ZONING BYLAW

TOWN OF
NORTH ANDOVER
1972

Last amended May 10, 2016

NORTH ANDOVER ZONING BYLAW
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TABLE OF REVISIONS

REVISED ZONING BYLAWS OF THE TOWN OF NORTH ANDOVER, MASSACHUSETTS

Town Meeting Date / Article Number	Zoning Bylaw Section	Brief Title
1985/12	4.135 (4)	Lake Cochichewick Amendment
1985/13	4.135(2) (a)	Watershed District
1985/15	2.65	SPGA Definition Amendment
1985/20	4.11 (5)	General Provisions
1985/21	2.29.1	Day Care Center
1985/23	All Districts	Day Care Center
1985/24	7.4.1	Lot Width
1985/25	2.30.1	Definition of Driveway
1986/13	4.2	Established Phased Development
1986/15	10.13	Penalty of Violation
1986/16	7.1	CBA Requirements
1986/17	4.121 (a) (b)	Public / Private Education
1986/18	All Districts	Municipal Buildings
1986/100	4.121(6) (a,d,e)	Sale of Ag. Products
1987/8	Table 2	R-1 Dist. Lot Area
1987/10	8.5	Established PRD
1987/11,28	8.3 (1)	Standards for Site Plan
	4.123	Established VR District
1987/12	8.4	Established Landscape
	8.1(13)	Standard Parking in VR
	4.128	Established VC District
1987/14	Table 1	Deleted “HELISTOP”
1987/16	3.4	Established Historic District
1987/20	2.38.1	Def. Floor Area, Gross
1987/21	2.38.2	Def. Floor Area, Net
1987/22	2.27.1	Def. Family Suite
1987/23	2.34	Amend Def. Two Family Dwelling
1987/24	4.122	Two Family Dwelling in R-4 District
1987/25	4.131(3)	Retail Use - Industrial
1987/26	8.1 (2)	Off Street Parking
1987/27	8.1 (2)	Off Street Parking Table
1987/28	8.3	Site Plan Review Criteria
1987/29	4.135 (4) (a)	Watershed District
1987/83	8.6	Standards: Satellite
1988/2	13.0	Est. Continuing Care Retirement Center CCRC
1988/28	14.0	Established Independent Elderly Housing
1988/29	2.29, 4.122	Established Congregate Housing
1988/30	2.65	Def. Nursing / Convalescent Home
1988/35	4.135	Watershed Protection District
1988/37	8.1	Amend Off Street Parking
1988/38	8.3	Amend Site Plan Review

1988/39	8.5	Amend PRD
1989/32	2.22	Amend Auto Repair Shop
	2.27	Amend Building Height
	2.30.1	Amend Driveway
	2.38.3	Add Floor Area Ratio
	2.40	Amend Home Occupation
	2.43	Amend Lot
	2.52	Amend No Cut Zone
	2.61.1	Add Principal Structure
1989/33	7.8 (3)	Amend Exceptions
	7.8 (4)	Established
1989/43	4.125	Established R-6 District
	Table 2	Established R-6 District
1990/32	Beg. with 4.121.6 (b) (c)	Amend to Conform with State
1990/33	Beg. with 4.125	Place in Order
1990/34	2.39.1	Add Hazardous Material(s)
1991/1 (STM)	10.14	Add Associate Member Planning Board
1991/2 (STM)	4.136	Replaced Watershed Protection District
1991/3 (STM)	Table 2	Amend VC District Add Footnote 17
1991/4 (STM)	8.4 (6)	Add to (6) VC Screening
1991/5 (STM)	8.1	Amend (13) VC Parking
1992/52	4.125.21 4.125 4.126	Add SPGA, Planning Board Add Para. 5 - Uses Allowed by Special Permit
1992/56	4.133.6	Add-Special Permit & SPGA
1993/33	8.5 (6) D	Amend Buffer Zone
1993/34	4.132 (11)	Deleted - Helistop
1993/35	4.133 (11)	Deleted - Helistop
1993/36	4.122 (6) b	Amend to Conform with State
1993/37	4.137	Amend Flood Plain District
1994/36	8.34 &	Add Building Elevation Table 1 &Table2
1994/37	2.65	Add Watershed Protection District
1994/38	4.136 (7)	Deleted Para. 2(c) and Amend (d)
1994/39	7.2.1	Add 7.2.1 Access
1994/40	8.5	Amend 1(c); Sec. 4; Sec. 6 (g)
1994/1 (STM)	4.136	Amend Watershed Protection District
1995/38	4.136	Amend Watershed Protection District
1995/41	7.0	Amend Dimensional Requirements
1995/43	9.0	Amend Non-Conforming Uses
1995/44	6.0	Amend Sign By-law
1995/15 (STM)	4.133 (23)	Add Hotels to I-2
1996/6	8.7	Established Growth Management
1996/19	2.41	Amend Def. of Hotel/Motel
1996/20	8.3	Amend Site Plan Review
1996/21	6.0	Amend Signs and Sign Light
1996/22	8.8	Established Adult Use Zone
1997/29	Table 2	Village Residential
1997/30	8.1	Off street parking
1998/24	4.2	Phased Development
1998/25	4.136(5)	Watershed Protection District

1998/30	6.6D	Signs & Outdoor lighting
1998/31	6.6D	Signs
1998/32	10.4	Variances & Appeals
1998/36	8.9	Wireless Telecommunications
1998/37	2.65	Special Permit Granting Authority
1998/42	8.3	Site Plan Review
1999/18	4.133.6	Industrial 2 District
1999/20	2.27	Building Height
2000/17	4.136(8)	Est. Watershed Waiver
2000/30	7.1.2	Amend Lot Width
2000/21	8.9(3)	Amend setbacks
2001/27	8.8(2)	Amend location
2001/29	8.7	Extend expiration
2001/30	8.10	Lot/Slope Requirements
2002/12	10.4	Variance and Appeals
2002/13	6.6	Temporary Signs
2002/31	8.7	Growth Management
2002/32	9.3	Non-conforming uses
2004/38	4.2	Amend Phased Development
2004/39	8.7	Delete Growth Management
2004/40	4.122.14	Amend R4 District
2004/41	9.3	Amend Non-Conforming Uses
2004/42	4.3	Add Residential Adaptive Re-Use SP
2004/43	4.137	Amend Flood Plain District
2004/45	15	Add Planned Com. Development District
2004/46	3.1 &	Add PCD district & Amend Tables 1 & 2
2005/43	4.2	Amend Section 1 Intent & Purpose & Section 9 Expiration
2005/44	8.8.7	Application information, ad Section e
2005/46	6.6B2 & 6.6.G1	Sign bylaw
2005/47	4.133	Recreational uses
2005/48	8.5.6.G	PRD/Calculation of Allowable Residential
2006/4	2.30	Def. of a Drive-through facility
2006/5	16	Creation of new zoning district CDD1
2006/6	16	Creation of new zoning district CDD2
2006/38	4.122(14)(B)(b)	Demolition of residential homes and construction of new multi-family residences in R-4
2006/41	4.136	Modify uses within Non-Disturbance Zone
2007/27	17.0	Creation of new zoning overlay district Osgood Smart Growth Overlay District
2007/30		Amend Zoning Map – 200 & 220 Sutton Street from I-S to B-2.
2007/36	7.4(5)	Amend Dimensional Requirements
2007/37	8.5.6(F)	Amend Useable Open Space
2008/35	4.122(22)	Amend Residential 4 to add Family Suite
2008/36	6.3, 6.6(B)	Amend Signs and Sign Lighting Regulations
2008/37	16	Creation of new zoning district CDD3
2008/39	8.1, 8.4	Amend Off-Street Parking and Screening and Landscaping Requirements for Off-Street Parking

2008/40	4.2	Amend Phased Development Bylaw
2008/42	2.68	Definition of Structure
2008/43	4.126, 4.127	Amend Retail Establishments
2009/40	18	Added Downtown Overlay District
2009/41	-	Amend Zoning Map
2009/43	11.5	Amend Planned Development District-uses
2010/31	6.3.21	Amend Definition of Sign
2010/32	5.1	Amend Earth Removal
2010/33	7.31, 7.32, 7.33	Amend Yards (Setbacks)
2010/37	4.133.11	Amend Industrial 2 District
2010/38	4.137	Amend Floodplain District
2010/10	16.5	Amend Uses Subject to Special Permit
2012/35	4.135	Amend Industrial "S" District
2012/37	4.137	Amend Floodplain District
2012/34	8.1.4	Amend Outdoor Seating Regulations
2012/38	16.2 and 16.3	Allow Drive-Thru uses
2013	Footnotes from Table II	Revised to add the Footnotes section that had been previously removed in error
2013/28	4.121 & 4.122	To Allow the Keeping of Backyard Hens
2013/29	6.3 & 6.5	Define Off-Premise Sign & Allow Projecting Signs
2013/30	8.5.7.D	To Specify an Allowable Height Limitation of 35'
2013/31	8.11	Add 8.11 Wind Facilities subsection
2013/32	8.12	Add 8.12 Medical Marijuana Treatment Facilities subsection
2013/33	18.2	Amend Permitted Uses and Permitted Uses by Special Permit
2013/34		Accept Zoning Map dated Oct. 25, 2012
2014/30	8.11.1-8.11.12	Amend 8.11 Wind Facilities
2014/31	8.12.1-8.12.10	Amend 8.12 Medical Marijuana Treatment Facilities
2014/32	--	Amend Zoning Map
2014/33	18.1, 18.2, 18.7, 18.8	Amend Location& Applicability, Permitted Uses, add Waivers section, and add Underlying Zoning section
2014	4.136.2.b.iv: Table 1	Administrative correction
2015/9	18.1, 18.7, 18.8-18.8.10.11	Amend DTO and Add DTO Sub-district A: Historic Mill Area
2015/10	-	Amend Zoning Map DTO
2015/11	-	Amend Zoning Map DTO (Corrections)
2015/12	-	Amend Zoning Map MSV Neighborhood Conservation District
2016/9	8.3.5, 8.3.6	Revised to allow for minor modifications to text and to the information required and review criteria
2016/10	13.1, 13.2, 13.5	Amend CCRC to allow a limited scale development within the R-1 Zoning

		District and to increase max. density allowed
2016/11	16.4, 16.5	Revised to allow light manufacturing as a permitted use and to allow contractor yards, landscaping, lumber, etc. by Special Permit
2016/16	4.127, 7.4	Amend Special Permit authority and to allow provision for a waiver of the max. building height

The Town of North Andover Zoning Bylaw, together with the Zoning Map, adopted at the Annual Town Meeting of March 13, 1943. Approved by the Attorney General on April 13, 1943, posted May 1, 1943.

1945 - Special Town Meeting May 28, 1945 (Articles 1 and 2). Approved by the Attorney General February 13, 1946.

1946 - Special Town Meeting December 23, 1946 (Articles 1 and 2). Approved by the Attorney General February 5, 1947.

1947 - Annual Town Meeting (Article 46). Approved by the Attorney General March 28, 1947.
Special Town Meeting June 16, 1947 (Article 1). Approved by the Attorney General November 21, 1947.
Special Town Meeting June 20, 1947 (Article 1). Approved by the Attorney General June 25, 1947.

1949 - Annual Town Meeting (Article 1). Approved by the Attorney General June 3, 1949.

1950 - Annual Town Meeting (Article 32). Approved by the Attorney General February 9, 1951.
Special Town Meeting August 28, 1950 (Article4). Approved the Attorney General January 29, 1951.

1952 - Annual Town Meeting (Article 40). Approved by the Attorney General April 16, 1952.

1953 - Annual Town Meeting (Article 58). Approved by the Attorney General April 22, 1953.

The Town of North Andover Zoning Bylaw adopted at the Special Town Meeting of June 30, 1956 (Article 1). Approved by the Attorney General December 6, 1956, posted January 9, 1957.

Thereafter AMENDED:

1957 - Annual Town Meeting (Articles 11, 12, 14, 15, 16, 17, 20 and 22). Approved by the Attorney General June 28, 1957, posted July 12, 1957.
Special Town Meeting, October 7, 1957 (Articles 7, 8, 10, 11, 12, 13, 14, and 15). Approved by the Attorney General on October 19, 1957, posted November 29, 1957.

1958 - Annual Town Meeting (Articles 11, 12 and 13). Approved by the Attorney General on April 28, 1958, posted May 15, 1958.

1959 - Annual Town Meeting (Articles 62, 63, 64 and 65). Approved by the Attorney General March 31, 1959, posted April 15, 1959.
Special Town Meeting, June 22, 1959 (Article 5). Approved by the Attorney General July 16, 1959, published July 21, 22 and 23 1960.

1960 - Annual Town Meeting (Articles 79, 80, 81, 82, 83 and 85). Approved by the Attorney General May 2, 1960, posted May 10, 1960.

Special Town Meeting (Articles 79, 80, 81, 82, 83, and 85). Approved by the Attorney General May 2, 1960, posted May 10,1960.

1961 - Annual Town Meeting (Article 64). Approved by the Attorney General April 10, 1961, posted April 13, 1961.

1962 - Special Town Meeting, May 14, 1962 (Article 7). Approved by the Attorney General July 12, 1962, posted July 12, 1962.

1963 - Annual Town Meeting (Articles 24, 25, 26, 28, 29, 86, 87, 88, 89, 90 and 91). Approved by the Attorney General June 6, 1963, posted June 11, 1963.

1964 - Annual Town Meeting (Articles 53 and 54). Approved by the Attorney General April 9, 1964, posted April 16,1964.

1965 - Annual Town Meeting (Articles 28A, 28B, 28C, 85 and 87). Approved by the Attorney General, April 30, 1965, posted May 4, 1965.
Special Town Meeting, November 8, 1965 (Article2). Approved by the Attorney General November 23, 1965, posted December 1, 1965.

1966 - Annual Town Meeting (Article 10, 11, 12, 13, 15, 16, 17, 18, and 19). Approved by the Attorney General April 6, 1966, posted April 11, 1966.

1967 - Annual Town Meeting (Article 75 and 77). Approved by the Attorney General April 21, 1967, posted April 28, 1967.

Special Town Meeting March 18, 1967 (Article 10). Approved by the Attorney General April 21, 1967, posted April 28, 1967.

Special Town Meeting, June 19, 1967 (Article 1 and 2). Approved by the Attorney General July 11, 1967, posted July 14, 1967.

1968 - Annual Town Meeting (Article 61). Approved by the Attorney General May 20, 1968, posted May 23, 1968.
Special Town Meeting April 8, 1968, (Article 3). Approved by the Attorney General July 2, 1968, posted July 2, 1968.

Special Town Meeting July 22, 1968 (Article 1). Approved by the Attorney General August 1, 1968, posted August 6, 1968.

Special Town Meeting September 30, 1968 (Article 9). Approved by the Attorney General October 9, 1968, posted October 15, 1968.

1969 - Special Town Meeting January 9, 1969 (Article 4). Approved by the Attorney General January 28, 1969, posted February 4, 1969.

Annual Town Meeting March 3, 1969 (Article 22 and 76). Approved by the Attorney General May 28, 1969, posted June 9, 1969.

1970 - Annual Town Meeting (Article 32 and 33). Approve by the Attorney General May 12, 1970 posted June 5, 1970.

Special Town Meeting August 24, 1970 (Article 1). Approved by the Attorney General December 1, 1970, posted December 4, 1970.

1971- Annual Town Meeting (Article 68, 69 and 72). Approved by the Attorney General April 22, 1971, posted April 26, 1971.

1972 - Annual Town Meeting (Articles 59, 62 and 63). Approved by the Attorney General June 9, 1972, posted June 14, 1972.

Town of North Andover Zoning Bylaw adopted at the Special Town Meeting of June 5, 1972 (Article 11A and 11B). Approved by the Attorney General on August 2, 1972,posted August 4, 1972.

Thereafter AMENDED:

1972 - Special Town Meeting, December 18, 1972 (Articles 1 and 2). Approved by the Attorney General April 4, 1973, posted April 10, 1973.

1973 - Annual Town Meeting (Article 11). Approved by the Attorney General May 5, 1973.
Special Town Meeting June 25, 1973 (Article 6 and 7). Approved by the Attorney General August 29, 1973, posted September 4, 1973.

1974 - Annual Town Meeting (Article 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22). Approved by the Attorney General May 21, 1974, posted May 28, 1974.

1975 - Annual Town Meeting (Articles 29, 30, 48 and 49). Approved by the Attorney General July 7, 1975, posted July 10, 1975. Zoning Map amended to include I-3 District, description of which is on file with the Town Clerk.

1976 - Annual Town Meeting (Articles 35, 36 and 86). Approved by the Attorney General August 3, 1976, posted September 3, 1976.

Special Town Meeting November 23, 1976 (Article 9). Approved by the Attorney General December 12, 1976, posted, December 21, 1976.

1978 - Annual Town Meeting (Article 68 and 70). Approved by the Attorney General August 30, 1978.
Special Town Meeting June 26, 1978 (Articles 4 and 6). Approved in accordance with M.G.L Ch.40, Sec. 32, posted October 30, 1978.

1979 - Annual Town Meeting (Articles 50, 51 and 52). Approved by the Attorney General August 23, 1979.

1980 - Annual Town Meeting (Articles 93, 94 and 98) Approved by the Attorney General August 7, 1980.

1981- Annual Town Meeting (Articles 67, 68, 69, 71, 72, 74, 75, 76 and 77). Approved by the Attorney General August 3, 1981, posted August 6, 1981.

1982 - Annual Town Meeting (Article 80, 81, 82, 83, 84, 85, 88, 89 and 93). Approved by the Attorney General July 27, 1982.

1983 - Annual Town Meeting Articles (77, 78, 79, 80, 81, 82, 83, 85, 86, 87, 88, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 107, 109 and 110). Approved by the Attorney General May 24, 1983.

Special Town Meeting October 27, 1983 (Article 6). Approved by the Attorney General December 20, 1983.

1984 - Annual Town Meeting (Article 92, 94, 96, 97, 98, 99, 100, 101, 104 and 105). Approved by the Attorney General July 31, 1984.

1985 - Annual Town Meeting (Articles12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25 and 26). Approved by the Attorney General July 25, 1985.

1986 - Annual Town Meeting (Articles 13, 15, 16, 17, 18, 100, 103, 104, 105 and 108). Approved by the Attorney General July 29, 1986, posted July 30, 1986.

1987 - Annual Town Meeting (Articles 8, 9, 10, 11, 14, 16, 20, 21, 23, 24, 25, 26, 27, 28, 29, 83, 84, 90 and 9) Approved by the Attorney General November 27, 1987.

1988 - Annual Town Meeting (Article 27, 28, 29, 30, 35, 37, 38, 39 and 48). Approved by the Attorney General July 28, 1988.

1989 - Annual Town Meeting (Articles 32, 33, 38, 39, 40, 41 and 44. Article 43 amended). Approved by the Attorney General July 28, 1989, posted August 1, 1989.

1990 - Annual Town Meeting (Articles 32, 33, 34, 35, 36, 37 and 41). Approved by the Attorney General August 24, 1990, posted August 28, 1990.

1991 - Special Town Meeting January 29, 1991 (Articles1, 2, 3, 4 and 5). Approved by the Attorney General March 14, 1991, posted March 15, 1991.

1992 - Annual Town Meeting May 4, 1992 (Articles 50, 51, 52 and 56). Approved by the Attorney General August 5,1992, posted August 10, 1992.

1993 - Annual Town Meeting May 3, 1993 (Articles 33, 34, 35, 36, 37,38, 39 and 66). Approved by the Attorney General August 27, 1993, posted August 30, 1993.

1994 - Annual Town Meeting May 2, 1994 (Articles22, 36, 37, 38, 39 and 40). Approved by the Attorney General September 16, 1994, posted September 19, 1994. Special Town Meeting October 24, 1994 (Article 1). Approved by the Attorney General February21, 1995; posted February 22, 1995.

1995 - Annual Town Meeting May 1, 1995 (Articles 38, 41, 43 and 44). Approved by the Attorney General September 21, 1995, posted. Special Town Meeting November 4, 1995 (Article 15). Approved by the Attorney General December 6, 1995. Posted December 11, 1995.

1996 - Annual Town Meeting May 6, 1996 (Articles 6, 19, 20, 21, 22). Approved by the Attorney General September 27, 1996. Posted September 30, 1996.

1997 - Annual Town Meeting May 13,1997 (Articles 29, 30). Approved by the Attorney General August 13, 1997. Posted August 18, 1997.

1998 - Annual Town Meeting May 11, 1998 (Articles 24, 25, 30, 31, 32, 36). Approved by the Attorney General October 20, 1998. Posted October 29, 1998.

1999 - Annual Town Meeting May 3, 1999 (Articles 18, 20) (zoning map 31, 33 and 34). Approved by the Attorney General July 30, 1999. Posted August 2, 1999.

2000 - Annual Town Meeting May 13, 2000 (Articles 17, 30)(Zoning map 29, 31).Approved by the Attorney General October 12, 2000. Posted October 25, 2000.

2001 - Annual Town Meeting May 14, 2001 (Articles 27, 29 & 30) Approved by the Attorney General September 18, 2001 Annual Town Meeting December 3, 2001 – No new changes

2002 - Annual Town Meeting May 28, 2002 (Articles 31, 33& 34) Approved by the Office of the Attorney General September 18, 2002

Annual Town Meeting December 9, 2002 (Articles 12, 13 & 32) Approved by the Office of the Attorney General February 24, 2003

2003 – Special Town Meeting November 17, 2003 (Article 17) Approved by the Office of the Attorney General January 22, 2004.

2004 - Annual Town Meeting May 10, 2004 (Articles 38, 39, 40, 41, 42, 43, 45 & 46) Approved by the Office of the Attorney General on August 24, 2004.

2005 - Annual Town Meeting May 9, 2005 (Articles 43, 44, 46, 47, & 48) Approved by the Attorney General on August 29, 2005.

2006 - Annual Town Meeting May 8, June 5 & 6, 2006 (Articles 4, 5, 6, 38, 41) Approved by the Attorney General on October 16, 2006.

2007 Annual Town Meeting May 2007, (Article 27, approved by Atty. General October 2, 2007);(Article 28, voted June 4, 2007); (Article 29, voted June 4, 2007), (Article 30, approved by Atty. General on October 2, 2007). (Article 36, approved by Atty. General October 2, 2007);

(Article 37, approved by Atty. General October 2, 2007).

