

*Town of Bellingham  
Massachusetts*

**CODE OF BY-LAWS**

**DIVISION II**

**ZONING**



*Amended through Special Town Meeting of October 13, 2004*

*A true copy.*

**ATTEST:**

*Kathleen M. Harvey*  
**Kathleen M. Harvey  
Bellingham Town Clerk**

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## **ARTICLE 1. ADMINISTRATION AND PROCEDURE**

### **1100. 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.

### **1200. Administration**

**1210. Responsibility.** 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.

**1220. 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.

**1230. 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 flood plain control elevations, and evidence of performance compliance under Section 3200 Environmental Controls.

**1240. 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.

**1250. Penalty.** 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.

### **1300. Board of Appeals**

**1310. 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.

**1320. 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:

**1321.** To hear and decide applications for Special Permits upon which the Board is empowered to act under this Bylaw, in accordance with Section 1500 Special Permits.

**1322.** 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:

- (a) A literal enforcement of the provisions of this Bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
- (b) 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.
- (c) Desirable relief may be granted without either:
  - (1) substantial detriment to the public good; or
  - (2) nullifying or substantially derogating from the intent or purpose of this Bylaw.

**1323.** To hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:

- (a) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Ch.40A, G.L.; or by
- (b) The Metropolitan Area Planning Council; or by
- (c) 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 Ch.40A, G.L.; or this Bylaw.

**1324.** 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 non-profit 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 Sec. 20-23, Ch.40B, G.L.

**1325.** To issue Withheld Building Permits. Building Permits withheld by the Inspector of Buildings acting under Sec.81Y, Ch.41, G.L., as a means of enforcing the Subdivision Control Law 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.

**1330. 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.

**1340. Repetitive Petitions.** Repetitive petitions for exceptions, appeals and petitions for variances, and applications to the Board of Appeals shall be limited as provided in Sec. 16, Ch.40A, G.L.

## **1400. Planning Board**

**1410. 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 Section 1500 Special Permits, unless specifically designated otherwise.

### **1420. 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.

**1421. Applicability.** 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 1,000 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 ten or more spaces; a change to an existing parking area that either results in fewer parking spaces than required by Section 3320; 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 Section 4630.

No building permit for such development shall be granted prior to Planning Board approval, except as provided at Section 1422d.

### **1422. Procedure.**

- (a) Applicants are urged to confer with the Town Planner/Consultant regarding the materials necessary for submittal for Development Plan Review, if applicable.
- (b) 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. 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.

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 Section 11, Chapter 40A of the General Laws. 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."

- c) The Planning Board shall determine whether or not the Development Plan complies with the requirements of Section 1425 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., Chapter 40A, Sections 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 30-day appeal period, as certified by the Town Clerk.
- (d) 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., Chapter 40A, Sections 8 and 15. Upon expiration of the statutory appeal period without appeal, the Inspector of Buildings may issue a building permit.
- (e) "As-Built" Information. As-built information shall be provided to the Inspector of Buildings for the following phases of construction:
  - After installation of underground utilities, but prior to installation of a binder course of pavement;
  - After construction of a foundation, but before the start of building construction.
  - After completion of all construction activities, but before the issuance of an occupancy permit.

As-built information shall consist of either a Certification from a registered architect, landscape architect, engineer, or other design professional that all construction has been completed in accordance with the approved Development Plan, or a stamped Plan 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 phone lines showing that all construction has been completed in accordance with the approved Development Plan (if a Certification is submitted, all measurements and calculations shall be available for inspection if requested). The Inspector of Buildings shall determine the form of the as-built information required at each phase. (whether plan or certification).

**1423. Submittals.** 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. A copy of the fully executed Form K shall be included in the application package submitted to the Planning Board.

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.

- (a) A site plan prepared by a land surveyor, registered architect, landscape architect, professional engineer, showing the following:
- A locus plan at the scale of 1" = 200'.
  - 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.
  - 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.
  - 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 location of zoning districts, and overlay zoning districts within the locus of the plan.
  - 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.
  - 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.
  - Indication of wetlands and other areas subject to control under the Wetlands Protection Act, and the 100 foot zone surrounding such areas, identified through field survey acceptable to the Conservation Commission; Flood Plain and Floodway boundaries; and erosion control measures.
  - The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other disposal methods.
  - 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.
  - The location, height, size, materials, and design of all proposed signage.

- The location height, intensity, and bulb type of all external lighting fixtures, the direction of illumination, and methods to reduce glare onto adjoining properties.
  - Location and description of proposed open space and recreation areas.
  - A table of information showing how the plan conforms to the Zoning Bylaw.
- (b) 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.
- (c) A narrative describing the project, including:
- proposed use(s);
  - building or addition size proposed, broken down by use, if applicable;
  - projected number of employees, hours of operation and description of shifts;
  - projected parking spaces required (show calculation based on building usage/employees);
  - proposed methods of screening the premises and parking from abutting property and the street;
  - a calculation of existing and proposed lot coverage;
  - projected Town water and sewer demand, if any;
  - 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);
  - a discussion of how the project conforms with the Bellingham Master Plan
- (d) Drainage calculations/analysis.
- (e) A traffic study/analysis, if required (refer to Planning Board's Subdivision Rules and Regulations for detailed requirements).
- (f) 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.
- (g) 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.
- (h) Any additional studies or other materials required under this Section, under Section 3200 Environmental Controls, and elsewhere in this Bylaw.



- (i) A Development Plan filing fee, as required in the Planning Board Rules and Procedures.

**1424. 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 Section 1421.
- (b) Submittals for the portion lying in the Town of Bellingham shall be as specified at Section 1423. For portions lying outside the Town, only those items necessary for the determinations of paragraph (c) need be submitted.
- (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 (Section 3232), comply as measured in Bellingham.

**1425. Decision Standards.** The Planning Board shall approve a Development Plan only upon its determination that:

- (a) The performance requirements of this By-Law (e.g. Section 3200 Environmental Controls and Section 3300 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 8" trunk diameter and larger;
  - (5) reduce soil erosion;
  - (6) reduce hazard or inconvenience to pedestrians from storm water 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.
- (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. 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.

**1426. 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 MGL c. 40A, Section 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.

**1427. 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.

**1430. 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.

**1431. Applicability.** The following development proposals, unless required to receive Development Plan Approval under Section 1420, require Site Plan Review by the Planning Board prior to approval for a building or occupancy permit by the Inspector of Buildings.

- (a) Any non-residential development in a Business 1, Business 2 or Industrial Zone exceeding 10,000 square feet.
- (b) 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 Section 4110.

**1432. 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 timefully received.

**1433. Submittals.** The applicant shall provide as much of the materials specified at Section 1423 for Development Plan Approval as is reasonably necessary for the Planning Board to determine compliance with Section 1425 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.

**1440. Planning Board Associate Member.** As authorized in Section 9 of Chapter 40A, 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.

#### **1500. Special Permits**

**1510. Special Permit Granting Authority.** Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

**1520. 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.

**1530. 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

**1540. 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 Section 11 of Chapter 40A MGL.

**1550. 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 Sec. 17, Ch.40A, G.L., from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

#### **1600. Amendments**

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

#### **1700. 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.

**1800. 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 Sec.5, Ch.40a, G.L.

**1900. Separability**

The invalidity of any Section or provision of this Bylaw shall not invalidate any other Section or provision hereof.

## **ARTICLE II. USE AND INTENSITY REGULATIONS**

### **2100. Establishment of Districts**

**2110.** 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

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.

In addition, there are four overlay districts: Flood Plain District as established at Section 4510, Water Resource District as established at Section 4920, and Adult Use District #1 and Adult Use District #2 as regulated by Section 5100.

**2120.** 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, 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.

**2130.** Where a district boundary line divides any lot existing at the time such boundary line is adopted, the Zoning regulations shall apply as follows.

- (a) 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.
- (b) In the case of a use not allowed in one of the districts in which the lot lies, but allowed in another, the lot shall be considered as if divided into separate portions by either the district boundary line or a line parallel to that line and not more than 30 feet within the less restricted district, with development of each resulting portion of the lot to meet all requirements of the district in which the majority of that portion's frontage is located (including use, lot area, frontage, and yards).

**2140.** 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.

## **2200. Use Regulations**

**2210.** No building or structure shall be erected or used and no premises shall be used except as set forth in the "Use Regulations Schedule," or as exempted by Section 2300 or by statute. Symbols employed shall mean the following:

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

Use authorized under Special Permit as provided for in Section 1500:

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

**2220.** 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.

Uses listed nowhere in Section 2400 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.

## **2300. Nonconforming Uses and Structures**

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

**2310. Change, Extension or Alteration.** As provided in Section 6, Ch.40A, G.L., 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.

**2320. 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.

**2330. Abandonment.** A nonconforming use which has been abandoned, or discontinued for a period of two years, shall not be reestablished. Any future use of the premises shall conform with this Bylaw.

**2340. Replacement.** Replacement of mobile homes or commercial vehicles parked in nonconformity with Section 2400 is not permitted, even where such replacement does not increase the extent of nonconformity.

**2400. Use Regulations Schedule****D I S T R I C T**  
**ACTIVITY OR USE****A      S,R      M      B-1      I**  
**B-2****AGRICULTURAL USES**

Livestock raising on parcel under five acres <sup>1</sup>	YES	NO	NO	NO	NO
Other farm <sup>1</sup>	YES	YES	YES	YES	YES
Greenhouse					
with retail sales <sup>2</sup>	YES	YES	YES	YES	YES
wholesale only	YES	YES	YES	YES	YES
Roadside stand <sup>2</sup>	YES	YES	YES	YES	YES

**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 <sup>15</sup>	YES <sup>15</sup>
Restaurant	NO	NO	NO	YES <sup>15</sup>	YES <sup>15</sup>
Retail sales or service	NO	NO	NO	YES <sup>15</sup>	YES <sup>15</sup>
Retail sale of gasoline <sup>5</sup>	NO	NO	NO	BS	BS
Wholesaling without storage	NO	NO	NO	YES	YES
Major Business Complex <sup>3</sup>	NO	NO	NO	PB <sup>4</sup>	PB

**INDUSTRIAL USES**

Major Business Complex <sup>3</sup>	NO	NO	NO	PB <sup>4</sup>	PB
Manufacturing for on-site sales <sup>6</sup>	NO	NO	NO	YES	YES
Other manufacturing, research	NO	NO	NO	NO	YES
Bulk storage	NO	NO	NO	NO	YES
Contractor's yard	NO	NO	NO	NO	YES
Earth removal <sup>7</sup>	BA	BA	BA	BA	BA
Waste processing or disposal:					
Junk yard, second-hand 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

**2400. Use Regulations Schedule (Continued)**

<b><u>ACTIVITY OR USE</u></b>	<b><u>DISTRICT</u></b>				
	<b>A</b>	<b>S,R</b>	<b>M</b>	<b>B-1 B-2</b>	<b>I</b>
<b><u>INSTITUTIONAL USES</u></b>					
Municipal use	YES	YES	YES	YES	YES
Religious use	YES	YES	YES	YES	YES
Educational use exempted from zoning prohibition by Sec 3, Ch40A,G.L.	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 <sup>8</sup>	BA <sup>8</sup>	BA <sup>8</sup>	YES	YES
<b><u>RECREATIONAL USES</u></b>					
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 <sup>18</sup>	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
Commercial picnic, outing areas	BA	BA	BA	YES	YES
<b><u>RESIDENTIAL USES</u></b>					
Dwelling					
Single-family	YES	YES	YES	YES	NO <sup>9</sup>
Two-family	YES	YES	YES	YES	NO
Townhouse <sup>12</sup>	PB	PB	PB	PB	NO
Other multifamily	NO <sup>10</sup>	NO <sup>10</sup>	PB <sup>11,12</sup>	NO <sup>10</sup>	NO <sup>10</sup>
Assisted elderly housing <sup>16</sup>	PB	PB	PB	PB	NO
Boarding or rooming	NO <sup>10</sup>	NO <sup>10</sup>	BA	NO <sup>10</sup>	NO <sup>10</sup>
Motel, hotel	NO	NO	NO	BA	YES
Mobile home	NO	NO	NO	NO	NO
Public housing	YES	YES	YES	YES	NO
Major Residential Development <sup>17</sup>	PB	PB	PB	PB	NO



