

ZONING BYLAWS

Chapter 240

Town

of

BELLINGHAM

**GENERAL
CODE**

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Chapter 240

ZONING

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**ARTICLE I
General Provisions****§ 240-1. Purpose.**

The purpose of this bylaw is to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water supply, drainage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan, if any, adopted by the Bellingham Planning Board and the Comprehensive Plan, if any, of the Metropolitan Area Planning Council; and to preserve and increase amenities; pursuant to Chapters 40A, 40B, and 41 of the Massachusetts General Laws as amended, and Article 89 of the Amendments to the Constitution.

§ 240-2. Responsibility for administration.

This bylaw shall be enforced by the Inspector of Buildings, who shall take such action as may be necessary to enforce full compliance with the provisions of this bylaw and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to the Town Counsel.

§ 240-3. Compliance certification.

No "development" shall be undertaken without certification by the Inspector of Buildings that such action is in compliance with then applicable zoning or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or local law. Issuance of a building permit or certificate of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification. "Development" for these purposes shall mean erecting, moving, substantially altering or changing the use of a building, sign, or other structure, or changing the principal use of land.

§ 240-4. Submittals.

In addition to any information which may be required under the Massachusetts State Building Code, the Inspector of Buildings shall require of applicants such information as he deems necessary to determine compliance with this Zoning Bylaw. This may include such things as a site plan indicating land and building uses and provisions for vehicular parking and egress, location of floodplain control elevations, and evidence of performance compliance under Article IX, Environmental Controls.

§ 240-5. Expiration.

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

§ 240-6. Violations and penalties.

Any person violating any of the provisions of this bylaw, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be fined not more than \$100 for each offense. Each day that such violation continues shall constitute a separate offense.

§ 240-7. Amendments.

This bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in M.G.L. ch. 40A, § 5, and any amendments therein.

§ 240-8. Applicability.

Where the application of 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.

§ 240-9. Effective date.

The effective date of any amendment of this Zoning Bylaw shall be the date on which such amendment was voted upon by a Town Meeting, as provided by M.G.L. ch. 40A, § 5.

§ 240-10. Severability.

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

ARTICLE II Board of Appeals

§ 240-11. Establishment.

The Board of Appeals shall consist of five members and three associate members, who shall be appointed by the Selectmen and shall act in all matters under this bylaw in the manner prescribed by Chapters 40A, 40B, and 41 of the General Laws.

§ 240-12. Powers.

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

- A. To hear and decide applications for special permits upon which the Board is empowered to act under this bylaw, in accordance with Article IV, Special Permits.
- B. To hear and decide appeals or petitions for variances from the terms of this bylaw, including variances for use, with respect to particular land or structures. Such variance shall be granted only in cases where the Board of Appeals finds all of the following:
 - (1) A literal enforcement of the provisions of this bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
 - (2) The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
 - (3) Desirable relief may be granted without either:
 - (a) Substantial detriment to the public good; or
 - (b) Nullifying or substantially derogating from the intent or purpose of this bylaw.
- C. To hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:

- (1) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. ch. 40A; or by
 - (2) The Metropolitan Area Planning Council; or by
 - (3) Any person including any officer or board of the Town of Bellingham or of any abutting town, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of M.G.L. ch. 40A; or this bylaw.
- D. To issue comprehensive permits. Comprehensive permits for construction may be issued by the Board of Appeals for construction of low- or moderate-income housing by a public agency or limited dividend or nonprofit corporation, upon the Board's determination that such construction would be consistent with local needs, whether or not consistent with local zoning, building, health or subdivision requirements, as authorized by M.G.L. ch. 40B, §§ 20 through 23.
- E. To issue withheld building permits. Building permits withheld by the Inspector of Buildings acting under M.G.L. ch. 41, § 81Y, as a means of enforcing the Subdivision Control Law¹ may be issued by the 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.

§ 240-13. Public hearings.

The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws on all appeals and petitions brought before it.

§ 240-14. Repetitive petitions.

Repetitive petitions for exceptions, appeals and petitions for variances, and applications to the Board of Appeals shall be limited as provided in M.G.L. ch. 40A, § 16.

ARTICLE III Planning Board

§ 240-15. Special permits.

In instances where this bylaw provides for special permits to be acted upon by the Planning Board, those actions shall be based upon the considerations of Article IV, Special Permits, unless specifically designated otherwise.

1. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

§ 240-16. Development plan approval.

The purpose of development plan approval is to promote public health, safety, and welfare, by encouraging the laying out of parking, circulation, and buildings in a safe and convenient manner; to ensure that new developments are designed to protect and enhance the visual and environmental qualities of the Town; and to provide for an adequate review of development plans which may have significant impacts on traffic, drainage, Town services, environmental quality and community character.

A. Applicability.

- (1) Unless proposed for single-family or two-family use, all development proposals are subject to development plan approval by the Planning Board if proposing any of the following:
 - (a) A new building containing 1,000 or more square feet gross floor area;
 - (b) An addition increasing ground coverage of any building by more than 2,500 square feet or, for buildings having ground coverage exceeding 10,000 square feet, an addition increasing that coverage by more than 10%;
 - (c) Substantial alteration to a parking facility having 10 or more spaces; a change to an existing parking area that either results in fewer parking spaces than required by § 240-59; or
 - (d) Removal/Disturbance of existing vegetative ground cover from more than 10,000 square feet of site area, unless done incidental to earth removal authorized by a special permit under § 240-114.
- (2) No building permit for such development shall be granted prior to Planning Board approval, except as provided at Subsection B(4) of this section.

B. Procedure.

- (1) Applicants are urged to confer with the Town Planner/Consultant regarding the materials necessary for submittal for development plan review, if applicable.
- (2) Development plan materials shall be submitted to the Planning Board Office, or other party designated by the Planning Board, who shall forthwith make a determination of whether those materials are complete, and if they are not, shall so notify the applicant and the Inspector of Buildings. Prior to filing an application for development plan approval with the Planning Board, the applicant shall distribute the application packages to Town boards/departments pursuant to the Planning Board's Form K.² A copy of the fully executed Form K shall be included in the application package submitted to the Planning Board. Those agencies and officials provided with copies shall report their comments on compliance to the Planning Board not later than the time of the Planning Board's public hearing. Failure of these agencies and officials to provide a report to the Planning Board for consideration at the public hearing shall constitute their approval of the project.

2. Editor's Note: A copy of Form K is included at the end of Ch. 245, Subdivision Regulations.

Prior to voting on the development plan, the Planning Board shall hold a public hearing on the submission. The notice, posting, and publication of the public hearing on the development plan shall be in accordance with the provisions of M.G.L. ch. 40A, § 11. Additionally, notice of the project, including a description of the project, date, time and location of the public hearing, shall be posted prominently on the project site by the applicant. "Prominently" shall mean with a sign or signs of at least two feet by two feet in size and easily visible from each roadway on which the property has frontage. The sign shall be yellow with black lettering, with large text at the top indicating "Public Hearing Notice."

- (3) The Planning Board shall determine whether or not the development plan complies with the requirements of § 240-19, Decision standards, within 60 days of the time that complete materials have been received by the Town Planner/Consultant, approving the plan only if it does. Within 15 days of its vote on the development plan, a copy of the development plan decision shall be filed with the Town Clerk and Inspector of Buildings, with a copy being sent or hand delivered to the applicant. Any interested party aggrieved by the development plan decision may file an appeal with the Board of Appeals within 30 days of the date the decision was filed with the Town Clerk, as provided in M.G.L. ch. 40A, §§ 8 and 15. The Inspector of Buildings shall not approve any building permit application subject to these provisions without receipt of Planning Board approval and expiration of a thirty-day appeal period, as certified by the Town Clerk.
- (4) Failure of the Planning Board to vote within 60 days of filing shall constitute constructive approval. In this case, the Inspector of Buildings shall issue a Certificate of Constructive Approval and file such certificate with the Town Clerk within 15 days of the Planning Board's failure to act. Appeals to the Certificate of Constructive Approval may be filed within 30 days of the date the decision was filed with the Town Clerk, as provided in M.G.L. ch. 40A, §§ 8 and 15. Upon expiration of the statutory appeal period without appeal, the Inspector of Buildings may issue a building permit.
- (5) "As-built" information.
 - (a) As-built information shall be provided to the Department of Public Works after installation of all underground utilities (water, sewer, drain, gas, electric, communications, etc.) and site construction (roads, access ways, driveways, parking, landscaping, lighting, etc.) noted on the approved plans or referenced in the decisions of special permits issued by the Planning Board, and prior to issuance of certificate(s) of occupancy.
 - (b) As-built information shall consist of both a certification from a registered land surveyor, professional land surveyor, or professional engineer that all construction has been completed in accordance with the approved development plan, and a stamped as-built plan (record drawing) showing the location of all buildings and structures, all utilities, including septic system, leaching area, underground piping, vent pipes, drainage facilities, water wells, well piping, electric, gas, and telecommunications lines showing that all

construction has been completed in accordance with the approved development plan.

- (6) To assure that ongoing construction complies with the approved development plan, the Town shall inspect all waterworks, wastewater, stormwater pipes, pavement grading, and appurtenant construction. At least one week prior to commencement of construction, the DPW Director shall be notified by certified mail of the intended commencement. The DPW Director shall, upon receipt of notification, appoint an agent and instruct said agent to make continuing inspections of the work to insure compliance with the approved development plans. The wages of said agent are to be determined by the DPW Director and paid to the Town by the applicant. If the agent is an employee of the Town, the cost will be the employee's standard pay scale plus 50% for indirect payroll costs. If the agent is a consultant, the wages will be in accordance with the agreement for services.

§ 240-17. Submittals.

- A. Prior to filing an application for development plan approval with the Planning Board, the applicant shall distribute the application packages to Town boards/departments pursuant to the Planning Board's Form K.³ A copy of the fully executed Form K shall be included in the application package submitted to the Planning Board.
- B. The following materials shall be submitted for development plan approval, **except** any not germane to the specific case, as determined by the Planning Board and communicated to the applicant in writing prior to submittal. Refer to the Planning Board's Procedural Rules for additional information on submission requirements.
 - (1) A site plan prepared by a land surveyor, registered architect, landscape architect, professional engineer, showing the following:
 - (a) A locus plan at the scale of one inch equals 200 feet.
 - (b) The project name, North arrow, date, scale, name and address of record owner or owners, applicant, engineer, architect and their proper seals of registration. Names of all abutters within 300 feet of the site boundaries as determined from the latest tax records. If the property owner is not the applicant, a statement of consent from the property owner should be included with the application.
 - (c) Use and ownership of adjacent premises, approximate location of buildings within 50 feet of the site, and if the proposal entails on-site sewage disposal, the approximate location of any wells on or off the premises within 300 feet of the leaching field or other discharge location.
 - (d) Location and boundaries of the site and of any lots proposed, frontage, and abutting land, and an indication of abutting land under same ownership. The

3. Editor's Note: A copy of Form K is included at the end of Ch. 245, Subdivision Regulations.

location of zoning districts, and overlay zoning districts within the locus of the plan.

- (e) The location and footprint of existing and proposed buildings/structures, total area of buildings in square feet, streets, ways, drives, driveway openings within 300 feet of the site boundaries, walkways, service areas, parking spaces, loading areas, fences and screening, utilities, waste storage and disposal facilities, wells, and drainage facilities.
 - (f) Existing and proposed topography, at a minimum contour interval of two feet, and vegetation, indicating areas of retained vegetation and identifying the location of significant trees, historic features, and unique natural land features.
 - (g) Indication of wetlands and other areas subject to control under the Wetlands Protection Act, and the one-hundred-foot zone surrounding such areas, identified through field survey acceptable to the Conservation Commission; floodplain and floodway boundaries; and erosion control measures.
 - (h) The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other disposal methods.
 - (i) Landscape plan showing planting areas, signs, fences, walls, walks and lighting, both existing and proposed. Location, type, and screening details for all abutting properties and waste disposal containers.
 - (j) The location, height, size, materials, and design of all proposed signage.
 - (k) The location, height, intensity, and bulb type of all external lighting fixtures, the direction of illumination, and methods to reduce glare onto adjoining properties.
 - (l) Location and description of proposed open space and recreation areas.
 - (m) A table of information showing how the plan conforms to the Zoning Bylaw.
- (2) Building floor plans and architectural elevations. A registered architect or engineer shall prepare the floor plans and architectural elevations, unless there is no building involved exceeding 35,000 cubic feet. Building elevation plans shall indicate the type and color of materials to be used on all facades.
- (3) A narrative describing the project, including:
- (a) Proposed use(s);
 - (b) Building or addition size proposed, broken down by use, if applicable;
 - (c) Projected number of employees, hours of operation and description of shifts;
 - (d) Projected parking spaces required (show calculation based on building usage/employees);

- (e) Proposed methods of screening the premises and parking from abutting property and the street;
 - (f) A calculation of existing and proposed lot coverage;
 - (g) Projected Town water and sewer demand, if any;
 - (h) A discussion of the status of all other required local, state and federal permits (copies of all permits issued for the project shall be included in the application package);
 - (i) A discussion of how the project conforms with the Bellingham Master Plan.
- (4) Drainage calculations/analysis.
 - (5) A traffic study/analysis, if required (refer to Planning Board's Subdivision Rules and Regulations for detailed requirements).⁴
 - (6) Evaluation of impact on water resources. The applicant shall submit such materials on the measures proposed to prevent pollution of surface and ground water, erosion of soil, excessive runoff of precipitation, excessive raising or lowering of the water table, or flooding of other properties. The evaluation shall include the predicted impacts of the development on the aquifer, and if applicable, and compare the environmental impacts to the carrying capacity of the aquifer.
 - (7) Evaluation of impact on landscape. The applicant shall submit an explanation, with sketches as needed, of design features intended to integrate the proposed new buildings, structures and plantings into the existing landscape to preserve and enhance existing aesthetic assets of the site, to screen objectionable features from neighbors and public areas.
 - (8) Any additional studies or other materials required under this article, under Article IX, Environmental Controls, and elsewhere in this bylaw.
 - (9) A development plan filing fee, as required in the Planning Board Rules and Procedures.

§ 240-18. Proposals in two municipalities.

Where a proposal is located in part in the Town of Bellingham and in part in an adjacent municipality, the provisions of development plan review shall apply as follows.

- A. Applicability of development plan review shall be determined by testing the entire proposal in both communities against the thresholds of § 240-16A.
- B. Submittals for the portion lying in the Town of Bellingham shall be as specified at § 240-17. For portions lying outside the Town, only those items necessary for the determinations of Subsection C of this section need be submitted.

4. Editor's Note: See Ch. 245, Subdivision Regulations; and Ch. 246, Traffic Impact Analysis.

- C. The proposal shall be approved, provided that the portion lying within the Town of Bellingham complies with the requirements of the Zoning Bylaw and provided that outcomes from the entire development for impacts limited by the terms of this bylaw, such as light overspill (§ 240-49B), comply as measured in Bellingham.

§ 240-19. Decision standards.

The Planning Board shall approve a development plan only upon its determination that:

- A. The performance requirements of this bylaw (e.g., Article IX, Environmental Controls, and Article X, Parking and Loading Requirements) have been met.
- B. For the given location and type and extent of land use, the design of building form, building location, egress points, grading, and other elements of the development could not reasonably be altered to:
- (1) Improve pedestrian or vehicular safety within the site and egressing from it;
 - (2) Reduce the visual intrusion of parking areas viewed from public ways or abutting premises;
 - (3) Reduce the volume of cut or fill;
 - (4) Reduce the number of removed trees eight inches trunk diameter and larger;
 - (5) Reduce soil erosion;
 - (6) Reduce hazard or inconvenience to pedestrians from stormwater flow and ponding.
- C. Adequate access is provided to each structure for fire and service equipment.
- D. Adequate utility service and drainage is provided, consistent where apt with the performance intent of the Design Standards of the Subdivision Regulations of the Bellingham Planning Board, as in effect at the time of the submission of the development plan.⁵
- E. Adequate capacity is available on impacted streets to accommodate the proposed project, based on a traffic study prepared in accordance with the traffic guidelines/regulations contained in the appendix of the Planning Board's Rules and Regulations for the Subdivision of Land.⁶ If a development is projected to cause a decrease in level of service (LOS) over the no-build condition on impacted streets, the Planning Board, at its sole discretion, may require implementation of mitigative measures and/or transportation demand management (TDM) measures to restore the LOS to the no-build condition.
- F. No other zoning violations are observed.

5. Editor's Note: See Ch. 245, Subdivision Regulations.

6. Editor's Note: See Ch. 245, Subdivision Regulations.

§ 240-20. Duration of approval.

Development plan approval shall become void two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in M.G.L. ch. 40A, § 15, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion. In such case a request for extension of the date of completion must be submitted to the Planning Board in writing no less than 30 days prior to the date of expiration.

§ 240-21. Performance guarantee.

As a condition of development plan approval, the Planning Board may require that a performance guarantee, secured by deposit of money or negotiable securities, in the form selected by the Planning Board be posted with the Town to guarantee completion of improvements to be made in compliance with the plans submitted and approved hereunder. The amount of security shall be determined by an estimate from the applicant's engineer which may be confirmed or increased by the Board. The Town may use the secured funds for their stated purpose in the event that the applicant not complete all improvements in a manner satisfactory to the Board within two years from the date of approval, or the final date of the last extension of such approval, if any.

§ 240-22. Site plan review.

The purpose of the site plan review is to promote public health, safety and welfare by encouraging the laying out of parking, egress and change in uses in a safe and convenient manner for existing structures and/or construction of new development that do not require a development plan review.

- A. Applicability. The following development proposals, unless required to receive development plan approval under § 240-16, require site plan review by the Planning Board prior to approval for a building or occupancy permit by the Inspector of Buildings:
- (1) Any nonresidential development in a Business 1, Business 2 or Industrial Zone exceeding 10,000 square feet.
 - (2) Any change from a dwelling or residence in a Business 1, Business 2 or Industrial Zone to a business or industrial use, excluding, however, home occupations under § 240-72.
- B. Procedure. Materials required for site plan review shall be submitted to the Inspector of Buildings with or prior to application for a building or occupancy permit requiring site plan review. The Inspector of Buildings shall forthwith transmit such materials to the Planning Board, along with notification of the date by which action on the permit application is required. The Planning Board shall consider the materials at a meeting, and shall report its findings in writing to the Inspector of Buildings prior to the date on which he must act on the permit application. Failure to do so shall be construed as lack of objection. The Inspector of Buildings shall approve applications subject to site plan review only consistent with Planning Board findings timely received.

- C. Submittals. The applicant shall provide as much of the materials specified at § 240-17 for development plan approval as is reasonably necessary for the Planning Board to determine compliance with § 240-19, Decision standards, and a filing fee as required under a schedule of fees to be established and from time to time amended by the Planning Board, based upon the actual cost of review. Applicants are urged to confer with the Town Planner regarding the materials necessary for submittal for site plan review.
- D. Planning Board Associate Member. As authorized in M.G.L. ch. 40A, § 9, there shall be one Associate Member of the Planning Board. Such associate shall act on special permit applications when designated to do so by the Planning Board Chairman, in case of absence, inability to act, or conflict of interest on the part of any member of the Board, or in the event of a vacancy on the Board. The Associate Member shall be appointed for a three-year term by majority vote of the Selectmen and members of the Planning Board, in the same manner as for filling a vacancy.
- E. Repetitive petitions. Repetitive petitions for appeals, special permits and applications to the Planning Board shall be limited as provided in M.G.L. ch. 40A, § 16.

ARTICLE IV Special Permits

§ 240-23. Special permit granting authority.

Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

§ 240-24. Public hearings.

Special permits shall only be issued following public hearings held within 65 days after filing with the special permit granting authority an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

§ 240-25. Criteria.

Special permits shall be granted by the special permit granting authority only upon its written determination that the proposed use will not have adverse effects which over-balance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following:

- A. Social, economic or community needs which are served by the proposal;
- B. Traffic flow and safety;
- C. Adequacy of utilities and other public services;
- D. Neighborhood character and social structures;

- E. Qualities of the natural environment;
- F. Potential fiscal impact.

§ 240-26. Permit recording.

Special permits shall not take effect until the board which acted on the permit has received documentation from the applicant that a copy of the decision, certified by the Town Clerk, has been recorded in the Norfolk County Registry of Deeds, as required at M.G.L. ch. 40A, § 11.

§ 240-27. Expiration.

Special permits shall lapse within 12 months of special permit approval (plus time required to pursue or await the determination of an appeal referred to in M.G.L. ch. 40A, § 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

**ARTICLE V
General Use Regulations**

§ 240-28. Establishment of districts.

- A. For purposes of this bylaw, the Town of Bellingham is hereby divided into the following types of districts:

| | |
|-------------------------------|----------|
| Agricultural District | A |
| Suburban District | S |
| Residential District | R |
| Multifamily Dwelling District | M |
| Business District | B-1, B-2 |
| Industrial District | I |

- (1) The boundaries of these districts are defined and bounded on the map entitled "Zoning Map, Bellingham, Massachusetts," on file with the Town Clerk. That map and all explanatory matter thereon is hereby made a part of this bylaw.⁷
 - (2) In addition, there are five overlay districts: Floodplain District as established § 240-110, Water Resource District as established at § 240-132, Adult Use Districts No. 1 and No. 2 as established at Article XXII of this chapter, and the Mill Reuse Overlay District as established at Article XXIII of this chapter.
- B. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines,

7. Editor's Note: A copy of the Zoning Map is included at the end of this chapter.

boundary or lot lines, or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines shall be construed to be actually parallel, perpendicular, or radial thereto; when appearing to follow shoreline shall coincide with the mean low-water line. When not locatable in any other way, boundaries shall be determined by scale from the map.

- C. Where a district boundary line divides any lot existing at the time such boundary line is adopted, the zoning regulations shall apply as follows.
- (1) In the case of a use allowed in both districts, the lot shall be considered as a whole, and the dimensional regulations of the district in which the majority of the lot frontage lies shall apply to the entire lot.
 - (2) Where a lot is transected by a zoning district boundary line, the regulations of these Zoning Bylaws applicable to the lesser restricted district may, at the option of the owner, be deemed to govern in the more restricted district, up to a distance of not more than 30 feet from said district boundary.
- D. When a lot in one ownership is situated in part in the Town of Bellingham and in part in an adjacent municipality, the provisions of this bylaw shall be applied to that portion of the lot lying in the Town of Bellingham in the same manner as if the entire lot were situated therein.

§ 240-29. Use regulations.

- A. No building or structure shall be erected or used and no premises shall be used except as set forth in the Use Regulations Schedule,⁸ or as exempted by § 240-30 or by statute.

- (1) Symbols employed shall mean the following:

Yes - A permitted use
No - An excluded or prohibited use

- (2) Use authorized under special permit as provided for in Article IV:

BA - Acted on by the Board of Appeals
PB - Acted on by the Planning Board
BS - Acted on by the Board of Selectmen

- B. Where an activity might be classified under more than one of the following uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

8. Editor's Note: The Use Regulations Schedule is included at the end of this chapter.

- C. Uses listed nowhere in § 240-31 are prohibited, except that such a use may be allowed on special permit if the Board of Appeals determines that it closely resembles in its neighborhood impacts a use allowed or allowed on special permit in that district.

§ 240-30. Nonconforming uses and structures.

Legally preexisting nonconforming structures and uses may be continued, subject to the following:

- A. Change, extension or alteration. As provided in M.G.L. ch. 40A, § 6, a nonconforming single- or two-family dwelling may be altered or extended, provided that doing so does not increase the nonconforming nature of said structure. Other preexisting nonconforming structures or uses may be extended, altered, or changed in use on special permit from the Board of Appeals if the Board of Appeals finds that such extension, alteration, or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.
- B. Restoration. Any legally nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if reconstructed within a period of two years from the date of the catastrophe, or else such reconstruction must comply with this bylaw.
- C. Abandonment. A nonconforming use or structure which has been abandoned, or discontinued for a period of two years, shall not be reestablished; provided, however, that, by special permit granted by the Zoning Board of Appeals, the use of an abandoned nonconforming residential structure, or any portion thereof, may be reestablished. In all other respects, any future use of the subject premises shall conform with this bylaw.
- D. Replacement. Replacement of mobile homes or commercial vehicles parked in nonconformity with § 240-31 is not permitted, even where such replacement does not increase the extent of nonconformity.

