table 1; Table of Use Regulations, excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district.

For purposes of Section 6.10, wireless communications facilities do not include the following accessory uses or structures:

1. antennae or dishes used solely for residential household television and radio reception;
2. antennae or dishes used for commercial or public purposes that are not visible from any neighboring property or public way;
3. dishes used for those purposes measuring 39 inches or smaller in diameter; and
4. amateur radio facilities actively used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission (FCC), provided that the tower is not used or licensed for any commercial use.

Amateur radio facilities shall be subject to the requirements of Section 6.4. All other wireless communications facilities or other similar communications uses shall be subject to the following standards and conditions.

#### **6.10.2. Design Standards.**

Design provisions for such facilities shall include, but are not limited to, the following:

1. *Setback and Height.* Towers, antenna, antenna support structures and other vertical elements of wireless communications facilities situated on property abutting a residential district or on a lot in residential use, or upon property in a residential district shall be set back from the nearest residential lot line, even if that lot line is in another municipality, a horizontal distance at least equal to three times their vertical height. In all districts, the height of wireless communications towers shall not exceed 125 feet above the ground. In all districts the height of a ground-mounted dish antenna shall not exceed 18 feet measured from the mean finished grade of the base.
2. In non-residential districts, the Special Permit Granting Authority may allow a lesser setback or greater height if such modification provides adequate safety, promotes co-location or improves design, and will not significantly impact the character and

## SECTION 6

appearance of the neighborhood. In making a request for a lesser setback, the manufacturer or qualified licensed designer shall certify that the tower is designed to collapse upon itself in the event of failure. The Special Permit Granting Authority may also allow lesser setbacks necessary to allow for the use of an existing structure.

3. No new wireless communication facility tower shall be used that involves a lattice construction, requires three or more legs and/or requires guy wire supports.
4. No tower or other facility shall contain any signs or other devices for the purpose of advertisement.
5. The visible portions of support facilities and structures such as vaults, equipment buildings or enclosures and utilities shall be constructed out of and/or furnished with non-reflective materials.
6. All towers, antenna, antenna support structures, and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings, and structures in the surroundings; provided, however, that such facilities located on the exterior of a building shall be of colors that match and/or blend with those of the building.
7. All building-mounted facilities shall be designed and located so as to appear to be an integral part of the existing architecture of the building.
8. All electronic and other related equipment and appurtenances necessary for the operation of any wireless communication facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. When a new structure is required to house such equipment, the siting, design and materials of the structure shall be harmonious with, and blend with, the natural features, buildings and structures in the surroundings.
9. All satellite dishes shall be of mesh construction, unless technical evidence is submitted demonstrating that this requirement is infeasible. Microwave dishes are exempted from this provision.
10. All wireless communications facilities shall be protected against unauthorized climbing or other access by the public. No barbed wire fencing will be acceptable. Access to the pole shall be by cherry picker only to limit inviting unauthorized access.
11. Whenever feasible, design and siting of towers shall avoid the need for application of Federal Aviation Administration (FAA) lighting and painting requirements. Except as required by the FAA, towers shall not be artificially lighted. If lighting is required, lighting shall not be visible from ground level. Provide light shielding or baffling as required to eliminate light spread on or within setback distances.
12. The application shall include eight view lines shown in a one-mile radius from the site, beginning at true north and continuing clockwise at 45 degree intervals. The view lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings, or facilities. The submittal shall include unaltered photographs taken from eye level (five feet above grade) that show the existing condition of these view lines, as well as accurate scale perspective

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elevation drawings, computer-altered photographs or other accurate representations showing the view lines with the facility in place.

### **6.10.3. Application.**

The application for a facility shall include the following information:

1. A landscape plan identifying all existing vegetation and indicating which vegetation is to be retained on the site, and showing all proposed new vegetation and other landscape treatments.
2. A site plan prepared by a registered land surveyor or registered professional engineer showing the dimensions of the lot or site; the location of the proposed facility with distances to property lines; existing and/or proposed buildings on or adjacent to the lot or site; existing utility lines, and such other information as the Board may require to properly review the application. The plans shall indicate all property abutters within 300 feet of the site line as mandated by G.L. c. 40A, s. 11.
3. Towers equipped with generators shall be reviewed by a Sound Consultant hired by the Applicant. A certified report assuring acceptable noise levels based on the proposed installation shall be submitted with the application.
4. A report by a qualified Radio Frequency Engineer relating to (1) a claimed substantial gap in coverage, (2) the proposed facility's compliance with applicable Federal Communication Commission, Massachusetts Aeronautics Commission and Federal Aviation Commission requirements, and (3) coverage maps that include all of the applicant's existing and planned towers, antennas, micro-cells and repeaters in the coverage area and abutting municipalities.
5. Evidence that there is no alternative site that is available and technically feasible in Andover or an abutting municipality. Such evidence shall include an analysis by a qualified Radio Frequency Engineer of the gaps in coverage if other sites were to be used. If there is an alternative site that would provide a location to close the purported substantial gap in coverage, then the applicant must document all efforts, and results thereof, to evaluate, and obtain rights to use the alternative site.
6. Evidence that the applicant has analyzed the feasibility of using "repeaters", microcells, or other available technology to provide coverage to the intended service area.
7. The applicant shall provide written documentation of any facility sites in the town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these facility sites do not already provide, or do not have the potential to provide by site adjustment, adequate coverage.
8. A copy of the most recently recorded plan and deed for the property on which the Facility will be placed and specific documentation which shows that the applicant has the legal authority by way of ownership, purchase and sale agreement, lease or otherwise, to use the subject property for the intended purpose.

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9. Certification by a structural engineer that the proposed Wireless Communications Facility is structurally sound.
10. Design details for the foundation of a proposed tower, the connection of the proposed tower to the foundation and the breakaway points of the proposed tower.
11. A balloon or crane test, and a report thereon as to the aesthetic effect of a proposed tower, are required for a proposed tower. Within two weeks following the first public hearing, a test shall occur in accordance with the following requirements. The applicant shall notify the Special Permit Granting Authority at least five business days in advance of such test.
  - a. A three-foot diameter brightly colored balloon or crane shall be at the maximum height and at the location of the proposed tower.
  - b. The balloon or crane will remain in place for at least eight hours during daylight hours.
  - c. At least five business days prior to the test, the applicant shall cause notice of the test to be published in a newspaper of general circulation in the town.

### **6.10.4. Co-location.**

All new wireless communication facilities shall be co-located, to the maximum extent practicable and technologically feasible, with one or more existing wireless communications facilities, towers, buildings or other structures whose height, locations and characteristics meet the needs of the proposed facility.

1. All new wireless communication towers or support structures shall be designed, to the maximum extent practicable and technologically feasible, for co-location of antennas and other necessary facilities for at least three other wireless communications providers, shall offer space to all other providers at market rates, and shall provide for towers that can be extended upward. Any special permit granted for a new facility under this section may be conditioned upon the written agreement of the facility operator to allow the co-location of other wireless communication providers on commercially reasonable terms.
2. Any applicant proposing not to co-locate their facility or proposing to locate their facility in a residential district shall provide written evidence and documentation demonstrating why it is not feasible for their facility to be co-located with existing facilities or sited in other, non-residential districts. Applicant shall be prepared to submit more than one option based on the above. The Town will have an independent Radio Frequency Engineer review optional proposed location to determine its necessity. The Town will have the option of back charging the applicant for the associated fees.

### **6.10.5. Frequencies.**

All telecommunications facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies, power levels and standards, including FCC Radio Frequency Emissions standards. The applicant shall provide certification demonstrating that the maximum allowable frequencies, power levels and standards will not be exceeded.

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Certifications shall include technical specifications, a written explanation of those specifications, and, if necessary, field verification.

The Permit Granting Authority may condition any special permit granted under this section upon a periodic submittal of certification of compliance with said standards. As is required by the Federal Telecommunications Act of 1996, there may be no regulation of the telecommunication facilities on the basis of the environmental effects of radio frequency emissions, other than as required by the Federal Communications Commission.

### **6.10.6. Repair and Upkeep.**

All wireless communications facilities shall be maintained in good order and repair. Paint finishes shall be maintained and repaired when blemishes are visible from the property line. The applicant shall provide an inspection schedule, and shall file copies of inspections with the Inspector of Buildings.

### **6.10.7. License and Permits.**

The operator of every wireless communications facility shall submit to the Inspector of Buildings copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility, and shall maintain the licenses and permits and provide evidence of renewal or extension thereof when granted.

### **6.10.8. Removal.**

All structures associated with a wireless communications use shall be removed within one year of the cessation of the use. If applicable, an annual certification demonstrating continued compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute, including provisions for required maintenance, shall be filed with the Inspector of Buildings by the permit holder.

### **6.10.9. Post Bond or Other Financial Surety.**

Prior to the issuance of a building permit for a wireless communications use, the applicant shall post and submit a bond or other financial surety acceptable to the Town in an amount sufficient to cover the cost of demolishing and/or removing the facility in the event the Inspector of Buildings condemns the property or deems it to have been abandoned or vacant for more than one year. This amount shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. In the event the posted amount does not cover the cost of demolition and/or removal, the Town may place a lien upon the property covering the difference in cost.

### **6.10.10. Modifications by Special Permit Granting Authority.**

The Special Permit Granting Authority may modify any provision of these standards if it can be demonstrated that it is technically infeasible to meet these standards or conditions, or that their effect is to prohibit the proposed use throughout the town, or if such modification will promote use of existing buildings or structures, co-location of wireless communications uses, improved safety or design, or otherwise promote the purposes of Section 6.10.

### **6.10.11. Modifications by Applicant.**

The Applicant shall not add equipment to an existing tower without reapplying for the additions and submitting revised emission levels below current safety guidelines.

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### **6.10.12. Notice of Settlement Discussion.**

At least 10 days prior to each public hearing of the Special Permit Granting Authority where a public discussion is to occur regarding any proposed settlement of pending litigation relating to an application under this section, the Special Permit Granting Authority shall send notice of such public discussion by first class mail to all abutters within 300 feet of the proposed Facility.

### **6.10.13. Report of Compliance.**

Prior to operation of the Facility, an engineer must submit a report to the Building Inspector, stipulating that the Wireless Communication Facility as constructed complies with the Federal Communications Commission requirements and was constructed in accordance with the plans as approved by the Special permit Granting Authority. This report shall be submitted within 10 days of completion of construction of the Facility.

## SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

### 7.1. AFFORDABLE HOUSING – DIMENSIONAL SPECIAL PERMIT.

#### 7.1.1. Purpose and Intent.

The purpose of this Section 7.1 is to encourage the development of affordable housing in the Town of Andover by increasing the supply of housing in the town that is available to low and moderate-income households. This Section 7.1 gives the Zoning Board of Appeals authority to issue a special permit modifying dimensional standards for the use of existing nonconforming lots for purposes of affordable housing as defined herein.

#### 7.1.2. Standards and Regulations

The following specific standards shall be applied to a dimensional special permit for affordable housing:

1. At least 90 percent of the area of the lot shall be comprised of contiguous uplands.
2. The lot shall be served by municipal sanitary sewer and water. In the event municipal sewer is not available, the lot shall be capable of supporting an on-site sewage disposal system.
3. There may not be more than one single-family dwelling on the lot.
4. No dwelling unit may contain more than 2,000 square feet of living area, exclusive of garage space.
5. The Zoning Board of Appeals may establish setback requirements that are compatible with adjoining properties.

#### 7.1.3. Findings Required.

In addition to the findings required under Section 9.4.2. of the Zoning Bylaw, the permit granting authority shall consider the following specific items:

1. That the modification of dimensional requirements is necessary to accomplish the purpose and intent of this Section 7.1.
2. That the proposed dwelling is compatible with the existing neighborhood with regard to size and architecture.
3. That in the absence of a special permit, the use of an existing nonconforming lot would not be available for affordable housing.

#### 7.1.4. Conditions To Be Imposed.

If the Zoning Board of Appeals grants the special permit, it shall impose as conditions of approval, the following:

1. In the event of a catastrophic event which results in damage to the affordable dwelling such that it cannot be repaired, the owner may rebuild on the lot, provided that the

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new dwelling does not contain more than the same interior floor area as the original dwelling, and meets one of the following requirements:

- a. The new dwelling is placed in the same footprint as the original structure; or
  - b. The new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of the rebuilding.
2. The owner shall record with the North Essex Registry of Deeds an affordable housing restriction in the form approved by the Zoning Board of Appeals, and approved and endorsed by the Director of Housing and Community Development in accordance with G.L. c. 184, §§31- 32. The restriction shall include, but not be limited to the following conditions:
- a. The residential unit shall serve households with household income at or below 80 percent of the area median income.
  - b. The residential unit shall have a deed restriction and resale formula that keeps the unit permanently affordable.
  - c. The sale of the unit shall be subject to an affirmative and fair marketing plan.
  - d. Any mortgagee shall subordinate its mortgage to this restriction.
3. When the decision of the Zoning Board of Appeals on the application for a dimensional special permit for affordable housing has become final, the notice of decision and the approved and endorsed affordable housing restriction with any required mortgagee subordination shall be recorded concurrently with the Essex North District Registry of Deeds.

### **7.1.5. Application Requirements and Procedure.**

1. Submission requirements shall be in accordance with the Zoning Board Rules and Regulations. The provisions of Sections 9.4.1. through 9.4.7. of the Zoning Bylaw shall apply to the application, hearing, decision, conditions, and lapse of a dimensional special permit for affordable housing.
2. A dimensional special permit issued under this Section 7.1 shall contain an account of all required findings and considerations made by the permit granting authority in its decision to allow the exception(s).

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## **7.2. CLUSTER DEVELOPMENT.**

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### **7.2.1. General.**

The Planning Board may grant a special permit for the construction and occupancy of a cluster development on a tract of land of 10 acres or more, in any single residence district other than the Single Residence A District, subject to the following regulations and conditions of Section 7.2.

### **7.2.2. Dimensional Requirements.**

1. *Open Space and Lot Area.* The total area of common open space (see Section 7.2.4 below) plus all lots in a cluster development shall not be less than the product of the total number of lots times the minimum lot size for the zoning district in which the development is located, and in no case shall an individual lot have less than 2/3 of the required lot size for the zoning district in which the development is located.
2. *Minimum Lot Frontage.* The minimum frontage of any individual lot shall be 100 linear feet measured at the street line.
3. *Reduced Lot Frontage or Lot Area.* Only lots fronting on a proposed "minor" street (a turn-out street, cul-de-sac or dead-end street) may have reduced lot area as per Section 7.2.2.1 above and/or a minimum lot frontage of 100 feet measured at the street line.
4. *Conformance to Frontage and Area Requirements.* All lots on existing Town or public ways or lots abutting proposed major streets of the development (as defined in the Subdivision Rules and Regulations) shall conform to the frontage and area requirements of the zoning district in which the development lies. The provisions of this Zoning Bylaw amendment shall not apply to those lots approved prior to the adoption of this amendment pursuant to the provisions of G.L. c. 40A and 41 and the Rules and Regulations governing the subdivision of land in the Town of Andover.
5. *Reduction in Side Yard.* In consideration of a special permit for a cluster development under this section, the Planning Board may approve a reduction in the minimum side yard depth to 20 feet.

### **7.2.3. Cluster Subdivision contrasted with Conventional Subdivision**

The applicant shall demonstrate to the Planning Board the reason or reasons why a cluster subdivision plan should receive favorable action by the board on the special permit application. The applicant shall submit a narrative statement regarding the advantages of a cluster subdivision plan as well as a sketch plan of the conventional subdivision at a scale of either one inch equals 40 feet or one inch equals 100 feet.

The narrative statement shall indicate the potential maximum number of buildable lots and dwelling units for each type of subdivision. The maximum density of a cluster subdivision shall not exceed the maximum allowed density for a conventional subdivision. The sketch plan is meant to be conceptual in nature but shall be realistic in its response to existing topography, wetlands, floodplains, or where potential building lots or roads would not ordinarily be permitted by right in a conventional subdivision layout.

### **7.2.4. Common Open Space.**

All land not designated for roads, lots for dwellings or other development within the development shall be held for common open space. Common open space shall be preserved for recreation or conservation and shall comprise not less than 30 percent of the land within the cluster development; provided, however, that proposed common open space areas deemed by the Board to be inappropriate for the uses of recreation, protection of significant natural features or buffering due to size, shape or location of such space or area shall be excluded from the computation of required common open space areas.

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1. *Conveyance.* Common Open Space shall be conveyed to one of the following:
  - a. The Town of Andover and accepted by it for park or common open space use; or
  - b. To a nonprofit organization, the principal purpose of which is the conservation of common open space; or
  - c. To a corporation or trust owned or to be owned by the owners of lots or residential units within the development, articles of corporation or trust to be legally drawn up and available for review by Planning Board prior to final approval of the plan. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units.

In any instance where Common Open Space is not conveyed to the Town, a restriction enforceable by the Town of Andover shall be recorded providing that such land shall be kept in an open or natural state and not be built upon or developed for accessory uses such as parking or roadway. All Common Open Space shall be restricted by deed from all future building. Before final approval of the special permit by the Planning Board, the developer shall state which of the three conveyance options above is being proposed, and the disposition, if approved, shall be recorded as a restriction on the development plan with the Essex North Registry of Deeds

2. *Pedestrian Accessways.* The Board may require the provision or reservation of pedestrian/bicycle accessways of suitable width and in locations suitable for pedestrian/bicycle movement of different types connecting common open space areas within the cluster subdivision or to other adjacent open spaces and neighborhoods, or to public rights-of-ways.

### **7.2.5. Special Permit.**

The Planning Board shall approve a special permit for a cluster development only if it finds that the proposed disposition of lots and buildings under the particular circumstances involved will make more efficient the provision by the Town of health, safety, protective and other services without causing substantial detriment to the character of the neighborhood. In its consideration of a plan being proposed as a cluster subdivision, the Board shall give particular attention to, and may use as a basis for its decision, the following criteria:

1. The arrangement of lots, streets and buildings as they may promote the harmonious integration of the proposed development with existing surrounding properties;
2. Originality in the overall layout and design to achieve the best possible relationship between the proposed development and the land;
3. Usability of open spaces for active or passive recreation, determined by size, shape, topography and location;
4. Inclusion within open spaces of irreplaceable natural features such as streams, mature trees or clusters of trees, rock outcrops, eskers, bluffs, slopes and historic or archaeological features;

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5. Accessibility of open spaces to people with disabilities, older adults, and children, and that meet the requirements of the Massachusetts Architectural access Board and the Americans with Disability Act;
6. Suitability of open spaces for scenic values and improvement or preservation of views.

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### **7.3. HOUSING FOR OLDER ADULTS.**

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#### **7.3.1. Purpose.**

The objectives of this Section 7.3 are to achieve the following public purposes:

1. To provide for the development and use of alternative housing and nursing care for older adults in accordance with the Town's Master Plan.
2. To create home health care, housing, and other supportive services for older adults outside of an institutional setting.
3. To encourage the preservation of open space.
4. To provide alternative housing for older adults that cause relatively little demand on Town services.
5. To preserve the town's residential and architectural character.
6. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space.
7. To provide housing that is affordable to older adult residents of Andover.

#### **7.3.2. Applicability.**

1. The Planning Board, as the special permit granting authority (SPGA), may grant a special permit for housing for older adults as described in Section 7.3.
2. This section shall not apply to assisted living residences existing on the date of adoption of this section.

#### **7.3.3. Assisted Living Residences — Dimensional Requirements and Design Standards.**

Dimensional requirements and design standards shall be as follows:

1. *Minimum Lot Size.* An assisted living facility shall be permitted in a SRA and SRB District only within a single lot containing a total area of not less than five acres. In the MU District, the minimum lot size shall be two acres. There shall be no minimum lot size required for the GB District.
2. *Density.* The maximum allowable density shall be 3,000 square feet of lot area per assisted living unit.

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3. *Building Height.* Any addition or new construction shall not exceed 35 feet in height as measured in accordance with the State Building Code or three stories. This does not preclude the reuse and renovation of existing structures that may exceed this height limit.
4. *Building Coverage.* The maximum building coverage, including accessory buildings, shall not exceed 30 percent of the lot area for new construction or expansion of existing structures.
5. *Building Setbacks.* In the SRA and SRB Districts, buildings shall be set back a minimum of 50 feet from all property lines. In the MU District, the building setback will be 20 feet. Buildings in the GB District shall be setback as required in Section 4.1.4.2.b of this Bylaw.
6. *Setback from Residential Dwellings.* In the SRA and SRB Districts, all buildings associated with the assisted living facility shall be set back a minimum of 200 feet from existing residential dwellings; however, with respect to accessory structures not greater than 300 square feet in said districts, the SPGA, in its discretion, may reduce the setback by an amount to no closer than 100 feet if it determines that the structure will not adversely impact the use and enjoyment of the existing residential dwelling. In the MU and GB districts, the setback shall be 50 feet.
7. *Minimum Lot Frontage.* The minimum lot frontage shall conform to the requirements of the district where assisted living residence use is located.
8. *Town Services.* Assisted living residences shall be serviced by public water and sewer of sufficient capacity to serve the project. Any extension and/or replacement of sewer and/or water lines necessary to provide sufficient capacity shall be the responsibility of the applicant.
9. *Transportation Services.* The operator of the assisted living residence shall be required to provide or arrange for transportation to Town services and facilities for the residents.
10. *Common Open Space:* In the SRA and SRB Districts, there shall be an area of common open space equal to at least 30 percent of the lot area. The common open space shall be retained in perpetuity for conservation or passive recreation use. No more than 25 percent of the minimum required open space shall be situated within wetlands. A permanent conservation restriction as approved by Town Counsel and the Secretary of the Executive Office of Energy and Environmental Affairs pursuant to G.L. c. 184 § 32 shall be recorded for the common open space area and shall include restrictions that the land be retained in perpetuity for conservation and/or passive recreation.
11. *Parking.* The minimum number of parking spaces provided on the lot shall be 0.4 parking space per assisted living unit plus one parking space per three employees during the largest shift. Up to 25 percent of the minimum number of required spaces may be allocated for compact cars in accordance with the design standards of Appendix A, Table 3 this Bylaw. The Planning Board, in its discretion, may require additional parking spaces to serve the needs of employees, visitors and service

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vehicles, such spaces to be provided in a "reserve parking area" that would not be built unless determined necessary by the Inspector of Buildings. Parking shall meet the requirements of the Massachusetts Architectural Access Board and the Americans with Disabilities Act.

12. *Access and On-site Circulation.* Adequate on-site circulation shall be provided to and from the site, taking into consideration the adjacent sidewalks and streets and accessibility of the site and building(s) for emergency vehicles. Adequate provision shall be made for off-street loading and unloading requirements of delivery vehicles and passengers using private transportation.
13. *Public Safety.* The facility shall also have an integrated emergency call, telephone and other communication system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Andover Fire Department for the emergency evacuation of residents with emphasis on ensuring the safety of residents with physical impairments.
14. *Landscaping.* Landscaping and screening shall be required to obscure visibility from beyond the boundaries of the premises of parking areas, dumpster locations, and loading areas. In the SRA and SRB Districts, the minimum setback from all property lines of parking lots, dumpster locations, and loading areas except for their points of ingress and egress, shall be 15 feet.

### **7.3.4. Assisted Living Residences — Affordability.**

1. Except as provided in Sections 7.3.4.7 and 7.3.4.11, 15 percent of the total number of assisted living units shall be set aside as affordable housing units for older adults who qualify as low, moderate, or upper-moderate income persons as defined in Section 10.
2. In determining the total number of affordable units required, a fractional unit of 0.5 or more shall be regarded as a whole unit. To the extent legally permissible, the affordable units shall be offered to eligible Andover residents before being offered to non-Andover eligible persons.
3. The affordable units may be rented, sold, or otherwise provided to qualified older adults in accordance with income and asset limitations established by the authorizing state or federal agency in those instances where the affordable units benefit directly from such assistance, or in the absence thereof pursuant to the definitions of income and assets established for the Low-Income Housing Tax Credit program, or pursuant to the standards promulgated by the SPGA.
4. Affordable units shall be dispersed throughout the building(s) and shall be compatible with and generally comparable to the market-rate units in terms of location, quality, and character.
5. Affordable units shall be set aside in a manner representing all three income levels as follows: 20 percent shall serve low income persons, 50 percent shall serve moderate income persons and 30 percent shall serve upper-moderate income persons.
6. Although eligibility for the affordable units shall be determined by reference to income and assets of the prospective residents, the affordable units shall be

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considered affordable only if they are restricted in the amount of monthly rent or other monthly charges for the unit based upon a percentage of the applicable median income. For purposes of computing the monthly rent or other monthly charges for the unit, there shall be excluded any special charges for extra or specialized services that are not provided to the general population of the project but are unique to the particular needs of an individual resident.