2008 Annual Town Meeting May 13, 2008, (Article 38, approved by Atty. General on September 17, 2008); (Article 35, approved by Atty. General on September 17, 2008); (Article 36, approved by Atty. General on September 17, 2008); (Article 38, approved by Attorney General on September 17, 2008); (Article 39, approved by Atty. General on September 17, 2008); (Article 40, approved by Atty. General on September 17, 2008); (Article 42, approved by Atty. General on September 17, 2008); (Article 43, approved by Atty. General on September 17, 2008); (Article 44, approved by Atty. General on September 17, 2008).

2009 Annual Town Meeting May 12, 2009, (Article 40,41,43) Approved by the Attorney General on September 2, 2009.

2010 Annual Town Meeting May 11, 2010 (Article 31, 32, 33, 37, 38) Approved by the Attorney General on September 9, 2010.

2010 Special Town Meeting November, 17, 2010 (Article 10) Approved by the Attorney General on December 14, 2010.

2012 Annual Town Meeting June 12, 2012 (Article 34, 35, 37, 38) Approved by the Attorney General on October 9, 2012.

2013 Annual Town Meeting May 12, 2013 (Article 28, 29, 30, 31, 32, 33, 34) Approved by the Attorney General on September 19, 2013.

2014 Annual Town Meeting May 20, 2014 (Article 30, 31, 32) Approved by the Attorney General on September 3, 2014.

2015 Annual Town Meeting May 19, 2015 (Article 9, 10, 11, 12) As approved by the Attorney General on September 15, 2015.

2016 Annual Town Meeting May 10, 2016 (Article 9, 10, 11, 16) As approved by the Attorney General on June 15, 2016.

SECTION 1 PURPOSES

The purpose of this Bylaw is the promotion of the health, safety, convenience, morals and welfare of the inhabitants of the Town of North Andover, as provided by Chapter 40-A of the General Laws of the Commonwealth of Massachusetts, as amended by Chapter 808, Acts of 1975, and as they may be further amended, by regulating and restricting the use of land and buildings, thereby:

1. encouraging the most appropriate use of land;
2. preventing overcrowding of land;
3. conserving the value of land and buildings;
4. lessening congestion of traffic;
5. preventing undue concentration of population;
6. providing adequate light and air;
7. reducing the hazards from fire and other danger;
8. assisting in the economical provision of transportation, water, sewerage, schools, parks and other public facilities;
9. controlling the use of bodies of water, including watercourses;
10. reducing the probability of losses resulting from floods; and
11. reserving and increasing the amenities of the Town.

SECTION 2 DEFINITIONS

2.1 General

For the purpose of this Bylaw, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural, words used in the present tense include the future tense, the word "person" includes a corporation as well as an individual, the word "lot" includes the word "plot" or "parcel", the word "shall" is always mandatory and the word "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged or designed to be used or occupied".

2.2 Specific Words and Phrases

For the purpose of this Bylaw, the following words and terms used herein shall have the meanings or limitations of meaning hereby defined, explained or assigned.

2.21 Accessory Use or Structure

A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

2.21.1 Adult Bookstore

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other materials which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. (1996/22) (2003/17)

2.21.2 Adult Cabaret

A nightclub, bar, restaurant, tavern, dance hall, or similar commercial establishment which regularly features persons or entertainers who appear in the state of nudity, or live performances which are distinguished or characterized by nudity, sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. (1996/22) (2003/17)

2.21.3 Adult Motion Picture Theater

An enclosed building or any portion thereof used for presenting material (motion picture films, video cassettes, cable television, slides or any other visual media) distinguished by an emphasis on material depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. (1996/22) (2003/17)

2.21.4 Adult Paraphernalia Store

An establishment having as a substantial or significant portion of its stock devices, objects, tools, toys, which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. (1996/22) (2003/17)

2.21.5 Adult Video Store

An establishment having as a substantial or significant portion of its stock in trade for sale or rent motion picture films, video cassettes and similar audio/visual media which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. (1996/22) (2003/17)

2.21.6 Adult Use

Adult Bookstores, Adult Cabarets, Adult Motion Picture Theaters, Adult Paraphernalia Stores and Adult Video Stores as defined in this Bylaw. (1996/22) (2003/17)

2.22 Automobile Repair Shop (1989/32)
A building or part of a building in which repairs are made to motor vehicles.

2.23 Automobile Service Station
A building or place of business where gasoline, oil, and greases, batteries, tires, and automobile accessories are supplied and dispensed directly to the motor vehicle trade, at retail and where minor repair service is rendered.

2.24 Body Shop
A building, or part thereof, used for structural repairs and refinishing of motor vehicles for remuneration.

2.25 Board of Appeals
The Board of Appeals of the Town of North Andover as governed by the General Laws of Massachusetts.

2.26 Building
A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or property.

2.26.1 Building Coverage (1989/32)
The horizontal area measured within the outside of the exterior walls of the ground floor for all principal and accessory buildings on a lot.

2.27 Building Height (1999/20)
The vertical distance as measured from the average finished grade level adjoining the building at all exterior walls to the highest roof surface, but shall not include chimneys, spires or mechanical equipment or penthouses used for enclosures of mechanical equipment.

2.28 Building, Principal
A building in which is conducted main or principal use of the lot on which said building is situated.

2.29 Car Wash
An area of land and/or a structure with machine or hand operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

2.29.1 Congregate Housing
A non-institutional residential shared living environment, which integrates, shelter, and services needed by the functionally impaired or socially isolated elder (age 55 or older) who does not require the constant supervision or intensive health care services provided in an institution. The shared living environment must include at least two of the following: a) a shared accessible community space, b) shared kitchens, c) shared dining facilities, or d) shared bathing facilities.

2.29.2 Day Care Center (1985/21)
Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name which received children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, or non-residential custody and care during part or all

of the day separate from their parents or the elderly 60 years of age or older. Day Care Center shall not include any part of a public school system; any part of a private organized educational system unless the services of such system are primarily limited to kindergarten, nursery or related pre-school services; a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation thereof.

2.3 District
A district or zone shall be any portion of the territory of the Town of North Andover within which certain uniform regulations and requirements or various combinations thereof shall be applied under the provisions of this Bylaw.

2.30 A Drive-through Facility (2006/4)
A facility that provides for the convenience of drive through windows which allow for transactions of goods and/or services to be carried out without the customer having to leave his/her motor vehicle. The proportion of drive through business to the total business volume of the applicable business establishment is not relevant to the determination of whether that business establishment contains a drive through facility.

2.30.1 Driveway (1989/32)
A way located on a lot, which provides vehicular access to the buildings on the lot. Each driveway shall service no more than one lot. Subject to the granting of a Special Permit from the Planning Board, a driveway may be shared by not more than two (2) lots. Each such shared driveway must be regulated by a recorded maintenance agreement running in perpetuity with the land.

2.31 Dwelling
Any building or portion thereof designed or used as the residence or sleeping place of one or more persons, except a mobile home and otherwise provided herein.

2.32 Dwelling, Multi-Family
A building used or designed as a residence for three or more families living independently of each other and doing their own cooking therein (same as “apartment”).

2.33 Dwelling, One-Family
A dwelling built single and apart from any other building and intended and designed to be occupied and used exclusively for residential purposes by one family.

2.34 Dwelling, Two-Family
A freestanding building intended and designed to be occupied and used exclusively for residential purposes by each of not more than two families (same as “duplex”). The principal building in a two family dwelling conversion shall share a connected common wall (or floor) for at least 75% of the walls (or floor’s) surface. No unheated structure, no structure without foundation and no structure, which is entirely or partially a garage shall be considered as meeting the 75% requirement.

2.35 Dwelling Unit
One or more rooms, including cooking facilities and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one family for living and sleeping purposes.

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

2.37 Family
One or more persons occupying the same premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

2.37.1 Family Suite (1987/22)
A separate dwelling unit located within a single family dwelling subordinate in size to the principal unit and separated from it in a manner, which maintains the appearance of the building as a single-family dwelling. The size of the family suite is not to exceed 1200 square feet or not more than 25% of the gross floor area of the principal unit, whichever is lesser. The family suite may only be occupied by brothers, sisters, maternal parents and grandparents, in-laws and or children of the residing owners of the principal dwelling unit. In no case shall an apartment be smaller than the minimum required by health and building codes.

2.38 Frontage
The continuous distance between lot sidelines measured along the street line.

2.38.1 Floor Area, Gross (1987/20)
Gross floor area shall be the floor area within the perimeter of the outside walls of the building without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

2.38.2 Floor Area, Net (1987/21)
Net floor area shall be actual occupied area(s) not to include hallways, stairs, closets, thickness of walls, column or other features, which are not occupied areas.

2.38.3 Floor Area, Ratio (1989/32)
The ratio of the floor area to the lot area, as determined by dividing the gross floor area by the lot area.

2.39 Guest House
A dwelling in which overnight accommodations are provided or offered for transient guests for compensation. The term "guest house" shall be deemed to include tourist home, but not hotel, motel or multi-family dwelling.

2.39.1 Hazardous Material(s) (1990/34)
Any chemical or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential, hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land in waters of the Town, including but not limited to organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids, and alkalis, and all substances defined as Toxic or Hazardous under M.G.L. Chapter 21C and 21E and those chemicals on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, titled "Toxic Chemicals" Subject to Section 313 of the Emergency Planning Community Right-to-Know Act of 1986: (including any revised version of the list as may be made pursuant to subsection (d) or (e).

2.40 Home Occupation (1989/32)

An accessory use conducted within a dwelling by a resident who resides in the dwelling as his principal address, which is clearly secondary to the use of the building for living purposes. Home occupations shall include, but not limited to the following uses; personal services such as furnished by and artist or instructor but not occupation involved with motor vehicle repairs, beauty parlors, animal kennels, or the conduct of retail business, or the manufacturing of goods, which impacts the residential nature of the neighborhood.

2.41 Hotel or Motel
A building intended and designed primarily for transient or overnight occupancy divided into separate units within the same building or buildings. (1996/19)

2.41.1 Independently Elderly Housing
A multi-family residential structure each with separate access and restricted to individuals or couples at least 55 years of age or older. This definition shall not be constructed to prevent mentally or physically impaired people from living with an occupant or occupants of an independent elderly housing unit.

2.42 Loading Bay
An opening in a building not less than ten feet in width and nine feet in height including a platform for loading and unloading goods, merchandise or other materials.

2.43 Lot (1989/32)
An area of land in single or consolidated ownership which contains definite boundaries and ascertainable by a recorded deed in the Essex County Registry of Deeds Office.

2.44 Lot, Corner
A lot abutting upon two (2) or more streets at their intersection.

2.45 Lot Lines
The property lines bounding the lot.

2.46 Lot Line, Front
The line separating the lot from a street.

2.47 Lot Line, Rear
The lot line opposite and most distant from the front lot line.

2.48 Lot Line Side
Any lot line other than a front or rear lot line.

2.49 Lot Line, Street
Any lot line separating the lot from a street or alley (usually the front lot line).

2.50 Mean High Water Mark
(Lake Cochichewick) an elevation of 113.67 on the United States Coast and Geodetic Survey datum.

2.51 Medical Center
A building or group of buildings designed for the individual or group practice of medicine or dentistry, but not including hospitals or nursing homes.

2.52 No Cut Zone (1989/32)
An area which is left in its natural condition, which shall not be disturbed by any means which includes but not limited to the cutting of trees or under story.

2.53 Non-Conforming Use
A building, structure or use legally existing and/or used at the time of adoption of this Bylaw, or any amendment thereto, and which does not conform with the use regulations of the district in which located.

2.54 Office, Business
A primary use consisting of office activities of any type, including business and financial office activities (including banks and financial institutions) and professional office activities.

2.55 Office, Professional
A primary use consisting of office activities by a doctor, dentist, architect, lawyer, engineer or other professional person or persons.

2.56 Parking Area, Private
An open area for the same uses as a private parking garage.

2.57 Parking Garage, Private
A structure used for parking of automobiles and available to employees, clients or customers whether for a fee or free.

2.58 Parking Garage, Public
Any parking garage, other than a private parking garage, which is open to the public and use for the storage of motor vehicles.

2.59 Personal Service Establishment
An establishment providing personal services to the public such as shoe repair, barbering, dry cleaning, etc.

2.60 Place of Worship
A church, temple, synagogue, mosque, or other similar place of worship, including parish house, rectory, or convent.

2.61 Planning Board
The Planning Board of the Town of North Andover as governed by the General Laws of Massachusetts

2.61.1 Principal Structure (1989/32)
The structure on a lot of record, which contains the primary use of the lot. A principal use shall not be contained within an accessory structure as defined in the Bylaw.

2.62 Public Building Use
A building or use owned or operated by a local, county, state or federal government agency.

2.63 Rooming House
Any building or portion thereof containing more than two and less than ten rooms without kitchen facilities that are used, rented or hired out to be occupied for sleeping purposes for compensation, whether the compensation be paid directly or indirectly.

2.64 Special Permit
The words Special Permit where used in this Bylaw shall mean a permit granted under the guidelines of Section 9 of Chapter 40-A of the General Law.

2.65 Special Permit Granting Authority
The Planning Board shall be the granting authority of all Special Permits to Cluster Development, Planned Development District, (1985/15) driveways, nursing and convalescent homes, Watershed Protection District (1994/37), Wireless Service Facilities (1998/37) and large estate condominium conversions. The Board of Selectmen shall be the granting authority of all Special Permits pertaining to non-accessory signs as specified in Section 6.52 of this Bylaw. The Board of Appeals shall be the granting authority of all other Special Permits allowed in this Zoning Bylaw.

2.66 Special Permit Use
A use of a building or lot or an action upon premises which may be permitted under this Bylaw only upon application to the appropriate Special Permit Granting Authority for a Special Permit and subject to the approval of such Permit Granting Authority and the conditions stipulated.

2.67 Street
A public way or a private way open to travel by the general public, or a way shown on a plan of a subdivision theretofore duly approved by the Planning Board.

2.68 Structure
A combination of materials assembled at a location to give support or shelter that is safe and stable, which includes, but is not limited to the following: buildings, stadiums, tents, reviewing stands platforms, staging, observation towers, radio towers, water tanks, towers, private and public swimming pools, trestles, piers and wharves, bridges, sheds, shelters, fences and walls, display signs, and storage trailers or units, whether intended for permanent or temporary purposes, used for storage of goods and products associated with the operations of any business on the subject parcel(s), and remain in any relatively fixed location. The term structure shall be construed as if followed by the words ”or part thereof”, but shall not include underground utilities, driveways, parking lots, agricultural storage trailers and vehicles, and the like. Where the North Andover General and Zoning Bylaws are silent, then the current edition of the Massachusetts Building Code shall be assumed to apply.

2.68.a Structure – Temporary
Structures that are permitted within a zoning district without any foundation or footing and that are removed or dismantled when the designated time period, activity, or use for which the structure was approved and erected has ceased. Said structure shall be permitted for duration of time not to exceed sixty (60) days unless otherwise specifically approved by the Building Inspector. For purposes of this definition, motor and recreational vehicles shall not be consider under this definition.

2.69 Town House
An attached house in a row of three or more such houses capable of being sold as an independent dwelling with its own lot, as provided by this Bylaw.

2.70 Tributary
Any portion of any brook, stream, bog, swamp, or pond, which flows into Lake Cochichewick.

2.71 Yard (Setback)

An open space which lies between the principal building or group of buildings and a lot line.

2.72 Yard, Front (Setback)
An open space extending across the entire width of a lot between any building thereon and the street lot line of the lot on which such building stands.

2.73 Yard, Rear (Setback)
An open space extending across the entire width of a lot between the rear of any building thereon and the rear lot line of the lot on which such building stands.

2.74 Yard, Side (Setback)
An open space between the side line of a lot and the adjacent side of any building thereon, such open space being understood to cover the entire extent between the front yard and the rear yard of such a lot.

2.75 (1985/25) See 2.30.1

2.76 Planned Development District

1. Planned Development District – A Planned Development District shall mean development of an area of land as a single entity, which lies in an Industrial S (I-S) District, in which a mixture of residential, open space, commercial, and/or industrial uses, and a variety of building types and designs are determined to be sufficiently advantageous to render it appropriate to grant a Special Permit to depart from the normal requirements of the district in which the PDD is to be located, to the extent authorized by this Zoning Bylaw.
2. Usable Open Space – The part or parts of land or structure within the PDD which are reserved for active or passive recreation use. This space shall exclude parking areas, driveways, and walkways and open areas in commercial areas such a cafes and shall open and unobstructed to the sky. Trees, plantings, arbors, fences, sculpture, fountains, swimming pools, open-aired recreational facilities, laundry apparatus and similar objects shall not be considered obstructions.

2.77 Public Parking Area
A parking area owned and maintained by the Town of North Andover.

SECTION 3 ZONING DISTRICTS AND BOUNDARIES

3.1 Establishment of Districts

The Town of North Andover is hereby divided into zoning districts designated as follows:

Residence 1 District	(R-1)
Residence 2 District	(R-2)
Residence 3 District	(R-3)
Residence 4 District	(R-4)
Village Residential District	(VR)
Residence 5 District	(R-5)
Residence 6 District	(R-6)
Business 1 District	(B-1)
Business 2 District	(B-2)
Business 3 District	(B-3)
Business 4 District	(B-4)
Corridor Development District 1	(CDD1)
Corridor Development District 2	(CDD2)
Corridor Development District 3	(CDD3)
General Business District	(G-B)
Planned Commercial Development District	(PCD)
Village Commercial District	(VC)
Industrial 1 District	(I-1)
Industrial 2 District	(I-2)
Industrial 3 District	(I-3)
Industrial S District	(I-S)
Flood Hazard District	
Watershed Protection District	

3.2 Zoning Map

The zoning districts established by this Bylaw are bounded as shown on a map dated May 12, 1972, as the same may be adopted by the Town, and as it may hereafter be amended. Said map accompanies and is hereby made a part of this Bylaw. Any land area not designated upon said map as being within another zoning district shall be within the Residence 2- District. The Flood Plain District is defined as all areas so designated on maps entitled "Flood Insurance Rate Maps" (FIRM) and Flood Boundary and Floodway Map dated June 2, 1993 and as it may hereafter be amended, on file with the Town Clerk, incorporated by reference herein.

3.3 District Boundaries

Where uncertainty exists as to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the Building Inspector shall determine the location of such boundaries. In reaching any such determinations, the Building Inspector may properly rely upon the accuracy of the land area descriptions appearing in the Zoning Bylaw adopted by the Town in 1956, and as thereafter amended, insofar as any of them may be pertinent thereto.

3.4 Historic Districts (1987/16)

Historic Districts established pursuant to the provisions of M.G.L. Chapter 40C, as may be from time to time amended, shall be indicated on the Zoning Map by appropriate symbol.

SECTION 4 BUILDINGS AND USES PERMITTED

4.1 District Use Regulations

4.1.1 General Provisions

1. In the zoning districts above specified, the following designated buildings and alterations and extensions thereof and buildings accessory thereto and the following designated uses of land, buildings, or part thereof and uses accessory thereto are permitted. All other buildings and uses are hereby expressly prohibited except uses which are similar in character to the permitted uses shall be treated as requiring a Special Permit (1985/26).
2. When a lot in one ownership is situated in part of the Town of North Andover and in part in an adjacent town or city, the provisions, regulations and restrictions of this Bylaw shall be applied to that portion of such lot as lies in the Town of North Andover in the same manner as if the entire lot were situated therein.
3. When a zoning district boundary divides a lot of record on June 5, 1972 in one ownership, all zoning regulations set forth in this Zoning Bylaw applying to the greater part by area of such lot so divided may, by Special Permit, be deemed to apply and govern at and beyond such zoning district boundary, but only to the extent not more than one hundred (100) linear feet in depth (at right angle to such boundary) into the lesser part by area of such lot so divided.
4. Accessory uses as defined herein, shall be on the same lot with the building of the owner or occupant, and shall be such as not to alter the character of the premises on which they are located nor impair the neighborhood. Where manufacturing of any kind is allowed as an accessory use, it shall be restricted to such light manufacturing as is incidental to a permitted use and where the product is customarily sold on the premises by the producer to the customer.
5. No private or public (1985/20) way giving access to a building or use or not permitted in a residential district shall be laid out or constructed so as to pass through a residential district.

4.12 Permitted Uses

4.121 Residence 1 District
Residence 2 District
Residence 3 District

1. One-family dwelling, but not to exceed one dwelling on any one lot.
2. Place of worship.
3. Rooming house, renting rooms for dwelling purposes or furnishing table board to not more than four (4) persons or members of the family resident in a dwelling so used, provided there be no display or advertising on such dwelling or its lot other than a name place or sign not to exceed six (6) inches by twenty-four (24) inches in size, and further provided that no dwelling shall be erected or altered primarily for such use.
4. For use of a dwelling in any residential district or multi-family district for a home occupation, the following conditions shall apply:
   a. Not more than a total of three (3) people may be employed in the home occupation, one of whom shall be the owner of the home occupation and residing in said dwelling.
   b. The use is carried on strictly within the principal building;
   c. There shall be no exterior alterations, accessory buildings, or display which are not customary with residential buildings;
   d. Not more than twenty five (25) percent of the existing gross floor area of the dwelling unit so used, not to exceed one thousand (1000) square feet, is devoted to such use. In connection

with such use, there is to be kept no stock in trade, commodities or products which occupy space beyond these limits;

e. There will be no display of goods or wares visible from the street;
f. The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, omission of odor, gas, smoke, dust, noise, disturbance, or in any other way become objectionable or detrimental to any residential use within the neighborhood;
g. Any such building shall include no features of design not customarily in buildings for residential use.

5. Real estate signs not to exceed twenty-four (24) inches by thirty-six (36) inches in size which shall advertise only the rental, lease, sale of the premises upon which they are placed.
6. Agriculture, horticulture, floriculture, viticulture or silvaculture.
   a. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds, except chickens being kept, harbored, raised, or maintained as accessory to a residential single family structure as defined in 4.121.6(e), in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5), the keeping of one additional animal or bird but not the keeping of animals, birds, or pets of persons not resident on such lot.
   b. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, and poultry batteries.
   c. The sale of products raised as a result of the above uses on the subject land.
   d. The sale of products of agriculture, horticulture, floriculture, viticulture or silvaculture as well as accessory or customary items, by any person who is primarily engaged in any of the above activities. The operation must be on at least ten (10) contiguous acres used primarily for any of these activities.
   e. A single family residence may keep a maximum of six (6) hens.

      Two (2) family residences in addition to single family residences may keep six (6) hens as long as hens are owned by the homeowner who must reside in the property. (Floor Amendment 2013/28)

      For lots of at least three (3) acres, a single-family residence may keep a maximum of three (3) hens per acre of lot size.

      No roosters shall be permitted.

      Such residence must maintain a minimum coop area of four (4) square feet per hen.

      The owner of the hens must live in the residence.