§ 240-31. Use Regulations Schedule.

| Activity or Use | DISTRICT | | | | |
|---|----------|------|-----|----------|-----|
| | A | S, R | M | B-1, B-2 | I |
| AGRICULTURAL USES | | | | | |
| Livestock raising on parcel under five acres ¹ | Yes | No | No | No | No |
| Other farm ¹ | Yes | Yes | Yes | Yes | Yes |
| Greenhouse | | | | | |
| With retail sales ² | Yes | Yes | Yes | Yes | Yes |
| Wholesale only | Yes | Yes | Yes | Yes | Yes |
| Roadside stand ² | | Yes | Yes | Yes | Yes |

| Activity or Use | DISTRICT | | | | |
|---|----------|------|----|-------------------|-------------------|
| | A | S, R | M | B-1, B-2 | I |
| COMMERCIAL USES | | | | | |
| Animal kennel or hospital | No | No | No | BA | BA |
| Business or professional offices | No | No | No | Yes | Yes |
| Medical clinic | No | No | No | Yes | Yes |
| Funeral home | No | No | No | Yes | Yes |
| Auto, boat, or farm equip, sales, rental, service | No | No | No | Yes | Yes |
| Printing shop | No | No | No | Yes | Yes |
| Bank, financial office | No | No | No | Yes ¹⁵ | Yes ¹⁵ |
| Restaurant | No | No | No | Yes ¹⁵ | Yes ¹⁵ |
| Retail sales or service | No | No | No | Yes ¹⁵ | Yes ¹⁵ |
| Retail sale of gasoline ⁵ | No | No | No | BS | BS |
| Wholesaling without storage | No | No | No | Yes | Yes |
| Major business complex ³ | No | No | No | PB ⁴ | PB |
| INDUSTRIAL USES | | | | | |
| Major business complex ³ | No | No | No | PB ⁴ | PB |
| Manufacturing for on-site sales ⁶ | No | No | No | Yes | Yes |
| Other manufacturing, research | No | No | No | No | Yes |
| Bulk storage | No | No | No | No | PB |
| Contractor's yard | No | No | No | No | Yes ¹⁹ |
| Earth removal ⁷ | BA | BA | BA | BA | BA |
| Waste processing or disposal: | | | | | |
| Junkyard, secondhand auto parts | No | No | No | No | BS |
| Hazardous or radioactive | No | No | No | No | No |
| Other municipal | No | No | No | No | BS |
| Other private | No | No | No | No | No |
| Transportation terminal | No | No | No | No | Yes |
| Warehouse | No | No | No | No | Yes |
| Commercial radio transmission | No | No | No | Yes | Yes |
| Laundry or dry-cleaning plant | No | No | No | Yes | Yes |
| Electrical generating facility (power plant) | No | No | No | No | Not to exceed 3 |

| Activity or Use | DISTRICT | | | | |
|--|-----------------|-----------------|-----------------|----------|-----|
| | A | S, R | M | B-1, B-2 | I |
| Large-scale ground-mounted solar photovoltaic | No | No | No | No | Yes |
| Installation pursuant to Article 5300 | | | | | |
| INSTITUTIONAL USES | | | | | |
| Municipal use | Yes | Yes | Yes | Yes | Yes |
| Religious use | Yes | Yes | Yes | Yes | Yes |
| Educational use exempted from zoning prohibition by M.G.L. ch. 40A, § 3 | Yes | Yes | Yes | Yes | Yes |
| Other educational use | BA | BA | BA | BA | BA |
| Cemetery | Yes | Yes | Yes | Yes | Yes |
| Hospital | BA | BA | BA | BA | BA |
| Nursing, convalescent, or rest home | BA | BA | BA | BA | BA |
| Philanthropic or charitable institutions | BA | BA | BA | BA | BA |
| Public utility with service area | No | No | No | No | Yes |
| Public utility without service area | BA | BA | BA | BA | Yes |
| Club or lodge | BA ⁸ | BA ⁸ | BA ⁸ | Yes | Yes |
| RECREATIONAL USES | | | | | |
| Camping, supervised | Yes | BA | BA | Yes | Yes |
| Camping, commercial | BA | No | No | No | No |
| Golf course, standard or par three | Yes | Yes | Yes | Yes | Yes |
| Conference, training, or meeting facilities in conjunction with a standard golf course ¹⁸ | PB | PB | PB | PB | PB |
| Indoor commercial recreation | No | No | No | Yes | Yes |
| Outdoor commercial recreation | No | No | No | BA | BA |
| Sportsman's club, game preserve | Yes | No | No | Yes | Yes |
| Public stables | BA | No | No | BA | BA |
| Bath houses, commercial beaches | BA | BA | BA | Yes | Yes |

| Activity or Use | DISTRICT | | | | |
|---|-------------------|-------------------|---------------------|------------------|------------------|
| | A | S, R | M | B-1, B-2 | I |
| Commercial picnic, outing areas | BA | BA | BA | Yes | Yes |
| RESIDENTIAL USES | | | | | |
| Dwelling | | | | | |
| Single-family | Yes | Yes | Yes | Yes | No ⁹ |
| Two-family | Yes | Yes | Yes | Yes | No |
| Townhouse ¹² | PB | PB | PB | PB | No |
| Other multifamily | No ¹⁰ | No ¹⁰ | PB ^{11,12} | No ¹⁰ | No ¹⁰ |
| Assisted elderly housing ¹⁶ | PB | PB | PB | PB | No |
| Boarding or rooming | No ¹⁰ | No ¹⁰ | BA | No ¹⁰ | No ¹⁰ |
| Motel, hotel | No | No | No | BA | Yes |
| Mobile home | No | No | No | No | No |
| Public housing | Yes | Yes | Yes | Yes | No |
| Major residential development ¹⁷ | PB | PB | PB | PB | No |
| OTHER PRINCIPAL USES | | | | | |
| Temporary structures | BA | BA | BA | BA | BA |
| Airport, heliport | No | No | No | Yes | Yes |
| ACCESSORY USES | | | | | |
| Parking provisions for: | | | | | |
| Private autos of residents on premises | Yes | Yes | Yes | Yes | Yes |
| One light commercial vehicle | Yes | Yes | Yes | Yes | Yes |
| Two or three light commercial vehicles, or one heavy commercial vehicle | | | | | |
| Accessory to residential use | BA | No | No | Yes | Yes |
| Accessory to nonresidential use | Yes ¹³ | Yes ¹³ | Yes ¹³ | Yes | Yes |
| Farm vehicles and equipment on active farms | Yes | Yes | Yes | Yes | Yes |
| Other parking | No | No | No | BA | BA |
| Home occupation | * | * | * | * | * |
| Signs (see Article VI) | Yes | Yes | Yes | Yes | Yes |
| Private stable ¹⁴ | Yes | BA | No | Yes | Yes |

| Activity or Use | DISTRICT | | | | |
|--|----------|------|-----|----------|-----|
| | A | S, R | M | B-1, B-2 | I |
| Animal kennel ¹⁴ | BA | BA | No | BA | BA |
| Livestock raising ¹⁴ | Yes | BA | No | No | No |
| Swimming pool | Yes | Yes | Yes | Yes | Yes |
| Accessory scientific use in accordance with § 240-66 | BA | BA | BA | BA | BA |
| Family apartment (see § 240-67) | BA | BA | BA | BA | No |
| Other customary accessory uses | Yes | Yes | Yes | Yes | Yes |

FOOTNOTES:

1. Cattle, horses, sheep, hogs, goats, or similar livestock shall be maintained only on premises having an area of not less than 40,000 square feet plus 15,000 square feet per large animal (25 pounds or heavier at maturity) in excess of one or per 10 smaller animals in excess of the first 10. Such animals and their wastes shall be contained at least 50 feet from any abutting lot line of a residentially used lot, and at least 50 feet from any year-round surface water body.
2. At least 3/4 of the retail sales must be of produce raised on land within the Town of Bellingham in the same ownership as the stand or greenhouse.
3. See Article XVII.
4. No in B-1 Districts.
5. See Article XVIII.
6. More than half the volume sold as retail on the premises.
7. See Article XVI.
8. Except those whose chief activity is one customarily carried on as a business.
9. Except single-family dwelling for personnel required to reside on the premises for the safe operation of a permitted use.
10. Except that an existing dwelling may, on special permit from the Board of Appeals, be altered to house up to four families or for boarding or lodging, provided that the Board of Appeals shall find that the structure could not reasonably be used or altered and used for any permitted purpose.
11. Except that multifamily shall not include public housing.
12. See § 240-95.
13. But none in excess of the number legally parked on the effective date of this amendment.

FOOTNOTES:

14. Cattle, horses, sheep, hogs, goats, or similar livestock shall be maintained accessory to a dwelling only on a lot having an area of not less than 40,000 square feet plus 15,000 square feet per large animal (25 pounds or heavier at maturity) in excess of one or per 10 smaller animals in excess of the first 10. Such animals and their wastes shall be contained at least 50 feet from any abutting lot line of a residentially used lot, and at least 50 feet from any year-round surface water body.
15. Except "PB" if service is provided to patrons while in their automobiles, special permits to be approved only upon determination by the Planning Board that traffic projected to be generated will be accommodated without reduction in the traffic level of service on any affected off-premises lane, and without either hazard for vehicular traffic or hazard or inconvenience for pedestrians.
16. See § 240-95.
17. See Article XIII.
18. Provided that the sum of the gross floor areas of all buildings on the site equals not more than 1% of the land area on the premises. If in an A, S or R District no building for this use may be less than 200 feet from the nearest property line.
19. But see special permit requirements for bulk storage.
- * See § 240-65.

ARTICLE VI
Definitions.

§ 240-32. Terms defined.⁹

In this bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings. Words used in the present tense include the future, and the plural includes the singular, the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

ACCESSORY BUILDING — A building detached from, incidental to, located on the same premises as, and functionally dependent on the principal use of the premises.

ACCESSORY USE — An activity incidental to and located on the same premises as a principal use conducted by the same person or his agent. No use shall be considered "accessory" unless functionally dependent on and occupying less land area than the principal use to which it is related and occupying less than one quarter as much habitable floor area as that principal use.

9. Editor's Note: For definitions related to specific regulations in this chapter, see the following: Parking Bylaw, see Art. X, § 240-57; major residential development, see Art. XIV, § 240-81; Water Resource Districts, see Art. XX, § 240-134; wireless communications facilities, see Art. XXI, § 240-142; adults uses, see Art. XXII, § 240-149; Mill Reuse Overlay District, see Art. XXIII, § 240-156; large-scale ground-mounted solar photovoltaic installations, see Art. XXIV, § 240-163; inclusionary housing, see Art. XXV, § 240-173.

ADDITION — An extension or increase in floor area or height of a building or structure that shares at least one wall in common with the existing building or structure.

ADULT USES — The uses defined in Article XXII of these bylaws.

ALTERNATIVE ENERGY AND RENEWABLE ENERGY MANUFACTURING FACILITIES — Include, but are not limited to, the following: manufacturing of solar panel production, wind turbine or hydro turbine production, and fuel cell production.

ALTERNATIVE ENERGY AND RENEWABLE ENERGY RESEARCH AND DEVELOPMENT FACILITIES — Include, but are not limited to, the following: research and development facilities used for research to improve the efficiency of, or reduce pollution from biomass power facilities, research and development intended to enhance geothermal systems, research related to advance battery systems.

ANIMAL KENNEL OR HOSPITAL — Premises used for the harboring and/or care of more than three dogs or other domestic non-farm animals three months old or over. Use shall be so classified regardless of the purpose for which the animals are maintained or whether fees are charged or not.

ARTERIAL STREET — Any state-numbered highway, any street having a right-of-way width of 60 feet or more, plus the following named streets:

| | | |
|-------------------|-------------------|--------------------|
| Blackstone Street | Center Street | Cross Street |
| Depot Street | Elm Street | Hartford Avenue |
| High Street | Lake Street | Maple Street |
| Paine Street | Pulaski Boulevard | South Maple Street |
| Wrentham Road | | |

ASSISTED ELDERLY HOUSING — One or more dwellings, regardless of structural type (single-family, two-family, multifamily), which are structurally configured to serve the elderly, meeting then-current physical standards for publicly assisted elderly housing and having no units containing more than two bedrooms; and for which there is publicly enforceable assurance that each resident household will consist entirely of members at least 55 years old; and for which there is contract assurance of support services, such as meals, housekeeping, social services, health services or transportation.

BEDROOM — In a dwelling, any habitable room having more than 70 square feet floor area, if not a living room, dining room, kitchen, or bathroom. Any dwelling unit in which no such room exists shall be construed to contain one bedroom.

BOARDING or ROOMING — A building, other than a hotel or motel, where rooms (without kitchens) are rented to three or more persons by the week or longer, and meals may (or may not) be regularly served to roomers by pre-arrangement for compensation.

BUILDING — A structure enclosing useful space.

BUILDING HEIGHT — The vertical distance from the mean finished grade of the ground adjoining the building to the highest point of the roof for flat or shed roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

BULK STORAGE — Exposed outside storage of sand, lumber, coal, or other bulk materials, and bulk storage of liquids in tanks except under ground as an accessory use.

CAMPER — A vehicle used as a temporary dwelling for travel, recreational and vacation uses.

CAMPING, COMMERCIAL — Premises used for campers, tenting, or temporary overnight facilities of any kind, operated seasonally, where a fee is charged.

CAMPING, SUPERVISED — Facilities operated on a seasonal basis for a continuing supervised recreational, health, educational, religious, and/or athletic program, with persons enrolled for periods of not less than one week.

CLUB or LODGE — Premises or buildings of a nonprofit organization exclusively servicing members and their guests for recreational, athletic, or civic purposes, but not including any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club. Does not include golf clubs or sportsmen's clubs as elsewhere defined, or clubs or organizations whose chief activity is a service customarily carried on as a business.

CONFERENCE, TRAINING, OR MEETING FACILITIES — A structure or series of structures providing conference, seminar or meeting facilities and dining but not overnight accommodation.

CONTINUING CARE RETIREMENT COMMUNITY — A managed development that provides housing, services and nursing care to persons over 55 years of age; and which includes independent living units, assisted living units, nursing home accommodations, and accessory medical, support services, food services, and recreational uses; and for which there is a legal agreement that assures life care to residents and support services appropriate to each type of housing.

CONTRACTOR'S YARD — Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

DESIGNATED NATURAL OR CULTURAL RESOURCES — Locations or structures of outstanding natural or cultural importance as documented in inventory materials approved and amended from time to time by either the Bellingham Conservation Commission (such as wetlands, vernal pools, or habitat of endangered species) or the Bellingham Historical Commission (such as historic sites, archeological resources, or other resources listed in the MA Register of Historic Places) following a public hearing thereon with notice as required by M.G.L. ch. 40A, § 11, for a zoning amendment, as certified and filed with the Town Clerk.

DETACHED STRUCTURE — A freestanding structure with no common or party walls, common foundation walls or otherwise physically connected.

DWELLING, MULTIFAMILY — A structure containing three or more dwelling units, whether for rental, condominium ownership or other form of tenure, but not including public housing. Porches, walkways, patios or other structures of a like nature between two detached structures do not constitute a multifamily dwelling.

DWELLING, SINGLE-FAMILY — A detached residential building containing a single dwelling unit, or a single dwelling unit plus a family apartment as authorized by § 240-74.

DWELLING, TOWNHOUSE — A multifamily dwelling containing at least three but not more than eight dwelling units, separated by party walls, each unit having a separate exterior entrance and being held in separate and distinct ownership (such as in a condominium) or being owned by a Massachusetts cooperative and held by separate and distinct shares.

DWELLING, TWO-FAMILY — A detached residential building intended and designed to be occupied exclusively by two families.

DWELLING UNIT — Living quarters for a single family with cooking, living, sanitary and sleeping facilities independent of any other unit.

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

FAMILY — Any number of individuals living and cooking together in a single housekeeping unit.

FAMILY APARTMENT — A self-contained housing unit consisting of one or more rooms with separate kitchen and bathroom facilities to be incorporated within an existing single-family dwelling, or as an addition to same, to be utilized by grandparents, parents, children, grandchildren, brothers or sisters or their spouses and children or the property owner or spouse. Family apartments shall not be considered two-family dwellings.

FARM — Premises containing at least five acres used for gain in raising of agricultural products, livestock, poultry, and/or dairy products. "Farm" includes necessary farm structures and the storage of equipment used, but excludes public stables, and animal kennels or hospitals.

FLOOR AREA, LEASABLE — The sum of the area on the several floors of a building which is or could be leased, including leasable basements.

FOUNDATION — The portion of a structure that serves to transfer the weight of the building into the ground itself. Most foundations extend underground.

GOLF COURSE — Premises having not fewer than nine holes improved with tees, greens, fairways, and hazards for playing the game of golf, not including driving ranges or miniature golf. A "standard" course averages not less than 240 yards from tee to green. A "par three" course averages less than 240 yards but more than 80 yards from tee to green.

HAZARDOUS MATERIALS — Any substance or combination of substances which, because of quantity, concentration, or physical, chemical, or infectious characteristics, pose a significant present or potential hazard to water supplies or to human health if disposed into or

on any land or water in this Town. Any substance deemed a "hazardous waste" under M.G.L. ch. 21C shall also be deemed a hazardous material for purposes of this bylaw.

HOME OCCUPATION — A business or profession engaged in within a dwelling by a resident thereof as a use accessory thereto.

HOTEL or MOTEL — A structure providing sleeping rooms for resident or transient guests, and where public eating facilities are provided; but not including buildings of charitable, educational or philanthropic institutions.

IMPERVIOUS — Impenetrable by surface water.

JUNKYARD — The use of any premises, whether licensed or not, where waste or scrap articles or materials are abandoned, stored, sorted, parked, bought, or sold, as a principal use, except where such activities are carried out entirely within an enclosed building and except where more specifically categorized in this bylaw, such as "secondhand auto parts."

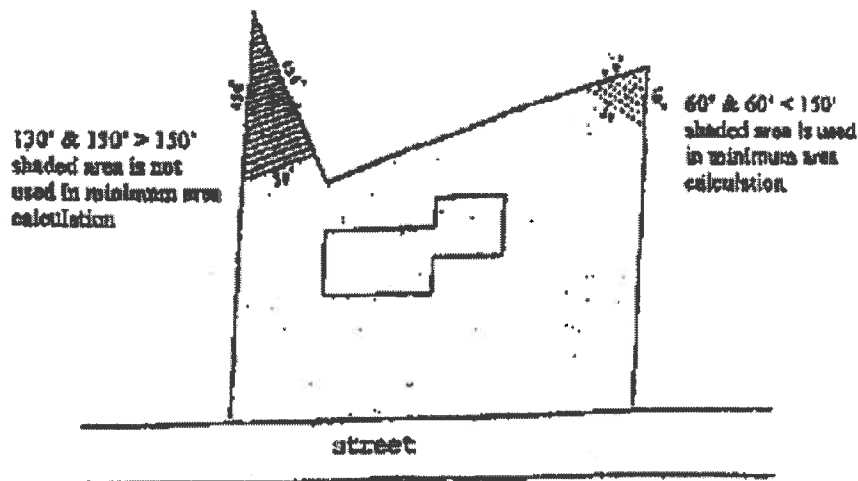
LANDSCAPED OPEN SPACE — Space not covered by any structure, and not used for drives, parking, utilities or storage; comprising landscaped areas and outdoor recreational facilities, including those on balconies or over structures if so developed.

LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) PROJECT CERTIFICATION — A rating and certification by the U.S. Green Building Council that a building project meets industry standards for high-performance, sustainable design.

LIVESTOCK RAISING — The raising or harboring of 10 or more poultry or of more than two cattle, horses, sheep, hogs, goats, minks, rabbits, or similar farm animals six months old or older.

LOT — An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose.

LOT AREA — The horizontal area of the lot exclusive of any area in a street or way open to public use. At least 90% of the lot area necessary for compliance with minimum lot area requirements shall also be exclusive of areas subject to protection under the Wetlands Protection Act, M.G.L. ch. 131, § 40, for reasons other than being subject to flooding. If the distance between any two points on lot lines is less than 50 feet, as measured in a straight line, the smaller portion of the lot as divided by that line shall not be included in lot area unless the two points are separated by less than 150 feet measured along lot lines.



LOT, CORNER — A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the point of intersection of the side lot lines intersect with an interior angle of less than 135°.

LOT COVERAGE — Percentage of total lot area covered by structures or roofed.

LOT FRONTAGE — The boundary of a lot on land coinciding with a street line if there are both rights of access and potential vehicular access across that boundary to a potential building site, measured continuously along one street line between side lot lines; in the case of corner lots, measured between the side lot line and the mid-point of the corner radius on the street designated as the frontage street by the owner or, failing that, by the Building Inspector.

MAJOR BUSINESS COMPLEX — Development of any one or more of the following in aggregate on the same premises:

- A. More than 50,000 square feet of gross floor area devoted to one or more of the uses listed under "Commercial Uses" in § 240-31, Use Regulations Schedule; or
- B. More than 250,000 square feet of gross floor area devoted to one or more of the uses listed under "Industrial Uses" in § 240-31, Use Regulations Schedule; or
- C. Any one or more of the uses listed under "Commercial Uses" or "Industrial Uses" in § 240-31, Use Regulations Schedule, if they would be required under § 240-59 to among them provide 250 or more parking spaces; or
- D. Average daily water demand, regardless of source, exceeding 100,000 gallons per day.

MAJOR RESIDENTIAL DEVELOPMENT — A residential development, whether subdivision or not, in which the buildings are arranged in a manner that maximizes available open space, as more particularly described in Article XIV of these Zoning Bylaws.

MANUFACTURING — Fabrication, processing, assembly, finishing, or packaging.

MEDICAL CLINIC — An institution or place providing medical, surgical, dental, restorative or mental hygiene services to persons not residing therein, under license as a clinic under M.G.L. ch. 111, § 51.

MOBILE HOME — A dwelling built on a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation, or otherwise permanently located.

MOTOR VEHICLE SERVICE STATION — Premises devoted primarily to retail sale of fuels and lubricants and/or washing of motor vehicles, with any repair services or other sales or services of secondary importance.

MUNICIPAL USE — Premises used for any operation by the Town government except as elsewhere more specifically defined.

NONCONFORMING USE OR BUILDING — A lawfully existing use or building which does not conform to the regulations for the district in which such use or building exists.

NURSING, CONVALESCENT, OR REST HOME — Premises for the care of three or more persons, as licensed by the Massachusetts Department of Public Health.

PARKING SPACE — Space adequate to park an automobile, plus means of access. Where spaces are not marked, each space shall be assumed to require 350 square feet.

PARTY WALL — A wall shared by buildings constructed on either side of it. Such a wall contains no openings, passage or access and extends from its footing below finished grade to the underside of the roof sheathing. Also called "common wall."

PATIO — A courtyard open to the sky or a paved area adjoining a house, for outdoor lounging, dining, etc.

PHILANTHROPIC INSTITUTION — An endowed or charitably supported nonprofit religious or nonsectarian activity maintained for a public or semi-public use.

PORCH — A covered entrance to a building and forming a sort of vestibule within the main wall, or an open or enclosed gallery or room on the outside of the building projecting without or with a separate roof.

PUBLIC HOUSING — Housing operated by a public body.

PUBLIC STABLE — Premises where two or more horses are kept for remuneration, hire or sale.

RENEWABLE ENERGY — Energy generated from natural resources such as sunlight, wind, rain, and geothermal heat, which are naturally replenished. Renewable energy is natural, which does not have a limited supply. Renewable energy can be used again and again, and will never run out. Renewable energy sources include biomass, hydro, geothermal, solar, tidal wave, and wind.

RESEARCH AND DEVELOPMENT FACILITIES — Facilities used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials,

or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses.

ROADSIDE STAND — Premises for the sale of agricultural products, the major portion of which were raised on the premises.

SIGN — Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one square foot in area and bearing only property numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- B. Flags and insignia of any government except when displayed in connection with commercial promotion;
- C. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
- D. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;
- E. Temporary signs erected for any charitable or religious cause.

SIGN, ACCESSORY — A sign whose subject matter relates to the premises on which it is located, or to products, accommodations, services, or activities on the premises.

SIGN, AREA OF — The entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. One side only of signs with faces at 180° to each other shall be counted. Frames and structural members not bearing advertising matter shall not be included in computation of sign area.

SIGN, POLITICAL — A sign whose subject matter relates to a candidate or candidates for elective office or to a question to appear on an election ballot.

SIGN, TEMPORARY — Any sign which, by its inherent nature, can be expected to remain in place and be altered for less than six months, such as those made of nondurable materials (e.g., cardboard), those with content of transient usefulness (e.g., announcements) or portable signs.

STREET — Either:

- A. A public way or a way which the Town Clerk certifies is maintained and used as a public way; or

- B. A way shown on a plan approved in accordance with the Subdivision Control Law;¹⁰ or
- C. A way in existence when the subdivision control became effective in Bellingham, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

STREET LINE — The property line defining the outside of the street right-of-way.

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground, including buildings, mobile homes, billboards, swimming pools, tanks, or the like, or part thereof.

SWIMMING POOL — Any constructed pool, located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading, or bathing purposes. Pools having a depth of two feet or more and having a capacity of 200 cubic feet or more in volume shall be considered structures.

TEMPORARY STRUCTURE — Tent, construction shanty, or similarly portable or demountable structure intended for continuous use for not longer than one year.

TRAILER — A towed vehicle for transportation of goods or animals, but not intended for human occupancy.

TRANSPORTATION TERMINAL — Premises principally used for the parking, storage, and servicing of trucks or buses, and/or loading or unloading of cargo or passengers into vehicles or storage, but not including such activities if accessory to a principal use.

VEHICLE, HEAVY COMMERCIAL — A bus or truck having capacity in excess of the limits for a light commercial vehicle, or motorized construction equipment other than trucks.

VEHICLE, LIGHT COMMERCIAL — A taxi; a bus with capacity not exceeding 10 passengers; or a truck with GVW rating not exceeding 14,000 pounds and enclosed cargo area not exceeding 400 cubic feet.

WALKWAY — A path set aside for walking.

WASTE PROCESSING OR DISPOSAL, HAZARDOUS OR RADIOACTIVE — The collection, treatment, storage, burial, incineration or disposal of hazardous waste as defined by the Division of Hazardous Waste under M.G.L. ch. 21(c), or of radioactive waste including low-level radioactive waste as defined in Section 11e(2) of the Atomic Energy Act of 1954.