**2400. Use Regulations Schedule (Continued)**

<b><u>ACTIVITY OR USE</u></b>	<b><u>DISTRICT</u></b>				
	<b>A</b>	<b>S,R</b>	<b>M</b>	<b>B-1 B-2</b>	<b>I</b>
<b><u>OTHER PRINCIPAL USES</u></b>					
Temporary structures	BA	BA	BA	BA	BA
Airport, heliport	NO	NO	NO	YES	YES
<b><u>ACCESSORY USES</u></b>					
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 non residential use	YES <sup>13</sup>	YES <sup>13</sup>	YES <sup>13</sup>	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 Sec. 3100)	YES	YES	YES	YES	YES
* Private stable <sup>14</sup>	YES	BA	NO	YES	YES
* Animal kennel <sup>14</sup>	BA	BA	NO	BA	BA
* Livestock raising <sup>14</sup>	YES	BA	NO	NO	NO
* Swimming pool	YES	YES	YES	YES	YES
* Accessory scientific use in accordance with Sec. 4120	BA	BA	BA	BA	BA
* Family Apartment (see Sec. 4310)	BA	BA	BA	BA	NO
Note: should read (see Sec. 4130)					
* Other customary accessory uses	YES	YES	YES	YES	YES

**FOOTNOTES FOR SECTION 2400**

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 sq. ft. per large animal (25 pounds or heavier at maturity) in excess of one or per ten smaller animals in excess of the first ten. 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 Section 4700.

4. No in B-1 Districts.
5. See Section 4800.
6. More than half the volume sold as retail on the premises.
7. See Section 4600.
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 Sections 3400 and 4420.
13. But none in excess of the number legally parked on the effective date of this amendment.
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 sq. ft. per large animal (25 pounds or heavier at maturity) in excess of one or per ten smaller animals in excess of the first ten. 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 Section 4420.
17. See Section 4300.
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.
- \* See Section 4110.

\*\*\*\*\*

## **2500. Intensity of Use Regulations**

**2510.** All buildings hereafter erected in any district shall be located on a lot such that all of the minimum requirements set forth in the following Table are conformed with except where specifically exempted by this Bylaw or by General Law.

**2520.** 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.

Recording a plan in violation of these requirements, even if endorsed by the Planning Board to the effect that approval under the Subdivision Control Law is not required, constitutes a violation of this Bylaw, subject to enforcement actions under Sections 1220 and 1250. 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.

**2530. Isolated Lots and Subdivisions.** 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 Section 6, Chapter 40A, G.L., or the applicant documents that:

- (a) at the time such increased requirement became applicable to it, the lot:
  - (1) For single family development - had at least 5,000 sq.ft. of lot area and 50 feet of frontage on a street. For non-residential development in the B-1 and Industrial zoning districts - had at least 20,000 sq.ft. of lot area and 125 feet of frontage on a street; and
  - (2) was not held in common ownership with any adjoining land; and
  - (3) conformed to then-existing dimensional requirements; and
- (b) the lot is to be used in conformance with the uses allowed for such district;
- (c) yards shall be not less than the following, except that footnotes "b", "c" and "g" of Section 2600 of this Bylaw shall remain in effect for non-residential development:.

Actual Frontage	Required Yard		
	Front	Side	Rear
Less than 125'	20'	8'	16'
125-150'	20'	10'	20'
More than 150'	30'	15'	20'

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.

**2540.** 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.

**2550.** Public Housing shall be exempt from the minimum requirements of Intensity of Use as set forth in Sec. 2600.

**2560.** Not more than one single-family or two-family dwelling shall be erected on a lot.

**2570.** 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 Section 4400 and all other pertinent sections of the Bylaws.

**2580. Back Lot Division.** 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.

**2581.** The lot having reduced frontage must have frontage of at least 50 feet.

**2582.** 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.

**2583.** The lot having reduced frontage must be capable of containing a square with sides equal to the normally required lot frontage.

**2584.** All other requirements specified in Section 2600, Intensity of Use Schedule, must be met.

**2585.** 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.

**2586.** 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.

**2587.** The proposal must be determined by the Planning Board to not circumvent the intent of the Subdivision Control Law.

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".

**2590. 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 twenty-two (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.

## **2600. Intensity of Use Schedule**

	<b><u>D I S T R I C T</u></b>						
	<b>A</b>	<b>S</b>	<b>R</b>	<b>M</b>	<b>B-1</b>	<b>B-2</b>	<b>I</b>
Min. Lot Area (sq.ft.)							
Two-family dwelling	160,000	80,000	80,000	80,000	80,000	80,000	---
Other uses <sup>f</sup>	80,000	40,000	40,000	40,000 <sup>g</sup>	40,000	40,000	60,000
Min. lot frontage (ft.)	200	150	150	150	150	150	200
Min. front yard <sup>a,d</sup> (ft.)	30	30	20	30	20	30	20 <sup>c</sup>
Min. side yard (ft.)	15	15	10	15	10 <sup>b</sup>	15 <sup>g</sup>	10 <sup>g</sup>
Min. rear yard (ft.)	20	20	20	20	20	20 <sup>g</sup>	20 <sup>c</sup>
Min. landscaped open space (sq.ft./dwelling unit)	---	---	---	2,000	---	---	---
Maximum building height (ft.)	35	35	35	35	35	45	45

- (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 Section 4400 Special Residential Uses.
- (f) (deleted footnote –ATM 5/19/99 –Art.34)
- (g) for industrial or commercial uses, increase to 30 ft. where adjoining an Agricultural, Suburban, Residential, or Multifamily District or residential use.

**2610. Height Limitations.** No building or portion thereof or other structure of any kind shall exceed the heights permitted buildings under Section 2600 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 ten (10) feet or twenty (20) percent 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 Section 3 of Chapter 40A dealing with such antennae.

*[n.b. Sections 2620-2680 not used]*

**2690. Targeted Housing.** On special permit from the Planning Board, dwelling units may be designated as "Targeted", provided that:

- (a) either the development containing the unit qualifies to seek a Comprehensive Permit under Chapter 40B, G.L., or the dwelling unit meets the definition of "Assisted elderly housing" in Section V of this Bylaw.
- (b) the Planning Board finds that the housing is consistent with policy guidelines it has approved for Town-wide housing development.
- (c) 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.

The lot area requirements for such targeted units shall equal one-half those provided in Section 2600, Intensity of Use Schedule, and frontage requirements shall equal two-thirds of those requirements. All other intensity of use requirements shall be met.

## **ARTICLE III. GENERAL REGULATIONS**

### **3100. Sign Regulations**

#### **3110. General Sign Prohibitions**

3111. 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.

3112. 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. (Sec.9, Ch.87, G.L.).

3113. No non-accessory sign or billboard shall be erected except as allowed under Section 3133.

3114. 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.

3115. 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 curb lines of intersecting streets (or by street curb lines 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.

3116. No sign shall be located within ten feet of the street line unless allowing essentially clear vision to at least six (6) 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.

#### **3120. Permitted Temporary Signs in all Districts.**

3121. Any sign if in accordance with limitations set for permanent signs.

3122. An unlighted sign of up to 20 sq. ft. indicating parties involved in construction on the premises.

3123. An unlighted sign of up to six square feet pertaining to lease or sale of the premises.

3124. A sign of up to ten square feet pertaining to a subdivision while under development, only with permission of the Planning Board.

3125. Signs inside display windows covering not more than 30% of window area, illuminated by building illumination only.

3126. 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.

3127. Except as elsewhere more specifically provided, temporary signs shall be erected no earlier than fourteen (14) days prior to the event to which they pertain (e.g. the commencement of construction), and shall be removed within seven (7) days after the conclusion of that event, but in any event not to remain in place in excess of six (6) months.

**3130. Permitted Permanent Signs in Agriculture, Suburban and Residential Districts.**

3131. 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 feet in area.

3132. One sign not over nine sq. ft. in area pertaining to permitted buildings and uses of the premises other than dwellings and their accessory uses.

3133. 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.

**3140. Permitted Permanent Signs in Other Districts.**

3141. Any signs permitted in Agriculture, Suburban and Residential Districts.

3142. Accessory signs attached to a building, provided that they aggregate not more than 20% of the wall area they are viewed with.

3143. Freestanding accessory signs, provided that they aggregate not more than 100 square feet in area.

3144. The total area of all signs, either attached to a building or free standing, shall aggregate not more than three square feet per foot of lot frontage on the street towards which they are oriented.



### **3200. Environmental Controls.**

**3210. 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.

#### **3220. Noise**

**3221. Noise Receiving Zones are defined as follows:**

**RECEIVING ZONE A:** Business and Industrial districts.

**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.

**RECEIVING ZONE C:** All other locations.

**3222. 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 Section 3224 shall not be exceeded by more than 20 dB(A) at any time, or by more than 10 dB(A) for more than ten 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.

**3223. Exceptions.** This regulation shall not apply to the following:

- (a) 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.
- (b) Human or animal noises unless mechanically or electronically amplified.
- (c) Farm equipment.
- (d) Construction equipment between the hours of 7:00 AM and 9:00 PM, 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.
- (e) 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.
- (f) 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.
- (g) (This section, subsection (g), disapproved by Attorney General on 9/29/99).

- (h) Activities authorized on special permit under Section 3290, where peculiarities of the location or activity assure that there will be no unreasonable adverse disturbance to use and enjoyment of nearby premises.

**3324. Standards.** (This section should be numbered 3224. — To be corrected at a future town meeting) 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 AM until 9:00 PM on all days except Sundays and legal holidays, when it shall be from 12:00 noon until 9:00 PM. 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)

**3230. Light and Glare**

**3231.** Lighting fixture types are defined as follows:

Type 1. No light cutoff.

Type 2. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from vertical, and essentially no light is emitted above the horizontal.

Type 3. Luminaire shielded such that total cutoff is at less than 90 degrees from vertical, and no light source is in direct view of an observer 5 feet above the ground at any point off the premises.

**3232. Lighting Limitations.** The following limitations shall be observed by all uses, unless granted a special permit under Section 3290, upon determination by the SPGA 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.

## LIGHTING LIMITATIONS

### DISTRICTS

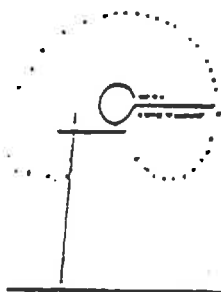
**B - 1, B - 2, I      Other**

#### Maximum luminaire mounting height (feet)

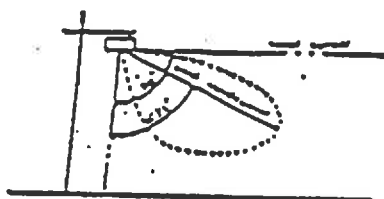
Fixture Type 1	20	10
Fixture Type 2	30	15
Fixture Type 3	40	20

#### Maximum off-site over spill (foot-candles)

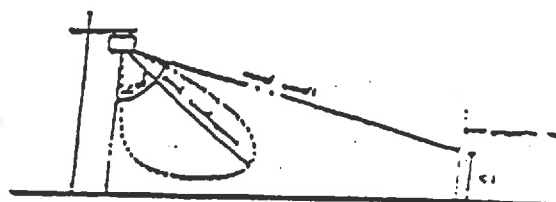
Fixture Type 1	0.3	0.2
Fixture Type 2	1.0	0.3
Fixture Type 3	3.0	0.5



Type 1: No Cutoff Luminaire



Type 2: 90 degrees Cutoff Luminaire



Type 3: Luminaire with less than 90 degree cutoff

**3233.** 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.

**3234.** 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.

#### **3240. Air Quality**

**3241.** 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 Section 3290.

**3242.** 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.

### **3250. Hazardous Materials**

Use of premises involving one or more of the following may be permitted only if granted a special permit under Section 3290.

