

BULLETIN

TOWN OF NORTH ANDOVER



2014 ANNUAL TOWN MEETING ADOPTION OF BYLAWS

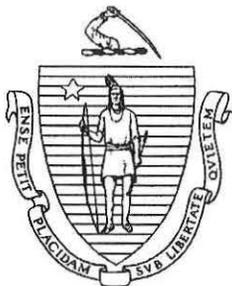
Enclosed in this bulletin are Zoning Bylaws and Maps and General Bylaws adopted by the Dissolved Town Meeting for the Town of North Andover held May 20, 2014 and Dissolved on May 20, 2014. Bylaws are as approved by the Office of the Attorney General dated September 3, 2014 – CASE #7304. All maps and bylaws as voted and approved are included herein. Copies of this bulletin are available at the Town Building 120 Main Street, Steven's Memorial Library 345 Main Street, and Office of Community Development and Services 1600 Osgood Street all in North Andover. This bulletin is posted in two locations in each voting precinct (eight) in accordance with Massachusetts General Laws Chapter 40 Section 32. Copies of this Bulletin are available on the Town of North Andover website www.townofnorthandover.com or on request by calling the Office of the Town Clerk at (978) 688-9502.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment of zoning bylaws may only be made within ninety days of this posting.

POSTED: September 8, 2014

JOYCE A. BRADSHAW, CMMC, TOWN CLERK

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
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September 3, 2014

Joyce A. Bradshaw, Town Clerk
Town of North Andover
120 Main Street
North Andover, MA 01845

**RE: North Andover Annual Town Meeting of May 20, 2014 - Case # 7304
Warrant Articles # 30, 31, 32 and 33 (Zoning)
Warrant Articles # 6 and 14 (General)**

Dear Ms. Bradshaw:

Articles 6, 14, 30, 31, 32 and 33 - We approve these Articles, and map amendments related to Article 32, from the May 20, 2014 North Andover Annual Town Meeting. We will return the approved map to you by regular mail. Our comments regarding Articles 6 and 30 are provided below.

Article 6 - Article 6 deletes from the Town's general by-laws Chapter 88, Dogs and inserts a new Chapter 88, Animal Control.

On October 31, 2012, an *Act Further Regulating Animal Control* (hereinafter "new Animal Control law") took effect in the Commonwealth. The new Animal Control law is encompassed in G.L. c. 140, §§ 136A - 174E. Throughout the new Chapter 88, the Town refers to the Animal Control law as "Chapter 140, §§136A to 175." The Town may wish to correct these references at a future Town Meeting.

1. **Section 88-2, Definitions.**

In several places, the new Chapter 88 refers to "vicious dog" as opposed to "dangerous dog," a term defined and used in the new Animal Control law. (See for example, Sections 88-2.15, 88-6.1 and 88-6.2). It is unclear whether the Town intends the term "vicious dog" to be used interchangeably with the term "dangerous dog." In any event, the Town must apply its Animal Control by-law in a manner consistent with G.L. c. 140, §§ 136A and 157. We suggest that the Town consult with Town Counsel on this issue.

2. Section 88-3, Vaccination, Licensing and Fees.

Section 88-3.1, License Due Date and Late Fee, provides for a late fee, and that “[t]he overdue license fee and the late fee may be added to the owner’s tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the dog owner, pursuant to MGL Chapter 40 § 58.” Similarly, Section 88-3.2, License Due Date, pertaining to kennel licenses, also provides for a late fee and that “[t]he overdue license fee and the late fee may be added to the licensee’s tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the kennel licensee, pursuant to MGL Chapter 40, §58.”

In order to secure a lien under the provisions of the Municipal Charges Lien Statute (G.L. c. 40, § 58), the Town must first vote to authorize the use of the Municipal Charges Lien Statute for the specific charge. We construe Sections 88-3.1 and 88-3.2 to be a specific vote approving the use of the Municipal Charges Lien Statute in these situations, and we therefore approve these Sections. However, the Town should ensure to apply these Sections in a manner consistent with applicable state law, including G.L. c. 40, § 58. The Town should consult with Town Counsel on this issue.

Section 88-3.1, License Fees, provides that the Board of Selectmen shall determine the license fees for dogs. Once the Board of Selectmen have established the dog license fees, the Town must comply with G.L. c. 140, § 139, which provides that “no fee shall be increased without a majority vote of...the voters present at town meeting.”

3. Section 88-6, Vicious Dogs.

To the extent that the term “vicious dog” is used in this by-law to mean a “dangerous dog” as defined in G.L. c. 140, § 136A, the Town must apply this section in a manner consistent with G.L. c. 140, § 157, pertaining to hearings to determine if a dog is dangerous and the scope of the remedies available to the Hearing Authority.

Article 30 - Article 30 deletes the existing text and adds new text for Subsection 8.11, Wind Facilities.

1. Section 8.11.11, Removal Requirements.

Section 8.11.11 (4) requires the applicant to “provide a form of surety, either through escrow account, bond or otherwise” to cover the cost of removal and/or or remediation of the landscape. Any bond proceeds must be applied in a manner consistent with state law. Bond proceeds do not become Town funds unless and until the applicant defaults on the obligation under the by-law. Moreover, if the Town must use the bond to pay for compliance with the removal or restoration, the Town must first appropriate the money for this purpose by Town Meeting vote. General Laws Chapter 44, Section 53, provides that “[a]ll moneys received by a city, town or district officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the city, town or district treasury.” Under Section 53, all moneys received by the Town become part of the general fund, unless the Legislature has expressly made other

provisions that are applicable to such receipt. In the absence of any general or special law to the contrary, performance security funds of the sort contemplated here must be deposited with the Town Treasurer and made part of the Town's general fund, pursuant to G.L. c. 44, § 53. The Town must then appropriate the money for the specific purpose of removing the wind facility and/or remediating the site.

2. Section 8.11.12, Abandonment.

Section 8.11.12 provides that if the applicant fails to remove the wind facility within 150 days of abandonment or the proposed decommissioning date, "the town may enter the property and physically remove the facility." Municipal officials do not have the authority to conduct warrantless non-emergency searches of private property without permission of the owner. Commonwealth v. John G. Grant & Sons Co., Inc., 403 Mass. 151, 159-60 (1988). The U.S. Supreme Court has held that warrants are required for non-emergency administrative inspections. Camara v. Municipal Court of San Francisco, 387 U.S. 523 (1966) (requiring warrant for health inspector non-emergency entry); See v. City of Seattle, 387 U.S. 541 (1966) (requiring warrant for non-emergency inspection by fire chief). "[A]dministrative entry, without consent, upon the portions of commercial premises which are not open to the public may only be compelled through prosecution or physical force within the framework of a warrant procedure." See, 387 U.S. at 545. Massachusetts courts have similarly recognized that "statutes can no longer convey blanket powers of warrantless entries." Commonwealth v. Hurd, 51 Mass. App. Ct. 12, 17 (2001) (holding that G.L. c. 129, § 7, does not authorize warrantless searches for animal inspection). The Town may wish to consult with Town Counsel to ensure that this Section is enforced in a manner that is consistent with state law and applicable constitutional requirements.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MARTHA COAKLEY
ATTORNEY GENERAL

Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
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cc: Town Counsel Thomas J. Urbelis



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Town Clerk

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This is to certify that the following vote was taken on Article 6 at the Dissolved Annual Town Meeting for the Town of North Andover held May 20, 2014:

Article 6: Amend General Bylaws – Chapter 88 Dogs. Unanimous vote to amend the Town of North Andover General Bylaws by deleting **Chapter 88 – Dogs** and inserting the following

Chapter 88 – Animal Control in place thereof,

CHAPTER 88 – ANIMAL CONTROL

88-1 Animal Control

Pursuant to the authority set forth in MGL Chapter 140, §§136A to 175, the following bylaw is enacted for the regulation of dogs in the Town of North Andover.

88-2 Definitions

As used in this bylaw, the following words and terms have the following meanings:

88-2.1 Animal Control Officer (ACO)

A person appointed by the Board of Selectmen in accordance with the provisions of M.G.L. Chapter 140, §§151 and 151A.

88-2.2 Destruction

An order by the Hearing Authority that a vicious dog be destroyed in accordance with MGL Chapter 140, §§136A to 175 and Massachusetts Society for the Prevention of Cruelty to Animals guidelines.

88-2.3 Keeper

A person, business, corporation, entity or society other than the owner, having possession of a dog.

88-2.4 Kennel

ATTEST:
A True Copy

Joyce A. Bradshaw
Town Clerk

A pack or collection of dogs on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel personal kennel, or veterinary kennel.

88-2.5 Kennel License

A special license issued to a kennel, which allows payment of a single fee covering all dogs in the kennel; with the kennel license, the kennel owner receives a special kennel tag for each dog in the kennel.

88-2.6 License

A dog's registration, evidenced by a tag issued annually by the Town Clerk to the owner of each dog residing in North Andover and worn by the dog securely fixed to its collar or harness.

88-2.7 License Transfer

The registration issued to a dog already licensed in another U.S. jurisdiction, after the dog moves into the Town of North Andover.

88-2.8 Licensed Period

An annual period from January 1 through December 31.

88-2.9 Muzzling

Using a device that fits over a dog's mouth and prevents it from biting, but that does not cause any injury or interfere with the vision or respiration of the dog that wears it.