YARD — An area open to the sky and free of any storage of materials or manufactured products, located between a street or other property line and any structure or element thereof other than:

- A. A fence, wall, other customary yard accessory, or steps or other projections allowed to encroach on building lines by the State Building Code; or

10. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

- B. In side and rear yards only, a tool shed or similar accessory structure having not more than 80 square feet ground coverage.

YARD, FRONT — A yard extending between side lot lines across the front of a lot on each street it adjoins, measured perpendicular to a line connecting the foremost points of the side lot lines.

YARD, REAR — A yard abutting a rear property line, that is, typically a line or set of lines approximately parallel to the frontage street, and separating lots whose frontage is established on different streets. Yards on irregularly shaped lots where "side" versus "rear" is indeterminate shall be construed as rear yards.

YARD, SIDE — A yard abutting a side property line, typically a line or set of lines which intersect a street line, separating lots whose frontage is established on the same street, extending between side and rear yards. Corner lots commonly have two side yards and no rear yard.

ARTICLE VII Intensity of Use Regulations

§ 240-33. General requirements.

- A. All buildings hereafter erected in any district shall be located on a lot such that all of the minimum requirements set forth in the table in § 240-40 are conformed with except where specifically exempted by this bylaw or by General Law.
- B. No existing lot shall be changed in size or shape except through a public taking so as to result in violation of the requirements set forth below.
- C. Recording a plan in violation of these requirements, even if endorsed by the Planning Board to the effect that approval under the Subdivision Control Law¹¹ is not required, constitutes a violation of this bylaw, subject to enforcement actions under §§ 240-3 and 240-6. The Planning Board shall inform both the submitter of such a plan and the Inspector of Buildings of any such potential violations of which the Board becomes aware.

§ 240-34. Isolated lots and subdivisions.

- A. Any increase in lot area or frontage requirements of this bylaw shall not apply to erection, extension, alteration, or moving of a structure on a legally created lot not meeting current requirements, provided that either the lot is protected against such increase under the provisions of M.G.L. ch. 40A, § 6, or the applicant documents that:
- (1) At the time such increased requirement became applicable to it, the lot:
- (a) For single family development: had at least 5,000 square feet of lot area and 50 feet of frontage on a street. For nonresidential development in the B-1 and

11. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

Industrial Zoning Districts: had at least 20,000 square feet of lot area and 125 feet of frontage on a street; and

- (b) Was not held in common ownership with any adjoining land; and
- (c) Conformed to then-existing dimensional requirements; and
- (2) The lot is to be used in conformance with the uses allowed for such district;
- (3) Yards shall be not less than the following, except that Notes (b), (c) and (g) to the table in § 240-40 of this bylaw shall remain in effect for nonresidential development:

| Actual Frontage (feet) | Required Yard (feet) | | |
|---------------------------|-------------------------|------|------|
| | Front | Side | Rear |
| Less than 125 | 20 | 8 | 16 |
| 125 to 150 | 20 | 10 | 20 |
| More than 150 | 30 | 15 | 20 |

- B. Such nonconforming lots may be changed in size or shape or their land area recombined without losing this exemption, so long as the change does not increase the actual or potential number of buildable lots.

§ 240-35. Street line assumptions.

Where no street line has been established or can be readily determined, such line shall be assumed to be 25 feet from the center of the traveled roadway for the purposes of applying these regulations.

§ 240-36. Public housing.

Public housing shall be exempt from the minimum requirements of intensity of use as set forth in § 240-40.

§ 240-37. Number of buildings on lot.

- A. Not more than one single-family or two-family dwelling shall be erected on a lot.
- B. More than one principal building or use other than a single-family or two-family dwelling may be erected or maintained on a lot, provided that access, drainage, and utilities serving each structure are functionally equivalent to that required for separate lots by the Planning Board Rules and Regulations, as determined by the Zoning Agent following consultation with the Highway Department regarding access and drainage and with the Water Department and Fire Department regarding water; and further provided that lot area and yard requirements are met for each building and use without counting

any lot area or yard twice. No increase in lot frontage is required for multiple principal buildings or uses on the same lot. For multifamily construction, the Zoning Agent must also ensure compliance with applicable portions of Article XV of this chapter and all other pertinent sections of the bylaws.

§ 240-38. Back lot division.

- A. A parcel with no other contiguous land in common ownership may be divided into two or three lots, one of which has less than the normally required frontage, and a single-family dwelling may be built on the reduced frontage lot, provided that such division is authorized on a special permit granted by the Planning Board. Such divisions shall be authorized if meeting each of the following, but not otherwise:
- (1) The lot having reduced frontage must have frontage of at least 50 feet.
 - (2) The lot having reduced frontage must contain at least twice the lot area otherwise required, without counting any portion of the lot between the street and the point where lot width equals 100 feet or more.
 - (3) The lot having reduced frontage must be capable of containing a square with sides equal to the normally required lot frontage.
 - (4) All other requirements specified in § 240-40, Intensity of Use Schedule, must be met.
 - (5) Egress from the created lots must create no greater hazard owing to grade and visibility limitations than would be expected for standard land division at that location.
 - (6) Reduction of privacy, damage to the natural environment, and difficulties of utility provision must be no greater than would be expected for standard land division at that location.
 - (7) The proposal must be determined by the Planning Board to not circumvent the intent of the Subdivision Control Law.¹²
- B. Any reduced frontage lot created under these provisions shall be shown and identified on a plan endorsed by the Planning Board "Lot _____ approved for reduced lot frontage."

§ 240-39. Lot shape factor.

No lot shall be created so as to be so irregularly shaped or extended that it has a "Shape Factor" in excess of 22. Shape Factor equals the square of the lot perimeter divided by the lot area (before deduction for wetlands, etc.). That portion of the lot in excess of the required lot area may be excluded from the computation of Shape Factor using an imaginary lot line, provided that the entire required frontage is included in the portion used for the calculation.

12. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

§ 240-40. Intensity of Use Schedule.

| | District | | | | | | |
|---|-----------------|----------|----------|---------------------|-----------------|-----------------|-----------------|
| | A | S | R | M | B-1 | B-2 | I |
| Minimum lot area (square feet) | | | | | | | |
| Two-family dwelling | 160,000 | 80,000 | 80,000 | 80,000 | 80,000 | 80,000 | — |
| Other uses | 80,000 | 40,000 | 40,000 | 40,000 ^c | 40,000 | 40,000 | 60,000 |
| Minimum lot frontage (feet) | 200 | 150 | 150 | 150 | 150 | 150 | 200 |
| Minimum front yard ^{a,d} (feet) | 30 | 30 | 20 | 30 | 20 | 30 | 20 ^c |
| Minimum side yard (feet) | 15 | 15 | 10 | 15 | 10 ^b | 15 ^f | 10 ^f |
| Minimum rear yard (feet) | 20 | 20 | 20 | 20 | 20 | 20 ^f | 20 ^c |
| Minimum landscaped open space (square feet/dwelling unit) | — | — | — | 2,000 | — | — | — |
| Maximum building height (feet) | 35 | 35 | 35 | 35 | 35 | 45 | 45 |

FOOTNOTES:

- (a) No building other than a multifamily dwelling need provide a front yard greater than the average of adjoining front yards. For multifamily dwellings, the front yard is to be not less than twice building height, and to contain no parking. Corner and through lots shall maintain front yard requirements for both frontages.
- (b) Side yard may be reduced to zero, except where abutting a residential use or a Residential, Suburban, or Agricultural District, provided that access to rear areas via drives not less than 15 feet wide is assured.
- (c) Increase to 100 feet for industrial buildings facing or adjoining a Residential, Suburban, or Agricultural District.
- (d) No obstruction to vision between three and eight feet above the plane through the curb grades shall be permitted within the area formed by the lines of intersecting streets and a line joining points 20 feet from the point of intersection of street lines or street lines extended.
- (e) For townhouse dwelling, assisted elderly housing, and other multifamily housing see Article XV, Special Residential Uses.

FOOTNOTES:

- (f) For industrial or commercial uses, increase to 30 feet where adjoining an Agricultural, Suburban, Residential, or Multifamily District or residential use.

§ 240-41. Height limitations.

No building or portion thereof or other structure of any kind shall exceed the heights permitted buildings under § 240-40, Intensity of Use Schedule, except the following:

- A. Chimneys, towers, spires, cupolas, antennae or other projections of or attachments to a building but not potentially used for human habitation, provided that they do not exceed the height of the building by more than 10 feet or 20% of building height, whichever is the greater; or
- B. A structure or projection not used for human habitation and not permitted by the above, provided that it is authorized for that height by special permit from the Board of Appeals, upon determination by the Board that the proposed height is functionally important for the use, and that the structure or projection and its use will not result in threats to health, safety or visual compatibility with the surroundings and, in the case of antennae for use by a federally licensed amateur radio operator, that any restriction so imposed complies with the provisions of M.G.L. ch. 40A, § 3, dealing with such antennae.

§ 240-42. Targeted housing.

- A. On special permit from the Planning Board, dwelling units may be designated as "targeted," provided that:
 - (1) Either the development containing the unit qualifies to seek a comprehensive permit under M.G.L. ch. 40B, or the dwelling unit meets the definition of "assisted elderly housing" in § 240-32 of this bylaw.
 - (2) The Planning Board finds that the housing is consistent with policy guidelines it has approved for Town-wide housing development.
 - (3) The Planning Board finds that the location and design of the housing will not result in hazard, overburdening of public services, or neighborhood or environmental degradation.
- B. The lot area requirements for such targeted units shall equal 1/2 those provided in § 240-40, Intensity of Use Schedule, and frontage requirements shall equal 2/3 of those requirements. All other intensity of use requirements shall be met.

ARTICLE VIII
Sign Regulations

§ 240-43. General sign prohibitions.

- A. Signs, any part of which moves or flashes, or signs of the traveling light or animated type, and all beacons and flashing devices whether a part of, attached to, or apart from a sign, are prohibited.
- B. No signs shall be placed within or projecting over a public way or on public property except with a permit from the Board of Selectmen. Signs placed on shade trees are subject to approval by the Tree Warden (M.G.L. ch. 87, § 9).
- C. No nonaccessory sign or billboard shall be erected except as allowed under § 240-45C.
- D. 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.
- E. No signs shall be located so as to create an obstruction to vision between three and eight feet above the plane through the curb grades within the area formed by the curblines of intersecting streets (or by street curblines and the sidelines of driveways) and by a line joining points 20 feet from the point of intersecting of those lines or those lines extended.
- F. No sign shall be located within 10 feet of the street line unless allowing essentially clear vision to at least six feet above grade, or unless authorized upon special permit from the Board of Appeals, upon the Board finding that safety of vehicular and pedestrian movement would not be significantly reduced by such sign, despite its obstruction of vision.

§ 240-44. Permitted temporary signs in all districts.

- A. Any sign if in accordance with limitations set for permanent signs.
- B. An unlighted sign of up to 20 square feet indicating parties involved in construction on the premises.
- C. An unlighted sign of up to six square feet pertaining to lease or sale of the premises.
- D. A sign of up to 10 square feet pertaining to a subdivision while under development, only with permission of the Planning Board.
- E. Signs inside display windows covering not more than 30% of window area, illuminated by building illumination only.
- F. Political signs may be located subject to the consent of property owners. They may be displayed for Annual or Special Town Elections, state, county and federal elections to include primary elections, for a period of four weeks prior to election day and shall be removed within seven days after election day. In the case of a primary election, the winning candidate may leave signs on display until seven days following the final election. The property owner shall be responsible for removal of all signs within the prescribed seven days after an election. No political sign may be placed on utility poles

or other utility devices. No signs may be displayed within 150 feet from the entrance of the polling place on primary or election day. No political sign may have a total area greater than 16 square feet. No sign lot may have more than three signs total. No sign may be placed so as to obstruct any intersecting roads or driveways.

- G. Except as elsewhere more specifically provided, temporary signs shall be erected no earlier than 14 days prior to the event to which they pertain (e.g., the commencement of construction), and shall be removed within seven days after the conclusion of that event, but in any event not to remain in place in excess of six months.

§ 240-45. Permitted permanent signs in Agricultural, Suburban and Residential Districts.

- A. One sign for each family residing on the premises indicating the owner or occupant or pertaining to a permitted accessory use, provided that no sign shall exceed one square foot in area.
- B. One sign not over nine square feet in area pertaining to permitted buildings and uses of the premises other than dwellings and their accessory uses.
- C. A non-accessory directional sign, designating the route to an establishment not on a state highway, may be erected and maintained in any district on special permit from the Board of Appeals, subject to their finding that such sign will promote the public interest, will not endanger the public safety, and will be of such size, location and design as will not be detrimental to the neighborhood.

§ 240-46. Permitted permanent signs in other districts.

- A. Any signs permitted in Agricultural, Suburban and Residential Districts.
- B. Accessory signs attached to a building, provided that they aggregate not more than 20% of the wall area they are viewed with.
- C. Freestanding accessory signs, provided that they aggregate not more than 100 square feet in area.
- D. The total area of all signs, either attached to a building or freestanding, shall aggregate not more than three square feet per foot of lot frontage on the street towards which they are oriented.

**ARTICLE IX
Environmental Controls**

§ 240-47. Permitted activity.

No activity shall be permitted in any district unless the following requirements are met. Applicants may be required to provide evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and

equipment, but future equipment changes and operating procedures must be such as to also comply with these requirements.

§ 240-48. Noise.

A. Noise receiving zones are defined as follows:

- (1) Receiving Zone A: Business and Industrial Districts.
- (2) Receiving Zone B: locations in any other district, but within 200 feet of a Business or Industrial District, or within 200 feet of an arterial street.
- (3) Receiving Zone C: all other locations.

B. Applicability. No development shall be allowed unless it is demonstrated that the following standards will not be exceeded at any location outside the property line of the premises, which location includes any contiguous land committed to be conveyed to the Town as open space. The numerical standards of Subsection D of this section shall not be exceeded by more than 20 dB(A) at any time, or by more than 10 dB(A) for more than 10 minutes in an hour, or at all for more than 30 minutes in an hour. Nothing in this section shall be construed to permit noise in excess of that allowed by any state or federal regulation.

C. Exceptions. This regulation shall not apply to the following:

- (1) Any noise produced by equipment used exclusively in the maintenance or repair of buildings or grounds, provided such equipment is rated at not more than 15 horsepower.
- (2) Human or animal noises unless mechanically or electronically amplified.
- (3) Farm equipment.
- (4) Construction equipment between the hours of 7:00 a.m. and 9:00 p.m., or at other hours upon determination of reasonable necessity by the Building Inspector. Such determination and authorization shall be valid for not more than any one 24 hours period per determination.
- (5) Snow plowing; emergency repair due to flood, fire or other catastrophe if such work is necessary for the general welfare or to avoid further catastrophe.
- (6) Parades, fairs or outdoor entertainment, provided that a permit for such activity has been granted by the Board of Selectmen and that said permit is for not more than 10 days in any calendar year.
- (7) Activities authorized on special permit under § 240-55, where peculiarities of the location or activity assure that there will be no unreasonable adverse disturbance to use and enjoyment of nearby premises.

D. Standards. The following standards must be met, with the applicable standard being based upon the Receiving Zone where noise is potentially heard, not the zone where

noise is generated. "Daytime" shall be from 7:00 a.m. until 9:00 p.m. on all days except Sundays and legal holidays, when it shall be from 12:00 noon until 9:00 p.m. All sound measurements made pursuant to this section shall be made with a Type 1 A-weighted sound level meter as specified under American National Standards Institute (ANSI) S1.4-1983.

Maximum Allowable Exterior Noise Level

| Receiving Zone | Daytime | Nighttime |
|----------------|----------|-----------|
| A | 65 dB(A) | 60 dB(A) |
| B | 55 dB(A) | 50 dB(A) |
| C | 50 dB(A) | 45 dB(A) |

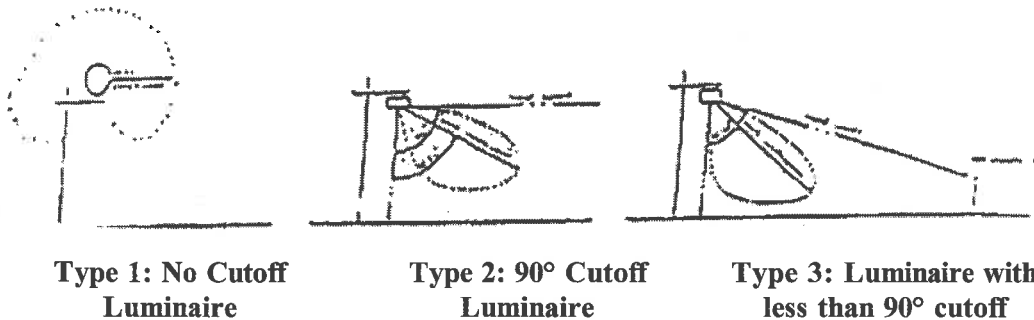
§ 240-49. Light and glare.

A. Lighting fixture types are defined as follows:

- (1) Type 1. No light cutoff.
- (2) Type 2. Luminaire shielded such that peak candlepower is at an angle of 75° or less from vertical, and essentially no light is emitted above the horizontal.
- (3) Type 3. Luminaire shielded such that total cutoff is at less than 90° from vertical, and no light source is in direct view of an observer five feet above the ground at any point off the premises.

B. Lighting limitations. The following limitations shall be observed by all uses, unless granted a special permit under § 240-55, upon determination by the special permit granting authority that it is inherently infeasible for that use (e.g., public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light over spill onto residential premises.

| | Districts | |
|---|-------------|-------|
| | B-1, B-2, I | Other |
| Maximum luminaire mounting height (feet) | | |
| Fixture Type 1 | 20 | 10 |
| Fixture Type 2 | 30 | 15 |
| Fixture Type 3 | 40 | 20 |
| Maximum off-site over spill (footcandles) | | |
| Fixture Type 1 | 0.3 | 0.2 |
| Fixture Type 2 | 1.0 | 0.3 |
| Fixture Type 3 | 3.0 | 0.5 |



- C. No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing reflected from the sky.
- D. An exterior lighting plan may be required where compliance with these requirements is not apparent, to include indication of location, mounting height, and orientation of luminaires, and sufficient technical information on the fixtures to determine their type and resulting illumination levels.

§ 240-50. Air quality.

- A. Any use whose emissions are such as to cause it to be classified as a major new stationary source of air pollution, as defined by the EPA under the Clean Air Act, and any use required to apply to DEQE under 310 CMR 7.00 or to EPA under Section 112 of the Clean Air Act for permission to emit asbestos, benzene, beryllium, mercury, vinyl chloride or radio nuclides shall be permitted only if granted a special permit under § 240-55.
- B. No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which involves the creation and/or emission of any odors shall be provided with a secondary safeguard system.

§ 240-51. Hazardous materials.

Use of premises involving one or more of the following may be permitted only if granted a special permit under § 240-55.

- A. Manufacturing as the principal use of the premises, if the products manufactured are either:
 - (1) When wastes, regulated as hazardous under M.G.L. ch. 21C; or
 - (2) Substances listed on the Massachusetts Substance List contained in 105 CMR 670.000, Appendix A;
- B. Keeping of flammable fluids, solids or gasses in quantities exceeding four times that requiring licensure under 527 CMR 14.00, except for storage of fuel for consumption on the premises or by vehicles operated incidental to the principal use of the premises.

- C. Any use for which licensure is required under 310 CMR 30.800 to transport, use, treat, store or dispose of hazardous waste (but not those excluded under 310 CMR 30.801).
- D. No building, facility or premises or parts thereof shall be constructed or used for the purpose of processing, storing or staging hazardous wastes or infectious wastes as defined by the Department of Environmental Protection of the Commonwealth of Massachusetts as defined in 105 CMR 480.00, Department of Public Health, State Sanitary Code, and includes: blood and blood products; pathological waste; cultures and stocks of infectious agents and associated biologicals; contaminated animal carcasses, body parts and bedding; sharps; and biotechnological bi-product effluents.

§ 240-52. Vibration.

No use shall be allowed which produces vibration which is discernible to the human sense of feeling (except as sound) at or beyond the boundaries of the premises for three minutes or more in any hour between 7:00 a.m. and 9:00 p.m. or for 30 seconds or more in any one hour between 9:00 p.m. and 7:00 a.m. Vibrations exceeding two-thirds the frequency/amplitude limitations established by the Board of Fire Prevention Regulations at 527 CMR 13.11(18) shall, except for activities exclusively within the jurisdiction of that Board, be deemed to be discernible without instruments.

§ 240-53. Electrical disturbances.

No electrical disturbance shall be permitted which adversely affects the operation of any equipment other than that of the creator of such disturbance.

§ 240-54. Stormwater management.

A. Foundation grade.

- (1) Finished grade shall slope continuously downward for at least 10 feet in all directions from the foundation of any dwelling having a basement or cellar, at a slope of 1% or more on paved surfaces and 2% or more on other surfaces.
- (2) Drainage facilities, including detention basins, shall be designed consistent with the standards of the Rules and Regulations Governing the Subdivision of Land of the Bellingham Planning Board, as most recently amended.¹³ Basin fencing materials shall be subject to approval by the Planning Board in conducting development plan review, and shall be selected to prevent accidental entry into the detention area, but still allowing visibility into it.

B. Stormwater management.

- (1) All development requiring in excess of 10 parking spaces or undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb an area equal to or greater than one acre of land,

13. Editor's Note: See Ch. 245, Subdivision Regulations.

or will disturb less than one acre of land but is part of a larger common plan of development or redevelopment that will ultimately disturb an area equal to or greater than one acre of land, shall conform to the drainage requirements specified in the Rules and Regulations Governing the Subdivision of Land¹⁴ and obtain a stormwater management permit per Section 7.0 with related Stormwater Management Plan and Operation and Maintenance Plan of the Planning Board Procedural Rules. Drainage design (hydrology) shall address, at a minimum, two-, ten-, and one-hundred-year twenty-four-hour rainfall storms, using TR-55 methods. Additionally, the drainage piping system (hydraulics) shall be designed for the twenty-five-year design storm, except that detention facilities shall be based on a one-hundred-year storm. Increases to peak rates of runoff shall not be allowed. Any increase in runoff volume shall be analyzed to ensure no increased flooding impacts off site. Pretreatment is required with any recharge facilities unless receiving flows are from rooftop areas only. Drainage calculations by a registered professional engineer shall be submitted to the reviewing body.

- (2) Drainage facilities, including detention basins, shall be designed consistent with the standards of the Rules and Regulations Governing the Subdivision of Land of the Bellingham Planning Board, as most recently amended.¹⁵ Basin fencing materials shall be subject to approval by the Planning Board in conducting development plan review, and shall be selected to prevent accidental entry into the detention area, but still allowing visibility into it.

§ 240-55. Special permits.

- A. Special permit granting authority. The special permit granting authority (SPGA) for applications authorized under Article IX of this chapter shall be the Board of Appeals, except that if another agency is designated under other provisions of this bylaw as SPGA for the use being applied for, that agency shall also act as SPGA under this article.
- B. Submittals. Applicants shall submit such material, including technical analyses, as is reasonably necessary for the SPGA to make the determinations under Subsection C below. That may include, as germane, an acoustic analysis, a lighting plan, documentation of air quality modeling, identification of any toxic or hazardous materials involved and substances to be emitted, a description of precautions, handling practices, monitoring, and recovery systems proposed, and, if appropriate, a hazard prevention and contingency response plan.
- C. Decision criteria. Special permits shall be granted if the SPGA finds that the proposed use will not cause harm or adverse disturbance to the environment or to other premises, will not jeopardize health or safety either on- or off-premises, and that either any control or safety systems being relied upon are fail-safe or redundant, or it has been demonstrated that there would be no adverse health or safety consequences beyond the boundaries of the premises in the event of system failure, in light of on-site decay, dilution or dispersion.

14. Editor's Note: See Ch. 245, Subdivision Regulations.

15. Editor's Note: See Ch. 245, Subdivision Regulations.

ARTICLE X
Parking and Loading Requirements

§ 240-56. Purpose.

The purpose of this article is to establish standards ensuring the availability and safe use of parking areas. It is intended that any use of land involving the arrival, departure, long-term or temporary parking of motor vehicles (not for automobile sales), and all structures and uses requiring the delivery or shipment of goods as part of their function, be designed and operated to:

- A. Promote traffic safety by assuring adequate places for parking of motor vehicles off the street and for their orderly access and egress to and from the public way;
- B. Prevent the creation of surplus amounts of parking spaces contributing to unnecessary development and additional generation of vehicle trips, resulting in traffic congestion and traffic service level deterioration;
- C. Reduce unnecessary amounts of impervious surface areas from being created;
- D. Reduce hazards to pedestrians and increase pedestrian connectivity between and within sites;
- E. Promote access and convenience, in compliance with regulations of the Americans with Disabilities Act (ADA) and Massachusetts Architectural Board (AAB), for people with disabilities;
- F. Increase the mobility and safety for bicyclists;
- G. Protect adjoining lots and the general public from nuisances and hazards such as:
 - (1) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles entering, exiting and idling in parking lots;
 - (2) Glare and heat from parking lots; and
 - (3) Lack of visual relief from expanses of paving;
- H. Reduce other negative impacts.

§ 240-57. Definitions.

The following definitions shall apply to this Parking Bylaw. Additional terms which have commonly accepted denotations and connotations may also be utilized in this bylaw.