- (a) manufacturing as the principal use of the premises, if the products manufacture are either:
  - (i) when wastes, regulated as hazardous under Ch. 21C., G.L.; or
  - (ii) 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 105CMR480, 00. Department of Public Health, State Sanitary Code and includes: blood and blood products; pathological waste; cultures and stocks of infections agents and associated biologicals; contaminated animal carcasses, body parts and bedding; sharps; and biotechnological bi-product effluents.

### **3260. 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 (3) minutes or more in any hour between 7:00 AM and 9:00 PM or for thirty (30) seconds or more in any one hour between 9:00 PM and 7:00 AM. 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.

### **3270. 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.

## **3280. Stormwater Management**

**3281. Foundation Grade.** 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.

**3282. Stormwater Detention.** All development requiring in excess of ten (10) parking spaces shall conform to the drainage requirements specified in the Rules and Regulations Governing the Subdivision of Land. Drainage design (hydrology) shall address, at a minimum, 2, 10, and 100-year 24-hour rainfall storms, using TR-55 methods. Additionally, the drainage piping system (hydraulics) shall be designed for the 25-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 offsite. Pretreatment is required with any recharge facilities unless receiving flows are from rooftop areas only. An Operation and Maintenance Plan for the proposed drainage system, including a schedule for annual reporting, shall be submitted for review and approval. Drainage calculations by a registered Professional Engineer shall be submitted to the reviewing body.

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. 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.

## **3290. Special Permits**

**3291. Special Permit Granting Authority.** The Special Permit Granting Authority (SPGA) for applications authorized under Section 3200 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 Section.

**3292. Submittals.** Applicants shall submit such material, including technical analyses, as is reasonably necessary for the SPGA to make the determinations under 3293 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.

**3293. 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.

### **3300. Parking and Loading Requirements.**

#### **3310. Number of Spaces**

**3311. Basic requirements.** 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 Section 3320 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.

**3312. Allowed reduction.** The number of spaces may be reduced to less than that stipulated below if, in acting on the Plan under Section 1420, the Planning Board determines that a smaller number would be adequate for all parking needs because of such special circumstances as shared 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. Such a reduction is contingent upon evidence being provided to the Planning Board that the site has sufficient reserve area, suitable for conversion to graded, surfaced and drained paving areas, to meet the requirements of Section 3320.

**3313.** For the purpose of computing the parking requirements of different uses, the number of spaces required shall be the largest whole number obtained after increasing all fractions upwards to one. Employees shall include the largest number of owners, managers, full and part time workers, and volunteers that may normally be expected to be employed on the premises during any single shift or portion thereof. The number of seats in benches, pews, or other continuous seating arrangements shall be calculated at twenty (20) inches per seat.

#### **3320. Schedule of Requirements**

**(a) Dwellings:**

Single- and two-family having no boarders or lodgers: two spaces per dwelling unit;

Assisted elderly housing: one space per bedroom;

Other dwellings: two and one-half spaces per dwelling unit, plus one space per bedroom used for boarding and rooming.

**(b) Places of Public Assembly:**

One parking space for each three persons capacity based on the Massachusetts State Building Code.

**(c) Hotels, Motels, Room and Board, Other Commercial Accommodations:**

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

(d) Restaurant:

One parking space per 2 seats based on the legal seating capacity of the facility (including seasonal outdoor seating), plus one space for each employee on the largest shift, plus one space per 100 square feet of function space not designed for eating, plus one space for each 6 square feet of waiting area. Waiting area is defined as the area likely to be used by patrons waiting to be seated or served, particularly during peak times. Waiting areas do not have to have seats to be considered waiting area space. For those uses with high demand periods, outside waiting areas may also be included. Waiting areas shall be labeled on floor plans to be submitted to the Planning Board. The Planning Board shall review the proposed waiting area designation to determine if they believe it is adequate based on the proposed restaurant.

(e) Commercial Recreation:

One parking space per two persons participant capacity, plus one space per three persons spectator capacity.

(f) Auto Service/Fuel Station:

One space per pump, plus one space per employee, plus three spaces per service bay. For service/fuel stations with a retail store: The requirements above plus one space per 50 square feet of gross floor area of retail space.

(g) Retail Businesses, Printing Shop/Copy Center, Other Service Establishments:

One parking space per 150 square feet of gross floor area, but not fewer than three spaces per separate enterprise.

(h) Offices:

One parking space per 200 square feet of gross floor area.

(i) Wholesale and Industrial Establishments:

One parking space per 250 square feet of office area plus one space per 500 square feet of production area plus one space per 2,000 square feet of storage area, but capable of expansion to not less than one space per 500 square feet gross floor area.

(j) Convalescent, Nursing or Rest Home, Hospital or Sanitarium

One space per three beds, plus one space per employee on the largest shift, plus one space per two visiting staff (i.e., attending physician, specialists, etc.)

(k) Other Uses:

A number of spaces to be determined by the Building Inspector (or the Planning Board in cases referred to it under Section 1420) based upon evidence from similar uses under similar circumstances.

(l) Mixed Uses:

Requirements for each use are added, unless it is determined that a smaller number is adequate because of staggered hours.

**3330. Parking Area Design and Location**

**3331. 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 Section 1420, for cases such as seasonal or periodic use where unpaved surfaces will not cause dust, erosion, hazard or unsightly conditions.

**3332. 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."

**3333. Backing.** Parking areas for five or more cars shall not require backing into a public way.

**3334. 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 Section 1420 the Planning Board determines that circumstances justify a greater separation of parking from use.

**3335. 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.

- (a) Entrance or exit centerlines shall not fall within 50 feet of an intersection of street sidelines or within 250 feet of the centerline 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.

**3336. Regulations.** The Planning Board shall adopt and from time to time may amend dimensional and other regulations for the administration of these design and location requirements.

**3337. 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.

- (a) 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, as well as meeting the requirements of paragraph (b).



- (b) Driveways, whether shared or not, must meet the following standards if more than 200 feet in length or serving five (5) or more parking spaces.
  - (1) The traveled way shall be paved (unless paving is waived by the Planning Board as provided at Section 3331) at least ten (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.
  - (2) Centerline radius shall be at least 80 feet, and grade shall not exceed 12%.
- (c) 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 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.
- (d) 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. 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 85<sup>th</sup> percentile speed of the major roadway. 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 is not waiverable.

#### **3340. 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-thru traffic or be parked on a public way while loading, unloading or waiting to do so.

### **3400. Major Proposals.**

#### **3410. Applicability.**

Any use which elsewhere in this Bylaw is made subject to this Article requires Concept Plan approval by town meeting prior to being acted upon for special permit approval. Approval shall be by two-thirds vote of the town meeting, and may be made with conditions or limitations. Special permits shall then be required, and shall be approved by the Planning Board only upon determination by that Authority that the proposal is consistent with the approved Concept Plan, or in the event of an inconsistency, that the departure is necessitated by changed conditions or earlier error, and that the inconsistency does not result in less beneficial development, based on the considerations of Section 3420.

#### **3420. Considerations.**

Compliance of the proposals with the following considerations shall be reported to the town meeting by the Planning board, and shall be the basis for subsequent special permit approval.

##### **3421. Location**

- (a) The proposal should be located near uses which are similar to the proposed use or, if not, the nearby uses should be permanently buffered from the use or be ones likely to benefit from rather than be damaged by having the proposal nearby.
- (b) Providing adequate water and sewerage to this location for this use should pose no special public problems.
- (c) The site should be able to accommodate the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets.

##### **3422. Activity Type and Mix**

- (a) Non-residential proposals should contribute to the diversity of services available locally.
- (b) Residential proposals should add to the range of housing choice available locally.

##### **3423. Visual Consequences**

- (a) Scenic views from public ways and developed properties should be considerately treated in the site arrangement and building design.
- (b) Visibility of parking and service areas from public streets should be minimized through site arrangement, and such areas should be screened from abutting premises by such method of screening as approved by the Planning Board.
- (c) Domestic scale should be maintained in the building's design through massing devices, such as breaks in wall and roof planes and through the design of architectural features.

**3424. Access**

- (a) Access to the location, considering any special access provisions committed (ride-sharing, etc.) should increase existing traffic by no more than 10% at any point for residential developments, 25% for non-residential ones.
- (b) Pedestrian and vehicular movement to, from and within the site should be safe and convenient and arranged so as not to disturb abutting properties.

**3425. Development Rate**

- (a) Town-wide, development should not outpace the ability of the Town to provide necessary off-site services, including schools, water and road capacity.
- (b) Development making unusually large demands on service capacities should not be allowed to preempt smaller developments from gaining a fair share of that capacity.

**3430. Procedures**

**3431. Concept Plan Contents.** A Concept Plan shall consist of the following:

- (a) A schematic development plan, indicating boundaries of the lot, buildings, roads, drives, parking, reserved open space, existing topography and proposed grading, areas of retained vegetation and proposed planting areas.
- (b) Floor plans and elevations of all existing and proposed structures.
- (c) Materials indicating the proposed ultimate floor area in each use; the number of dwelling units distinguishing by number of bedrooms and any special occupancies (e.g. elderly or handicapped); form of tenure; any subsidies or sales price or rent ceilings anticipated; time schedule for development; service improvements proposed at the developer's and those anticipated at the Town's expense.
- (d) Analysis indicating degree of consistency with each of the considerations of Section 3420.

**3432. Pre-Town Meeting Hearing.** Prior to town meeting action, the Planning Board shall hold a public hearing on the Concept Plan with timing, notice, and procedures the same as those required for a hearing on a zoning bylaw amendment. The Planning Board shall report its recommendation to the town meeting, with a copy of the recommendation to be filed with the Town Clerk not less than 14 days prior to the town meeting vote on the Concept Plan.

**3433. Special Permit.** Application for an initial special permit must be made not more than 12 months after the town meeting approval of the Concept Plan.

### **3500. Landscaping Requirements**

**3510. 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 ten or more spaces. The Planning Board in acting under Section 1420 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.

#### **3520. Plantings**

**3521. 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" 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" in height at the time of building occupancy, reach an ultimate height of at least 36", and be of a species common in the area.

**3522. 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.

#### **3530. Planting Areas**

**3531. 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.

**3532. 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).

**3533. 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.

**3534. 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 un-buildable or visually separated by topographic features. Required planting shall be located within ten feet of the boundary.

**3540. 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.

**3550. 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 6" 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.

**3560. 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 Section 1420, provided that proposed buildings are also designed and located to preserve that scenic view.

**3570. 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 IV. SPECIAL REGULATIONS**

### **4100. Accessory Uses**

#### **4110. Home Occupations**

**4111.** Home occupations are permitted without need for a special permit only if conforming to each of the following conditions:

- (a) 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.
- (b) Not more than one person not a member of the household shall be employed on the premises in the home occupation.
- (c) 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.
- (d) The environmental requirements of Section 3200 shall be complied with.
- (e) 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.
- (f) The parking generated shall be accommodated off-street, other than in a required yard, and shall not occupy more than 35% of lot area.
- (g) There shall be no retail sale of articles not produced on the premises or incidental to the occupation.