      Hens and coops are prohibited from the front yard of a residence, unless screened by a privacy fence of at least six (6) feet in height.

      No coop shall be located closer than forty (40) feet from any residential structure occupied by someone other than the hen owner, custodian or keeper.

      The hens shall be secured in a coop and contained in a fenced area on the property when out of the coop.

This use shall meet all current applicable State or Board of Health regulations regarding the raising of chickens.

7. Swimming pools in excess of two (2) feet deep shall be considered a structure and permitted provided they are enclosed by a suitable wall or fence at least four (4) feet in height to be determined by the Building Inspector to prevent the entrance of persons other than those residing at the pool location. Pools shall have a minimum ten (10) foot setback from side and rear lot lines and be located no nearer the street than the building line of the dwelling, except by Special Permit.
8. Museums.
9. a. Public and private non-profit educational facilities. (1986/17)
   b. Private for profit educational facilities by Special Permit. (1986/17)
10. Public building and public service corporations (Special Permit Required), but not including public works garages.
11. Golf Course.
12. Swimming and/or tennis clubs shall be permitted with a Special Permit.
13. Cemetery.
14. Nursing and convalescent home- see dimensional requirements of Table 2 (Special Permit Required).
15. Municipal recreational areas.
16. 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.
17. Family Suite – a separate dwelling unit within or attached to a dwelling for a member of a household is allowable by Special Permit provided:
    a. The dwelling unit is not occupied by anyone except brothers, sisters, maternal and paternal parents and grandparents, or children of the residing owners of the dwelling unit;
    b. That the premises are inspected annually by the Building Inspector for conformance to this section of the Bylaw;
    c. The Special Permit shall be recorded at the North Essex Registry of Deeds.
18. Accessory buildings no larger than sixty –four (64) square feet shall have a minimum five (5) foot setback from side and rear lot lines and shall be located no nearer the street than the building line of the dwelling.
19. Day Care Center by Special Permit. (1985/23)
20. Independent Elderly Housing by Special Permit in Residence District 3 only.

4.122 Residence 4 District

1. One residential building per lot.
2. Place of Worship.
3. Renting rooms for dwelling purposes or furnishing table board to not more than four (4) persons not members of the family resident in a dwelling so used, provided there be no display or advertising on such dwelling or its lot other than a name plate or sign not to exceed six (6) inches by twenty-four (24) inches in size, and further provided that no dwelling shall be erected or altered primarily for such use.
4. For the use of a dwelling in any residential district or multi-family district for a home occupation, the following conditions shall apply:
   a. Not more than a total of three (3) people may be employed in the home occupation, one of whom shall be the owner of the home occupation, and residing said dwelling
   b. The use is carried on strictly within the principal building;

c. There shall be no exterior alterations, accessory building, or display which are not customary with residential buildings;
d. Not more than twenty-five (25) per cent of the existing gross floor area of the dwelling unit so used, not to exceed one thousand (1000) square feet, is devoted to such use. In connection with such use, there is to be kept no stock in trade, commodities or products which occupy space beyond these limits.
e. There will be no display of goods or wares visible from the street;
f. The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, disturbance, or any other way become objectionable or detrimental to any residential use within the neighborhood.
g. Any such building shall include no feature of design not customary in buildings for residential use within the neighborhood.

5. Real estate signs not to exceed twenty-four (24) inches by thirty-six (36) inches in size which shall advertise only the rental, lease, or dale of the premises upon which they are placed.
6. a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
   b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds, except chickens being kept, harbored, raised, or maintained as accessory to a residential single family structure as defined in 4.122.6(e), in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animal or bird; but not the keeping of any animals, birds or pets of persons not resident on such lot.
   c. On any lot of at least five (5) acres the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms, and poultry batteries.
   d. The sale of products raised as a result of the above uses on the subject land.
   e. A single family residence may keep a maximum of six (6) hens.

   Two (2) family residences in addition to single family residences may keep six (6) hens as long as hens are owned by the homeowner who must reside in the property. (Floor Amendment 2013/28)

   For lots of at least three (3) acres, a single-family residence may keep a maximum of three (3) hens per acre of lot size.

   No roosters shall be permitted.

   Such residence must maintain a minimum coop area of four (4) square feet per hen.

   The owner of the hens must live in the residence.

   Hens and coops are prohibited from the front yard of a residence, unless screened by a privacy fence of at least six (6) feet in height.

   No coop shall be located closer than forty (40) feet from any residential structure occupied by someone other than the hen owner, custodian or keeper.

The hens shall be secured in a coop and contained in a fenced area on the property when out of the coop.

This use shall meet all current applicable State or Board of Health regulations regarding the raising of chickens.

7. Swimming pools in excess of two (2) feet deep shall be considered a structure and permitted provided they are enclosed by a suitable wall or fence at least four (4) feet in height to be determined by the Building Inspector to prevent the entrance of persons other than those residing at the pool location. Pools shall have a minimum ten (10) foot setback from side and rear lot lines and be located no nearer the street than the building line of the dwelling, except by Special Permit.
8. Museums.
9. a. Public and private non-profit educational facilities. (1986/17)
   b. Private for profit educational facilities by Special Permit (1986/17)
10. Municipal building or use, and public service corporation use (Special Permit Required). (1986/18)
11. Golf Course.
12. Swimming and/or tennis clubs shall be permitted with Special Permit.
13. Cemetery.
14. Residential Dwellings
    A. Dwelling types
       a. One Family Dwelling.
       b. Two family dwellings, by special permit from the Zoning Board of Appeals in accordance with Sections 10.3 and 4.122.14.D of this Bylaw.
    B. Conversions - The conversion of an existing one-family to a two-family dwelling, by special permit from the Zoning Board of Appeals in accordance with Sections 10.3 and 4.122.14.D of this Bylaw, provided that conversion from a one-family to a two-family dwelling meets the following additional requirements:
       a. If a conversion involves increasing the size of an existing structure, the expansion area shall not exceed 50% of the original building's gross floor area up to a maximum of 1500 s.f. The size of the second dwelling unit can never exceed 1500 s.f.
       b. If a conversion involves razing an existing structure, the gross floor area of the new residential structure shall not exceed 150% of the gross floor area of the original building, nor shall the new structure be more than 1,000 square feet of gross floor area larger than the original structure, whichever is less. The size of the second dwelling unit may never exceed 1,500 square feet. If an existing lot is subdivided to form two or more new lots, and the existing structure lies within more than one of the new lots, and if the existing structure is to be razed in connection with the conversion, then new buildings on any lot formerly covered by the existing structure must comply with all the provisions of 4.122.14.B of the Bylaw. Newly created lots not formerly covered by the existing structure must meet the requirements of 4.122.14.D of the Bylaw.
       c. There must be two parking spaces for each dwelling unit.
       d. No parking/driveway shall be permitted within 10 feet of any lot line.
       e. No garage or carport shall face the street unless it is located at least 10 feet behind the front façade of the principal structure and in accordance with the dimensional setbacks outlined in Table 2 of this Bylaw.
       f. The converted structure shall meet all of the dimensional requirements of the R-4 District identified in Table 2 of this Bylaw.

g. Stairways leading to the second or any higher floor shall be enclosed.
h. The principal building in a conversion to a two-family dwelling shall share a connected common wall (or floor) for at least 75% of the wall's (or floor's) surface. No unheated structure, no structure without foundation, and no structure that is entirely or partially a garage shall be considered as meeting the 75% requirement.
i. The conversion of a one-family dwelling to a two-family dwelling:
    1. Must not result in any portion of the post-conversion roofline height exceeding the pre-conversion roofline height by more than five (5) feet, and
    2. Must not significantly increase or decrease the pitch of any additional post-conversion roof area

C. The conversion of an existing dwelling to accommodate not more than five (5) residential units, by special permit from the Zoning Board of Appeals in accordance with Sections 10.3 and 4.122.14.D of this Bylaw. The conversion of a single family dwelling to a two-family dwelling must comply with the provisions of Sections 10.3, 4.122.14.B, and 4.122.14.D.

D. Special Permit Granting Criteria for Two-Family Dwelling and One-Family to Two-Family or Multi- Family Conversions.
    a. The Zoning Board of Appeals may approve a special permit for a proposed use of a building, dwelling or structure provided by Section 4.122.14.A.b., 4.122.14.B or 4.122.14.C upon finding that the application complies with the purposes of this Bylaw, and is consistent with the use of the site for the purpose permitted within the Residential 4 District. In making its decision, the Zoning Board shall consider the following criteria in addition to those listed in Section 10.31:
        1. Consistency with the North Andover Master Plan.
        2. The degree to which the proposed use furthers the Town's interest in providing a range of housing types, where applicable.
        3. The degree to which the application addresses the following design standards:
            i. Achieve compatibility with the established pattern of uses in the district. The Residential 4 District consists primarily of single-family dwellings near the Stevens Memorial Library Area and off of Massachusetts Avenue, and more compact neighborhoods with a mix of residential uses toward Waverly Road. New construction or substantial alteration of buildings must compliment and reinforce the design features of these neighborhoods.
            ii. Achieve design compatibility with architectural features and exterior materials of surrounding structures.
            iii. Preserve existing structures of historic value. Buildings, dwellings or structures listed on the National Register of Historic Places or the State Register, and are more than 50 years old as of the date of application for a special permit, may be converted, constructed, reconstructed, restored or altered only in a manner that maintains or promotes their status as listed or eligible historic resources. For purposes of zoning compliance, additions or alterations that adhere to the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties will generally be presumed to maintain or promote such status.
            iv. Preserve established, mature vegetation.
    b. The right to apply for a special permit to convert an existing dwelling shall extend to any dwelling to be converted for use as a dwelling of not more than five (5) residential units, and meeting all requirements of the State and Town Statutes and Bylaws, including the

Health Codes, Building Codes, Zoning Laws and Zoning Bylaws. Proof of ownership must be supplied with the application.

E. Definitions:
   a. Addition: The enlargement, alteration, extension or change to an existing dwelling unit that does not result in the creation of an additional dwelling unit.
   b. Conversion: The enlargement, alteration, extension or change to an existing dwelling unit that results in the creation of one or more additional dwelling units in a single structure. A property is considered a conversion whether the added dwelling units are included as part of the existing structure, or whether a new structure is built after razing / demolition of the existing structure.

15. Municipal recreational areas.
16. Guest or rooming houses.
17. Nursing and convalescent homes – see dimensional requirements of Table 2 (Special Permit Required).
18. Any accessory use customarily incident to any of the above permitted uses, provided that such accessory shall not be injurious, noxious, or offensive to the neighborhood.
19. Accessory buildings no longer than sixty-four (64) square feet shall have a minimum five (5) foot setback from side and rear lot lines and shall be located no nearer the street than the building line of the dwelling.
20. Day Care Center by Special Permit. (1985/23).
21. Congregate Housing for Elders – Special Permit
    a. In the R-4 zone the Planning Board may grant a Special Permit for congregate housing consistent with Special Permit criteria and procedures set forth in Section 10.3 of this Bylaw.
    b. The maximum allowable FAR for congregate housing shall be 0.30 in the R-4 District seven (7) units.
    c. In no instance shall any new or pre-existing building used for congregate elderly housing, have no more than fourteen (14) dwelling units.
    d. All dimensional criteria established in Section 7, Table 2 Summary of Dimensional Regulations shall apply to all structures used for congregate housing purposes.
22. Family Suite – a separate dwelling unit within or attached to a dwelling for a member of a household is allowable by Special Permit provided:
    a. The dwelling unit is not occupied by anyone except brothers, sisters, maternal and paternal parents and grandparents, or children of the residing owners of the dwelling unit;
    b. That the premises are inspected annually by the Building Inspector for conformance to this section of the Bylaw;
    c. The Special Permit shall be recorded at the North Essex Registry of Deeds.

4.123 Village Residential District (1987/11)

1. Single- family residential structures.
2. Two-family residential structures.
3. Multi-family residential structures, not exceeding five (5) dwelling units per structure.
4. Place of worship.
5. Renting rooms for dwelling purposes or furnishing table board to not more than four (4) persons not
6. For the use of a dwelling in any residential district or multi-family district for a home occupation, the following conditions apply:

a. Not more than a total of three (3) people may be employed in the home occupation, one of whom shall be the owner of the home occupation and residing in said dwelling
b. The use is carried on strictly within the principal building.
c. There shall be no exterior alterations, accessory building or display which is not consistent with residential buildings.
d. Not more than twenty- five percent (25%) of the existing gross floor area of the dwelling unit so used, not to exceed one thousand (1000) square feet, is devoted to such use. In connection with such use, there is to be kept no stock in trade, commodities, or products which occupy space beyond these limits.
e. There will be no goods or wares visible form the street.
f. The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to exterior appearance, emissions of odor, gas smoke, dust, noise, disturbances, or on any way become objectionable or detrimental to the residential use within the neighborhood.
g. Any such building shall include no feature of design not customary in building for residential use.

Real estate signs not to exceed twenty four (24) inches by thirty six (36) inches in size which shall

a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such a lot, and/or each additional acre of lot size to five (5) acres, the keeping of one additional animal or bird; but not the keeping of any animals, birds or pets of persons not resident of such lot.
c. On any lot of at least five (5) acres the keeping of any number or animals, or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms, and poultry batteries.
d. The sale of products raised as a result of the above uses on the subject land.

9. Swimming pools in excess of two (2) feet deep shall be considered a structure and permitted provided they are enclosed by a suitable wall or fence at least four (4) feet in height to be determined by the Building Inspector to prevent the entrance of persons other than those residing at the pool location. Pools shall have a minimum ten (10) foot setback from side and rear lot lines and be located no nearer the street than the building line of the dwelling, except by Special Permit.
10. Museums.
11. Educational facilities.
12. Municipal building and public service corporation use. (Special Permit Required)
13. Golf Course.
14. Swimming and/or tennis clubs shall be permitted with a Special Permit.
15. Cemetery.
16. One or two-family dwellings, including the right to convert an existing dwelling to accommodate not more than five (5) family units by Special Permit for the Zoning Board of Appeals after a public hearing with due notice given, provided:
    a. No major exterior structural changes shall be made. The right to convert shall apply to any dwelling under the ownership of one single person, partnership, or corporation to be converted for use as dwellings of not more than five (5) family units, and meeting all requirements of the State and Town Statutes and Bylaws, including Health Codes, Safety Codes, Building Codes, Zoning Laws and Zoning Bylaws.
    b. Stairways leading to the second or any higher floor shall be enclosed.
17. Municipal recreational areas.

18. Guest or rooming houses.
19. Nursing and convalescent homes – see dimensional requirements of Table 2 (Special Permit required).
20. Any accessory building no larger than sixty-four (64) square feet shall have a minimum five (5) foot setback from side and rear lot lines and shall be located no nearer the street than the building line of the dwelling.
21. Day Care Center by Special Permit. (1985/23)

4.124 Residence 5 District

1. One-family dwelling.
2. Place of worship.
3. Renting rooms for dwelling purposes for furnishing table board to not more than four (4) persons not members of the family resident in a dwelling so used, provided there by no display or advertising on such dwelling or its lot other than a name plate or sign not to exceed six (6) inches by twenty four (24) inches in size, and further provided that no dwelling shall be erected or altered primarily for such use.
4. For the use of a dwelling in any residential district or multi-family district for a home occupation, the following conditions shall apply:
   a. Not more than a total of three (3) people may be employed in the home occupation, one of whom shall be the owner of the home occupation and residing in said dwelling.
   b. The use is carried on strictly within the principal building;
   c. There shall be no exterior alterations, accessory buildings, or display which are not customary with residential use;
   d. Not more than twenty five (25) percent of the existing gross floor area of the dwelling unit so used, not to exceed one-thousand (1000) square feet, is devoted to such use. In connection with such use, there is to be kept not stock in trade, commodities or products that occupy space beyond these limits;
   e. There will be no display of goods or wares visible from the street;
   f. The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, omission of odor, gas, smoke, dust, noise, disturbance or any other way become objectionable or detrimental to the residential use of the neighborhood;
   g. Any such building shall include no feature of design not customary in buildings for residential.
5. Real Estate signs not to exceed twenty four (24) inches by thirty six (36) inches in size which shall advertise only the rental, lease or sale of the premises upon which they are placed.
6. a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries, greenhouses.
   b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animal or birds; but not the keeping of such animals, birds, or pets of persons not resident on such a lot.
   c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms, and poultry batteries.
   d. The sale of products raised as a result of the above uses on the subject land.
7. Swimming pools in excess of two (2) feet deep shall be considered a structure and permitted provided they are enclosed by a suitable wall or fence at least four (4) feet in height to be determined by the Building Inspector to prevent the entrance of persons other than those residing at the pool location. Pools shall have a minimum ten (10) foot setback from side and rear lot

lines and be located no nearer the street than the building line of the dwelling, except by Special Permit.

8. Museums.
9. Public buildings or use and public service corporations (Special Permit Required), but not including public works garages.
10. a. Public and private non-profit educational facilities (1986/17)
    b. Private for profit educational facilities by Special Permit. (1986/17)
11. Golf Course.
12. Swimming and/or tennis clubs shall be permitted with a Special Permit.
13. Cemetery.
14. Town houses.
15. Guest or rooming houses.
16. Nursing or convalescent home–see dimensional requirements of Table 2 (Special Permit required).
17. Multi-family dwellings.
18. Professional offices on the ground floor of multi-family dwelling structures. (Floor area utilized for offices shall reduce the total floor space ordinarily permitted for residential use on a proportional basis. Each one-thousand (1000) square feet or part thereof such floor space shall reduce the permitted number of dwelling units by one).
19. Hotel or motel (Special Permit required).
20. Parking, indoor storage and other accessory uses associated with the above uses, provided that such accessory use shall not be injurious, noxious, or offensive to the neighborhood.
21. Accessory buildings no larger than sixty four (64) square feet shall have a minimum five (5) foot setback from side and rear lot lines and shall be located no nearer the street than the building line of the dwelling.
22. Day Care Center by Special Permit. (1985/23)

4.125 Residence 6 District (1989/43)

1. Single-family residential structure.
2. Two-family residential structure.
3. Multi-family residential structures, not exceeding seven (7) dwelling units per structure.
4. Place of worship.
5. Renting rooms for dwelling purposes or furnishing table board to not more than four persons not members of the family resident in a dwelling so used, provided there be not advertising on such dwelling or its lot other than a name plate or sign not to exceed six (6) inches by twenty four (24) inches in size, and further provided that no dwelling shall be erected or altered primarily for such use.
6. For the use of a dwelling in any residential district or multi-family district for a home occupation, the following conditions shall apply:
    a. Not more than three (3) people may be employed in the home occupation, one of whom shall be owner of the home occupation and residing in said dwelling.
    b. The use is carried on strictly within the principal building.
    c. There shall be no exterior alterations, accessory building, or display that are not customary with residential buildings.
    d. Not more than twenty-five (25) percent of the existing gross floor area of the dwelling unit so used, not to exceed one thousand (1000) square feet, is devoted to such use. In connection with such use, there is to be kept no stock in trade commodities, or products which occupy space beyond these limits.
    e. There will be no display of goods or wares visible from the street.

f. The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emissions of odor, gas, smoke, dust, noise, disturbances, or in any way become objectionable to any residential use within the neighborhood.
g. Any such building shall include no feature of design not customary in buildings for residential use.

7. Real estate signs not to exceed twenty four (24) inches by thirty six (36) inches in size which shall advertise only the rental, lease, or sale of the premises upon which they are placed.
8. a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
   b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animals or birds; but not the keeping of animals or birds or pets of persons not a resident of such lot.
   c. On any lot of at least five (5) acres the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms, and poultry batteries.
   d. The sale of products raised as a result of the above uses on the subject land.
9. Swimming pools in excess of two (2) feet deep shall be considered a structure and permitted provided they are enclosed by a suitable wall or fence at least four (4) feet in height to be determined by the Building Inspector to prevent the entrance of persons other than those residing at the pools location. Pools shall have a minimum of a ten (10) foot set back from rear and side lot lines and be located no nearer the street than the building lien of the dwelling, except by Special Permit.
10. Museums.
11. Educational facilities.
12. Municipal building and public service corporation use (Special Permit required).
13. Golf course.
14. Swimming and/or tennis clubs shall be permitted with Special Permit.
15. Cemetery.
16. One of two-family dwellings, including the right to convert an existing dwelling to accommodate not more than seven family units by special Permit from the Zoning Board of Appeals after a public hearing with due notice given, provided:
    a. No major exterior structural changes shall be made. The right to convert shall apply to any dwelling under the ownership of one single person, partnership, or corporation to be converted for use as dwelling of not more than seven (7) family units, and meeting all the requirements of the State and Town Statues and Bylaws, including Health Codes, Safety Codes, Building Codes, Zoning Laws, and Zoning Bylaws.
    b. Stairways leading to the second or any higher floor shall be enclosed.
17. Municipal recreation areas.
18. Guest or rooming houses.
19. Nursing and convalescent homes – see dimensional requirements of Table 2 (Special Permit required).
20. Any accessory building larger than sixty-four (64) square feet shall have a minimum five (5) foot setback from the side and rear lot lines and shall be located no nearer to the street than the building line of the dwelling.
21. Day Care Center by Special Permit.

The following uses shall be allowed only by Special Permit, the permit granting authority shall be the Planning Board.

1. Retail stores, salesrooms, funeral parlors, showrooms or places for any professional artistic or mercantile activity not involving automotive sales, manufacturing or service, also retail bakeries or confectioneries by Special Permit.
2. Banks, offices and municipal, civic or public service buildings, such a post offices, telephone exchanges, town offices, school library, location passenger station by Special Permit.
3. Dining room or lunchroom by Special Permit.
4. Any accessory use customarily incident to any of the above permitted used, provided that such accessory use shall not be injurious, noxious, or offensive to the neighborhood by Special Permit.
5. Single family residential structures, which conform to the following dimensional criteria: (1992/52)

Requirements	**Dimensions**
Lot area min. Sq. Ft	5,000
Height Max. (Ft.)	35
Street Frontage Min. (ft.)	75 (1)
Front Set Back Min. (ft.)	20
Side Set Back Min. (ft.)	5
Rear Set Back Min. (ft.)	15
Floor Area Ratio Max.	N/A
Lot Coverage Max.	25%
Dwelling Unit Density	6/acres (2)
Contiguous Buildable Area	5,000 Sq. Ft. (Min.)

For each application filed for a Special Permit under this Section, the applicant must have a contiguous parcel of land, in a single or consolidated ownership at the time of application, which is at least three (3) acres in size.