CASUAL DINING — Full-service eating establishment with typical turnover rates of approximately one hour or less; moderately priced; occasionally belongs to a restaurant chain; generally serves lunch and dinner; may serve breakfast or be open extended hours; generally does not take reservations; may or may not contain a bar.

CONVENIENCE STORE — Convenience markets that sell convenience foods, newspapers, magazines, etc.; may be open 24 hours.

DISCOUNT STORE/SUPERSTORES — Stores, such as home improvement, department, clothing, housegoods, toy, sporting goods, and pet supply stores, that offer a variety of customer services, centralized cashiering and a wide range of products advertised at discount prices; long store hours typically seven days a week; some may have a garden center and/or service station; superstores may have a grocery department under the same roof that shares the same entrance and exits with the discount store area.

ENTERTAINMENT/COMMERCIAL RECREATION — Indoor or outdoor spaces for leisure activities, including but not limited to golf courses, bowling facilities, movie theaters, sports complexes, fitness or health clubs, and recreational community centers.

FAST FOOD — Characterized by large carry-out clientele; long hours of service; high turnover rates for eat-in customers; no table service by wait staff; typically pay at cash register before eating; may or may not have a drive through. Generally considered to be hamburger, sub/sandwich, pizza, (in some circumstances) ethnic (i.e. Thai, Chinese, sushi, middle-eastern), coffee/donut shop, ice cream parlor, etc.

FINE DINING — Full-service eating establishment with typical turnover rates of at least one hour or longer; generally do not serve breakfast and sometimes do not serve lunch; all serve dinner; usually requires a reservation and is generally not part of a chain; may have function space.

FREESTANDING GENERAL RETAIL — Freestanding, single-use retail structure. Retail uses include, but are not limited to: convenience stores, freestanding discount store/superstores, personal care services, specialty retail, pharmacy and/or drugstore, bank, dry cleaners.

GASOLINE/SERVICE STATION WITH CONVENIENCE STORE — The primary business is the fueling of motor vehicles; may have ancillary facilities for servicing and repairing motor vehicles and commonly sold convenience items such as newspapers, coffee or other beverages, and snack items usually consumed in the car or off-location.

GENERAL LIGHT INDUSTRIAL AND/OR MANUFACTURING — Freestanding facilities with an emphasis on light industrial and/or manufacturing activities, including printing, material testing, assembly of data processing equipment, and/or the conversion of raw materials or parts into finished products; may also contain warehouse, office, and research functions.

GROSS FLOOR AREA (GFA) — The area within the perimeter of the exterior walls of a building as measured from the inside surface of the exterior walls, with no deduction for interior hallways, stairs, closets, thickness of interior partition walls, columns, or other interior features.

INDUSTRIAL PARK — A mix of industrial, manufacturing, service and warehouse facilities with a wide variation in the proportion of each type of use from one location to another.

ksf — One thousand square feet [ratios are determined as x spaces/1,000 square feet (ksf)].

MEDICAL CLINIC — An institution or place providing medical, surgical, dental, restorative, or mental services to persons not residing there.

MULTI-USE (aka SHARED) PARKING — Use of parking spaces by vehicles generated by two or more individual land uses that share a parking lot, with or without conflict or encroachment, as a result of variations in the accumulation of vehicles by hours, by day or by season, at the individual land use; and/or relationships among the land uses that result in visiting multiple land uses on the same auto trip. May include, but is not limited to, a mix of uses, including retail, dining/entertainment, office space or industrial, manufacturing, office, wholesale, and warehouse.

NONDESIGNATED USE — Any use that is not specified herein.

OFFICES — Locations where affairs of business, commercial or industrial organizations or professional persons or firms are conducted; may contain a mixture of tenants or be a single-use tenant; no larger than three stories above grade.

PERSONAL CARE SERVICES — Spas, hair salons, nail salons, barbers, etc.

SHOPPING CENTER — An integrated group of retail, service or commercial establishments that is planned, developed, owned and managed as a unit. Provides on-site parking facilities sufficient to serve its own parking demands.

SPECIALTY RETAIL — Retail uses including, but not limited to, apparel, hard goods and services such as real estate offices, dance or martial arts studios, florists, personal care services.

SPORTS COMPLEX — Outdoor parks used for nonprofessionals; may consist of one or more fields and field sizes may vary to accommodate games for different age groups; ancillary facilities may include a fitness trail, activities shelter, aquatic center, picnic grounds, basketball/tennis courts and a playground.

§ 240-58. Number of spaces.

A. Basic requirements.

- (1) Off-street parking must be provided to service all increases in parking demand resulting from new construction, additions or change of use to one requiring more parking, without counting any existing spaces needed to meet requirements for any retained building or use. The number of spaces indicated in § 240-59 shall be the basis for determining adequacy of provisions. Any existing spaces removed shall be replaced in kind unless they are either in excess of the number required or removed at the request of the Town. Parking spaces also serving as loading areas shall not be credited.
- (2) For the purpose of computing the parking requirements of different uses, the number of spaces required shall be the largest whole number obtained after calculating the required parking, any fractional space should be rounded up to the next whole number.
 - (a) Example #1: A 4,999 interior square foot freestanding retail structure has 4.999 ksf GFA ($4,999/1,000 = 4.999$); at four spaces per ksf GFA, the structure is required to have 19.96 parking spaces, which will then be

rounded up to the next whole number. Therefore, the number of parking spaces required is 20.

- (b) Example #2: A 25,150 interior square foot medical clinic has 25.15 ksf GFA ($25,150/1,000 = 25.15$); at five spaces per ksf GFA, the structure is required to have 127.75 spaces, which will then be rounded up to the next whole number. Therefore, the number of parking spaces required is 128.
- (c) Example #3: A 1,300 interior square foot freestanding fast-food restaurant has 1.3 ksf GFA ($1,300/1,000 = 1.3$); at 17 spaces per ksf GFA, the structure is required to have 22.1 parking spaces, which will then be rounded up to the next whole number. Therefore, the number of parking spaces required is 23.

B. Future changes must demonstrate the ability to meet parking standards.

§ 240-59. Schedule of requirements.

A. Residential.

- (1) Single or two-family having no boarders or lodgers: two spaces per dwelling unit.
- (2) Multifamily (townhouse/condominiums).
 - (a) Assisted elderly housing: one space per bedroom.
 - (b) Studio: 1.25 spaces per dwelling unit.
 - (c) One bedroom: 1.5 spaces per dwelling unit.
 - (d) Two or more bedrooms: two spaces per dwelling unit.
- (3) Family apartment: one space per dwelling unit in addition to the requirement for primary dwelling unit.

B. Places of public assembly.

- (1) Religious centers: 0.5 parking space for each person capacity based on the Massachusetts State Building Code.
- (2) General public assembly: 0.25 per person in permitted capacity.
- (3) The number of seats in benches, pews, or other continuous seating arrangements shall be calculated at 24 inches per seat.

C. Hotels, motels, room and board, other commercial accommodations.

- (1) One parking space for each guest unit, plus one parking space for each eight units or fraction thereof.

D. Dining.

- (1) Fine dining: 20 spaces per ksf GFA.
 - (2) Casual dining: 25 spaces per ksf GFA.
 - (3) Fast food with or without a drive through: 17 spaces per ksf GFA.
- E. Entertainment/commercial recreation.
- (1) Golf course: 12 spaces per hole.
 - (2) Bowling alley: four spaces per ksf GFA.
 - (3) Movie theater (multiplex): 14 spaces per ksf GFA.
 - (4) Sports complex: 50 spaces per field.
 - (5) Health/fitness club: six spaces per ksf GFA.
 - (6) Recreational community center: three spaces per ksf GFA.
- F. Auto service/fuel station.
- (1) One space per pump, plus four spaces per ksf GFA for all other space, including service areas, convenience store areas, etc.
 - (2) Motor vehicle sales and service: three spaces per ksf GFA of interior sales area, plus two per ksf GFA of interior storage or display area, plus two per service bay.
 - (3) Car washes: one space per ksf GFA.
- G. Retail businesses/other service establishments.
- (1) Freestanding general retail/other service establishments: four spaces per ksf GFA.
 - (2) Shopping centers.
 - (a) For retail-only shopping centers, including specialty retail, use chart below.
 - (b) For retail with additional uses, that may include any combination of dining, entertainment, or offices, in which the total additional uses are up to but not greater than 10% of the total GFA of the shopping center, use chart below.
 - (c) For retail with additional uses [uses as listed in Subsection G(2)(b) above], in which the total additional uses exceed 10% of the total GFA of the shopping center, the parking spaces may be calculated either:
 - [1] Under this § 240-59 as if each use were separate; or
 - [2] Under § 240-60A, Allowed reductions for multi-use parking.

Shopping Center Parking Spaces Chart
[for use with § 240-59G(2)(a) and (b)]

| Building GFA | Less than 30,000 GFA | 30,000 to 99,999 GFA | 100,000 to 399,999 GFA | Greater than 400,000 GFA |
|-------------------------------|---------------------------------|---------------------------------|-----------------------------------|-------------------------------------|
| Spaces per ksf GFA | 4 ksf GFA | 4.5 ksf GFA | 5 ksf GFA | 5.5 ksf GFA |

H. Offices and business services.

- (1) Offices: four spaces per ksf GFA.
- (2) General light industrial/wholesale/warehouse: two spaces per ksf GFA.
- (3) General light manufacturing: two spaces per ksf GFA.
- (4) Medical clinic: five spaces per ksf GFA.

I. Convalescent, nursing or rest home, hospital or sanitarium: five spaces per ksf GFA.

J. Other uses.

- (1) Day-care center: six spaces per ksf GFA.
- (2) Animal hospital/veterinary clinic: four spaces per ksf GFA.
- (3) A number of spaces to be determined by the Building Inspector (or the Planning Board in cases referred to it under § 240-16) based upon evidence from similar uses under similar circumstances and best practices.

§ 240-60. Allowed reductions.

Parking may be further reduced upon application for and grant of a special permit from the Planning Board, to account for additional factors as listed in Subsections A and B below. The number of spaces may be reduced to less than that stipulated in this bylaw, if the Planning Board determines that a smaller number would be adequate for all parking needs because of such special circumstances as multi-use parking for uses having peak parking demands at different times, unusual age or other characteristics of site users or user-sponsored demand reduction devices such as carpooling, or land use or parking studies from similar establishments show parking requirements are less than what is required in this bylaw; or other reasons that are adequately supported.

A. Multi-use (aka "shared") parking.

- (1) Determine the number of originally required parking spaces for different uses/facilities sharing the same parking lot.
- (2) Determine the percentages of maximum parking needed for different uses at different days and times determined either by a study of local conditions or the Parking Occupancy Rates Table below.

- (3) Apply the percentages from Step 2 to the numbers from Step 1.
- (4) Add up the totals and select the total with the highest value.

Parking Occupancy Rates Table

This table defines the percent of the basic minimum needed during each time period for shared parking. (M-F = Monday to Friday)

| Uses | M-F 8:00 a.m. — 5:00 p.m. | M-F 5:00 p.m. — 12:00 a.m. | M-F 12:00 a.m. — 8:00 a.m. | Sat. and Sun. 8:00 a.m. — 5:00 p.m. | Sat. and Sun. 5:00 p.m. — 12:00 a.m. | Sat. and Sun. 12:00 a.m. — 8:00 a.m. |
|-------------------------|---------------------------------|----------------------------------|----------------------------------|--|---|---|
| | | | | | | |
| Residential | 60% | 100% | 100% | 80% | 100% | 100% |
| Office and business | 100% | 20% | 5% | 5% | 5% | 5% |
| Retail/service | 90% | 80% | 5% | 100% | 70% | 5% |
| Hotel/motel | 70% | 100% | 100% | 70% | 100% | 100% |
| Dining | 70% | 100% | 10% | 70% | 100% | 20% |
| Movie theater | 40% | 80% | 10% | 80% | 100% | 10% |
| Entertainment | 40% | 100% | 10% | 80% | 100% | 50% |
| General public assembly | 100% | 20% | 5% | 10% | 10% | 5% |
| Religious centers | 10% | 5% | 5% | 100% | 50% | 5% |

B. Flexible parking options.

- (1) Employment density (number of employees per acre): reduce requirements 10% to 15% in areas with 50 or more employees per acre of site.
- (2) Land use mix (range of land uses located within convenient walking distance): reduce requirements 5% to 10% in mixed-use developments.
- (3) Walkability (walking environment quality): reduce requirements 5% to 15% in walkable locations and more if walkability allow more shared and off-site parking.
- (4) Parking and mobility management: reduce requirements 10% to 20% at worksites with effective parking and mobility management programs.
- (5) Other factors that with adequate support may warrant a reduction of parking spaces.

§ 240-61. Parking area design and location.

- A. Surfacing.** All required parking areas and their access driveways, except those facilities serving single-family residences, shall be paved, unless exempted by the Planning Board in acting under § 240-16, Development plan approval, for cases such as seasonal or periodic use where unpaved surfaces will not cause dust, erosion, hazard or unsightly conditions. Permeable or porous paving is encouraged in low traffic areas such as reserve parking, painted parking lines, parking pullouts, crosswalks, etc.

- B. Setback. No off-street parking area for five or more cars shall be located within 20 feet of a street right-of-way. When shopping cart corrals are proposed, the location of such corrals shall be next to handicap parking spaces.
- C. Backing. Parking areas for five or more cars shall not require backing into a public way.
- D. Proximity. Parking spaces more than 300 feet from the building entrance they serve may not be counted towards fulfillment of parking requirements unless, in acting under § 240-16, the Planning Board determines that circumstances justify a greater separation of parking from use.
- E. Egress spacing. The following shall apply to entrances or exits to all parking areas having 20 or more spaces, except those located in the B-1 District, which are exempted:
 - (1) Entrance or exit center lines shall not fall within 100 feet of an intersection of street sidelines or within 250 feet of the center line of any other parking area entrance or exit on the same side of the street, whether on the same parcel or not, if serving 20 or more parking spaces. Users shall arrange for shared egress if necessary to meet the requirements.
- F. Regulations. The Planning Board may adopt regulations for the administration of these design and location requirements.
- G. Driveways. All required parking spaces shall be provided with unobstructed access to and from a street and shall be properly maintained so as to permit them to be used at all times.
 - (1) A shared driveway shall be considered to provide adequate access to more than two lots or more than four dwelling units only if the Planning Board, in acting on a definitive subdivision plan or development plan, or if the Board of Appeals or other special permit granting authority, in acting on a special permit, determines that such shared access provides some community benefit, such as environmental protection or improvement of egress safety, and does not circumvent the intent of the Subdivision Regulations,¹⁶ as well as meeting the requirements of Subsection G(2).
 - (2) Driveways, whether shared or not, must meet the following standards if more than 200 feet in length or serving five or more parking spaces.
 - (a) The traveled way shall be paved (unless paving is waived by the Planning Board as provided at § 240-58A) at least 10 feet wide, and tree and shrub branches less than 13 feet above driveway grade must be cleared or trimmed to provide 12 feet wide for unobstructed travel.
 - (b) Center line radius shall be at least 80 feet, and grade shall not exceed 8%.
 - (3) Driveways serving corner lots shall gain access from that street designated by the Planning Board in performing development plan review, if applicable. In cases where development plan review is not required, corner lot driveways shall gain

16. Editor's Note: See Ch. 245, Subdivision Regulations.

access from that street determined by the Building Inspector to have the lower daily traffic volume, unless, following consultation with the Planning Board and the Police Safety Officer, the Building Inspector determines that allowing egress onto the busier street would be no less safe.

- (4) Driveways/egresses serving 10 or more parking spaces shall provide stopping and intersection sight distances based on the recommendations provided in AASHTO - Geometric Design of Highways and Streets, as most recently amended. Stopping sight distance is defined as the minimum sight distance required for a driver on the major roadway to perceive an obstruction in the roadway and to react by braking and safely stop the vehicle to avoid collision. Intersection sight distance is defined as the minimum sight distance for a driver on the stopped approach to perceive a vehicle approaching and to react by turning onto the major roadway and accelerate to the 85th percentile speed of the major roadway while not requiring the driver on the major roadway to reduce their speed to less than 70% of their initial speed. In the event intersection sight distance cannot be achieved, then the proponent must provide documentation that safe sight distance is achieved. The Planning Board shall consult with the Bellingham Police Department and, if necessary, a traffic consultant, to make a determination as to whether a reduced intersection sight distance is acceptable. Such a reduction of intersection sight distance shall be at the sole discretion of the Planning Board. Stopping sight distance cannot be waived.

§ 240-62. Loading requirements.

Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no trucks need back onto or off of a public way, travel against one-way traffic, obstruct drive-through traffic or be parked on a public way while loading, unloading or waiting to do so.

§ 240-63. Bicycles.

One bicycle parking space shall be provided for every 20 off-street automobile spaces required. Racks shall be securely anchored and wherever possible located within view of the building entrances or windows. Bicycle spaces shall be clearly marked as such.

§ 240-64. Alternative dimensional requirements.

In order to reduce overall impervious surface of larger paved off-street parking, small vehicle and motorcycle parking spaces may have reduced dimensional requirements and still count toward the overall number of spaces required as follows:

- A. In off-street parking facilities with more than 50 parking spaces, a maximum of 10% of the spaces may be dedicated for small car and/or motorcycle use. Small car and/or motorcycle parking shall be grouped in one or more contiguous areas and with appropriate signage.

- (1) Small car parking space stall dimensions: eight feet wide by 16 feet long; 128 square feet.
- (2) Motorcycle parking space stall dimensions: four feet wide by eight feet long; 32 square feet or approximately four motorcycle spaces for one small car space.
- (3) Standard car parking space stall dimensions: nine feet wide by 18 feet long; 162 square feet.

(Also see Article IV, Definitions, for "parking space" for additional information.)

ARTICLE XI Landscaping Requirements

§ 240-65. Applicability.

Street, sideline, parking area and district boundary plantings shall be provided as specified below when any new building, addition or change of use requires a parking increase of 10 or more spaces. The Planning Board in acting under § 240-16 may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils and other site conditions, provided that equivalent screening, shading and articulation are achieved.

§ 240-66. Plantings.

- A. Plant materials. Required plantings shall include both trees and shrubs, and may include ones existing on the site. To be credited towards meeting these requirements, trees must be at least 2 1/2 inches caliper four feet above grade, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet. To be credited towards meeting these requirements, shrubs must be at least 24 inches in height at the time of building occupancy, reach an ultimate height of at least 36 inches, and be of a species common in the area.
- B. Number of plants. The number of trees in the planting areas must equal not less than the planting area length in feet divided by 30, and the number of shrubs must equal not less than the planting area length in feet divided by three. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular in the area.

§ 240-67. Planting areas.

- A. Street planting area. Street planting is required for premises abutting any street. Required street planting shall be provided within 15 feet of the street property line along the entire street frontage except at drives.

- B. Sideline planting area. Sideline planting is required for premises abutting any arterial street. Required sideline planting shall be provided within five feet of the side lot line between the front lot line and the building setback (as built, not as required).
- C. Parking area plantings. A minimum of 5% of the interior area of parking lots containing 30 or more spaces must be planted, to contain a minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 1,500 square feet of parking lot. Planting areas must each contain not less than 40 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.
- D. District boundary planting area. District boundary planting is required on any premises along the full length of any boundary abutting or extending into a Residential, Suburban or Agricultural District and being developed for a use not allowed in that district, unless abutting property is determined by the Building Inspector to be unbuildable or visually separated by topographic features. Required planting shall be located within 10 feet of the boundary.

§ 240-68. Additional screening.

Any outdoor service or storage areas not effectively screened by the above requirements shall be separated from any abutting street or residentially used or zoned premises by a planting area meeting the requirements for a sideline planting area.

§ 240-69. Existing vegetation.

Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of six inches trunk diameter or greater (measured four feet about grade), dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one foot unless dictated by plant health, access safety or identification of the premises.

§ 240-70. Exceptions.

Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low-level plantings which will visually define the street edge or property line may be authorized by the Planning Board in acting under § 240-16, provided that proposed buildings are also designed and located to preserve that scenic view.

§ 240-71. Maintenance.

All plant materials required by this bylaw shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriated season.

ARTICLE XII
Accessory Uses

§ 240-72. Home occupations.

- A. Home occupations are permitted without need for a special permit only if conforming to each of the following conditions:
- (1) No more than 25% of the habitable floor area of the residence (exclusive of accessory structures) shall be used for the purpose of the home occupation. Accessory structures shall be used only for parking or incidental storage.
 - (2) Not more than one person not a member of the household shall be employed on the premises in the home occupation.
 - (3) There shall be no exterior display, no exterior storage of materials, no outside parking of commercial vehicles, and no other exterior indication of the home occupation or other variation from the residential character of the principal building other than an unlighted sign not to exceed one square foot in area.
 - (4) The environmental requirements of Article IX of this chapter shall be complied with.
 - (5) Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from residential use, considering volume, hours, vehicle types and other traffic characteristics.
 - (6) The parking generated shall be accommodated off-street, other than in a required yard, and shall not occupy more than 35% of lot area.
 - (7) There shall be no retail sale of articles not produced on the premises or incidental to the occupation.
- B. A special permit from the Board of Appeals may authorize any of the following, provided that the Board determines that the activities will not create hazard, disturbance to any abutter or the neighborhood, and will not create unsightliness visible from any public way or abutting property.
- (1) Use of more than 25% of the habitable floor area of the residence, or use of any accessory building for other than parking or incidental storage.
 - (2) On-premises employment of a second or third person not a member of the household.
 - (3) Exterior parking of a commercial vehicle.
 - (4) Traffic determined by the Building Inspector to exceed the limits of Subsection A(5) of this section.
 - (5) Parking within a required yard, provided that it is effectively screened from the street and abutting premises.

§ 240-73. Scientific uses.

The Board of Appeals may grant a special permit for a use accessory to a scientific research, scientific development, or related production activity, whether or not on the same parcel as such activity. A special permit shall be granted where the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

§ 240-74. Family apartments.

A special permit authorizing a family apartment may be granted only if consistent with the following.

A. Development requirements.

- (1) Unit must be a single-family dwelling to which the family apartment is being added, and must have been in existence and occupied under a legal occupancy permit at least two years at the time of application.
- (2) Any increase in floor area shall meet the requirements of § 240-40 without variance or special permit.
- (3) The applicant must acquire Board of Health approval that the sewerage disposal will be within the legal requirements.
- (4) Parking shall be as required in Article X of this chapter for a two-family dwelling unit.

B. Occupancy requirements.

- (1) Either the principal or the accessory unit must be owner-occupied.
- (2) The remaining unit must be occupied by a family member of the owner(s).

C. Procedural requirements.

- (1) To approve a special permit for a family apartment, the Board of Appeals must make a determination that all of the above requirements have been met, and also that the particular circumstances of the case make such use appropriate, including consideration of:
 - (a) Whether lot area or other site characteristics assure mitigation of any impacts on the neighborhood;
 - (b) Whether there is enforceable assurance that occupancy of the unit will serve significant community purposes, such as facilitating care for the elderly or handicapped;
 - (c) Whether there is a financial hardship to the family;
 - (d) Whether site and building design are within the character of the neighborhood.

- (2) The special permit and a certificate of occupancy for a family apartment shall be issued for a period no greater than five years from the date of issuance and must be filed at the Norfolk Registry of Deeds prior to the issuance of a building permit.
- (3) A special permit for a family apartment may be extended for additional five-year periods upon application to the Zoning Board of Appeals at least 60 days prior to the expiration of the special permit. An extension shall be given only after inspection and a written report by the Town Inspector that the conditions of the renewal have not changed since the initial application and the Zoning Board's determination that the applicant is in full compliance with § 240-74. Any extension given must be filed at the Norfolk Registry of Deeds within 30 days of issuance. Failure to file within the time period given shall nullify the permit given.
- (4) Sale of the lot or dwelling that is the subject of the special permit shall nullify the permit on the date of sale.
- (5) Permanent removal from the premises of the individual or individuals for whom the permit has been obtained shall nullify the permit on the date of such removal.

ARTICLE XIII

Mobile Homes, Trailers, and Campers

§ 240-75. Prohibition.

No mobile home, trailer, or camper shall be used for permanent residence.

§ 240-76. Storage; permit required for occupancy.

A mobile home may be stored, and following issuance of a zoning permit by the Zoning Agent a mobile home, trailer or camper may be occupied for not more than 30 days in any twelve-month period, provided it is so placed on the lot as to meet minimum yard requirements.

§ 240-77. Storage of trailers or campers.

A trailer or camper may be regularly stored accessory to a permitted use, provided that it is so located on the lot as to meet minimum yard requirements.

§ 240-78. Replacement of mobile homes parking in nonconformity prohibited.

Replacement of mobile homes parking in nonconformity with § 240-31 is not permitted, even where such replacement does not increase the extent of nonconformity.

ARTICLE XIV
Major Residential Development

§ 240-79. Intent.