88-2.10 Nuisance Dog

A dog that (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat was not a grossly disproportionate reaction under all the circumstance.

88-2.11 Permanent Restraint

An order issued by the Hearing Authority under Section 88-5, requiring vicious dog's keeper or owner to restrain it.

88-2.12 Restraint

Limiting, restricting, or keeping an animal under control by means of a physical barrier (i.e., a leash, substantial chain or line, visible or invisible fence).

88-2.13 Running at Large

A dog is running at large if it is not on the private property of its keeper or owner, or on private property with the express permission of that property's owner, or on a leash.

88-2.14 Temporary Restraint

An order issued by the ACO under Section 88-4, requiring the dog's keeper or owner to restrain a nuisance dog or suspected vicious dog for thirty (30) days.

88-2.15 Vicious Dog

A dog that, without provocation, bites a human being or kills or maims a domestic animal without provocation.

88-2.16 Other Meanings

Any word or term defined in MGL Chapter 140 §136A, and not otherwise defined here, is incorporated by reference.

88-3 Vaccination, Licensing and Fees

88-3.1 Four or fewer Dogs

License and vaccination requirements

All dogs six months and older, while residing in the Town of North Andover, must have a license from the Town Clerk. To obtain or renew the license, each dog owner must annually present proof of a current rabies vaccination. When a veterinarian determines that vaccination is inadvisable, the owner may present a veterinarian's certificate exempting an old or sick dog from vaccination for stated period of time.

New Dogs

Within thirty (30) days of acquiring a dog six (6) months of age or older, each dog owner in North Andover must present proof of that dog's current rabies vaccination and obtain a license and dog tag from the Town Clerk.

New Puppies

Within six (6) months of a puppy being born, each dog owner in North Andover must present proof of that puppy's current rabies vaccination and obtain a license and dog tag from the Town Clerk.

New Residents

A new resident who owns a dog six (6) months of age or older must license it within thirty (30) days after moving into North Andover. The Town Clerk will issue each dog a transfer license upon the owner's surrender of a current

license from another U.S. jurisdiction and proof of current rabies vaccination. The transfer license is valid until the next regular licensing period.

Lost Tags and Replacement Tags

Dog owners must replace a lost tag within three (3) business days of the loss, by obtaining a replacement tag from the Town Clerk.

Tag exemptions for dog events and medical reasons:

- A dog while actually participating in an official dog sporting or dog fancy event (if the event sponsors do not allow participants to wear tags) is exempt from the requirement that its license tag be affixed to its collar, provided its keeper has the tag at the event and available for inspection by the ACO.
- When a veterinarian determines that a dog cannot wear a collar for medical reasons, the dog is exempt from wearing a tag until it recovers, from the requirement that its license tag be affixed to its collar, provided its keeper has the tag in his or her possession and available for inspection by the ACO.

Annual Renewal

Dog owners must renew each dog license annually. The annual licensing period runs from January 1 through December 31.

License Due Date and Late Fee

The application form for obtaining, renewing or transferring a license shall be available to each household no later than December 31 each year. Dog owners must return forms and fees to the Clerk by March 1 (or the first business day thereafter, if March 1 falls on Friday, Saturday, Sunday or legal holiday). Any license renewed after this date is overdue, and the owner must pay a late fee as determined by the Board of Selectmen in addition to the license renewal fee. The overdue license fee and the late fee may be added to the owner's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the dog owner, pursuant to MGL Chapter 40 §58.

License Fees

The fees for licensing each dog shall be determined by the Board of Selectmen. The fees shall differentiate between neutered or spayed dogs, and non-neutered or non-spayed dogs. The fee for neutered or spayed dogs shall be less than the fee for non-neutered or non-spayed dogs.

88-3.2 More than Four Dogs

License and Vaccination Requirements

Anyone who owns or boards more than four dogs within the Town of North Andover must apply for and obtain a kennel license from the Town Clerk. (This requirement shall not apply to medical boarding by a licensed veterinarian practicing in the Town of North Andover.) To obtain or renew the license, the kennel licensee who is also the owner of the dogs must present proof of current rabies vaccinations for each dog older than six months in the kennel. When it is off the kennel property, each dog in the kennel must wear a kennel tag, issued by the Town Clerk, affixed to its collar or harness. Kennel licensees who offer temporary boarding services must obtain valid proof that each dog in the kennel that is older than 6 months has received a current rabies vaccination which proof must be maintained in accordance with 88-3.1.

New Dogs and New Puppies

The kennel licensee who is also the owner of the dogs must report to the Town Clerk each new dog in the kennel within thirty (30) days of its acquisition, show proof of current vaccination, and obtain a kennel tag for that dog. The kennel licensee must show proof of current vaccination and obtain a tag for each puppy when it reaches six months old.

Inspection Process

Before the Town Clerk can issue the kennel license, the Health Division Animal Inspector must inspect the proposed kennel, file a report on the inspection, and favorably recommend that the kennel meets all the following requirements:

- The location of the kennel is appropriate for housing multiple dogs.
- The location of the kennel on the property will have no significant adverse effect on the peace and quiet or sanitary conditions of the neighborhood.
- The area provided for housing, feeding, and exercising dogs is no closer than twenty (20) feet to any lot line.
- The area provided for housing, feeding, and exercising dogs is no closer than fifty (50) feet to any existing dwelling on an abutting lot.
- The kennel will be operated in a safe, sanitary and humane condition.
- Records of the numbers and identities of the dogs are properly kept.
- The operation of the kennel will be consistent with the health and safety of the dogs and of the neighbors.

Periodic Inspections

Before a kennel license is renewed, and at any time they believe it necessary, the ACO and/or the Health Division may inspect any kennel. If the ACO or the Health Division determine that the kennel is not being maintained in a safe, sanitary and humane condition, or if the kennel records on the numbers and identities of the dogs are not properly kept, the ACO will report the violations to the Hearing Authority for a hearing on whether to impose fines or revoke the kennel license.

Kennel Review Hearings

Within seven (7) business days after receiving the ACO's report of violations, the Hearing Authority will notify all interested parties of a public hearing to be held within fourteen (14) days after the notice date. Within seven (7) business days after the public hearing, the Hearing Authority shall revoke the kennel license, suspend the kennel license, order compliance, or otherwise regulate the kennel.

Penalties

Any person maintaining a kennel after the kennel license has been denied, revoked or suspended will be subject to the penalties in Section 88-7 of this bylaw.

Annual Renewal

Each kennel licensee must renew the license annually at the Town Clerk's Office. The annual licensing period runs from January 1 to December 31.

License Due Date

Kennel license renewal forms will be sent to each licensed kennel no later than December 1 each year. Kennel licensees must return forms and fees to the Town Clerk by January 15 (or the first business day thereafter, if the 15th falls on Friday, Saturday, Sunday or legal holiday). Failure to pay on time will result in a late fee due in addition to the license fee. The overdue license fee and the late fee may be added to the licensee's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the kennel licensee, pursuant to MGL Chapter 40, §58. Nothing in this bylaw shall prevent or abrogate the Board of Health's authority to license and inspect kennels in the Town of North Andover.

Fees

The fees for licensing each kennel shall be established by the Board of Selectmen.

88-3.3 Conduct of Animals

88-3.3.1 Endangered Safety

No animal keeper or owner shall allow its animal to bite, menace or threaten, all without provocation, so as to endanger the safety of any person. This section is not meant to preclude an animal from acting as a watchdog on its keeper's or owner's property.

88-3.3.2 Disturbing the Peace

No animal keeper or owner shall allow the animal to disturb the peace of any neighborhood by making excessive noise without provocation. Noise is excessive if it is uninterrupted barking, yelping, whining or howling for

a period of time exceeding 15 minutes. This section is not meant to preclude a dog from acting as a watchdog on its keeper's or owner's property.

88-3.3.3 Damaging Property

No animal keeper or owner shall allow the animal to damage public or private property or realty.

88-3.3.4 Running at Large

When not on the private property of its keeper or owner, or on private property with the express permission of that property's owner, an animal must be on a leash.

Public Gatherings – Leash Control Only

Animals shall be prohibited at public gatherings permitted by the Town Manager or Town Manager's designee unless specifically allowed. Unless prohibited by the Board of Selectmen for any particular gathering, an animal may be at any other public gathering not otherwise specified in this bylaw only if it is on six-foot or shorter leash, and the owner or keeper of the animal shall not allow it to act in violation of this bylaw or other applicable law.

School Grounds

The School Principal shall have jurisdiction over the presence of animals on school grounds.

Exception for Assistance Animals (Service Animals)

Section 88-3.3.4 does not apply to any properly trained assistance animal or service animal while performing its duties.

88-3.3.5 Chasing

No animal keeper or owner shall allow the animal to chase a person, motor-powered vehicle, human-powered vehicle, or animal drawing or carrying a person.

88-3.3.6 Dog Litter

Every dog keeper or owner is responsible for expeditiously removing any dog feces the dog deposits anywhere except on its keeper's or owner's private property, on other private property with the property owner's permission. This provision does not apply to any assistance dog or service dog while it is performing its duties.