Footnote: 1. In instances where a lot fronts on Route 114, for purposes of public safety, the required lot frontage shall be 250 feet.
2. Only if all lots or structures are serviced with public sewer and/or private sewer system approved and accepted by the Town. For the purpose of this Section, the term private sewer system shall mean a sewer system built by a developer of the Town specifications and locations, and dedicated to the Town. In no instances shall the term private sewer system be construed to limit accessibility to the sewer system beyond regulations consistent with the public sewer system.

4.126 Business 1 District

1. Retail establishments up to 50,000 square feet of gross floor area per user. Retail establishments in excess of 50,000 square feet of gross floor area per user shall be permitted with a Special issued by the Planning Board as Special Permit Granting Authority.
2. Personal service establishments.
3. Professional offices, banks, real estate offices, and insurance offices.
4. Eating or drinking uses may be permitted only as a secondary use within a permitted primary use.
5. Place of worship.
6. Non-profit school.
7. Public building or use and public service corporation.
8. Art gallery.

9. Residential uses including one and two-family dwellings. Apartments shall be allowed where such use is not more than fifty (50%) percent of the total floor space in the building.
10. a. Farming of field crops or row crops, truck gardens, orchards, plant nurseries and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total on not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animal or bird; but not the keeping of any animals, birds, or pets of persons not resident on such lot.
    c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms and poultry batteries.
    d. The sale of products raised as a result of the above uses on the subject land.
11. Swimming and/or tennis clubs shall be permitted with a Special Permit.
12. Parking, indoor storage and other accessory uses customarily associated with the above uses, provided that such accessory use shall not be injurious, noxious, or offensive to the neighborhood.
13. Day Care Center by Special Permit (1985/23).

4.127 Business 2 District

1. Retail establishments up to 50,000 square feet of gross floor area per user. Retail establishments in excess of 50,000 square feet of gross floor area per user shall be permitted with a Special Permit issued by the Planning Board as Special Permit Granting Authority.
2. Personal Service establishments.
3. Professional offices, banks, real estate offices and insurance offices.
4. Business and other offices.
5. Public building or use and public service corporation.
6. Art gallery.
7. Swimming and/or tennis clubs shall be permitted with a Special Permit.
8. Place of worship.
9. Eating and drinking establishments.
10. Non-profit school or private school for profit or museum.
11. Indoor place of amusement or assembly.
12. Automobile service station (limited to one in each 2,000 linear feet of street or highway as measured along centerline).
13. Medical center, clinic or medical laboratory.
14. Funeral parlor.
15. Multi-family dwelling and town houses (with Special Permit by the Planning Board).
16. Public parking garages.
17. Taxi depot.
18. Printing and reproduction.
19. a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animal or bird; but not the keeping of any animals, birds, or pets of persons not resident on such lot.

c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms and poultry batteries.

20. Residential use where such use is not more than fifty (50%) percent of the total floor space in the structure.
21. Parking, indoor storage and other accessory uses associated with the above uses, provided that such accessory use shall not be noxious, injurious, or offensive to the neighborhood.
22. Day Care Center by Special Permit (1985/23).

4.128 Business 3 District

1. Retail establishments.
2. Personal service establishments.
3. Professional offices, banks, real estate offices and insurance offices.
4. Business and other offices.
5. Public building or use and public service corporation.
6. Art gallery.
7. Swimming and/or tennis clubs shall be permitted with a Special Permit.
8. Place of worship.
9. Eating and drinking establishments.
10. Non-profit school or private school for profit or museum.
11. Indoor place of amusement or assembly.
12. Automobile service station (limited to one in each 2,000 linear feet of street or highway as measured along the centerline).
13. Medical center, clinic or laboratory.
14. Funeral parlor.
15. Public parking garage.
16. Taxi depot.
17. Printing and reproduction.
18. Research and development facilities
19. New car sales but not to include outdoor car sales lots accommodating more than ten (10 used cars.
20. a. Farming of field crops or row crops, truck gardens, orchards, plant nurseries and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animal or bird; but not the keeping of any animals, birds, or pets of persons not resident on such lot.
    c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms and poultry batteries.
    d. The sale of products raised as a result of the above uses on the subject land.
21. Parking, indoor storage and other accessory uses associated with the above uses, provided that such accessory use shall not be injurious, noxious, or offensive to the neighborhood.
22. Day Care Center by Special Permit (1985/23)

4.129 Business 4 District

1. Research and development facilities.
2. Business, professional and other offices.

3. Accessory retail, personal service and eating and drinking use shall be permitted in an amount not to exceed ten (10%) percent of the total gross floor area of the principal uses.
4. Place of worship.
5. Non-profit school or private school for profit or museum.
6. Public building or use and public service corporations.
7. Hotel or motel (limited to one in each 2,000 linear feet of street or highway as measured alone centerline).
8. Medical center, clinic or medical laboratory.
9. Nursing or convalescent homes. See dimensional requirements of Table 2.
10. Art gallery.
11. Swimming and/or tennis clubs shall be permitted with a Special Permit.
12. Printing and reproduction.
13. a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animal or bird; but not the keeping of any animals, birds, or pets of persons not resident on such lot.
    c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms and poultry batteries.
    d. The sale of products raised as a result of the above uses on the subject land.
14. Parking, indoor storage and other accessory uses associated with the above uses, provided that such use shall not be injurious, noxious, or offensive to the neighborhood.
15. Day Care Center by Special Permit (1987/12).

4.130 Village Commercial District (1987/12)

1. Retail stores and wholesale stores, salesrooms, funeral parlors, showrooms or place for any professional, artistic or mercantile activity, not involving automotive sales or manufacturing; also retail bakeries or retail confectioneries.
2. Banks, offices and municipal, civic or public service buildings, such as post office, telephone exchanges, town offices, school, library, museum, place of worship, local passenger station.
3. Hall, club, theater, or other place of amusement or assembly.
4. Restaurant, dining room or lunch room.
5. 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.
6. a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries and greenhouses.
   b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one additional animal or bird; but not the keeping of any animals, birds, or pets of persons not resident on such lot.
   c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms and poultry batteries.
   d. The sale of products of agriculture, horticulture, floriculture, viticulture, or silvaculture as well as accessory or customary items by the persons who is primarily engaged in any of the above

activities. The operation must be at least ten (10) contiguous acres used primarily for any of these activities.

7. Day Care Center by Special Permit (1985/23)

4.131 General Business District

1. Retail stores and wholesale stores, salesrooms, funeral parlors, showrooms or places for any professional, artistic or mercantile activity, not involving manufacturing, also retail bakeries or retail confectioneries.
2. Banks, offices and municipal, civic, or public service buildings, such as post office, telephone exchange, town offices, school, library, museum, place of worship, local passenger station.
3. Hall, club, theater, or other place or amusement or assembly.
4. Automobile service and filling stations, automobile storage and repair garages, including automobile body repairs and painting, and automobile sales agencies for new and used cars, provided there be not displayed or stored outdoors on such premises more than twenty-five (25) automobiles or other vehicles.
5. Restaurant, dining room or lunchroom.
6. Residential use where such use is not more than fifty percent (50%) of the total floor space in the structure.
7. 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.
8. a. Farming of crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
   b. On any lot of at least three (3) acres, the keeping of a total of not more than three of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one (1) additional animal or bird; but not the keeping of animals, birds, or pets of persons not resident on such lot.
   c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stud farms, dairy farms, and poultry batteries.
   d. The sale of products raised as a result of the above uses on the subject land.
9. Day Care Center by Special Permit (1985/23).

4.132 Industrial 1 District

1. Research and development facilities.
2. Business, professional and other offices.
3. Retail and food uses shall be permitted if they are accessory to the principal use and are primarily intended to service the principal use. No more than ten percent (10%) of the gross floor area of the principal use may be devoted to accessory use. Where there is more than one principal use each use may only have ten percent (10%) of gross floor area (GFA) devoted to any accessory use. (Refer to Section 2.21, Definition of Accessory Use Structure). (1987/25)
4. Place of worship.
5. Non-profit school or private school for profit.
6. Public building or use and public service corporations.
7. Medical center, clinic, or medical laboratory.
8. Art gallery or museum.

9. Swimming and/or tennis clubs and/or indoor ice skating facilities shall be permitted with a Special Permit.
10. Printing and reproduction.
11. Light manufacturing, including manufacturing, fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise provided such uses are conducted solely within a building and further provided that such uses are not offensive, noxious, detrimental, or dangerous to surrounding areas or the town by reason of dust, smoke, fumes, odor, noise, vibration, light or other adverse environmental effect.
12. a. Farming of crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total of not more than three of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one (1) additional animal or bird; but not the keeping of animals, birds, or pets of persons not resident on such lot.
    c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stud farms, dairy farms, and poultry batteries.
    d. The sale of products raised as a result of the above uses on the subject land.
13. Warehousing and wholesaling shall be permitted only as a secondary use.
14. Golf course.
15. Parking, indoor storage and other accessory uses customarily associated with the above uses, provided that such accessory use shall not be injurious, noxious, or offensive to the neighborhood.
16. Day Care Center by Special Permit (1985/23).

4.133 Industrial 2 District

1. Research and development facilities.
2. Business, professional and other offices.
3. Retail and food uses shall be permitted if they are accessory to the principal use and are primarily intended to service the principal use. No more than ten percent (10%) of the gross floor area (GFA) of the principal use may be devoted to accessory use. Where there is more than one principal use each use may only have ten percent (10%) of gross floor area (GFA) devoted to any accessory use. (Refer to Section 2.21, Definition of Accessory Use Structure). (1987/25)
4. Place of worship.
5. Non-profit school or private school for profit.
6. Public service corporation and energy or resource recovery facility, provided that said resource recovery facility has first obtained a valid site assignment from the Board of Health pursuant to Section 150A of Chapter 111 of the General Laws. Any dumping of ash or other hazardous material generated by such facility shall be subject to Special Permit Granting Authority to be the Planning Board. (1992/56), (1999/28)
7. Medical center, clinic, or medical laboratory.
8. Art gallery.
9. Recreational uses, including swimming club, tennis club, health club, indoor ice skating facility, and indoor/outdoor athletic recreation facility by Special Permit.
10. Printing and reproduction.
11. a. Light manufacturing, including manufacturing, fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise provided such uses are conducted solely within a building and further provided that such uses are not offensive, noxious,

detrimental, or dangerous to surrounding areas or the town by reason of dust, smoke, fumes, odor, noise, vibration, light or other adverse environmental effect.

b. Renewable or alternative energy research and development facilities, renewable or alternative energy manufacturing such as wind, solar, biomass, and tidal on any lot with a minimum of twenty-five (25) acres; less than twenty-five (25) acres but a minimum of ten (10) acres by Special Permit.

12. a. Farming of crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total of not more than three of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one (1) additional animal or bird; but not the keeping of animals, birds, or pets of persons not resident on such lot.
    c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stud farms, dairy farms, and poultry batteries.
    d. The sale of products raised as a result of the above uses on the subject land.
13. Warehousing and wholesaling.
14. Golf course.
15. Lumber or other building materials storage or sales, fuel storage or contractor's yard, provided all outdoor uses are enclosed by a fence of five (5) feet or more in height.
16. Bus garage.
17. Automobile service station (limited to one in each 2000 linear feet of street or highway as measured along centerline.)
18. Car wash.
19. Automobile or other motor vehicle repair, provided all activities are within an enclosed building.
20. Veterinary hospitals and kennels, provided all activities are with and enclosed building.
21. Parking, indoor storage and other accessory uses customarily associated with the above uses, provided that such accessory use shall not be injurious, noxious, or offensive to the neighborhood.
22. Day Care Center by Special Permit (1985/23).
23. Hotels and motels limited to one in each 2,000 linear feet of street or highway as measured along the centerline.

4.134 Industrial 3 District

1. Public buildings.
2. Public garages and accessory buildings.
3. Public service corporations.
4. Public sanitary disposal site.
5. Public storage of equipment.
6. All uses permitted in the Industrial 1 District.
7. Day Care Centers by Special Permit (1985/23).

4.135 Industrial "S" District

1. Research and development facilities.
2. Business, professional and other offices.
3. Place of worship.
4. Non-profit school or private school for profit.
5. Public building or use and public service corporations.
6. Printing and reproduction.

7. Light manufacturing, including manufacturing, fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise provided such uses are conducted solely within a building and further provided that such uses are not offensive, noxious, detrimental, or dangerous to surrounding areas or the town by reason of dust, smoke, fumes, odor, noise, vibration, light or other adverse environmental effect.
8. Premises of a bank, post office, telephone exchange or telephone business office, local bus passenger station, or business office buildings. By Special Permit, an automobile service or filling station, a diner, a restaurant, a retail food store, and retail stores that are an accessory use to the principle use.
9. Warehousing and wholesaling.
10. Lumber or other building materials storage or sales, fuel storage, or contractor's yard, provided all outdoor uses are enclosed by a fence of five (5) feet or more in height.
11. Bus garage.
12. Any accessory use customarily incident to any of the above permitted uses, provided that such use shall not be injurious, noxious or offensive to the neighborhood.
13. a. Farming of crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total of not more than three of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size to five (5) acres, the keeping of one (1) additional animal or bird; but not the keeping of animals, birds, or pets of persons not resident on such lot.
    c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stud farms, dairy farms, and poultry batteries.
    d. The sale of products raised as a result of the above uses on the subject land.
14. Day Care Center by Special Permit (1985/23).

4.136 Watershed Protection Division

1. **Purpose**
   a. The Watershed Protection District is herein established as an overlay district and shall be superimposed on the other districts established by this Zoning Bylaw. The requirements enumerated hereafter for this Watershed Protection District shall be in addition to, rather than in place of, the requirements of such other districts.
   b. The Watershed Protection District surrounds Lake Cochichewick, the Town's sole source of public drinking water supply. Regulations within the District are intended to preserve the purity of the ground water, the lake and its tributaries; to maintain the ground water table, and to maintain filtration and purification functions of the land; while conserving the natural environment; and protecting the public health, safety and welfare.
   c. <u>The Lake Cochichewick Watershed Plan</u> (August 1987), prepared by I.E.P., Inc., for the Town of North Andover, is a comprehensive study of the lake and its watershed. The Watershed Protection District is a portion of the I.E.P's study recommended management plan. Copies of the I.E.P. report are available in the Planning Board Office.
   d. The Special Permit Granting Authority (SPGA) under this Bylaw shall be the Planning Board.
2. **<u>Boundaries and Zones</u>**
   a. The boundaries of the Watershed Protection District are shown on the Zoning Map as set forth on a plan entitled "Sub-drainage Areas", Lake Cochichewick Watershed Plan (August 1987), Attachment 1, dated August 1985, prepared by I.E.P., Inc., for the Town of North Andover. This plan is hereby made a part of this Bylaw and is on file in the Office of the Town Clerk.

b. The Watershed Protection District shall be divided into four zones. The uses and building requirements for each zone vary according to its proximity to the Lake and wetland resource areas. The Zones area as follows:
   i. General: there shall exist a General Zone within the Watershed Protection District which shall consist of all land located beyond four hundred (400) feet horizontally from the annual mean high water mark of Lake Cochichewick and all wetland resource areas (as defined in M.G.L. Chapter 131, Section 40, and the Town Wetland Bylaw) located within the Watershed.
   ii. Non-Discharge: There shall exist a General Zone within the Watershed Protection District which shall consist of all land areas located between two hundred fifty (250) feet and four hundred (400) feet horizontally from the annual mean high water mark of Lake Cochichewick and between one hundred fifty (150) feet and four hundred (400) feet horizontally from the edge of all wetland resource areas (as defined by in M.G.L., Chapter 131, Section 40, and the Town Wetland Bylaw) located within the Watershed.
   iii. Non-Disturbance: There shall exist a Non-disturbance Buffer Zone within the Watershed Protection District which shall consist of all land areas located between one hundred fifty (150) feet and two hundred fifty (250) feet horizontally from the annual mean high water mark of Lake Cochichewick, and between seventy-five (75) feet and one hundred fifty (150) feet horizontally from the edge of all wetland resource areas (as defined in M.G.L. Chapter 131, Section 40, and the Town Wetland Bylaw) located within the Watershed.
   iv. Conservation: There shall exist a Conservation Zone within the Watershed Protection District which shall consist of all land areas located within one hundred fifty (150) feet horizontally form the annual mean high water mark of Lake Cochichewick and within seventy five (75) feet horizontally from the edge of all wetland resource areas (as defined in M.G.L. Chapter 131, Section 40, and the Town Wetland Bylaw) located within the Watershed.
c. In the event that the SPGA determines, on the basis of credible evidence before it, that there exists a significant doubt or dispute concerning the proper location of boundaries of the Watershed Protection District on any individual lot or lots, the SPGA shall, at the request of the owner of such lot or lots, engage a Registered Professional Engineer to advise it in determining such boundaries. The owner making such request shall reimburse the SPGA for the cost of such engineer. Upon completion of the Engineer's report to the SPGA, the SPGA shall hold a hearing, such report shall be deemed evidence sufficient to establish the location of the boundary unless rebutted by credible evidence to the contrary.
d. When the Watershed Protection District boundary divides a lot of record as of June 28, 1978, in one ownership, that portion of the lot within the Watershed Protection District must comply with this Bylaw. Where the premises are partially outside of the Watershed Protection District, potential pollution sources such as on-site waste disposal systems, shall be located outside of the District to the extent feasible.
e. The provisions relating to the Conservation Zone Shall not apply to any activities undertaken by the Division of Public Works.
f. The provisions relating to the Conservation Zone and the enlargement of the Non-Disturbance Zone and the Non-Discharge Zones shall only apply to lots recorded or registered after the date of the enactment of this amendment (October 24, 9194). (1994/ISTM).

Table 1. Lots created after October 24, 1994

	Conservation	**Non-Disturbance**	**Non-Discharge**
From Annual High Water Mark	150 Feet	250 Feet	400 Feet

Of Lake Cochichewick			
From Edge of All Wetland Resource Areas Within the Watershed District	75 Feet	150 Feet	400 Feet

Table 2. Lots created on or prior to October 24, 1994

	Non-Disturbance	**Non-Discharge**
From Annual High Water Mark Of Lake Cochichewick	250 Feet	325 Feet
From Edge of All Wetland Resource Areas Within the Watershed District	100 Feet	325 Feet

3. **Uses and Building Requirements**

a. General Zone

There shall exist a General Zone within the Watershed Protection District which shall consist of all land located beyond four hundred (400) feet horizontally from the annual mean high water mark of Lake Cochichewick and all wetland resource areas (as defined in M.G.L. Chapter 131, Section 40, and the Town Wetland Bylaw) located within the Watershed.

i. Allowed uses: The following uses shall be allowed in the General Zone of the Watershed Protection District as itemized below:
   (1) All permitted uses allowed in Section 4.121 "Permitted Uses Residence 1.2, and 3 District" of the Zoning Bylaw.
   (2) All uses associated with municipal water supply/treatment and public sewer provided by the Town of North Andover.
   (3) The Division of Public Works may conduct routine maintenance of any existing use of property, including the maintenance and improvements of existing roadways and drainage systems.
   (4) Maintenance of fire access lanes by the Fire Department.
   (5) All agricultural uses, providing that such uses exercise Best Management Practices and be undertaken in such a manner as to prevent erosion and siltation of adjacent water bodies and wetlands.

ii. Uses Allowed by Special Permit: The following uses may be allowed in the General Zone of the Watershed Protection District by the granting of a Special Permit issued pursuant of Section 4 of the Watershed Protection District Bylaw.
   (1) Golf courses, public or private with Best Management Practices.
   (2) Any other uses not provided for elsewhere in this Section.
   (3) A commercial kitchen on public sewer.

iii. Prohibited Uses: The following uses are specifically prohibited within the General Zone of the Watershed Protection District:
   (1) Any solid waste facility as defined my M.G.L. Chapter 111, Section 150A.
   (2) Municipal sewage treatment facility, not including sewer lines, pump stations and other accessory sewer system equipment used to transport sewage to a treatment facility located outside of the District.
   (3) Privately owned waste water treatment plants.
   (4) Road salt or other deicing stockpiles.
   (5) Underground tanks or collection pits for storage of fuel or hazardous materials including any tanks or collection pits partially below mean ground elevation but

excluding any tanks located completely within a building otherwise permitted under this section.

(6) Dumping of snow from outside the District.
(7) Motor vehicle salvage operations and junk yards.
(8) Car washes.
(9) Self-service laundries, unless connected to public sewer.
(10) Airplanes, boat, or motor vehicle service and repair establishments (including auto body shops).
(11) Metal plating, finishing or polishing.
(12) Chemical and bacteriological laboratories.
(13) Electronic circuit assembly.
(14) Hotels, or motels, unless connected to public sewer.
(15) Painting, wood preserving and furniture stripping establishments.
(16) Photographic processing establishments.
(17) Printing establishments.
(18) Dry Cleaning establishments.
(19) Storage of herbicides, pesticides or fertilizers, other than in amounts normally associated with household or existing agricultural use.
(20) Commercial cabinet or furniture making.
(21) Commercial storage or sale of petroleum or other refined petroleum.
(22) Commercial manufacture, storage, use, transportation or disposal of any substance of each physical, chemical or infectious characteristics as to pose a significant, actual or potential, hazard to water supplies, or other hazard to human health if such substance or mixture were discharged onto land or waters of this Town, including but not limited to organic chemicals, petroleum products, heavy metals, radioactive or infectious waste, acids, and alkalis, and all substances defined as Toxic or Hazardous under M.G.L. Chapter 21C and Chapter 21 E and the regulations promulgated there under, and also including pesticides, herbicides, solvents and thinners.
(23) Restaurants unless connected to public sewer.
(24) Commercial kitchens unless connected to public sewer.

iv. Building Requirements: All construction in the Watershed Protection District shall comply with best management practices for erosion, siltation, and stormwater control in order to preserve the purity of the ground water and the lake, to maintain the ground water table; and to maintain the filtration and purification functions of the land.

b. Non-Discharge Buffer Zone

There shall exist a Non-Discharge Buffer Zone within the Watershed Protection District which shall consist of all land areas located between two hundred fifty (250) feet and four hundred (400) feet horizontally from the annual mean high water mark of Lake Cochichewick and between one hundred fifty (150) feet and four hundred (400) feet horizontally from the edge of all wetland resource areas (as defined in M.G.L. Chapter 131, Section 40, and the Town Wetland Bylaw) located within the Watershed.

i. Allowed Uses: All of the Allowed Uses listed in Section 3 (a)(i) of this Watershed Protection District Bylaw are allowed in the Non-Discharge Buffer Zone except as noted below:

ii. Uses Allowed by Special Permit: The following activities may be allowed within the Non-Discharge Buffer Zone only by the granting of a Special Permit issued pursuant of Section 4 of this Watershed Protection District Bylaw:

(1) Any surface or sub-surface discharge, including but not limited to, storm water runoff; drainage or any roadway that is maintained by the Division of Public Works or any private association; outlets of all drainage swales; outlets of all detention ponds. All storm water management systems shall employ Best Management Practices.

iii. Prohibited Uses: The following uses are specifically prohibited within the Non-Discharge Buffer Zone.