The intent of major residential development (MRD) provisions is to allow greater flexibility and creativity in residential development and to assure a public voice and public authority in consideration of development in order to gain the following:

- A. Location of development on sites best suited for building, and protection of land not suited for development, reflecting such considerations as:
 - (1) Permanent preservation of open space for conservation or recreational use, especially in large contiguous areas within the site or linked to off-site protected areas;
 - (2) Enhancement of agricultural and forestry uses;
 - (3) Protection of water bodies, streams, wetlands, wildlife habitats, and other natural resources;
 - (4) Protection of the character of the community through preserving open space within view from public roads, preservation of stone walls and other historic landscape features, preservation of scenic vistas, and siting of dwellings at low-visibility locations;
 - (5) Preservation of historical and archaeological resources;
 - (6) Protection of street appearance and capacity by avoiding development close to or having egress directly onto existing streets.
- B. To facilitate construction and maintenance of public facilities and services such as streets and utilities in a more economical, environmentally sensitive, and efficient manner.
- C. Promotion of social and economic diversity, including, but not limited to, development of mixed-income housing and housing for persons over 55 years of age.
- D. Privacy for residents of individual lots through sensitive siting of buildings and better overall site planning.
- E. Avoidance of unnecessary development cost and protection of value of real property.
- F. To perpetuate and promote the appearance of the Town's New England character.
- G. To offer an alternative to standard subdivision development.

§ 240-80. Applicability.

In accordance with the following provisions, a MRD project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town; provided, however, that an MRD shall contain no less than 10 lots or dwelling units.

§ 240-81. Definitions.

The following terms shall have the following definitions for the purposes of this article:

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME — Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income.

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MEDIAN INCOME — Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 80% but less than 120% of the median income.

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MODERATE INCOME — Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

CONTIGUOUS OPEN SPACE — Open space suitable, in the opinion of the Planning Board, for the purposes set forth in §§ 240-93 and 240-94, herein. Such open space may be separated by the road(s) constructed within the MRD. Contiguous open space shall not include required yards.

§ 240-82. Procedures.

An MRD may be authorized upon the issuance of a special permit by the Planning Board. Applicants for major residential development shall file with the Planning Board plans conforming to both requirements of the Subdivision Rules and Regulations¹⁷ and the following:

- A. A development plan conforming to the requirements for a definitive plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
- B. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.
- C. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.
- D. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein, including but not limited to the following:
 - (1) Existing site conditions. Location and boundaries of the site, water bodies, streams and wetlands (delineation to be acceptable to the Conservation Commission in accordance with the Massachusetts Wetlands Protection Act prior to the Planning Board rendering a decision on the MRD application), topography at two-foot intervals, identification of land having slopes in excess of 25%, identification of

17. Editor's Note: See Ch. 245, Subdivision Regulations.

- general cover type (wooded, cropland, etc.), location of designated natural or cultural resources, and existing ways;
- (2) Context information. Ownership and use of abutting properties, location of existing buildings within 50 feet of the premises, location of any wells within 100 feet of the premises.
 - (3) Proposals. Proposed lot lines, streets and ways, building envelopes, water system, sewage disposal proposals, drainage system, indication of vegetation removal and retention; and proposed vegetation, common open space, and other land for nonresidential use;
 - (4) Landscape plan. Identifying areas of retained vegetation, proposed plantings, proposed restrictions upon vegetation alteration, and other elements of an integrating conceptual landscape design.
 - (5) Documentation of consultation with the Bellingham Historical Commission regarding any historical and archaeological resources and evidence that all feasible efforts have been made to avoid, minimize, or compensate for any damage to those resources.
 - (6) Such other information as the Planning Board may reasonably find necessary for making informed determinations on the proposal.
- E. Floor plans and elevations for any proposed buildings other than detached single-family dwellings and typical accessory structures (e.g., sheds, garages).
- F. Indication of each landowner's interest in the land to be developed, the form of organization proposed to own and maintain any proposed common open space, the substance of covenants and grants of easements to be imposed upon the use of land and structures, and a development schedule, indicating cumulative maximum number of dwelling units proposed to be completed by the end of each year in the schedule and the latest date of completion for any proposed community facilities, which schedule as approved or amended and approved shall be made part of the special permit decision.
- G. Narrative and tabular materials describing the proposal, including the number and size of dwelling units; proposed project phasing; and any provisions being made to target special occupancies, such as for the elderly or for affordable housing.
- H. Prior to the final special permit decision a plan satisfying all requirements for a definitive subdivision plan under the Subdivision Regulations of the Bellingham Planning Board.¹⁸
- I. Any additional information necessary to make the determinations and assessments cited in § 240-97, Decision basis.
- J. Plans satisfying requirements for stormwater management, as may be governed by local, state and federal authorities.

18. Editor's Note: See Ch. 245, Subdivision Regulations.

§ 240-83. Review and decision for major residential development special permit.

The Planning Board shall solicit comments, reports, memoranda and/or testimony from the DPW, Board of Health, Fire Department, Conservation Commission and other local boards or officials as may be necessary. The Planning Board may request that the applicant meet with such entities prior to the close of any hearing hereunder.

§ 240-84. Design process.

Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

- A. Understanding the site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
- B. Evaluating site context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
- C. Designating the contiguous open space. The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.
- D. Location of development areas. The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.
- E. Lot lines. The final step is simply to draw in the lot lines (if applicable).

§ 240-85. Alternative dimensional regulations.

The Planning Board encourages applicants for an MRD to modify lot size, shape, and other dimensional requirements for lots within an MRD, subject to the following limitations:

- A. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the MRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
- B. At least 50% of the required side and rear yards in the district shall be maintained in the MRD.

§ 240-86. Allowable number of dwelling units.

The basic maximum number of dwelling units allowed in an MRD shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

§ 240-87. Density bonus.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the basic maximum number. The density bonus for the MRD shall not, in the aggregate, exceed 20% of the basic maximum number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

- A. For each additional 10% of the site (over and above the required 40%) set aside as contiguous open space, a bonus of 5% of the basic maximum number may be awarded.

§ 240-88. Affordable component.

- A. As a condition of the grant of any special permit for an MRD, a minimum of 15% of the total number of dwelling units shall be restricted, in perpetuity, in the following manner:
 - (1) Five percent of the units shall be affordable to persons or families qualifying as low income; and
 - (2) Five percent of the units shall be affordable to persons or families qualifying as moderate income; and
 - (3) Five percent of the units shall be affordable to persons or families qualifying as median income.
- B. The Planning Board may waive or partially waive the affordability component for projects of 10 units or less, provided that the applicant can show that including affordable units is an unreasonable financial burden.

§ 240-89. Other dimensional regulations.

- A. Existing street protection. There may not be a larger number of lots relying on frontage on a street other than one created by the development involved than would be expected under a conventional plan.
- B. Building envelope. Principal buildings, accessory buildings, and parking, both initially and through subsequent additions and alterations, shall be located within a designated building envelope. Such envelopes shall not exceed 40% of the lot area (exclusive of wetlands) of the lots they are on, and shall be located consistent with the following.

- (1) Building envelopes shall include no land within front, side and rear yards based upon requirements contained in the Intensity of Use Schedule of § 240-40 applied as follows:
 - (a) For yards measured from the boundary line at the perimeter of the MRD, the requirements for the Suburban District shall apply.
 - (b) For yards not measured from the perimeter boundary, the requirements for the Residential (R) District shall apply, except that the Planning Board in acting on the special permit approval may authorize a reduction of up to 50% in those requirements upon its determination that such reduction results in better design, improved protection of natural or cultural resources, and adequate protection of privacy and safety.
- (2) Building envelopes shall include no land within any wetland, floodplain, or slope in excess of 25%.
- (3) Building envelopes shall not be located within 100 feet of any designated natural or historic resources unless, in approving the MRD special permit, the Planning Board determines that either such buffering is inappropriate, as in the case of proposing an architecturally compatible building in the vicinity of an historic structure, or that meeting these resource buffers would leave otherwise developable property without economically beneficial use, and that the relief granted is the minimum necessary to allow economic use.
- (4) Where possible, building envelopes shall avoid damage to areas of visual importance, such as ridgelines, open fields, or dense vegetation buffering development from existing roads.

§ 240-90. Roads.

The principal roadway(s) serving the site shall be designed to conform to the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways must be proven to be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the applicant.

§ 240-91. Parking.

Each dwelling unit shall be served by at least two off-street parking spaces. Parking spaces in front of garages may count in this computation.

§ 240-92. Landscaping.

Elements such as any protected open space areas, street trees, stream buffer areas, other buffers, cul-de-sac planting areas, and outstanding specimen trees or tree groupings shall be used as part of an integrated conceptual design uniting the various elements of the site and preserving and enhancing its natural and scenic resource elements.

- A. Existing trees and indigenous vegetation shall be retained to the extent reasonably feasible, except where the Board concurs that removal is preferable for opening views from public roads, control of invasive growth, or other benefits.
- B. Protected areas and resources shall be linked in continuous patterns to the extent reasonably feasible.
- C. Protection for trees and tree groupings to be retained shall include avoidance of grade change within the drip line, careful marking to avoid accidental damage and location of materials and soil deposits distant from those trees during construction.

§ 240-93. Contiguous open space.

A minimum of 40% of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively conservation, agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- A. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in § 240-79 above. In no case shall the percentage of contiguous open space which is wetlands exceed 50% of the tract.
- B. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
- C. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to 10% of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths.
- D. Underground utilities to serve the major residential development site may be located within the contiguous open space, subject to conditions that may be imposed by the Board.

§ 240-94. Ownership of contiguous open space.

The contiguous open space shall, at the Planning Board's election, be conveyed to:

- A. The Town or its Conservation Commission;
- B. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;

- C. A corporation or trust owned jointly or in common by the owners of lots within the major residential development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide 14 days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

§ 240-95. Buffer areas.

A buffer area of 100 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least 50 feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

§ 240-96. Drainage.

Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.¹⁹

§ 240-97. Decision basis.

The Planning Board may approve, approve with conditions, or deny an application for a MRD after determining whether the MRD better promotes the purposes of this Major Residential Development Bylaw than would a conventional subdivision development of the same locus.

§ 240-98. Relationship to other requirements.

The submittals and permits of this article shall be in addition to any other requirements of the Subdivision Control Law²⁰ or any other provisions of this Zoning Bylaw.

19. Editor's Note: See Ch. 245, Subdivision Regulations.

20. Editor's Note: See M.G.L. ch. 41, §§ 81K to 81GG.

§ 240-99. Long-term compliance.

Subsequent to approval of a major residential development, no land therein shall be sold and no lot line or structure altered from that shown on the plan so as to increase the extent of nonconformity with the standard dimensional regulations of this bylaw. Prior to sale of any lot within a development, or issuance of a building permit for construction therein, such lots shall be shown on a plan recorded in the Registry of Deeds or registered with the Land Court, which plan shall make reference to the recorded land agreements referred to in §§ 240-93 and 240-94. Unless the Planning Board has specifically approved staged development, such plan shall show all lots to be included in the Development.

ARTICLE XV
Special Residential Uses

§ 240-100. Types of special residential uses.

Special residential uses are townhouses, assisted elderly housing, public housing, and other multifamily housing.

§ 240-101. Townhouse dwellings.

As provided in § 240-31, Use Regulations Schedule, townhouse dwellings may be allowed on special permit in all except the Industrial District. Such special permits shall be acted on by the Planning Board, subject to the following:

- A. Minimum lot area shall be 10,000 square feet per bedroom, but in no case shall lot area be less than 20 acres.
- B. Approval of the special permit shall be based upon the criteria of § 240-108, Decision.

§ 240-102. Assisted elderly housing.

As provided in § 240-31, Use Regulations Schedule, assisted elderly housing may be allowed on special permit in all except the Industrial District. Such special permits shall be acted on by the Planning Board, subject to the following:

- A. For units designated as "targeted" by the Planning Board under § 240-42, lot area and frontage requirements shall be as specified in that section, rather than § 240-40, Intensity of Use Schedule.
- B. The following information shall be submitted in addition to the submittal requirements of § 240-17:
 - (1) A description of the proposed management of the facility.
 - (2) A description of the services to be provided to the residents and how such services are to be supplied.
 - (3) A description of all common or shared areas.

C. Approval of the special permit shall be based upon the criteria of § 240-108, Decision.

§ 240-103. Public housing.

As provided in § 240-31, Use Regulations Schedule, public housing is a permitted use in all districts except the Industrial District. Public housing is exempt from the minimum requirements of § 240-40, Intensity of Use Schedule.

§ 240-104. Other multifamily dwellings.

A. As provided in § 240-31, Use Regulations Schedule, multifamily dwellings other than townhouse dwellings, assisted multifamily housing, or public housing are allowed only:

- (1) In the Multifamily District; or
- (2) Through conversion of an existing dwelling in any other district, upon determination by the Board of Appeals that the structure could not reasonably be used or altered for any other use. (See § 240-31, Footnote 10.)

B. New Multifamily Districts (M) shall each be created only by vote of the Town Meeting amending the Zoning Map. Each such district shall not be less than 20 acres in extent, shall front for at least 500 feet on an arterial street, and shall contain not less than 70% vacant or agricultural land.

C. Minimum lot area for other multifamily dwellings shall be 40,000 square feet for up to four dwelling units, and 3,000 square feet additional lot area for each additional family accommodated.

D. Approval of the special permit shall be based upon the criteria of § 240-108, Decision.

§ 240-105. Special residential use requirements.

The following shall apply to all special residential uses (townhouse dwellings, assisted elderly housing, and other multifamily dwellings) except not to Public Housing.

A. Bedroom limitation. Not more than 10% of the cumulative number of dwelling units on the premises having been granted occupancy permits at any point in time may have three bedrooms (except assisted elderly, which may have none) and none may have more than three bedrooms, unless (except in the case of assisted multifamily) the special permit originally allowing the development explicitly authorizes occupancy permits for more or larger units. Said authorization shall be granted only where lot area will equal at least 10,000 square feet per bedroom.

§ 240-106. Submittals.

A. The application for a special permit shall be accompanied by six copies of:

- (1) A site plan including the items required under § 240-17B(1) (but they may be at a concept rather than final level of detail);
 - (2) A proposed staging plan, if building permits are not to be immediately sought for all units; and
 - (3) A ground floor plan and architectural elevations of all proposed buildings, prepared by a registered architect.
- B. Those materials shall be circulated for review as provided at § 240-16B(2). No special permit shall be decided upon within 35 days of such referral without receipt of advisory reports, from each of those agencies regarding compliance of the proposal to local rules, regulations, and bylaws as well as good practice within their area of concern.

§ 240-107. Special permit lapse.

The special permit shall lapse upon transfer of ownership or within 12 months of special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. ch. 40A, § 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

§ 240-108. Decision.

In deciding on a special permit for townhouse, assisted elderly housing, or other multifamily dwellings, the following more detailed criteria shall be used rather than those of § 240-25. Such special permit shall be granted only if the Planning Board determines that the proposal would serve Town interests better than would single-family development of the same area, considering the following:

- A. Municipal costs and revenues.
- B. Effect on the range of available housing choice.
- C. Service to identified housing needs.
- D. Service to current Bellingham residents.
- E. Support for local business activity and jobs.
- F. Impact on the natural environment, especially on ground and surface water quality and level.
- G. Impacts on traffic safety and congestion, adequacy of water service, and need for school facilities.
- H. Impacts on the visual environment through preservation or displacement of visual assets, and consistency with existing development in area.

§ 240-109. Development rate.

In authorizing townhouse dwellings and other multifamily dwellings, the Planning Board shall establish an annual limit for the number of such dwelling units to be authorized, taking into consideration the Town-wide building rate experienced over the previous two years and anticipated over the next half-dozen years, the needs which the housing will serve, the ability of the Town to provide services in a timely manner, and the housing cost and feasibility consequences of the limitation.

ARTICLE XVI**Special Flood Hazard Area Requirements****§ 240-110. District establishment.**

- A. The Floodplain District herein also called "Special Flood Hazard Area" (SFHA) is hereby established as an overlay district to all other districts. All development in the SFHA District, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with M.G.L. ch. 131, § 40, and with the following:
- (1) Section of the Massachusetts State Building Code which addresses special flood hazard area and coastal high hazard areas, 780 CMR.
 - (2) Wetlands Protection Regulations, Department of Environmental Protection (DEP), 310 CMR 10.00.
 - (3) Inland Wetland Restriction, DEP, currently 310 CMR 13.00.
 - (4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP, 310 CMR 15, Title 5.
- B. The district also includes all special flood hazard areas within the Town of Bellingham designated as Zone A and AE on the Norfolk County Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Bellingham are panel numbers 25021C0138E, 25021C0139E, 25021C0299E, 25021C0301E, 25021C0302E, 25021C0303E, 25021C0304E, 25021C0311E, 25021C0312E, 25021C0313E and 25021C0314E, dated July 17, 2012. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Norfolk County Insurance Study (FIS) report dated July 17, 2012. The FIRM and the FIS report are incorporated herein by reference and are on file with the Town Clerk and Building Inspector.

§ 240-111. Development regulations.

The following requirements apply in Special Flood Hazard Area Districts:

- A. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by

the Building Inspector for its reasonable utilization toward meeting the elevation of floodproofing requirements, as appropriate, of the State Building Code.

B. In the floodway designated on the Flood Insurance Rate Map, the following provisions shall apply:

- (1) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development, are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood level during the occurrence of the base flood. The base flood is the flood having a one-percent chance of being equaled or exceeded in any given one year.
- (2) Any encroachment meeting the above standard shall comply with the floodplain (special flood hazard area) standards of the State Building Code as well as the performance standards in 310 CMR (Wetlands Protection Regulations).
- (3) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within the unnumbered A Zones.
- (4) 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
- (5) Notification of watercourse alteration. In a riverine situation, the Building Inspector or Board of Selectmen shall require the applicant to notify the following of any alteration or relocation of a watercourse:
 - (a) Adjacent communities.
 - (b) NFIP State Coordinator.

Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

- (c) NFIP Program Specialist.

Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

- (6) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

ARTICLE XVII Earth Removal Regulations

§ 240-112. General.

The removal from any premises of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel shall be done only in accordance with §§ 240-113 through 240-118.

§ 240-113. Permitted activities.

The following activities do not require a special permit and are not subject to §§ 240-113 through 240-118. However, a permit (for which no fee will be charged), specifying proposed time and estimated volume, must be obtained from the Inspector of Buildings prior to initiation of removal. Such no-fee permit may specify conditions regarding trucking hours, routes, and methods; hours of operation; drainage and erosion control; and exposed face height and slope limits. Unbuilt-on areas shall be restored consistent with the standards of § 240-116, Restoration, within a period to be specified in the permit. Performance security as specified at § 240-114B shall be required by the Inspector of Buildings where other means of assuring timeful restoration are not available.

- A. Removal of less than 50 cubic yards of materials within any twelve-month period.
- B. Removal of less than 2,500 cubic yards incidental to construction on the premises under a currently valid building permit, as indicated on a site plan approved by the Inspector of Buildings under § 240-17, or as required for cellar excavation, driveways, and parking to grades indicated on a plot plan approved by the Inspector of Buildings. However, topsoil stripped and stockpiled or removed from the premises shall be restored to its original location within 24 months of such stripping unless the construction has been completed or is authorized under a currently valid building permit.
- C. Removal of less than 2,500 cubic yards incidental to road construction within a public right-of-way or a way shown on an approved definitive subdivision plan.
- D. Removal on a parcel for which removal was authorized under a legal permit issued prior to adoption of these provisions until the expiration date of said permit, provided that all bylaws, permits, and conditions applicable prior to the adoption of this article shall be complied with. From that expiration date, full compliance with all the requirements of Article XVII of this chapter must be met.

§ 240-114. Permit from Board of Appeals.

Removal shall be allowed only under special permit for an exception issued by the Board of Appeals following written application. The following shall be conditions for such issuance:

- A. The application shall be accompanied by a plan showing all man-made features, property lines, names and addresses of all abutters (from the Assessors), including those across any street or way, and shall be accompanied by topographic information, such as that available on the Town's one inch equals 100 feet topographic maps. Plans for major removal, which are those involving more than 2,500 cubic yards or more than two acres, shall be prepared by a registered land surveyor, and in addition to the above, shall show the following:
- (1) Existing topography in the area for which material is to be removed and for 100 feet beyond that;
 - (2) Estimates of the evaluation of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the USGS;
 - (3) Grades below which excavation will not take place;
 - (4) Proposed finish grades upon completion of removal and restoration activities;
 - (5) Proposed cover vegetation and trees.

Two additional copies of materials submitted in applying for major removal shall be provided by the applicant for forwarding to the Planning Board for its review and recommendation to the Board of Appeals.

- B. A performance bond in the amount determined by the Board of Appeals may be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of the bylaw and such other conditions to the issuance of its permit. Such bond shall have an expiration date not less than six months later than the permit termination date.
- C. Before granting a permit, the Board of Appeals shall give due consideration to the location of the proposed earth removal, to the general character of the neighborhood surrounding such location, to the protection of water supply, and to the general safety of the public on the public ways in the vicinity.

§ 240-115. Removal.

- A. Finish grade shall not lie below a level that would reasonably be considered a desirable grade for the later development of the area, or below the grades specified on the plan accompanying the permit application. The Board of Appeals may specify a base grade below which excavation shall in no event take place.
- B. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

- C. A one-hundred-foot buffer strip shall be maintained at all boundaries, and not excavated below boundary grades except at a slope of not greater than three feet horizontal to one foot vertical if such will enhance overall grading.
- D. The visibility, sound, and airborne particulates from processing equipment may be screened from adjacent premises through the design and location of such equipment, and through use of natural vegetation planting, overburden piles, and surge piles as screening.
- E. Dust shall be controlled through oiling or chemical treatment of roads except within Water Resource Districts. Within Water Resource Districts, dust control measures shall employ alternative methods that do not involve the use of hazardous materials as defined in this bylaw.

§ 240-116. Restoration.

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or upon completion of removal to the extent covered by the performance bond (§ 240-114B), that entire area shall be restored as follows:

- A. All land shall be so graded that no slope exceeds one foot vertical rise in three feet horizontal distance and shall be so graded as to safely provide for drainage without erosion.
- B. All boulders larger than 1/2 cubic yard and stumps shall be removed.
- C. The entire area, excepting exposed ledge rock, shall be covered with not less than four inches of topsoil, which shall be planted with cover vegetation adequate to prevent soil erosion.
- D. Bond shall not be released until sufficient time has lapsed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

§ 240-117. Additional conditions.

The Board of Appeals may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which removal may take place, hours during which vehicles may leave the premises, and trees to be planted.

§ 240-118. Renewal or renovation of permit.

No permit shall be issued under the provisions of Article XVII of this chapter for a period of more than two years, but a permit may be renewed upon application without a public hearing; provided that such renewal is approved prior to expiration of the permit being renewed. Prior to renewal, inspection of the premises shall be made by the Zoning Agent to determine that the provisions of this bylaw are being complied with. The Board of Appeals, after hearing any proof of violation of this bylaw, shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with § 240-116.

ARTICLE XVIII
Major Business Complexes

§ 240-119. Applicability.

Major Business Complexes shall be granted special permits only in districts where allowed under § 240-31, Use Regulations Schedule, and only in accordance with the following. The applicant shall submit adequate documentation, including plans, calculations and narrative, to allow determination of compliance by the Planning Board without need for extensive further analysis.

§ 240-120. Eligible locations.

Major business complexes shall be so located and sized or their development phased so that the following will be met, as determined by the Planning Board.

- A. Traffic. Projected peak hour traffic will not be increased on any servicing road by 25% or more above levels otherwise anticipated at the time of occupancy; provided, however, that a complex increasing traffic by more than that amount may be granted a special permit, provided that the Planning Board determines that traffic mitigation measures assured under the special permit adequately provided for capacity and safety improvements.
- B. Water supply. Servicing the projected water demand for these premises will not result in substantial limitation upon the Town's ability to adequately provide water service to other developed sites in the Town.
- C. Sewage disposal. If proposed to be serviced with public sewerage, providing that service will not result in substantial limitation upon the Town's ability to adequately provide sewage collection and treatment service to other developed sites in the Town.

§ 240-121. Site design.

Individual uses must be located within a district allowing that category of use even if it were not within a major business complex. Major business complexes shall be so designed that all banks exceeding 15° in slope resulting from site grading shall be retained with vegetative cover reasonably sufficient to prevent erosion.

§ 240-122. Traffic mitigation.

Special permits for major business complexes may be granted subject to conditions requiring the applicant to provide off-site traffic mitigation, including measures to assure safety and adequacy of capacity at points of ingress and egress, and to participate in improvements at other locations in proportion to the development's pro-rated share of the municipal costs for those improvements.

ARTICLE XIX
Motor Vehicle Service Stations

§ 240-123. Conformance required.

Motor vehicle service stations shall be granted a special permit only in conformity with the following:

§ 240-124. Entrances and exits.

No location shall be approved if a vehicular entrance or exit will be so located as to create an unusual hazard. Lanes of entry shall be separated from lanes of egress by not less than 40 feet, shall be clearly distinguished by directional signs or markers, and shall be clearly channeled through use of curbed planting areas or similar devices. Entrances and exits together shall occupy not more than 40% of the lot frontage.

§ 240-125. Relation to pedestrian flow.

No location shall be approved if a vehicular entrance or exit will be so located as to cross a major pedestrian flow, such as on sidewalks servicing churches, schools, recreation areas, or compact retail districts.

§ 240-126. Visibility.

No entrance or exit shall be located within 20 feet of a side lot line, or within 50 feet of the intersection of sidelines of intersecting streets. Egressing vehicles shall have at least 400 feet visibility in each travel direction.

§ 240-127. Off-street spaces.

There shall be at least two additional waiting spaces per filling position.

§ 240-128. Service buildings.

No service building shall be located within 40 feet of a street line, and no pump or other dispensing device, moveable sign or display, nor temporary or permanent storage of merchandise, shall be located within 20 feet of a street line.

§ 240-129. Fuel storage tanks.

No fuel storage tank shall be located within 20 feet of any lot line.