88-4 Animal Control Officer

88-4.1 Appointment

The Board of Selectmen shall appoint an Animal Control Officer (ACO) under the provisions of MGL Chapter 140, §§151 and 151A to carry out the provisions of this bylaw and to perform such other duties and responsibilities as the Board of Selectmen or its designee may determine.

88-4.2 Duties

The ACO's duties shall include but not be limited to the following:

- Enforce the Town of North Andover Animal Control bylaw and relevant State laws and regulations.
- Explanation of bylaw violations.
- Notification to the owner of unlicensed dogs.

Issuance of Temporary Restraint Orders

The ACO shall issue an order of temporary restraint to the keeper of any animal that is a nuisance or that is awaiting a decision under Section 88-6 as to whether it is vicious. An order of temporary restraint is an order that the animal must be confined to its keeper's or owner's property when not on a six (6) foot or shorter leash or may be ordered to be sheltered at a local kennel or veterinarian facility at the animal owner's expense; muzzling will be at the ACO's discretion. It shall be in force for no more than thirty (30) days unless the ACO renews it in writing for subsequent thirty (30) day periods. The ACO shall rescind or stop renewing the order when, in the ACO's judgment, restraint is no longer required. The animal's keeper or owner can petition the Hearing Authority under Section 88-5.2 to rescind the order for Temporary Restraint.

Issuance of an Order of Confinement

The ACO may make arrangements for the temporary housing of any animal that is to be confined under the provisions of this bylaw. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns, and shall be at the animal owner's expense.

Complaint Resolution

The ACO shall keep accurate, detailed records of the confinement and disposition of all animals held in custody and of all bite cases reported, and the result of investigations of the same. The ACO shall maintain a telephone log of all calls regarding animals and submit a monthly report summarizing the log to the Hearing Authority.

88-5 Hearing Authority

88-5.1 Hearing Authority

The Hearing Authority shall be the Police Chief or his or her designee.

88-5.2 Right to Appeal

When the ACO has investigated a complaint regarding an animal's behavior and has issued a finding or an order of Temporary Restraint with which either the animal's keeper or owner or the complainant disagrees, then either party may appeal by sending a written request to the Town Clerk within ten (10) business days after issuance of the ACO's decision. Following the Clerk's receipt of a written appeal, the Hearing Authority shall hold a public hearing on the appeal.

88-5.3 Findings and Further Appeals

The Hearing Authority shall decide whether to uphold, reverse, or modify the ACO's decision and shall mail its ruling to the animal owner, complainant, and ACO.

88-5.4 Hearings

The Hearing Authority shall hold public hearings and make decisions on any vicious dog declaration under Section 88-6.

88-5.5 Further Appeals

An appeal from a decision of the Hearing Authority may be made by either the Owner or Complainant.

88-6 Vicious Dogs

88-6.1 Declaring a Dog Vicious

Any dog that, without provocation, bites a human being or kills or maims a domestic animal without provocation may be declared vicious by the Hearing Authority. An exception may be made for a puppy (animal under six (6) months old) that draws blood, or for a dog that attacks or bites an unaccompanied domestic animal on the dog keeper's property.

88-6.2 Procedure for Declaring a Vicious Dog

Upon the written complaint of the ACO, any other public safety agent, or upon the written complaint of any person the Hearing Authority shall hold a public hearing, after which it will determine whether it should declare a dog vicious and, if so declared, what remedy is appropriate.

88-6.3 Exceptions

A dog shall not be declared vicious if the Hearing Authority determines any of the following:

- o The person's skin was not broken.
- o The person who was bitten was willfully trespassing, committing a crime, or attempting to commit a crime on the premises occupied by the dog's keeper or owner.

- The dog was being teased, tormented, abused, or assaulted by the injured person or animal prior to attacking or biting.
- The dog was protecting or defending a human being in its immediate vicinity from attack or assault.

88-6.4 Remedies

Upon its finding that the dog is vicious, the Hearing Authority shall order one of the following remedies; permanent restraint, destruction in accordance with MSPCA guidelines, or any other remedy authorized by applicable law.

- Permanent Restraint Order is an order that the dog must at all times while on its keeper's or owner's property be kept within the keeper's or owner's house or a secure enclosure, The secure enclosure shall be a minimum of five feet wide, ten feet long, and five feet in height, with a horizontal top covering the entire enclosure; shall be constructed of not less than nine (9) gauge chain link fencing; the floor shall be not less than three (3) inches of poured concrete; with the bottom edge of fencing embedded in the concrete; shall be posted with a clearly visible warning sign including a warning symbol; must contain and provide protection from the elements; and shall comply with all applicable building codes and with the Zoning Bylaws of the Town of North Andover. In addition, the keeper or owner of the dog shall annually provide proof to the Town Clerk of a liability insurance policy of at least One Hundred Thousand (\$100,000) Dollars for the benefit of the public safety; and whenever the dog leaves its keeper's or owner's property, it must be muzzled and restrained on a lead no longer than six feet or confined in an escape-proof enclosure.
- Destruction is an order that the dog be destroyed in accordance with MGL Chapter 140 and Massachusetts Society for the Prevention of Cruelty of Animals guidelines.

88-7 Penalties

88-7.1 The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each violation of this chapter in the same calendar year as follows:

- a. For a violation of Section 88-3.2, Section 88-3.3.2, Section 88-3.3.3, Section 88-3.3.4, Section 88-3.3.5, Section 88-3.3.6:
 - First offense: \$25
 - Second offense: \$50
 - Third and subsequent offense: \$100
- b. For a violation of Section 88-3.3.1, and Restraining Orders Issued under Sections 88-4.2 or 88-6.4
 - First offense: \$50
 - Second offense: \$100
 - Third and subsequent offense: \$150

- c. For a violation of any other section:
First offense: \$25
Second offense: \$50
Third and subsequent offense: \$100

In the case of a continuing offense, each day shall constitute a separate violation.

88-7.2 Reimbursement of Costs

If the ACO confines a dog and the animal owner does not pay all fees directly to the kennel or veterinary clinic, then the dog's keeper must reimburse the Town of North Andover for any expenses incurred in boarding that dog. If the dog has not been licensed, the keeper must obtain a license and pay any applicable late fee before the dog can be released.

88-8 Miscellaneous

88-8.1 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of this bylaw, and MGL Chapter 40, §21D. The North Andover Police Chief or his designee, including the Animal Control Officer, and any North Andover Police Officer shall have authority to enforce the provisions of this chapter.

88-8.2 Orders of the ACO and Hearing Officer

Any orders of confinement, muzzling or disposition issued by the ACO or the Hearing Officer may be in addition to the fines authorized by this chapter.

88-8.3 Non-Waiver of Statutory Remedies

The provisions of this chapter are intended to be in addition to and not in lieu of those contained in MGL Chapter 140, §136A, et seq., as amended by Chapter 193 of Legislative Acts of 2012; nothing contained in this chapter shall deprive the Town from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in §157, as amended. To the maximum extent possible, the provisions of this chapter shall be deemed to be consistent with and/or supplementing those contained in MGL Chapter 140, as provided in §136A, et seq., as amended.

Board of Selectmen

VOTED May 20, 2014



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
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Joyce A. Bradshaw, CMMC
Town Clerk

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This is to certify that the following vote was taken on Article 14 at the Dissolved Annual Town Meeting for the Town of North Andover held May 20, 2014:

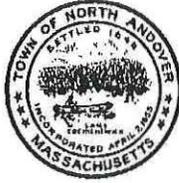
Article 14: Citizen's Petition – To 'amend' Article 6, By-Law 112-2.4 approved by Town Meeting on May 21, 2013. Majority vote that said By-Law be amended such that the provisions of said By-Law and Regulations with respect to Public Vending locations and parking shall not apply to any mobile food vendor who was licensed as of May 21, 2013, and who currently holds a valid Mobile Food Truck license in North Andover, but shall apply to any change or substantial extension of such license or change in the nature of the activities of the mobile food vendor carried out thereunder when such change results in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially different extent that was set forth in the original application pursuant to which said Mobile Food Truck License was granted.

Petition of Nadine Levin, et al

VOTED MAY 20, 2014

**ATTEST:
A True Copy**

Joyce A. Bradshaw
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

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This is to certify that the following vote was taken on Article 30 at the Dissolved Annual Town Meeting for the Town of North Andover held May 20, 2014:

Article 30: Amend Zoning Bylaw – Section 8: Supplementary Regulations by replacing Subsection 8.11: Wind Facilities. To see if the Town will vote to amend the Town of North Andover Zoning Bylaw, by replacing Section 8.11 Wind Facilities with the following,

Text indicated as strikethrough deleted and replaced by underlined text.

This is to certify that the following is the text of was added as a new section -Section 8.11 to the Zoning Bylaws for the Town of North Andover as amended by Article 31 of the 2013 Annual Town Meeting for the Town of North Andover held May 21, 2013:

~~8.11.1 Purpose:~~ Provide ~~restrictions that will allow the Town adequate time to consider whether to allow the construction and operation of on-site and utility-scale wind facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, give consideration to impacts on scenic, natural and historic resources of the town and provide adequate financial assurance for decommissioning, to the extent that such facilities are permitted under state laws and regulations, and if so, where and under what conditions. This interim bylaw shall provide to the town the opportunity to study the potential impacts of wind facilities on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures.~~

~~8.11.2 Definition:~~ This interim bylaw shall apply to all commercial wind facilities where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets. This bylaw also applies to all on-site wind facilities located at a residential, commercial, industrial, agricultural, institutional, or public facility.