The standards of affordability for proposed projects, including, without limitation, the methods of determining and maintaining eligibility, the percentage of applicable median income used for limiting the monthly amounts charged for the affordable units and any variations in the percentages of median income in the three income levels shall be set and revised from time to time by the SPGA provided said standards are consistent with appropriate federal and state standards.

7. At the discretion of the SPGA, the applicant may be permitted to set aside a lower percentage of affordable units, but in no case less than 10 percent of the units, if, in the opinion of the SPGA, the applicant has demonstrated that public subsidies ( such as public or low interest financing; tax benefits; and Town-provided subsidies such as provision of services, real estate tax abatements, reduced assessments, or reductions of water and sewer charges with respect to the affordable units) are unavailable or inappropriate and/or the provision of the required percentage of affordable units will threaten the viability of the project without some form of relief. Under these circumstances, or in order to encourage an applicant to exceed the required percentage of affordable units, the SPGA may:
  - a. Provide a density bonus whereby the total number of allowable units computed hereunder ("Maximum allowable units") may be increased by an amount of additional units determined by the SPGA, not to exceed 25 percent of the maximum allowable units. Any additional units granted by the SPGA as a density bonus shall be market units and shall not cause a corresponding increase in the number of required affordable units;
  - b. Permit higher percentages of units to be offered to moderate or upper-moderate-income persons; or
  - c. Permit the applicant to make a cash or other contribution to the Town or its designee for use by the Town in (1) providing or subsidizing affordable housing for low, moderate, and upper-moderate-income older adults as defined in Section 10, or (2) providing other facilities or services for older adults.
8. Affordability restrictions shall be embodied in applicable deed covenants, contractual agreements, and/or other mechanisms to ensure compliance with this section.
9. All affordable units shall be maintained as affordable housing units for the life of the assisted living facility.
10. Prior to the issuance of any building permit for any units, a clearance certificate shall be required to be issued by the Planning Department indicating compliance with this subsection. No clearance certificate shall be issued for any units until:

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- a. All documents necessary to ensure compliance with this subsection including, without limitation, the documents referred to in Section 7.3.4.8 have been executed and, if required, recorded with the Registry of Deeds; and
  - b. Any required cash or other contribution has been made to the Town or its designee.
11. Nothing in this subsection shall preclude a developer from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups or from setting aside more units for lower-income groups.

### **7.3.5. Assisted Living Residences — Accessory Uses.**

The operator of the assisted living facility may also provide optional services on the site for the convenience of residents, including but not limited to transportation, barber/beauty services, sundries for personal consumption, laundry services, and other amenities, provided such uses serve primarily the residents and staff of the assisted living residence and the accessory uses shall be wholly within a residential structure and shall have no exterior advertising display.

### **7.3.6. Long-term Care Facilities — Dimensional Requirements and Design Standards.**

1. *Building Coverage.* The maximum building coverage, including accessory buildings, shall not exceed 30 percent of the lot area for new construction or expansion of existing structures.
2. *Building Setbacks.* Buildings shall be set back a minimum of 50 feet from all property lines.
3. *Setback from Residential Dwellings.* All buildings associated with the long-term care facility shall be no closer than 200 feet from existing residential dwellings.
4. *Minimum Lot Frontage.* The minimum lot frontage shall conform to the requirements of the district where such use is located.
5. *Town Services.* Long-term care facilities shall be serviced by public water and sewer of sufficient capacity to serve the project. Any extension and/or replacement of sewer and/or water lines necessary to provide sufficient capacity shall be the responsibility of the applicant.

### **7.3.7. Congregate Living Facilities — Dimensional Requirements and Design Standards.**

The provisions for assisted living residences, Sections 7.3.3 to 7.3.5 inclusive, shall apply.

### **7.3.8. Independent Living Residence — Dimensional Requirements and Design Standards.**

1. *Conversion.* The provisions of Section 7.7.2 for conversion of a one- or two- or more family dwelling, shall apply.
2. *Parking Requirements.* The provisions of Appendix A, Table 3, Section A.5.d shall apply.

**7.3.9. Special Permit Procedure.**

1. Submission requirements and procedures shall be in accordance with Section 9.4 and the Planning Board's Rules and Regulations.
2. Before acting on the application, the SPGA shall submit it to the Design Review Board, which shall submit recommendations as it deems appropriate to the Planning Board. Failure to make recommendations within 30 days of receipt shall be deemed lack of comment or opposition. For DRB review of housing for older adults in General Business and Mixed Use Districts, see also Sections 9.6.2 and 9.6.3.

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**7.4. HISTORIC PRESERVATION – DIMENSIONAL SPECIAL PERMIT.**

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**7.4.1. Purpose and Intent.**

The purpose of this Section 7.4 is to encourage the preservation of buildings, structures, sites and settings of historic significance, by allowing such buildings or features to remain in place or be moved to another location rather than be demolished or otherwise compromised. This Section 7.4 gives the Zoning Board of Appeals the authority to issue a special permit modifying certain dimensional standards for the creation of new lots, or for the use of existing lots, for purposes of preservation of historic structures or buildings as defined herein. A special permit for historic preservation shall apply only to the lot on which the historic building or structure is or will be located pursuant to the special permit and to any new lot created pursuant to the provisions of Section 7.4.4.7 below that does not meet the dimensional requirements of Section 4.1.2 (the "Table of Dimensional Requirements").

The Zoning Board of Appeals shall be the special permit granting authority (SPGA).

**7.4.2. Historic Structures.**

For purposes of a dimensional special permit for historic preservation the historic building or structure must be listed on one of the following:

1. The National Register of Historic Places;
2. The State (Commonwealth of Massachusetts) Register of Historic Places; or
3. The Andover Historic Building Survey.

**7.4.3. Standards and Regulations.**

The following specific standards shall be applied to a Dimensional Special Permit for Historic Preservation:

1. The parent parcel shall be located in the SRA, SRB, or SRC Zoning District. As used in this Section 7.4, the Parent Parcel is the parcel of land that is the subject of the application for a dimensional special permit for historic preservation.
2. Any Host Lot created under this Section 7.4 shall contain not less than the minimum lot area listed below. As used in this Section 7.4, a Host Lot is the lot on which the

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historic building or structure is currently located, or, if the historic structure is to be moved from another location, the lot on which the historic structure is to be located. A Host Lot may be the entire parent parcel, or it may be created by the division of the parent parcel into a host lot and one or more new lots. A New Lot is any lot or lots, created by the division of the parent parcel, that is not a Host Lot. The minimum lot area shall be contiguous upland, free of wetlands.

- a. In the SRA District: one-half the minimum lot area for the SRA District, as set forth in Section 4.1.2 of this Bylaw.
  - b. In the SRB District: one-half the minimum lot area for the SRB District, as set forth in Section 4.1.2 of this Bylaw.
  - c. In the SRC District: one-half the minimum lot area for the SRC District, as set forth in Section 4.1.2 of this Bylaw.
3. Lot frontage and minimum yard depths for a Host Lot created under this Section 7.4 shall be as follows:
- a. In the SRA District:
    - i. Frontage: 50 feet.
    - ii. Minimum yard depth: front: 25 feet or the current setback whichever is less; side: 10 feet; rear: 30 feet;
  - b. In the SRB District:
    - i. Frontage: 75 feet;
    - ii. Minimum yard depth: front: 35 feet or the current setback whichever is less; side: 15 feet; rear: 30 feet;
  - c. In the SRC District:
    - i. Frontage: 100 feet;
    - ii. Minimum yard depth: front: 35 feet or the current setback whichever is less; side: 20 feet; rear: 30 feet;
4. Any Host Lot or New Lot created under this Section 7.4 shall have its required frontage on a public way as measured at the street line.
5. Any Host Lot or New Lot created under this Section 7.4 in the Single Residence A (SRA) or Single Residence B (SRB) Zoning District shall be served by municipal sanitary sewer and water.
6. Any Host Lot or New Lot created under this Section 7.4 in the Single Residence C (SRC) Zoning District shall be served by municipal water, and if sanitary sewer is not available, the lot shall be capable of supporting an on-site sewage disposal system, or in the event that the lot is not serviced by municipal sanitary sewer and water at the time of the Zoning Board hearing, but the Zoning Board finds that sewer and water

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service will be available, the Zoning Board shall make as a condition of its approval that no occupancy permit shall issue until the lot is serviced by municipal sanitary sewer and water.

7. No New Lot shall be created that does not meet the dimensional requirements of the district in which it is located, as set forth in Section 4.1.2 of the Zoning Bylaw (the "Table of Dimensional Requirements"), including, but not limited to, lot area, frontage and minimum yard depths.
8. If the Parent Parcel is to be divided so as to create more than one Host Lot, a separate, related application for an Historic Preservation – Dimensional Special Permit shall be filed for each additional Host Lot and its associated historic building or structure.
9. A vacant existing nonconforming lot that is to become a Host Lot without further subdivision need not meet the standards set forth in Subsections 1 through 3 above; however, the provisions of Subsections 4 and 5 shall apply.
10. The Zoning Board of Appeals shall determine whether or not an historic structure or building can be placed on a lot without detrimental effect on abutting properties or the street on which the lot has its frontage.
11. If a New Lot is to be created from the Parent Parcel, the design of the new structure to be built on the New Lot shall be submitted to the Andover Preservation Commission, which shall review the design of the new structure, including factors relating to building massing, materials, siting, dimensions, and setbacks as these factors relate to compatibility with the existing neighborhood. Approval of the design by the Andover Preservation Commission shall be required prior to the issuance of a building permit for the new structure.

### **7.4.4. Findings Required.**

Priority in granting an Historic Preservation – Dimensional Special Permit shall, in all cases, be placed upon keeping buildings and structures in place, rather than moving them to other locations, provided that the existing site can be shown to represent valid historical setting and context. Moving of structures or buildings to other locations shall be considered only if no other preservation measures are practical or reasonable on the existing site, or if the proposed removal is to return a building or structure to an original or more historically accurate location.

In addition to the findings required under Section 9.4.2 of the Zoning Bylaw and the foregoing standards and regulations, the Zoning Board of Appeals shall consider the following specific items in determining whether to grant an Historic Preservation – Dimensional Special Permit:

1. That the modification of dimensional requirements is necessary to protect, preserve, or maintain an historic structure or building. Factors to be considered shall include the historic significance of the structure or building, the physical condition of the structure or building, and the extent and cost of repairs and renovations necessary to preserve the historic structure or building.

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2. That the proposed work, including any relocation or reconstruction, preserves to the maximum extent feasible, the historical and architectural features of the structure or building;
3. That in the absence of an Historic Preservation – Dimensional Special Permit, destruction of an historic structure or building will likely result.
4. The report of the interdepartmental review team.
5. The report of the Andover Preservation Commission and any applicable Historic District Commission, including recommended conditions relating to the repair, restoration or modifications to the existing historic structure, as set forth in Section 7.4.5.

### **7.4.5. Conditions To Be Imposed.**

If the Zoning Board of Appeals grants the Historic Preservation – Dimensional Special Permit it shall impose, as minimum conditions, the following:

1. Conditions relating to the repair, restoration, or modifications to the existing historic structure, including a schedule of work to be performed, sufficient to ensure the preservation and integrity of the historic structure and to prevent deterioration due to neglect or disuse, intentional or otherwise. Such conditions shall provide that existing historic structures be secured and maintained in a good state of repair until such time as restoration work is commenced or it is moved to the Host Lot.
2. If, in the event a fire, explosion, or other catastrophic event, there is damage to the historic structure such that the historic structure cannot be repaired, then following the approval and recording of the historic preservation restriction as provided for in § 7.4.5.8 below, the owner may rebuild on the Host Lot, provided that the new structure does not contain more than the same interior floor area as the historic structure and meets one of the following requirements:
  - a. The new structure is placed in the same footprint as that occupied by the historic structure; or
  - b. The new structure is built in conformity with the applicable front, side and rear setback requirements in effect at the time of rebuilding as set forth in Section 4.1.2 (the "Table of Dimensional Requirements").

If a new structure is to be built pursuant to either (a) or (b) above, the design of the new structure to be built shall be submitted to the Andover Preservation Commission, which shall review the design of the new structure, including factors relating to building massing, materials, siting, dimensions and setbacks as these factors relate to compatibility with the existing neighborhood. Approval of the design by the Andover Preservation Commission shall be required prior to the issuance of a building permit for the new structure.

3. If the historic structure is to be moved to a Host Lot from another location, the following conditions shall be imposed:

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- a. The Select Board shall approve the route and the timing of the movement of the building or structure; and
  - b. The existing historic structure shall be secured from the elements and maintained in a good state of repair until such time as it is moved to the new Host Lot.
4. Prior to the meeting of the Select Board to approve the movement of the historic building or structure:
  - a. The Applicant shall submit to the Inspector of Buildings and the Zoning Board of Appeals a statement, prepared and signed by a Structural Engineer licensed to practice in the Commonwealth of Massachusetts, affirming that the historic structure is in suitable condition to be moved. This statement shall be signed and dated within fourteen days of the posting of the agenda for meeting of the Select Board at which the movement is to be approved.
  - b. The Preservation Commission shall approve, in writing, any changes to the historic structure that involve the removal of historic material if such changes have not been specifically authorized in the Zoning Board of Appeals' conditions of approval.
5. If the historic structure is to be moved, the rights granted by the Special Permit, including, but not limited to, the right to subdivide the Parent Parcel and create any New Lots, shall be effective only upon the successful relocation of the historic structure and its placement on its new permanent foundation, with all temporary supporting structures removed, so that the building is supported only by its new permanent foundation.
6. Following the movement of the historic structure to its new location, the Applicant shall submit to the Inspector of Buildings and the Office of the Zoning Board of Appeals a statement, prepared and signed by a Structural Engineer licensed to practice in the Commonwealth of Massachusetts, affirming that the historic structure has been successfully moved and placed on its new foundation, with all temporary supporting structures, including cribbing and beams used in transit, removed, so that the building is supported only by its new permanent foundation. No building permits for any additional work shall be issued until such statement has been received and the relocated structure has been inspected by the Inspector of Buildings.
7. If the historic structure is not successfully relocated to its new location as provided above, the Special Permit shall be null and void and the Host Lot shall not be considered a buildable lot under the Zoning Bylaw. In the event that the historic structure is destroyed or damaged beyond repair prior to being moved successfully to its new location, the Special Permit shall be null and void.
8. After the Historic Preservation – Dimensional Special Permit has become final, any proposed alterations or changes to the historic structure shall be submitted to the Andover Preservation Commission for its review and approval. If the Preservation Commission determines that the proposed alterations or changes are not minor, the owner shall seek a modification of the special permit from the Zoning Board of Appeals.

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9. When the decision of the Zoning Board of Appeals on the application for a Historic Preservation – Dimensional Special Permit has become final and has been recorded with the Registry of Deeds, the plan upon which the decision is based shall be submitted to the Andover Planning Board for certification as an Approval Not Required (ANR) plan pursuant to G.L. c. 41, § 81P.
10. The Approval Not Required (ANR) plan as endorsed by the Planning Board or a certificate by the Town Clerk regarding the approval of the ANR plan shall be recorded with the Essex North District Registry of Deeds.
11. Other than permits required to protect or stabilize the existing historic structure, no building permit shall be issued until the ANR Plan has been recorded with the Essex North District Registry of Deeds.
12. The owner shall record with the Essex North District Registry of Deeds an historic preservation restriction in the form approved by the Zoning Board of Appeals, and approved and endorsed by Andover Select Board and by the Massachusetts Historical Commission in accordance with G.L. c. 184, § 32, which shall at a minimum provide for conditions under which alterations, additions, or modifications may be made, and in the event of damage to the historic structure such that the historic structure cannot be repaired, the owner may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure and meets one of the following requirements:
  - a. The new dwelling is placed in the existing footprint; or
  - b. The new dwelling is built in conformity with the zoning side, front, and rear setbacks in effect at the time of rebuilding. Any mortgagee shall subordinate its mortgage to this restriction. No Certificate of Occupancy shall be issued until the Historic Preservation Restriction has been recorded pursuant to this section.

### **7.4.6. Application Requirements and Procedure.**

Submission requirements and procedures shall be in accordance with the Zoning Board Rules and Regulations under Section 9.4.

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## **7.5. MULTI-FAMILY DWELLING CONSTRUCTION — ATTACHED CLUSTER.**

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### **7.5.1. Purpose.**

The purposes of this Section 7.5 are:

1. To promote and encourage alternative forms of housing that are accessible to existing Town services;
2. To protect the natural environment and to conserve open space;
3. To promote energy conservation;
4. To allow development within the existing capacities of Town services; and

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5. To provide housing that will not be detrimental to the established or future character of the neighborhood and town.

### **7.5.2. Applicability.**

The Planning Board may grant a special permit for an Attached Cluster to allow the construction of multiple dwellings subject to the criteria of Section 9.4.2 and to the following conditions set forth herein.

### **7.5.3. Density.**

The maximum base number of dwelling units shall be determined by dividing the buildable area by the minimum lot size allowed in the zoning district. For each base dwelling unit of 1,000 square feet or less, the applicant is entitled to a credit for 50 percent of an additional dwelling unit of smaller size. Buildable area is calculated by subtracting from the total area of the lot a number that is 90 percent of the area shown as wetlands on the Town of Andover wetland maps.

### **7.5.4. Dimensional Requirements.**

1. *Lot Size.* Each lot shall be not less than 10 acres nor more than 25 acres.
2. *Building Height.* No building shall exceed 35 feet.
3. *Building Setbacks.*
  - a. Each building shall be set back at least 75 feet from all property boundaries;
  - b. Each building shall be set back at least 15 feet from any road or parking area and set back at least 50 feet from other buildings.
4. *Frontage.* The lot shall have a minimum of 50 feet of frontage on an existing public way that has sufficient capacity to accommodate the projected traffic flows from the project.

### **7.5.5. Open Space.**

All land not designated for roads, buildings, privately owned yards and which is unsuitable for development shall be designated open space. Areas that are unsuitable for development shall include, but not be limited to, floodplains, wetlands as shown on the Town of Andover wetland maps, slopes of greater than 15 percent, and areas with ledge closer than four feet to the surface of the ground.

1. Open space shall comprise a minimum of 60 percent of the total area of the lot, and at least 50 percent of the open space shall be accessible and usable for recreation purposes.
2. Prior to the sale of any dwelling unit, the applicant shall submit a conservation restriction on the open space to the Planning Board for its review, modification, and approval, and shall record the approved conservation restriction with the Registry of Deeds. In the event of the sale of any dwelling unit prior to the recording of an approved conservation restriction, the Town shall have a lien on said real property for the value of the conservation restriction.

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3. Prior to the sale of any dwelling unit, the applicant shall convey all open space land to either the Town, a nonprofit corporation or a homeowners' association. If the applicant intends to convey to a nonprofit corporation or a homeowners' association, the applicant must obtain the prior approval of the Planning Board.

### **7.5.6. Design Standards.**

The following design standards shall apply:

1. There shall be not less than three nor more than six dwelling units in each building;
2. Each dwelling unit shall have a separate exterior entrance to the unit at ground floor level;
3. Buildings shall be designed and placed and landscaping used to maximize visual and audible privacy between buildings;
4. The number of dwelling units that have more than four rooms excluding bathrooms may not exceed 60 percent of the total number of dwelling units in the development;
5. The design and layout of the buildings and accessory uses may not be altered without prior approval of the Planning Board;
6. At least two parking spaces per dwelling unit shall be provided on the lot either in an off-street paved area or in a garage or carport; no parking area may have more than 12 spaces;
7. Adequate provision shall be made for aisles, driveways, visitor parking, and snow disposal;
8. Appropriate landscaping shall be used to prevent or minimize lighting overspill;
9. All utilities shall be buried;
10. All access roads shall have a minimum width of 30 feet and shall be built to a standard approved by the Planning Board, dependent upon the advice of the Director of Public Works;
11. No entrance or exit from the development to an existing public or private way may be allowed unless there are sight distances of at least 250 feet in both directions on the public or private way, and unless no other public way or private way intersects the existing roadway within 150 feet of the proposed entrance or exit;
12. There shall be Town water and sewer available in said public way, and said water and sewer lines shall have sufficient capacity to accommodate the project.

### **7.5.7. Application.**

Submission requirements and procedures shall be in accordance with the Planning Board Special Permit and Site Plan Rules and Regulations under Sections 9.3 and 9.5.

**7.5.8. Planning Board Review.**

Before acting upon the application, the Planning Board shall submit it to the following boards and agencies that may review it jointly or separately: the Board of Health, the Conservation Commission, the Department of Public Works, the Design Review Board, and other boards or agencies the Planning Board may deem appropriate. Any agency to which applications are referred for review shall submit its recommendations as it deems appropriate to the Planning Board. Failure to make recommendations within 20 days of receipt shall be deemed lack of comment or opposition.

**7.5.9. Additional Information.**

After the opportunity for review by other boards and agencies, the Planning Board may require the applicant to supply more specific information about the proposed development, as per questions and comments of the reviewing boards and agencies. This additional information shall be submitted within 10 days of the expiration of the previous 20 days as set forth in Section 7.5.8 above.

**7.5.10. Special Permit Procedure.**

The procedure for a special permit under this section shall be governed by Section 9.4. If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, the reasons shall be stated in the special permit decision filed with the Town Clerk.

**7.5.11. Special Permit.**

The Board may grant a special permit for Attached Cluster only if its finds that the applicant has demonstrated the following:

1. That the Attached Cluster plan will be in harmony with the purposes of Section 7.5.1 and the long-range plan of the Town;
2. That it will not have a detrimental impact on the neighborhood, will be designed with due consideration for health and safety, and is superior to a conventional subdivision plan in preserving open space, minimizing environmental disruption, allowing more efficient provision of services or allowing for greater variety in prices and types of housing stock.

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**7.6. MULTIFAMILY USE – CONVERSION.**

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**7.6.1. General.**

The conversion of an existing structure of 50,000 square feet gross floor area or more to multifamily dwelling use shall be permitted upon the grant of a special permit by the Zoning Board of Appeals, subject to the following conditions:

1. There shall be at least 3,500 square feet of lot area per dwelling unit.
2. Off-street parking shall be provided as per Appendix A, Table 3, subsection A.4.d.

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3. The dimensional requirements of Section 4.0 shall be waived for the existing structure and any addition or extension required by law for handicapped access and/or life safety purposes. No other exterior additions or extensions shall be allowed.
4. All elements of the site design, including but not limited to vehicular and pedestrian circulation, landscaping, and exterior lighting shall be laid out to reinforce the harmony of the premises with the surrounding neighborhood.
5. The criteria of Section 9.4.2 shall govern the decision of the Zoning Board of Appeals.

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### **7.7. MULTIPLE DWELLINGS.**

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#### **7.7.1. General.**

The Zoning Board of Appeals may grant a special permit for the construction, conversion, and occupancy of multiple dwellings subject to the following regulations and conditions of this Section.

#### **7.7.2. Conversions.**

For the conversion of a structure with one dwelling unit or a structure with two or more dwelling units, the following eligibility criteria apply:

1. The building must have existed prior to March 10, 1941.
2. There shall be 2,500 square feet of lot area for each dwelling unit.
3. Parking shall be provided as required by Appendix A, Table 3.
4. The building may not be increased in area, footprint, height, or otherwise enlarged beyond the existing framework, except as may be necessary to provide for secondary egress in the form of an outside stairway or accessibility.