**4112.** 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.

- (a) 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.
- (b) On-premises employment of a second or third person not a member of the household.
- (c) Exterior parking of a commercial vehicle.
- (d) Traffic determined by the Building Inspector to exceed the limits of item 4111(e).
- (e) Parking within a required yard, provided that it is effectively screened from the street and abutting premises.

**4120. 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.

**4130. Family Apartment.** A special permit authorizing a Family Apartment may be granted only if consistent with the following.

**4131. Development Requirements.**

- (a) 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 (2) years at the time of application.
- (b) Any increase in floor area shall meet the requirements of Section 2600 without variance or Special Permit.
- (c) The Applicant must acquire Board of Health approval that the sewerage disposal will be within the legal requirements.
- (d) Parking shall be as required in Section 3300 for a two Family Dwelling unit.

**4132. Occupancy Requirements.**

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

**4133. Procedural Requirements.**

- (a) 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:
  - i) whether lot area or other site characteristics assure mitigation of any impacts on the neighborhood;
  - ii) whether there is enforceable assurance that occupancy of the unit will serve significant community purposes, such as facilitating care for the elderly or handicapped;
  - iii) whether there is a financial hardship to the family;
  - iv) whether site and building design are within the character of the neighborhood.
- (b) 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.

- (c) 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 sixty (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 Section 4130. 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.
- (d) Sale of the lot or dwelling that is the subject of the Special Permit shall nullify the Permit on the date of sale.
- (e) 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.

#### **4200. Mobile Homes, Trailers, and Campers**

4210. No mobile home, trailer, or camper shall be used for permanent residence.

4220. 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 12 month period, provided it is so placed on the lot as to meet minimum yard requirements.

4230. 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.

4240. Replacement of mobile homes parking in non-conformity with Section 2400 is not permitted, even where such replacement does not increase the extent of non-conformity.

#### **4300. Major Residential Development**

##### **4310. 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.

4311. Location of development on sites best suited for building, and protection of land not suited for development, reflecting such considerations as:

- 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;
- protection of water bodies, streams, wetlands, wildlife habitats, and other natural resources;
- 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;



- protection of street appearance and capacity by avoiding development close to or having egress directly onto existing streets.

**4312.** Efficient patterns for construction and maintenance of public facilities and services such as streets and utilities.

**4313.** Promotion of social and economic diversity.

**4314.** Privacy for residents of individual lots.

**4315.** Avoidance of unnecessary development cost.

**4320. Applicability.**

Section 4300 shall apply to all Major Residential Developments as defined in Article V.

**4330. Procedures.**

Special permits for Major Residential Development shall be acted upon through a two-step decision process, the Planning Board first identifying the Preferred Plan, and second determining if that plan complies with the requirements of Section 4300. At the applicant's option, both steps may be taken based upon Definitive Plan-level materials. Alternatively the identification of the preferred plan may be made based upon concept-level materials with the compliance decision subsequently being made based upon definitive-level materials, with hearing continuations allowing public review and input at both steps.

**4331. Alternative Plans.** Applicants for Major Residential Development shall submit, among other things, two Alternative Plans. These Alternative Plans shall include the basic development proposal that the owner prefers and a substantially different alternative proposal. Examples of 'substantially different' would be a conventional subdivision plan versus one using the alternative dimensional regulations of Section 4350, or two plans of the same type but having major differences in the number of lots created, road pattern, or open space configuration. For the purposes of determining the number of potential lots in the development, a conventional layout plan must be submitted if a conventional layout is not one of the two proposed Alternative Plans.

**4332. Application for Major Residential Development.** Applicants for Major Residential Development shall file the following except for any submittal items which the Planning Board may have waived in writing prior to application submittal, based on its determination that the waived information would not be germane to the decision, or would be unjustified in light of the scale, location, or other attributes of the proposal. Application packages shall be filed pursuant to the Planning Board's "Form K Distribution List" (as most recently amended), plus one package shall be filed with the Bellingham Historical Commission.

- (a) A Design Concept Plan for both alternatives, prepared by a team that includes one or more registered Civil Engineers, Land Surveyors, and either or both Architects and Landscape Architects. The plan shall indicate schematically how the configuration of site grading, building design and locations, roads and drives, sidewalks and trails, wells and sewage disposal facilities, retained vegetation and new plantings, building lots and reserved open space are proposed to be shaped in relation to the qualities of the site and the concerns of the Town, reflecting consideration of site topography, geology, environmental resources, cultural resources, microclimate, visibility and viewsheds,

access convenience and safety, and other planning considerations. The Design Concept Plan shall normally include the following (at uniform scale if shown on separate sheets, plus an index sheet):

- Existing Site Conditions: location and boundaries of the site, water bodies, streams and wetlands (delineation to be accepted by the Conservation Commission in accordance with the Massachusetts Wetlands Protection Act prior to the Planning Board rendering a decision on which Alternative Plan to pursue), topography at two-foot intervals, identification of land having slopes in excess of 25%, identification of general cover type (wooded, cropland, etc.), location of Designated Natural or Cultural Resources, and existing ways;
  - 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.
  - 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 non-residential use;
  - Landscape Plan: identifying areas of retained vegetation, proposed plantings, proposed restrictions upon vegetation alteration, and other elements of an integrating conceptual landscape design.
  - MRDs containing twenty (20) or more dwelling units shall also submit documentation of having consulted with the Bellingham Conservation Commission, the Bellingham Historical Commission and the Massachusetts Historical Commission regarding Designated Natural and Cultural Resources; and evidence that all feasible efforts have been made to avoid, minimize, or compensate for any damage to any of those identified resources.
  - Such other information as the Planning Board may reasonably find necessary for making informed determinations on the proposal.
- (b) Floor plans and elevations for any proposed buildings other than detached single-family dwellings and typical accessory structures (e.g., sheds, garages)
- (c) 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.
- (d) 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.

- (e) Prior to the final special permit decision (but not necessarily prior to identification of the preferred plan) a plan satisfying all requirements for a Definitive Subdivision Plan under the Subdivision Regulations of the Bellingham Planning Board.
- (f) Any additional information necessary to make the determinations and assessments cited in Section 4360 Decision.

**4333. Review and Decision for Major Residential Development Special Permit.** The DPW, Board of Health, and Conservation Commission shall submit reports to the Planning Board within 35 days of application, and the Planning Board shall make no decision upon the application until receipt of all such reports or until 35 days have elapsed since date of application without such reports.

#### **4340. Use Regulations.**

Uses allowed in a Major Residential Development shall be all those permitted or allowed on special permit at that location under Section 2400 Use Regulations Schedule and other provisions of this Bylaw, whether residential use or non-residential use, so long as at least a majority of the proposed floor area within the development is committed for residential use, and provided that all other requirements of the Zoning Bylaw, including, if applicable, approval under Section 1420 Development Plan Approval, are complied with.

#### **4350. Alternative Dimensional Regulations.**

The following alternative dimensional regulations may be used in preparing plans for Major Residential Development, rather than those of Section 2600 Intensity of Use Schedule, except where specified below.

**4351. Allowable Number of Dwelling Units.** The maximum number of dwelling units that may be allowed shall equal the maximum number of units that could reasonably be expected to be created with the proposed mix of single-family dwellings, two-family dwellings, and special residential uses through conventional development of the land under Section 2600 Intensity of Use Schedule and Section 4400 Special Residential Uses without substantial waivers or variances from applicable regulations, as determined by the Planning Board. In making that determination, land proposed for use other than residential, open space, or circulation shall be excluded. The Planning Board may limit the development to a smaller allowable number of units only upon its determination that special circumstances of this site location or design that are not generally true throughout the vicinity make that reduction necessary in this case to protect important public concerns.

**4352. Other Dimensional Regulations.** Other dimensional regulations for individual lots (but not for determining the allowable number of dwelling units) shall be as follows, rather than as provided at Section 2600 Intensity of use Schedule.

- (a) **Lot Area.** Minimum lot area shall be that necessary to meet requirements for building envelope ((d) below) and for Board of Health requirements, but lot area in no event shall be less than 20,000 square feet.
- (b) **Lot frontage and lot width.** The lot frontage and lot width through buildings or structures shall be that necessary to meet requirements for building envelope requirements and to provide for adequate access to the building site, but in no event shall lot frontage or width be less than thirty-five (35) feet.

- (c) **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.
- (d) **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.
- (i) Building envelopes shall include no land within front, side and rear yards based upon requirements contained in the Intensity of Use Requirements of Section 2600 applied as follows:
    - For yards measured from the boundary line at the perimeter of the Major Residential Development the requirements for the Suburban District shall apply.
    - 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.
  - (ii) Building envelopes shall include no land within any wetland, flood plain, or slope in excess of 25%.
  - (iii) Building envelopes shall not be located within 100 feet of any Designated Natural or Cultural Resource unless, in approving the Major Residential Development 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.
  - (iv) 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.

**4360. Other Requirements.**

**4361. Common Open Space.** Any proposed common open space within the Major Residential Development shall be conveyed to the Town or its Conservation Commission and accepted for park or open space use, or shall be conveyed to a non-profit organization the principal purpose of which is the conservation of open space, or shall be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plan, as provided by Section 9 of Chapter 40A, G.L. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and not be built upon or developed for accessory uses such as parking or roadway. Building coverage shall not exceed 5% in such conservation or recreation areas.

**4362. 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.

**4370. Decision.**

**4371. Decision Basis.** The Planning Board shall approve or approve with conditions a Special Permit for Major Residential Development for either the basic or alternative development proposal, whether a 'conventional' plan or one utilizing the flexibility provisions of these provisions, provided that the Board determines that both submitted plans are feasible and responsive design efforts to serve the following provisions of the Zoning Bylaw, but that the selected one does so better than does the one not selected:

- (a) Section 1100 Purpose;
- (b) Section 1530 Special Permit Criteria;
- (c) Section 3420 Major Proposal Criteria (regardless of whether or not the proposal is otherwise subject to Section 3400 Major proposals);
- (d) Section 4310 Major Residential Development Intent.

**4372. Disapproval.** The Board shall disapprove both plans only if it determines that one or both of the plans are not feasible and responsive designs, or that the plan that better meets the objectives of these provisions does not conform to the requirements of the Zoning Bylaw.

**4373. Relationship to Subdivision Plan.** Planning Board approval of a Special Permit for a Major Residential Development shall neither oblige the Planning Board to approve any related Definitive Plan nor substitute for such approval.

The Design Concept Plan, Special Permit application, and if a non-conventional layout is proposed, a Conventional Layout Plan (to allow for final determination of the number of lots) shall be prepared and submitted to the Planning Board concurrent with a Definitive Plan for subdivision of land. The applicant may submit a combined plan and application that conforms to all requirements of Section 4333 and all Definitive Plan requirements of the Subdivision Regulations of the Bellingham Planning Board.

**4374. 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 Design Concept 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 Section 4361. Unless the Planning Board has specifically approved staged development, such plan shall show all lots to be included in the Development.

#### **4400. Special Residential Uses.**

Special residential uses are Townhouses, Assisted Elderly housing, Public Housing, and Other Multi-family Housing.