§ 240-130. Self-service stations.

Self-service gasoline stations shall be allowed by grant of a special permit from the Bellingham Board of Selectmen.

ARTICLE XX
Water Resource Districts

§ 240-131. Purpose.

The purpose of this Water Resource District is to:

- A. Promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Bellingham;
- B. Preserve and protect existing and potential sources of drinking water supplies;
- C. Conserve the natural resources of the Town; and
- D. Prevent temporary and permanent contamination of the environment.

§ 240-132. Scope of authority.

The Water Resource District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/uses in a portion of one of the underlying zoning districts that fall within the Water Resource District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Water Resource District.

§ 240-133. State laws and regulations considered incorporated.

- A. Throughout this bylaw there are references to various Massachusetts General Laws (M.G.L.) and Code of Massachusetts Regulations (CMR). The following is a list of those referenced:
 - (1) 310 CMR 32.30.
 - (2) 310 CMR 32.31.
 - (3) 314 CMR 5.05(3).
 - (4) 314 CMR 5.03(13).
 - (5) 310 CMR 30.
 - (6) 310 CMR 19.006.
 - (7) 310 CMR 15.004(6).
 - (8) 310 CMR 30.136.
 - (9) 310 CMR 30.390.
 - (10) M.G.L. ch. 21C.

(11) M.G.L. ch. 21E.

(12) M.G.L. ch. 21, § 52A.

- B. All such laws, codes, and regulations as they apply to this bylaw are effective only as they exist at the date of acceptance of this bylaw and not as they may be subsequently amended. Copies of these laws, codes, and regulations as they apply to this bylaw are on file with the Zoning Inspector.

§ 240-134. Definitions.

For the purposes of this article, the following terms are defined below:

AQUIFER — Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

DEPARTMENT (THE) — The Massachusetts Department of Environmental Protection.

HAZARDOUS MATERIAL — Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Bellingham. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products, heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. chs. 21C and 21E and 310 CMR 30.00.

IMPERVIOUS SURFACE — Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

LANDFILL — A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

NON-SANITARY WASTEWATER — Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

OPEN DUMP — A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act [42 U.S.C. 4004(a)(b)], or the regulations and criteria for solid waste disposal.

POTENTIAL DRINKING WATER SOURCES — Areas which could provide significant potable water in the future.

SEPTAGE — The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material, which is a hazardous waste, pursuant to 310 CMR 30.000.

SLUDGE — The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

SPGA — Special permit granting authority.

TREATMENT WORKS — Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

VERY SMALL QUANTITY GENERATOR — Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

WASTE OIL RETENTION FACILITY — A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. ch. 21, § 52A.

WATER RESOURCE DISTRICT — The zoning district defined to overlay other zoning districts in the Town of Bellingham.

§ 240-135. Establishment and delineation.

For the purposes of this district, there are hereby established within the Town certain groundwater protection areas, consisting of aquifers which are delineated on a map. This map is entitled "Water Resource District Map, Town of Bellingham." This map is attached to the Town Zoning Bylaw and is further on file in the office of the Town Clerk.²¹

§ 240-136. Pre-application conference requirement.

- A. **Timing.** Any private party intending to submit an application for building construction, land development, or earth moving exceeding 1,500 cubic yards on land, which may be fully or partially within the Water Resource District must meet with the Zoning Inspector, who will determine if the project is subject to this bylaw. If so determined, said private party shall meet with the SPGA at a public meeting to discuss the proposed development in general terms, determine if a special permit under this bylaw is required, and establish the plan filing requirements.
- B. The SPGA shall meet with an applicant within 21 days following a written request submitted to the SPGA and the Town Clerk. If the SPGA fails to meet with an applicant who has requested such a meeting within 21 days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a special permit application without need for a pre-application conference.

21. Editor's Note: A copy of the Water Resource District Map is included at the end of this chapter.

- C. **Filing requirements.** The purpose of the pre-application conference shall be to inform the SPGA as to the preliminary nature of the proposed project, and, as such, no formal filings are required for the conference. However, the applicant is encouraged to meet with the Town Planner to discuss the preparation and submission of sufficient preliminary site design or engineering drawings to inform the SPGA of the scale and overall design of the proposed project.

§ 240-137. Prohibited uses.

The following uses are prohibited within the Water Resource District:

- A. Landfills and open dumps as defined in 310 CMR 19.006.
- B. Automobile graveyards and junkyards, as defined in M.G.L. ch. 140B, § 1.
- C. Landfills receiving only wastewater and/or septage residuals, including those approved by the Department.
- D. Facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL ch. 21C and 310 CMR 30.00, except for:
- (1) Very small quantity generators as defined under 310 CMR 30.000;
 - (2) Household hazardous waste centers and events under 310 CMR 30.390;
 - (3) Waste oil retention facilities required by M.G.L. ch. 21, § 52A;
 - (4) Water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters.
- E. Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- F. Storage of liquid hazardous materials, as defined in MGL c. 21E, and/or liquid petroleum products unless such storage is:
- (1) Above ground level; and
 - (2) On an impervious surface; and
 - (3) Either:
 - (a) In container(s) or above ground tank(s) within a building; or
 - (b) Outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
- G. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.

- H. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- I. Storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- J. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material 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, utility works, or primarily agricultural purposes consistent with M.G.L. ch. 40A, § 3.
- K. Discharge to the ground of non-sanitary wastewater, except:
 - (1) 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;
 - (2) Treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
 - (3) Publicly owned treatment works.
- L. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside of the Water Resource District or Zone II.
- M. Storage of commercial fertilizers, as defined in M.G.L. ch. 128, § 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- N. Gasoline or diesel fuel vehicle filling stations.
- O. Motor vehicle service and repair.
- P. Motor vehicle washing (car washes), unless equipped with a system by which no wash water is discharged to any form of underground soil absorption system.
- Q. The rendering impervious of greater than 15% or 2,500 square feet of any lot or parcel, whichever is greater, unless a system of stormwater management and artificial recharge of precipitation is developed which is designed to prevent untreated discharges to wetland and surface water; preserve hydrologic conditions that closely resemble pre-development conditions; reduce or prevent flooding by managing peak discharges and volumes of runoff; minimize erosion and sedimentation; not result in significant degradation of groundwater; reduce suspended solids and other pollutants to improve water quality and provide increased protection of sensitive natural resources. These standards may be met using the following or similar best management practices:
 - (1) For lots or parcels occupied, or proposed to be occupied, by single- or two-family residences recharge shall be attained through site design that incorporates natural drainage patterns and vegetation in order to reasonably maintain pre-construction stormwater patterns and water quality to the extent practicable. Stormwater runoff

from rooftops, driveways and other impervious surfaces shall be routed over lawn areas via sheet flow for no less than eight feet before discharging to a wetland, surface water, or impervious surface that lead to a street drain system. Dry well leaching pits can be used in lieu of eight feet of lawn for rooftop runoff. The site design must direct only the added impervious surface run off. No site design is needed, if the street drain system has water quality and recharge installed at the outfall.

- (2) For lots occupied, or proposed to be occupied by other uses, a special permit from the Planning Board to ensure that an adequate system of stormwater management and artificial recharge of precipitation is developed.

§ 240-138. Uses and activities requiring special permit.

The following uses and activities are permitted only upon the issuance of a special permit by the special permit granting authority (SPGA) under such conditions as they may require:

- A. Enlargement or alteration of existing uses that do not conform to the Water Resource District;
- B. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under § 240-137). Such activities shall require a special permit to prevent contamination of groundwater.

§ 240-139. Procedures for issuance of special permit.

- A. The special permit granting authority (SPGA) under this bylaw shall be the Planning Board. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission, the Board of Selectmen, and Department of Public Works, that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Town boards or agencies in its decision.
- B. Upon receipt of the special permit application, the SPGA shall notify the Board of Health, the Conservation Commission, the Board of Selectmen, and Department of Public Works, for their written recommendations. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The applicant shall furnish the necessary number of copies of the application.
- C. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in § 240-138 of this bylaw, and any regulations or guidelines adopted by the SPGA, including § 240-25 of the bylaw. The proposed use must:

- (1) In no way, during construction or thereafter, adversely affect the existing or potential quality of quantity of water that is available in the Water Resource District; and
 - (2) Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- D. The applicant shall file copies of the special permit application, site plan and attachments as indicated on the Form K.²² The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. Qualified professionals shall prepare all additional submittals. The site plan and its attachments shall at a minimum include the following information where pertinent:
- (1) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
 - (2) For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
 - (a) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
 - (b) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
 - (c) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act, 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection;
 - (d) Proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.
- E. The SPGA shall hold a hearing, in conformity with the provision of M.G.L. ch. 40A, § 9, within 65 days after the filing of the application and after the review by the Town boards, departments, and commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in M.G.L. ch. 40A, § 11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit.
- F. Permit recording and expiration of special permit shall apply as per Article IV of the bylaw.

22. Editor's Note: A copy of Form K is included at the end of Chapter 245, Subdivision Regulations.

§ 240-140. Notice of violation; severability.

- A. The Zoning Inspector shall give written notice of any violations of this bylaw to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.
- B. A copy of such notice shall be submitted to the Planning Board, Inspector of Buildings, Board of Health, Conservation Commission, and Department of Public Works. The cost of containment, clean up, or other action of compliance shall be borne by the owner and operator of the premises.
- C. A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

ARTICLE XXI**Wireless Communication Facilities****§ 240-141. Purpose.**

The purposes of this bylaw are as follows:

- A. To minimize adverse impacts of wireless communication facilities on residential neighborhoods and the community;
- B. To encourage the shared use of facilities to reduce the need for new facilities; and
- C. To limit the overall number and height of facilities to what is necessary to serve the public.

§ 240-142. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CAMOUFLAGED FACILITY — A telecommunications facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure that is considered "camouflaged."

CO-LOCATION — The use of a single mount on the ground by more than one carrier (vertical collocation), and/or several mounts on an existing structure by more than one carrier.

GUYED TOWER — A monopole or lattice tower that is tied to the ground or other surfaces by diagonal cables.

LATTICE TOWER — A type of mount that is self-supporting with multiple legs and cross bracing of steel structure.

MONOPOLE — A single self-supporting vertical pole with below grade foundations.

PROVIDER or CARRIER — An entity, licensed by the FCC, to provide telecommunications services to individuals or institutions.

TOWER — A monopole or lattice tower that is designed to support personal wireless communication services transmission, receiving and relaying antennas and equipment.

WIRELESS COMMUNICATION FACILITIES — A telecommunications facility consisting of the structures, including towers and antennas mounted on towers and buildings, equipment and equipment shelters, accessory buildings or structures, and site improvements, involved in sending and receiving telecommunications or radio signals to a central switching computer which connects the mobile unit with land-based or other telephone lines.

§ 240-143. Applicability.

This article shall apply to reception and transmission facilities for the purpose of personal wireless communication services. This bylaw shall not apply to towers or antennas installed for use by a federally licensed amateur radio operator.

§ 240-144. General requirements.

Wireless communication facilities shall only be allowed after the issuance of a special permit in accordance with the provisions of M.G.L. ch. 40A, § 9, this bylaw and any rules and regulations adopted hereunder. The Board of Appeals shall be the special permit granting authority for wireless communication facilities.

- A. Lattice-style towers and similar facilities requiring more than one leg or guy wires for support are prohibited.
- B. All structures associated with wireless communication facilities shall be removed within one year of cessation of use.
- C. The tower height shall not exceed 100 feet measured from the base of the tower to the highest point of the tower including anything on it.
- D. All towers shall be set back from lot lines a minimum of the height of the tower except where the tower abuts the right-of-way of Route I-495 where the setbacks shall be the minimum permitted by the Commonwealth of Massachusetts.
- E. No tower shall be located within two miles of another such tower.
- F. Any utilities servicing a tower shall be located underground.
- G. Lighting of wireless communication facilities shall be limited to low level security lighting installed at or near ground level, except for lighting required by the Federal Aviation Administration (FAA).
- H. Fencing shall be provided to control unauthorized access to the tower.

- I. The facility shall contain one sign no greater than one square foot that provides the telephone number where the operator in charge can be reached on a twenty-four-hour basis.

§ 240-145. Criteria.

A special permit for a wireless communication facility shall not be issued unless the special permit granting authority finds the following:

- A. Existing or approved facilities cannot accommodate the applicant's proposal.
- B. The facility has been designed to accommodate the maximum number of providers but in no case less than three.
- C. The applicant has agreed to allow other service providers to co-locate on the tower, now, or at any time in the future.
- D. The tower has been designed, using the best available technology, to blend into the surrounding environment through the use of color, camouflaging techniques, or other architectural treatments.
- E. The facility has been designed to minimize adverse visual impacts on the abutters and the community as demonstrated by illustrations and by a balloon test performed in accordance with any requirements adopted by the Board of Appeals.
- F. The facility is sited in such a manner that it is screened, to the maximum extent possible, from public view.

§ 240-146. Conditions.

Before approving any special permit under this article, the special permit granting authority may impose conditions, safeguards and limitations to assure that the proposal is in harmony with the general purpose and intent of this bylaw.

§ 240-147. Bonding.

Prior to the issuance of a building permit the special permit granting authority may require a performance guarantee to ensure compliance with the plan and conditions set forth in their decision.

ARTICLE XXII Adult Uses

§ 240-148. Purpose and intent.

- A. It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that adult entertainment establishments are distinguishable from other business uses and that the

location of adult entertainment uses degrades the quality of life in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, decreased tax base, and blight resulting from the clustering and concentration of adult entertainment uses. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This bylaw is enacted pursuant to M.G.L. ch. 40A, § 9, and the Home Rule Amendment to the Massachusetts Constitution with the purpose and intent of regulating and limiting the location of adult entertainment establishments (as defined herein) so as to prevent the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Bellingham.

- B. The provisions of this article have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this article to restrict or deny access by adults to adult uses and to sexually oriented matter or materials protected by the Constitutions of the United States of America and of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this article to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

§ 240-149. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADULT USES — An establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock-in-trade, or other matter or materials for sale, rental, distribution or exhibition, which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31, including but not limited to the following:

- A. **ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, and other matter which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;
- B. **ADULT CLUB** — An establishment having as any of its activities or entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;
- C. **ADULT ENTERTAINMENT ESTABLISHMENT** — An establishment offering activities or goods or providing services where employees, entertainers or patrons are engaging in nudity, sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;
- D. **ADULT MOTION PICTURE THEATER** — An establishment used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;

- E. **ADULT PARAPHERNALIA STORE** — An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31;
- F. **ADULT VIDEO STORE** — An establishment having as a substantial or significant portion of its stock-in-trade videos, movies or other film materials which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. ch. 272, § 31.

SUBSTANTIAL OR SIGNIFICANT PORTION — As used in this article shall mean any of the following:

- A. Twenty percent or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time;
- B. Twenty percent or more of the annual number of gross sales, rentals or other business transactions; or
- C. Twenty percent or more of the annual gross business revenue.

§ 240-150. Special permit required; standards and procedures.

No adult use shall be allowed except by a special permit granted by the Planning Board. The Planning Board shall grant a special permit for an adult use in any district permitting such use only if the use is found by the Planning Board to comply with the following standards and procedures:

- A. **Location.** An adult use may not be located:
 - (1) Within 500 feet of a boundary line of a residential zoning district or of a property line of a lot containing a residential use;
 - (2) Within 1,000 feet of any structure containing, at the time of special permit application, a church or other religious use, public school, private kindergarten or school, child-care facility, park, playground, any recreational area, public library, cultural facility, museum, elderly housing, assisted living facility, nursing home, or adult day-care facility;
 - (3) Within 1,000 feet of any structure containing, at the time of special permit application, an establishment licensed under the provisions of M.G.L. ch. 138, § 12;
 - (4) Within 1,000 feet of any structure containing any other adult use;
 - (5) Within 200 feet of an interstate highway, arterial street or a street with average daily traffic greater than 2,000 vehicle trips per day.

- (6) So that the building and/or signage associated with an adult use will be visible from an interstate highway, arterial street or a street with average daily traffic greater than 2,000 vehicle trips per day.

B. Site development standards.

- (1) Development plan review. No special permit for any adult use shall be issued without development plan approval first having been obtained from the Planning Board under § 240-16 hereof.
- (2) Parking and loading. On-site parking and loading shall be provided in accordance with the requirements set forth in Article X of these bylaws as pertains to service establishments.
- (3) Landscaping. At a minimum, the property on which an adult use is proposed to be located shall contain a landscaped buffer strip along its entire perimeter, except that portion directly abutting a public street. Said buffer strip shall have a twelve-foot minimum depth and contain a curb to prevent parking within the strip, a six-foot-high fence which shall be located a maximum of two feet from the abutting lot lines and contain an evergreen hedge on the adult use side of the fence which is to be at least three feet in height at the time of planting and will provide a year-round dense visual screen and attain a height of at least seven feet within five years of planting.
- (4) Signs. All signs for any adult use must meet the requirements of Article VIII hereof. In addition, no portion of an advertisement, display or other promotional material which contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public way, including but not limited to sidewalks, pedestrian walkways, highways, railways, or airways.

C. Other special permit requirements.

- (1) If the adult use allows for the showing of films or videos within the premises, curtains, doors or screens shall not close off the booths in which the films or videos are viewed. All booths must be able to be clearly seen from the center of the establishment.
- (2) Application requirements. The application for a special permit for an adult use must include the following information:
 - (a) Name and address of the owner of record of the property;
 - (b) Name and address of the legal owner of the proposed adult use establishment;
 - (c) Name and address of all persons having a lawful, equity or security interest in the adult use establishment;
 - (d) A sworn statement must be provided stating that neither the applicant, nor the manager, nor any person having a lawful, equity or security interest in the

adult use establishment has been convicted of violating the provisions of M.G.L. ch. 119, § 63, or M.G.L. ch. 272, § 28;

- (e) Name and address of the manager of the adult use establishment;
 - (f) Proposed provisions for securing the safety of the public within and without the adult use establishment;
 - (g) The number of employees; and
 - (h) The present and proposed physical layout of the interior of the adult use establishment.
- (3) No special permit for an adult use shall be issued to any person convicted of violating M.G.L. ch. 119, § 63, or M.G.L. ch. 272, § 28.
 - (4) An adult use special permit shall only be issued following a public hearing held within 65 days after the filing of an application with the Planning Board, a copy of which shall forthwith be given to the Town Clerk by the applicant.
 - (5) Any adult use special permit issued under this bylaw shall lapse within one year 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; excepting only any time required to pursue or await the determination of an appeal from the grant thereof.
 - (6) Any adult use special permit issued under this bylaw shall require that the owner of such adult use shall supply on a continuing basis to the Building Inspector any change in the name of the record owner or address or any change in the name of the current manager; and that failure to comply with this provision shall result in the immediate revocation of such special permit. If anyone so identified is or is found to be convicted of violating M.G.L. ch. 119, § 63, or M.G.L. ch. 272, § 28, such special permit shall immediately be null and void.
 - (7) No adult use special permit issued under this bylaw shall become valid or in full force and effect until and unless the owner of the property containing such adult use shall supply to the Building Inspector a notarized statement agreeing to all terms and conditions of said adult use special permit.

§ 240-151. Nonconformity.

- A. Adult use in existence prior to the adoption of this article shall apply for a special permit as specified in this article within 90 days following the adoption of this article and shall be required to comply in all respects with all requirements of this article.
- B. Any adult use in existence prior to the adoption of this article which has applied for such special permit but which has not been granted such special permit may be permitted by a unanimous vote of the Planning Board following a public hearing to continue in operation at its present location for a period of time not exceeding six months following

the date of the application for such special permit, provided that a written request therefor is made to the Planning Board.

- C. The Planning Board, upon written application made prior to the expiration of any such period of time and following a public hearing, may grant one additional extension period of time not to exceed six months. The adult use owner must demonstrate undue financial hardship if forced to close immediately upon failure to obtain a special permit to the Planning Board in order to obtain any such extension.
- D. The provisions of this article shall only apply to adult uses as defined in this article which are also defined in M.G.L. ch. 40A, § 9A.

§ 240-152. Invalidity.

In the event that any provision of this article shall be determined invalid by a court of competent jurisdiction or otherwise, the remaining provisions of this article not manifestly inseparable from the invalid provision(s) shall remain in full force and effect.

ARTICLE XXIII Mill Reuse Overlay District

§ 240-153. Purposes and intent.

The purposes of the Mill Reuse Overlay District are to facilitate the redevelopment and reuse of historic mill buildings in a manner that is appropriate for each site and sensitive to surrounding land uses; to promote housing choices in Bellingham; to provide for regulatory flexibility and intensification of use in existing buildings in order to meet the Town's housing and community development needs; to prevent disinvestment and deterioration of buildings that have become obsolete for their original purposes; and to encourage sustainable mixed-use development.

§ 240-154. Establishment of district.

The Mill Reuse District is hereby established as an overlay district. The district is bounded on the map entitled "Mill Reuse Overlay District," dated August 23, 2004 incorporated by reference in the Zoning Bylaw and on file with the Town Clerk and Building Inspector.²³

§ 240-155. Relationship to existing zoning.

In the Mill Reuse Overlay District, all requirements of the underlying district(s) shall remain in effect except where these regulations supersede or provide an alternative to such requirements. If a property is developed consistent with the Mill Reuse Overlay District, the regulations of the Mill Reuse Overlay District shall apply. Where the provisions of the Mill Reuse Overlay District are silent on a zoning regulation, the requirements of the underlying zoning district shall apply.

23. Editor's Note: A copy of the Mill Reuse Overlay District Map is included at the end of this chapter.

§ 240-156. Definitions.

In addition to Article VI of this bylaw, the following definitions shall apply to development in the Mill Reuse Overlay District:

AFFORDABLE HOUSING — A dwelling unit in a Mill Reuse Project, subject to a legally enforceable deed restriction that runs in perpetuity or for the maximum period allowed by law, and meets all of the following criteria:

- A. The unit must be sold or rented to and occupied by a low- or moderate-income household, meaning a household with income at or below 80% of median family income, adjusted for household size, for the metropolitan or non-metropolitan area that includes the Town of Bellingham, as determined by the U.S. Department of Housing and Urban Development (HUD); and which meets the requirements of the Massachusetts Department of Housing and Community Development (DHCD), Local Initiative Program, under 760 CMR 45.00 et seq., for inclusion in the Chapter 40B Subsidized Housing Inventory as low- or moderate-income housing.
- B. Deed restriction. The affordability of low- or moderate-income units shall be protected by a regulatory agreement and, for homeownership units, by a deed rider acceptable to DHCD and approved as to form by Town Counsel. The regulatory agreement and, where applicable, the deed rider, shall be legally enforceable and recorded at the Registry of Deeds.
- C. DHCD certification. All low- or moderate-income units shall be eligible for listing on the Subsidized Housing Inventory, evidenced by an affordable housing restriction as defined under M.G.L. ch. 184, § 31, and certification signed by the Director of DHCD, both of which must be recorded at the Registry of Deeds.

EXISTING FLOOR AREA RATIO — The sum of the gross floor area on all floors of existing mill building(s), including the basement, measured in square feet, divided by the gross area of the existing lot excluding wetlands subject to control under the Wetlands Protection Act, measured in square feet.

MAXIMUM GROSS DENSITY — The total number of dwelling units on a parcel of land used for a Mill Reuse Project, divided by the size of the parcel in acres before dedication of any land for roads and other public uses and before the creation of common open space or other common amenities included or to be included as part of the development of the parcel of land.

MILL REUSE PROJECT — A predominantly residential development comprised of one or more of the uses authorized under § 240-157 of this bylaw, on a parcel of land with an existing mill building in the Mill Reuse Overlay District.

PROPOSED FLOOR AREA RATIO — The sum of the gross floor area on all floors of all proposed buildings in a Mill Reuse Project, including basements, measured in square feet, divided by the gross area of the proposed lot excluding wetlands subject to control under the Wetlands Protection Act, measured in square feet.

§ 240-157. Use regulations.**A. Permitted uses.**

- (1) In the Mill Reuse Overlay District, a Mill Reuse Project comprised of one or more of the following uses shall be permitted in an existing mill building, except that a permitted Mill Reuse Project may not exceed 100 units of multifamily or assisted elderly housing, including any combination thereof.

- (a) Multifamily dwelling.

- (b) Assisted elderly housing.

- (c) Accessory uses.

- [1] Adult day care.

- [2] Other uses customarily incidental to a permitted use.

B. Uses authorized by special permit. In the Mill Reuse Overlay District, a Mill Reuse Project comprised of one or more of the following uses shall be allowed by special permit from the Planning Board:

- (1) Multifamily or assisted elderly housing in excess of the number of units allowed as a permitted use.

- (2) New construction for uses otherwise permitted under Subsection A of this section.

- (3) Continuing care retirement community.

- (4) Nursing home.

- (5) Medical offices or medical clinic.

- (6) Accessory uses.

- (a) Adult day care accessory to a special permitted use.

- (b) Retail or service establishment, or restaurant serving food and beverages only in the building or on a patio adjacent to and directly accessible from the building, primarily for residents, outpatients or employees of a permitted or special permitted use.

- (c) Indoor or outdoor recreation, primarily for residents, outpatients or employees of a permitted or special permitted use.

- (d) Other accessory uses customarily incidental to a special permitted use.

C. Exemption from major development and special residential use regulations. A Mill Reuse Project shall not be subject to Article XIV, Major Residential Development, or to Article XV, Special Residential Uses.**D. Use variances. Use variances shall not be allowed in the Mill Reuse Overlay District.**

§ 240-158. Intensity of use regulations.