#### **7.7.3. Construction.**

The construction of apartment buildings shall be governed by these conditions:

1. No more than 12 dwelling units shall be contained in any building in an Apartment District.
2. There shall be a minimum of 3,500 square feet of lot area per dwelling unit.
3. There shall be a paved driveway or paved walk adequate to accommodate emergency vehicles, within 50 feet of the outside entrance to each dwelling unit.
4. No dwellings shall be nearer to each other at any point than the sum of the heights of their opposing exterior walls unless both such walls are unpierced, and walls shall be considered opposing if the angle between them is less than 30 degrees.
5. No structure shall be built within 30 feet of any way, and no structure or parking space shall be built or maintained within 20 feet of any other exterior property line.

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6. Off-street parking shall be provided as per Appendix A, Table 3, subsection A.4.b.

### **7.7.4. Special Permit.**

Submission requirements, procedures, and decision criteria shall in in accordance with Section 9.4 and the Zoning Board Rules and Regulations.

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## **7.8. PLANNED DEVELOPMENT.**

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### **7.8.1. Applicability.**

The Planning Board may grant a special permit for Planned Development-Multifamily Dwelling (PD-MD) or Planned Development-Mixed Use (PD-MU) for the following types of structures and uses:

1. *PD-MD.* (a) conversion or expansion of existing nonresidential structure(s) to multifamily dwellings; or (b) new multifamily dwelling construction;
2. *PD-MU.* (a) redevelopment, conversion or expansion of existing structure(s) to a combination of multifamily and business uses or a combination of nonresidential uses permitted in the zoning district; or (b) new construction for combined multifamily and business uses or new construction for a combination of nonresidential uses permitted in the zoning district.
3. Exemption from Special Permit Requirement. Any mixed use development comprised only of nonresidential uses shall not require a PD special permit under this Section 7.8 if the lot area is less than two acres in size.

### **7.8.2. Density.**

The maximum allowable density shall be determined by calculating the required lot area per dwelling unit as follows:

1. *General Business District.* 2,000 square feet of lot area per dwelling area unit.
2. *Mixed Use District.* 3,000 square feet of lot area per dwelling unit. The Planning Board may, in its discretion, according to the characteristics of any particular lot, allow less than the 3,000 square feet of lot area per dwelling unit.

### **7.8.3. Dimensional Requirements.**

1. *Building Height.* Any addition or new construction shall not exceed the maximum height allowed by Appendix A, Table 2 of this Bylaw.
2. *Building Coverage.*
  - a. General Business District: In a General Business District, an existing structure occupying more than 2/3 of the lot area shall not be expanded. New structures shall not exceed 2/3 of the lot area within the General Business district.
  - b. Mixed Use District. In a Mixed Use District, maximum building coverage shall not exceed 40 percent for new construction or expansion.

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3. Building Setbacks.
  - a. General Business District: In a General Business District, building setbacks shall be determined in accordance with Section 4.1.4.2.b of this Bylaw.
  - b. Mixed Use District: In a Mixed Use District, new construction or building expansion shall be set back 20 feet from all property lines.
4. *Minimum Lot Frontage.* In a Mixed Use District only, the lot shall have a minimum frontage of 50 feet on an existing public way.
5. Setbacks From Residential Dwellings.
  - a. General Business District: No building in a General Business District shall be erected within 15 feet of a residential building.
  - b. Mixed Use District: In a Mixed Use District, no structure shall be constructed nearer than 50 feet from the outside wall of an existing residential dwelling.

### **7.8.4. Affordability.**

1. No application for a PD-MD or PD-MU that contains residential use shall be approved unless at least 15 percent of the total dwelling units proposed are devoted to affordable housing, or other percentage as may be required by state or federal subsidy programs; provided, however, that applications requesting three or fewer dwelling units are exempt from this requirement.
2. "Affordable housing" shall be as defined in Section 10.
3. The calculation of affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.

### **7.8.5. Design Standards.**

1. *Access.* Parking lot driveways shall not provide access onto North Main Street or Main Street unless granted a special permit by the Planning Board in accordance with Section 5.1.10.
2. *Parking Requirements.*
  - a. There shall be two parking spaces per dwelling unit. Visitor parking shall be determined by the Planning Board with reference to the number of dwelling units proposed.
  - b. For mixed use developments, the parking required for each use shall be calculated and added to the total.
  - c. Upon the issuance of a special permit by the Planning Board, the required number of parking spaces on a common lot may be reduced if it can be shown that the parking needs for the uses are such that a lower total will serve all uses adequately. The Planning Board shall use the criteria under Section 5.1.12.5 in its review of the proposed parking alternative(s).

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- d. Parking lots and driveways shall be designed as per Section 5.1. The Planning Board, in its discretion, may allow alternative dimensional designs for parking spaces and parking aisles if the Board finds that the design satisfies the objectives of Section 5.1.1 of this Bylaw.
  - e. Parking areas, driveways and pedestrian walkways shall be designed to ensure safe separation of vehicles and pedestrians and sufficient on-site traffic circulation and control in relation to surrounding streets and pedestrian ways. Pedestrian walkways shall be designed to link parking areas to buildings and, where applicable, to provide access along waterways and to abutting open space.
3. *Landscaping, Screening and Lighting.* Where a parking lot exceeds 50 parking spaces, at least 5 percent of the parking lot interior shall be landscaped. "Landscaping" is defined as planted trees, shrubs and ground covers in a prepared planting area.
- a. Landscaping shall be used to:
    - i. buffer adjacent properties;
    - ii. provide separation between buildings and parking areas; and
    - iii. provide shading within parking areas.
  - b. Parking areas shall be screened by landscaping, fencing or berms to minimize headlight glare. Lighting shall be designed and screened to prevent light overspill onto abutting properties and ways.
4. *Disposal Areas.* Adequate provision shall be made for snow disposal areas and dumpsters where appropriate. Dumpsters shall be screened by fencing or landscaping.
5. *Access and Utilities.*
- a. The lot shall have frontage on an existing public way with sufficient capacity to safely accommodate the projected traffic volume;
  - b. There shall be Town water and sewer available with sufficient capacity to serve the project.
  - c. Emergency vehicles shall have sufficient access to each structure.

### **7.8.6. Open Area.**

In a Mixed Use District, at least 20 percent of the lot shall be maintained as open area. Open area shall include landscaped yard setbacks, natural areas, recreation areas, pedestrian walkways, conservation areas, landscaping around buildings, and interior landscaping for parking lots.

### **7.8.7. Application.**

Submission requirements and procedures shall be in accordance with the Planning Board Rules and Regulations for Special Permits and Site Plan Review under Section 9.3.

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### **7.8.8. Special Permit.**

The Planning Board may grant a special permit if it finds all of the following:

1. That the design standards and review criteria in this section have been met;
2. The provisions for parking and vehicular circulation on the site and access onto adjacent roadways will promote safe traffic control and flow;
3. The provision for landscaping and screening will provide an adequate buffer for adjoining properties and will minimize the impact of the proposed uses and parking areas, and the effect of the bulk and height of buildings and structures;
4. Any provision for pedestrian ways will provide safe and convenient access on-site with linkage to adjacent pedestrian areas;
5. The project will provide for adequate drainage, water and sewer facilities with sufficient capacity to serve the planned development;
6. The intersections and roadways likely to be affected by the proposal are of sufficient capacity and design to accommodate the planned development.

### **7.8.9. Conditions.**

In granting a special permit, the Planning Board may impose reasonable conditions and safeguards that may include, but shall not be limited to, the following:

1. Requirements for reasonable off-site improvements to offset the impacts on the capacity and safety of adjacent roadways and intersections, and the capacity of the water, sewer and drainage systems affected by the proposed development;
2. Conditions to minimize impacts on environmental quality;
3. Requirements on the site design of the planned development to ensure compatibility with existing structures and neighboring properties;
4. Controls on the location and type of vehicular and pedestrian access.

## SECTION 8.0 SPECIAL DISTRICT REGULATIONS

### A. Underlying Zoning Districts

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#### 8.1. INDUSTRIAL D DISTRICT (ID).

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##### 8.1.1. General.

All development in an Industrial D District shall be subject to the following, unless a special permit to vary these requirements is granted by the Zoning Board of Appeals, upon its determination that alternative provisions provide comparable protection for adjoining lots and ways.

1. All utility service lines shall be placed underground. All transformers, meters, or similar utility apparatus shall be placed on or below the surface of the land and be screened from view.
2. All developed land area not covered by buildings, parking areas, driveways, and other site improvements shall be landscaped, and all parking areas shall be screened by landscaping in accordance with Sections 5.1.8.6 and 5.3.2.
3. All undeveloped portions of land may remain in the natural state, provided that these areas do not create a hazard or nuisance.
4. No outdoor lighting shall be mounted higher than 25 feet above finished grade, and lighting sources shall be designed to prevent excessive glare on adjoining property.

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#### 8.2. MIXED USE DISTRICT (MUD).

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##### 8.2.1. Purpose.

The purpose of the Mixed Use District is to foster greater opportunity for creative development by providing guidelines that encourage a mix of uses compatible with neighboring properties, to provide housing and business uses in locations where Town services are available, and to encourage the provision of open areas.

##### 8.2.2. Design Standards.

No building permit or certificate of occupancy shall be issued for the erection of a new building, the enlargement of an existing building, the redevelopment of an existing building, the development of a use not located in a building or the change from one permitted use to another unless the design standards set forth below are satisfied.

1. *Parking.* Off-street parking requirements listed in Sections 5.1.1 through 5.1.5 shall apply. Where multiple uses share a common parking lot, parking shall be calculated for each use to determine the total parking required.
2. *On-site Circulation.* Pedestrian walkways, streets and driveways shall be designed to provide safe and convenient access to the proposed uses and to surrounding streets

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and pedestrian ways. Walkways shall be encouraged along waterways and in the vicinity of buildings and parking areas.

3. *Screening.* Section 5.3.3 shall apply.
4. *Driveway Locations.* Driveways shall be designed in accordance with Section 5.1.5.4.
5. *Landscaping.* Landscaping shall be provided in front, side and rear yards and along the perimeter of parking areas to provide separation from building and public ways. At a minimum, parking lots shall be enclosed by a landscaped area five feet in width. At least 5 percent of the parking lot interior shall be landscaped for parking lots that exceed 50 parking spaces.
6. *Distance from Residential Dwellings.* Section 4.1.4.4 shall apply.
7. *Maintenance.* All landscaping and screening shall be maintained by the property owner.

### **8.2.3. Review Requirements.**

Any commercial, industrial, institutional, and/or multifamily use in the Mixed Use District shall require site plan review and approval pursuant to Section 9.5.

## **B. Overlay Zoning Districts**

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### **8.3. FLOOD HAZARD OVERLAY DISTRICT (FHOD).**

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#### **8.3.1. Purpose.**

The purposes of the Flood Hazard Overlay District (FHOD) are to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from degraded water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact region as of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions; and
6. Reduce damage to public and private property resulting from flooding waters.

#### **8.3.2. Location.**

The boundaries of the Flood Hazard Overlay District shall enclose all special flood hazard areas designated Zone A or Zone AE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are

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wholly or partially within the Town of Andover are panel numbers 25009C0195F, 25009C0203F, 25009C0204F, 25009C0208F, 25009C0211F, 25009C0212F, 25009C0213F, 25009C0214F, 25009C0216F, 25009C0217F, 25009C0218F, 25009C0219F, 25009C0236F, 25009C0238F, 25009C0239F, 25009C0352F, 25009C0356F, 25009C0357F, 25009C0376F and 25009C0377F, dated July 3, 2012. The exact boundaries of the FHOD may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS reports are incorporated herein by reference and are on file with the Planning Board and the Inspector of Buildings.

### **8.3.3. Overlay District.**

The FHOD is hereby established as an overlay district. Where the regulations of the FHOD impose greater or lesser restrictions or requirements than those of other applicable bylaws or regulations, the more restrictive shall apply.

### **8.3.4. Regulations.**

Any development within the FHOD, including structural and non-structural activities, whether permitted by right or by special permit, shall be subject to all otherwise applicable requirements of the underlying zoning district in which it is located, including use and dimensional requirements, and also to the following requirements:

1. The flood-carrying capacity of any watercourse shall be maintained in the event of any alteration or relocation, as determined by the Inspector of Buildings upon the advice of the Conservation Commission.
2. Within Zone A, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways that would result in any increase in flood levels within the community during the occurrence of the base flood discharge. Within Zone AE, along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood. Within Zone AE, along watercourses that have regulatory floodways designated with the Town of Andover on the Essex County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. The requirements of:
  - a. 780 CMR of the Massachusetts State Building Code that address floodplain areas;
  - b. 310 CMR 10.00, Wetlands Protection Regulations, Department of Environmental Protection (DEP);
  - c. 310 CMR 13.00, Inland Wetlands Restriction, DEP;
  - d. 310 CMR 15, Title 5, Minimum Requirements for Subsurface Disposal of Sanitary Sewage, DEP;
  - e. all as from time-to-time amended.

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4. Where any alteration or relocation of a watercourse is proposed, the appropriate federal, state, and local authorities shall be notified, including the National Flood Insurance Program State Coordinator and Program Specialist, as well as representatives of adjacent communities.

### **8.3.5. Special Permit.**

The Zoning Board of Appeals may grant a special permit to provide an exception to the requirements of Section 8.3.4 above.

1. Special permits may be granted either in the case of structures such as boat houses that require waterfront location and are not continuously used for human occupancy or for development on a lot of less than a half-acre that is surrounded by existing non-conforming structures, in either case provided that all of the following are shown:
  - a. Good and sufficient cause;
  - b. Failure to allow the exception would result in extraordinary hardship to the applicant;
  - c. Allowing the exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, created nuisances, cause fraud on or victimization of the public, or conflict with other bylaws or regulations; and
  - d. The exception is the minimum necessary, considering the flood hazard, to afford relief.
2. Exceptions may also be granted for reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places.

### **8.3.6. Base Flood Elevation.**

1. *Base Flood Elevation Data.* Base flood elevation data is required for subdivision proposals or other developments for land area containing more than 50 lots or for land area greater than 5 acres, whichever is the lesser, within un-numbered A zones as determined by the Flood Insurance Rate Map (FIRM).
2. *Other Use Regulations:* All subdivision proposals must be designed to assure that:
  - a. Such proposals minimize flood damage;
  - b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - c. Adequate drainage is provided to reduce exposure to flood hazards.

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## **8.4. GROUNDWATER PROTECTION OVERLAY DISTRICT (GWPOD).**

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### **8.4.1. Purpose.**

The Groundwater Protection Overlay District (GWPOD) is established for the following purposes:

1. To preserve and protect the groundwater resources in the Zone II of the Tewksbury Hospital water supply wells for the health, safety and general welfare of the residents, staff and visitors to the facility;
2. To preserve and protect potential sources of drinking water supplies from detrimental use and development of land, and to prevent temporary and permanent contamination of the environment in the Town of Andover;
3. This GWPOD does not limit the existing authority of the Conservation Commission pursuant to M.G.L. c. 131, § 40.

### **8.4.2. Establishment And Delineation.**

This GWPOD includes all the lands that create the recharge area for the Tewksbury Hospital water supply wells. This district includes all the areas within the Town of Andover that are designated on the map titled "Andover Parcels, Andover Water Protection Overlay District, and Tewksbury Hospital Zone II Wellhead Protection Zone" (Copies of map are on file and available in the Department of Community Development and Planning office) which is hereby made a part of the Town Zoning Maps.

1. *Burden of Proof.* When a property owner seeks Town approval for any work done on a lot that straddles the line on this GWPOD as shown on the District map, the owner must include with his or her application, a map on a scale of one inch equals 40 feet prepared by a registered professional surveyor and approved in writing by the Town Engineer, showing the boundary on the owner's lot. The Planning Board may, upon application of the owner of any lot, determine what portion, if any, of such lot is in the GWPOD. Alternatively, the owner may use the Massachusetts Geographical Information System Zone II map information and corresponding lot boundary information to assess the relative location of the owner's lot and the boundary of the GWPOD, subject to approval by the Planning Board. At the request of the owner, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner for the cost of the investigation.

### **8.4.3. Overlay District.**

The GWPOD is an overlay district and shall be superimposed on the other districts established by this Bylaw. Land in the GWPOD may be used for any purpose otherwise permitted in the underlying district, subject to the additional restrictions of this Section 8.4. In locations where this GWPOD overlaps the land area delineated by the Fish Brook/Haggetts Pond WPOD (Section 8.8), the restrictions of both areas must be followed.

### **8.4.4. Permitted Uses.**

The following uses are permitted within the Groundwater Protection Overlay District, subject to the design standards set forth in Section 8.4.7:

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1. Conservation of soil, water, plants, and wildlife;
2. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
3. Foot, bicycle and/or horse paths, and bridges;
4. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
5. Maintenance, repair, and enlargement of any existing structure subject to other conditions in Section 8.4;
6. Residential development, as permitted in the underlying district;
7. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;
8. Construction, maintenance, and repair of municipal infrastructure, including water system, sewer system, drainage, roadways and public utilities, and enlargement of drinking water supply related facilities; and
9. Storage of heating oil within a building, provided that all necessary state and local approvals have been obtained.

### **8.4.5. Special Permit Uses.**

The Planning Board may allow the following uses within the GWPOD upon the grant of a special permit and subject to any additional conditions the Planning Board may impose:

1. Ponds or other changes in water bodies or watercourses, created for recreational use or drainage improvements;
2. The creation of ponds not subject to Conservation Commission jurisdiction under the Wetlands Protection Act.
3. The storage, manufacture or use of hazardous or toxic substances other than those prohibited in Section 8.4.6 below, in any quantity that if simultaneously spilled, discharged or otherwise released would cause any danger to public health or safety or would cause or contribute to an exceeding of any state or federal water quality criterion or standard, provided that all necessary measures shall be taken to prevent spill, discharge or other release of the hazardous or toxic substances to the environment.
4. Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.
5. Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District.

### **8.4.6. Prohibited Uses.**

The following uses are prohibited within the GWPOD:

1. Landfills and open dumps as defined in 310 CMR 19.006;

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2. Automobile graveyards and junkyards, as defined in M.G.L. c. § 140B, 1;
3. Landfills receiving only wastewater and/or septage residuals including those approved by the MA Department of Environmental Protection pursuant to M.G.L. c. 21, §§ 26 through 53; M.G.L. c. 111, § 17; M.G.L. c. 83, §§ 6 and 7, and regulations promulgated thereunder;
4. Facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.00, except for the following:
  - a. Very small quantity generators as defined under 310 CMR 30.000;
  - b. Household hazardous waste centers and events under 310 CMR 30.390;
  - c. Waste oil retention facilities required by M.G.L. c. 21, § 52A;
  - d. Water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;
5. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual and any other subsequent amendments;
6. Storage of liquid hazardous materials, as defined in M.G.L. c. 21E, and/or liquid petroleum products unless such storage is:
  - a. Above ground level; and
  - b. On an impervious surface; and
  - c. Either:
    - i. In container(s) or aboveground tank(s) within a building; or
    - ii. Outdoors in covered container(s) or aboveground tank(s) in an area that has a containment system designed and operated to hold either 10 percent of the total possible storage capacity of all containers, or 110 percent of the largest container's storage capacity, whichever is greater;
7. Storage of sludge and septage, unless this storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
8. Storage of deicing chemicals unless this storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
9. Storage of animal manure unless covered or contained in accordance with the specifications of the Natural Resource Conservation Service;

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10. Earth removal, consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
11. Discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater, except:
  - a. The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - b. Treatment works approved by the MA Department of Environmental Protection designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);
  - c. Publicly owned treatment works.
12. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district;
13. Storage of commercial fertilizers, as defined in G.L. c. 128, § 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

### **8.4.7. Design Standards.**

Any development of land within the GWPOD shall meet the following design standards in addition to all standards imposed by the underlying zoning district. Where a lot straddles the GWPOD district boundary, these standards shall apply to that portion of the lot in the GWPOD:

1. Slopes that exceed an average of 15 percent over a distance of 10 feet or more shall remain undisturbed;
2. Where a lot is partially outside the GWPOD, the site plan shall, to the greatest extent possible, locate pollution sources, such as subsurface sewage disposal systems, outside the district; or
3. Where a system of artificial recharge is proposed in accordance with Section 8.4.4, a system for groundwater recharge must be provided that does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.
4. All construction and land disturbing activities within the GWPOD shall be designed to minimize erosion and runoff, by such practices as minimizing the construction period, slope stabilization, ditch maintenance, filtering, sedimentation basins and revegetation.

**8.4.8. Permit Procedures.**

1. *Filing of the Application.* Submission requirements and procedures shall be in accordance with the Planning Board and Rules and Regulations under Section 9.3.
2. *Review by Other Boards and Agencies.* Before acting upon the application, the Planning Board shall submit it to the following boards and agencies which may review it jointly or separately: the Board of Health, the Conservation Commission, the Department of Public Works and other boards or agencies that the Planning Board may deem appropriate. Any agency to which petitions are referred for review shall submit such recommendations as it deems appropriate to the Planning Board and to the applicant. Failure to make recommendations within 20 days of receipt shall be deemed lack of comment or opposition.
3. *Further Requirements for Information.* After the opportunity for review by other boards and agencies, the Planning Board may require the applicant to supply more specific information about the proposed development or activity as per questions and comments of the reviewing boards and agencies. This additional information shall be submitted within 10 days after notice by the Planning Boards.

**8.4.9. Decision.**

The Board may grant a special permit for land use within the GWPOD only if it finds that the applicant has met the general requirements of Sections 8.4 and 9.4 and that the applicant has demonstrated the following:

1. That the plan will in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection Overlay District; and
2. That the plan will be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

**8.4.10. Conditions and Restrictions.**

The Planning Board may impose any conditions and restrictions required to mitigate any potential damage to groundwater resources and, in reaching its decision, shall consider the simplicity, reliability and effectiveness of these mitigating measures and the damage likely to result if these measures were to fail. If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, the reasons shall be stated in writing.

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**8.5. HISTORIC MILL OVERLAY DISTRICT (HMOD).**

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**8.5.1. Purpose**

The purpose of the Historic Mill District (HMOD) is to encourage smart growth, and to foster a range of housing opportunities within mixed-use development projects, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced

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pedestrian access to employment and nearby transportation systems. Other objectives of this Section 8.5 are to:

1. Promote public health, safety, and welfare by encouraging diverse housing opportunities in accordance with the Andover Master Plan;
2. Promote mixed use and economic development that is safe, pedestrian friendly, near rail transit and near the Town's civic and commercial center, while reducing the need for automobile travel;
3. Encourage the preservation of open spaces and protection of the Shawsheen River;
4. Encourage adaptive reuse of abandoned, vacant, or underutilized mill buildings;
5. Provide a mechanism by which residential development can directly increase the housing supply and diversity, including but not limited to, young professionals and older adults who want to live near their workplace and/or near retail and other non-residential uses;
6. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
7. Establish development standards to allow context-sensitive design and creative site planning; and
8. Encourage consolidation of small parcels into viable, block-size mixed-use development in designated areas.

### **8.5.2. Overlay District.**

The HMOD is an overlay district that is superimposed over the underlying zoning district(s), as shown on the Official Zoning Map on file in the Office of the Town Clerk.

1. *Underlying Zoning.* The HMOD is an overlay district superimposed on all underlying zoning districts. The requirements of the underlying zoning district(s) shall remain in full force and effect, except for Projects undergoing development pursuant to Section 8.5. Within the boundaries of the HMOD, a developer may elect to develop a project in accordance with the HMOD, or to develop a project in accordance with the requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).
2. *Applicability of HMOD.* An Applicant proposing a project that involves any of the following within the HMOD shall seek a Special Permit from the Planning Board in accordance with the requirements of this Section:
  - a. Any proposal to increase the gross floor area of an existing building by more than 2,000 square feet; or
  - b. Any proposal to construct a building or buildings in excess of 10,000 square feet;  
or

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- c. Any proposal to alter, renovate, reconstruct, or redevelop more than 40 percent of the gross floor area of an existing building.
- 3. When a building permit is issued for any Project approved in accordance with this Section 8.5., the provisions of the underlying district(s) shall no longer apply to the land shown on the site plan that was submitted pursuant to this Bylaw.