~~8.11.3 Interim Restriction:~~ Wind Energy Facilities shall not be permitted in any zoning district in the Town of North Andover so long as this Section 8.11 is effective, as set forth in Section 8.11.4 below. Use variances shall be strictly prohibited.

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

~~8.11.4 Expiration: The Moratorium shall be in effect through June 30, 2014, so that the Town of North Andover can enact superseding zoning regulations that set forth the allowed locations, dimensional, parking and other requirements applicable to wind energy facilities.~~

Amend Zoning Bylaw by adding a new Section 8.11 to read as follows:

8.11.1 Purpose: Provide restrictions that will allow the Town adequate time to consider whether to allow the construction and operation of on-site and utility-scale wind facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, give consideration to impacts on scenic, natural and historic resources of the town and provide adequate financial assurance for decommissioning, to the extent that such facilities are permitted under state laws and regulations, and if so, where and under what conditions. This interim bylaw shall provide to the town the opportunity to study the potential impacts of wind facilities on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures.

8.11.2 Definition: This interim bylaw shall apply to all commercial wind facilities where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets. This bylaw also applies to all on-site wind facilities located at a residential, commercial, industrial, agricultural, institutional, or public facility.

8.11.3 Interim Restriction: Wind Energy Facilities shall not be permitted in any zoning district in the Town of North Andover so long as this Section 8.11 is effective, as set forth in Section 8.11.4 below. Use variances shall be strictly prohibited.

8.11.4 Expiration: The Moratorium shall be in effect through June 30, 2014, so that the Town of North Andover can enact superseding zoning regulations that set forth the allowed locations, dimensional, parking and other requirements applicable to wind energy facilities.

8.11.1 Purpose

- (1) The purpose of this bylaw is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such facilities.
- (2) The provisions set forth in this bylaw shall take precedence over all other bylaws when considering applications related to the construction, operation, and/or repair of land-based wind facilities.
- (3) No wind facilities shall be placed, constructed or modified within the Town without first obtaining approval from the Special Permit Granting Authority (SPGA). The Planning Board shall be the Special Permit Granting Authority for the issuance of a Special Permit to allow the placement, construction and modification of wind facilities within the town.

This bylaw is intended to be used in conjunction with other regulations adopted by the Town, and other zoning and general bylaws designed to encourage appropriate land use, environmental protection, preservation of the rural character, and the provision of adequate infrastructure development in North Andover.

8.11.2 Applicability

This section applies to all utility-scale and on-site wind facilities proposed to be constructed after the effective date of this section. This section also pertains to physical modifications to existing wind facilities that materially alter the type, configuration, location or size of such facilities or related equipment.

8.11.3 Definitions

- (1) Critical Electric Infrastructure (CEI): electric utility transmission and distribution infrastructure, including but not limited to substations, transmission towers, transmission and distribution poles, supporting structures, guy-wires, cables, lines and conductors operating at voltages of 13.8 kV and above and associated telecommunications infrastructure. CEI also includes all infrastructure defined by any federal regulatory agency or body as transmission facilities on which faults or disturbances can have a significant adverse impact outside of the local area, and transmission lines and associated equipment generally operated at voltages of 100 kV or higher, and transmission facilities which are deemed critical for nuclear generating facilities.
- (2) Height: The height of a wind facility measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height. This measure is also commonly referred to as the maximum tip height (MTH).
- (3) Wind Facility: All of the equipment, machinery and structures together utilized to convert wind to electricity. This includes, but is not limited to, developer-owned electrical equipment, storage, collection and supply equipment, service and access roads, and one or more wind facilities.
- (4) Wind Monitoring or Meteorological Tower: A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind facility can be expected to generate.

8.11.4 Application Procedures

- (1) The construction and operation of all such proposed wind facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

- (2) A Special Permit for the construction of wind facilities designed to service the principal use may be granted by the Planning Board in all zoning districts subject to the following requirements and the Special Permit provisions of Section 10.3.
- (3) All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
- (4) The application shall contain the following documents:
 - a) A site plan showing the following information:
 - i. Property lines and physical dimensions of the site parcel and adjacent parcels within 500 feet of the site parcel;
 - ii. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet of the site parcel, including distances from the wind facility to each building shown;
 - iii. Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment;
 - iv. Zoning designation for the parcel;
 - v. Location of all existing and proposed roads, both public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within 500 feet of the site parcel;
 - vi. Location of all existing above ground or overhead gas or electric infrastructure, including Critical Electric Infrastructure, and utility rights of way (ROW) and easements, whether fully cleared of vegetation or only partially cleared, within 500 feet of the site parcel;
 - vii. Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured from the wind facility foundation, of 3.0 times the MTH;
 - viii. Location of all wetlands on the parcel;
 - ix. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures;
 - b) Documentation of the wind facility's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;
 - c) Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;
 - d) The name, contact information and signature of any agents representing the applicant;
 - e) A operations and maintenance plan for the wind facility;
 - f) A construction plan indicating manufacturer's specifications for the tower materials, construction details and details for footing and guying.

- g) A statement that evidences the wind facility's conformance with Section 9.c., listing existing ambient sound levels at the site and maximum projected sound levels from the wind facility;

8.11.5 Waivers

Documentation requirements may be waived at the discretion of the Planning Board.

8.11.6 Site Control

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed wind facility. Control shall include the legal authority to prevent the use or construction of any structure for human habitation, or inconsistent or interfering use, within the setback areas.

8.11.7 Temporary Meteorological Towers (MET Towers)

A building permit shall be required for stand-alone temporary met towers. A Special Permit shall not be required for MET towers. MET towers shall not be located within setback distance from the sideline of any utility ROW.

8.11.8 Design Requirements

- (1) No tower inclusive of its appurtenant device(s) shall exceed 150 feet in height nor be erected nearer to any property line than a distance equal to ten (10) times the blade diameter, unless the Board determines such restriction to be unnecessary due to the shape, topography, use or ownership of the abutting property and the Board determines that a reduction to this setback requirement will not substantially derogate from the intent or purpose of this subsection.
- (2) Wind facilities shall be lighted only if required by the FAA. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Except as required by the FAA, lighting of the wind facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- (3) Signs on wind facilities shall comply with the Town's sign by-law. The following signs shall be required:
 - a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
 - b) Educational signs providing information about the facility and the benefits of renewable energy.

- (4) Wind facilities shall be erected in such a manner to inhibit unauthorized access, either in the form of a suitable locked gate and fence surrounding the base of the tower, a non-climbable section of tower to a height of 10 feet above the ground or other means determined suitable by the Board.
- (5) Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all developer-owned utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Utility owned electrical equipment required for utility interconnections may be above ground, if required by the utility provider.
- (6) All appurtenant structures to wind facilities shall be subject to applicable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and contained within the wind facility tower whenever technically and economically feasible. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.
- (7) A wind facility may not be sited within:
 - a) a distance equal to ten (10) times the blade diameter of the wind facility from buildings, critical infrastructure—including Critical Electric Infrastructure and above-ground natural gas distribution infrastructure—or private or public ways that are not part of the wind facility;
 - b) a distance equal to ten (10) times the blade diameter of the wind facility from the nearest existing residential or commercial structure.
- (8) Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

8.11.9 Operations

- (1) The applicant shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, emergency braking (stopping) and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road(s), unless accepted as a public way.
- (2) The operation of any facility authorized by the Board shall not cause interference to neighboring television and radio reception, and, if such occurs any time after installation,

the applicant shall, in a timely manner and at his expense, correct the cause of the interference as determined by a qualified engineer/technician.

- (3) The operation of the wind facility shall not exceed thirty (30) dB as measured at the applicant's property lines, and, if such excess noise occurs any time after installation, the applicant shall, in a timely manner and at his expense, correct the cause of the noise as determined by a qualified engineer/technician.
- (4) The applicant shall maintain the facility and all devices authorized by the Board in a manner that ensures its continued performance and safety. It shall be the responsibility of the applicant to annually inform (in writing) the Inspector of Buildings that the tower and all devices are in good operating condition and in continued use.
- (5) The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the police and fire departments, and/or the local emergency services entity designated by the local government, as well as the local electrical utility company. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the wind facility shall be clearly marked. The applicant or facility owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.
- (6) Wind facilities shall be designed to prevent unauthorized access. For instance, the towers of wind shall be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of 8 feet above the ground. Electrical equipment shall be locked where possible.
- (7) Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility or otherwise prescribed by applicable laws, regulations, and bylaws, and subject to existing easements, restrictions and conditions of record.

8.11.10 Modifications

All material modifications to a wind facility made after issuance of the required building permit shall require approval by the Special Permit Granting Authority.

8.11.11 Removal Requirements

Any wind facility which has reached the end of its useful life or has been abandoned shall be removed. The owner/operator shall physically remove the facility no more than 150 days after the date of discontinued operations. The applicant shall notify the Special Permit Granting Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (1) Physical removal of all wind facilities, structures, equipment, security barriers and transmission lines from the site.
- (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Special Permit Granting Authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (4) Applicants for utility-scale wind facilities shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal or failure to maintain, in the event the town must maintain or remove the facility and remediate the landscape, in an amount and form determined to be reasonable by the Special Permit Granting Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state- owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

8.11.12 Abandonment

Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the wind facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Special Permit Granting Authority. If the applicant fails to remove the facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the facility.