##### **4410. Townhouse Dwellings.**

As provided in Section 2400 Use Regulation 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:

**4411.** Minimum lot area shall be 10,000 sq. ft. per bedroom, but in no case shall lot area be less than 20 acres.

**4412.** Approval of the special permit shall be based upon the criteria of Section 4455 Decision.

##### **4420. Assisted Elderly Housing.**

As provided in Section 2400 Use Regulation 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:

**4421.** For units designated as 'targeted' by the Planning Board under Section 2690, lot area and frontage requirements shall be as specified in that Section, rather than Section 2600 Intensity of Use Schedule.

**4422.** The following information shall be submitted in addition to the submittal requirements of Sec.1423:

- (a) A description of the proposed management of the facility.
- (b) A description of the services to be provided to the residents and how such services are to be supplied.
- (c) A description of all common or shared areas.

**4423.** Approval of the special permit shall be based upon the criteria of Section 4455 Decision.

#### **4430. Public Housing.**

As provided in Section 2400 Use Regulation Schedule, Public Housing is a permitted use in all districts except the Industrial district. Public housing is exempt from the minimum requirements of Section 2600 Intensity of Use Schedule.

#### **4440. Other Multifamily Dwellings.**

As provided in Section 2400 Use Regulation Schedule, multifamily dwellings other than townhouse dwellings, assisted multifamily housing, or public housing are allowed only:

- (a) in the Multifamily District, or
- (b) 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 Section 2400 footnote 10).

**4441. 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.

**4442. 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.

**4443. Approval of the special permit** shall be based upon the criteria of Section 4455 Decision.

#### **4450. 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.

**4451. Major Development.** Special permits resulting in either 50 or more dwelling units or 100 or more bedrooms on that and abutting parcels which have been in common ownership at any time subsequent to January 1, 1989, shall be construed to be Major Proposals, and therefore may be approved only following concept plan approval as provided in Section 3400.

**4452. 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.

**4453. Submittals.** The application for a Special Permit shall be accompanied by six copies of:

- (a) a Site Plan including the items required under Section 1423(a) (but they may be at a concept rather than final level of detail);
- (b) a proposed staging plan, if building permits are not to be immediately sought for all units; and

- (c) a ground floor plan and architectural elevations of all proposed buildings, prepared by a registered Architect.

Those materials shall be circulated for review as provided at Section 1422(b). 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.

**4454. 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 Sec. 17, Ch. 40A, G.L. from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

**4455. 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 Section 1530. 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.

**4456. 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, the housing cost and feasibility consequences of the limitation, and the considerations of Section 3420 for Major Proposals. Such development rate may be less than but not more than that contained in the Concept Plan, if any, approved by Town Meeting.



#### **4500. Flood Plain Requirements**

##### **4510. District Establishment.**

The Flood Plain District is herein established as an overlay district. The uses in underlying districts are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in flood plains. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Bellingham Flood Insurance Rate Maps, (FIRM), and the Flood Boundary and Floodway Map, Community-Panels Numbers 250232 00001-0007, effective Dec. 15, 1982 on file with the Town Clerk and Building Inspector. Those maps as well as the accompanying Bellingham Flood Insurance Study are incorporated herein by reference.

##### **4520. Development Regulations.**

The following requirements apply in the Flood Plain District:

**4521.** 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 or flood proofing requirements, as appropriate, of the State Building Code.

**4522.** In the floodway designated on the Flood Boundary and Floodway Map, the following provisions shall apply:

(a) 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 levels during the occurrence of the 100-year flood.

(b) Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.

#### **4600. Earth Removal Regulations**

##### **4610. 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 Section 4620 through 4670.

##### **4620. Permitted Activities.**

The following activities do not require a Special Permit and are not subject to subsections 4630 through 4670. 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 Section 4650 Restoration within a period to be specified in the Permit. Performance security as specified at Subsection 4622 shall be required by the Inspector of Buildings where other means of assuring timely restoration are not available.

- (a) Removal of less than 50 cubic yards of materials within any 12 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 Subsection 1423, 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 Section shall be complied with. From that expiration date, full compliance with all the requirements of Section 4600 must be met.

**4630. Permit from the 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:

4631. 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 1"=100' topographic maps. Plans for Major Removal, which are those involving more than two thousand five hundred (2,500) cubic yards or more than two (2) acres, shall be prepared by a registered land surveyor, and in addition to the above, shall show the following:

- \* existing topography in the area for which material is to be removed and for one hundred (100) feet beyond that;
- \* estimates of the evaluation of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the USGS;
- \* grades below which excavation will not take place;
- \* proposed finish grades upon completion of removal and restoration activities;
- \* 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.

4632. 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.

4633. 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.

#### **4640. Removal**

4641. 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.

4642. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

4643. A 100 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.

4644. 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.

4645. 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.

#### **4650. 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 (Sec. 4632), that entire area shall be restored as follows:

4651. 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.

4652. All boulders larger than 1/2 cubic yard and stumps shall be removed.

4653. 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.

4654. 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.

**4660. 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.

**4670. Renewal or Renovation of Permit.**

No permit shall be issued under the provisions of Section 4600 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 Section 4650.

**4700. Major Business Complex**

**4710. Applicability.**

Major Business Complexes shall be granted special permits only in districts where allowed under Section 2400 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.

**4720. 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.

**4721. 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.

**4722. 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.

**4723. 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.

**4730. 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 degrees in slope resulting from site grading shall be retained with vegetative cover reasonably sufficient to prevent erosion.

#### **4740. Traffic Mitigations.**

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.

#### **4800. Motor Vehicle Service Stations**

Motor vehicle service stations shall be granted a Special Permit only in conformity with the following:

**4810. Entrances, 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.

**4820. 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.

**4830. 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.

**4840. Off-Street Spaces.** There shall be at least two additional waiting spaces per filling position.

**4850. Service Building.** 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.

**4860. Fuel Storage Tank.** No fuel storage tank shall be located within 20 feet of any lot line.

**4870. Service Safety.** Self-service gasoline stations shall be allowed by grant of a Special Permit from the Bellingham Board of Selectmen.

#### **4900. Water Resource Districts**

**4910. Purpose.** The purpose of the Water Resource District is to protect the public health by preventing contamination of the ground and surface water resources providing water supply for the Town of Bellingham.

**4920. Establishment of District.** The Water Resource District is hereby established as an overlay district. The District is bounded on the map entitled "Water Resource District" dated November 22, 1995, appended to these Zoning By-laws and on file with the Town Clerk and Building Inspector.

**4930. Use Regulations.** The Water Resource District shall be considered to be superimposed over any other district established in this By-Law. Land in the Water Resource District may be used for any use otherwise permitted in the underlying district, subject to the following limitations.

**4931. Prohibitions.** The following are prohibited on any lot or portion of a lot within the Water Resource District.

- (a) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21 (2)a. Generally, those are the following (see 310 CMR 22.21 (2)a, on file with the Building Inspector, for exact provisions):
  - (1) Landfills, open dumps and landfilling of sludge or septage;
  - (2) Auto graveyards or junkyards;
  - (3) Stockpiling and disposal of snow from outside of the District, if containing ice control chemicals;
  - (4) Individual sewage disposal systems designed to receive more than 110 gallons per day per 1/4 acre or 440 gallons per day on any one acre;
  - (5) Treatment or disposal works for non-sanitary wastewaters subject to 314 CMR 5.00, except for replacement or repair of existing systems without expansion, or treatment works approved by DEP designed for the treatment of contaminated ground or surface waters;
  - (6) Facilities that generate, treat, store or dispose of hazardous waste subject to MGL. C.21C and 310 CMR 30.00, except:
    - (i) very small quantity generators as defined under 310 CMR 30.00;
    - (ii) household hazardous waste centers and events under 310 CMR 30.390;
    - (iii) waste oil retention facilities required by MGL. C.21, 52A;
    - (iv) remediation treatment works approved under 314 CMR 5.00.
- (b) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21 (2)b, unless designed in accordance with specified performance standards. Generally, those are the following (see the 310 CMR 22.21 (2)b, on file with the Building Inspector, for the exact provisions):
  - (1) Storage of sludge and septage unless in accordance with 310 CMR 32.30 and 310 CMR 32.31;
  - (2) Storage of commercial fertilizers and soil conditioners unless within a structure designed to prevent generation and escape of contaminated runoff or leachate;
  - (3) Storage of animal manure unless covered or contained;
  - (4) Storage of liquid hazardous materials as defined in MGL C.21E unless in a free standing container within a building or above ground with adequate secondary containment.

(5) Earth removal to within 4 feet of historical high groundwater unless regraded to a higher level within 45 days, except for excavations for building foundations or utility works;

(6) Storage of liquid petroleum products, except:

(i) normal household use, outdoor maintenance, and heating of a structure;

(ii) waste oil retention facilities required by MGL. C.21. 52A;

(iii) emergency generators required by statute, rule or regulation;

(iv) treatment works approved under 314 CMR 5.00 for treatment of contaminated ground or surface waters;

provided that such storage is in a free standing container within a building or above ground with adequate secondary containment;

(c) As a principal use, manufacturing, processing, mixing, storage, transport, or disposal of hazardous materials in excess of quantities which, as wastes, are allowed small quantity generators as defined in DEP Regulations 310 CMR 30.

(d) Motor vehicle service, washing or repair.

(e) Storage of ice removal chemicals.

**4932. Uses Requiring Special Permits.** Within the Water Resource District, the following shall be allowed only if granted a Special Permit from the Special Permit Granting Authority (See Section 4940) and if the use is not otherwise prohibited.

(a) Covering with impervious surface more than 30% of the portion of lot area within the Water Resource District.

(b) Removal of existing ground cover vegetation from more than 70% of lot area.

(c) Having an estimated on-site disposal of wastewater exceeding 10,000 gpd, regardless of lot size.

**4933. Change of Use.** Change in activity resulting in exceeding any limitations established in a special permit, or crossing the thresholds of paragraphs 4931 or 4932, shall constitute change of use and is allowed but only on approval of a special permit, regardless of whether classified under Section 4931 or Section 4932.

**4940. Special Permit Granting Authority.** The Special Permit Granting Authority for applications under Section 4900 shall be the Planning Board. Such Special Permit shall be granted if the SPGA determines that:

(a) the intent of this by-law as well as its specific criteria are met;

(b) the application materials are sufficiently detailed, definite and credible to support positive findings relative to the standards of the by-law;

- (c) the proposed use meets the standards of Section 4900;
- (d) neither during construction nor after will the use adversely affect the existing or potential quality of groundwater available within the District.
- (e) that proposed control and response measures adequately and reliably mitigate risks to groundwater quality resulting from accident or system failure.

In making such determination, the SPGA shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed.

Upon receipt of the Special Permit application, the SPGA shall transmit one copy each to the Conservation Commission, Board of Health, Water Department, and the Building Inspector for their written recommendations. The SPGA shall explain any departures from the recommendations of other Town agencies in its decision. Failure to respond within 30 days shall indicate approval of said agencies. The copies necessary to fulfill this requirement shall be furnished by the applicant.

**4950. Submittals.** In applying for a Special Permit under this Section, the information listed below shall be submitted as specified in Section 4940, unless the Planning Board, prior to formal application, determines that certain of these items are not germane:

- (a) a complete list of all chemicals, pesticides, fuels or other potentially hazardous materials to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers or facilities from vandalism, corrosion and leakage, and to provide for control of spills.
- (b) a description of potentially hazardous wastes to be generated, including storage and disposal methods as in (a) above.
- (c) for above ground storage of hazardous materials or wastes, evidence of qualified professional supervision of design and installation of such storage facilities or containers.
- (d) for runoff from impervious surfaces greater than 30% of total lot area, evidence that such runoff will be recharged on-site and diverted towards areas covered with vegetation for surface infiltration to the maximum extent possible. Dry wells shall be used only where other methods are infeasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants.
- (e) for disposal on-site of domestic wastewater, with an estimated sewage flow greater than 15,000 gpd, evidence of qualified professional supervision of design and installation, including an assessment of nitrate or coliform bacteria impact on ground water quality.