**8.5.3. Housing and Affordability.**

- 1. No application within the HMOD which contains residential use shall be approved unless at least 15 percent of the total dwelling units proposed are devoted to affordable housing, or a greater percentage as may be required by state or federal subsidy programs; provided however, that applications requesting three or fewer dwelling units are exempt from this requirement. The calculation of affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.
- 2. The applicant may, with the permission of the Planning Board, in lieu of one or more affordable unit(s) contribute to the Town of Andover Municipal Affordable Housing Trust Fund, a cash contribution determined by the Planning Board in consultation with the Housing Trust Fund Board of Trustees, to be used for the benefit of households in Andover.

**8.5.4. Permitted Uses.**

- 1. The following uses, either stand-alone or in combination, are allowed in the HMOD in accordance with the Table of Uses below. All other uses are prohibited.  
 Y = allowed by right                      SP = allowed by special permit from the Planning Board

<b>Table of Uses</b>		<b>Allowed By:</b>
Residential Uses		
1.	Structures with two or more dwelling units	Y
Municipal & Institutional Uses		
1.	Child care facility	SP
2.	Municipal uses	Y
3.	Religious or educational uses exempt from zoning prohibition by M.G.L.c.40A, s.3	Y
Business and Commercial Uses		
1.	Banking establishment	SP
2.	Business, professional, or administrative office	SP
3.	Commercial parking lot or garage	SP
4.	Convenience store	SP
5.	Educational use	SP
6.	Indoor commercial recreation establishment	SP
7.	Major non-residential projects (See Sections 9.4 and 10.0)	SP
8.	Medical center or clinic	SP
9.	Motel or Hotel (see section 4.1.5.1)	SP
10.	Open space	SP
11.	Personal service establishment	SP

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Table of Uses		Allowed By:
12.	Private club not conducted for profit	SP
13.	Restaurants Restaurant, sit-down Restaurant, fast-food	SP
14.	Retail sales establishment	SP
15.	Self-service laundry or dry-cleaning establishment	SP
16.	Shop for custom work involving the manufacture of articles to be sold on the premises	SP
17.	Structured parking facilities to provide off-street parking for automobiles in connection with the construction of a development under this Section 8.5. Structured parking may include parking under a building	Y
Accessory Uses		
	Uses that are subordinate to, clearly incidental to, customary in connection with, and located in the same structure as a Permitted Use and that do not, in effect, constitute conversion of the Permitted Use to a use not otherwise permitted in the HMOD shall be permitted.	Y

Non-residential use of any building, structure, or land within the HMOD is prohibited except as permitted above.

**8.5.5. Density.**

1. *Residential:* The minimum requirement for a residential use in the HMOD is three thousand square feet of lot area per dwelling unit. The Planning Board may, in its discretion, according to the characteristics of any particular lot, allow less than the 3,000 square feet of lot area per dwelling unit, with an upper limit of forty (40) units per acre.
2. *Retail Sales:* No single Retail Sales Establishment as listed in Section 8.5.4 shall exceed 25,000 square feet of gross floor area in the HMOD. A single establishment shall be defined as having independent access, egress and exit ways as required by State Building Code.
3. *Integration of Uses:* The Special Permit Granting Authority may require the integration of residential and non-residential uses in a Mixed Use structure as a condition of approval.
4. *Multiple Buildings:* In the HMOD, more than one building may be erected on a single lot.

**8.5.6. Dimensional Regulations.**

1. *First Floor.* Buildings with a commercial use on the first floor shall be located directly behind the front sidewalk (0-foot maximum setback) on any street. However, regardless of the width of the existing sidewalk, a minimum of 8 feet shall be required from the curb line to the front of the building.

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2. *Building Height.* Building heights shall not exceed maximum heights listed below and shall be measured according to the following standards:
  - a. When adjacent to or up to 90 feet from the property line on North Main Street, the heights of all buildings shall be no more than thirty-five (35) feet above the adjacent public street.
  - b. When more than 90 feet from the property line on North Main Street, and otherwise not restricted by this section, the heights of all buildings in the district shall be no more than 65 feet.
  - c. When adjacent to or up to 15 feet from the property line on Essex Street and/or Pearson Street, the heights of all buildings in the district shall be no more than 35 feet if otherwise not restricted by this section.
  - d. From 15 feet to 50 feet from the property line on Essex Street and/or Pearson Street, the maximum heights of all buildings in the district shall be 50 feet. After 50 feet, and if otherwise not restricted by this section, the maximum allowed height shall be 65 feet.
  - e. When the property frontage is on the east side of Railroad Street, the heights of all buildings within 50 feet of Railroad Street shall be no more than 50 feet. After 50 feet, and if otherwise not restricted by this section, the maximum allowed height shall be 65 feet.
  - f. When adjacent to or up to 50 feet from the property line on Red Spring Road, the heights of all buildings shall be no more than 35 feet.
  - g. For all other buildings within the district not otherwise restricted by this section the maximum height shall be 50 feet.
  - h. The maximum building heights specified by this section shall not apply to any pedestrian walkways over the MBTA railroad tracks.
  - i. When a building facade extends more than 100 feet across a grade equal to or greater than 10 feet in elevation differential, the maximum height of the building shall be determined from the average grade across each 100 foot increment.
3. *Building Coverage.* The maximum building coverage in the HMOD shall be 75 percent of the lot covered by the footprint area of a building or buildings.
4. *Parcel Size.* The minimum parcel size required for a Development Project shall be one-half (0.5) acre.

### **8.5.7. Design Objectives.**

Each project within the HMOD shall:

1. Provide a positive economic benefit to Andover (including, but not limited to, fiscal impact, Town services, and employment), be in harmony with the general purpose and intent of the Master Plan and not be unreasonably detrimental to the overall General Business Districts, specifically Downtown Andover.

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2. Blend the scale of residential, business, and commercial structures into the site design;
3. Provide safe vehicular and pedestrian ways, and minimize traffic impacts;
4. Preserve natural features, wetlands, scenic vistas, and open spaces when possible;
5. Minimize the visual impact of parking areas;
6. Assure safe interior circulation within its site by separating pedestrian, bike, and vehicular traffic.
7. Include existing and future pedestrian pathways within 100 feet of the Shawsheen River for public use and enjoyment if the Project includes frontage along the Shawsheen River. Said pedestrian pathway shall be publicly accessible via a public access easement or conveyance to the Town of Andover. The easement width for these pathways shall be not less than 10 feet, unless otherwise approved by the Planning Board.
8. Have signage to identify places, provide direction, and advertise businesses. Along with communicating information, signage should add to the character of each project and reinforce a sense of place:
  - a. Signs shall consist of high-quality materials and color palettes that reflect the architectural themes of the surrounding area.
  - b. Location and placement of signs should not obstruct pedestrian or vehicular movement.
9. Incorporate energy efficient and environmentally sensitive principles;
10. Incorporate pedestrian amenities, accessory uses and community benefits into the overall design in a harmonious way;
11. Incorporate low-impact development (LID) design techniques or Stormwater Best Management Practices (such as, but not limited to, pervious paving, landscape swales, vegetative filters or rain gardens, and landscape infiltration facilities) to lessen the environmental impact of development along the Shawsheen River.

### **8.5.8. Design Guidelines and Review.**

1. The Planning Board's Historic Mill District Design Guidelines, dated February 6, 2018, shall apply to all projects that are subject to this Section 8.5. The Guidelines are intended to preserve and augment the architectural qualities, historic character, and pedestrian scale of the district.
2. The Design Review Board shall review all Development Projects subject to Section 8.5.

### **8.5.9. Off-Street Parking and Loading Areas.**

1. *Structured Parking.* Parking within the HMOD shall be accommodated within Structured Parking Facilities and under buildings to the maximum extent possible.

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On-street parking may be provided on private streets within the development project in front of and adjacent to retail stores.

2. *Off-Street Parking.* For any structure that is constructed, enlarged, or extended, or has a change-of-use that affects the computation of parking spaces, or if any existing use is changed, the parking spaces shall meet the following requirements:
  - a. Residential uses; minimum of 1.0 space per dwelling unit.
  - b. Non-residential uses; minimum of 2 spaces per 1,000 square feet of gross floor area.
3. *Shared Parking Facilities.* The Planning Board may allow for shared parking facilities within the HMOD for different buildings or uses subject to the following provisions:
  - a. Up to 50 percent of the parking spaces serving a building may be used jointly for other uses not normally open, used, or operated during similar hours. The applicant must demonstrate to the Planning Board that the peak demand and principal operating hours for each use are suitable for a common parking facility.
  - b. A written agreement defining the joint use of the common parking facility acceptable to the Planning Board shall be executed by all parties concerned and approved by the Planning Board as part of the special permit process. This agreement shall be recorded with the Registry of Deeds.
4. *Computation of Spaces.* When the computation of required parking spaces results in the requirement of fractional space, any fraction more than one-half (1/2) shall require one (1) space.
5. *Loading Areas.* Loading areas shall be designed in accordance with Section 5.1.5.5. of this Bylaw.

### **8.5.10. Submission Requirements and Procedures.**

1. *Pre-Application.* Prior to the submittal of a special permit application, a "Concept Plan" shall be submitted to help guide the development of the site plan process for the proposed project build-out and individual elements thereof. The Concept Plan should reflect the following:
  - a. Overall building footprint;
  - b. Areas that shall remain undeveloped;
  - c. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the Planning Board to ensure that the proposed project design will be consistent with the requirements of the HMOD.

2. *Application.* A Development Project under the provisions of this HMOD section is only allowed by Special Permit. Submission requirements and procedures shall be in

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accordance with Section 9.4 and the Planning Board Rules and Regulations for Special Permits and Site Plan Approval.

3. *Waivers.* At the written request of the applicant, the Planning Board may waive certain dimensional, design and other requirements as stated in this Section 8.7 (unless expressly prohibited), in the interests of design flexibility and overall project quality, if it finds that the project is consistent with the overall purpose and objectives of the HMD, or if it finds that the requested waiver will allow the project to achieve a high quality design incorporating a desired mix of open space, affordability, a mix of uses, and/or physical character.

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### **8.6. MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD).**

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#### **8.6.1. Establishment.**

The Medical Marijuana Overlay District ("MMOD") is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary ("RMD"), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

#### **8.6.2. Purpose.**

To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. § 1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds, and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

#### **8.6.3. Definitions.**

Where not expressly defined in this Bylaw, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. § 1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language. See Section 10 for other definitions related to Medical Marijuana or Marijuana Establishments.

#### **8.6.4. Location.**

1. RMDs may be permitted in the MMOD but only pursuant to a Special Permit.
2. RMDs may not be located within 500 feet of the following:
  - a. Child Care Facility;
  - b. Facility similar to others in this list where minors commonly congregate;

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- c. Library;
  - d. Playground;
  - e. Public park;
  - f. Public swimming pool;
  - g. School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college or university; or
  - h. Youth Center.
3. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 8.6.4.2 to the nearest point of the property line of the proposed RMD.

### **8.6.5. Signage.**

All signage shall conform to the requirements of Section 5.2 of the Zoning Bylaw. The Planning Board may impose additional restrictions on signage as appropriate to mitigate any aesthetic impacts.

### **8.6.6. Application Procedures.**

Submission requirements and procedures shall be in accordance with the Planning Board Rules and Regulations for Special Permits and Site Plan Approval under Section 9.3.

### **8.6.7. Special Permit Conditions on RMDs.**

1. The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any Special Permit granted under this Section 8.6:
  - a. Hours of Operation;
  - b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Inspector of Buildings, Police and Fire Departments and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations;
  - c. The permit holder shall file a copy of any cease and desist order, quarantine order, suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Inspector of Buildings and SPGA within 48 hours of receipt by the RMD;
  - d. The permit holder shall provide to the Inspector of Buildings, Fire Chief and Chief of the Police Department, the name, telephone number and electronic mail address

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of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder;

- e. The Special Permit authorizing the establishment of an RMD shall be valid only for the specific registered entity to which the Special Permit was issued, and only for the site on which the RMD has been authorized by Special Permit. If the registration for the RMD has been revoked by the DPH or if the RMD registration is to be transferred to another controlling entity, or is to be relocated to a different site within the Medical Marijuana Overlay District, a new Special Permit shall be required;
- f. An RMD shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified clients pursuant to applicable state and local regulations;
- g. The Special Permit shall lapse upon the expiration or termination of the applicant's registration by DPH;
- h. The permit holder shall notify the Inspector of Buildings, the Chiefs of the Police and Fire Departments and the SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH;
- i. The Police Department, Fire Department, Inspector of Buildings, and Board of Health shall have the right to inspect the subject premises to assure compliance with the special permit.

### **8.6.8. Exemption from RMD Special Permit Requirement.**

RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A § 3 are not required to obtain a Special Permit but shall apply for Site Plan Approval pursuant to Section 9.5 of the Zoning Bylaw.

### **8.6.9. Prohibition Against Nuisances.**

No use shall be allowed that creates a nuisance to abutters or to the surrounding area, or that creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent, or electrical interference, that may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

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## **8.7. SENIOR RESIDENTIAL COMMUNITY OVERLAY DISTRICT (SRCOD).**

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### **8.7.1. Purpose.**

The intent of this section is to allow flexibility in the development of parcels for housing and related services for persons 62 or older, with particular interest in meeting the needs of residents of Andover. The objectives of this section are to achieve the following purposes:

- 1. To provide for the development and use of alternative housing and care for an aging population in accordance with the Town's Master Plan;

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2. To create an environment that provides supportive services routinely used by an aging population;
3. To promote housing options that adapt to the needs of an aging population;
4. To preserve the Town's residential character;
5. To encourage the preservation of open spaces and protection of the Merrimack River;
6. To encourage housing affordable to the aging population who are Andover residents.

### **8.7.2. Applicability.**

A Senior Residential Community Overlay District includes all the lands designated on the plan titled, "Proposed Senior Residential Community Overlay District", dated December 4, 2012, as prepared by and reviewed by the Town Engineer, which plans are on file in the Office of the Town Clerk and that are hereby made part of the Town Zoning Map. The Planning Board is the Special Permit Granting Authority for the SRCOD and may grant a special permit for one or more of the uses as described herein.

### **8.7.3. Types of Dwellings, Uses and Associated Services Permitted.**

1. Applications for special permits within the SRCOD shall contain at least one of the following housing types, attached or detached, in any combination: Independent; Congregate Housing; Assisted Living Facility; and Restorative Care/Nursing Facility.
2. In addition to dwelling units, an application may contain any or all of the following uses and associated services (not to exceed 25 percent of the total square footage of all the residential buildings within the project), individually or in any combination:
  - a. Dining rooms, coffee shops, and related kitchen areas and facilities;
  - b. Living rooms, libraries, music rooms, auditoriums, greenhouses;
  - c. Lounges, card rooms, meeting rooms, and other social and recreational areas;
  - d. Administrative offices, and social service offices;
  - e. Mail rooms, gift shops, and sundries;
  - f. Medical offices, diagnostic and treatment centers, wellness centers, and exercise areas;
  - g. Salon, spa, barbers, and hairdressers;
  - h. Banks and ATM banking machines;
  - i. Home health care;
  - j. Adult Day Health Care services;
  - k. Community space;

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1. Hobby space.
3. All uses and associated services are intended for SRCOD residents, employees and guests and are not intended to provide services to the general public.

### **8.7.4. Dimensional Requirements and Design Standards.**

1. *Density:* A special permit granted by the Planning Board shall meet the following minimum requirements:
  2. 5,000 square feet of lot area for each detached Independent Living Unit.
  3. 4,000 square feet of lot area for each attached Independent Living Unit.
  4. 3,000 square feet of lot area for each bedroom in an assisted living, congregate housing, skilled nursing facility.
  5. Within the SRCOD, there shall be no more than 200 Independent Living Units (attached or detached).
  6. Within the SRCOD, there shall be no more than 200 bedrooms in all assisted living, congregate living, and skilled nursing facility.
7. *Building Height:*
  - a. Any new addition or new construction, as measured from the property line, within 200 feet back from River Road shall not exceed 35 feet.
  - b. Any new addition or new construction, as measured from the property line beyond 200 feet back from River Road shall not exceed 60 feet.
8. *Building Setbacks:* Buildings shall be set back a minimum of 40 feet from all property lines.
9. *Building Footprint:*
  - a. Within a distance of 200 feet of River Road the maximum building footprint for a building shall be 25,000 square feet.
  - b. Beyond a distance of 200 feet of River Road, the maximum building footprint shall be 60,000 square feet.
10. *Yard Requirements:* There are no yard requirements between buildings within the SRCOD; however, all structures must conform to the Massachusetts Building Code with respect to building separation and fire walls. In a SRCOD, more than one building may be erected on a single lot.
11. *Common Open Space:* Common Open Space is the land within the parcel or lot that is not specifically reserved for the support of dwelling units and that is not covered by buildings, roads, driveways, parking areas or service areas, or that is not set aside as private yards, patios or gardens for residents. All Common Open Space shall be open and unobstructed to the sky - flagpoles, sculptures, benches, swimming pools, tennis

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courts, atriums, trees and similar objects shall not be considered obstructions. The area of Common Open Space shall equal at least 20 percent of the total area of the parcel or lot.

12. *Protected Open Space:* Protected Open Space is the land within the parcel or lot that will be protected in perpetuity. The area of Protected Open Space shall equal at least 30 percent of the total area of the parcel or lot.

This open space land shall either be conveyed to the Town of Andover and accepted by the Select Board for park or open space use or be conveyed to a nonprofit organization, approved by the Planning Board in its total discretion, the principal purpose of which organization is the conservation of open space. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town of Andover as approved by Town Counsel and approved by the Secretary of Energy and Environmental Affairs pursuant to G.L. c. 184, § 32 shall be recorded by the applicant prior to the issuance of a building permit, providing that the land shall be kept in an open or natural state in perpetuity and not be built upon or developed for accessory uses such as parking or roadway. All protected open space shall be restricted by deed from all future building. Before final approval of the special permit by the Planning Board, the applicant shall state which of the two conveyance options above is being proposed, and such conveyance or restriction, if approved, shall be recorded by the applicant, as a restriction on the development plan prior to issuance of a building permit.

13. *Affordability:*
  - a. A minimum of 15 percent of the total number of living units shall be set aside as affordable housing units for older adults who qualify as low, moderate, or upper-moderate income persons as defined in Section 10.
  - b. In determining the total number of affordable units required, a fractional unit of 0.5 or more shall be regarded as a whole unit.
  - c. To the extent legally permissible, the affordable units shall be offered to give the maximum preference allowed by law to older adult residents of the Town of Andover, employees of the Town of Andover, Andover natives, and relatives of current Andover residents ("Local Preference"). This condition is intended to complement and not to override or supersede the fair marketing regulations of the Department of Housing and Community Development (DHCD), the Massachusetts Commission Against Discrimination (MCAD), or any authority with jurisdiction and like purpose, to provide low- and moderate-income housing.
  - d. The affordable units may be rented, sold, or otherwise provided to qualified older adults in accordance with income and asset limitations established by the authorizing state or federal agency in those instances where the affordable units benefit directly from this assistance, or in the absence thereof pursuant to the definitions of income and assets established for the Low-Income Housing Tax Credit program, or pursuant to the standards promulgated by the Planning Board.

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- e. Affordable units shall be dispersed throughout the building(s) and shall be compatible with and generally comparable to the market-rate units in terms of location, quality and character.
- f. Of the affordable units, the applicant shall set aside units representing all three income levels as follows: 30 percent shall serve low income persons, 40 percent shall serve moderate income persons and 30 percent shall serve upper-moderate income persons.
- g. Although eligibility for the affordable units shall be determined by reference to income and assets of the prospective residents, the affordable units shall be considered affordable only if they are restricted in the amount of monthly rent or other monthly charges for the unit based upon a percentage of the applicable median income. For purposes of computing the monthly rent or other monthly charges for the unit, there shall be excluded any special charges for extra or specialized services that are not provided to the general population of the project but are unique to the particular needs of an individual older adult.
- h. The standards of affordability for proposed projects, including, without limitation, the methods of determining and maintaining eligibility, the percentage of applicable median income used for limiting the monthly amounts charged for the affordable units and any variations in the percentages of median income in the three income levels shall be set and revised from time to time by the Planning Board provided the standards are consistent with appropriate federal and state standards.
- i. Prior to the issuance of any building permit for any units, affordability restrictions maintaining all affordable units in perpetuity shall be embodied in applicable deed covenants, contractual agreements, and/or other mechanisms to ensure compliance with this section and shall be submitted to the Planning Board and Town Counsel for review and approval. Prior to the issuance of any building permit for any units, a clearance certificate shall be required to be issued by the Planning Division indicating compliance with this subsection. No clearance certificate shall be issued for any units until (a) all documents necessary to ensure compliance with this subsection including, without limitation, the documents referred to in this Section regarding affordability, including an affordability restriction executed by the Commonwealth's Secretary of Housing and Community Development pursuant to G.L. c. 184, Section 32, have been executed and recorded with the Registry of Deeds; and (b) any required cash or other contribution has been made to the Town or its designee.
- j. Nothing in this subsection shall preclude a developer from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups or from setting aside more units for lower-income groups.
- k. For purposes of ensuring that the applicant is abiding by their obligations relative to the affordable units pursuant to the special permit, a monitoring agent shall be assigned by the Planning Board. Prior to the issuance of a building permit, a monitoring agreement shall have been submitted to the Planning Board and Town

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Counsel for review and approval. The applicant and successors and assigns as owners of the project (applicant/owner), shall pay, in perpetuity, any reasonable fees charged by the monitoring agent/agency.

- l. If an affordable dwelling unit is a rental unit, on each anniversary of the unit, the applicant/owner will obtain and maintain on file a Certification of Tenant Eligibility in a form and for the time period approved by the monitoring agent. These Certifications shall be filed annually with the Planning Division in the Town. The applicant shall verify that the income provided by an applicant in an income certification is accurate. The applicant will maintain complete and accurate records pertaining to the Affordable Units, and during reasonable business hours and upon reasonable notice, will permit the Town to inspect the books and records of the applicant pertaining to the Affordable Units.
  - m. The applicant may, with the permission of the Planning Board, in lieu of one or more affordable ownership unit(s), contribute to the Town of Andover Municipal Affordable Housing Trust Fund, a cash contribution determined by the Planning Board in combination with the Housing Trust Fund Board of Trustees, and is to be used for the benefit of older adult households in Andover.
14. *Access and On-site Circulation:* Adequate on-site circulation shall be provided to and from the site, taking into consideration the adjacent sidewalks and streets and accessibility of the site and the building(s) on it for emergency vehicles. Adequate provision shall be made for off-street loading and unloading requirements of delivery vehicles and passengers using private transportation.
15. *Public Safety:*
  - a. The facility shall have an integrated emergency call, telephone, and other communication system to provide monitoring for its residents. The system shall be reviewed and approved by Andover Fire Rescue.
  - b. There shall be sufficient site access for public safety vehicles.
  - c. A plan shall be approved by Andover Fire Rescue for the emergency evacuation of residents, regardless of impairments.
  - d. The Andover Fire Chief shall review all structures and circulation to ensure the accessibility of fire and other emergency vehicles.
16. *Landscaping:* Landscaping and screening shall be required to obscure visibility of parking areas, dumpster locations, and loading areas from beyond the boundaries of the premises.
17. *Transportation Services:* Transportation to Town services and facilities shall be provided.
18. *Water:* The proposed development shall be supplied with an adequate water system approved by the Water Division, Fire Rescue, and Board of Health.

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19. *Waste Disposal:* The proposed development shall be connected to a municipal sewer system or an adequate sewage disposal system approved by the Andover Board of Health.
20. *Age Restrictions:* All dwelling units within the SRCOD shall require at least one resident to have attained the age of 62 and no resident shall be under the age of 18. Prior to issuance of the first building permit for a building, the applicant shall record a restriction, approved by Town Counsel, that all units shall require at least one resident to have attained the age of 62 and that no resident of a dwelling unit shall be under the age of 18.