Planning Board

VOTED MAY 20, 2014

ATTEST:
A True Copy
Jayce A. Broadhead
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

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This is to certify that the following vote was taken on Article 31 at the Dissolved Annual Town Meeting for the Town of North Andover held May 20, 2014:

Article 31: Amend Zoning Bylaw – Section 8: Supplementary Regulations by replacing Subsection 8.12: Medical Marijuana Treatment Facilities. Two third vote declared by the Moderator to amend the Town of North Andover Zoning Bylaw, by replacing Section 8.12 Medical Marijuana Treatment Center with the following,

Text indicated as strikethrough deleted and replaced by underlined text.

Section 8.12 as of May 20, 2014 reads as follows:

~~8.12.1 Purpose:~~ Provide ~~restrictions that will allow the Town adequate time to undertake a planning process to address the potential impacts of Medical Marijuana Treatment Facilities, to consider the Department of Public Health regulations regarding such Treatment Centers and related uses, to address the potential impacts of such Treatment Centers on the town of North Andover and to adopt new zoning regulations regarding medical Marijuana Treatment Facilities and related uses.~~

~~8.12.2 Definition:~~ As Medical Marijuana Treatment Center shall mean ~~any medical marijuana treatments center as defined under state law as a Massachusetts not for profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tincture, aerosols, oils or ointments), transfer, transports, sells, distributes dispense or administer marijuana, products containing marijuana related supplies or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.~~

~~8.12.3 Interim Restriction:~~ Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the Town of North Andover so long as this Section 8.12 is effective, as set forth in Section 8.13.5 below. Use variances shall be strictly prohibited.

**ATTEST:
A True Copy**
Joyce A. Bradshaw
Town Clerk

8.12.4 Expiration: ~~The Moratorium shall be in effect through June 30, 2014, so that the Town of North Andover can enact superseding zoning regulations that set forth the allowed locations, dimensional, parking and other requirements applicable to medical marijuana uses.~~

Section 8.12 Medical Marijuana Overlay District

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

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

8.12.3 Boundaries: Boundaries of the MMOD are shown on the Zoning Map and shall include the following parcels as identified on the FY 2014 Assessor’s Zoning Map: Map 77 Parcels 3, 12, 13, 14, & 17.

8.12.4 Definitions: where not expressly defined in the Zoning Bylaws, terms used in the MMOD Bylaw shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, M.G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

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

8.12.5 Location:

- (1) RMDs may be permitted in the MMOD pursuant to a Special Permit.
- (2) RMDs may not be located within 500 feet of the following:
 - a) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
 - b) Child Care Facility;
 - c) Library;
 - d) Playground;
 - e) Public Park;
 - f) Youth center;
 - g) Public swimming pool;
 - h) Video arcade facility; or
 - i) Similar facility in which minors commonly congregate.
- (3) The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 8.12.5 (2). to the nearest point of the property line of the proposed RMD.

8.12.6 Procedure:

- (1) The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD special permit.
- (2) The minimum lot size for the location of an RMS within the Overlay District is one acre.
- (3) Application: In addition to the materials required under Section 10.3 the applicant shall include:
 - a) The name and address of each owner of the facility/operation;
 - b) Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
 - c) A copy of its registration as an RMD from the Massachusetts Department of Public Health ("DPH");
 - d) A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs;
 - e) Detailed site plans that include the following information:

- i. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Bylaw;
 - ii. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
 - iii. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
 - iv. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - v. Adequacy of water supply, surface and subsurface drainage and light.
 - vi. A description of the security measures, including employee security policies, approved by DPH for the RMD;
 - vii. A copy of the emergency procedures approved by DPH for the RMD;
 - viii. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD;
 - ix. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
 - x. A copy of proposed waste disposal procedures; and
 - xi. A description of any waivers from DPH regulations issued for the RMD.
- (4) The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, and the Department of Public Works. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
- (5) After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit.
- (6) Special Permit Conditions on RMDs: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the

character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any special permit granted under this Bylaw:

- a) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- b) No Medical Marijuana Facility shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
- c) An RMD shall not be located in buildings that contain any medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- d) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of an RMD.
- e) Signage for the RMD shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.
- f) All aspects of an RMD relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- g) Ventilation – all facilities shall be ventilated in such a manner that:
 - i. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
 - ii. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the MMD or at any adjoining use or property.
- h) The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
- i) All Special Permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and

Special Permit Granting Authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate.

- j) The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.
- k) The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
- l) The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.

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

8.12.8 Annual Reporting: Each RMD permitted under this Bylaw shall, as a condition of its special permit, file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

8.12.9 The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.

8.12.10 Severability: The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

Planning Board

VOTED MAY 20, 2014

ATTEST:
A True Copy
Jayce A. Brinkman
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

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This is to certify that the following vote was taken on Article 32 at the Dissolved Annual Town Meeting for the Town of North Andover held May 20, 2014:

Article 32: Amend Zoning Map – Medical Marijuana Treatment Facilities Overlay District. Two-third vote declared by the Moderator to amend the Zoning Map for the Town of North Andover to rezone the following parcels, as identified on the 2014 Assessor's Map: Map 77 Parcels 3, 12, 13, 14 & 17, to allow for the installation and operation of Medical Marijuana Dispensaries, as described in the Zoning Bylaw – Section 8.12 Medical Marijuana Overlay District,

Map 77 Parcel 13

Northerly 100' +/- by Holt Road
Easterly 370' +/- by Lot 4
Southerly 130' +/- by Parcel 3
Westerly 400' +/- by Clark Street

Map 77 Parcel 14

Northerly 245' +/- by Holt Road
Easterly 330' +/- by Lot 3
Southerly 250" +/- by Parcel 3
Westerly 370' +/- by Lot 7

Map 77 Parcel 3

Northerly by 410' +/- by Lots 3, 4, and 7
Easterly 250' +/- by City of Lawrence Airport Commission
Southerly 465 +/- by City of Lawrence Airport Commission
Westerly 460' +/- by Clark Street

Map 77 Parcel 12 (3 sided lot)

Northerly 410" +/- by Parcel 17
Easterly 270' +/- by Clark Street
Southerly 285' +/- by City of Lawrence Airport Commission

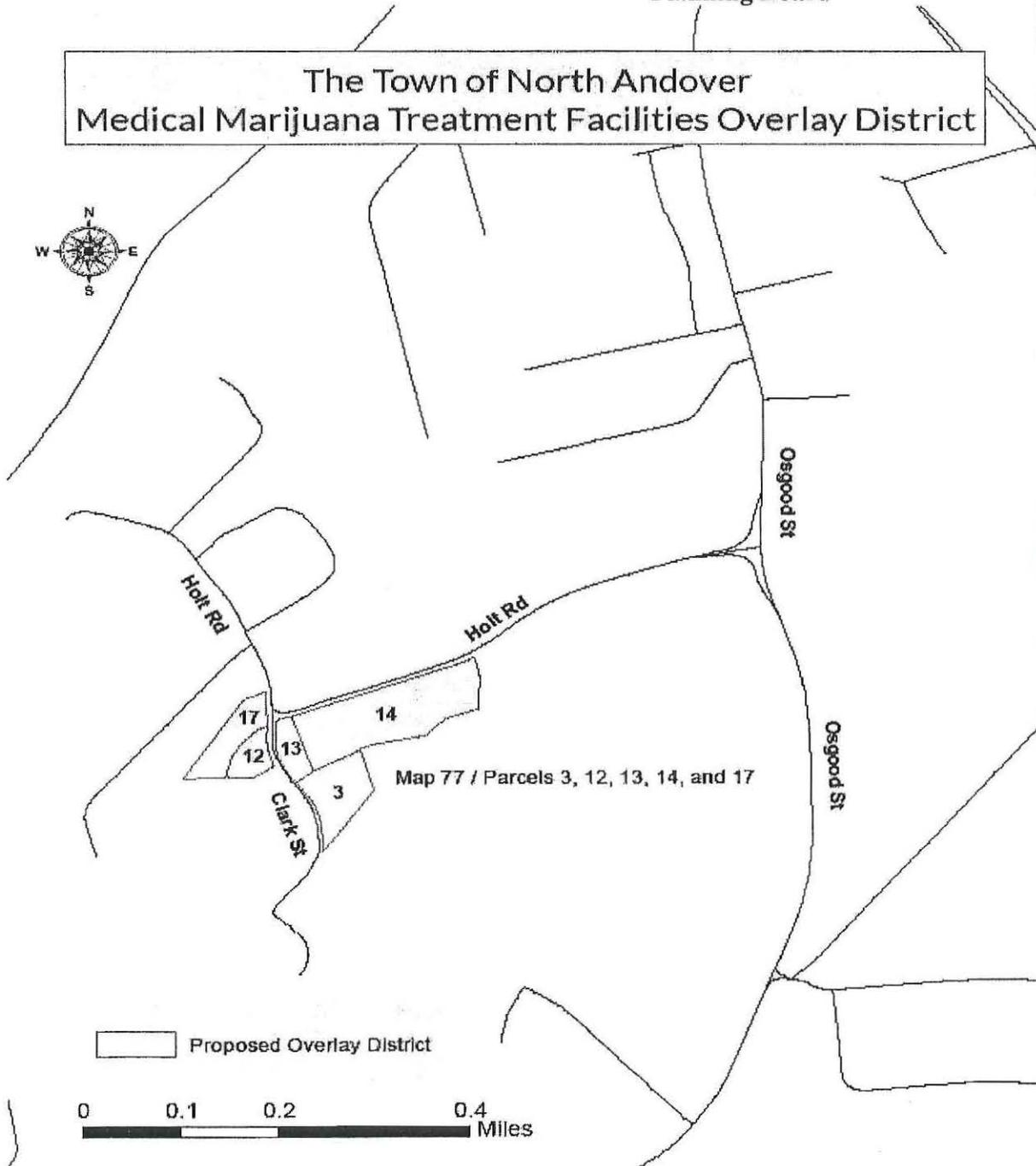
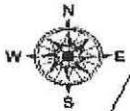
Map 77 Parcel 17