(1) All of the Prohibited Use listed in Section 3(c)(iii) of this Watershed Protection District Bylaw are prohibited in the Non-Discharge Zone.

(2) The use, or method of application of, any lawn care or garden product (fertilizer, pesticide, herbicide) that may contribute to the degradation of the public water supply.

(3) The used of lawn care or garden products that are not organic or slow-release nitrogen.

iv. Building Requirements: All construction in the Watershed Protection District shall comply with the best management practices for erosion, siltation, and storm water control in order to preserve the purity of the ground water and the lake; to maintain the ground water table; and to maintain the filtration and purification functions of the land.

c. Non-Disturbance Buffer Zone

There shall exist a Non-Disturbance Buffer Zone within the Watershed Protection District which shall consist of all land areas located between one hundred fifty (150) feet and two hundred fifty (250) feet horizontally from the annual mean high water mark of Lake Cochichewick, and between seventy five (75) feet and one hundred fifty (150) feet horizontally from the edge of all wetland resource areas (as defined in M.G.L. Chapter 131, Section 40, and the Town Wetland Bylaw) located within the Watershed.

i. **Allowed Uses**: All of the Allowed Uses listed in Section 3 (a)(i) of this Watershed Protection District Bylaw are allowed in the Non-Disturbance Zone except as noted.

ii. **Uses allowed by Special Permit**: The following uses shall be allowed within the Non-Disturbance Buffer Zone only by Special Permit issued pursuant to Section 4 of this Watershed Protection district Bylaw:

(1) Any activities which cause a change in topography or grade.

(2) Vegetation removal or cutting, other than in connection with agricultural uses or maintenance of a landscape area.

(3) Construction of a new permanent structure only after a variance has been granted by the Zoning Board if Appeals.

(4) Replacement of any permanent structure.

(5) Any surface or sub-surface discharge, including but not limited to, storm water runoff; drainage of any roadway that is maintained by the Division of Public Works or any private association; outlets of all drainage swales; outlets of all detention ponds.

(6) Construction of any accessory structure or expansion of any existing structure by less than twenty five (25) percent of the gross floor if the existing structure exceeds 2,500 square feet. (2006/41)

(7) Construction of any accessory structure or expansion of any existing structure by less than fifty (50) percent of the gross floor area of the existing primary structure is less than 2,500 square feet and the primary structure will be connected to municipal sewer upon completion of the project. (2006/41)

iii. **Prohibited Uses: The following uses are specifically prohibited within the Non-Disturbance Buffer Zone**:

(1) All of the Prohibited Uses listed in Section 3(c)(iii) of this Watershed Protection District bylaw are prohibited in the Non-Discharge Zone.

(2) Construction of any septic system.

(3) Construction of any new permanent structure, or expansion of an existing structure except as allowed by Special Permit per Section 3.c.ii.
(4) The use, or method of application of, any lawn care or garden product (fertilizer, pesticide, herbicide) that may contribute to the degradation of the public water supply.
(5) The use of lawn care or garden products that are not organic or slow-release nitrogen.

iv. **Building Requirements:** all construction in the Watershed Protection District shall comply with best management practices for erosion, siltation, and storm water control in order to preserve the purity of the ground water and the lake; to maintain the ground water table; and to maintain the filtration and purification functions of the land.

d. Conservation Zone

There shall exist a Conservation Zone within the Watershed Protection District which shall consist of all land areas located within one hundred fifty (150) feet horizontally from the annual mean high water mark of Lake Cochichewick, and within seventy five (75) feet horizontally from the edge of all wetland resource areas (as defined in M.G.L. Chapter 131, Section 40, and the town Wetland Bylaw located within the Watershed.

i. Allowed Uses: The following uses shall be allowed in the conservation Zone of the Watershed Protection District except as noted below:
(1) All uses associated with municipal water supply/treatment and public sewer provided by the Town of North Andover.
(2) The Division of Public Works may conduct routine maintenance of any existing use of property, including the maintenance and improvements of existing roadways and drainage systems.
(3) Maintenance of fire access lanes by the fire Department.

ii. Uses Allowed by Special Permit: No Special Permits will be granted in the Conservation Zone.

iii. Prohibited Uses: The following uses are specifically prohibited within the conservation Zone:
(1) All of the Prohibited Uses listed in Section 3(c)(iii) of this Watershed Protection district bylaw are prohibited in the Non-Discharge Zone.
(2) Any activities which cause a change in topography or grade;
(3) Vegetation removal or cutting, other than in connection with existing agricultural uses or maintenance of an existing landscape area;
(4) Construction or placement of any new permanent structures;
(5) Any surface or subsurface drainage, including, but not limited to, storm water runoff;
(6) Animal feedlots or the storage of manure;
(7) Construction of any septic system.
(8) Construction of any accessory structure or expansion of any existing structure by twenty-five (25) percent or more of the gross floor area of the existing structure.
(9) The use, or method of application of, any lawn care or garden product (fertilizer, pesticide, herbicide) that may contribute to the degradation of the public water supply.
(10) The use of lawn care or garden products that are not organic or slow-release nitrogen.

The above prohibitions shall not apply to any activities undertaken by the Division of Public Works within its authority or to work completed in conjunction with the construction of the municipal sewer system. (1994/ISTM)

4. Special Permit Requirements

a. Nine (9) copies of an application for a Special Permit under this Section shall be filed with the SPGA. Special Permits shall be granted if the SPGA determines that the intent of the Bylaw, as well as its specific criteria, are met. In making such determination the SPGA shall give consideration to simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed.

b. Upon receipt of a Special Permit Application, the SPGA shall transmit one (1) copy of each to the Division of Public Works, Fire Chief, Title III Committee, Division of Planning and Community Development, Conservation Commission, the Board of Health, and the Watershed Council for their written recommendations. Failure to respond in writing within thirty (30) days shall indicate approval or no desire to comment by said agency.

c. An application for a Special Permit under this Section shall include the following information:

   i. Application Form for a Special Permit from the Planning Board.

   ii. Map on a scale of one (1) inch equals forty (40) feet prepared by a Registered Professional Engineer or Surveyor showing:

      (1) the annual mean high water mark of Lake Cochichewick (if annual mean high water mark is within four hundred (400) feet of any proposed activity,

      (2) the edge of all wetland resource areas, as confirmed by the Conservation Commission (if edge of wetland resource area is within four hundred (400) feet of any proposed activity),

      (3) the conservation zone,

      (4) the non-disturbance zone,

      (5) the non-discharge zone,

      (6) the edge of vegetation clearing (edge of work).

   iii. Written certification by a Registered Professional Engineer, or other scientist educated in and possessing extensive experience in the science of hydrology and hydrogeology, stating that there will not be any significant degradation of the quality or quantity of water in or entering Lake Cochichewick.

   iv. Proof that there is no reasonable alternative location outside the Non-Disturbance and/or Non-Discharge Buffer Zones, whichever is applicable, for any discharge, structure, or activity, associated with the proposed use to occur. (1994/38)\

   v. Evidence of approval by the Mass. Dept. of Environmental Protection (DEP) of any industrial wastewater treatment or disposal system or any wastewater treatment of system fifteen thousand (15,000) gallons per day capacity.

   vi. Evidence that all on-site operations including, but not limited to, construction, waste water disposal, fertilizer applications and septic systems will not create concentrations of Nitrogen in groundwater, greater than the Federal limit at the down gradient property boundary.

   vii. Projections of down gradient concentrations of nitrogen, phosphorus and other relevant chemicals at property boundaries and other locations deemed pertinent by the SPGA.

d. The SPGA may also require that supporting materials be prepared by other professionals including, but not limited to, a registered architect, registered landscape architect, registered land surveyor, registered sanitarian, biologist, geologist or hydrologist when in its judgment the complexity of the proposed work warrants the relevant specified expertise.

e. Special Permits under this Section shall be granted only if the SPGA determines, after the time of comment by other Town agencies as specified above has elapsed, that, as a result of the proposed use in conjunction with other uses nearby, there will not be any significant degradation of the quality or quantity of water in or entering Lake Cochichewick.

f. Any Special Permit issued under this Section for a new permanent structure (other than an accessory structure or expansion that is less than twenty five (25%) of the gross floor area of a structure) or a septic system shall require that such structure or system be constructed outside the Non-Disturbance Buffer Zone.
g. Within the Non-Disturbance Zone and Non-Discharge Buffer Zone, any runoff from impervious surfaces shall, to the extent possible, be recharged on site and diverted toward areas covered with vegetation for surface infiltration. Where on site recharge is not feasible due to soil or other natural conditions, other mitigating measures such as sedimentation ponds, filter berms, or restoring wetlands, shall be used only where other methods are not feasible and after approval by the Board of Health, Building Inspector and the Division of Public Works to assure that the methods used for onsite infiltration and/or other measures shall remain effective.
h. Provisions shall be made to protect against toxic or hazardous material discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials, and indoor storage provisions for corrodible or dissolved materials. For operations which allow the evaporation of toxic materials into the interior of any structure a closed vapor system shall be provided for each structure to prevent discharge or contaminated condensate into the groundwater.
i. For any toxic or hazardous waste to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with M.G.L. Chapter 21C.

5. Emergencies

a. The Planning Board may issue an emergency special permit, subject to the subsequent consideration and determination by the Planning Board and upon the following findings:
   i) the work proposed is deemed necessary for the protection of the quantity of quality of the water in or entering Lake Cochichewick, and
   ii) the proposed work must be undertaken before the regular special permit application processed could be completed.
b. A request for an emergency special permit shall be made in writing to the Planning Board and shall include the following:
   i) a statement as to why the emergency work is necessary to protect the quality and/or quantity of water in and/or entering Lake Cochichewick, and,\
   ii) a statement as to why the emergency work must be undertaken before the completion of the regular special permit application process, and
   iii) a statement describing in detail the proposed work to remedy the emergency situation.
c. All information required by Section 4/136(4) Special Permit Requirements must also be submitted with the application; provided however, that if all the required information or documents are not available due to the emergency nature of the situation, the applicant may request a waiver or delay regarding the submittal of the unavailable information or documents.
d. Authorized emergency work must be performed within 60 days of the issuance of the emergency special permit. Any work, which is not completed within this 60-day period requires compliance with the regular special permit application procedures set forth in section 4.136.4 and renumbering Violations 4.136(6) and Severability 4.136(7).

6. **<u>Violations</u>**

Written Notice of any violation of this Bylaw shall be provided by the SPGA agent to the owner of the premises specifying the nature of the violation. The agent of the SPGA shall request of the

violator a schedule of compliance, including cleanup of spilled materials. Such schedule shall allow for the immediate corrective action to take place. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than thirty (30) days be allowed for either compliance or finalization of a plan for longer term of compliance. Said schedule of compliance shall be submitted to the SPGA for approval subsequent to the violation. Said agent of the SPGA shall notify the Building Inspector of any violations of the Schedule of compliance or of any failure to satisfy the requirements of this paragraph. (1998/25).

7. <u>Severability</u>

In any portion, sentence, clause or phase of this regulation shall be held invalid for any reason, the remainder of this Bylaw shall continue in full force.

8. <u>Waiver of Watershed Protection District Special Permit</u>

1) When any construction proposed on an existing structure within the Watershed Protection District will not expand the existing footprint of a structure, and will not disturb existing topography, and is a proposal on town sewer, the Planning Board may determine, without a public hearing, that submission of a watershed protection district special permit is not required. However, in order to obtain such a waiver, an applicant must schedule and agree in writing for the Town Planner to perform a minimum of two inspections during the construction process to ensure proper erosion control is established during construction; the applicant must also agree in writing that the Town Planner can stop construction if the proper erosion control is not in place. For all proposals on septic, this section will not apply, and all applicants should refer to Sections 4.136(3)(a)(b)(c) and (d) of the Town of North Andover Zoning Bylaw.
2) The applicant must request a waiver from obtaining a Watershed Protection District Special Permit in writing and may be required to submit supporting documentation, including, but not limited to, proposed plans and correspondence depicting the proposal. The waiver request will be discussed at a regular meeting of the Planning Board. (Section 4.136 rewritten and reorganized at the May 1, 1995 Annual Town Meeting, Article 38) 4.137Flood Plain District (1993/39)

4.137 Floodplain District

1. <u>STATEMENT OF PURPOSE</u>

The purpose of the floodplain District is to:

a. Ensure public safety through reducing the threats to life and personal injury.
b. Eliminate new hazards to emergency response officials;
c. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
e. Eliminate costs associated with the response and cleanup of flooding conditions;
f. Reduce damage to public and private property resulting from flooding waters.

2. <u>FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD EVALUATION AND FLOODWAY DATA</u>

The Flood Plain District is herein established as an overlay district and includes all special flood hazard areas within the Town of North Andover designated as Zone A and AE on the Essex County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management

Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRMs that are wholly or partially within the Town of North Andover are panel numbers 25009C0207F, 25009C0209F, 25009C0217F, 25009C0226F, 25009C0227F, 25009C0228F, 25009C0229F, 25009C0233F, 25009C0236F, 25009C0237F, 25009C0238F, 25009C0239F, 25009C0241F, 25009C0242F, 25009C0243F, 25009C0244F, 25009C0377F and 25009C0381F, dated July 3, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission.

3. <u>BASE FLOOD ELEVATION AND FLOODWAY DATA</u>

a. **Floodway Data**. In Zone A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data as determined by the Building Inspector, in consultation with the Director of the Division of Public Works, shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

b. **Base Flood Elevation Date**. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

c. Areas designated as flood plain on the North Andover Flood Insurance Rate Maps may be determined to be outside the flood plain district by the Building Inspector, in consultation with the Director of the Division of Public Works, if an accurate topographic and property line survey of the area conducted by a registered professional engineer or land surveyor shows that the flood plain contour elevation does not occur in any area of proposed buildings, structures, improvements, excavation, filling, paving, or other work activity. The person requesting the determination shall provide any other information deemed necessary by the Building Inspector, in consultation with the Director of Division of Public Works to make that determination. If the Building Inspector, in consultation with the Director of the Division of Public Works, determines that the Flood Insurance Rate Maps are in error, the subject area shall not be regulated as occurring within the Flood Plain District, and any such determination shall be noted on the Flood Insurance Rate Maps. Nothing in this section shall prohibit the Conservation Commission, Board of Health, or other Town officials or Board from making non-zoning determinations of the flood plain or performing their official duties.

4. <u>NOTIFICATION OF WATERCOURSE ALTERATION</u>

If a landowner or project proponent proposes to alter or relocate any watercourse, that person shall notify the following parties and provide evidence of such notification to every town board or official who has jurisdiction over such alteration or relocation prior to or at the time of applying for any approval that is required to perform such alteration of relocation:

a. Notify in a riverine situation, the following of any alteration or relocation of a watercourse:
   1. Adjacent Communities
   2. NFIP State Coordinator
      Massachusetts Department of Conservation and Recreation
      251 Causeway Street Suite 600-700
      Boston, MA 02114-2104
   3. NFIP Program Specialist
      Federal Emergency Management Agency, Region I

99 High Street, 6th Floor
Boston, MA 02110

5. REFERENCE TO EXISTING REGULATIONS

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

a. Section of the Massachusetts State Building Code which addresses Floodplain and coastal high hazard areas (currently 780 CMR 120.G);
b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
c. Inland Wetlands Restriction, DEP (currently 310 CMR13.00);

d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
e. Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

6. OTHER USE/DEVELOPMENT REGULATIONS

a. Within Zone AE, along watercourses that have a regulatory floodway within the Town of North Andover, on the Essex County FIRMs dated July 3, 2012; encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. However, a registered professional engineer may provide proof and certification to the Building Commissioner, in conjunction with the Director of the Division of Public Works, demonstrating that such encroachments shall not increase flood levels during the occurrence of the 100 year flood, and if both the Building Commissioner, in conjunction with the Director of the Division Public Works approve this certification, such encroachments shall not be deemed to be prohibited.
b. All subdivision proposals filed in accordance with M.G.L. Chapter 41, Section 81S and 81T [or any revisions to the subdivision control law referencing the submission of preliminary or definitive subdivision plans], respectively shall be designed so that:
    1. such proposals minimize flood damage;
    2. all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
    3. adequate drainage is provided to reduce exposure to flood hazards.
    4. Existing contour intervals of site and elevations of existing structures must be included on plan proposal;
    5. The applicant shall circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, and Building Commissioner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

7. PERMITTED USES

The following uses of low flood damage potential and causing no obstruction to flood flows are encouraged provided they are permitted in the underlying district and they do not require

structures, fill or storage of materials or equipment:

a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
b. Forestry and nursery uses.
c. Outdoor recreational uses, including fishing, boating, play areas, etc.
d. Conservation of water, plants, wildlife.
e. Wildlife management areas, foot, bicycle, and/or horse paths.
f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
g. Buildings lawfully existing prior to the adoption of these provisions.

8. **DEFINITIONS:** The following definitions are taken from the NFIP regulations and the Massachusetts State Building Code, Section 3107**.**
   a. **AREA OF SPECIAL FLOOD HAZZARD** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99 **V1-30, VE, or V**.
   b. **BASE FLOOD** means the flood having one percent chance of being equaled or exceeded in any given year.
   c. **COASTAL HIGH HAZARD AREA** means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as ZONE V, V1-30, and VE.
   d. **DEVELOPMENT** means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
   e. **DISTRICT** means floodplain district.
   f. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) and is completed before the effective date of the floodplain management regulations adopted by a community.
   g. **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
   h. **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** means the agency that administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.
   i. **FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)
   j. **FLOOD HAZARD BOUNDARY MAP (FHBM)** means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.
   k. **FLOOD INSURANCE RATE MAP (FIRM)** means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

l. **FLOOD INSURANCE STUDY (FIS)** means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.
m. **FLOODWAY** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.
n. **LOWEST FLOOR** means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.
o. **MANUFACTURED HOME** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
p. **MANUFACTURED HOME PARK OR SUBDIVISION** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
q. **NEW CONSTRUCTION** means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, **NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.
r. **NEW MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.
s. **ONE-HUNDRED-YEAR FLOOD** - see BASE FLOOD.
t. **REGULATORY FLOODWAY** - see FLOODWAY
u. **SPECIAL FLOOD HAZARD AREA** means an area having special flood and/or flood related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.
v. **START OF CONSTRUCTION** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavations; of the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
w. **STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and

affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

x. **SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

y. **SUBSTANTIAL IMPROVEMENT** means reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed.

z. **ZONE** A means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

aa. **ZONE A1 - A30 and ZONE AE (for new and revised maps)** means the 100-year floodplain where the base flood elevation has been determined.

bb. **ZONE AH and ZONE AO** means the 100-year floodplain with flood depths of 1 to 3 feet.

cc. **ZONE A99** means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

dd. **ZONES B, C, AND X** are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

ee. **ZONE V** means a special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

ff. **ZONE V1-30 and ZONE VE** (for new and revised maps) means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

4.2 Phased Development Bylaw

1. Intent and Purpose.

   This Section 4.2.1 is adopted pursuant to the provisions of Massachusetts General Laws, Chapter 40A and the Home Rule Amendment, Article 89 of the Massachusetts Laws, Chapter 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution, for the following purposes:

   a) to ensure that growth occurs in an orderly and planned manner, at a rate that can be supported by Town services, while avoiding large year to year variations in the development rate:
   b) to allow the Town time to update and implement its Master Plan and Housing Plan and to provide the Town with time to study the effect of growth on the municipality's infrastructure, character, and municipal services, and to continue municipal comprehensive planning studies necessary to provide orderly growth;
   c) to allow the Town time to study, plan for, and provide an additional source of water so as to protect the Town's water supply for future growth;
   d) to relate the timing of residential development to the Town's ability to provide adequate public safety, schools, roads, municipal infrastructure, and human services at the level of quality which citizens expect, and within the Town's ability to pay under the financial limitations of Proposition 2 ½;
   e) to allow departments from the strict application of the growth rate measures herein in order to encourage certain types of residential growth which address the housing needs of specific population groups or which provide significant reductions in the ultimate residential density of the Town.

2. Definitions.

   For the purposes of this Bylaw, the following terms shall have the following meaning:

   a) "Anniversary date" for each subdivision, special permit, or contiguous Form A lots under this provision shall be no earlier than the date on which all required approvals required for a building permit have been obtained.
   b) "Developer" any individual who either as an individual, a beneficial owner of a real estate trust, a partner in a partnership, or an officer or owner of a corporation, requests one or more building permits for the construction of new dwelling units.
   c) "Development" shall mean a single parcel or set of contiguous parcels of land held in substantial common ownership, regardless of form, at any time on or after the date of adoption of this bylaw, for which one or more building permits are sought.
   d) "Phased Development Schedule" shall mean a schedule authorized by the Planning Board or its authorized designee in accordance with this Section, which outlines the maximum building permit issuance per development.

3. Regulations.

   a) Beginning on the effective date of this section, no building permit for a new residential dwelling unit or units shall be issued unless in accordance with the regulations of this section, or unless specifically exempted in Section 6 below, or by the provision of MGL, s. 40A, c. 6.
   b) The regulations of this section shall apply to all definitive subdivision plans, subdivisions not requiring approval, contiguous Form A lots held in common or related ownership on the effective date of this by-law, site plan review applications, and special permits, which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development for purposes of development scheduling if located either on a single parcel or contiguous parcels of land that have been in the same ownership at any time on or subsequent to the date of adoption of this section.

c) For all building lots/dwelling units covered under Subsection 3(b), the Planning Board is authorized to approve a Phased Development Schedule for that lot/unit in accordance with Section 4a.
d) The request for authorization of a Phased Development Schedule shall be made on forms provided by the Planning Board. Requests will include any and all information necessary to demonstrate eligibility and compliance with these regulations.
e) No building permits for new dwelling units shall be issued until the Phased Development Schedule has been recorded in the Essex County Registry of Deeds and a certified copy of the Phased Development Schedule has been filed with both the Planning and Building Departments.
f) Upon transfer of any lot or unit subject to this section, the deed shall reference the Phased Development Schedule and state the earliest date on which construction may be commenced in accordance with the provision of this bylaw.
g) If a proposed subdivision includes any lots that are within 500 feet of lots in another subdivision held in common or affiliated ownership, then both subdivisions shall be construed to be a single subdivision for the purposes of this Bylaw.
h) Lot lines for Form A lots shall be defined when the Form A lots have been approved by the Planning Board or an authorized agent. Subsequent changes in the shape or ownership of lots shall not render the provisions of this Bylaw void.
i) Building permits shall be issued in accordance with the Phased Development Schedule. However, the Planning Board may, without a public hearing and upon written request from The applicant, permit up to twice the allowed annual maximum permitted for that project under the provisions of this Bylaw, provided that building permits issued in succeeding years shall be limited to less than the permitted maximum, if necessary, to insure that the overall number of allowed permits is not exceeded.
j) The Planning Board, in conjunction with the Building Inspector, shall be responsible for administering this section of the Bylaw. Accordingly, the Planning Board shall adopt and publish reasonable regulations for carrying out its duties under this section. In particular, these regulations shall address the conditions and processes for authorizing building permits on an annual basis.