The intensity of use regulations for the underlying district(s) as set forth in § 240-40 of this bylaw shall apply to the Mill Reuse Overlay District, except as follows:

- A. Yard setbacks. There shall be no minimum front yard setback requirement.
- B. Gross density. A permitted Mill Reuse Project may not exceed a gross density of nine dwelling units per acre. For a Mill Reuse Project by special permit, the Planning Board may authorize a gross density of up to 12 dwelling units per acre, provided that the project meets the public benefits provisions of § 240-160H of this bylaw, as determined by the Planning Board. For purposes of calculating gross density, areas subject to the Wetlands Protection Act, M.G.L. ch. 131, § 40, for reasons other than being subject to flooding, shall be excluded from the total area of the parcel.

§ 240-159. Procedures for Mill Reuse Projects.

- A. Subdivision control. Where applicable, development in the Mill Reuse Overlay District shall comply with the Planning Board's Rules and Regulations Governing the Subdivision of Land pursuant to the Subdivision Control Law, M.G.L. ch. 41, §§ 81K through 81GG.²⁴ Planning Board approval of a development plan under § 240-16 or a special permit for a Mill Reuse Project shall neither oblige the Planning Board to approve any related definitive plan nor substitute for such approval.
- B. Development plan approval. All uses in the Mill Reuse Overlay District require development plan approval by the Planning Board and must comply with § 240-16 of this bylaw and the following additional requirements.
 - (1) Submittals. In addition to the requirements of § 240-17, the submittals for development plan approval for a Mill Reuse Project shall include:
 - (a) Identification of existing trees of more than eight inches caliper, rock outcroppings, wildlife habitats, existing and proposed trails and paths, open space, and proposed conservation and recreation easement areas.
 - (b) Floor plan to scale for each floor of each building, showing the following information as applicable:
 - [1] Number of dwelling units by type.
 - [2] Number of bedrooms per dwelling unit.
 - [3] Proposed use(s) of all floor space not used for dwelling units.
 - (c) Table showing the total number of dwelling units and the number of affordable units by type and size on each floor of each building.
 - (d) Where applicable, a plan describing the care, custody and control of all dams and water rights.

24. Editor's Note: See Ch. 245, Subdivision Regulations.

- (e) Where applicable, a plan for any proposed wastewater treatment facility in accordance with the requirements of the Massachusetts Department of Environmental Protection (DEP) and the Bellingham Board of Health.
 - (f) Proposed construction schedule by stage or phase of construction, from the approximate date that construction will begin through the estimated date of construction completion.
 - (g) Narrative description of any organization(s) the applicant proposes to form if the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval by the Planning Board.
 - (h) Copies of all proposed covenants, easements, and other restrictions that the applicant proposes to grant to the Town of Bellingham, the Bellingham Conservation Commission, utility companies, any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval by the Planning Board.
 - (i) Copies of the proposed regulatory agreement for affordable housing units, and where applicable, the proposed deed rider for affordable homeownership units.
 - (j) Narrative analysis prepared and documented by a preservation consultant concerning the mill building, associated structures and context. The narrative will include the following information:
 - [1] Information required for Massachusetts Historical Commission Survey Form B and, where applicable, Form F;
 - [2] Information required for Massachusetts Historical Commission National Register of Historic Places Criteria Statement Form;
 - [3] An analysis of the Mill Reuse Project's consistency with the U.S. Secretary of the Interior's Standards for Rehabilitation.
- (2) Decision standards. In addition to the decision standards under § 240-19 of this bylaw, the Planning Board shall base its decision on the following determinations:
- (a) The proposed Mill Reuse Project preserves or enhances the historic significance of existing mill buildings and their context and, where applicable, the eligibility of the same for listing on the National Register of Historic Places as an individual property or a contributing property to an area.
 - (b) The common open space is usable and functional for the purposes listed in this bylaw and meets all minimum design standards under § 240-160C.
- C. Special permit. The Planning Board shall be the special permit granting authority for uses in the Mill Reuse Overlay District. The Planning Board's actions shall be based upon the considerations in Article IV of this bylaw.

§ 240-160. Mill Reuse Project development standards.

- A. Expansion of existing buildings or new construction. Expansion of existing mill buildings or new construction on the same lot may be allowed for a Mill Reuse Project, provided that all of the following conditions are met:
- (1) The total gross floor area in the proposed project may not result in a proposed floor area ratio that is more than 1.25 times the existing floor area ratio;
 - (2) Any expansion is consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation, as determined by the Bellingham Historical Commission.
 - (3) Recognizing that a purpose of the Mill Reuse Overlay District is to redevelop property that has become obsolete for its original use, the Planning Board may grant a special permit to allow new buildings in a Mill Reuse Project only upon finding that:
 - (a) The new buildings do not detract from the historical significance of existing buildings or reduce the property's potential eligibility for listing on the National Register of Historic Places, as determined by the Bellingham Historical Commission; and
 - (b) The new buildings are necessary for essential services such as space for security personnel or a wastewater treatment facility, or components of a continuing care retirement community that cannot reasonably be accommodated in the existing mill building(s), such as independent living units or a nursing home.
- B. Affordable housing. A Mill Reuse Project shall include affordable housing units, as follows:
- (1) At least 5% of all dwelling units shall be affordable housing as defined in this bylaw. Any fraction shall be rounded up to the nearest whole number.
 - (2) No building permit shall be issued for a Mill Reuse Project until the applicant has entered into a Local Initiative Program (LIP) Regulatory Agreement with the Town of Bellingham and the Department of Housing and Community Development to assure that all low- or moderate-income housing units meet LIP requirements and qualify for inclusion in the Chapter 40B Subsidized Housing Inventory.
 - (3) Homeownership units shall be subject further to a deed rider that preserves affordability upon resale. The deed rider shall be approved in writing by the Department of Housing and Community Development, approved as to form by Town Counsel, and recorded at the Registry of Deeds. No occupancy permit shall be issued for affordable homeownership units until the Building Inspector receives evidence satisfactory to the Planning Board that the deed restriction or deed rider has been approved by DHCD.
 - (4) The affordable units shall be sold or rented under a marketing plan approved by the Planning Board.

- (5) Failure to record the regulatory agreement and/or any deed rider at the Registry of Deeds shall be deemed a violation of this bylaw and is subject to the enforcement and penalty provisions of §§ 240-2 through 240-6.
 - (6) The Planning Board shall adopt and from time to time may amend regulations necessary to administer the affordable housing requirements of this bylaw.
- C. Common open space. At least 30% of the parcel used for a Mill Reuse Project shall be protected, usable common open space that is functional for the purposes described below. The common open space shall have no structures, parking, private yards, patios, or gardens that are restricted for the exclusive or principal use by residents of individual dwelling units. The following standards apply to the common open space in a Mill Reuse Project:
 - (1) Use, space and location. To the maximum extent feasible, the open space shall be undisturbed and left in its natural condition. It shall be appropriate in size, shape, dimension and location to assure its use as a conservation or recreation area that serves as a visual and natural amenity for the project and the Town.
 - (a) Common open space shall be functional for wildlife habitat, passive recreation, forestry, agriculture, access to open water resources, or preservation of views from the road.
 - (b) To the maximum extent feasible, the common open space shall be linked as a unit, with links at least 60 feet wide.
 - (c) Not more than 50% of the common open space in a Mill Reuse Project may consist of wetlands as defined in M.G.L. ch. 131, § 40.
 - (d) Unless approved by the Planning Board, common open space shall not be considered usable if the slope of the finished grade exceeds 25%.
 - (e) Existing rights-of-way and utility easements may not be counted as common open space.
 - (f) The location(s) of the common open space shall be subject to approval by the Planning Board.
 - (g) Land used for shared wastewater disposal or a package treatment plant may count toward the minimum common open space requirement.
 - (2) Ownership. The common open space shall be conveyed in accordance with the procedures under § 240-94 of this bylaw, except that land used for wastewater disposal shall be conveyed in accordance with requirements of the Board of Health.
- D. Landscaping. For purposes of landscaping requirements, a Mill Reuse Project shall comply with Article XI of this bylaw to the maximum extent practical.
- E. Accessory commercial use limitations. Accessory commercial uses are encouraged in a Mill Reuse Project in order to make ordinary daily activities accessible to residents, particularly to residents who do not drive. At the same time, it is not the intent of this

bylaw to promote mill reuse that is predominantly commercial. Accordingly, accessory commercial uses such as retail, personal service or restaurant uses may occupy up to 10%, but in no event more than 20,000 square feet, of the total leasable floor area in a Mill Reuse Project. An individual accessory commercial use may not exceed 5,000 square feet of leasable floor area.

F. Internal circulation, parking and loading requirements.

- (1) Roadways. The internal roadway(s) serving a Mill Reuse Project shall be adequate for the proposed use as determined by the Planning Board, and shall be maintained by an association of unit owners, the applicant or the entity that owns and manages the development.
- (2) Parking spaces. A Mill Reuse Project shall provide off-street parking spaces for each use in the development in accordance with the following minimum requirements:
 - (a) Assisted elderly units. One space per unit, plus one space per two employees on the largest shift and one space for each three units.
 - (b) Multifamily units. One space per studio or one-bedroom unit, two spaces per unit with two or more bedrooms except for age-restricted multifamily units, in which case there shall be an average of 1.5 spaces per unit; plus one visitor space for each three units.
 - (c) Nursing home. One space per three beds, plus one space per two employees on the largest shift, plus one space per two visiting staff (e.g., attending physician, specialists, etc.).
 - (d) Accessory retail, service or bank establishment. One space per 500 square feet of gross floor area but not fewer than three spaces per separate enterprise.
 - (e) Accessory restaurant. One space per four seats based on the legal seating capacity of the facility, including seasonal outdoor seating, plus one space per two employees on the largest shift.
 - (f) Accessory adult day care. One space per each four persons not residing in the Mill Reuse Project plus one space per two employees.
 - (g) Medical offices or medical clinic. In accordance with § 240-59H.
 - (h) Other uses. In accordance with § 240-59K.
 - (i) Mixed uses. Requirements for each use shall be added, unless the Planning Board determines that a smaller number is adequate.
- (3) Reserve parking. During the development plan approval process under § 240-16, the Planning Board may authorize a decrease in the number of off-street parking spaces required for a Mill Reuse Project, subject to the following conditions:

- (a) The decrease in number of parking spaces is no more than 30% of the total number of spaces required under Subsection F(2) above. The waived parking spaces shall not be used for building area and shall be labeled as "Reserve Parking" on the site plan.
 - (b) The decrease in number of required spaces will not create undue congestion, traffic hazards, or a substantial detriment to the neighborhood, and does not derogate the intent and purpose of this bylaw.
 - (c) The reserve parking spaces shall be properly designed as an integral part of the overall parking development, and in no case shall any reserve parking spaces be located within areas counted as setbacks or common open space.
 - (d) If, after one year from the date of issuance of a certificate of occupancy, the Building Inspector and/or Planning Board find that all or any of the increased reserve spaces are needed, the Planning Board may require that all or any portion of the spaces identified as increased reserve spaces on the site plan be constructed within a reasonable time period as specified by the Planning Board. A written notice of such a decision shall be sent to the applicant within seven days before the matter is next discussed at a Planning Board meeting.
- (4) Increase in parking spaces. The Planning Board may require provisions for an increase in the number of parking spaces required under Subsection F(2) above, provided that:
- (a) The increase in the number of parking spaces is no more than 20% of the total number of parking spaces required under Subsection F(2) above for the use(s) in question.
 - (b) Any such increase in the number of required parking spaces shall be based upon the special nature of a use or building.
 - (c) The increased number of parking space shall be labeled "Increased Reserve Parking" on the site plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within an area counted as yard setback or common open space along the perimeter of the parcel.
 - (d) The applicant shall not be required to construct any of the spaces labeled as "Increased Reserve Parking" for at least one year following the issuance of a certificate of occupancy. Where the increased reserve parking area is required by the Planning Board and the applicant has otherwise provided the number of parking spaces required under Subsection F(2) above, the area of land reserved for the increased number of parking spaces may be deducted from the minimum common open space required under § 240-160C.
- (5) Parking for commercial vehicles. Commercial vehicles owned or operated by owners or tenants of the Mill Reuse Project, or their agents, employees, licensees, or suppliers shall be parked inside a garage, or in a suitably screened and

designated area, except for commercial vehicles in the active service of receiving and delivering goods or services.

- (6) Parking area design and location. A Mill Reuse Project shall comply with Article X of this bylaw except as follows:
 - (a) All off-street parking areas shall be located to the rear or side of all buildings and shall not be located in front setbacks or common open space, except that the Planning Board may waive these requirements for existing parking lots or existing buildings.
 - (b) Landscaping of parking areas shall conform to § 240-67C of this bylaw to the maximum extent practical.
 - (c) Pedestrian crosswalks shall be provided in appropriate locations and shall be clearly recognizable through the use of raised, textured or color surface treatments in order to aid pedestrians in crossing traffic within a parking area.
 - (7) Paths. Wherever feasible, a Mill Reuse Project should include attractively designed paths that separate vehicular, bicycle and pedestrian traffic, provide access to amenities and facilities in the development, and connect to pathways or sidewalks to adjacent sites.
- G. Emergency systems. A Mill Reuse Project shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and/or other tenants. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Bellingham Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.
- H. Public benefits. The Planning Board may grant a special permit to increase the maximum gross density of a Mill Reuse Project, up to the limit established under § 240-158B, as follows:
- (1) Eligible public benefits. To be considered eligible for an increase in the maximum gross density under § 240-158B, a Mill Reuse Project shall provide at least one of the following public benefits in furtherance of the purposes of this bylaw and in a manner satisfactory to the Planning Board:
 - (a) Affordable housing. A project in which at least 10% affordable housing units meet the requirements of § 240-160B.
 - (b) Common open space. A project that preserves at least 50% of the parcel as common open space meeting the requirements of § 240-160C.
 - (c) Green building design. A project that is LEED certified by the U.S. Green Building Council.
 - (d) Neighborhood facilities. A project that provides a facility or significant amenity usable by its own residents and residents of the surrounding neighborhood, such as a public park that is landscaped, furnished and accessible to persons with disabilities, or an outdoor recreation area with

playing fields and facilities for spectators, or a neighborhood community center.

- (2) Limitations. A Mill Reuse Project that involves expansion of existing buildings or new construction must comply with the maximum floor area ratio under § 240-160A regardless of any increase in gross density authorized by special permit.

§ 240-161. Severability.

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

ARTICLE XXIV

Large-Scale Ground-Mounted Solar Photovoltaic Installations

§ 240-162. Purpose.

A. The purpose of this article is:

- (1) To provide standards for the placement, design, construction, operation, monitoring, modification and removal of large-scale ground-mounted solar photovoltaic installations;
- (2) To minimize the adverse impacts of large-scale ground-mounted solar photovoltaic installations on adjacent properties and residential neighborhoods;
- (3) To minimize impacts on scenic, natural and historic resources; and
- (4) To provide adequate financial assurance for the eventual decommissioning of such installations.

B. The provisions set forth in this article shall take precedence over all other provisions of this bylaw when considering applications related to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

§ 240-163. Definitions.

In addition to Article VI of this bylaw, the following definitions shall apply to large-scale ground-mounted solar photovoltaic installations:

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic system on a parcel of at least 20 acres that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

RATED NAMEPLATE CAPACITY — The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

§ 240-164. Applicability.

This article applies to any large-scale ground-mounted solar photovoltaic installation proposed to be constructed after the effective date of this article. Such installation may proceed as of right as set forth in the Table of Use Regulations²⁵ without the need for a special permit, variance, site plan approval, zoning amendment, waiver, or other discretionary approval. Any modification of any existing large-scale ground-mounted solar photovoltaic installation that materially alters the type, configuration, or size of such facility or related equipment shall also be subject to the article.

§ 240-165. General requirements.

The following requirements are common to all large-scale ground-mounted solar photovoltaic installations.

- A. Compliance with laws, ordinances and regulations. The construction and operation of all such proposed large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
- B. Development plan review, building permit. No large-scale ground-mounted solar photovoltaic installation shall be erected, constructed, installed or modified as provided in this article without first obtaining approval from the Planning Board for development plan approval pursuant to § 240-16 of this bylaw and without first obtaining a building permit and all other applicable permits required by law. In the event development plan review is not completed by the Planning Board one year from the date of application, the application shall be deemed approved.
- C. Fees. The application for a building permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the fee required for a building permit and all other applicable permits required by law.

§ 240-166. Submittal to Building Inspector.

- A. An application for a building permit for a large-scale ground-mounted solar photovoltaic installation shall include the following information. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
 - (1) Blueprints or drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

25. Editor's Note: See the Use Regulations Schedule in § 240-31.

- (2) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and overcurrent devices;
 - (3) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - (4) Name, address, and contact information for proposed system installer;
 - (5) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 - (6) The name, contact information and signature of any agents representing the project proponent;
 - (7) Documentation of actual or prospective access and control of the project site;
 - (8) An operation and maintenance plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation;
 - (9) Proof of liability insurance;
 - (10) Evidence that the utility company that operates the electrical grid where the installation is to be located has been informed of the applicant's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- B. Site control. The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed installation. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.
- C. Operation and maintenance plan. The applicant shall submit a plan for maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the installation.
- D. Utility notification. No large-scale ground-mounted solar photovoltaic installation facility shall be installed until evidence has been submitted that the utility company that operates the electrical grid where the installation is to be located has been informed of the customer's intent to install such installation. Off-grid systems shall be exempt from this requirement.

§ 240-167. Design standards.

The following standards shall apply to any large-scale ground-mounted solar photovoltaic installation.

- A. Lighting. Lighting of large-scale ground-mounted solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational

purposes, and shall not cast measurable light onto adjacent properties or into the night sky. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

- B. Signage. Signs on such installations shall comply with the Town's Sign Bylaw.²⁶ The following signs shall be required:
- (1) Those necessary to identify the owner, provide a twenty-four-hour emergency contact phone number, and warn of any danger.
 - (2) Educational signs providing information about the facility and the benefits of renewable energy.
 - (3) Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the facility.
- C. Utility connections. The Building Inspector may require as a condition of site plan approval that all utility connections from the solar photovoltaic installation shall be underground, after considering 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.
- D. Accessory structures. All accessory structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such accessory structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. To the maximum extent feasible, structures which are visible or directly adjacent to residentially zoned or occupied properties or which are adjacent to a public way shall be screened from view by landscaping or other means and/or joined or clustered to avoid adverse visual impacts.
- E. Dimensional and density requirements; setbacks. For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:
- (1) Front yard. The front yard depth shall be at least 20 feet; provided, however, that where the lot abuts a Residential District, the front yard shall not be less than 100 feet.
 - (2) Side yard. Each side yard shall have a depth at least 10 feet; provided, however, that where the lot abuts a Residential District, the side yard shall not be less than 100 feet.
 - (3) Rear yard. The rear yard depth shall be at least 20 feet; provided, however, that where the lot abuts a Residential District, the rear yard shall not be less than 100 feet.
- F. Land clearing, soil erosion and habitat impacts. Given the nature of the need for no shadowing and maximum exposure of the solar panels to the sun, clearing of natural

26. Editor's Note: See Art. VIII of this chapter, Sign Regulations.

vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the installation or otherwise prescribed by applicable laws, regulations, and bylaws.

§ 240-168. Safety and environmental standards.

The following standards shall apply to any large-scale ground-mounted solar photovoltaic installation.

- A. Emergency services. The large-scale ground-mounted solar photovoltaic installation owner or operator shall 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 photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- B. Unauthorized access. Installations shall be surrounded by security fencing of at least eight feet or other suitable barrier approved by the Planning Board, including locked gates to prevent unauthorized access. Electrical equipment shall be locked where possible. A Knox box approved by the Fire Chief shall be provided and installed at a location on site approved by the Fire Chief and contain keys and contact information for access to the facility in the event of an emergency.
- C. Monitoring and maintenance. The owner or operator of the large-scale ground-mounted solar photovoltaic installation 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 local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

§ 240-169. Accessory roof-mounted solar photovoltaic installations.

Nothing in this article shall be construed to prevent the installation, pursuant to M.G.L. ch. 40A, § 3, of accessory roof-mounted solar photovoltaic installations in any district.

§ 240-170. Financial surety for decommissioned installations.

The applicant for a large-scale ground-mounted solar photovoltaic installation shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally- or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

§ 240-171. Exemption for municipal land.

Large-scale ground-mounted solar photovoltaic installations shall be allowed to be constructed upon any municipal property meeting the requirements of this bylaw regardless of the zoning district.

**ARTICLE XXV
Inclusionary Housing**

§ 240-172. Intent.

The purpose of this bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in tandem with on-going Town of Bellingham programs to promote a reasonable percentage of housing that is affordable to moderate-income buyers. It is intended that the affordable housing units that result from special permits issued under this bylaw be included on the Town's Subsidized Housing Inventory, as kept by the Massachusetts Department of Housing and Community Development ("DHCD") or any successor agency. It is intended that this bylaw provide a mechanism to compensate for those decreases in the Town's percentage of affordable housing that are directly caused by prospective increases in the Town's overall housing stock.

§ 240-173. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AFFORDABLE HOUSING UNIT — A dwelling unit that can be purchased at an annual cost that is deemed affordable for a household that is earning no more than 70% of the area median income as reported by the U.S. Department of Housing and Urban Development and/or DHCD, said price to be adjusted commensurate with the maximum income of the proposed purchaser.

QUALIFIED AFFORDABLE HOUSING UNIT PURCHASER — An individual or family with a household income that does not exceed 80% of the area median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development and/or DHCD.

§ 240-174. Applicability.

- A. Division of land. This bylaw shall apply to the division of land held in single ownership as of October 14, 2010 or anytime thereafter into eight or more lots, whether said eight or more lots are created at one time or are the accumulation of eight or more lots created from said land held in single ownership as of October 14, 2010, and shall require a special permit under Article IV of the Zoning Bylaw and M.G.L. ch. 40A, § 9. A special permit shall be required for "conventional" or "grid" divisions allowed by M.G.L. ch. 41, §§ 81L and 81U, as well as those divisions of land that do not require subdivision approval per M.G.L. ch. 41, § 81P.
- B. Multifamily dwelling units and duplexes. This bylaw shall apply to the construction of eight or more dwelling units in duplexes or multifamily complexes, whether on one or

more contiguous parcels in existence as of October 14, 2010, and shall require a special permit under Article IV of the Zoning Bylaw and M.G.L. ch. 40A, § 9.

§ 240-175. Exemption.

The provisions of § 240-174 hereof shall not apply to the construction of eight or more single-family dwelling units on individual lots, if said eight or more lots were in existence as of October 14, 2010. This bylaw shall not apply to major residential developments proposed and permitted under Article XIV of the Town's Zoning Bylaw.

§ 240-176. Administration.

The Planning Board shall be the special permit granting authority for all special permits under this bylaw.

§ 240-177. Mandatory provision of affordable units.

The special permit granting authority shall, as a condition of approval of any development referred to in § 240-178, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this bylaw and more fully described in § 240-178. Any special permit granted hereunder shall contain a condition that no construction of any of the proposed development may commence until the affordable units created thereby are eligible for inclusion on the Town's Subsidized Housing Inventory.

§ 240-178. Provision of affordable units.

The special permit granting authority shall deny any application for a special permit for development if the applicant for special permit approval does not comply, at a minimum, with the following requirements for affordable units:

- A. At least 10% of the units in a division of land or units in a multifamily or duplex development subject to this bylaw shall be established as affordable housing units in any one or combination of methods provided for below. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a development proposing eight dwelling units shall require one affordable unit, a development proposing 11 dwelling units shall require two affordable units, and so on.
- B. The affordable unit(s) shall be constructed or rehabilitated on: The locus property; or a locus different from the one subject to the special permit (see § 240-182); or the applicant may offer and the special permit granting authority may accept any combination of the requirements of this section, provided that in no event shall the total number of units or land area provided be less than 10% of the total number of units/lots approved under the permit.

§ 240-179. Provisions applicable to affordable housing units on- or off-site.

- A. Siting of affordable units. All affordable units constructed or rehabilitated under this bylaw shall be situated so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
- B. Minimum design and construction standards for affordable units. Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be compatible in external design, appearance, construction and quality of materials with other units.
- C. Timing of construction or provision of affordable units or lots.
 - (1) The special permit granting authority may impose conditions on the special permit requiring construction of affordable housing according to a specified time table, so that affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

| Market-Rate Unit % | Affordable Housing Unit % |
|---------------------------|----------------------------------|
| Up to 30% | None required |
| 30% plus 1 unit | At least 10% |
| Up to 50% | At least 30% |
| Up to 75% | At least 50% |
| 75% plus 1 unit | At least 70% |
| Up to 90% | 100% |

- (2) Any fractions of an affordable unit shall be rounded up to a whole unit.

§ 240-180. Local preference.

To the extent permitted by law, the special permit granting authority may require the applicant to comply with local reference requirements, if any, as may be established by regulations promulgated hereunder.

§ 240-181. Marketing plan for affordable units.

Applicants under this bylaw shall submit a marketing plan or other method approved by the special permit granting authority, which describes how the affordable units will be marketed to potential homebuyers. If applicable, this plan shall include a description of the lottery or other process to be used for selecting buyers. The plan shall be in conformance to DHCD rules and regulations, and shall be subject to the prior review and approval of Town Counsel at the applicant's expense.