**4960. Change of Use.** Change in activity resulting in exceeding any limitations established in a special permit, or crossing the thresholds of Section 4930, shall constitute change of use and is allowed but only on approval of a special permit.

**4970. Design and Operation Guidelines.** Within Water Resource Districts, the following design and operations guidelines shall be observed in all new construction.



**4971. Safeguards.** Provisions shall be made to protect against hazardous materials discharge or loss through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas of hazardous materials, and indoor storage provisions for corrodible or dissolvable materials.

**4972. Location.** Where the premises are partially outside of the Water Resource District, such potential pollution sources as on-site waste disposal systems shall, to be degree feasible, be located outside the District.

**4973. Disposal.** Provisions shall be made to assure that any waste disposed on the site shall contain no hazardous materials in quantities substantially greater than associated with normal household use.

**4974. Drainage.** Provisions shall be made for on-site recharge of all stormwater runoff from impervious surfaces unless, in cases where such surfaces are no more than 15% of lot area or 2,500 square feet, whichever is larger, the Planning Board in conducting Development Plan Review and following consultation with the Conservation Commission, determines that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge.

Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Planning Board following consultation with the Conservation Commission. Dry wells shall be used only where other methods are technically infeasible and shall employ oil, grease and sediment traps. Drainage from transfer areas for hazardous materials shall be separately collected for safe disposal.

**4975. Sewerage.** Sewers within the Water Resource District shall be designed and constructed in a manner such that ground water levels, flows and/or recharge will not be significantly lowered, diverted or otherwise altered by such construction, and that risk of leakage is minimized.

**4980. Nonconforming Uses.** Legally pre-existing nonconforming structures and uses in the Water Resource District shall be governed by Sections 2310, 2320, 2330 and 2340 of this By-law.

## **5000. Wireless Communication Facilities.**

### **5010. Purpose.**

The purposes of this By-Law are as follows:

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

### **5020. Definitions.**

**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.

**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".

**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.

#### **5030. Applicability.**

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

#### **5040. General Requirements.**

Wireless Communication facilities shall only be allowed after the issuance of a special permit in accordance with the provisions of MGL Ch 40A s. 9, this By-Law and any rules and regulations adopted hereunder. The Board of Appeals shall be the Special Permit Granting Authority for Wireless Communication Facilities.

**5041.** Lattice style towers and similar facilities requiring more than one leg or guy wires for support are prohibited.

**5042.** All structures associated with wireless communication facilities shall be removed within one year of cessation of use.

**5043.** 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.

**5044.** 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.

**5045.** No tower shall be located within two miles of another such tower.

**5046.** Any utilities servicing a tower shall be located underground.

**5047.** 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).

**5048** Fencing shall be provided to control unauthorized access to the tower.

**5049.** 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 24-hour basis.

**5050. Criteria.**

A special permit for a wireless communication facility shall not be issued unless the Special Permit Granting Authority finds the following:

**5051.** Existing or approved facilities cannot accommodate the applicant's proposal.

**5052.** The facility has been designed to accommodate the maximum number of providers but in no case less than three (3).

**5053.** The applicant has agreed to allow other service providers to co-locate on the tower, now, or at anytime in the future.

**5054.** 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.

**5055.** 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.

**5056.** The facility is sited in such a manner that it is screened, to the maximum extent possible, from public view.

**5060. Conditions.**

Before approving any special permit under this Section, 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 By-Law.

**5070. 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.

## **5100. Adult Uses**

**5110. Purpose and Intent.** 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 Massachusetts General Law Chapter 40A, Section 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.

The provisions of this Section 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 Section 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 Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

### **5120. Definitions:**

**5121. 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 Section 31 of Chapter 272 of the General Laws, 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 Section 31 of Chapter 272 of the General Laws;
- (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 Section 31 of Chapter 272 of the General Laws;
- (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 Section 31 of Chapter 272 of the General Laws;
- (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 Section 31 of Chapter 272 of the General Laws;

- (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 Section 31 of Chapter 272 of the General Laws;
- (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 Section 31 of Chapter 272 of the General Laws.

**5122. Substantial or Significant Portion:** The term "substantial or significant portion" as used in this Section 5100 shall mean any of the following:

- (a) Twenty percent (20%) or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time.
- (b) Twenty percent (20%) or more of the annual number of gross sales, rentals or other business transactions; or
- (c) Twenty percent (20%) or more of the annual gross business revenue.

**5130. Special Permit.** 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:

**5131. Location:** An Adult Use may not be located:

- (a) Within five-hundred (500) feet of a boundary line of a residential zoning district or of a property line of a lot containing a residential use;
- (b) Within one-thousand (1000) 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;
- (c) Within one-thousand (1000) feet of any structure containing, at the time of Special Permit application, an establishment licensed under the provisions of Section 12 of Chapter 138 of the General Laws;
- (d) Within one-thousand (1000) feet of any structure containing any other Adult Use;
- (e) Within two hundred (200) feet of an Interstate Highway, Arterial Street or a street with average daily traffic greater than 2000 vehicle trips per day
- (f) 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 2000 vehicle trips per day.

**5132. Site Development Standards:**

- (a) 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 Section 1420 hereof.
- (b) Parking and Loading: On-site parking and loading shall be provided in accordance with the requirements set forth in Section 3300 of these By-Laws as pertains to service establishments.
- (c) 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 (12) foot minimum depth and contain a curb to prevent parking within the strip, a six (6) foot high fence which shall be located a maximum of two (2) 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 (3) 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 (7) feet within five years of planting.
- (d) Signs: All signs for any Adult Use must meet the requirements of Section 3100 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.

**5133. Other Special Permit Requirements:**

- 5133.1** 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.
- 5133.2** 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 Section 63 of Chapter 119 of the General Laws or Section 28 of Chapter 272 of the General Laws;
  - (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.

**5133.3** No Special Permit for an Adult Use shall be issued to any person convicted of violating Section 63 of Chapter 119 of the General Laws or Section 28 of Chapter 272 of the General Laws.

**5133.4** An Adult Use Special Permit shall only be issued following a public hearing held within sixty-five (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.

**5133.5** Any Adult Use Special Permit issued under this By-Law shall lapse within one (1) 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.

**5133.6** Any Adult Use Special Permit issued under this By-Law 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 Section 63 of Chapter 119 of the General Laws or Section 28 of Chapter 272 of the General Laws, such Special Permit shall immediately be null and void.

**5133.7** No Adult Use Special Permit issued under this By-Law 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.

#### **5140. Non-Conformity:**

**5141.** Adult Use in existence prior to the adoption of this Section 5100 shall apply for a Special Permit as specified in this Section 5100 within ninety (90) days following the adoption of this Section 5100 and shall be required to comply in all respects with all requirements of this Section 5100.

**5142.** Any Adult Use in existence prior to the adoption of this Section 5100 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 (6) months following the date of the application for such Special Permit provided that a written request therefore is made to the Planning Board.

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 (6) 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.

**5143.** The provisions of this Section 5100 shall only apply to Adult Uses as defined in this Section 5100 which are also defined in Section 9A of Chapter 40A of the General Laws.

**5150. Invalidity:**

In the event that any provision of this Section 5100 shall be determined invalid by a Court of competent jurisdiction or otherwise, the remaining provisions of this Section 5100 not manifestly inseparable from the invalid provision(s) shall remain in full force and effect.

**5200. Mill Reuse Overlay District**

**5210. 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.

**5220. 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.

**5230. 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.

**5240. Definitions.** In addition to Article V of this Bylaw, the following definitions shall apply to development in the Mill Reuse Overlay District:

**5241. Mill Reuse Project.** A predominantly residential development comprised of one or more of the uses authorized under Section 5250 of this Bylaw, on a parcel of land with an existing mill building in the Mill Reuse Overlay District.

**5242. 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 G.L. c. 184, Section 31, and certification signed by the Director of DHCD, both of which must be recorded at the Registry of Deeds.

**5243. 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.

**5244. 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.

**5245. 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.

**5250. Use Regulations.**

**5251. Permitted Uses.** 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:

- (a) Multi-family dwelling
- (b) Assisted elderly housing

Except that a permitted Mill Reuse Project may not exceed 100 units of multi-family or assisted elderly housing, including any combination thereof.

(c) Accessory uses

- (1) Adult day care
- (2) Other uses customarily incidental to a permitted use.

**5252. 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:

- (a) Multi-family or assisted elderly housing in excess of the number of units allowed as a permitted use
- (b) New construction for uses otherwise permitted under Section 5251
- (c) Continuing care retirement community
- (d) Nursing home
- (e) Medical offices or medical clinic
- (f) Accessory uses
  - (1) Adult day care accessory to a special permitted use
  - (2) 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
  - (3) Indoor or outdoor recreation, primarily for residents, outpatients or employees of a permitted or special permitted use
  - (4) Other accessory uses customarily incidental to a special permitted use

**5253. Exemption from Major Development and Special Residential Use Regulations.** A Mill Reuse Project shall not be subject to Section 3400, Major Proposals, or to Section 4300, Major Residential Development, or to Section 4400, Special Residential Uses.

**5254. Use Variances.** Use variances shall not be allowed in the Mill Reuse Overlay District.

**5260. Intensity of Use Regulations.** The Intensity of Use Regulations for the underlying district(s) as set forth in Section 2600 of this Bylaw shall apply to the Mill Reuse Overlay District, except as follows:

**5261. Yard Setbacks.** There shall be no minimum front yard setback requirement.

**5262. Gross Density.** A permitted Mill Reuse Project may not exceed a gross density of nine (9) dwelling units per acre. For a Mill Reuse Project by Special Permit, the Planning Board may authorize a gross density of up to twelve (12) dwelling units per acre provided that the project meets the Public Benefits provisions of Section 5288 of this Bylaw, as determined by the Planning Board. For purposes of calculating gross density, areas subject to the Wetlands Protection Act, G.L. c.131, Section 40, for reasons other than being subject to flooding, shall be excluded from the total area of the parcel.

**5270. Procedures for Mill Reuse Projects.**

**5271. 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, G.L. c.41, Sections 81K through 81GG. Planning Board approval of a Development Plan under Section 1420 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.

**5272. Development Plan Approval.** All uses in the Mill Reuse Overlay District require Development Plan Approval by the Planning Board and must comply with Section 1420 of this Bylaw and the following additional requirements.

- (a) Submittals. In addition to the requirements of Section 1423, the submittals for Development Plan Approval for a Mill Reuse Project shall include:
- (1) Identification of existing trees of more than 8" caliper, rock outcroppings, wildlife habitats, existing and proposed trails and paths, open space, and proposed conservation and recreation easement areas.
  - (2) Floor plan to scale for each floor of each building, showing the following information as applicable:
    - (i) Number of dwelling units by type
    - (ii) Number of bedrooms per dwelling unit
    - (iii) Proposed use(s) of all floor space not used for dwelling units
  - (3) Table showing the total number of dwelling units and the number of affordable units by type and size on each floor of each building.
  - (4) Where applicable, a plan describing the care, custody and control of all dams and water rights.
  - (5) 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.
  - (6) Proposed construction schedule by stage or phase of construction, from the approximate date that construction will begin through the estimated date of construction completion.
  - (7) 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.
  - (8) 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.