4. Phased Development Schedule
a) Building permits for new dwelling units shall be authorized only in accordance with the following Phased Development Schedule:

Number of Units in Subdivision Development	**Minimum Years for Development**	**Maximum Units for which Building Records May be Issued Per Year**
1-6	1	All
7-20	2	50% of total
21-34	3	33% of total
35-50	4	25% of total
51-75	5	20% of total
76-125	6	16.7% of total
126+	7	14.3% of total

No Phased Development Schedule shall exceed seven years. Notwithstanding anything to the contrary in this Zoning Bylaw, the Planning Board may approve an alternative Phased Development Schedule,

provided that in doing so, the project is consistent with any one of the purposes set forth under Section 4.2.1 above.

b) The number of lots eligible for building permits in the first year of the development shall be prorated from the anniversary date to December 31. Fractions of .5 or greater shall be rounded up to the nearest number and fractions less than .5 shall be rounded down.
c) If as a result of an applicant seeking approval of a second plan of development on a parcel of land for which authorizations have been previously granted, a second plan is approved, a new Phased Development Schedule shall be established. The second schedule shall supersede the first Phased Development Schedule at the time a building permit is issued based on the second plan for any lot lying wholly or partially within the parcel subject to the new development schedule.
d) The Planning Board, in approving the second plan, shall determine the number of authorizations from the first plan that would be abated based on the second plan's approval. This number shall be used by the Building Inspector in revising the authorization schedules due to abatements.

5. Requirements.
   a) All definitive subdivisions, Form A approvals, special permits, and site plan review applications shall include a proposed Phased Development Schedule by the applicant.
   b) Phased Development Schedules.
      i. Phased Development Schedules shall be determined by the Planning Board at the time of approval of any such application. Such schedules shall be included as a condition of approval of the application.
      ii. The Building Inspector shall be authorized to issue revised Phased Development Schedules based solely on approvals granted by the Planning Board.
      iii. All Phased Development Schedules with approved authorization shall be recorded with the application approval decision with the Town Clerk. No building permits shall be issued pursuant to the schedule until the applicant records the approval decision with the Phased Development Schedule at the Registry of Deeds.

6. Exemptions.
   The following developments are specifically exempt from the provisions of this bylaw.
   a) An application for a building permit for the enlargement, restoration, or reconstruction of a dwelling in existence as of the effective date of this by-law, provided that no additional residential unit is created.
   b) Definitive subdivision approvals, special permits, Form A lots and site plan approvals, and development schedules made and approved prior to the date of adoption of this by-law shall be exempt from the provisions of this by-law. The Planning Board shall have exclusive authority to render all decisions on exemption requests.
   c) Dwelling units for low and/or moderate income families or individuals, where all of the following conditions are met:
      i. Occupancy of the units is restricted to households qualifying under Local Initiative Programs and the New England Fund as administered by the Massachusetts Department of Housing and Community Development.
      ii. The affordable units are subject to a properly executed and recorded in perpetuity deed restriction running with the land that shall limit the succeeding resale price to an increase of 10 percent, plus any increase in the consumer price index, plus the cost of any improvements certified by the Building Inspector.

d) Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through a properly executed and recorded in perpetuity deed restriction running with the land. For purposes of this Section "senior" shall mean persons over the age of 55.
e) Development projects which voluntarily agree to a minimum 40% permanent reduction in density, (buildable lots), below the density, (building lots), permitted under zoning and feasible given the environmental conditions of the tract, and as determined and approved by the North Andover Planning Board with the surplus land equal to at least ten buildable acres and permanently designated as open space and/or farmland. The land to be preserved shall be protected from development by an Agricultural Preservation Restriction, Conservation Restriction, and dedication to the Town, or other similar mechanism approved by the Planning Board that will ensure its protection.
f) Any tract of land existing and not held by a Developer in common ownership with an adjacent parcel on the effective date of this Section shall receive a one-time exemption from the development Scheduling provisions for the purpose of constructing one single family dwelling Unit on the parcel.

7. Zoning Change Protection
Any protection against zoning changes provided by M.G.L. c. 40A, s. 6, shall be extended to the earliest date on which the final unit in the development could be authorized under this bylaw.

8. Severability
The provisions of this by-law are hereby declared severable and if any provision shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining.

9. Expiration
The provisions of this Section 4.2 shall expire on July 1, 2009.

Section 4.3 RESIDENTIAL ADAPTIVE RE-USE BYLAW

1. Intent
The residential Adaptive Re-Use Special Permit is hereby established as a Special Permit in the R1, R2, R3 and R4 residential districts on lots that are directly contiguous to lots in non-residentially zoned districts established by this Bylaw.

2. Purpose
The purpose of this special permit is to encourage the creative re-use and conversion of existing residential structures adjacent to commercial and industrial parcels to a commercial use or mixed use in order to preserve historical structures, provide for additional tax revenue for the Town, provide flexibility to landowners, and to create a transition between residential and business areas.

3. Applicability/Eligibility
A lot is eligible to receive a Residential Adaptive Re-Use Special Permit based on the provisions of Section 4.3(6) of this Bylaw**,** only if at the time of application (and based on the Zoning Map in effect at that time) the subject lot is:
A) within the R1, R2, R3 and R4 districts; AND
B) is directly contiguous (i.e. directly touching and not separated by a roadway or another parcel) to a parcel in a non-residential district (B1-B4, VC, GB, I1-3 and IS).

4. Permitted uses by Special Permit include:

A) Existing residential uses;
B) Multi-family dwelling;
C) Uses which involve historic materials or relate to the attraction provided by an historic atmosphere, such as museums, local arts and crafts shops, antique shops, woodworking, furniture repair, or restaurants;
D) Enterprises whose principal use is the sale of agricultural products, such as greenhouses, orchards, nurseries, food co-ops, or farm products stores.
E) Enterprises whose principal use is the sale of products produced in North Andover, such as local agricultural products or crafts;
F) Personal service office;
G) Professional offices;
H) Business offices;
I) Medical offices;
J) Community resources such as banks, churches, schools, or libraries;
K) Interior storage uses such as for boats or furniture; and
L) Any appropriate combination as determined by the ZBA of the uses stated above.

5. Performance Standards, Restrictions & Additional Requirements
   A) Permitted uses shall be limited to the existing structures on the lot. However, in addition to ZBA special permit approval for the proposed use, an applicant may apply to the ZBA for a special permit to expand the size of the existing structures by up to 25% of the footprint of the structure as it existed on the date of enactment of the Residential Adaptive Re-Use Special Permit.
   B) The use permitted by this Special Permit shall not be considered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, disturbance, or in any other way objectionable to or detrimental to any residential use within the neighborhood.
   C) There will be no display of goods or wares visible from the street, with the exception of locally produced agricultural goods.
   D) There shall be no exterior alterations that are not customary or harmonious with the residential character of the building.
   E) Any additions to the structure above must comply with the setbacks and dimensional requirements of the corresponding residential district and non-conforming uses must comply with the requirements outline in Section 9 of this Bylaw.
   F) No more than 25% of the existing structure may be demolished.
   G) A minimum of 30% of the remaining lot area must remain permeable material such as, but not limited to, vegetation, mulch, and trees, unless specifically waived by the Planning Board during site plan review.
   H) Any new parking must meet the current parking requirements as designated in Section 8.1, Off Street Parking, shall be located to the rear or side of the building, and shall be screened from the road and abutting properties to be compatible with the character of the neighborhood. Screening shall consist of one or more of the following: fencing, vegetation, flora, deciduous shrubs and/or trees.
   I) The ZBA and Planning Board may grant special permits for prospective uses and site plans in order that owners may renovate for approval for specific businesses or tenants. Evidence shall be provided that the project is in accordance with the current North Andover Master Plan and if applicable, with the guidelines set forth in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Revised 1983) (36CFR67) in terms of the rehabilitation of the building and its site.

6. Application and Approval Procedure
   A) In order to obtain a Residential Adaptive Re-Use Special Permit, an applicant must receive a special permit from the North Andover ZBA approving the intended use and any proposed expansion in accordance with Section 9.3(5) of this By-Law.
   B) After such approval has been obtained from the ZBA, the applicant must obtain a Site Plan Special Permit from the Planning Board as referenced in Section 8.3 of the Town of North Andover Zoning Bylaw.

SECTION 5 EARTH MATERIALS REMOVAL

5.1 General

1. Excavation, removal, stripping, or mining of any earth material on any parcel of land, public or private, in North Andover, is prohibited, except as allowed by Section 5.4 Permits for Earth Removal; Section 5.5 Earth Removal Incidental to Development, Construction or Improvements: and Section 5.6 Miscellaneous Removal of Earth.
2. Exclusive jurisdiction to issue Earth Removal Permits shall be with the Board except for Permits allowed in Paragraph 5.6 and 5.6. 3.
3. The Board or Building Inspector shall have the authority to issue an Operating Hours Extension Permit, as defined in Subsection 5.2.
4. The Building Inspector shall have the authority to enforce all conditions of any Permit issued under this Section on the Zoning Bylaw.
5. All earth removal operations in existence in North Andover on the effective date of this section shall be subject to the requirements stated herein. However, all Earth Removal Permits issued prior to the effective date of this Section shall remain in effect until their expiration date and/or annual review. At such time, said operation shall be subject to the provisions of this Section, unless otherwise allowed by the Board, for a period not to exceed six (6) months.
6. An annual fee of one hundred dollars ($100.00) shall be required for Earth Removal Permits. Miscellaneous Earth Removal Permits shall require an annual fee of twenty-five dollars ($25.00).
7. Violation of this Section of the Zoning Bylaw, notwithstanding the provisions of Section 10.13, imposes a penalty of fifty dollars ($50.00) for the first offense, one hundred dollars ($100.00) for the second and each subsequent offense. Each day of operation in violation of this section will be considered a separate offense.
8. Any sanitary landfill operated by the Town of North Andover shall be exempt from the provisions of this Section.

5.2 Definitions

1. Applicant: the owner, or prospective owner by reason of a Purchase and Sales Agreement, of the land shown by the plan submitted with the Earth Removal Permit Application.
2. Earth Materials: "earth materials" shall include soil, loam, sand, gravel, clay, peat rock, or other allied products.
3. Earth Removal Operations: the excavation, removal, stripping, or mining of any earth material on any site within the Town of North Andover.
4. Operating Hours Extension Permit: A permit issued by the Board or the Building Inspector for an extension of the time of operation for trucking from the site until 9:00 p.m.
5. Board: Zoning Board of Appeals.
6. Permit: The word "Permit" in the Earth Removal Section shall mean and include a Special Permit for earth removal as issued by the Special Permit Granting Authority.

5.3 Application for Earth Removal Permit

1. All applicants for Earth Removal Permits must submit seven (7) copies of the following information concerning the proposed site of the removal operation to the Board thirty (30) days prior to submission of an application for an Earth Removal Permit. The Board shall distribute the information to the Planning Board, Building Inspector, Conservation Commission, Board of

Health, Highway Department, and Police Department, so that recommendations from these departments may be submitted for the required public hearing.

2. A plan or plans to scale, (1"=40' prepared and stamped by a Registered Engineer, showing the property line of the parcel of land under consideration along with all abutters to the property existing and final contours in five foot (5') elevation in increments, existing and proposed final drainage of the site, including all culverts, streams, ponds, swamps, and siltation basins, means of entrance and egress from the property, locus map, and any other pertinent data deemed necessary by the Board.
3. A plan, study, or report showing the proposed ultimate use of the land conforming with the existing Zoning Bylaw. Proper planning for future land use shall be a prime consideration affecting the issuance of an Earth Removal Permit.
4. A complete list of the names and addresses of current abutters of the property where such removal is proposed.
5. An operating schedule showing the active area (not to exceed five (5) acres) where the earth removal will begin and also how the total parcel will be developed in progressive five (5) acre increments.

5.4 Permits for Earth Removal

1. The Board may issue Earth Removal Permits for any zoning district, complete with conditions imposed, for areas not to exceed forty (40) acres. All Permits shall conform to the minimum restoration and operating standards contained herein and such other conditions as the Board may deem necessary. Said permit shall allow the working of only five (5) acres at any one time. Upon completion of the earth removal operation on a five (5) acre parcel, or a part thereof, and substantial restoration of said parcel as determined by the Board, according to the restoration standards at the Permit conditions, application may then be made to the Board for a Permit renewal. Such Permit renewal shall allow the removal of earth on another five (5) acre section, as shown by the operating schedule submitted with the Permit application. This procedure shall be followed until the operation is completed.
2. The permit shall be considered a non-transferable revocable Permit to remove earth materials. If it is found that incorrect information was submitted in the application, or that conditions of the Permit are being violated, or that the governing regulations are not being followed, the Permit shall be suspended until all provisions have been met and the premises made to conform. Failure of the Permit holder to comply within the time specified by the Board for correction of violations shall cause the Permit to be revoked, forfeiture of the security to the Town, and the imposition of all fines as set forth in Paragraph 5.1(2).
3. The Board shall discuss and review the permit periodically, and at a minimum, annually. Written progress reports showing conformance with regulations and Permit conditions shall be submitted to the Board by the Building Inspector or his designated agent every three (3) months.
4. An Earth Removal Permit shall not be in effect until the applicant has filed the proper security as required in Paragraph 5.9, paid the required fees as required by Paragraph 5.1(6), and recorded the Special Permit at the Registry of Deeds.
5. Mechanical crushing and screening may be permitted by the Board after a public hearing with due notice given.

5.5 Earth Removal Incidental to Development, Construction or Improvements

1. This regulation shall be deemed not to prohibit the removal of such sod, loam, soil, clay, sand, gravel, or stone as may be required to be excavated for the purpose of constructing ways in accordance with lines and grades approved by the planning Board, or for the purpose of constructing underground utilities.

2. Where soil is to be removed in connection with the preparation of a specific site for building, removal may take place only after the issuance of a building permit by the Building Inspector. Removal will be allowed only from the area for the building, driveways, parking areas, and from areas where removal is specifically required by the Board of Health in connection with disposal systems. Where special circumstances exist requiring general regarding, removal of peat, etc., the builder may file a plan and request for an additional soil removal permit with the Building Inspector as provided in Paragraph 5.6 below.
3. Where excavation, removal, stripping, or mining of earth on any parcel of land, public or private, is made necessary by order of any other Board or Agency of the Town, such excavation, removal, stripping, or mining, if in excess of one-thousand (1,000) cubic yards shall be governed by the provisions of Section 5.6 of this Bylaw.
4. Excavation, removal, stripping, or mining of earth incidental to improvements shall be governed by the provisions of Section 5.6 of this Bylaw.
5. All earth removal, excavation, stripping or mining as allowed under this paragraph shall be governed by the provisions of Section 5.6 of this Bylaw.

5.6 Miscellaneous Removal of Earth

1. Excavation, removal, stripping, or mining of miscellaneous amounts of earth as allowed under Section 5.5 is permitted provided the excavation, removal, stripping, or mining is necessary for the improvements of development of the property on which the excavation or removal takes place.
2. Excavation, removal, stripping, or mining of aggregate quantities of less than fifty (50) cubic yards on any one general site requires no formal approval. Where the excavation, removal, stripping, or mining of soil is on quantities in excess of fifty (50) cubic yards but less than one-thousand (1,000) cubic yards, application must be made to the Building Inspector for a Miscellaneous Soil Removal Permit. Where special circumstances exist which requires the excavation, removal, stripping, or mining of soil in excess of one-thousand (1,000) cubic yards, but less than five-thousand (5,000) cubic yards, a Permit may be granted by the Board for such removal without a public hearing. However, where the excavation, removal, stripping, or mining exceeds five-thousand (5,000) cubic yards, then a public hearing will be necessary and the Permit granted shall indicate the approximate quantity of soil to be removed, the purpose of removal, and the location of the site of removal. The Permit shall also specify that upon completion of excavation, exposed subsoil shall be graded and covered with loam to a minimum depth of six (6) inches and that the removal is to be controlled by the appropriate section of Paragraph 5.7 (Operating Standards). It is
   further provided that except where removal under this Paragraph is done in connection with the formation or enlargement of a pond, excavation shall not be permitted below the mean grade of the street or road serving the property. The excavation of said pond in any event shall not be such as to change the direction or flow of a water course or to cause surface water to gather as a sump or swale. Excavations for burying large rocks and stumps shall immediately be back filled for safety reasons. Failure to meet the requirements of this Paragraph shall be deemed a violation of this Zoning Bylaw.

5.7 Operation Standards

1. Time of Operation
   a. Excavation and site maintenance may be carried on from 6:30 a.m. until 7:30 p.m., Monday through Saturday.
   b. Trucking from the site may be carried on from 7:00 a.m. through 6:00 p.m., Monday through Saturday.

   c. An Operating Hours Extension Permit for trucking until 9;00 p.m. for no more than three (3) consecutive days may be granted by the Building Inspector after reviewing conditions of the application. Said application shall show reason for extension of time, distance of hauling, and approximate cubic yards to be hauled.
2. Site Preparation
   a. Only the active area described in the Permit application may be made ready for earth removal.
   b. No standing trees are to be bulldozed over, or slashed and bulldozed into piles. All trees must be cut down. All wood and brush must be piled for removal or chipping. Wood chips may remain on the site. No trees are to be buried on the site.
   c. Stumps shall be buried in pre-designated areas as shown on application plans.
   d. Any change in stump burial must be submitted to the Board of approval.
3. Topsoil Storage
   a. All topsoil removed from the active removal area shall be piled for future site restoration.
   b. No topsoil shall be removed from the site until all areas have been restored and permission has been granted by the Board.
4. Erosion Control
   a. Prior to any excavation or earth removal, adequate siltation basins shall be constructed to prevent the run-off of silted water from the site.
   b. All excavation shall be done so as to create contours to channel run-off waters into the siltation basins.
   c. No siltation basin shall exceed seven (7) feet in depth.
   d. Siltation basins must be cleaned when sediment deposits are within eighteen (18) inches of the outfall invert.
5. Dust Control
   a. No earth removal operation shall create excessive amounts of dust or allow roads leading into or from a site to become excessively dust producing.
   b. Proper dust control methods shall be approved by the Building Inspector.
6. Excavation Near Brooks
   a. No excavation shall be made which will alter the natural way of existing elevation of a brook, stream, or river.
   b. All banks of brooks, streams, and rivers shall be reconstructed to be aesthetically attractive and of sufficient height to prevent abutting properties from flooding.
   c. Said bank height shall be computed, for a fifty (50) year storm for all brooks, streams, and rivers up to eight (8) feet in width and two (2) feet in depth; and for a one-hundred (100) year storm for all brooks, streams, and rivers which exceed this size.
7. Site Screening
   a. An immediate program of site screening shall start when site preparation begins.
   b. All entrances shall be screened with existing vegetation, evergreens, or other suitable natural methods, so as to prevent a direct view into the earth removal area.
   c. All areas within fifty (50) feet of a traveled way or abutting property lines shall be reforested immediately upon completion of the earth removal operation of that area. Said reforestation shall be done in accordance with the North Andover Tree Department. A minimum of one-hundred-fifty (150) trees per acre shall be used for this reforestation. Areas which are to be used for agricultural purposes after earth removal operations are completed may be reforested in the following manner. Trees shall be planted twenty-five (25) feet deep from the road or property line. The remaining area shall immediately be planted with grass or other suitable agricultural planting material.
8. Access Roads
   a. All access roads shall be level with intersecting streets for a distance of sixty (60) feet.

   b. A STOP sign shall be installed so as to warn any vehicle entering onto a Town street.
   c. All access roads shall be equipped with a suitable locking gate to prevent unauthorized entry.
9. Site Maintenance
   a. No open face excavation shall exceed twenty-five (25) feet in height.
   b. No excavation shall be closer than fifteen (15) feet to a property line.
   c. No slope shall exceed a two (2) foot horizontal to a one (1) foot vertical (2:1) grade.
10. Temporary Buildings
   a. All temporary structures shall be specified in the Special permit application and shown on the Plan
   b. Any structure erected on the premises for use by personnel or storage of equipment shall be located at least forty (40) feet from any existing roadway and at least thirty (30) feet from any lot line.
   c. Any temporary structure will be removed no later than ninety (90) days after the expiration date of the permit.
11. Mechanical Crushing and Screening
   a. All crushing and screening Permits shall be granted for a period not to exceed six (6) months.
   b. Said Permits shall be granted as a cleanup procedure only.
   c. Washing of processed material will not be allowed.
   d. Operation of crushing or screening equipment shall be from 7:30 a.m. until 5:00 p.m., Monday through Friday.
   e. All crushing and screening equipment shall be equipped with suitable dust and noise control devices.

5.8 Restoration Standards

1. All restoration must be completed within sixty (60) days after the termination of an Earth Removal Permit or by the first of June if the Permit terminates between December first through March thirty-first.
2. No slope shall be left with a grade steeper than a two (2) foot horizontal to a one (1) foot vertical (2:1).
3. All siltation basins shall be filled with earth, and a natural drainage pattern must be re-established. No area upon the site which will collect water shall remain unless approval is granted by the Board or unless the area was shown on the original application plans.
4. All topsoil which was on the site prior to earth removal operations shall be replaced to a minimum depth of six (6) inches on all disturbed areas. Sites that had less than six (6) inches of topsoil shall be restored with a minimum of four (4) inches over the entire area.
5. Seeding - The entire area shall be seeded with grass or legume which contains at least sixty percent (good conservation practices. Areas which washout are to be repaired immediately.
6. Reforestation - All areas which are disturbed in the earth removal operation shall be reforested with fifty percent (50%) coniferous and fifty percent (50%) deciduous trees planted at the rate of one hundred fifty (150) trees per acre. All trees used are to be a minimum of two (2) year transplants. Said planting shall be in accordance with the recommendations of the North Andover Tree Department. Areas which are to be used for agriculture purposes after earth removal operations are completed may be reforested in the following manner:
   a. Trees shall be planted twenty-five (25) feet deep from a public road or property line.
   b. The remaining area shall immediately be planted with grass or other suitable agricultural planting material. Permits issued by the Building Inspector for soil removal incidental to construction or for special purposes are exempt from reforestation paragraph.
7. Within ninety (90) days of completion of operations, all equipment, accessory buildings, structures,

and unsightly evidence of operation shall be removed from the premises.