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

Northerly 120' +/- by City of Lawrence Airport Commission
Easterly 210" +/- by Clark Street
Southerly 410" +/- by Parcel 12
Westerly 590' +/- by City of Lawrence Airport Commission

Planning Board

The Town of North Andover
Medical Marijuana Treatment Facilities Overlay District



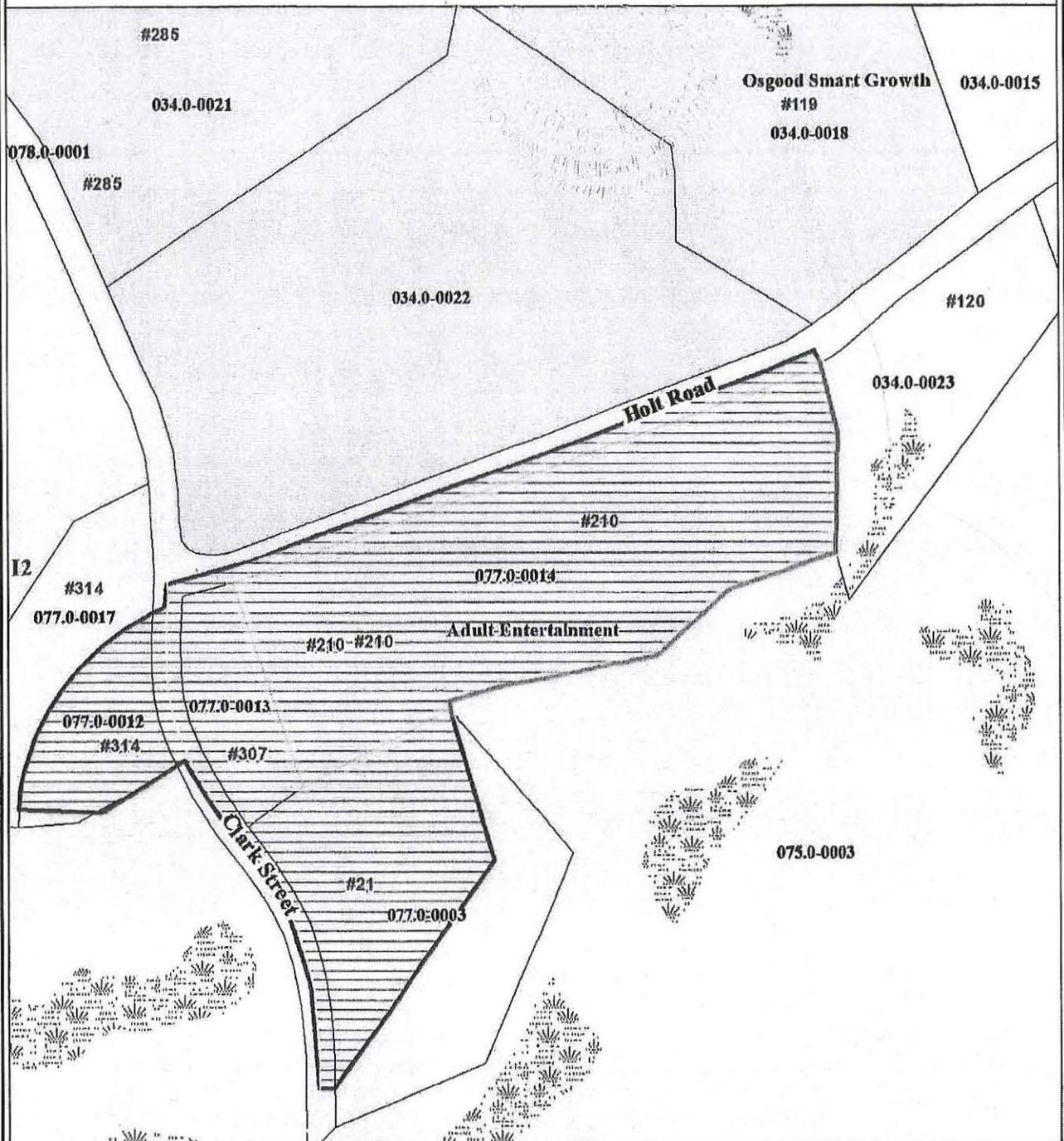
VOTED MAY 20, 2014

ATTEST:
A True Copy
Jayce A. Broadhead
Town Clerk

Attest:
 A True Copy
 of the
 Town Clerk

North Andover MIMAP

April 16, 2014



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- SR
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- Easements
- MVPC Boundary
- Municipal Boundary
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 - Residence 6 District
 - Village Residential District
 - Village Commercial District



Horizontal Datum: MA Stateplane Coordinate System, Datum NAD83, Meters Data Source: The data for this map was produced by Merrimack Valley Planning Commission (MVPC) using data provided by the Town of North Andover. Additional data provided by the Executive Office of Environmental Affairs/MassGIS. The information depicted on this map is for planning purposes only. It may not be adequate for legal boundary definition or regulatory interpretation. THE TOWN OF NORTH ANDOVER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE TOWN OF NORTH ANDOVER DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION

1" = 238 ft



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This is to certify that the following vote was taken on Article 33 at the Dissolved Annual Town Meeting for the Town of North Andover held May 20, 2014:

Article 33: Amend Zoning Bylaw – Section 18: Downtown Overlay District. Unanimous vote to amend the Town of North Andover Zoning Bylaw, Section 18 – Downtown Overlay District, in the following manner:

Section 18 Downtown Overlay District

Section 18.1 Location and Applicability: Amend the first sentence in the second paragraph to read, “An application for the Downtown Overlay District shall be in accordance with the standards set forth in this section *and shall be reviewed by the Planning Board, as Special Permit Granting Authority, or otherwise.*”

Section 18.2 Permitted Uses: Add the following uses to the list of uses allowed:

22. All uses allowed by right in the underlying zoning districts are allowed.

Add the following uses to the list of uses allow allowed by Special Permit:

10. All uses allowed in the underlying zoning district by Special Permit are allowed by Special Permit issued by the Planning Board

Add Section 18.7 Waivers:

Where it can be demonstrated to the Planning Board, as the Special Permit Granting Authority, that the following waivers are consistent with one or more of the purposes of this District, as defined in Section 18.0, would enhance or facilitate the planning, design and/or layout of existing or new structures or uses permitted within the District, and would not interfere or negatively impact abutting properties, the Planning Board may grant those waivers:

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Joyce A. Bradshaw
Town Clerk

- a. Waivers of limited dimensional, design, or other criteria set forth in Sections 18.3 through 18.6 of the Downtown Overlay District;
- b. Waivers of other limited dimensional, design, density, or other criteria under the Zoning Bylaw.
- c. Notwithstanding anything to the contrary in the Zoning Bylaw, no waiver shall be granted for building height in excess of the building height existing on the parcel as of the date of the adoption of this amendment, or for floor area ratio in excess of 2.0.
- d. The Planning Board's authority to grant waivers as described herein shall expire two (2) years after the date of adoption of this Section 18.7.

Add Section 18.8 Underlying Zoning:

The Downtown Overlay District is an overlay district superimposed on all underlying zoning districts. Within the Downtown Overlay District, the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those sites undergoing development pursuant to Section 18. To the extent that there is a conflict between the provisions of the underlying zoning and the provisions of the Downtown Overlay District, the provision of Section 18 shall govern, unless waived by the Planning Board, in accordance with Section 18.7.

Planning Board

Section 18 as amended to read as follows:

Section 18 Downtown Overlay District

18.0 Purpose.

Downtown zoning is the creation of a specific zoning overlay district for the unique needs of small mixed use commercial areas; to provide goods, services and housing in a more compact environment; to encourage redevelopment; and, to create a vibrant, walkable, pedestrian- and bicycle-friendly environment. The Downtown Overlay District seeks to preserve and enhance the existing mixed uses of downtown North Andover.

It is hereby declared to be the intent of the Downtown Overlay District to establish reasonable standards that permit and control mixed residential, commercial, governmental, institutional, and office uses in the Town of North Andover. Furthermore, it is the intent of this district to:

- 1. Encourage a diverse mix of residential, business, commercial, office, governmental, institutional and entertainment uses for workers, visitors, and residents.
- 2. Encourage mixed uses within the same structure.
- 3. Encourage first floor retail space
- 4. Encourage a pedestrian and bicycle friendly environment so that commercial enterprises and consumer services do not rely on automobile traffic to bring consumers into the area.