### **8.7.5. Design Objectives.**

Each project within the SCROD shall:

1. Blend the scale of institutional, professional, and residential structures into the site design;
2. Provide safe vehicular and pedestrian ways, and minimize traffic impacts;
3. Provide a minimum of two vehicular access and egress points for each project;
4. Preserve natural features, wetlands, scenic vistas, and open spaces when possible;
5. Consider site design that meets the specific needs of the aging population;
6. Minimize the visual impact of parking areas;
7. Incorporate energy efficient and environmentally sensitive principles;
8. Provide suitable means of access and egress to dwellings for persons with disabilities;
9. Provide enclosed walkways and/or unenclosed walkways connecting all buildings;
10. Incorporate pedestrian amenities, accessory uses, and community benefits into the overall design in a harmonious way;
11. Locate structures on the site so as to provide for the privacy of residents adjacent to the SRCOD;
12. Provide a Site Management Plan developed to outline the ongoing maintenance of the Common Open Space to ensure its function, appearance, cleanliness, and for ongoing drainage and utility maintenance;
13. Clearly identify on a plan the publicly owned and/or publicly accessible land areas;
14. Provide for public pedestrian access from River Road to the Merrimack River when possible. All development proposals that include frontage along the Merrimack River shall include existing and future pedestrian pathways within 500 feet of the river for public use and enjoyment. (No pathway within 500 feet of the river should have an impervious surface). Pedestrian pathways shall be publicly accessible via a public access easement or conveyance. The easement width for these pathways shall be not less than twenty (20) feet, unless otherwise approved by the Planning Board; and

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15. Incorporate low-impact development (LID) design techniques or Stormwater Best Management Practices (such as, but not limited to, pervious paving, landscape swales, vegetative filters or rain gardens, and landscape infiltration facilities) to lessen the environmental impact of development along the Merrimack River.

### **8.7.6. Roadway and Parking Requirements.**

1. The following parking standards shall apply to SRCOD facilities approved under this Section 8.7. The Planning Board may waive the construction of parking until it is demonstrated that it is needed. However, parking areas shall be designated to anticipate the future demand. The minimum requirements are as follows:
  - a. *Detached Independent Living*: One parking space per dwelling unit.
  - b. *Attached Independent Living*: One parking space per dwelling unit.
  - c. *Congregate Housing and Assisted Living*: One parking space for every five beds and one (1) parking space for each employee on the largest shift.
  - d. *Restorative Care or Nursing Care facility*: One parking space for every 20 beds and one parking space for every employee on the largest shift.
2. All other parking and screening provisions of the Zoning Bylaw shall apply unless modified by this section.
3. If there is a mix of uses, the Planning Board may waive the parking requirements to reduce the amount of impervious material on site. The Planning Board may require areas to be set aside for future parking needs.

### **8.7.7. Bonus.**

1. *Bonus Densities*: The granting of any bonus density shall not exempt the applicant from meeting any of the other requirements of this or other reference sections of the Bylaw. Any bonus proposal must be reviewed and approved by the Planning Board and clearly stated in the special permit. Bonus densities may be granted by the Planning Board for the following reasons:
  - a. *Open Space*: The objective is to increase the amount of Protected Open Space on the site and provide public access to the Merrimack River. The number of dwelling units (Independent Living, Congregate Care or Assisted Living Units or Nursing/Restorative beds) proposed may be increased by 15 percent (i.e., for every 10 dwelling units, 2 additional dwelling units may be built) if the proposed SRCOD provides 50 percent Protected Open Space instead of 30 percent. A Protected Open Space plan shall identify all of the Common and Protected Open Space, and the publicly accessible land areas, with the intent of providing for public access from River Road to the Merrimack River.
  - b. *Preservation*: The objective is to preserve existing buildings within the district. The number of dwelling units (Independent Living, Congregate Care or Assisted Living Units or Nursing/Restorative beds) proposed may be increased by 15 percent (i.e., for every 10 dwelling units, 2 additional dwelling units may be built)

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if the proponent of the SRCOD includes the preservation and rehabilitation of existing buildings as part of the redevelopment plan.

- c. *Affordable Housing*: The objective is to provide additional alternative affordable housing options for older adults in Andover having reached the age of 62. The number of dwelling units (Independent Living, Congregate Care, or Assisted Living Units) may be increased by two market rate dwelling units for each one additional affordable unit.
2. *Density Bonus Limitations*: The use of all density bonuses provided may not result in exceeding the maximum allowed number of units as outlined herein.

### **8.7.8. Procedure.**

1. *Pre-Application*: Prior to the submittal of a special permit application, a "Concept Plan" shall be submitted to help guide the development of the site plan process for the proposed project build-out and individual elements thereof. The Concept Plan is intended to be used as a tool for both the applicant and the Planning Board to ensure that the proposed project design will be consistent with the requirements of the SRCOD. The Concept Plan should reflect the following:
  - a. Overall building footprint;
  - b. Areas that shall remain undeveloped; and
  - c. General site improvements, groupings of buildings, and proposed land uses.
2. *Application*: An application for a special permit shall be submitted to the Planning Board pursuant to the submission requirements and procedures under Section 9.4. and the Planning Board Rules and Regulations for Special Permits and Site Plan Review under Section 9.3.
3. *Additional Submittals*:
  - a. *Waivers*. At the request of the applicant in a narrative form, the Planning Board may waive certain dimensional, design and other requirements as stated herein (unless expressly prohibited), in the interests of design flexibility and overall project quality if it finds that:
    - i. The project is consistent with the overall purpose and objectives of the SRCOD, or
    - ii. The waiver will allow the project to achieve a high-quality design incorporating a desired mix of open space, affordability, a mix of uses, and/or physical character.

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**8.8. WATERSHED PROTECTION OVERLAY DISTRICT (WPOD).**

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**8.8.1. Purpose.**

1. The Watershed Protection Overlay District (WPOD) is established for the following purposes:
  - a. To preserve and protect surface and ground water resources in the Fish Brook/Haggett's Pond Watershed Protection Overlay District (WPOD) for the health, safety and welfare of its people; and
  - b. To protect the community from the detrimental use and development of land and waters within the WPOD.
2. The WPOD does not limit the existing authority of the Conservation Commission under G.L. c. 131, s. 40.

**8.8.2. Establishment.**

1. *Lands Within the WPOD:* The WPOD includes all the lands that create the catchment or drainage areas of Fish Brook or Haggett's Pond as part of their natural or man-made drainage system. The district includes all areas designated on the plan titled "Fish Brook/Haggett's Pond Watershed Protection Overlay District", dated December 2012, prepared by the Town Engineer, which plan is on file in the office of the Town Clerk and which is hereby made part of the Town Zoning Maps.
2. *Zones 1 and 2:* Within the WPOD, Priority Zones 1 and 2 shall be designated to identify areas where permitted uses and design standards shall apply based upon, in part, the linear distances from surface waters and tributaries. Priority Zone 1 shall include land areas up to 400 feet from the annual high water levels of Haggett's Pond, its tributaries, and Fish Brook, respectively. Priority Zone 2 shall include land areas exceeding 400 feet and extending out to 1/2 mile from the edge of Priority Zone 1. Priority Zones 1 and 2 shall apply to Fish Brook and any other Class A water source that is tributary to surface water supplies within the WPOD to a distance of 200 feet from the source.
3. *Burden of Proof.* When a property owner seeks Town approval for any work done on a lot that is partially contained within the WPOD boundary, the owner must include with their application a map on a scale of one inch equals 40 feet prepared by a registered professional surveyor, stamped by a Registered Professional Engineer specializing in Civil Engineering, and approved in writing by the Town Engineer, showing the boundary of the WPOD with respect to the owner's property limits. The Planning Board may, upon review of the application, determine what portion, if any, of the lot is contained within the WPOD. The Planning Board may issue an order approving the plan if the Planning Board determines that land on the lot shown outside the WPOD is not part of the catchment or drainage areas of Fish Brook or Haggett's Pond or part of their natural or man-made drainage system.

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### **8.8.3. Overlay District.**

The WPOD is an overlay district and shall be superimposed on the other districts established by this Bylaw. Land in the WPOD may be used for any purpose otherwise permitted in the underlying district, subject to the additional restrictions that follow herein.

### **8.8.4. Permitted Uses.**

The following uses are permitted within the WPOD, subject to the design standards set forth in Section 8.8.7:

1. Conservation of soil, water and plants;
2. Outdoor recreation and nature study;
3. Boat docks and landings, except on Haggett's Pond and Fish Brook, pedestrian and bicycle paths and bridges; and horse paths and bridges;
4. Operation and maintenance of dams, splash boards, and other water control, supply, and conservation devices;
5. Residential development, as permitted in the underlying district;
6. Farming, gardening, nursery, conservation, golf courses, forestry, harvesting, and grazing, subject to restrictions set forth in Section 8.8.5.3;
7. Earth removal as defined in Sections 6.6.2, 6.6.3, and 6.6.4, where removal will not endanger ground or surface water quality and where non-construction excavation or grading shall not come closer than four feet above maximum groundwater elevation. The angle of graded slopes shall be no greater than that which can be held by existing or planned vegetation;
8. Construction, alteration, repair and maintenance of municipal infrastructure, including water system, sewer systems, drainage, roadways and public utilities; and
9. Storage of heating oil within a building, provided that all necessary state and local approvals have been obtained; and
10. Existing on-site sewage disposal and treatment systems within 400 feet of Haggett's Pond, provided that on-site disposal and treatment systems are maintained in accordance with requirements set forth in 310 CMR 15.300 et seq.

### **8.8.5. Special Permit Uses.**

The Planning Board may allow the following uses within the WPOD upon the grant of a special permit and subject to any additional conditions the Board may impose:

1. Ponds or other changes in water bodies or watercourses, created for recreational use or drainage improvements;
2. The creation of ponds not subject to Conservation Commission jurisdiction under the Wetlands Protection Act; and

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3. The storage, manufacture or use of hazardous or toxic substances other than those prohibited in Section 8.8.6 as long as there is minimal risk to health, safety, and the environment as provided for in 310 CMR 40 Massachusetts Contingency Plan and would not exceed any state or federal water quality criteria or standards if spilled, discharged, or otherwise released. All reasonable and necessary measures shall be taken to prevent spills, discharges, or other releases of the hazardous or toxic substances to the environment.

### **8.8.6. Prohibited Uses.**

The following uses are prohibited within the WPOD, except as otherwise noted within this Bylaw:

1. The bulk storage of salt and other road de-icing chemicals;
2. Landfills and open dumps as defined in 310 CMR 19.006;
3. Automobile graveyards and junkyards, as defined in M.G.L. c. § 140B, 1;
4. The discharge of stormwater into Fish Brook, Haggett's Pond, or any other surface water body or tributary stream within Priority Zones 1 or 2 for which oil and water separation devices have not been installed and regularly maintained at the nearest upstream manhole structure before the outfall;
5. Any new building, structure, land-disturbing activities, excavation, or fill within 50 feet of all water bodies and watercourses as defined in this Bylaw; except for that which is necessary for the operation, modification, repair, replacement, or expansion of the Town's public drinking water supply system, and foot, bicycle, and/or horse paths and bridges and other systems that will be consistent with the purposes set forth in Section 8.8.1;
6. The storage, management, or disposal of solid waste or refuse as defined in Massachusetts regulations at 310 CMR 19;
7. Gasoline service station, repair garage, or body shop for motorized vehicles;
8. The stockpiling or disposal of snow within the WPOD boundaries from any sources either within or outside the boundaries of the WPOD;
9. Unless otherwise exempted or excluded under federal, state, or local requirements, the storage, management, or disposal (including septic systems and floor drains) of hazardous materials as defined in Massachusetts regulations cited at 310 CMR 40.1600 (Oil and Hazardous Materials List) and Federal regulations cited at 40 CFR Part 355 (Extremely Hazardous Materials List);
10. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual and any other subsequent amendments;

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11. Discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater;
12. Landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to M.G.L. c. 21, §§ 26 through 53; M.G.L. c. 111, § 17; M.G.L. c. 83, §§ 6 and 7, and regulations promulgated there under;
13. Unless otherwise exempted or excluded under federal, state, or local requirements, facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.00;
14. Unless otherwise exempted or excluded under federal, state, or local requirements, the storage of liquid hazardous materials, as defined in M.G.L. c. 21E, and/or liquid petroleum products;
15. Storage of commercial fertilizers, as defined in MGL c 128, § 64;
16. Storage of sludge and septage;
17. Storage, stockpiling, or spreading of animal manure within Priority Zone 1;
18. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within four feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
19. Any new on-site sewage treatment and disposal systems within 400 feet of a surface water supply as provided for in 310 CMR 15.211 and within 200 feet of one or more rivers, streams, or swales that are tributary to the surface water supplies;
20. Prohibitions not otherwise specified herein, but provided for in 310 CMR 22.20B, Surface Water Supply Protection.
21. For lots constructed after June 1, 2009, in addition to the above-named prohibited uses the following shall apply: Any new building, structure, land-disturbing activities, excavation, or fill within Priority Zone 1 as defined in this Section 8.8, except for that which is necessary for the operation, modification, repair, replacement, or expansion of the Town's public drinking water supply system, and foot, bicycle, or horse paths and bridges and said systems that will be consistent with the purposes set forth in Section 8.8.1.

### **8.8.7. Design Standards.**

Any development of land within the WPOD, except for modifications/changes to previously existing buildings or structures within Priority Zone 1, shall meet the following design standards in addition to all standards imposed by the underlying zoning district. Where a lot is partially contained within the WPOD boundary, these standards shall apply to that portion of the lot that is determined to be within the WPOD:

1. Slopes that exceed an average of 15 percent over a distance of 10 feet or more shall remain undisturbed;

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2. Where a lot is partially outside the WPOD, the site plan shall, to the greatest extent possible, locate pollution sources, such as subsurface sewage disposal systems, outside the district;
3. Vegetation on the lot shall be planted and located in such a way as to maximize groundwater recharge, absorb and filter runoff and reduce erosion;
4. All construction activities as allowed within the WPOD shall be designed or sited to minimize erosion and runoff, by practices such as minimizing the construction period, slope stabilization, ditch maintenance, filtering, sedimentation basins, and re-vegetation. A Sedimentation and Control Plan, prepared and stamped by a Massachusetts Registered Professional Engineer, and approved by the Planning Board and other local agencies as may be needed, shall be required for all construction and land-disturbing activities within the designated Priority Zone 1 of water bodies and tributaries to the water supply as defined in Section 8.8.2. In addition, a Planting and Re-vegetation Plan prepared by a licensed Landscape Architect and approved by the Planning Board shall be required as part of all construction and land disturbing activities within the WPOD;
5. The renovation, expansion, and/or upgrade of existing on-site sewage treatment and disposal systems shall be conducted in accordance with requirements set forth in 310 CMR 15.000 et seq., unless otherwise specified herein.

### **8.8.8. Special Permit Procedures.**

1. Submission requirements and procedures shall be in accordance with Section 9.4 and the Planning Board Rules and Regulations for Special Permits and Site Plan Review under Section 9.3.
2. After the opportunity for review by other boards and agencies, the Planning Board may require the applicant to supply more specific information about the proposed development as per questions and comments of the reviewing boards and agencies.

### **8.8.9. Decision.**

The Planning Board may grant a special permit for land use within the WPOD hereunder only if it finds that the applicant has met the general requirements of Sections 8.8 and 9.4, and that the applicant has demonstrated the following:

1. That the plan will preserve and protect the surface and ground water resources in the WPOD for the health, safety, and welfare of the Town's people;
2. That the plan will protect the community from the detrimental use and development of land and waters within the WPOD;
3. That the design standards of Section 8.8.7. have been met; and
4. That Special Permits Procedures 8.8.8. have been met.

### **8.8.10. Conditions and Restrictions.**

The Planning Board may impose conditions and restrictions required to mitigate potential damage to surface and ground water resources and, in reaching its decision, will consider the

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simplicity, reliability, and effectiveness of these mitigating measures and the damage likely to result if these measures were to fail. If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, the reasons shall be stated in writing.

## SECTION 9.0 ADMINISTRATION AND PROCEDURES

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### 9.1. ENFORCEMENT.

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#### 9.1.1. Administration.

This Bylaw shall be administered by the Inspector of Buildings.

#### 9.1.2. Compliance.

Buildings, structures, or signs shall not be erected, substantially altered, moved or changed in use and land shall not be substantially altered or changed in principal use without review and certification of compliance with federal, state, or local law by the Inspector of Buildings. Issuance of a building permit or certificate of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as the required certification.

#### 9.1.3. Commencement of Construction.

Construction or uses under a building permit or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within six months after the issuance of the permit and in cases involving construction, unless the construction is continued through to completion as continuously and expeditiously as is reasonable.

#### 9.1.4. Zoning Violations.

If the Inspector of Buildings is requested to enforce this Bylaw against any person allegedly in violation of it, the Inspector of Buildings shall respond to the aggrieved party within 14 days of receiving the complaint, identifying any action taken or a decision made not to act, and the reasons for the decision. If the Inspector of Buildings rules that a violation does exist, he shall inform the person or party against whom a violation is found and order the person or party to cease the violation.

#### 9.1.5. Penalties.

If the violation is not stopped within an appropriate time following notification, the Inspector of Buildings shall notify the Town Manager for appropriate action. Any person violating any of the provisions of this Bylaw shall be fined not more than \$300 for each offense. Each day that such violation continues shall constitute a separate offense.

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### 9.2. ZONING BOARD OF APPEALS.

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#### 9.2.1. Membership.

The Zoning Board of Appeals shall consist of five members and four associate members. The members of the Zoning Board of Appeals and the associates shall be appointed by the Select Board as provided in G.L. c. 40A. The Zoning Board of Appeals shall be organized and governed by the provisions of G.L. c. 40A and this Bylaw.

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### **9.2.2. Powers.**

The Zoning Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and this Bylaw. The Board's powers are as follows:

1. *Special Permits.* To hear and decide applications for special permits. Unless otherwise specified herein, the Zoning Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 9.4, or as otherwise specified.
2. *Variances.* To hear and decide appeals or petitions for variances from the terms of this Bylaw, including variances for uses, all as set forth in G.L. c. 40A, § 10.
3. *Administrative Appeals.* To hear and decide appeals taken by any person aggrieved by reason of the person's inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, §§ 7, 8 and 15.
4. *Comprehensive Permits.* To hear and decide comprehensive permits for construction of low- or moderate-income housing by a public agency or limited dividend or nonprofit corporation under G.L. c. 40B, §§ 20-23.
5. *Withheld Building Permits.* Building permits withheld by the Inspector of Buildings acting under G.L. c. 41, s. 81Y as a means of enforcing the Subdivision Control Law may be issued by the Zoning Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.

### **9.2.3. Regulations.**

The Zoning Board of Appeals shall adopt Rules and Regulations for the administration of its powers, including variances, administrative appeals, and applications for special permits and comprehensive permits. The Zoning Board Rules and Regulations may include reasonable administrative fees and procedures for engaging technical review consultants as provided under G.L. c. 44, § 53G. The Zoning Board Rules and Regulations shall be on file with the Town Clerk and the Community Development and Planning Department.

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## **9.3. PLANNING BOARD.**

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### **9.3.1. Authority.**

The Planning Board shall have and exercise all the powers granted to it by G.L. c.40A and c. 41 and by this Bylaw. The Board's powers are as follows:

1. *Site Plan Review.* The Board shall hear and decide applications for a site plan certificate of approval subject to Section 9.5 of this Bylaw.
2. *Special Permits.* The Planning Board shall act as the Special Permit Granting Authority where authorized in this Bylaw.

### **9.3.2. Regulations.**

The Planning Board may, from time to time, establish and amend Planning Board Rules and Regulations for the special permits the Board has authority to grant and Site Plan Review

## SECTION 9

(Planning Board Rules and Regulations for Special Permits and Site Plan Review). The Planning Board Rules and Regulations for Special Permits and Site plan Review may also include administrative fees and procedures for engaging technical review consultants as provided under G.L. c. 44, § 53G. The Planning Board Rules and Regulations for Special Permits and Site Plan Review shall be on file with the Town Clerk and the Community Development and Planning Department.

### **9.3.3. Planning Board Associate Member.**

To assist in carrying out its duties as a special permit granting authority, there shall be one associate member of the Planning Board appointed by the Town Manager under authority of G.L. c. 40A, s.9. The associate member shall sit on the Planning Board for the purposes of acting at special permit application hearings in case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

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## **9.4. SPECIAL PERMITS.**

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### **9.4.1. Authority.**

Unless designated otherwise in the Table of Uses, the Zoning Board of Appeals shall act as the Special Permit Granting Authority (SPGA).

### **9.4.2. Criteria.**

Special permits may be granted when the SPGA has found that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and town and that it is in harmony with the general purpose and intent of this Bylaw. In addition to any specific factors that may be identified in this Bylaw, the SPGA's findings shall include consideration of each of the following:

1. Social, economic, or community needs that are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures; and
5. Impacts on the natural environment, including, but not limited to, air and water pollution, noise, stormwater runoff, and aesthetics.

### **9.4.3. Application.**

Applications shall be filed in accordance with SPGA's Rules and Regulations. An application shall not be deemed complete until all copies of required information and documentation have been filed with the SPGA. For any major non-residential project as defined in Section 10.0, the applicant shall also comply with Section 9.5.3.

### **9.4.4. Public Hearing.**

The SPGA shall hold a public hearing in conformance with G.L. c. 40A, s.9 and with the provisions of this Bylaw. The hearing shall be held within 65 days after the filing of the

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application. Notice shall be given by publication and posting and by first class mailings to parties of interest as defined in G.L. c. 40A., s. 11.

### **9.4.5. Decision.**

The written decision of the SPGA, and any extension, modification or renewal thereof, shall be filed with the Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed a grant of the permit applied for.

### **9.4.6. Conditions.**

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this Bylaw.

### **9.4.7. Lapse.**

Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within three years following the filing of the special permit approval (plus the time required to pursue or await the determination of an appeal under G.L. c. 40A, s. 17) with the Town Clerk.

### **9.4.8. Major Non-Residential Projects.**

For any Major Non-Residential Project as defined in Section 10.0:

1. The provisions of subsections 9.5.3 and 9.5.4.1 and 2 shall apply.
2. The Planning Board may require the applicant to submit more information about the proposed development within the purposes and guidelines of Section 9.5., or based on the comments of the reviewing boards and agencies. Additional information shall be submitted to the Planning Board within 10 days of written request by the Board.
3. For projects in LS, OP, and IG districts, the Planning Board may at its discretion require the applicant to submit to the Design Review Board, pursuant to Section 9.6.3, for the Design Review Board Report. For DRB review in General Business and Mixed Use districts, see Sections 9.6.2. and 9.6.3. For DRB review in ID2 Districts, see Section 9.4.10.
4. In reviewing the application, the Planning Board shall, at minimum, consider staff comments and the items in subsections 9.5.4.2. a through k.
5. The special permit criteria of subsection 9.4 shall be met.

### **9.4.9. Interdepartmental Review.**

Unless otherwise specifically required under this Bylaw, the SPGA may require that an interdepartmental review be conducted on an application for a special permit.

### **9.4.10. Special Permit in the ID2 District.**

In addition to the criteria contained in Section 9.4.2. and 9.4.8., the Planning Board may issue a special permit in the ID2 District for a Personal Service Establishment, Retail Sales Establishment, Convenience Store, Grocery Store, Dry-Cleaning Operation, Restaurant (sit-down) Restaurant (fast-food), & Indoor Commercial Recreation Establishment (See Appendix A, Table 1) only after considering the additional special permit criteria outlined below:

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1. The proposed development shall have a positive economic benefit to Andover (including, but not limited to, fiscal impact, Town services, and employment), is in harmony with the general purpose and intent of the Master Plan, and is not unreasonably detrimental to the overall General Business Districts, specifically Downtown Andover.
2. The proposed development shall demonstrate that the scale, massing, and detailing of buildings are compatible with the character of the community. The Planning Board may at their discretion require the applicant to submit to the Design Review Board under Section 9.6.3. for the Design Review Board Report.
3. The proposed development shall provide landscape plans for the site, the parking areas, and internal landscaped islands. The parking areas should service adjacent structures when possible. The Planning Board may at their discretion require additional landscaping.
4. The development shall provide for adequate traffic mitigation and improvements if the proposed use negatively affects current traffic flow conditions. At a minimum, the applicant shall be required to join the local transportation management association.