5.9 Security Requirements

1. There must be filed with the Town Treasurer, a continuous bond or deposit of money in the minimum amount of One-thousand dollars ($1,000) per acre to be excavated, and shall be of a sufficient amount to cover ten (10) acres, or the total parcel, whichever is smaller, as determined by and satisfactory to the Board.
2. After completion of the total project, and at the applicant's written request, the Board may grant a partial release of any security posted by the applicant. One (1) year after such a partial release is granted and if in the opinion of the Board, no damage or deterioration to the finished project has developed, the Board will issue a final release of the security. If, during the year following the date of a partial release, slumping, gullying, erosion, or any other unsatisfactory condition appears, the applicant shall be responsible for, and shall make any necessary repairs, before final release or security is granted. The bonding agent shall be required to give the Board of Appeals, by Registered or Certified mail, a sixty (60) day notice prior to any termination or cancellation of the bond.

SECTION 6 SIGNS AND SIGN LIGHTING REGULATIONS

6.1 Authority and Interpretation

This Bylaw is adopted, as a General Bylaw pursuant to Chapter 93, Section 29-33, inclusive, as amended, and a Zoning Bylaw pursuant to Chapter 40-A, as amended of the General Laws of the Commonwealth of Massachusetts. This Bylaw is hereby declared to be remedial and protective, and is to be so construed and interpreted as to secure the beneficial interests and purposes defined in Section 6.2 of this Bylaw.

6.2 Purposes

1. The regulation and restriction of signs within the Town of North Andover in order to protect and enhance the visual environment of the Town for purposes of safety, convenience, information, and welfare of its residents.
2. The restricting of signs and lights which overload the public's capacity to receive information, which violate privacy, or which increase the probability of accidents by distracting attention or obstructing vision.
3. To encourage signage and lighting which aid communication, orientation, identify activities, express local history and character, serve educational purposes for the public good.
4. The reduction of visual and informational conflict among private signs and lighting and between the private and public information systems.

6.3 Definitions

1. **A-Frame Sign/Sandwich Board**: A portable, temporary sign or device capable of standing without support or attachments.
2. **Accessory Sign** - A sign that advertises activities, goods, products, or a specific use, owner, or tenant, available within the building or on the property on which the sign is located, or advertises the property as a whole or any part thereof for sale or rent.
3. **Animated Sign:** Any sign that uses movement or a change of lighting to depict action or create a special effect or scene.
4. **Building Frontage** - The length in feet of a ground floor level of a building front or side facing a street (or facing a right-of-way accessible from a street) that is occupied by an individual business.
5. **Directional Sign** - A non-accessory sign containing no advertising and giving direction to community (non-commercial) activities, buildings, areas, such as churches, schools, playgrounds, museums, historical sites, public buildings, etc. Sign not to exceed 12"x30".
6. **Display Window Signs** - Temporary signs on the surface of or inside display windows, lighted only by the general building illumination.
7. **Erect** - Shall mean and include to construct, place, relocate, enlarge, alter, attach, suspend, and post.
8. **Flagpole** - A pole erected on a roof, or projecting from a building or structure or on the ground.
9. **Freestanding Sign** - Shall mean and include any sign not attached to a building or the ground.
10. **Ground Sign** - Any sign erected on the ground which is self-supported and anchored to the ground.
11. **Illuminated Sign** - Illuminated sign shall mean any sign illuminated by electricity, or other artificial light including reflective or phosphorescent light and shall include location of source of illumination.
12. **Marquee** - Any sheltering structure of permanent construction projecting from and totally supported by the wall and/or roof of a building.
13. **Non-Accessory Sign** - Any sign that is not an accessory sign.

14. **Obscene** - shall have the meaning as that term is defined in Massachusetts General Laws Chapter 272, Section 1. Massachusetts General Laws, Chapter 272, Section defines "obscene" as follows:
    a. appeals to the prurient interest of the average person applying the contemporary standards of the county where the offense was committed;
    b. depicts or describes sexual conduct in a potentially offensive way; and
    c. lacks serious literary, artistic, or political or scientific value.

15. **Off-Premise Sign** – A sign or outdoor display that advertises products or services that are not sold, produced, manufactured or furnished on the property where the sign is located.
16. **Permanent Sign** - Any sign permitted to be erected and maintained for more than sixty (60) days.
17. **Primary Sign** - The principal accessory sign which may be a wall, roof, or ground sign, as allowed in Section 6.6.
18. **Projecting Sign** - Any sign which is attached or suspended from a building or other structure and any part of which projects more than twelve (12) inches from the wall surface of that portion of the building or structure.
19. **Roof Sign** - Any sign erected, constructed, and maintained wholly upon, connected to, or over the roof or parapet of any building with the entire support on the roof or roof structure.
20. **Secondary Sign** - Is a wall, roof, or ground sign intended for the same use as a primary sign but smaller dimensions and lettering, as allowed in Section 6.6.
21. **Sign** - A sign is any structure, mechanically or electrically driven, still or moving device, light, letter, figure, word, model, banner, pennant, trade flag, or representation that is designed to be seen from outside the lot on which it is erected. It advertises activities, goods, places, persons, objects, institutions, organizations, associations, businesses or events, products, services, or facilities available either on the property where the sign appears or in some other location. The definition includes electric signs in windows or doors, but does not include window displays or merchandise. A sign may be permanent or temporary.
22. **Sign Size (Area)**

    a. For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed but not including any supporting framework and bracing which are incidental to the display itself.

    b. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording, and accompanying designs or symbols together with any backing of a different color than the finish material of the building face.

    c. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other convex shape which encompasses all of the letters and symbols.

23. **Temporary Sign**: A sign permitted to be used on a short-term basis for the duration of no longer than sixty (60) days unless otherwise specifically provided herein.

24. **Wall Sign** - Any sign affixed to, suspended from or painted on a wall, window, marquee, or parapet.

6.4 Administration and Enforcement

1. Enforcement - The Building Inspector is hereby designated as the Sign Officer and is hereby charged with the enforcement of this Bylaw.
   a. The Sign Officer and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which any sign is erected or maintained in order to inspect said sign.
   b. The Sign Officer is further authorized, upon notice as herein provided, to order the repair or removal of any sign which in his judgment is a prohibited non-accessory sign, or is likely to become dangerous, unsafe, or in disrepair, or which is erected or maintained contrary to this Bylaw. The Sign Officer shall serve a written notice and order upon the owner of record of the premises where the sign is located and any advertiser, tenant, or other persons known to him having control of or a substantial interest in said sign, directing the repair or removal of the sign within a time not to exceed thirty (30) days after giving such notice. If such notice and order is not obeyed within such period of time, the Sign Officer and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which said sign is erected or maintained and repair or remove, or cause to be repaired or removed, said sign. All expenses incurred by the Sign Officer and his duly authorized agents in repairing or removing any sign shall be assessable against any person who failed to obey said notice and order and shall be recoverable in any court of competent jurisdiction if not paid within thirty (30) days after written notice of assessment is given by the Sign Officer at any such person.

2. **Permits:**
   a. No permanent sign shall be erected, enlarged, or structurally altered without a sign permit issued by the Building Inspector. Permits shall only be issued for signs in conformance with this Bylaw. Permit applications shall be accompanied by two (2) prints of scale drawings of the sign, supporting structure and location. A copy of any relevant special permit shall also accompany the application. All ground or roof signs shall be registered and identified as required by Section 1407.0 of the State Building Code.
   b. Notwithstanding anything to the contrary in this Bylaw, any permanent sign authorized under this Bylaw may contain any otherwise lawful, non-commercial message which does not direct attention to a business or to a service or commodity for sale in lieu of any message or content described in the applicable regulation.

3. **Non-conformance of Accessory Signs:**
   Any non-conforming sign legally erected prior to the adoption of this provision, may be continued and maintained. Any sign rendered non-conforming through change or termination of activities on the premises shall be removed within thirty (30) days of order by the Building Inspector. No existing sign shall be enlarged, reworded, redesigned, or altered in any way unless it conforms to the provisions contained herein. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third (1/3) of the replacement value as of the date of destruction shall not be repaired, rebuilt, restored or altered unless in conformity of this Bylaw.

4. **Street Banners or Signs** - Street banners or signs advertising a public or charitable entertainment or event, by Special Permit from the Board of Selectmen. Such a sign shall be removed within seven (7) days after the event.

6.5 Prohibitions:

1. No sign shall be lighted, except by steady, stationary light, shielded and directed solely at the sign. Internally lit signs are not allowed.
2. No illumination shall be permitted which casts glare onto any residential premises or onto any portion of a way so as to create a traffic hazard.
3. No sign shall be illuminated in any residential district between the hours of 12:00 midnight and 6:00 a.m. unless indicating time or temperature or an establishment open to the public during those hours.
4. No sign having red or green lights shall be erected within sight of a traffic signal unless approved as non-hazardous by the Chief of Police.
5. No animated, revolving, flashing, or exterior neon sign shall be permitted.
6. No pennants, streamers, advertising flags, spinners or similar devices shall be permitted, except as allowed by the Board of Selectmen.
7. Corner visibility shall not be obstructed.
8. No sign shall be erected, displayed, or maintained upon any rock, tree, fence, or utility pole.
9. No sign shall be erected, displayed, or maintained if it contains any obscene matter.
10. Flags and insignia of any Government when displayed in connection with commercial promotion.
11. No sign shall obstruct any means of egress from a building.
12. Non-accessory signs are prohibited except for directional signs as allowed in Section 6.6, B.
13. No signs shall be attached to motor vehicles, trailers or other movable objects regularly or recurrently located for fixed display.
14. No off-premise signs.

6.6 Permitted Signs (Fee Required)

A. **Residence District - Accessory Signs** - The following signs are allowed in a residence district as well as all other districts.
   1. Primary wall and roof signs attached to or part of the architectural design of a building shall not exceed, in total area, more than ten percent (10%) of the area of the dimensional elevation of the building as determined by the building frontage multiplied by the floor to ceiling height of the individual business or as specified in applicable sections of the by-law.
   2. One (1) sign, either attached or ground indicating only the name of the owner or occupant, street number and permitted uses or occupations engaged in thereon, not to exceed two (2) square feet in area. Such sign may include identification of any accessory professional office, home occupation, or other accessory uses permitted in a residence district. Ground signs shall be set back a minimum of ten (10) feet from all property lines and a minimum of forty (40) feet from all residential districts or structures.
   3. One (1) sign oriented to each street on which the premises has access, either attached or ground, pertaining to an apartment development or a permitted non-residential principal use of the premises, such sign not to exceed ten (10) square feet in area.
   4. One (1) unlighted contractor's sign, not exceeding twenty-five (25) square feet in area, maintained on the premises while construction is in process and containing information relevant to the project. Such sign shall be removed promptly after completion of the construction.
   5. One (1) unlighted identification sign at each public entrance to a subdivision not exceeding twelve (12) square feet in area; to be removed when the subdivision roadway is accepted by the Town.
   6. Ground signs shall be set back a minimum of ten (10) feet from all property lines and a minimum of forty (40) feet from all residential districts or structures.

7. Off-premises Signs: Only signs pertaining exclusively to the premises on which they are located or to products, accommodations, services or activities on the premises shall be allowed, except that an off-premises directional sign, designating the route to an establishment not on the street to which the sign is oriented, may be erected and maintained within the public right-of-way at any intersection if authorized by the Board of Selectmen or on private property if granted a special permit by the Board of Appeals. Such sign shall be authorized only upon the authorizing agency's determination that such sign will promote the public interest, will not endanger the public safety and will be of such size, location and design as will not be detrimental to the neighborhood. At locations where directions to more than one (1) establishment are to be provided, all such directional information shall be incorporated into a single structure. All such directional signs shall be unlighted, and each shall be not over four (4) square feet in area.

B. **Temporary Signs:** Temporary signs shall be allowed as provided below, and provided that they comply with the following:

(a) Unless otherwise specified in the Bylaw, temporary signs must comply with all applicable requirements for permanent signs, including issuance of a sign permit.

1. Temporary signs, of not more than twelve (12) square feet in area, erected for a charitable or religious cause; requires no sign permit and is to be removed within thirty (30) days of erection. The Building Inspector shall maintain placement controls.
2. One (1) temporary unlighted real estate sign advertising the sale, rental or lease of the premises or subdivision on which it is erected to be no larger than twelve (12) square feet. The Building Inspector shall allow a sign larger than twelve square feet if: The property fronts on a State Highway, such as Route 114 or Route 125 and a larger sign is needed for legibility purposes; The total area of the sign does not exceed 10% (10 percent) of the wall area it is to be located upon. Such sign shall be removed fourteen (14) days after sale, rental or lease.
3. One (1) temporary unlighted sign not larger than twenty-five (25) square feet indicating the name and address of the parties involved in construction on the premises.
4. Temporary signs not meeting requirements for permanent signs may advertise sales, special events, or changes in the nature of an operation, but shall not otherwise be used to advertise a continuing or regularly recurring business operation and shall be removed promptly when the information they display is out of date. The sign(s) must be removed within thirty (30) days of erection.
5. Temporary signs pertaining to a candidate or ballot question appearing on the ballot of an election duly called in the Town of North Andover shall require no sign permit and shall be allowed in all zoning districts. Such signs permitted by this Bylaw:
   (a) shall only be permitted on private property;
   (b) shall not exceed six (6) square feet in area per sign and shall not exceed in aggregate twenty-four (24) square feet in area per lot;
   (c) shall not be higher than three (3) feet above ground level;
   (d) shall be stationary and shall not be illuminated;
6. Temporary A-frame Sign Permit. The Building Inspector may issue a permit for the temporary placement of a freestanding A-frame/sandwich sign which (i) announces a performance, an event, or is for directional purposes; ii) must be securely anchored so as to not blow over and is professional in appearance; iii) must be removed at the close of each business day and at the expiration of the permit; iv) may not obstruct a public or private walkway, or be placed on public property. The maximum area shall not exceed eight (8) square feet on each side, and a maximum height of five (5) feet above the ground. The

temporary permit may impose limiting conditions, including among other matters the number allowed at each business property location.

7. Unless otherwise specified in this Bylaw, temporary signs pertaining to other non-commercial issues shall require no sign permit and shall be allowed in all zoning districts. Such signs shall be subject to the limitations set forth in subsection (5) (a)-(e) above.
8. Identification Signs or entrance markers for a church, or synagogue shall not exceed a combined total of thirty (30) square feet and provided that there shall be no more than two (2) signs allowed on the premises.
9. Notwithstanding any other provisions of this Bylaw, signs may be erected for posting land; example, no hunting, no trespassing, etc.

C. **Residence Districts: Non-accessory Signs -** Directional signs by Special Permit from the Board of Selectmen, limited as follows:

1. Two (2) signs for each activity, not exceeding 6"x30" in size.
2. Ground signs not exceeding eight (8) feet in height.

D. Business and Industrial Districts: Accessory

All signs permitted in residence districts as provided in Section 6.6(A) and 6.6(B), except that temporary real estate signs may be as large as twenty-five (25) square feet. Each owner, lessee, or tenant shall be allowed a primary and a secondary sign. Said sign may be used as ground, wall, or roof signs. No lot shall be allowed to have more than one (1) ground sign structure.

1. Primary wall and roof signs attached to or part of the architectural design of a building shall not exceed, in total area, more than ten percent (10%) of the area of the dimensional elevation of the building as determined by the building frontage multiplied by the floor to ceiling height of the individual business or as specified in applicable sections of the by-law.
2. One (1) permanent ground sign of not more than twenty-five (25) square feet in area and extending not more than eight (8) feet above ground level. Larger or taller signs may be allowed by Special Permit of the Board of Appeals, if said Board determines that the particular sign will not be incongruous with the district in which it is to be located nor injurious to traffic and safety conditions therein (1998/31).
3. For premises having multiple occupants, a single sign, either attached or ground, identifying those occupants. The total area of attached signs including this one, shall not exceed ten percent (10%) of wall area, and the area of any freestanding sign allowed under this paragraph shall not exceed twenty-five (25) square feet.
4. Temporary unlighted signs inside windows, occupying not more than twenty percent (20%) of the area of the window requires no sign permit.
5. No sign shall project more than one (1) foot over any public right-of-way shall be covered by appropriate liability insurance as determined by the Building Inspector and verified by a certificate of insurance filed with the Town Clerk.
6. Service stations or garages may divide the allowed wall sign area into separate, smaller wall signs indicating separate operations or departments. A freestanding ground identification sign of fifty (50) square feet with price sign incorporated is allowed.
7. For active fuel dispensing Service Stations, with multiple tenants, on the same lot: One single free standing ground identification sign of 50 square feet is allowed, which is to include within the 50 square feet, the identification of the multiple tenants on this same lot. The Service Station identification / information shall be at least 60% (may be greater) of the total free standing ground sign. Pricing information, if advertised, to also be within the allotted square footage for service stations. The maximum height (including pylons) of this free standing ground sign shall be 16 feet from ground level (1998/30).

8. Building directories (if located outside) may be affixed to the exterior wall of a building at each public entrance. Such directory shall not exceed an area determined on the basis of one (1) square foot for each establishment occupying the building.
9. Traffic Control orientational and guidance signs located on private property, up to four (4) square feet in area, displayed for purposes of direction or convenience, including signs identifying parking, fire lanes, rest rooms, freight entrances and the like.

E. Shopping Centers

1. Signs are permitted in residence districts, except that temporary real estate signs may be as large as ten (10) square feet.
2. Signs attached to a building or its canopy, parallel with the facade and not projection above the roof-line, advertising the name of a firm or goods or services available on the premises, provided that the total area of all signs erected on any wall by any occupant may not exceed twenty percent (20%) of the portion of the wall area assigned to that occupant. In no case shall any occupant's sign total more than two hundred (200) square feet facing any single street.
3. For any retailing complex comprising three (3) or more enterprises on a single lot and fifty thousand (50,000) square feet floor area or more, one (1) ground sign for each street on which the development fronts, containing the name or other identification of the area occupied by the complex. Each sign shall be no larger than one hundred (100) square feet. Such sign shall not be located within ten (10) feet of any property line or the line of any way, and no part of the sign shall be more than twenty (20) feet above the ground level.
4. Temporary, unlighted signs, inside windows, occupying not more than fifty percent (50%) of the area of the window requires no sign permit.

F. Office Parks

1. Signs as permitted in residence districts, except that temporary real estate signs may be as large as ten (10) square feet.
2. One (1) sign for each street upon which the premises has frontage, identifying a subdivision of lots for office development. This sign shall be no greater than eight (8) feet in height and no larger than twenty (20) square feet in area except where the property fronts on a high-speed, limited access highway, in which case a special exception may be granted for a larger sign if required for legibility.
3. Signs for individual properties or tenants shall be limited to a single sign no larger than three (3) square feet per tenant. Individual tenants must have Letter of Permission from property owner. The Board of Appeals may grant a Special Permit for an exception for a larger area where this will not impair legibility of other signs or be incongruous with the surroundings, based upon consideration of the number of occupants and signs per building, size of building and integration of sign and building design.

G. Industrial Districts

1. Signs as permitted in residence districts, except that temporary real estate signs may be as large as twenty-five (25) square feet. The Building Inspector shall allow a sign larger than twenty-five (25) square feet if:
   a) The property fronts a State Highway, such as Route 114 or Route 125 and a larger sign is needed for legibility purposes;
   b) The total area of the sign does not exceed 10% (ten percent) of the wall area it is to be located upon. Such sign shall be removed fourteen (14) days after sale, rental or lease.

2 Signs attached flat against the wall or canopy of a building, or projecting not more than six (6) feet above such wall, advertising the name of the firm or goods or services available or produced on the premises; provided that the total area of all such sighs does not exceed twenty percent(20%) of the area of the side of the building to which they are attached or two hundred (200) square feet, whichever is less.

3 One (1) ground sign, containing the name or other identification of the use on the property, for each street on which the property fronts, each sign is limited to an area of one hundred (100) square feet. Such sign shall not be located closer than forty (40) feet to any property line or twenty (20) feet above ground level.

H. Guidelines

1. The following are further means by which the objectives for signs can be served. These guidelines are not mandatory, but degree of compliance with them shall be considered by the Board of Selectmen, Planning Board, Zoning Board of Appeals in acting upon special permits authorized by the Zoning Bylaws and by the Building Inspector in issuing a sign permit authorized under this Section of the Zoning Bylaw.

Efficient Communication:

A. Signs should not display brand names, symbols or slogans of nationally distributed products except in cases where the majority of the floor or lot on the premises is devoted to manufacture or sale or other processing of that specific product.
B. Premises chiefly identified by a product name (such as a gasoline or auto brand) should devote some part of their permitted sign area to also displaying the identity of the local outlet.
C. Signs should not contain selling slogans or other advertising which is not an integral part of the name or other identification of the enterprise.
D. Sign content normally should not occupy more than forty percent (40%) of the sign background, whether a signboard or a building element.
E. Signs should be simple, neat and avoid distracting elements, so that contents can be quickly and easily read.

Environmental Relationship

A. Sign design should take into consideration the scale of the street to which the sign is oriented and the size, brightness, style, height and colors of other signs in the vicinity.
B. Sign brightness should not be excessive in relation to background lighting levels, e.g., averaging not in excess of one hundred (100) foot lamberts in the downtown or similarly bright areas and not in excess of twenty (20) foot lamberts in unlighted outlying areas.

Building Relationship

1. Signs should be sized and located so as to not interrupt obscure or hide the continuity of columns, cornices, roof eaves, sill lines or other elements of building structure and where possible, should reflect and emphasize building structural form.
2. Sign material, colors and lettering should be reflective of the character of the building to which the sign relates, just as sign size should be related to building size.
3. Clutter should be avoided by not using support brackets extending above the sign or guy wires and turnbuckles.

Landscaping, Buffering, Lighting

1. In Shopping Centers and Office Parks, landscaping shall be provided and maintained in accordance with planting approved by the Planning Board and incorporated as part of the plans on which the Special Permit of the Board of Appeals is based.
2. In all industrial districts, landscaping shall be provided and maintained in front yards and in side yards abutting public ways for aesthetic reasons to break up lines of buildings and for screening accessory facilities under the requirements discussed

below. Specifically, in all Industrial and Business Districts, landscape screening shall be provided adjacent to:

a. Abutting existing residential properties; and
b. Abutting limited access highways in addition to the landscaping in front and side yards mentioned above.