§ 240-182. Provision of affordable units off-site.

Subject to the approval of the special permit granting authority, an applicant subject to this bylaw may develop, construct or otherwise provide affordable units equivalent to those required by § 240-178 off-site. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In addition, the location and design of the off-site units to be provided shall be approved by the special permit granting authority as an integral element of the special permit review and approval process.

§ 240-183. Preservation of affordability; restrictions on resale.

Each affordable unit created in accordance with this bylaw shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The deed restriction must be deemed acceptable to DHCD and Town Counsel prior to the issuance of any building or occupancy permits and shall be recorded at the Norfolk County Registry of Deeds or the Land Court and shall be in force in perpetuity or for the longest period allowed by law, unless the Planning Board determines that a shorter period of affordability will facilitate the development of affordable housing.

- A. The special permit granting authority shall require, as a condition for special permit approval under this bylaw, that the deeds to the affordable housing unit contain a restriction requiring that any subsequent renting or leasing of said affordable housing unit shall not exceed an amount that is deemed affordable for the income level that is designated for the qualified affordable housing unit purchaser.
- B. Special permit granting authority shall require, as a condition for special permit approval under this bylaw, that the applicant comply with the mandatory set-asides and accompanying deed restrictions on affordability.

§ 240-184. Regulations.

The special permit granting authority may adopt regulations for the orderly administration of this bylaw.

**ARTICLE XXVI
Overlay District****§ 240-185. Purpose.**

The purpose of the Hartford Avenue Adaptive Use Overlay District (AUOD) is to promote economic development while maintaining community character by streamlining the permitting process for conversion of existing buildings within the AUOD District to one commercial or mixed one commercial and one-family residential use while maintaining the architectural integrity of the buildings and preserving the character of the neighborhood. The specific purposes of the AUOD are:

- A. To provide for limited business uses within certain portions of residential districts subject to standards designed to preserve community character.
- B. To encourage the reuse of residential buildings by providing economic uses for buildings that may no longer function well as single-family residences.
- C. To implement certain goals of the Master Plan, including encouraging economic development, protecting small town character, and updating zoning to maintain consistency.
- D. To provide compatible use opportunity in residential areas in which the residential component has been overshadowed or impacted by adjacent nonresidential uses.

§ 240-186. General requirements.

- A. Location. The AUOD is hereby established as an overlay district. AUOD is superimposed on that portion of the Residential District along the north side of Hartford Avenue heading west between Route 495 and Farm Street and is more particularly identified on a plan entitled "Hartford Avenue Adaptive Use Overlay District," dated July 9, 2013, incorporated by reference in the Zoning Bylaw and on file with the Town Clerk and Building Inspector.
- B. Rules and regulations. The Planning Board may develop Hartford Avenue AUOD Rules and Regulations which shall more fully define the application requirements and design guidelines, identify supporting information needed, and establish reasonable application, review and inspection fees, and construction protocols.

§ 240-187. Permitted uses.

- A. Uses allowed as of right. All uses allowed as of right in the underlying Residential District shall remain as of right within the Hartford Avenue AUOD. Similarly, uses presently allowed in the underlying Residential District shall continue to be allowed by special permit in the AUOD.
- B. Uses allowed by special permit in the AUOD.
 - (1) In approving an adaptive use special permit under the provisions of M.G.L. ch. 40A, § 9 and these Zoning Bylaws, the Planning Board may provide for the following uses:
 - (a) Offices for business or professional uses, including, but not limited to, accountants, architects, attorneys, counselors, engineers, insurance agents, planners, real estate sales, and similar uses.
 - (b) Medical offices, including, but not limited to, acupuncture, chiropractors, massage therapy, and similar uses.
 - (c) Small electronic repair, such as home computers.

- (d) Studios for artists, photographers, interior decorators, and similar design-related uses.
 - (e) Retail sales for handcrafted merchandise and original arts and crafts.
 - (f) Personal care services such as barber shops, beauty parlors and nail salons.
- (2) The adaptive use special permit shall expressly indicate which of the above-allowed uses is specifically permitted and may impose conditions, safeguards and limitations on the permitted use(s). Changes in allowed uses shall require a new special permit.
- C. Prohibited uses. The following uses shall be prohibited in the AUOD:
- (1) Motor vehicle sales, repair, or sales of parts; gas stations.
 - (2) Manufacturing or industrial uses of any kind.
 - (3) Drive-through windows of any kind.
 - (4) Exterior storage of equipment or materials.
 - (5) Food services, including, but not limited to, bakeries, cafes, coffee shops, delicatessens, frozen dessert shops, pastry shops, sandwich shops, convenience stores, pizza parlors and other fast-food-type restaurants.
 - (6) Repair shops for large equipment, appliances or tools and/or the fabrication or repair of machinery.
 - (7) General retail of any kind not specified above.
 - (8) Non-single practitioner medical/dental offices.

§ 240-188. Special permit site development standards.

The following site development standards shall apply to all Hartford Avenue AUOD developments and shall be reviewed during any special permit proceeding:

- A. Each lot subject to the adaptive use special permit shall have a building or buildings located on it that was constructed prior to October 9, 2013.
- B. Each adaptive use project must utilize the existing structures but may include restoration, renovation or improvement of the primary existing building to maintain, restore or enhance its original architectural integrity. Construction of an addition to an existing building on the premises may be permitted, provided that it is designed to be compatible with the overall residential character of the adjacent neighborhood and the AUOD.
- C. The alteration of, addition to, and/or conversion of an existing building to one residential dwelling unit and one business use listed above may be permitted by special permit, provided that the appearance of the building is characteristic of a single-family dwelling and that the residential unit is occupied by the business owner.

- D. Whenever possible, all parking should be limited to the existing driveway, and the applicant shall be required to demonstrate adequate parking for all uses (residential and commercial) with at least one parking space for a residential use. No on-street parking shall be allowed. Parking areas shall be screened from the public way and abutting properties by structures such as fencing and/or landscaping. Adequate provisions for on-site retention and treatment of stormwater shall be included.
- E. Lighting shall be of a residential scale, architecturally compatible with the building, and shall be designed to ensure that no glare is produced on abutting properties or the public way.
- F. Signage shall include no more than one freestanding sign with a maximum height of four feet and total maximum sign surface area not to exceed 12 square feet. Signs shall be externally illuminated with no spillover onto adjacent properties. Signage placement shall be reviewed by the Safety Officer so as to maintain adequate visual access for vehicles entering and exiting the property.
- G. Curb cuts on Route 126 are subject to approval of the state. New curb cuts on Hartford Avenue are subject to recommendations of the Safety Officer and will require a Bellingham street opening permit from the DPW. The division of state and local roads is shown on the plan.
- H. All developments shall include a landscape plan that maintains or enhances the residential character of the property. The landscape plan shall also provide, at the discretion of the Planning Board, a buffer zone (including one or more shrubs, trees, grass and fencing) appropriate for the proposed use along any property boundaries with an adjacent residential use, as well as screening for parking, loading and refuse storage facilities.

§ 240-189. Procedures for special permit.

- A. Projects that are granted an adaptive use special permit shall be exempt from development plan approval as required in § 240-16 of this Zoning Bylaw. However, only the specific uses and improvements for which an adaptive use special permit is granted shall be exempt from site plan approval.
- B. Applications for adaptive use special permits shall be made to the Planning Board on forms provided for that purpose, accompanied by the required fee. Copies of the completed application shall be distributed according to Form K. A complete application shall include the following items:
 - (1) Special permit application form.
 - (2) Certified abutters list.
 - (3) Locus plan showing existing buildings, structures, freestanding signs, driveways and walkways on abutting properties.
 - (4) Plan(s) of the property that includes the following existing and proposed site features: buildings with additions, structures, driveways, and parking spaces.

- (5) Design features of the building(s) and structures, including, as appropriate, elevations, materials, colors, etc.
- (6) Signage, lighting, landscaping and fencing details.
- (7) A narrative statement discussing how the proposed project complies with the purposes and requirements of the Hartford Avenue adaptive use special permit. The narrative should also describe in detail the proposed use, hours of operation, number of employees, and the estimated number of clients/customers per hour, especially during the peak a.m. and p.m. traffic hours.
- (8) Form K for distribution.
- (9) Stormwater management calculations and plans, as may be applicable, conforming to accepted standards, policy, regulations and best management practices.
- (10) Any other information determined to be needed for review.

§ 240-190. Special permit standards and criteria.

In considering an application for an adaptive use special permit, the Planning Board shall make the following findings:

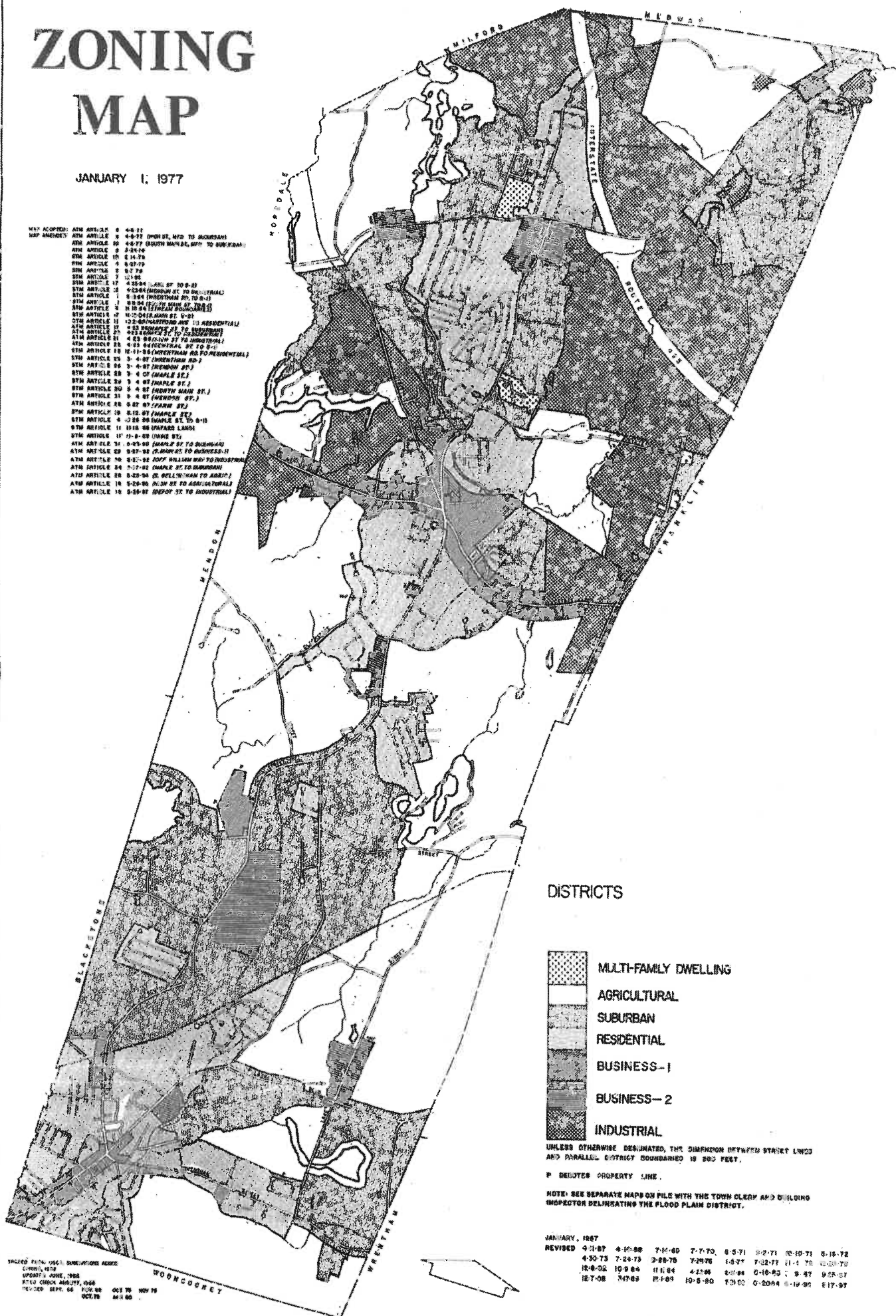
- A. The proposed use is contemplated under the provisions of this bylaw.
- B. The site is adequate for the proposed use in terms of size, configuration, and use of abutting properties.
- C. The proposed use will cause minimal adverse impacts to abutting properties and will provide mitigation of any impacts.
- D. Provisions for traffic and parking are adequate for the proposed use.
- E. The proposal maintains or enhances the aesthetic appeal of the primary building and its site.
- F. The impact on neighborhood visual character, including views and vistas, is positive.
- G. The provisions for utilities, including sewage disposal, water supply and stormwater management, are adequate.
- H. The proposed project complies with the goals of the Master Plan and the purposes of this article of the Zoning Bylaw.

ZONING MAP

JANUARY 1, 1977

NOT ACCEPTED: MAY 1967

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DISTRICTS

MULTI-FAMILY DWELLING
AGRICULTURAL
SUBURBAN
RESIDENTIAL
BUSINESS-1
BUSINESS-2
INDUSTRIAL

UNLESS OTHERWISE DESIGNATED, THE DIMENSION BETWEEN STREET LINES AND PARALLEL DISTRICT BOUNDARIES IS 300 FEET.

P DENOTES PROPERTY LINE.

NOTE: SEE SEPARATE MAPS ON FILE WITH THE TOWN CLERK AND BUILDING INSPECTOR DELINEATING THE FLOOD PLAIN DISTRICT.

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|---------------|---------|---------|----------|---------|---------|---------|----------|----------|--|
| JANUARY, 1967 | | | | | | | | | |
| REVISED | 4-21-67 | 4-10-68 | 7-16-69 | 7-7-70 | 6-5-71 | 9-2-71 | 10-10-71 | 6-16-72 | |
| | 4-30-73 | 7-24-73 | 2-28-75 | 7-29-76 | 1-8-77 | 7-12-77 | 11-1-78 | 10-20-79 | |
| | 12-0-80 | 10-9-84 | 11-11-84 | 4-22-86 | 2-25-88 | 5-16-89 | 9-8-87 | 9-25-87 | |
| | 12-7-08 | 7-7-08 | 12-4-09 | 10-5-90 | 7-23-00 | 5-20-04 | 6-19-02 | 8-17-07 | |

PHILIP B. HERR & ASSOCIATES, PLANNING CONSULTANTS

PLANNING BOARD BELLINGHAM MASSACHUSETTS

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Town of Bellingham

Water Resource District Map



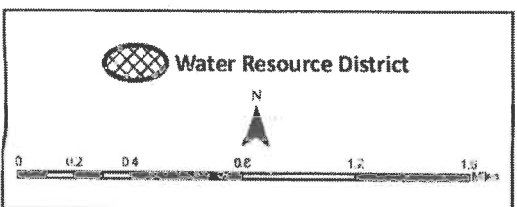
Town of Bellingham



Water Resource District Map

Approved Spring Town Meeting : May 26, 2010

Approved Mass Attorney General: September 13, 2010



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Town of Bellingham

Comprehensive Permit Rules of the Bellingham Zoning Board of Appeals

Section

- 1.00 - Purpose and Context
- 2.00 - Definitions
- 3.00 - Filing, Time Limits, and Notice
- 4.00 - Review of Applications and Review Fee
- 5.00 - Public Hearing and Decision
- 6.00 - Changes in Application
- 7.00 - Appeals

1.00: Purpose and Context

These Rules establish procedures for applications to the Zoning Board of Appeals for comprehensive permits granted under M.G.L. ch. 40B, §§ 20-23 and the regulations promulgated thereunder. They are required by M.G.L. ch. 40B, § 21 and by 760 CMR 56.00, et seq. The purpose of that Act and these Rules is to facilitate the proper development of affordable housing in Massachusetts.

These Rules alone are not sufficient to describe comprehensive permit procedures before the Zoning Board of Appeals. They must be read in conjunction with and implemented in a manner consistent with M.G.L. ch. 40B, §§ 20-23. In addition, the Board's general rules and policies for conduct of hearings under M.G.L. ch. 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general Rules for conduct and these Rules, these Rules shall govern.

These rules take effect on passage and supersede any other M.G.L. ch. 40B rules that may have been adopted by the Board.

2.00: Definitions

- (a) "Board" means the Zoning Board of Appeals established under M.G.L. c. 40A, § 12.
- (b) "Local board" means any local board or official, including, but not limited to any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission; fire, police, traffic, or other department; building inspector or similar official or board; board of selectmen.

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- (c) "Limited Dividend Organization" means any applicant which proposes to sponsor housing under M.G.L. ch. 40B; and is not a public agency; and is eligible to receive a subsidy from a state or federal agency and which agrees to limit its actual profit as required under law [see Section 3.01(i)].

3.00: Filing, Time Limits, and Notice

3.01: The application for a comprehensive permit shall consist of:

- (a) Site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. All site development plans shall be stamped by a registered professional engineer;
- (b) A report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood. This submission may be combined with that required in Section 3.01(a), above;
- (c) Preliminary, scaled, architectural drawings. For each building, the drawings shall be signed by a registered architect, and shall include typical floor plans, typical elevations, and sections, and shall identify construction type and exterior finish;
- (d) A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas;
- (e) Where a subdivision of land is involved, a Preliminary or Definitive Subdivision Plan conforming to all of the applicable requirements of the Bellingham Regulations for the Subdivision of Land;
- (f) A utilities plan, stamped by a registered professional engineer, showing the proposed location and types of sewage, drainage, and water facilities, including hydrants. Adequate supporting information shall be provided to demonstrate that the drainage system will meet all Stormwater Management Guidelines promulgated by the Massachusetts Department of Environmental Protection, or best management practices, whichever is more stringent;
- (g) Documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01, that is:
 - (i) The applicant shall be a public agency, a non-profit organization, or a limited dividend organization.

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- (ii) The project shall be fundable by a subsidizing agency under a low- and moderate-income housing subsidy program. The Board may review this documentation to ensure that the applicable subsidizing agency has performed the due diligence required under 760 CMR 56.04.
 - (iii) The applicant shall control the site and the means of access thereto. This documentation must adequately demonstrate that the applicant possesses the necessary control over the site and the site access to develop the project as proposed in the application.
- (h) A concise list of requested exceptions to local requirements and regulations, including local codes, ordinances, bylaws or regulations, along with an explanation of the reasons for seeking such exceptions. Blanket waivers requests shall not be permitted;
 - (i) A complete financial pro-forma, detailing the projected costs and revenues of the proposed project. In preparing its pro-forma, the applicant shall limit its costs to actual arm's length expenses in purchasing and developing the property. Acquisition costs shown in the pro-forma shall be limited to the lesser of the existing as-is fair market value of the property (i.e., the value under existing bylaws and regulations without the benefit of waivers or variances) or the amount of last arm's length sale (with all reasonable and demonstrable carrying costs). Additionally, the applicant shall fully disclose any land or development costs ascribed to related entities. Profits generated by any related entities in the development of any aspect of the project shall not be allowable as project costs;
 - (j) A complete copy of any and all materials and applications submitted by the applicant to any prospect subsidizing agency or source, including, but not limited to, applications for site approval;
 - (k) A list of each member of the development and marketing team, including all contractors and subcontractors, to the extent known at the time of application. The applicant shall also be required to disclose its relationship to all such entities;
 - (l) A list of all prior development projects completed by the applicant, along with a brief description of each such project;
 - (m) Evidence of local need for the type and number of housing units being proposed by this application;
 - (n) If the project requires work that would, in conventional circumstances, require a filing with the Bellingham Conservation Commission under any local wetlands bylaw, the applicant shall provide any and all information that would normally be required for such a filing with the Conservation Commission.
- 3.02: The application shall be accompanied by a filing fee based upon the number of proposed housing units of:

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- (a) For limited dividend organizations: \$1,000 flat fee plus \$50 per unit.
- (b) For non-profit organizations: \$1,000 flat fee plus \$25 per unit.
- (c) For public agencies or governmental entities: \$0.

These fees are applicable for both original applications as well as for applications for permit modifications that are deemed to be substantial by the Board.

Additionally, the application fee shall include \$5,000 to pay for the services of legal counsel for assistance in any project of 25 units or less, and \$7,500 for any project in excess of 25 units but not exceeding 75 units and \$10,000 for any project in excess of 75 units. This cost is a reasonable estimate of the administrative costs for counsel retained to assist the Board with the multitude of legal issues that must be explored in the M.G.L. ch. 40B process. Furthermore, in order to assist the Board in the determination of whether or not any proposed conditions will render the project uneconomic, as required under M.G.L. ch. 40B, §§ 20-23, the application fee shall include an additional \$5,000 for the retention of a financial expert. The Board, in its sole and unfettered discretion, may waive any or all of these additional fees if it is determined that legal and/or financial review is not necessary. Alternatively, the applicant may opt to pay for the Board's legal counsel or financial consultant in the manner prescribed by M.G.L. ch. 44, § 53G and Section 4.00 hereof. Upon request by the applicant, the Board may, for good cause shown, waive the legal or consulting fees contemplated under this paragraph for non-profit or public applicants.

- 3.03: Within seven days of filing of the application, the Board shall notify every pertinent local official, board or department of the application by sending such official a copy of the application. Based upon that information, it shall also invite the participation of each local official who has an interest in the application. In order to allow review by local officials, the applicant shall provide the Town Clerk with 25 copies of the complete application so that all boards, officials and departments may review the same; and one unbound copy for copying purposes. Additionally, 11"x17" copies of all plans (with match-lines) shall be made available to the Town Clerk for copying purposes.

4.00: Review Fees

- 4.01: When reviewing an application for, or when conducting inspections in relation to, a comprehensive permit application, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the comprehensive permit application. Whenever possible, the Board shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of the consultant fees. Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable "project review fee" of a sufficient sum to enable the Board to retain consultants chosen by the Board alone. The Board may require that an applicant deposit a lump sum in order to

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retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.

- 4.02: In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, planners, lawyers (see Section 3.00 hereof), urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.
- 4.03: Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer, who shall establish a special account for this purpose, consistent with the terms and provisions of M.G.L. ch. 44, § 53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the comprehensive permit application.
- 4.04: At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- 4.05: Any applicant may make an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

5.00: Public Hearing and Decision

- 5.01: The Board shall hold a public hearing on the application within 30 days of its receipt, unless such time period is extended by written agreement of the Board and the applicant. It may request the appearance at the hearing of such representatives or local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.

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- 5.02: The Board shall render a decision, based on a majority vote of the Board, within 40 days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing may be deemed terminated when all public testimony has been received and all information requested by the Board has been received.
- 5.03: The Board may dispose of the application in the following manner:
- (a) Approve a comprehensive permit on the terms and conditions set forth in the application;
 - (b) Deny a comprehensive permit in the event that the proposed project presents adverse impacts to local concerns that outweigh the community's housing needs; or
 - (c) Approve a comprehensive permit with conditions, including but not limited to the number of permitted housing units, the height, size, shape or general appearance of the proposed buildings, the configuration of the site plan, and any other reasonable condition that is necessary to address issues arising under zoning, wetlands, planning or other local concerns while not rendering the construction or operation of such housing uneconomic. The scope of conditions may include any matter that would normally be addressed by a local board in review of a conventionally proposed project. In order to assist the Board with determining the permissible extent of conditions, the Board may require that the applicant provide a revised pro-forma at the Board's request, during the latter stages of the public hearing after the parties have had an opportunity to review the proposed project and any revisions thereto. The economic viability of a project may be determined with reference to the average profit earned by other developers of residential housing, as adjusted for the type of housing and the geographical area.
- 5.04: It shall be the applicant's burden to demonstrate that the waiver of any particular local regulation, bylaw or ordinance is necessary in order to maintain the project's economic viability. There shall be a presumption that the waiver of any local bylaw, ordinance or regulation will adversely affect local concerns.
- 5.05: If a subdivision of land is involved, the following shall apply: 1.) No construction is permitted until a Definitive Subdivision Plan has been submitted to and approved by the Board; and 2.) The Definitive Subdivision Plan shall be prepared and submitted in accordance with Bellingham's Regulations Governing the Subdivision of Land. The Zoning Board and not the Planning Board is the permit granting agency.
- 5.06: No comprehensive permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk that 20 days have elapsed after the filing of the decision and no appeals have been filed, is recorded in the Registry of Deeds and is indexed under the name of the owner of record of the land.

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6.00: Changes in Application

- 6.01: In the event that, during the public hearing, the applicant proposes any changes in its application or project plans that, in the Board's discretion, constitutes a material or substantial change to the project, the applicant shall provide a new site-eligibility letter from the designated subsidizing agency.
- 6.02: In the event of material or substantial changes, the Board may request, and the applicant shall provide, any and all information specified in Section 3.00 hereof that is deemed by the Board to be necessary to evaluate such changes.
- 6.03: In the event of a material or substantial change, any and all plans and supporting information shall be provided to all of the local entities identified in Section 3.03, above.
- 6.04: If the applicant submits a revised plan for the Board's consideration and said plan is the plan that is the subject of the Board's hearing and deliberation, then the application shall be deemed to be revised, subject to the foregoing provisions.

7.00: Appeals

- 7.01: If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L. ch. 40A, § 17.
- 7.02: If the Board denies the comprehensive permit or approves the permit with conditions or requirements considered by the applicant to be unacceptable, the applicant may appeal to the Housing Appeals Committee as provided in M.G.L. ch. 40B, § 22.

240 Attachment 3

Mill Reuse Overlay District Map