- (9) Copies of the proposed Regulatory Agreement for affordable housing units, and where applicable, the proposed deed rider for affordable homeownership units.
  - (10) Narrative analysis prepared and documented by a preservation consultant concerning the mill building, associated structures and context. The narrative will include the following information:
    - (i) Information required for Massachusetts Historical Commission Survey Form B and, where applicable, Form F;
    - (ii) Information required for Massachusetts Historical Commission National Register of Historic Places Criteria Statement Form;
    - (iii) An analysis of the Mill Reuse Project's consistency with the U.S. Secretary of the Interior's Standards for Rehabilitation.
- (b) **Decision Standards.** In addition to the Decision Standards under Section 1425 of this Bylaw, the Planning Board shall base its decision on the following determinations:
- (1) 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.
  - (2) The common open space is usable and functional for the purposes listed in this Bylaw and meets all minimum design standards under Section 5283.

**5273. 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 Section 1500 of this Bylaw.

**5280. Mill Reuse Project Development Standards.**

**5281. 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:

- (a) 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;
- (b) Any expansion is consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation, as determined by the Bellingham Historical Commission.
- (c) 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:

- (1) 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
- (2) 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.

**5282. 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 Section 1200.
- (6) The Planning Board shall adopt and from time to time may amend regulations necessary to administer the affordable housing requirements of this Bylaw.

**5283. 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:

- (a) **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.

- (1) 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.
  - (2) To the maximum extent feasible, the common open space shall be linked as a unit, with links at least sixty (60) feet wide.
  - (3) Not more than 50% of the common open space in a Mill Reuse Project may consist of wetlands as defined in G.L. c.131, Section 40.
  - (4) Unless approved by the Planning Board, common open space shall not be considered usable if the slope of the finished grade exceeds twenty-five (25) percent.
  - (5) Existing rights of way and utility easements may not be counted as common open space.
  - (6) The location(s) of the common open space shall be subject to approval by the Planning Board.
  - (7) Land used for shared wastewater disposal or a package treatment plant may count toward the minimum common open space requirement.
- (b) Ownership. The common open space shall be conveyed in accordance with the procedures under Section 4360 of this Bylaw, except that land used for wastewater disposal shall be conveyed in accordance with requirements of the Board of Health.

**5284. Landscaping.** For purposes of landscaping requirements, a Mill Reuse Project shall comply with Section 3500 of this Bylaw to the maximum extent practical.

**5285. 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 ten (10) percent, 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.

**5286. Internal Circulation, Parking and Loading Requirements.**

- (a) 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.

(b) **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:

- (1) Assisted elderly units: 1 space per unit, plus one space per two employees on the largest shift and one space for each three units.
- (2) Multifamily units: 1 space per studio or one-bedroom unit, 2 spaces per unit with two or more bedroom except for age-restricted multi-family units, in which case there shall be an average of 1.5 spaces per unit; plus 1 visitor space for each three units.
- (3) Nursing home: 1 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.)
- (4) Accessory Retail, Service or Bank Establishment: 1 space per 500 square feet of gross floor area but not fewer than three spaces per separate enterprise.
- (5) Accessory Restaurant: 1 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.
- (6) Accessory Adult Day Care: 1 space per each four persons not residing in the Mill Reuse Project plus one space per two employees.
- (7) Medical Offices or Medical Clinic: in accordance with Section 3320(h).
- (8) Other Uses: in accordance with Section 3320(k).
- (9) Mixed Uses: Requirements for each use shall be added, unless the Planning Board determines that a smaller number is adequate.

(c) **Reserve Parking.** During the Development Plan Approval process under Section 1420, 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:

- (1) The decrease in number of parking spaces is no more than thirty percent (30%) of the total number of spaces required under Section 5264(i). The waived parking spaces shall not be used for building area and shall be labeled as "Reserve Parking" on the site plan.
- (2) 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.
- (3) 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.
- (4) If, after one (1) 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 (7) days before the matter is next discussed at a Planning Board meeting.

- (d) Increase in parking spaces. The Planning Board may require provisions for an increase in the number of parking spaces required under Section 5264(i), provided that:
  - (1) The increase in the number of parking spaces is no more than twenty percent (20%) of the total number of parking spaces required under Section 5364(i) for the use(s) in question.
  - (2) Any such increase in the number of required parking spaces shall be based upon the special nature of a use or building.
  - (3) 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.
  - (4) The applicant shall not be required to construct any of the spaces labeled as "Increased Reserve Parking" for at least one (1) 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 Section 5264(i), the area of land reserved for the increased number of parking spaces may be deducted from the minimum common open space required under Section 5283.
- (e) 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.
- (f) Parking Area Design and Location. A Mill Reuse Project shall comply with Section 3300 of this Bylaw except as follows:
  - (1) 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.
  - (2) Landscaping of parking areas shall conform to Section 3533 of this Bylaw to the maximum extent practical.
  - (3) 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.



- (g) **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.

**5287. 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.

**5288. 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 Section 5262, as follows.

- (a) **Eligible Public Benefits.** To be considered eligible for an increase in the maximum gross density under Section 5262, 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:

- (1) **Affordable Housing.** A project in which at least 10% affordable housing units meet the requirements of Section 5282.
- (2) **Common Open Space.** A project that preserves at least 50% of the parcel as common open space meeting the requirements of Section 5283.
- (3) **Green Building Design.** A project that is LEED certified by the U.S. Green Building Council.
- (4) **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.

- (b) **Limitations.** A Mill Reuse Project that involves expansion of existing buildings or new construction must comply with the maximum floor area ratio under Section 5281 regardless of any increase in gross density authorized by Special Permit.

**5290. Separability.** The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

## **ARTICLE V. DEFINITIONS**

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.

**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 Section 5100 of these By-Laws.

**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 Blvd.	S 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 non-profit 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 appropriated to each type of housing.

**Contractor's Yard**

Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of sub- assemblies, 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 Section 11 of Chapter 40A for a zoning amendment, as certified and filed with the Town Clerk.

**Detached Structure**

A free-standing structure with no common or party walls, common foundation walls or otherwise physically connected.

**Dwelling Unit**

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

**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 Multi-Family 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 Section 4130.

**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.

**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.

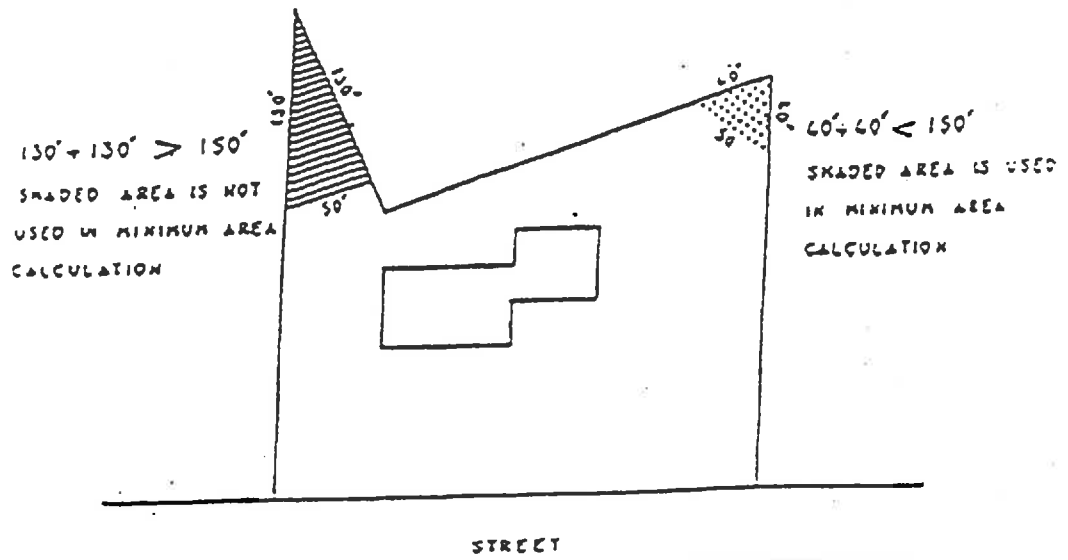
**Floor Area, Leasable**

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

<b><u>Foundation</u></b>	The portion of a structure that serves to transfer the weight of the building into the ground itself. Most foundations extend underground.
<b><u>Golf course</u></b>	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 tee to green.
<b><u>Hazardous materials</u></b>	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 Mass. General Laws Ch. 21C shall also be deemed a hazardous material for purposes of this bylaw.
<b><u>Home Occupation</u></b>	A business or profession engaged in within a dwelling by a resident thereof as a use accessory thereto.
<b><u>Hotel or Motel</u></b>	A structure providing sleeping rooms for resident or transient guests, and where public eating facilities are provided; but not including buildings or charitable, educational or philanthropic institutions.
<b><u>Impervious</u></b>	Impenetrable by surface water.
<b><u>Junk Yard</u></b>	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 "second-hand auto parts.
<b><u>Landscaped Open Space</u></b>	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.
<b><u>Leadership in Energy and Environmental Design (LEED) Project Certification.</u></b>	A rating and certification by the U.S. Green Building Council that a building project meets industry standards for high-performance, sustainable design.
<b><u>Livestock Raising</u></b>	The raising or harboring of ten or more poultry or of more than two cattle, horses, sheep, hogs, goats, minks, rabbits, or similar farm animals six months old or older.
<b><u>Lot</u></b>	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, Section 40, Chapter 131, G.L. 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 degrees 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 degrees.

### 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:

- More than 50,000 square feet of gross floor area devoted to one or more of the uses listed under "Commercial Uses" in Section 2400 Use Regulations Schedule, or
- More than 250,000 square feet of gross floor area devoted to one or more of the uses listed under "Industrial Uses" in Section 2400 Use Regulations Schedule, or

- Any one or more of the uses listed under “Commercial Uses” or “Industrial Uses” in Section 2400 Use Regulations Schedule if they would be required under Zoning Section 3320 to among them provide 250 or more parking spaces, or
- Average daily water demand, regardless of source, exceeding 100,000 gallons per day.

### **Major Residential Development**

Either of the following:

- Development of ten or more dwelling units on a single lot, or
- One or more divisions of land (whether or not a ‘subdivision’ requiring Planning Board approval) that would cumulatively result in an increase by ten or more lots (excluding any restricted from residential use) above the number existing twenty-four months earlier on a parcel or a set of contiguous parcels which were in common ownership as of October 10, 2001, except that if each resulting lot has both lot area and frontage at least 50% greater than that required under Section 2600 Intensity of Use Schedule the land division shall not be considered to be a Major Residential Development.

### **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 Section 51, Ch.111, G.L.

### **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 sq.ft.

**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 non- profit religious or non-sectarian 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 created pursuant to Section 26K of Ch. 121, or corresponding provisions of earlier laws.

**Public Stable**

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

**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, 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, 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.



**Signs, 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, 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, bill boards, 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 busses, 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 lbs. 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 Ch.21(c), G.L., 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
- (b) in side an rear yards only, a tool shed or similar accessory structure having not more than eighty (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.