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### **9.5. SITE PLAN REVIEW.**

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#### **9.5.1. Purpose.**

The purposes of the site plan review are:

1. To administer the provisions of this Bylaw;
2. To ensure that development will be designed and constructed in a manner that promotes the appropriate use of land and upholds the purposes and objectives of G.L. c. 40A.

#### **9.5.2. Applicability.**

Except as provided in Section 10.0 for major non-residential projects and for new multifamily construction under Section 7.5, no building permit shall be issued for new construction or enlargement of a building in which commercial, industrial, institutional, or multifamily use or uses are located unless and until a site plan review certificate of approval has been issued in conformance with this section.

1. Site plan approval shall be required for the following projects:
  - a. Where the gross floor area of an existing building is increased up to 2,000 square feet.
  - b. Where the gross floor area of a proposed building or of all buildings proposed totals 10,000 square feet or less.
2. A project that results in less than 300 square feet of new gross floor area shall not be subject to the provisions of this section.

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### **9.5.3. Submission Requirements.**

Submission requirements shall be in accordance with the Planning Board Rules and Regulations for Special Permits and Site Plan Review, on file with the Planning Department and Town Clerk.

### **9.5.4. Procedure for Site Plan Certificate of Approval.**

1. An interdepartmental review of the application materials shall be conducted by staff of the Departments of Community Development and Planning, Assessors, Public Works, Police and Fire. Comments of the staff shall be submitted in writing to the Planning Board.
2. Following receipt of staff comments, the Planning Board shall conduct a site plan review during a regularly scheduled meeting. The Planning Board may approve the site plan only if it determines that the proposed development meets the intent and provisions of this Bylaw and will not result in detriment to the town or the neighborhood in which it is located. In approving or disapproving the site plan, the Planning Board shall, as a minimum, consider staff comments and the following:
  - a. The proposed placement of buildings;
  - b. Major topographical changes;
  - c. Surface and ground water drainage and erosion control;
  - d. Protection against flooding and inundation;
  - e. Prevention of water and pollution and environmental damage;
  - f. Provision for adequate utility services;
  - g. Provisions of off-street parking and loading;
  - h. Location of intersections of driveways and streets;
  - i. The effect of additional traffic created by the development on intersections and streets likely to be affected by the proposed development;
  - j. Provision for pedestrian/bicycle accessways connecting to adjacent open space, neighborhoods, schools, recreation areas or transportation facilities and for alternative transit programs; and
  - k. Provisions for landscaping and adequate screening and buffering.
3. The Planning Board shall vote to either approve or deny the site plan or notify the applicant of deficiencies to be addressed in a follow-up site plan review prior to rendering a decision. A written approval of the site plan by the Planning Board shall be sent to the applicant and Inspector of Buildings, shall constitute a site plan review certificate of approval, and may include conditions to be enforced by the Inspector of Buildings. Such certification of approval shall be filed with the Office of the Town Clerk.

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4. Once approved, a site plan may be modified only upon written approval of the Planning Board.

### **9.5.5. Lapse.**

Site plan approval shall lapse after one year from the date of approval if a substantial use thereof has not sooner commenced except for good cause. The Planning Board may extend its approval in writing, for good cause, upon the written request of the applicant.

### **9.5.6. Appeal.**

Any appeal of a Planning Board decision under this Section 9.5 shall be in accordance with G.L. c. 40A, s. 17.

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## **9.6. DESIGN REVIEW.**

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### **9.6.1. Design Review Board.**

A Design Review Board (DRB) is hereby established, consisting of five members appointed by the Town Manager, including one nominee of the Planning Board, one nominee of the Preservation Commission, one nominee of the Chamber of Commerce, and two others. Members shall, if possible, include an architect, a landscape architect, and a resident from within or near a General Business or Mixed Use District. Members shall serve for three years or until their successors are appointed, except that, of the five members first appointed, one shall serve for three years, two shall serve for two years, and two shall serve for one year.

### **9.6.2. Pre-application Review.**

1. A permit applicant for any of the following shall consult with the Design Review Board prior to seeking a permit:
  - a. A new building, exterior alteration affecting an elevation visible from the public way (excluding ordinary repair and maintenance with similar materials, landscape elements, storm windows and doors, air conditioners, reconstruction after natural disasters, paint, and traffic control devices), or sign within any area zoned for General Business and Mixed Use District; or
  - b. A new structure built by or for the use of the Town of Andover in any district.
2. The DRB shall provide assistance in relating the proposal to the guidelines for the district. This may involve explaining these and other applicable guidelines, reviewing proposals, suggesting good examples of how others have responded in similar cases and maintaining information regarding other sources of design assistance.
3. In the case of exterior alterations and new structures built by or for the use of the Town of Andover, the Inspector of Buildings will refer all requests to the chairperson or designated individual for a determination of applicability. The applicant will be notified within five business days if the request requires the review of the DRB or is granted a waiver.

**9.6.3. Application Review.**

Whether or not requested by the applicant, the DRB shall review all applications for building permits, special permits, or variances for proposals located in areas zoned for General Business and Mixed Use if involving new construction, exterior alteration or a sign larger than four square feet, or a new structure built by or for the use of the Town of Andover in any district; provided, however, that the lack of a report from the DRB shall not be sufficient reason to delay action on a proposal that otherwise could be acted upon by the Building Inspector, SPGA, or Zoning Board of Appeals. In addition, the DRB shall review applications for outdoor dining in GB and MU districts, private property on Town sidewalks on or near Main Street, special permits for attached clusters, development projects in the Historic Mill Overlay District, and older adults housing. At the discretion of the Planning Board, the DRB shall also review applications for special permits in the ID2 district as well as major non-residential projects in LS, OP, and IG districts. An extra copy of all usual submittals required for these proposals shall be provided to the DRB through the Inspector of Buildings. The DRB review shall preferably be done in consultation with the applicant and his designer. The DRB shall provide a report in writing to the applicant and as follows:

1. For building permits: to the Inspector of Buildings regarding any relevant changes.
2. For special permits: to the SPGA as provided in Section 9.4.2.
3. For variances: to the Zoning Board of Appeals as provided in Section 9.2.2.2.

**9.6.4. Design Review in the General Business District and the Mixed Use District.**

The following shall be considered by the SPGA in acting upon special permits and by the Zoning Board of Appeals in acting upon variances:

1. Promote safety by avoiding pedestrian or vehicular hazards within the site or egressing from it. Facilitating access by emergency vehicles and facilitating visual surveillance by occupants, neighbors, and passersby.
2. Serve functional needs by avoiding inconvenience to pedestrians by assuring accessibility by the handicapped and by providing microclimate control.
3. Promote a pedestrian-oriented business area by applying the following:
  - a. To provide continuous visual interest and accessibility to the pedestrian, a major portion of the building facade at the street level which faces the street should be transparent. Bay windows and recessed doorways are particularly encouraged;
  - b. To maintain visual continuity, the entire lot width should be fully occupied by a building wall, fence, gate, shrubs or other landscape elements or as a pedestrian connection;
  - c. Building detailing should provide small-scale elements of interest from a pedestrian viewing distance.
4. Promote enhancement of the established visual character of Andover's General Business Districts by the following:

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- a. Buildings need not conform to any specific style of architecture. Enhancement of the districts' diversity of styles is welcomed. On the other hand, new efforts should avoid the removal, obscuring or disruption of existing structures of historic value.
  - b. The appearance of materials characteristic of the area is preferred. These materials include brick and other unit masonry (painted or unpainted), granite and other cut stone and painted clapboard. Uncharacteristic materials include rough, imitation or reflective materials such as unpainted wood, field stone, stucco, exposed metal, imitation materials (e.g., false brick siding), mirror glass, porcelain enamel or polished stone. Such appearance should generally be avoided; however, variation within the range of characteristic materials, colors and textures is encouraged when they are compatible with surrounding buildings.
  - c. To retain the small-scale character of Andover and to promote diversity of design, a single building with a width of more than 40 feet facing a public way should, where feasible, be divided visually into sub-elements, preferably expressing the functional diversity within the building.
  - d. To provide visual relief from buildings and hard materials, landscape treatment using shrubs, trees, flower boxes, and other greenery around buildings or in recessed places is encouraged.
  - e. Major visual exposure comes not only from the building front; therefore, full attention should be given to the treatment of sidewalks, landscaping, parking areas, and the building wall at the rear and sides.
5. For signs: refer to Sections 5.2.3.2. and 5.2.14. for additional design criteria.

### **9.6.5. Rules and Regulations.**

The Design Review Board may promulgate, after due notice and public hearing, Rules and Regulations to effectuate the purposes of this Section 9.6. The Design Review Board Rules and Regulations shall be on file with the Planning Department and Town Clerk.

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## **9.7. REPETITIVE PETITIONS.**

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### **9.7.1. General.**

The following procedures shall apply to repetitive petitions, appeals, or applications pursuant to G.L. c. 40A, s. 16.

### **9.7.2. Permit or Special Permit Granting Authority.**

No appeal, application, or petition that has been unfavorably and finally acted upon by the SPGA or permit granting authority shall be acted favorably upon within two years after the date of final unfavorable action unless the SPGA or permit granting authority finds specific and material changes in the conditions upon which the previous unfavorable action was based.

### **9.7.3. Planning Board Action.**

Upon a finding of specific and material changes in the conditions upon which the SPGA's or permit granting authority's previous unfavorable action was based, the matter shall be

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referred to the Planning Board. All but one of the members of the Planning Board shall find, after public hearing, specific and material changes in the conditions upon which the previous unfavorable action was based. The Planning Board shall submit written findings and a decision to the Town Clerk, and transmit a copy of same to the SPGA or permit granting authority forthwith.

### **9.7.4. Decision on the Merits.**

Upon a finding by the Planning Board concurring that there are specific and material changes in the conditions upon which the previous unfavorable action was based, the matter shall be remanded to the SPGA or permit granting authority for a decision on the merits of the appeal, application, or petition.

## SECTION 10.0 DEFINITIONS

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the Bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw.

### ACCESSORY BUILDING

A detached subordinate building located on the same lot with a principal building, use of which is an accessory use as defined in this Section 10. A garage or other "accessory building" attached directly to the principal building or connected by any enclosed or roofed structure shall be considered to be a part of the principal building.

### ACCESSORY USE

A use that is subordinate to, clearly incidental to, customary in connection with, and located on the same lot as, the principal use.

### ADULT USE

Adult bookstores, adult cabarets, adult motion-picture theaters, adult paraphernalia stores and adult video stores, as defined in this Bylaw. For purposes of interpreting the definition of "adult use" as defined in this Bylaw, "regular or regularly," shall mean a consistent, ongoing and substantial course of conduct, such that the films, performances or business activities so described constitute a significant and substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

#### Associated Definitions:

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, and other matter that are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement, as defined in G.L. c. 272, s. 31.

**Adult Cabaret:** A nightclub, bar, restaurant, tavern, dance hall or similar commercial establishment that regularly features persons or entertainers who appear in a state of

## SECTION 10

nudity or live performances that are distinguished or characterized by nudity, sexual conduct or sexual excitement, as defined in G.L. c. 272, § 31.

**Adult Motion-Picture Theater:** An enclosed building or any portion thereof regularly used for presenting material (motion-picture films, video cassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in G.L. c. 272, § 31.

**Adult Paraphernalia Store:** An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys that are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement, as defined in G.L. c. 272, § 31.

**Adult Video Store:** An establishment having as a substantial or significant portion of its stock-in-trade, for sale or rent, motion-picture films, video cassettes and similar audio/visual media, that are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement, as defined in G.L. c. 272, § 31.

### **AFFORDABLE HOUSING**

For purposes of a dimensional special permit for affordable housing, “affordable housing” is any housing subsidized by the federal, state, or local government under any program to assist the construction of affordable housing as defined in the applicable federal or state statute, whether built by a public agency, or nonprofit or limited dividend organization. Any local program is subject to applicable state regulations or guidelines.

#### **Associated Definitions:**

**Low income:** below 60 percent of the median family income (“area median income) for the metropolitan area that includes Andover, as determined by the U.S. Department of Housing and Urban Development (HUD) figures (“median income”).

**Moderate income:** 60-79 percent of area median income.

**Upper-moderate income:** 80-100 percent area median income.

### **AGRICULTURAL USE, EXEMPT**

Agriculture, horticulture, floriculture, or viticulture on parcels of five or more acres in area and exempted by G.L. c. 40A, § 3.

### **AGRICULTURAL USE, NON-EXEMPT**

Agriculture, horticulture, floriculture, or viticulture on parcels of less than five acres not governed by G.L. c. 40A, § 3.

## **ALTERATIONS**

As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one position to another on the same lot.

## **AMATEUR RADIO FACILITY**

Antennas or towers used for the transmission and/or reception of radio communication signals for private noncommercial purposes.

## **ASSISTANCE WITH ACTIVITIES OF DAILY LIVING**

Providing support, aid, assistance, prompting, guidance or observations of meal preparation, housekeeping, clothes laundering, shopping for food or other items, use of transportation and other similar tasks with the purpose of supporting an individual to remain in a residential environment for as long as possible.

## **BASE FLOOD ELEVATION**

The base flood elevation shall be the level of flooding having a 1 percent chance of being equaled or exceeded in any given year, as designated on the Flood Insurance Rate Map (FIRM), revised June 5, 1989, as amended from time to time, or, in the absence of such designation, to be determined by the Inspector of Buildings based upon the best available information regarding flood hazards, including any available USGS, SCS and Corps of Engineers studies.

## **BOARDING OR LODGING HOUSE**

A dwelling in which meals are served, other than on a transient basis, for compensation, or rooms are let to people not members of the resident family.

## **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, to form a structure for the shelter of persons, animals, or property.

## **BUILDING COVERAGE**

That percentage of the lot covered by the footprint area of a building or buildings.

## **BUILDING HEIGHT**

The vertical distance from the grade to the highest point of the roof. When a building faces more than one street, the height shall be measured from the average of the grade at the center line of each street front. See Section 4.1.3.3 for specific exemptions from this definition.

## **BUILDING, PRINCIPAL**

The building in which the principal use of the lot is conducted.

## **BUSINESS OR PROFESSIONAL OFFICE**

A building or part thereof, for transacting business or providing services exclusive of the receipt, sale, storage, or processing of merchandise.

## **CHILD CARE FACILITY**

A nonresidential day care center or school age child care program, as those terms are defined in G.L. c. 15D.

## **CLUSTER DEVELOPMENT**

A residential subdivision of detached single-family dwellings on a tract of land of 10 acres or more with a minimum of 30 percent of the land area designated as common open space, allowed by special permit in any single residence district other than Single Residence A.

## **COMMERCIAL PARKING LOT OR GARAGE**

A structure, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for parking vehicles and available to the public.

## **COMMUNICATION STRUCTURE**

A tower, antenna, dish, or other apparatus used for the reception \or transmission of electronic signals for commercial communication purposes.

## **CONTRACTOR'S YARD**

A yard to allow the following uses:

- Parking of commercial vehicles and equipment either in the open or in enclosed structures;
- Building supply and fuel establishment;
- Storage of construction materials;
- Storage of earth materials; and
- Storage of demolished construction materials ready to be re-used, recycled or disposed, such as bricks, concrete masonry units, roofing materials, bituminous asphalt and the like.

## **CONVENIENCE STORE**

A commercial establishment whose principal purpose is to serve a variety of day-to-day domestic or personal consumption needs, including, but not limited to, the sale of all or one of the following items: household goods, meat or food products, bakery goods, newspapers, periodicals, pharmaceuticals, dairy products and beverages. This does not

## SECTION 10

include the sale of alcoholic beverages. Such establishment shall not exceed a net floor area of 3,500 square feet for retail use. Hours of operation may be prescribed as a condition of any special permit.

### **CUSTOMARY HOME OCCUPATION**

Use of a room or rooms in a dwelling or accessory building operated by a person residing on the premises for the practice of a home occupation, provided that any associated signage conforms to Section 5.2 and the practice does not involve:

- The use of more than 33 1/3 percent of the gross floor area of the building up to a maximum of 1,000 gross square feet;
- Alteration of the residential character of the premises;
- Noise, heat, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, or other objectionable effects discernible at the property line not normally associated with residential use;
- The employment of more than one person not a member of the resident family;
- The parking of commercial vehicles on site, except as allowed in § 3.2.1.3 and § 3.2.1.4 of the Bylaw;
- Adult use (as defined in this Section 10.0);
- Generating any solid waste or sewage discharge in volume or type that is not normally associated with residential use in the neighborhood.

### **DRIVEWAY**

An accessory use on a lot, privately owned and intended for the passage of motor vehicles.

### **DWELLING**

A building designed and occupied as the living quarters of one or more families.

#### **Associated Definitions:**

**Dwelling, Multi-family:** A building containing three or more dwelling units.

**Dwelling, Single-Family:** A building containing one dwelling unit.

**Dwelling, Two-Family:** A building containing two dwelling units.

### **DWELLING UNIT**

One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

### **EARTH MATERIALS**

Soil, loam, peat, gravel, rock, or similar materials.

**ESSENTIAL SERVICES**

Transformer station, substation, pumping station, telephone exchange, telephone or radio repeater or other similar utility installation, provided that in any residential district no public business office, storage yard, storage buildings or motor maintenance installation may be operated in connection therewith.

**FAMILY**

One or more persons occupying a dwelling unit, provided that no group of more than five unrelated individuals may constitute a family except for people with disabilities residing in a licensed group home

**FAMILY DAY CARE HOME, LARGE**

Any private residence operating a facility with more than six nonresident children, all as defined in G.L. c. 15D.

**FAMILY DAY CARE HOME, SMALL**

Any private residence operating a facility with six or less nonresident children, all as defined in G.L. c. 15D.

**FAMILY DWELLING UNIT**

Use of a room or rooms in a detached one-family dwelling or accessory building as a dwelling by relatives needing extended care or supervision due to illness, disability, or age. The use shall be subject to reasonable conditions and the requirement for renewable time periods not exceeding five years.

**FLOOR AREA, GROSS**

The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

**FLOOR AREA, NET**

The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

**FUNERAL HOME**

Facility for conducting funerals and related activities such as embalming.

**GROCERY STORE**

An establishment where more than 70 percent of the gross floor area is devoted to the sale of food products for home preparation and consumption.

## **HELICOPTER**

A rotary wing aircraft that, for its horizontal motion, depends principally on its engine-driven rotors.

## **HELIPORT**

An area of land or a structure used or intended to be used for the landing and takeoff of helicopters and restricted in usage to the owner or to persons authorized by the owner.

## **INDEPENDENT LIVING RESIDENCE**

A dwelling that provides accommodations in dwelling units for older adults. These residences may include common areas, a common dining facility, and space for providing social, psychological, and educational programs.

## **INDOOR COMMERCIAL RECREATION ESTABLISHMENT**

A facility involving the assembly of people for indoor recreation or amusement for purposes of dining, drinking, or dancing; musical or theatrical entertainment; or sporting events or athletic activities.

## **INTERDEPARTMENTAL REVIEW TEAM**

A team or working group of Town department heads and staff from the Planning, Conservation, Health, Public Works, Building, Police, and Fire Departments.

## **INTERNAL ACCESS ROADS**

In industrial districts, any road or drive that provides exclusive vehicular access to more than one industry or lot.

## **LONG-TERM CARE FACILITY**

An institution or distinct part of an institution licensed by the Massachusetts Department of Public Health to provide 24-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. Long-term-care facilities provide assistance with activities of daily living as defined by 651 CMR 12.02, as well as skilled nursing and medical care.

## **LOT**

An uninterrupted area of land in one ownership with definitive boundaries, the use of which is subject to the provisions of this Bylaw.

## **LOT AREA**

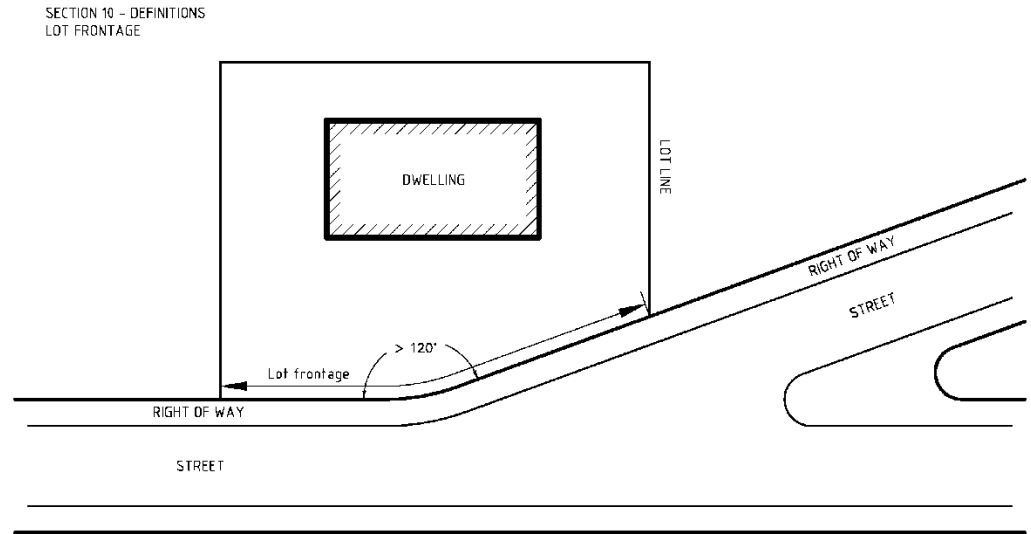
The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. One hundred percent of the lot area required for zoning compliance shall be contiguous land other than land located within a line identified as the wetland margin as

SECTION 10

shown on maps entitled "Wetland Areas of Andover, MA" and subsequent revisions as approved by the Andover Conservation Commission. The 90 percent contiguous upland regulation shall continue to apply to a lot in existence prior to the effective date of this Bylaw.

**LOT FRONTAGE**

An uninterrupted distance along a single way, or along two intersecting ways if the angle of intersection of the two ways is greater than 120 degrees, in fact capable of providing safe vehicular and pedestrian access to the principal use of a lot.



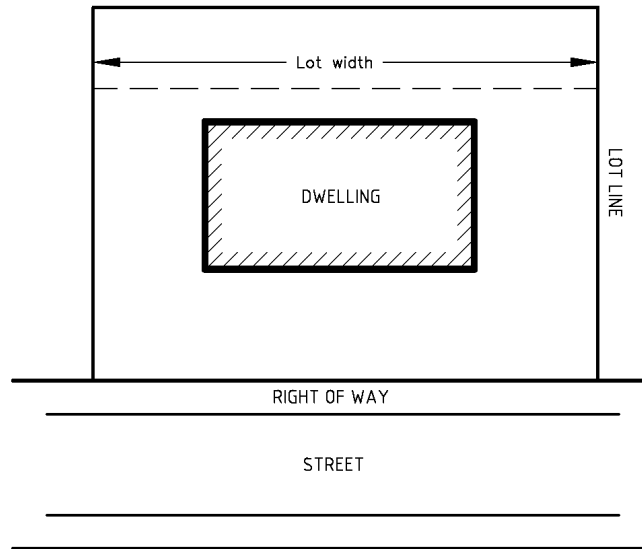
**LOT LINE**

A line dividing one lot from another, or from a street or any public place.

## LOT WIDTH

The horizontal distance between side lot lines, measured parallel to the lot frontage.

SECTION 10 – DEFINITIONS  
LOT WIDTH



## MAJOR NON-RESIDENTIAL PROJECT

A commercial, industrial, or institutional development, but excluding municipal facilities and projects governed by any provision of Section 7.0, having any of the following characteristics:

- A proposal to increase the gross floor area of an existing building by more than 2,000 square feet;
- A proposal to construct a building or buildings in excess of 10,000 gross square feet;
- A proposal to alter, renovate, reconstruct, or redevelop more than 40 percent of the gross floor area of an existing building, when there is a change of use.

For purposes of computation, development within the last five years on the property shall be considered.

## MANUFACTURING

A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, and sales and distribution of such products. The term "manufacturing" shall not include offensive industrial operations as defined in this Section 10.