5. Permit uses that promote conversion of existing buildings in a manner that maintains and enhances the visual character and architectural scale of existing development within the district.
6. Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.
7. Allow for more compact development than may be permitted in other zoning districts to reduce the impacts of sprawl.
8. Encourage consolidation of curb cuts for vehicular access and promote more efficient and economical parking facilities.
9. Encourage uses that minimize noise and congestion.
10. Allow for an appropriate density of land uses and people to support a vibrant downtown.

This bylaw is intended to be used in conjunction with the existing zoning and other regulations as adopted by the town, including historic district regulations, design guidelines, and other local bylaws designed to encourage appropriate and consistent patterns of village development.

18.1 Location and Applicability

The Downtown Overlay District shall consist of the area delineated on the Town's zoning map, but shall include the area along Main Street from Sutton Street to Merrimac Street; Water Street from the intersection with Main Street to High Street, including the mill buildings; portions of Waverley Road, First Street and Second Street; Ellis Court; School Street; Saunders Street; and Cleveland Street. Said area is described on the Town of North Andover Zoning Map as amended through Annual Town Meeting 2008.

An application for the Downtown Overlay District shall be in accordance with the standards set forth in this section. An application for the Downtown Overlay shall be in accordance with the standards set forth in this section and shall be reviewed by the Planning Board, as Special Permit Granting Authority, or otherwise.

18.2 Permitted Uses

The following uses shall be permitted by right in the Downtown Overlay District:

1. General merchandise retail stores and salesrooms
2. Specialty food stores, retail bakeries and coffees shops
3. Sporting goods stores
4. Craft, hobby, book and music stores
5. Art gallery
6. Hardware stores
7. Convenience stores
8. Drug stores, pharmacies
9. Banks
10. Professional offices
11. Medical or dental offices
12. Business services such as copying and mailing services
13. Travel agency

14. Municipal, civic or public service buildings, such as post office, telephone exchanges, town offices, school, library, museum, or place of worship
15. Hall, club, theater, or other place of amusement or assembly
16. Food services establishments such as full or limited service restaurants and drinking establishments
17. Indoor amusements
18. Bed and breakfast facility or inn with six (6) rooms or less
19. Multi-family dwelling
20. Mixed-use structures
21. Any accessory use customarily incident to any of the above permitted uses, provided that such accessory use shall not be injurious, noxious, or offensive to the neighborhood.
- 22. All uses allowed by right in the underlying zoning districts are allowed.**

The following uses shall be permitted by special permit in the Downtown Overlay District:

1. Drive-thrus for any of the above allowed uses
2. Free-standing automated teller machine (ATM)
3. Day care center
4. Bed and breakfast facility or inn with more than six (6) rooms
5. Hotel or motel
6. Funeral homes
7. Any retail use listed above as an allowed use that exceeds a gross floor area of 25,000 sq. ft.
8. Public garage
9. All uses allowed in the underlying zoning districts are allowed.

18.3 Design Guidelines

The Downtown Overlay District is an integral commercial center; it represents an important part of the Town's heritage and its character creates an identity for North Andover today. Compatible design helps to enhance the quality of life for all residents while strengthening the economic viability of the Downtown. The Downtown Overlay District Design Guidelines seek to encourage visual harmony and historic integrity, and encourage creative design solutions. The Design Guidelines do not dictate style, but rather suggest a variety of choices for achieving design compatibility within the Downtown Overlay District. The Design Guidelines can also help to protect the property values by encouraging improvements that maintain buildings as viable assets.

The Design Guidelines apply only within the Downtown Overlay District and supplement the site and design criteria provisions of this Section.

18.3.1 Urban Design Features

- a. Alleys, parks or open spaces, patios, sidewalks and planting strips, outdoor seating areas for private commercial use
- b. Building type (for example townhouse, storefront retail)
- c. Signage

18.3.2 Architectural features for any work consisting of an increase in floor area through either the placement or construction of a new principal structure, a new accessory structure, an addition, alteration or rehabilitation to a principal or accessory structure, a conversion of one use type to another, or any new use or structure requiring a curb cut.

- a. Building facades (new and rehabilitation & repair)
- b. Exterior features
- c. Building height, setbacks and build-to-lines
- d. Roofs and rooftop features
- e. Exterior materials, doors and windows
- f. Exterior colors
- g. Signage, flags and banners
- h. Sign design standards as applicable and consistent with Section 6 of this Bylaw
- i. Exterior illumination

18.3.3 On-site and off-site improvements

- a. Fences and walls
- b. Patio, square, or plaza
- c. Landscaping with areas and plants noted
- d. Special pavement and sidewalk treatment
- e. Setbacks and sidewalk and utility easements
- f. Street and parking lot lighting
- g. Street furniture, trash containers, benches news racks, kiosks
- h. Parking standards including shared parking agreements
- i. Refuse storage and access
- j. Traffic circulation plan and street improvements as needed to relieve excessive congestion

18.4 Site and Design Criteria.

The site and design criteria within this Section shall be applicable to all residential projects greater than three (3) units, mixed use and nonresidential property.

18.4.1 Site Access

New curb cuts on existing public ways shall be minimized. To the extent feasible, access to businesses shall be provided through one of the following methods: (a) through a common driveway serving adjacent lots or premises or (b) through an existing side or rear street thus avoiding the principal thoroughfare. Garages doors or loading docks are prohibited on the front façade of any building facing the street.

- a. Curb cuts within two hundred (200) feet of intersections are subject to site plan review.
- b. Curb cuts greater than thirty (30) feet and driveway openings greater than twenty (20) feet are subject to a site plan review. Full width curb cuts are prohibited.

18.4.2 Parking Requirements

The following criteria are included to ensure that new and renovated off-street parking areas are constructed in accordance with the Downtown character and the provisions of this bylaw.

- a. Parking areas shall be located to the side and rear of the structure. Parking areas shall be designed such that parking is prohibited within the required front yard setback.
- b. Parking areas shall include provisions for the "parking" of bicycles in bicycle racks in locations that are safely segregated from automobile traffic and parking. For parking areas of ten (10) or more spaces, bicycle racks facilitating locking shall be provided to accommodate one (1) bicycle per twenty (20) parking spaces or fraction thereof.
- c. Where possible, parking areas shall be interconnected in a manner that allows the unobstructed flow of pedestrians between businesses and the parking areas.
- d. The applicant may reduce the number and/or the location of the required parking spaces as described in Section 8.1 of this Bylaw. Consideration may be given to the hours of usage of the proposed use/structure, hours of usage of other uses/structures within the Downtown Overlay District, amount of shared parking with other uses, as well as other relevant information to assist the granting authority in determining the need for additional parking for motor vehicles. Relief may be granted provided that it is demonstrated that the additional demand for such spaces can be reasonably met without placing an undue burden on existing facilities already relying on such spaces under the following conditions:
 - i. Allow parking areas to be shared with adjoining businesses based upon having peak user demands at different times provided that all businesses sharing parking are located on the same lot.
 - ii. On-street parking spaces within a radius of two hundred (200) feet may be counted as part of the required parking need.
 - iii. Parking spaces on a separate lot or lots within a radius of six hundred (600) feet, measured from the lot line of the principal use, may be counted.
- e. Where such parking abuts a residential district, it shall not be located within less than five (5) feet of the lot line, and a wall or fence of solid appearance or a tight evergreen hedge having a height of no less than five (5) feet shall be erected and maintained between such area and the property in the residential district.

18.4.3 Pedestrian and Bicycle Circulation

Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas, and should be designed in concert with landscaping plans noted below. New construction should improve pedestrian access to buildings, sidewalks and parking areas, and should be completed with consideration of safety, handicapped access and visual quality. Where appropriate, applicants are encouraged to provide pedestrian and/or

bicycle paths connecting their site with abutting areas in order to promote pedestrian and bicycle circulation and safety. When parking is located in the rear, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.

18.4.4 Landscaping and Appearance

Appropriate landscaping and design shall be incorporated into new and expanded development within the district. Landscape design plans shall be prepared by a landscape architect, although the permitting authority may accept a plan prepared by someone other than a landscape architect if it believes the plan meets the design guidelines noted below and is in concert with the intent of this regulation. Landscape plans shall show the type, size and location of all proposed plantings.

- a. Side yards shall be screened or landscaped as follows:
 - i. Where the distance between structures on adjacent lots is ten (10) feet or less the side yard shall be screened from public view by a solid fence or tight landscaping having a height of no less than five (5) feet. A chain link fence shall not be permitted.
 - ii. Where the distance between structures is greater than ten (10) feet the space shall be appropriately landscaped.
- b. Large parking areas (e.g. greater than twenty (20) parking spaces) shall be separated by landscaped islands of at least eight (8) feet in width, or in the alternative shall devote at least five (5) percent of the interior of the parking lot to landscaping. In addition, a minimum of one (1) shade tree shall be planted for every six (6) parking spaces required or built, within appropriate locations on the lot(s). The plan shall show the location of plantings, including use of plantings to buffer neighboring properties, and along the street frontage and pedestrian ways. Trees planted within parking areas shall be planted in protected pervious plots of at least sixty (60) square feet of area. Parking areas shall be screened with trees or plantings at least three (3) feet in height.
- c. A minimum of one (1) shade tree shall be planted for every forty (40) feet of street frontage or fraction thereof. Trees may be clustered and should be located between the sidewalk and the curb or in tree wells installed in the sidewalk.
- d. Streetscapes shall be accentuated with benches, planters, and other similar amenities to encourage pedestrian use.
- e. Any exterior lighting shall be directed downward to reduce glare onto adjacent properties.