Revised by:  
Kathleen M. Harvey, Town Clerk  
12/27/2004

BELLINGHAM  
MASSACHUSETTS

Special Town Meeting of October 13, 2004  
Article 10. Mill Reuse By-Law

MIDWAY

Zoning Map  
Proposed Mill Reuse  
Overlay District  
August 17, 2004



1 inch equals 200 feet



Legend

Proposed Mill Overlay

Pavement

Water Bodies

Streams

Town Boundary

Zoning

Residential

Commercial

Business 1

Business 2

Industrial

Agriculture

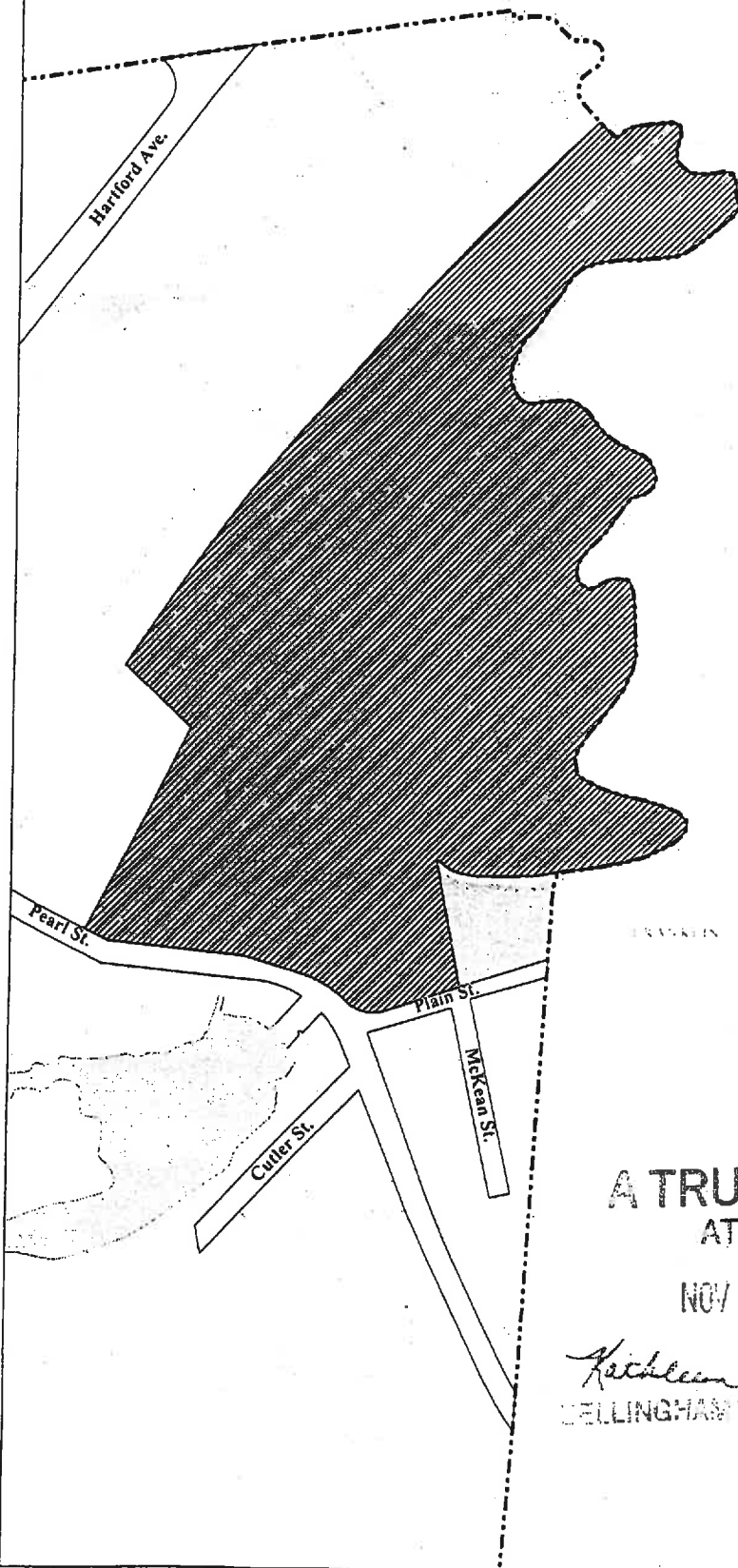
Other

This document is intended for Town of Bellingham  
planning and zoning purposes only.

Created by

Zoning Department, Town of Bellingham

In accordance with Bellingham Ordinance  
August 2004



A TRUE COPY  
ATTEST:

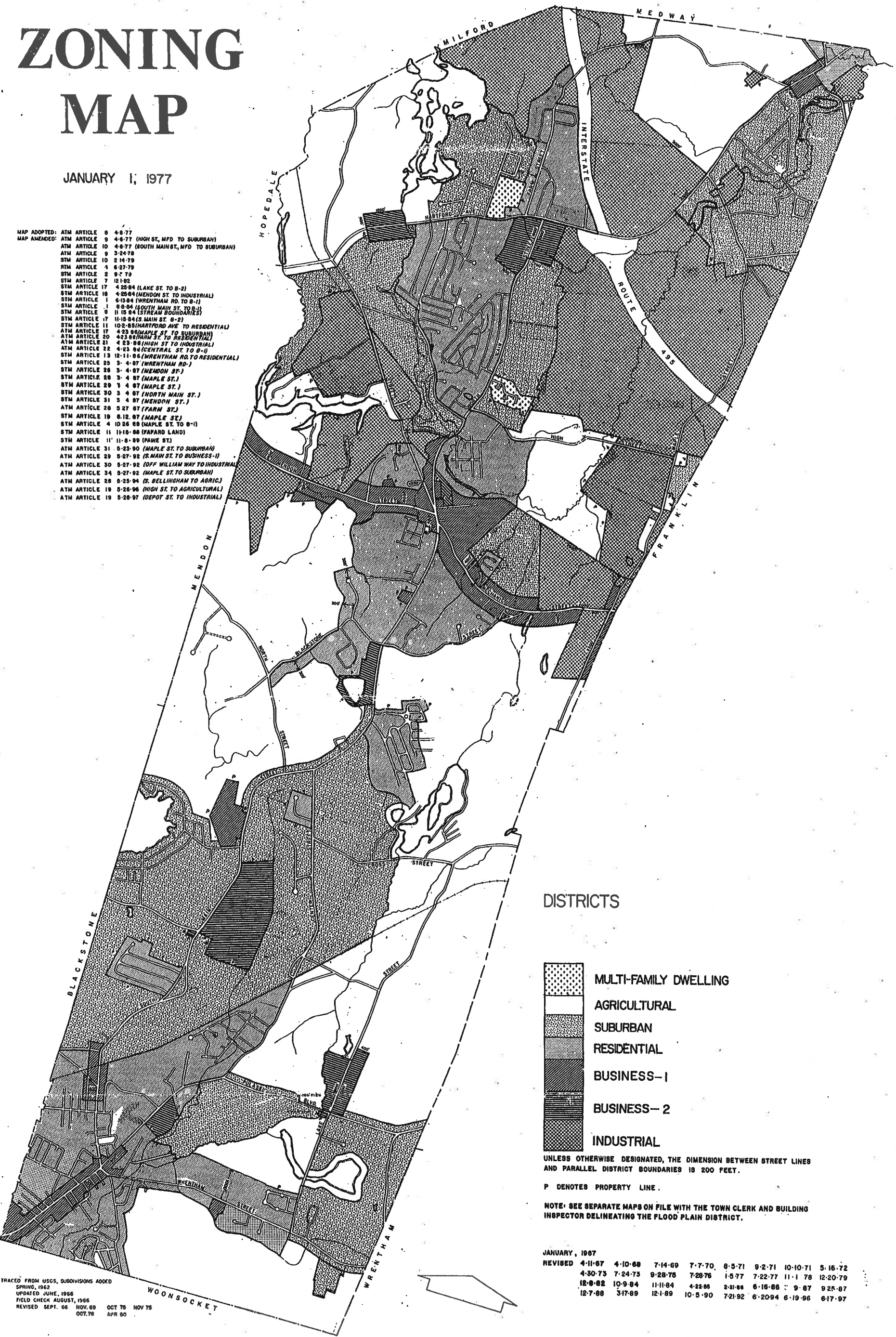
NOV 2

Kathleen M. Harvey  
BELLINGHAM TOWN CLERK

# ZONING MAP

JANUARY 1, 1977

MAP ADOPTED: ATM ARTICLE 8 4-8-77  
MAP AMENDED: ATM ARTICLE 9 4-8-77 (HIGH ST. MFD TO SUBURBAN)  
ATM ARTICLE 10 4-8-77 (SOUTH MAIN ST. MFD TO SUBURBAN)  
ATM ARTICLE 9 3-24-78  
STM ARTICLE 10 2-14-79  
RTM ARTICLE 1 6-27-79  
STM ARTICLE 2 9-7-79  
STM ARTICLE 7 12-1-82  
STM ARTICLE 17 4-25-84 (LAKE ST. TO B-2)  
STM ARTICLE 18 4-25-84 (MENDON ST. TO INDUSTRIAL)  
STM ARTICLE 1 6-15-84 (WRENTHAM RD. TO B-1)  
STM ARTICLE 1 8-8-84 (SOUTH MAIN ST. TO B-1)  
STM ARTICLE 9 11-15-84 (STREAM BOUNDARY)  
STM ARTICLE 17 11-15-84 (S. MAIN ST. B-2)  
STM ARTICLE 11 10-2-85 (HARTFORD AVE. TO RESIDENTIAL)  
ATM ARTICLE 17 4-23-86 (MAPLE ST. TO SUBURBAN)  
ATM ARTICLE 20 4-23-86 (HIGH ST. TO INDUSTRIAL)  
ATM ARTICLE 21 4-23-86 (HIGH ST. TO INDUSTRIAL)  
ATM ARTICLE 22 4-23-86 (CENTRAL ST. TO B-1)  
STM ARTICLE 13 12-11-86 (WRENTHAM RD. TO RESIDENTIAL)  
STM ARTICLE 23 3-4-87 (WRENTHAM RD.)  
STM ARTICLE 28 3-4-87 (MENDON ST.)  
STM ARTICLE 28 3-4-87 (MAPLE ST.)  
STM ARTICLE 29 3-4-87 (MAPLE ST.)  
STM ARTICLE 30 3-4-87 (NORTH MAIN ST.)  
STM ARTICLE 31 3-4-87 (MENDON ST.)  
ATM ARTICLE 28 5-27-87 (FARM ST.)  
STM ARTICLE 19 6-12-87 (MAPLE ST.)  
STM ARTICLE 4 10-26-88 (MAPLE ST. TO B-1)  
STM ARTICLE 11 11-18-88 (FAPARD LAND)  
STM ARTICLE 11 11-8-89 (PINE ST.)  
ATM ARTICLE 31 5-23-90 (MAPLE ST. TO SUBURBAN)  
ATM ARTICLE 29 5-27-92 (S. MAIN ST. TO BUSINESS-1)  
ATM ARTICLE 30 5-27-92 (OFF WILLIAM WAY TO INDUSTRIAL)  
ATM ARTICLE 34 5-27-92 (MAPLE ST. TO SUBURBAN)  
ATM ARTICLE 28 5-25-94 (S. BELLINGHAM TO AGRIC.)  
ATM ARTICLE 19 5-26-96 (HIGH ST. TO AGRICULTURAL)  
ATM ARTICLE 19 5-28-97 (DEPOT ST. TO INDUSTRIAL)



TRACED FROM USGS, SUBDIVISIONS ADDED  
SPRING, 1962  
UPDATED JUNE, 1966  
FIELD CHECK AUGUST, 1966  
REVISED SEPT. 66 NOV. 69 OCT. 78 NOV. 78  
OCT. 78 APR. 80

PHILIP B. HERR & ASSOCIATES, PLANNING CONSULTANTS

## PLANNING BOARD BELLINGHAM MASSACHUSETTS

800 0 1000 2000 3000 4000 FT.

# BELLINGHAM

## MASSACHUSETTS

### Water District Map

Accepted at May 24, 1995  
Town Meeting



1 inch equals 2,800 feet

0 0.15 0.3 0.6  
Miles

#### Legend

- Water District
- Water Bodies
- Streams
- Parcels

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APPLIED GEOGRAPHICS, INC.  
Improving People's Quality of Life

In Association with Bellingham DPW  
June 2004