## MARIJUANA ESTABLISHMENTS

All types of marijuana establishments as defined in G.L. C. 94G, § 1, including all marijuana cultivators, craft marijuana cultivator cooperatives, independent testing laboratories, marijuana product manufacturers, marijuana retailers, on-site consumption,

special events, and any other type of licensed marijuana related businesses, but not to include a medical marijuana treatment center or registered marijuana dispensary as defined and regulated in Section 8.6 of this Bylaw.

**Associated Definitions:**

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

**MEDICAL CENTER OR CLINIC**

A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**MIXED USE**

Any structure containing two or more permitted uses or uses allowed by special permit in the applicable district.

**MOTEL OR HOTEL**

A building or buildings intended and designed for transient, overnight, or extended occupancy, divided into separate units within the same building with or without a public dining facility. If the hotel or motel has independent cooking facilities, no unit shall be occupied by any guest for more than four continuous months, nor may the guest reoccupy any unit within 30 days of a continuous four-month stay, nor may the guest stay more than six months in any calendar year. No occupant of a hotel or motel may claim residency at that location.

**MOTOR VEHICLE REPAIR GARAGE OR BODY SHOP**

An establishment, garage, or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies. This does not include the storage of vehicles for the cannibalization of parts.

**MOTOR VEHICLE SALES OR RENTAL**

Premises selling or renting motor vehicles used for travel purposes.

**MOTOR VEHICLE SERVICE STATION**

Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

## **MUNICIPAL FACILITIES**

Facilities owned or operated by the Town of Andover.

## **NONCONFORMING BUILDING, STRUCTURE, OR LOT**

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

## **NONCONFORMING USE**

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

## **OFFENSIVE INDUSTRIAL OPERATIONS**

The following activities are considered offensive industrial operations:

- Abattoir, stockyard, or establishment for the reduction of offal, garbage or animal matter;
- Incinerator (except as operated by the town);
- Manufacture or storage of explosives or fireworks;
- Manufacture of cement or lime;
- Junk- or scrap yard, which shall mean a lot used for the storage of any worn-out, cast-off or discarded material ready for destruction or collected for salvage or conversion to some use, including also the storage in the open of secondhand, junk, or scrap material, i.e., the storage of any worn-out, cast-off or discarded material, ready for destruction or collected for salvage or conversion for some use or for sale;
- Truck terminal or intermediate transfer facility; or
- Any use that creates a hazard to safety and health in the community or danger of fire or explosion or that creates dust, smoke, odor, fumes, gas, vapor, fly ash, sewage, refuse, noise or vibration, any of which are perceptible under normal conditions at any property line.

## **OLDER ADULT**

For purposes of this Bylaw, older adult shall mean a person who is 62 years of age or older (see also, "Aging Population").

### **Associated Definitions:**

**Aging Population:** Population having reached the age of 62 years or older.

**Assisted Living Residence:** A residential development subject to certification by the Executive Office of Elder Affairs under G.L. Chapter 19D, defined as an entity, however organized, whether conducted for profit or not for profit, that meets all of the following criteria:

- Provides room and board;

## SECTION 10

- Provides assistance with activities of daily living and personal care services for three or more nonrelated adult residents; and
- Collects payments or third party reimbursements from or on behalf of residents to pay for the provision of assistance.

**Assisted Living Units:** a unit in an assisted living residence designed for and occupied by one or two older adults individuals per bedroom as their private living.

**Congregate Living Facility:** A noninstitutional, shared living environment that integrates shelter and service needs of older adults who are otherwise in good health and can maintain a semi-independent lifestyle and who do not require constant supervision or intensive health care as provided in an institutional setting. The facility shall not consist of separate dwelling units and each resident shall have an individual bedroom but shall share, with other residents of the facility, one or more of the following: kitchen facilities, dining facilities, or bathing facilities.

**Independent Living Unit:** A private residential dwelling unit individually equipped with a minimum of a kitchen, bedroom, bathroom, and living area. This type of housing is for independently functioning older adults.

**Congregate Housing:** Dwelling units that provide private or communal living for older adults who ordinarily are ambulatory and require no (or limited) medical attention or supervision. Such units shall consist of a room or rooms forming a habitable unit for up to ten persons, with facilities used for living, bathing, cooking, eating, and private sleeping quarters.

**Restorative Care/Skilled Nursing Facility:** Includes any institution that provides 24-hour skilled nursing care to older adults admitted for convalescent care, rehabilitative care, or long-term care. Programs may include additional professions such as physical therapy, occupational therapy, speech therapy, social services, and medical oversight. The Restorative Care/Skilled Nursing Facility must obtain all required permits and/or licenses required to operate such a facility and must be certified by the Executive Office of Elder Affairs or applicable State agency.

### **OPEN STORAGE OF SECOND HAND, JUNK OR SCRAP MATERIAL**

Storage in the open of second-hand or junk or scrap material, which shall mean storage of any worn-out, cast-off, or discarded material, ready for destruction or collected for salvage or conversion for some use or for sale.

### **OUTDOOR RECREATION CLUB OR CAMP**

A club or camp facility operated in whole or in part as a commercial enterprise, provided that:

- the site contains at least 50 acres;
- the buildings, structures, paved areas other than driveways, and other intensively developed portions of the site shall be set back at least 100 feet from every street and property line; and

## SECTION 10

- any commercial activities, other than participation in indoor recreation, shall be clearly incidental to the principal outdoor recreation uses.

### **PERSONAL SERVICE ESTABLISHMENT**

A facility providing personal services such as hair salon, barber shop, tanning beds, print shop, photography studio, and the like.

### **PLANNED DEVELOPMENT**

The development of land under Section 7.8.

### **PRINCIPAL USE**

The primary or predominant use of any lot or parcel.

### **PROFESSIONAL HOME OFFICE**

Office in a dwelling for the practice of a resident physician, lawyer, or dentist, provided that not more than three non-resident people are regularly employed there in a technical capacity, and that the use occupies not more than 33 1/3 percent of the total floor area of the dwelling.

### **RESTAURANT, DRIVE-IN**

An establishment that provides service or sale of food or drink to customers while in their vehicles.

### **RESTAURANT, LIMITED SERVICE**

A restaurant whose primary business is the sale of meals, food or beverages for immediate consumption on or off the premises, and served to the customer either by wait staff or packaged or presented in such a manner that it can readily be consumed outside the premises where it is purchased.

### **RESTAURANT, SIT-DOWN**

An establishment where the principal activity is the service or sale of food or drink for consumption on premises.

### **RETAIL SALES ESTABLISHMENT**

A facility selling goods which can include the sale of food and drink for consumption on or off the premises, but not otherwise specifically listed in the Table of Use Regulations; including the sale of merchandise other than at retail if incidental to the operation of a retail establishment, including processing or assembly of merchandise when clearly accessory to sale of the merchandise on the premises.

## SIGN

A sign shall consist of any of the following elements:

- Lettering, words, numerals, emblems, trademarks, logos, images, drawings, pictures, graphics, pennants, streamers, or other devices of any material or construction, however displayed, whether as an independent structure or as part of a building or other structure or object;
- Any visual device designed to inform, attract or draw the attention of persons outside the premises on which the device is located, including messages within or attached to windows and doors;
- Any exterior building surface that is internally illuminated or decorated with gaseous tubing, LED displays or back lighting.

### **Associated Definitions:**

**Attached Sign:** A sign that is either attached parallel to the facade of a building, facing in the same direction as the facade, or displayed on the fixed canopy or awning of a building.

**Awning:** A fixed or retractable structure, whether made of canvas, plastic, metal or other material, placed over a storefront, door or window. For the purpose of Section 5.2. Signs, awnings shall not be considered a sign. Lettering, symbols or graphic elements appearing on either the body or the valance of an awning (and not otherwise exempt) shall constitute an Attached Sign. The area of a sign displayed on an awning consists of the area encompassed by any lettering, symbols, or graphic elements distinct from the awning background color.

**Commercial Sign:** A sign that directly or indirectly describes or proposes a transaction involving the exchange of money or goods.

**Double-sided Sign:** A freestanding or projecting sign having two parallel opposite faces separated by a distance of not more than 12 inches. A sign with two opposite faces that are not parallel shall be considered a double-sided sign if the two faces are joined to each other, or to a common support structure, at one end, and the angle of separation between the two faces does not exceed 30°.

**Freestanding Sign:** A sign that is supported by its own structure and is not attached to a building or other structure.

**Internally Illuminated Sign:** A sign that is illuminated by a light source internal to the sign. Signs having a light source that forms the exterior surface of the sign or all or part of the design elements, shall be considered to be internally illuminated.

**Nonconforming Sign:** A sign, including its support structure, that does not conform to the regulations prescribed in this Bylaw, but which was in existence at the time the regulations became effective and was lawful at the time it was installed or erected.

**Portable or Removable Sign:** A sign of any shape or configuration that is self-supporting and not fixed or mounted to the ground or to another structure.

**Projecting Sign:** A sign mounted perpendicular to the building facade.

**Sign Area:** The area of the smallest horizontal or vertical rectangle enclosing the entire display area of the sign. The display area of a sign is the entire area, different in color or composition from the facade or common trim of the building, used to frame or provide a background for the sign. The display area may contain open space and irregular shapes if they are part of the sign. The display area shall also include internally illuminated, back-lit or decoratively lighted sign support structures if such elements are present. The area of double-sided signs shall be calculated using the area of only one face of the sign.

**Sign Height:** The distance measured from the ground level at the base of the sign to the top of the sign or support structure, whichever is higher. For freestanding signs, the land under or surrounding the sign may not be built up or elevated to reduce the calculated height of the sign.

**Sign Support Structure:** Any device, such as a pole, bracket, or post, used to support a sign. The sign support structure shall be excluded from the calculation of the sign area if it contains none of the elements described in the definition of Sign above, and, for freestanding signs, the total width of the support structure is less than 25 percent of the width of the supported sign.

## **SOLAR CARPORT SYSTEM**

A ground-mounted solar energy system that provides cover or shade for parking or pedestrian areas.

## **SOLAR ENERGY SYSTEMS**

A system of devices and/or structures whose primary purpose is to transform solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Includes solar photovoltaic systems, which convert solar energy to electricity, and solar-thermal collectors, which heat water.

## **SOLAR ENERGY SYSTEMS, GROUND-MOUNTED**

A solar energy system that is structurally mounted to the ground and not to a building.

- Small-Scale: Having 1,750 square feet or less of solar panel area, except within the SRA and SRB Districts the solar panel area is limited to 1,000 square feet or less, including solar carport systems.
- Medium-Scale: Having more than 1,750 square feet of solar panel area, or more than 1,000 square feet in Districts SRA and SRB and not more than 25,000 square feet, including solar carport systems.
- Large-Scale: Having more than 25,000 square feet of solar panel area, including solar carport systems. A large-scale system can be a primary use or an accessory use.

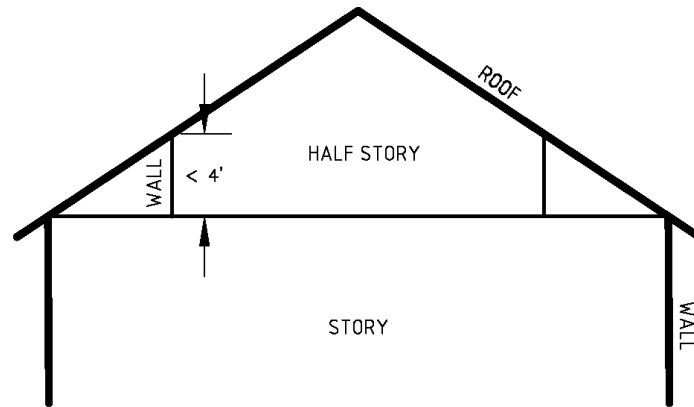
## **STORY**

That portion of a building contained between any floor and the floor or roof next above it, but not including the lowest portion if more than 1/2 that portion is below the mean finished grade of the ground adjoining the building.

## STORY, HALF

A partial story under a gable or gambrel or hip roof, the wall plates of which on any two sides do not rise more than four feet above the floor of such partial story.

SECTION 10 - DEFINITIONS  
HALF STORY



## STREET

An accepted Town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law, or a way determined by the Planning Board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve the land and any the buildings located on it.

## STRUCTURE

Any combination of matter composed of parts or materials assembled and joined or mixed together in some definite manner by human action or pattern at a certain location for whatever purpose or use, whether or not affixed to the land. "Structure" shall include, but not be limited to, swimming pools, tennis courts, sports courts, and courts for athletic and recreational activity and the equipment and paraphernalia associated with any such court but shall not include fences, garden walls, and paved areas used solely for vehicular or pedestrian access or both.

## SWIMMING POOLS

All swimming and wading pools whether excavated or aboveground, excluding portable pools of less than eight feet in diameter or in greatest horizontal dimension and with the capability of retaining a depth of no more than one foot of water.

## TEMPORARY AND SEASONAL PLACEMENT OF TABLES AND CHAIRS

The temporary and seasonal placement of tables and chairs or retail fixtures and products outside a permitted commercial structure for the convenience of patrons as a use

## SECTION 10

incidental and accessory to a permitted food or retail sales establishment where the principal activity is the service or sale of food for consumption on or off the premises, or the retail sale of merchandise. Outdoor tables and chairs or retail fixtures shall not interfere with pedestrian access or access for emergency purposes.

### **TEMPORARY USE OF RESIDENTIAL PREMISES FOR SALE OF CRAFTS**

The temporary use of residential premises for sale of crafts subject to a permit issued by the Inspector of Buildings for up to two consecutive days only and limited to two permits per calendar year for any given premises.

### **WAREHOUSE**

A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

### **WATER BODY OR WATERCOURSE**

Any natural or man-made stream, pond, lake, wetland, or other body of water, including wet meadows, marshes, swamps, bogs, and areas where ground-water, flowing or standing surface water, or ice provides a significant part of the supporting substrate for a plant community for at least five months of the year, as further defined in the Wetlands Regulations (310 CMR 10.00), as amended.

### **WAY**

Includes public ways, ways accepted by the Town, ways that the Town Clerk certifies are maintained and used as public ways, and ways approved by the Planning Board.

### **WIND-ENERGY CONVERSION SYSTEM**

A device that converts wind energy to mechanical or electrical energy.

### **WIRELESS COMMUNICATIONS FACILITIES**

Facilities used for the principal purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. The facilities shall include towers, antennae, antennae support structures, panels, dishes, and accessory structures.

### **YARD, FRONT**

An open space extending across the full width of the lot between the way on which the principal building thereon fronts and the nearest point of any building on the lot.

SECTION 10

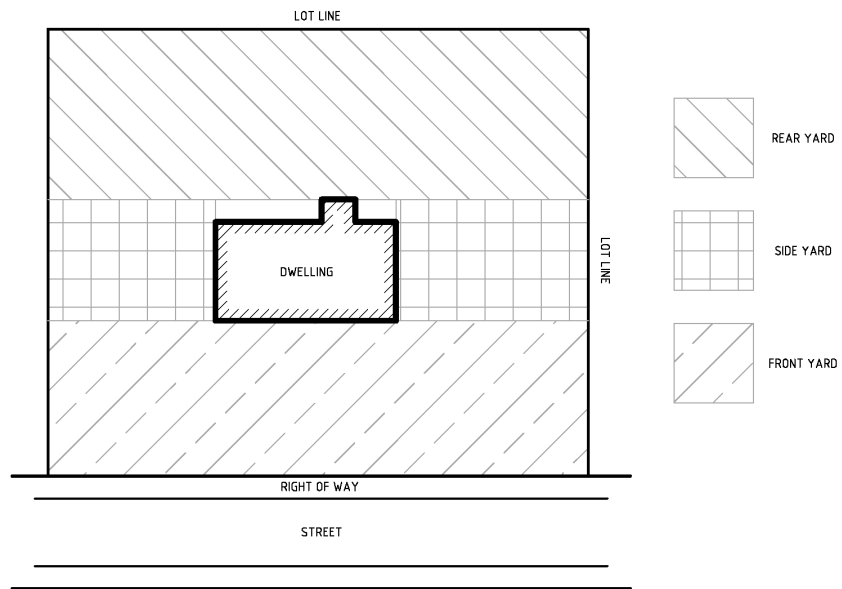
**YARD, REAR**

An open space extending the full width of the lot between the rear lot line and the nearest point of the principal building on the lot.

**YARD, SIDE**

An open space extending from the front yard to the rear yard between a side lot line and the nearest point of any building on the lot.

SECTION 10 - DEFINITIONS  
YARD, FRONT  
YARD, SIDE  
YARD, REAR



**ANDOVER ZONING BYLAW**

**APPENDIX A**

**TABLE 1**

**Section 3.1.3 – Table of Use Regulations**

Most of the following uses in Table 1 below are defined in Section 10 of this by-law. See Section 10 and other sections referenced in the first column of this table for additional provisions.

Key to symbols used in Table 1:

- Y – A permitted use
- N – A prohibited use
- ZBA – Special Permit/Zoning Board of Appeals
- PB – Special Permit/Planning Board
- SB – Special Permit/Select Board

	Residential Districts				Business Districts				Industrial Districts			
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
<b>A. Residential Uses</b>												
1. Detached single-family dwelling	Y	Y	Y	Y	Y	N	Y	Y	Y	N	N	N
2. Cluster development (See Section 7.1)	N	PB	PB	N	PB	N	N	N	N	N	N	N
3. Board or lodging house	ZBA	ZBA	N	N	N	N	Y	N	N	N	N	N
4. Multiple dwellings:												N
a. Conversion of a one- family or a two- or more family dwelling (See Section 7.6.2)	ZBA	ZBA	N	N	N	N	N	ZBA	N	N	N	N
b. Multiple-dwelling (Apartment Building)(See Section 7.6.3)	N	N	N	ZBA	N	N	N	N	N	N	N	N
c. Planned development, multifamily or mixed use (See Section 7.2)	N	N	N	N	N	N	PB	PB	N	N	N	N
d. Conversion of an existing structure of 50,000 square feet gross floor area or more to multifamily use (See Section 7.5)	ZBA	ZBA	N	N	N	N	N	N	N	N	N	N
e. New multifamily dwelling construction Attached Cluster (See Section 7.3)	PB	PB	PB	N	N	N	N	N	N	N	N	N
<b>5. Elderly housing (See Section 7.4):</b>												
a. Long-term care facility (See Sections 7.4.1 and 7.4.6)	PB	PB	PB	N	N	N	N	N	N	N	N	N
b. Assisted living residence (See Sections 7.4.1 through 7.4.5)	PB	PB	N	N	N	N	PB	PB	N	N	N	N
c. Congregate care facility (See Sections 7.4.1 and 7.4.7)	PB	PB	N	N	N	N	PB	PB	N	N	N	N
d. Independent living residence (See Sections 7.4.1 and 7.4.8)	PB	PB	N	N	N	N	N	N	N	N	N	N

## ANDOVER ZONING BYLAW

### APPENDIX A

#### TABLE 1

#### Section 3.1.3 – Table of Use Regulations

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	Residential Districts				Business Districts				Industrial Districts			
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
<b>B. Institutional Uses</b>												
1. Religious or educational uses exempt from zoning prohibition by G.L. c.40A, s. 3.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Municipal facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Child care facility:												
a. in existing structure(See Section 6.6.)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. in new structure (See Section 6.6)	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
4. Any use or facility operated by a private nonprofit organization forthe conservation of natural resources, for the preservation of historic sites, or for park or recreational purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Hospital	ZBA	ZBA	ZBA	N	N	ZBA	Y	N	N	N	N	N
6. Philanthropic or charitable institution	ZBA	ZBA	ZBA	N	ZBA	ZBA	ZBA	N	N	N	N	N
<b>C. Business and Commercial Uses</b>												
1. Outdoor recreation clubor camp	ZBA	ZBA	ZBA	N	N	N	N	N	N	ZBA	ZBA	ZBA
2. Private club not conducted for profit	ZBA	ZBA	ZBA	N	N	N	Y	N	N	N	N	N
3. Personal serviceestablishment	N	N	N	N	N	N	Y	Y	Y	ZBA	N	PB
4. Adult uses (See Section6.5)	N	N	N	N	ZBA	N	N	N	N	N	N	N
5. Banking establishment	N	N	N	N	ZBA	N	Y	Y	ZBA	ZBA	ZBA	ZBA
6. Retail sales establishment	N	N	N	N	N	N	Y	Y	Y	N	N	PB
7. Convenience store	N	N	N	N	N	N	ZBA	ZBA	N	N	N	PB
8. Non-exempt educationaluse	N	N	N	N	ZBA	ZBA	Y	N	N	ZBA	ZBA	ZBA
9. Medical center or clinic	N	N	N	N	Y	Y	Y	Y	Y	Y	N	Y
10. Funeral home	N	N	N	N	N	N	Y	N	Y	N	N	N
11.a. Dry-cleaning laundry operation	N	N	N	N	N	N	ZBA	ZBA	ZBA	N	N	PB
11.b. Self-service laundryoperation	N	N	N	N	N	N	ZBA	ZBA	ZBA	N	N	N

## ANDOVER ZONING BYLAW

### APPENDIX A

#### TABLE 1

#### Section 3.1.3 – Table of Use Regulations

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ZBA – Special Permit/Zoning Board of Appeals

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SB – Special Permit/Select Board

	Residential Districts				Business Districts				Industrial Districts			
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
12. Restaurants:												
a. Restaurant, sit-down	N	N	N	N	ZBA	N	Y	Y	Y	ZBA	ZBA	PB
b. Restaurant, limited service	N	N	N	N	N	N	Y	Y	BA	N	N	PB
c. Restaurant, drive-in	N	N	N	N	N	N	N	N	N	N	N	N
13. Shop for custom work involving the manufacture of articles to be sold on the premises	N	N	N	N	N	N	Y	Y	Y	N	N	N
14. Indoor commercial recreation establishment	N	N	N	N	ZBA	N	Y	N	Y	N	N	PB
15. Business, professional or administrative office	N	N	N	N	ZBA	ZBA	Y	Y	Y	Y	Y	Y
16. Motel or hotel (See Section 4.1.5.1)	N	N	N	N	ZBA	N	Y	N	N	ZBA	ZBA	ZBA
17. Commercial parking lot or garage	N	N	N	N	N	N	Y	BA	Y	N	N	N
18. Motor vehicle sale or rental	N	N	N	N	N	N	Y	N	Y	N	N	N
19. Motor vehicle service station	N	N	N	N	ZBA	N	ZBA	ZBA	ZBA	N	N	N
20. Motor vehicle repair garage or body shop (See Section 4.1.5.2)	N	N	N	N	N	N	ZBA	ZBA	ZBA	N	N	N
21. Car washing facility (See Section 4.1.5.2)	N	N	N	N	N	N	ZBA	N	ZBA	N	N	N
22. Building supply and fuel establishment	N	N	N	N	N	N	N	N	Y	ZBA	N	N
23. Contractor's yard	N	N	N	N	N	N	N	N	Y	ZBA	N	N
24. Wholesale storage warehousing	N	N	N	N	N	N	N	N	Y	ZBA	N	N
25. Major non-residential project (See Sections 9.4 and 10.0)	N	N	N	N	PB	PB	PB	PB	PB	PB	PB	PB
26. Grocery store	N	N	N	N	N	N	Y	Y	Y	N	N	PB
27. Marijuana establishments	N	N	N	N	N	N	N	N	N	N	N	N

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	Residential Districts				Business Districts				Industrial Districts				
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2	
<b>D. Manufacturing and Industrial Uses</b>													
1. Laboratory for research and development work; or establishment engaged in general manufacturing or other industrial work including fabrication, assembly, and uses accessory thereto generally characterized by or involving activities conducted outside of enclosed structures.	N	N	N	N	N	N	N	N	N	Y	Y	N	N
2. Laboratory for research and development work; or establishment engaged in specialized manufacturing, including fabrication and assembly, associated with computers, computer peripheral equipment, electronics, information systems and devices, communications and telecommunications, precision instruments, medical devices and equipment, pharmaceuticals, biologics and drugs, and uses accessory thereto including training activities, provided that all activities shall be conducted within enclosed structures.	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y