18.5 Intensity of Use within the Downtown Overlay District.

18.5.1 Location and Distribution of Uses

The ground floor of the front façade of a commercial building or a mixed use residential/commercial building shall be occupied by business uses only. When the rear façade

faces a parking area, the ground floor shall also be occupied by business uses only, including in the rear of buildings.

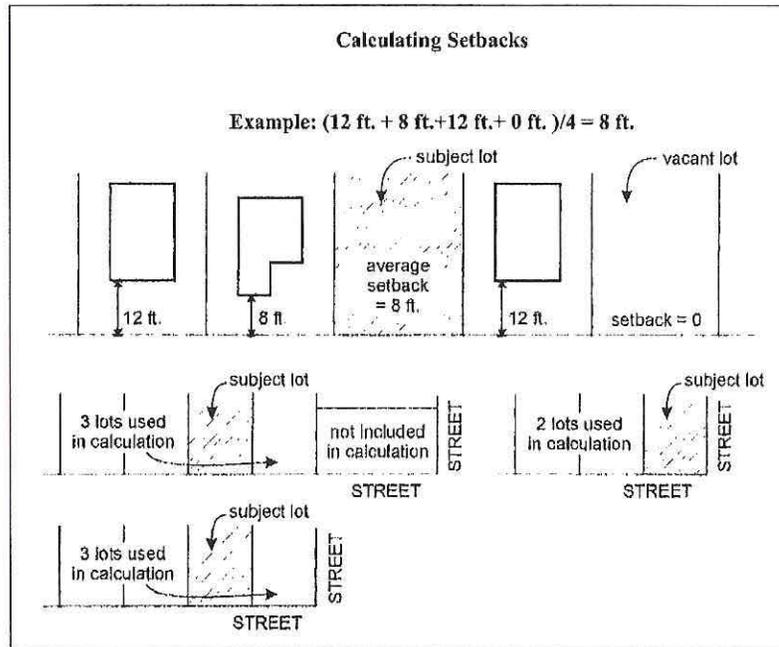
18.5.2 Height

To accomplish the purposes of this Section, the Planning Board is authorized to grant a Special Permit to allow an increase in the height of structures either in existence, as reconstructed, or as new construction, so that the total height does not exceed forty-five (45) feet or three (3) stories within this overlay district. If any construction of a structure increases the intensity of use over what was previously in existence on the lot, the Planning Board shall allow this increase only upon a finding that the additional height is consistent with the scale of adjacent structures and is necessary to maintain the area's character. The Planning Board must further find that the relaxation of height limitations will not interfere or negatively impact abutting properties, particularly property used or zoned for single-family residential purposes.

18.5.3 Setback

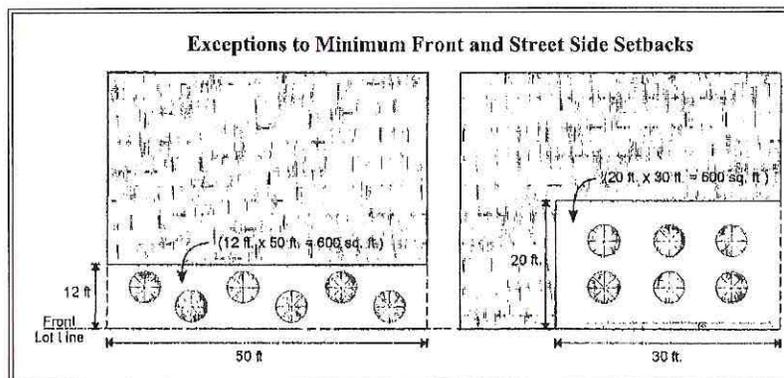
In keeping with the purpose of the Downtown Overlay District it is recognized that the areas have developed with distinct development patterns to match the traditional needs of the small lots and buildings that have made Downtown unique. Building setbacks within the overlay district may allow establishment of average setbacks so that redevelopment and new development will be in keeping with the existing streetscape layout. To accomplish the purposes of this Section, the Building Inspector is authorized to allow a calculation of front, side and rear setback standards for new or pre-existing structures as follows:

- a. Front, side and rear building setbacks shall be calculated as follows: The maximum front and street-side building setback may not exceed the average front yard depth of the nearest two (2) lots on both sides of the subject lot or ten (10) feet, whichever is less.
 - i. If one or more of the lots required to be included in the averaging calculation is vacant, such vacant lot(s) will be deemed to have a yard depth of zero feet.
 - ii. Lots fronting a street other than the subject lot or separated from the subject lot by a street or alley may not be used in the computing average.
 - iii. When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) adjacent lots that front on the same street as the subject lot.
 - iv. When the subject lot abuts a corner lot fronting on the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot.



b. The following exceptions to the maximum front and street side building setbacks apply:

- i. A portion of the building may be set back from the maximum setback line in order to provide an articulated façade, window box, hanging sign, awning or marquee, or to accommodate a building entrance feature, provided that the total area of the space created must not exceed one (1) square foot for every linear foot of building frontage.
- ii. A building may be set back farther than the maximum setback in order to accommodate an outdoor eating area. In order to preserve the continuity of the streetwall, the building may be set back no more than twelve (12) feet from the front or street side property line or at least forty (40) percent of the building façade must be located at the maximum setback line.



18.5.4 Orientation

Buildings shall be oriented parallel with the front setback line to establish and preserve a consistent building line, with primary entrances oriented toward the street. The front façade of a principal building shall face onto a public street and not towards a parking lot.

18.5.5 Articulation

Large expanses of blank walls are prohibited. A single building with a width of more than sixty (60) feet facing a street line or a public or municipal parking area shall be divided visually into sub-elements which, where appropriate, express the functional diversity within the building. Major articulations shall be spaced no farther apart than twenty-five (25) percent of the building length at street level. The articulation of a façade on a building shall be continued on all sides visible from a public street or courtyard.

18.5.6 Transparency

The intent of these transparency standards is to maintain a sense of visual continuity and provide interest for pedestrians by ensuring that the solid-to-void ratio (the percentage of glass to solid wall surface that is used on a building face) appears similar to that seen in traditional store fronts.

- a. A minimum of sixty (60) percent of the street-facing building façade between two (2) feet and eight (8) feet in height must be comprised of clear windows that allow views of indoor nonresidential space or product display areas.
- b. The bottom edge of any window or product display window used to satisfy the transparency standard of paragraph (a) above may not be more than three (3) feet above the adjacent sidewalk.
- c. Product display windows used to satisfy these requirements must have a minimum height of four (4) feet and be internally lit.

18.5.7 Doors and Entrances

- a. Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.
- b. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.
- c. The main business entrance to each ground floor business shall be accentuated by larger doors, signs, roof overhangs, hooded front door, canopy or similar means.
- d. Where a building has a street frontage greater than one hundred (100) feet, doors must be placed an average of one door every fifty (50) feet of frontage.

18.5.8 Utilities

Underground utilities for new and redeveloped building may be required unless physically restricted or blocked by existing underground obstructions.

18.6 Special Permit Standards and Criteria

In addition to the specific criteria regarding the grant of a special permit contained in Section 10.31 of this bylaw, the Planning Board shall issue a special permit only after consideration of the following:

- a. Impact on the neighborhood visual character, including architectural design, views and vistas; and
- b. Degree to which the proposed use will share an access driveway and/or parking with an adjacent use and avoids new curb cuts.

Section 18.7 Waivers:

Where it can be demonstrated to the Planning Board, as the Special Permit Granting Authority, that the following waivers are consistent with one or more of the purposes of this District, as defined in Section 18.0, the Planning Board may grant those waivers:

would enhance or facilitate the planning, design and/or layout of existing or new structures or uses permitted within the District, and would not interfere or negatively impact abutting properties,

- a. Waivers of limited dimensional, design, or other criteria set forth in Sections 18.3 through 18.6 of the Downtown Overlay District;
- b. Waivers of other limited dimensional, design, density, or other criteria under the Zoning Bylaw.
- c. Notwithstanding anything to the contrary in the Zoning Bylaw, no waiver shall be granted for building height in excess of the building height existing on the parcel as of the date of the adoption of this amendment, or for floor area ratio in excess of 2.0.
- d. The Planning Board's authority to grant waivers as described herein shall expire two (2) years after the date of adoption of this Section 18.7.

Section 18.8 Underlying Zoning:

The Downtown Overlay District is an overlay district superimposed on all underlying zoning districts. Within the Downtown Overlay District, the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those sites undergoing development pursuant to Section 18. To the extent that there is a conflict between the provisions of the underlying zoning and the provisions of the Downtown Overlay District, the provision of Section 18 shall govern, unless waived by the Planning Board, in accordance with Section 18.7.

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