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	Residential Districts				Business Districts				Industrial Districts			
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
3. Warehousing	N	N	N	N	N	N	N	N	Y	Y	N	N
4. Storage of goods, materials, products, equipment and nonregistered motor vehicles within enclosed structures incidental to subsection D.1, 2 and 3 above.	N	N	N	N	N	N	N	N	Y	Y	Y	Y
5. Offensive industrial operations	N	N	N	N	N	N	N	N	N	N	N	N
E. Other Main Uses												
1. Exempt agricultural use (See Section 6.9)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Non-exempt agricultural use (See Section 6.9)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
3. Exempt farm stand	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Non-exempt farm stand	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
5. Public transportation station or terminal excluding airports	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
6. Essential services	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
7. Earth Movement: (See Section 6.3)												
a. Incidental to the construction of subdivision streets (See Section 6.3.2.1)	PB	PB	PB	N	N	N	N	N	N	N	N	N
b. Incidental to the preparation of lots in a subdivision (See Section 6.3.2.2)	PB	PB	PB	N	N	N	N	N	N	N	N	N
c. Incidental to construction on individual lots (See Section 6.3.3.)	Y	Y	Y	N	N	N	N	N	N	N	N	N
d. In Business, Apartment or Industrial Districts (See Section 6.3.4)	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
e. Miscellaneous earth movement (See Section 6.3.5)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA

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	Residential Districts				Business Districts				Industrial Districts			
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
8. Cemetery	ZBA	ZBA	ZBA	N	N	N	ZBA	N	N	N	N	N
9. Solar Energy Systems												
a. Roof/building mounted	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Ground-mounted, small- scale as an accessory use (Sec. 6.10)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
c. Ground-mounted, medium-scale as an accessory use (See Section 6.10)	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
d. Ground-mounted, large-scale (See section 6.10)	N	N	N	N	N	N	N	N	PB	PB	PB	PB
N												
F. Accessory Uses (See Section 3.2)												
1. Family day care, small	Y	Y	Y	ZBA	Y	Y	Y	Y	Y	Y	Y	Y
2. Family day care, large	N	N	N	N	N	N	N	N	N	N	N	N
3. Customary homeoccupation	Y	Y	Y	N	N	N	Y	Y	Y	Y	N	N
4. Family dwelling unit	ZBA	ZBA	ZBA	N	ZBA	N	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
5. Professional home office	Y	Y	Y	N	N	N	Y	Y	Y	Y	Y	Y
6. Keeping or boarding ofhorses, ponies, cows or other large domesticanimals:												
a. Solely as pets or for private noncommercial use (See Section 3.2.1.2)	Y	Y	Y	N	N	N	N	N	Y	Y	Y	Y
b. Keeping or boarding more than six such animals regardless of ownership; or charging of fees for riding, training, lessons, breeding or other uses of the premises (See Section6.9)	ZBA	ZBA	ZBA	N	N	N	N	N	ZBA	ZBA	ZBA	ZBA
7. Heliport	N	N	N	N	ZBA	ZBA	ZBA	N	ZBA	ZBA	ZBA	ZBA
8. Temporary and seasonal placement of tables andchairs	N	N	N	N	Y	N	Y	Y	Y	Y	Y	Y
9. Parking or keeping of a truck or commercial-typevehicle on property used for residential purposes(See Section 3.2.1.3)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

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**TABLE 1**

**Section 3.1.3 – Table of Use Regulations**

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	Residential Districts				Business Districts				Industrial Districts			
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
10. With dwellings in all districts, the parking or keeping of commercial-type vehicles or equipment other than those allowed in subsection F.9 above (SeeSection 3.2.1.4)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
11. Parking or keeping of equipment or vehicles, orthe maintenance of temporary buildings on construction sites for a period not to exceed one year, subject to permit issued by the inspector of Buildings	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
12. Use of a mobile home asa temporary dwelling on the site of a single-familyresidence which has beendestroyed or rendered uninhabitable by fire or other catastrophe (SeeSection 3.2.1.1)	Y	Y	Y	N	N	N	Y	Y	Y	Y	Y	Y
13. Accessory scientific uses	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
14. Wind energy towers (SeeSection 6.4)	ZBA	ZBA	ZBA	N	N	N	N	N	N	ZBA	ZBA	ZBA
15. Wireless communicationsfacility (See Section 6.1)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
16. Amateur radio facilities(See Section 6.2)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
17. Tower or antenna for commercial communications purposes (See Section 6.1)	N	N	N	N	ZBA	N	N	N	N	ZBA	ZBA	ZBA
18. Open storage of secondhand, junk or scrapmaterial	N	N	N	N	N	N	N	N	N	N	N	N
19. Temporary use of residential premises forsale of crafts	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
20. Storage of one unregistered vehicle or ofone vehicle not in condition for travel (SeeSection 6.7)	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y

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#### TABLE 2

#### Section 4.1.2 – Table of Dimensional Requirements

District	Minimum Lot Dimensions(e)		(f)Minimum Yard Depth			Maximum Height(g)		Maximum Coverage
	Area (square feet)	Frontage(feet)	Front (feet)	Side (feet)	Rear (feet)	Feet	Stories	Including Accessory Building (percent)
Single Residence A	15,000(a)	115	35	20(d)	30	35	—	—
Single Residence B	30,000(a)	150	40	25(c)	30	35	—	—
Single Residence C	43,560(a)	180	50	30(c)	30	35	—	—
Apartment(h)	(i)	(i)	30	20	20	35	3	30(b)
Limited Service	—	—	30	50	50	40	3	30(b)
Office Park(j)	43,560	180	30	50	50	40	3	33 1/3(b)
General Business(k)	—	—	—	—	—	50	4	—
Mixed Use(l)	—	50	10	10	10	50	4	30(b)
Industrial G(j)	—	—	30	15	15	60	5	50(b)
Industrial A(j)	—	—	50	40	40	60	4	30(b)
Industrial D(j)	—	50	100	100	100	50	3	25(b)
Industrial D2(j)	—	50	50	40	40	50	4	30(b)

Exceptions and Special Requirements:

- (a) See definition of “lot area”. Section 10 of this by-law.
- (b) Number of stories may be increased and lot coverage decreased correspondingly if site conditions warrant. The gross floor area of the resulting building shall not exceed that allowed by right to meet the standards of the Andover Zoning By-Law and Chapter 131, Section 40 (Wetland Protection Act).
- (c) The minimum yard depth of 15 feet shall continue to apply to dwelling units which are exempt by virtue of the provisions of M.G.L. c. 40A, s. 6, and to the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this by-law. The minimum yard depth requirement for a cluster development under Section 7.1 of this by-law may be reduced by the Planning Board to 20 feet.
- (d) The minimum yard depth of 15 feet shall continue to apply to dwelling units which are exempt by virtue of the provisions of M.G.L. c. 40A, s. 6. This by-law shall not be required for work which is performed in connection with the ordinary maintenance or improvement of a single-family house lawfully in existence or for which a building permit had been issued on or before January 1, 1999, including, but not limited to, building additions and conversion of lawn to accessory structures such as decks, sheds, patios and pools.
- (e) See Section 4.1.3.1.
- (f) See Sections 4.1.3.2 and 4.2.
- (g) See Section 4.1.3.3.
- (h) See Section 4.1.4.1.
- (i) The minimum lot area and frontage requirements shall be the same as applies to the adjoining single residence district sharing the longest common boundary, but not less than 3,500 square feet for each dwelling unit in a multi-family development. In the event there is no adjoining single residence district, the requirements of the nearest single residence district shall apply.
- (j) See Section 4.1.4.3.
- (k) See Section 4.1.4.2.
- (l) See Section 4.1.4.4.

**ANDOVER ZONING BYLAW**

**APPENDIX A**

**TABLE 3**

**Section 5.1.4 – Table of Off-Street Parking Requirements**

<b>Class of Use</b>	<b>Required Parking Spaces</b>
<b>A. Residential Uses</b>	
1. Detached one-family dwelling	Two parking spaces for each dwelling unit
2. Cluster development	Two parking spaces for each dwelling unit
3. Board or lodging house	One parking space for each room rented
4. Multiple dwellings:	—
a. Conversion of a one-family or a two- or more familydwelling	One parking space for each studio or 1-bedroom unit; twoparking spaces for each unit with two or more bedrooms
b. Multiple-dwelling (Apartment Building)	One parking space for each studio or 1-bedroom unit; twoparking spaces for each unit with two or more bedrooms
c. Planned Development – Multifamily or Mixed Use	As set forth in Section 7.2.5.2.
d. Conversion of an existing structure of 50,000 squarefeet gross floor area or more to multifamily use	One parking space for each studio or 1-bedroom unit; twoparking spaces for each unit with two or more bedrooms
e. Attached Cluster	Two parking spaces per dwelling unit
5. Elderly housing:	—
a. Long-term care facility	One parking space per two beds, plus one parking space peremployee
b. Assisted living residence	As set forth in Section 7.4.3.11
c. Congregate care facility	As set forth in Section 7.4.3.11
d. Independent living residence	One parking space for each studio or 1-bedroom unit; twoparking spaces for each unit with two or more bedrooms
6. Subsidized low or moderate-income dwelling	One parking space for each studio and 1-bedroom unit or elderly housing unit; 1.5 parking spaces for each unit with twoor more bedrooms
<b>B. Institutional Uses</b>	
1. Exempt religious uses	One parking space for every three seats and/or each 60 inches of permanent bench sitting area or, where no fixed bench seats areused, one parking space for each four persons maximum occupancy.
2. Exempt educational uses	Elementary, secondary schools: Two parking spaces per classroom College, technical school: One parking space for eachfour persons maximum occupancy
3. Municipal facility	As determined by the Planning Board and reported in a memorandum to be filed with the building permit or certificateof occupancy.
4. Child care facility:	—
a. in existing structure	One parking space per 10 children, maximum rated occupancy, plus 1 parking space per employee
b. in new structure	One parking space per 10 children, maximum rated occupancy, plus 1 parking space per employee
5. Any use or facility operated by a private nonprofit organization for the conservation of natural resources, for the preservation of historic sites, or for park or recreational purposes	As determined by the Planning Board and reported in a memorandum to be filed with the building permit or certificateof occupancy.
6. Hospital	One parking space per two beds, plus one parking space peremployee
<b>C. Business and Commercial Uses</b>	
1. Outdoor recreation club or camp	One parking space for every three seats and/or each 60 inches of permanent bench sitting area or, where no fixed bench seats are used, one parking space for each four persons maximum occupancy.
2. Private club not conducted for profit	One parking space for every three seats and/or each 60 inches of permanent bench sitting area or, where no fixed bench seats are used, one parking space for each four persons maximum occupancy.

**APPENDIX A**  
**TABLE 3**  
**Section 5.1.4 – Table of Off-Street Parking Requirements**  
**(continued)**

Class of Use	Required Parking Spaces
3. Personal service establishment	General Business District and Mixed Use District: one parking space per 500 square feet of gross floor area on street level floor; one parking space per 600 square feet of gross floor area on other floors, including the basement level floors. Other Districts: one parking space per 250 square feet of gross floor area.
4. Adult uses:	—
a. Adult bookstores, adult paraphernalia stores and adult video stores	One parking space per 250 square feet of gross floor area
b. Adult cabarets and adult motion-picture theaters	One parking space for every three seats and/or each 60 inches of permanent bench sitting area or, where no fixed bench seats are used, one parking space for each four persons maximum occupancy
5. Banking establishment	One parking space for each 250 square feet of gross floor area for lobby/banking area, plus one parking space for each 300 square feet of gross floor area for office/operations area
6. Establishment for the retail sale of merchandise	General Business District and Mixed Use District: one parking space per 600 square feet of gross floor area Other Districts: one parking space per 250 square feet of gross floor area
7. Convenience store	General Business District and Mixed Use District: one parking space per 500 square feet of gross floor area on street level floor; one parking space per 350 square feet of gross floor area on other floors; and one parking space for each 600 square feet of gross floor area in basement level floors. Other Districts: one parking space per 250 square feet of gross floor area.
8. Non-exempt educational use	One parking space for each 4 persons maximum occupancy
9. Medical center or clinic	Office Park District: one parking space for each 200 square feet of net floor area and four parking space for each doctor or dentist. Other Districts: three parking spaces per treatment area.
10. Funeral home	One parking space for each four patron seats in the largest assembly area
11. Self-service laundry or dry-cleaning operation	One parking space for each 250 square feet of gross floor area.
12. Restaurants:	
a. Restaurant, sit-down	General Business District and Mixed Use District: one parking space per 500 square feet of gross floor area plus 1 parking space per 2 employees. Other Districts: One parking space for each two seats, plus 1.5 parking spaces for each 2 employees
b. Restaurant, fast-food	General Business District and Mixed Use District: one parking space per 500 square feet of gross floor area plus 1 parking space per 2 employees. Other Districts: One parking space for each 200 square feet of gross floor area
13. Shop for custom work involving the manufacture of articles to be sold on the premises	One parking space for each 200 square feet of gross floor area devoted to retail
14. Indoor commercial recreation establishment	One parking space for every three seats and/or each 60 inches of permanent bench sitting area or, where no fixed bench seats are used, one parking space for each four persons maximum occupancy.
15. Business, professional or administrative office	General Business District: one parking space per 300 square feet of gross floor area on street level floor; one parking space per 500 square feet of gross floor area on other floors including the basement level floors. All other districts: One parking space for each 300 square feet of gross floor area.

**APPENDIX A**  
**TABLE 3**  
**Section 5.1.4 – Table of Off-Street Parking Requirements**  
**(continued)**

Class of Use	Required Parking Spaces
16. Motel or hotel	One parking space per rental room or suite; plus one parking space per four persons maximum occupancy for each assembly room (banquet or public meeting room); plus parking spaces required for other accessory uses on the premises
17. Commercial parking lot or garage	Not applicable
18. Motor vehicle sale or rental	As determined by the Planning Board and reported in a memorandum to be filed with the certificate of occupancy or building permit.
19. Motor vehicle service station	One parking space for each employee on principal work shift, plus four parking spaces for each service bay, or 300 square feet of interior service area.
20. Motor vehicle repair garage or body shop	One parking space for each employee on principal work shift, plus four parking spaces for each service bay, or 300 square feet of interior service area.
21. Car washing facility	One parking space for each employee on principal work shift, plus four parking spaces for each service bay, or 300 square feet of interior service area.
22. Building supply and fuel establishment, contractor's yard and similar wholesale storage warehousing or service uses	As determined by the Planning Board and reported in a memorandum to be filed with the building permit or certificate of occupancy.
23. Contractor's yard	As determined by the Planning Board and reported in a memorandum to be filed with the building permit or certificate of occupancy.
24. Wholesale storage warehousing	As determined by the Planning Board and reported in a memorandum to be filed with the building permit or certificate of occupancy.
25. Major commercial project	See parking requirements for specific uses.
26. Grocery store	1 space per 300 square feet of gross floor area
<b>D. Manufacturing and Industrial Uses</b>	
1. Laboratory for research and development work	One parking space for each 300 square feet of gross floor area
2. Establishment engaged in manufacture or other industrial work, including fabrication assembly	One parking space per 300 square feet of net floor area
3. Warehousing	One parking space per 600 square feet of net floor area
4. Storage of goods, materials, products, equipment and nonregistered motor vehicles within enclosed structures incidental to subsection D. 1, 2 and 3 above.	Not applicable
<b>E. Other Main Uses</b>	
1. Exempt agricultural use	Not applicable
2. Non-exempt agricultural use	Not applicable
3. Exempt farm stand	One parking space per 200 square feet of gross floor area if customers are served in a structure
4. Non-exempt farm stand	One parking space per 200 square feet of gross floor area if customers are served in a structure
5. Public transportation station or terminal excluding airports	Not applicable
6. Essential services	Not applicable
7. Earth Movement	Not applicable
8. Cemetery	Not applicable
<b>F. Accessory Uses</b>	
1. Family day care, small	Not applicable
2. Customary home occupation	2 parking spaces per residence and one parking space per employee
3. Family dwelling unit	One parking space per family dwelling unit
4. Professional home office	As determined by the Planning Board and reported in a memorandum to be filed with the building permit or certificate of occupancy.
5. Keeping or boarding of horses, ponies, cows or other large domestic animals:	—
a. Solely as pets or for private noncommercial use	Not applicable

**APPENDIX A**  
**TABLE 3**  
**Section 5.1.4 – Table of Off-Street Parking Requirements**  
**(continued)**

Class of Use	Required Parking Spaces
b. Keeping or boarding more than 6 such animals regardless of ownership; or charging of fees for riding, training, lessons, breeding or other uses of the premises	As determined by the Planning Board
6. Heliport	Not applicable
7. Temporary and seasonal placement of tables and chairs	See Section 10
8. Parking or keeping of a commercial motor vehicle less than 9,500 pounds manufacturer's GVW rating on residentially used property	See Section 3.2
9. Parking or keeping of a commercial motor vehicle more than 9,500 pounds manufacturer's GVW rating on residentially used property	See Section 3.2
10. Parking or keeping of equipment or vehicles, or the maintenance of temporary buildings on construction sites for a period not to exceed 1 year, subject to permit issued by the Inspector of Buildings	Not applicable
11. Use of a mobile home as a temporary dwelling on the site of a single-family residence which has been destroyed or rendered uninhabitable by fire or other catastrophe	Two parking spaces
12. Accessory scientific uses	Not applicable
13. Wind energy towers	Not applicable
14. Wireless communications facility	Not applicable
15. Amateur radio facilities	Not applicable
16. Tower or antenna for commercial communications purposes	Not applicable
17. Open storage of second hand junk or scrap material	Not applicable
18. Temporary use of residential premises for sale of crafts	Not applicable
19. Storage of one unregistered vehicle or of one vehicle not in condition for travel	See Section 6.7

**APPENDIX A**  
**TABLE 4**  
**Section 5.1.5.1 – Parking Dimensions**

The minimum dimensions of parking spaces and maneuvering aisles shall be as shown in Table 4 below.

KEY:

S = Standard car space

C = Compact car space

P = Parking space for persons with disabilities (See Section 5.1.5.3)

Parking Angle (degrees)	Stall Width (feet)			Depth of Parking Space (feet)			Width of Maneuvering Aisle (feet)			
	S	C	P	S	C	P	One-Way		Two-Way	
							S	C	P	All spaces
61 to 90	9	8	12	18	16	18	24	24	24	24
46 to 60	9	8	12	18	16	18	18	18	18	24
45	90	8	12	18	16	18	15	14	15	24
Parallel	8	8	12	22	18	22	14	12	14	24

<b>ARTICLE P29</b>	<b>RETIREE COST OF LIVING ADJUSTMENT MAXIMUM BASE</b>
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To see if the Town will authorize the Contributory Retirement Board to increase the maximum base on which the cost-of-living increase is calculated for retirees and beneficiaries of the Andover Contributory Retirement System by \$1,000 each July 1<sup>st</sup> for the next two years resulting in a base change from \$12,000 to \$13,000 effective July 1, 2022 and from \$13,000 to \$14,000 effective July 1, 2023.

*On petition of Kevin Connors and others*

<b>ARTICLE P32</b>	<b>MANDATING MUNICIPAL EMPLOYEE PARTICIPATION IN ANNUAL REVIEW OF TOWN MANAGER</b>
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To see if the Town will adopt the following:

The Select Board shall annually conduct an independent evaluation of the performance of the Town Manager in regards to their annual goals and her compliance with the Town Values and Mission Statement.

The Select Board shall solicit anonymous performance reviews from every municipal and governmental employee as part of their evaluation criteria.

*On petition of Michael Meyers and others*

<b>ARTICLE P33</b>	<b>PROHIBITING THE USE OF NON-DISCLOSURE AGREEMENTS (NDA'S)</b>
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To see if the Town will adopt the following:

No municipal or Andover governmental entity (the term governmental entity includes but is not limited to authorities, boards, commissions, committees, departments, divisions, programs and services) shall include or permit the inclusion of a nondisclosure, non-disparagement or other similar clause as a condition of employment or in a settlement agreement between the governmental entity and an employee or student; provided, however, that such a settlement may include, at the request of the employee or student, a provision that prevents the governmental entity from disclosing the individual's identity and all facts that could lead to the discovery of the individual's identity.

*On petition of Michael Meyers and others*

<b>ARTICLE P34</b>	<b>INSTRUCTIONAL ASSISTANTS SPECIAL ARTICLES GENERAL FUND</b>
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To see if the Town will vote to create a special articles general fund for Instructional Assistants and to transfer from Free Cash a sum of money in the amount of \$500,000 dollars annually from the most recent certified Free Cash balance into this account for the purpose of providing supplemental wages to pay the Instructional Assistants a competitive wage equal to the 75% of the maximum Instructional Assistant compensation for the APS competitive set, or to take any other action relative thereto.

*On petition of Michael Meyers and others*

<b>ARTICLE P35</b>	<b>MENTAL HEALTH &amp; WELLBEING SPECIAL ARTICLES GENERAL FUND</b>
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To see if the Town will vote to create a special articles general fund for mental health and wellbeing services and to transfer from Free Cash a sum of money in the amount of \$1 million dollars annually from the most recent certified Free Cash balance into this account for the purpose of purchasing services or hiring resources such as mental health clinician, substance abuse program coordinator, social care worker to support Andover families, seniors, veterans, and our children, or take any other action relative thereto.

*On petition of Michael Meyers and others*

<b>ARTICLE P36</b>	<b>ANNUAL PUBLIC POSTING OF EVERY NO-BID CONTRACT OR AGREEMENT</b>
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To see if the Town will adopt the following:

The Town Manager shall annually and prominently post on the official Andover public website a page entitles “No Bid Contracts.”

The page shall contain the name of all parties and the entire executed contract or agreement for every vendor or entity under agreement without participating in a posted competitive bid process.

*On petition of Michael Meyers and others*

**VI. Consent Agenda**

A. Appointments by the Town Manager

Board to vote that the following appointments by the Town Manager be approved.

<b>Department</b>	<b>Name</b>	<b>Position</b>	<b>Rate/Term</b>	<b>Date of Hire</b>
Andover Police Department	Joshua Barbosa <i>(James Smith)</i>	Dispatcher	\$53,575.00/yr	4/18/2022
Andover Police Department	Kendra Wilson <i>(Mark Fiorentini)</i>	Part Time Dispatcher	\$26.44/hr	4/18/2022
Andover Fire Rescue	Nicole Swiec <i>(Joan Lemieux)</i>	Office Assistant II Fire Prevention	\$28.08/hr	4/19/2022
Department of Public Works	Jason Ouellette <i>(Eric Guazzaloca)</i>	Water/Sewer Maintenance Specialist II	\$28.74/hr	4/5/2022
Community Services – Elder Services	Andrew Sievert	Per Diem Senior Center Driver	\$27.57/hr	4/5/2022
Community Services – Recreation	Joe Halpern	Kid Care Group Leader 1	\$18.00/hr	3/28/2022
Community Services – Recreation	Jennifer Hurst	Kid Care Assistant Group Leader 1	\$14.25/hr	3/28/2022
Andover Police Department	Kathryn Kozikowski	Inspector of Animals	Term Expires 4/30/2023	5/1/2022
Commission on Diversity, Equity and Inclusion	George Nugent	At-Large Member	Term Expires 6/30/2024	4/4/2022

**VII. 2022 Select Board Meetings**

A. Board to consider voting to accept the following Select Board Meeting Schedule:

May 2, 2022

May 16, 2022

June 6, 2022

June 20, 2022

July 18, 2022

August 1, 2022

August 15, 2022

## **VIII. Executive Session**

- A. Board to vote to go into Executive Session pursuant to option 3 to discuss strategy with respect to collective bargaining for the America Federation of State, County and Municipal Employees State Council 93 Local 1704 AFL-CIO, Andover Independent Employees Association, Andover Police Patrolman's Union Massachusetts Coalition of Police Local 477, Andover Police Superior Officers Association NEBPA Local 99, Andover Public Safety Communicators NEBPA Local 109 and International Association of Firefighters Local 1658 AFL-CIO, and to approve and not release Executive Session Minutes of March 14, 2022, and for the Chair to declare that an open session may have a detrimental effect on the negotiating position of the Town; and not to return to open session.