Landscape screening shall consist of planting, including evergreens, the plantings to be of such height depth as is needed to screen adequately from view from abutting area any unshielded light source, either inside or outside.

(Section 6 amended May 6, 1996 Annual Town Meeting, Article 21)

SECTION 7 DIMENSIONAL REQUIREMENTS

7.1 Lot Area

Minimum lot areas for such uses in each district shall be as set forth in Table 2, Summary of Dimensional Requirements, which is hereby made part of this Bylaw.

7.1.1 Contiguous Buildable Area (CBA)

As of April 28, 1986, the area of any new lot created, exclusive of area in a street or recorded way open to public use, at least seventy five (75) percent of the minimum lot area required for zoning shall be contiguous land other than land located within a line identified as wetland resource areas in accordance with the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40 and the Town of North Andover Wetland Protection Bylaw, Chapter 178 of the Code of North Andover. The proposed structure must be constructed on said designated contiguous land area.

7.1.2 Lot Width

For any lot created after May 1, 1995, the minimum width of the lot shall be a distance of one hundred (100) feet between the street frontage and the front building line The width shall be measured in a line parallel to the street. This requirement shall apply in all zones except Residence 4 (R4) and Village Residential (VR); for zone R4, said minimum width of the lot shall be a distance of (eighty) 80 feet and for zone VR, said minimum width of the lot shall be a distance of (eighty) 80 feet.

7.1.3 Restrictions

1. When a fifty (50) foot straight line is drawn to divide a lot in two, and the perimeter of the smaller piece is greater than two hundred (200) feet, then such smaller piece shall not be included in the calculations when determining: lot area contiguous buildable area (CBA), or street frontage as required by the Summary of Dimensional Requirements (Table 2) of this bylaw. This restriction applies only to lots created after May 1, 1995.
2. Any lot created after May 1, 1995 shall have a lot depth of thirty (30) feet or more for at least eighty (80)percent of the minimum length of its frontage as required by the Summary of Dimensional Requirements (Table 2) of this bylaw. The lot depth shall be measured as a line drawn perpendicular to the street.
3. No lot, upon which is then located any buildings or with respect to which a permit has been issued and is then outstanding for the erection of any building, shall be subdivided or reduced in area in any manner unless said lot shall thereafter fulfill the lot area, street frontage and yard space requirements of this Bylaw except as may be permitted otherwise by the provisions of a variance granted by the Board of Appeals. If land be subdivided, conveyed, devised or otherwise transferred in violation hereof, no building permit or other permit shall be issued with reference to any of the land so transferred or to the lot(s) retained until all of such land and lots meet the requirements of this Zoning Bylaw. Any land taken by eminent domain or conveyed for a public purpose for which the land could have been taken shall not be deemed to be transferred in violation of the provisions hereof.

7.2 Street Frontage

Minimum street frontage shall be as set forth in Summary of Dimensional Requirements (Table 2) and the lot line meeting these requirements shall constitute the "street frontage" for the lot. In no case shall actual street frontage at the street line be less than seventy five (75) feet; except as allowed by Section 7.2.2. Corner lots shall be required to have the required frontage only on one street. In determining the fulfillment of the minimum area and minimum street frontage of a lot required in any zoning district, there shall not be included any land within the limits of a street upon which such lot abuts, even if the

fee to such street is in the owner of the lot; except that if a corner lot at its street corner is bounded in part by a segment of curved line not more than seventy five (75) feet in length connecting other lines bounding such lot which if extended would intersect, the area and frontage required in such lot shall be computed as if such potentially intersecting lines were so extended; but if a curved line more than seventy five (75) feet in length is the whole of any one boundary line of a lot, the minimum area and minimum frontage required shall be determined entirely within the lines bounding such lot, including such curved line.

7.2.1. Access across street frontage

Access to each lot, except for corner lots, must be provided across the street frontage. If access to a lot is not across the street frontage as of the date of the adoption of this Section 7.2.1, the lot will not be considered nonconforming as to use or as to an existing structure on that lot. (1994/39)

Exceptions to this requirement may be granted by the issuance of a Special Permit from the Planning Board. A street frontage access Special permit may be granted for a lot in any residential district provided that:

a) The specific site is an appropriate location for access to the lot given the current and projected traffic on the roadway, and the site distance to adjacent driveways and roadways, and/or
b) Special environmental conditions exit such as wetlands and/or steep slopes such that access across the street frontage would require wetland filling or extreme cutting and/or filling of slopes or would be otherwise detrimental to the environment,
c) The access will not adversely affect the neighborhood;
d) There will be no nuisance or serious hazard to vehicles or pedestrians;
e) The access is in harmony with the general purpose and intent of this Bylaw.

7.2.2 Frontage exception

Exceptions for meeting the frontage and lot width requirements required by sections 7.1.2 and 7.2 may be granted upon the approval of a Special Permit. The permit granting authority shall be the Planning Board. A street frontage and lot width exception Special Permit may be granted for a lot in any residential district provided that:

a) The area of the lot exceeds by three (3) times the minimum lot area required for that district;
b) The lot has a minimum continuous street frontage of not less than fifty (50) feet and a width of not less than (50) feet at any point between the street and the site of the dwelling;
c) There is not more than one other such lot with frontage contiguous to it: and
d) It is so located as not to block the possible future extension of a dead end street.
e) The creation of the frontage exception lot will not adversely affect the neighborhood;
f) The creation of the frontage exception lot is in harmony with the general purpose and intent of this Bylaw;
g) No such lot as described above on which a dwelling is located, shall be hereafter reduced in area below the minimum area required in Section 7.1 (1985/16)

7.3 Yards (Setbacks)

Minimum front, side and rear setbacks shall be as set forth in Table 2, except for eaves and uncovered steps, and projections, as noted in sections 7.31, 7.32 and 7.33. Buildings on corner lots shall have the required front setback from both streets, except in Residence 4 (R4) District, where the setback from the side street shall be twenty (20) feet minimum.

<u>7.31 – Projections into Front Yards</u>

Uncovered porches, Balconies, open fire escapes, chimneys and flues all may project into a required front yard not more than one-third of its width and not more than four feet in any case.

Belt courses, fins, columns, leaders, sills, pilasters, lintels and ornamental features may project not more than one foot, and cornices and gutters not more than two feet, over a required front yard.

§7.32 – Projections into Side Yards

Uncovered porches, Balconies, open fire escapes, chimneys and flues all may project into a required side yard not more than one-third of its width and not more than four feet in any case. Belt courses, fins, columns, leaders, sills, pilasters, lintels and ornamental features may project not more than one foot, and cornices and gutters not more than two feet, over a required side yard.

§7.33 – Projections into Rear Yards

Uncovered porches, Balconies, open fire escapes, chimneys and flues all may project into a required rear yard not more than one-third of its width and not more than four feet in any case. Belt courses, fins, columns, leaders, sills, pilasters, lintels and ornamental features may project not more than one foot, and cornices and gutters not more than two feet, over a required rear yard.

7.4 Building Heights

Maximum heights of buildings and structures shall be as set forth in Table 2. The foregoing limitations of height in feet in the designated zoning districts shall not apply to:

1. Farm buildings on farms of not less than ten (10) acres.
2. Nor shall they apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, processing towers, and other accessory structural features usually erected at a height greater than the main roofs of any buildings.
3. Nor to domes, bell towers, or spires of churches or other buildings, provided all features are in no way used for living purposes.
4. And further provided that no such structural feature of any non-manufacturing building shall exceed a height of sixty five (65) feet from the ground.
5. Nor of a manufacturing building a height of eighty five (85) feet from the ground, or pharmaceutical manufacturing silo having a height of one hundred-fifteen (115) feet from the ground.
6. A parcel or parcels collectively comprising at least five (5) acres of land located within a Business 2 (B-2) Zoning District eligible for a waiver of the maximum height, for residential multifamily dwellings and town houses described under Table 2; provided that such height waiver shall not permit a structure to exceed more than four stories and 55 feet in height, and further provided that such waiver is granted by the Planning Board, as Special Permit Granting Authority, after the Planning Board has made a determination based upon consideration of the special permit criteria described under Section 10.31 of the Zoning Bylaw.

7.5 Lot Coverage

Maximum lot coverage by buildings shall be as forth in Table 2. Lot coverage shall mean the percent of the lot covered by principal and accessory structures.

7.6 Floor Area Ratio

Maximum floor area ratio (FAR) shall be as set forth in Table 2. FAR is the ratio between the total amount of building floor area on all usable floors and the area of the lot on which it is located.

7.7 Dwelling Unit Density

Maximum dwelling unit density (dwelling units per acre) shall be as set forth in Table 2

7.8 Exceptions

1. The residential lot areas and frontages above required and listed in Table 2 shall not apply in any residence district to any lot of less area or less frontage than above required if such lot be not adjoined by other land of the same owner, available for combination with or use in connection with such lot, provided that the applicant for a building permit on any such lot shall show by citations from the Essex County Registry of Deeds incorporated in or attached to such application that such lot was lawfully laid out and duly recorded by plan or deed prior to January 9, 1957 and provided that on such a lot there shall be kept open and not built upon a front yard and a rear yard each not less than 20 feet deep, and two side yards, each not less than 12 feet wide; and further provided that such lot shall have a minimum street frontage of 50 feet and a minimum lot area of 5,000 square feet.
2. In Residence 4 (R4) Districts only, two or more vacant lots, mutually adjoining, may with a Special Permit from the Board of Appeals be permitted to be combined into a new lot or lots of not less than 10,000 square feet area each, and with not less than 100 feet street frontage, provided it be shown to the Board of Appeals that each such lot was lawfully laid out and duly recorded by plan or deed prior to January 9, 1957 and the Building Inspector shall permit the construction of one single family dwelling on each such 10,000 square foot lot.
3. As described in M.G.L. Ch. 40A, no amendment to this Zoning Bylaw shall apply to land shown on an approved definitive subdivision plan as defined by the Subdivision Control Law, for the length of time described in M.G.L. Ch. 40A.
4. As described in M.G.L. Ch. 40A, no amendment to this Zoning Bylaw shall affect the use of land shown on an endorsed Approval Not Required Plan, as defined by the Subdivision Control Law, for the length of time described in M.G.L. Ch. 40A. (Section 7 rewritten and reorganized May 1, 1995 Annual Town Meeting, Article 41)

SECTION 8 SUPPLEMENTARY REGULATIONS

8.1 Off Street Parking and Loading

1. Intent of Parking Requirements.

It is the intention of this Bylaw that all structures be provided with sufficient off-street parking space to accomplish the following:

a) Meet the needs of persons employed at or making use of such structures;

b) Maximize the efficiencies of parking facilities and uses;

c) Ensure that any land use involving the arrival, departure, or storage of motor vehicles on such land be so designed as to reduce hazards to pedestrians and abutters;

d) Reduce congestion in the streets and contribute to traffic safety by assuring adequate space for parking of motor vehicles off the street;

e) Provide necessary off-street loading space for all structures requiring the large-volume delivery of goods; and

f) Promote better site design through the use of flexible parking standards.

2. Applicability.

a) No permit or certificate of occupancy shall be issued by the Inspector of Buildings for (1) a new structure, or (2) change of use, or (3) the enlargement, reconstruction, alteration, or relocation of an existing structure, or (4) the development of a land use, unless off-street parking and loading facilities have been laid out and approved in accordance with the requirement set forth in Section 8.1.

b) The Planning Board shall be the Special Granting Authority (SPGA) for all Special Permits under Section 8.1.9 and parking facilities that require a Site Plan Review Special Permit under Sections 8.3 and 10.3 of this Bylaw.

3. Special Regulations

a) Any use in existence or lawfully begun on the effective date of this Section is not subject to these parking requirements, but any parking facility thereafter established to serve such use may not in the future be reduced below the requirements contained in this Section.

b) Changes of use of a structure that does not conform to these parking requirements are permitted without being subject to these requirements provided that the new use does not require more parking than the former use and the property has been vacant or unoccupied for no more than three (3) years.

c) If the Inspector of Buildings is unable to identify a use with one (1) or more of the uses in the schedule below, an application shall be made to the Planning Board for the purpose of determining a sufficient quantity of parking spaces to accommodate the vehicles of all customers, employees, visitors, occupants, members or clients consistent with the provisions contained in the schedule below.

4. Off-Street Parking General Requirements

a) **Number of Spaces Required.** In all districts, unless otherwise stated herein, off-street parking spaces shall be provided and maintained in connection with the construction, conversion, or

increase in units or dimensions of buildings, structures or use, such spaces to be provided in at least the following minimum amounts provided in the following Table of Off-Street Parking Regulations and accompanying notes below.

Table of Off-Street Parking Regulations

Use	Parking Spaces Required
Residential	
Single-Family Dwelling Unit	2 per dwelling unit
Multi-Family Dwelling Unit	
Studio	1.25 per dwelling unit
One Bedroom	1.5 per dwelling unit
Two or More Bedrooms	2 per dwelling unit
Accessory Dwelling Unit	1 space per dwelling unit
Sleeping Room	1 space per unit or room; plus 2 for owner/manager
Commercial Lodgings	1.25 per guest room; plus 10 per ksf restaurant/lounge; plus 30 per ksf meeting/banquet room (<50 ksf per guest room) or 20 per ksf meeting/banquet room (>50 per guest room)
Elderly Housing Independent Unit	0.6 per dwelling unit; plus 1 per 2 employees
Elderly Housing Assisted Living	0.4 per dwelling unit; plus 1 per 2 employees
Group, Convalescent, and Nursing Homes	1 per room; plus 1 per 2 employees
Day Care Center	0.35 per person (licensed capacity)
Hospital/Medical Center	0.4 per employee; plus 1 per 3 beds, plus 1 per 5 average daily outpatient treatments; plus 1 per medical staff; plus 1 per student/faculty/staff

Retail/Service	
Grocery (Freestanding)	6.0 per ksf GFA
Discount Superstore/Clubs (Freestanding)	6.0 per ksf GFA
Home Improvement Superstores	5.0 per ksf GFA
Other Heavy/Hard Good (Furniture, Appliances, Building Materials, etc.)	3.0 per ksf GFA
Personal Care Facilities	2 per treatment station, but not less than 4.3 per ksf GFA
Coin-Operated Laundries	1 per 2 washing and drying machines
Motor Vehicle Sales and Service	2.7 per ksf GFA interior sales area, plus 1.5 per ksf GFA interior or storage/display area, plus 2 per service bay
Motor Vehicle Laundries / Car Wash	2, plus 1 per each 2 peak shift employees
Other Retail Not Otherwise Listed Above	3.5 per ksf GFA

Food and Beverage	
Restaurant (non-fast food and/or with no drive-	15.0 per ksf GFA

through facility)	
Fast Food	15.0 per ksf GFA
Fast Food (with-drive through facility)	12.0 per ksf GFA

Office and Business Services	
Data Processing/Telemarketing/Operations	6.0 per ksf GFA
Medical Offices (multi-tenant)	4.5 per ksf GFA
Clinic (medical offices with outpatient treatment: no overnight stays)	5.5 per ksf GFA
Veterinary Establishment, Kennel or Pet Shop or Similar Establishments	0.3 per ksf GFA
Bank Branch with Drive-in	5.5 per ksf GFA
Funeral or Undertaking Establishment	0.05 per ksf GFA
Other Business or Office Uses Not Otherwise Listed Above	3.0 per ksf GFA

Industrial	
R&D establishment, manufacturing, industrial services, or extractive industry	0.8 per ksf GFA
Industrial	2.0 per ksf GFA
Manufacturing/Light Industrial (Single-Use)	1.5 per ksf GFA
Industrial Park (Multi-tenant or mix of service, warehouse)	2.0 per ksf GFA
Warehouse	0.7 per ksf GFA
Storage	0.25 per ksf GFA
Other Industrial and Transportation Uses Not Otherwise Listed	As determined by the Planning Board, but not less than 0.25 per ksf GFA
Governmental and Educational	
Elementary, and Secondary Schools	0.35 per student; plus 1 per 2 employees
College University	Determined by parking study specific to subject institution

Cultural/Recreational/Entertainment	
Public Assembly	0.25 per person in permitted capacity
Museum	1.5 per 1,000 annual visitors
Library	4.5 per ksf GFA
Religious Centers	0.6 per seat
Cinemas	Single-Screen: 0.5 per seat; Up to 5 screens: 0.33 per seat; 5 to 10 screens: 0.3 per seat
Theaters (live performance)	0.4 per seat
Arenas and Stadiums	0.33 per seat
Golf Course or Country Club	50 per nine (holes); plus the parking requirements for food or beverage uses described above
Health Clubs and Recreational Facilities	2 per player or 1 per 3 persons permitted capacity

Accessory Uses	
Home Occupation or Home Office	1 per room used for office, or occupation space; plus 1 per non-resident employee; plus 1 per dwelling unit

Notes:

1. ksf equals 1,000 square feet.
2. Where the computation of required parking spaces results in a fractional number of 0.5 or above, the required number of parking spaces shall be rounded up to the next whole number.
3. Where fixed seats are not used in a place of assembly, each fifteen (15) square feet of floor area in the largest assembly area shall equal one (1) seat.
4. Where uses are of the open-air type and not enclosed in a structure, each square foot of lot devoted to such use shall be considered to be equivalent to one fifth of a square foot of gross floor area.
5. Where development of a site results in the loss of on-street parking spaces, the number of on-street parking spaces lost shall be provided on the site, in addition to the number of spaces required for the use unless otherwise stated herein.
6. The Planning Board shall have the discretion to allow between 4 - 6 parking spaces per 1,000 square feet of Gross Floor Area for retail development in the Village Commercial District.
7. In appropriate circumstances, where the provision of adequate off-street parking is not otherwise feasible, the Planning Board may include on-street parking within the determination of adequate parking arrangements for a particular use, particularly in the so-called Downtown Area which for the purposes of this Section shall be defined as the following areas: (i) Main Street from Sutton Street to Merrimac Street, including 200 feet from Main Street on the following side streets; Waverley Road, First Street, Second Street, and School Street; (ii) Sutton Street from Main Street to Charles Street; (iii) Water Street from Main Street to High Street; and, (iii) High Street from Water Street to Prescott Street.
8. Seasonal outside seating for food establishments shall be exempt from Section (a) of this regulation as long as the seating does not exceed 25% of the indoor seating or a total of twenty outdoor (20) seats, whichever is greater.

b) **Accessible Parking.**
Parking facilities shall provide specially designated parking stalls for persons with disabilities in accordance with the Rules and Regulations of the Architectural Access Board, as amended (521 C.M.R.) implemented by the Architectural Access Board of the Commonwealth of Massachusetts Executive Office of Public Safety and Security or any agency superseding such agency. Accessible parking shall be clearly identified by a sign stating that such parking stalls are reserved for persons with disabilities. Said accessible parking shall be located in the portion of the parking lot nearest the entrance to the use or the structure, which the parking lot serves. Adequate access for persons with disabilities from the parking area to the structure shall be provided. To the extent that any provision of this Section 8.1 conflicts with the Rules and Regulations of the Architectural Access Board (521 CMR), the Rules and Regulations of the Architectural Access Board shall govern.

5. Design Standards
All required parking areas shall have minimum dimensions as follows:

a) Dimensions of Parking Spaces and Maneuvering Aisles.
On any lot in any district, parking spaces and maneuvering aisles shall have the minimum dimensions set for the in the following table and Section 8.1, unless specifically stated elsewhere in this Bylaw and/or as modified upon the recommendation of the Planning Board.

Minimum Parking Space and Aisle Dimensions for Parking Lots (in feet)

Angle of Parking	Stall Width	Stall Depth	Minimum Setback From Lot Line	Maximum Curbcut	Minimum Maneuvering Aisle Width	
					One-Way	Two-Way
76 - 90 Degrees	9	18	3	25	20	25
61 - 75 Degrees	9	18	3	25	22	
46 - 60 Degrees	9	18	3	25	16	
45 Degrees	9	18	3	25	20	
Parallel	8	22	3		12	

b) Vehicular and Pedestrian Circulation.

Pedestrian walkways, driveways, and parking areas shall be designed with respect to topography, integration with surrounding streets and pedestrian ways, number of access points to streets, general interior circulation, adequate width of drives, and separation of pedestrian and vehicular traffic so as to reduce hazards to pedestrians and motorists.

c) Entrance and Exit Driveway.

i) Single-family dwellings shall have a minimum driveway entrance of twelve (12) feet.

ii) For facilities containing fewer than five stalls, the minimum width of entrance and exit drives shall be twelve (12) feet for one-way use and eighteen **(**18) feet for two-way use, and the maximum width twenty (20) feet.

iii) For facilities containing five (5) or more stalls, such drives shall be a minimum of twelve (12) feet wide for one-way use and twenty (20) feet wide for two-way use. The minimum curb radius shall be fifteen (15) feet. The maximum width of such driveways at the street line shall be twenty-five (25) feet in all districts.

iv) The Planning Board may modify such width and radius limitations when a greater width would facilitate traffic flow and safety. All such driveways shall be located and designed so as to minimize conflict with traffic on public streets and provide good visibility and sight distances for the clear observation of approaching pedestrian and vehicular traffic.

d) Surfacing, Drainage, and Curbing.

Parking areas shall be graded, surfaced with asphalt, concrete, or other suitable non-erosive material, and drained in a manner deemed adequate by the Planning Board to prevent nuisance of erosion or excessive water flow across public ways or abutting properties, and natural drainage courses shall be utilized insofar as possible. Curbing, with the addition of guardrails wherever deemed necessary by the Planning Board, shall be placed at the edges of surfaced areas, except driveways, in order to protect landscaped areas and to prevent the parking of vehicles within required setback areas. Entrance and exit driveways shall be clearly defined by curb cuts, signs, and striping. All curbing installed within the public way of such driveways shall be of granite. Design standards and specifications for parking surfacing, drainage and curbing shall be those set forth in the Rules and Regulations Governing the Subdivision of Land in the Town of North Andover, as amended, unless waived or modified by the Planning Board in accordance with Section 8.1.8.

e) Loading Bay Requirements.

i) In all districts, unless otherwise stated herein, off-street loading spaces shall be provided and maintained in connection with the construction, conversion, or increase in units or dimensions of buildings, structures or use, such spaces to be provided in at least the following minimum amounts provided below.

Table of Off-Street Loading Regulations

Principal Use	First Loading Facility Required For Area Shown Below	One Additional Loading Facility Required For Area Shown Below
Dormitory and Hotel/Motel	10,000	50,000
Institutional Uses		
Recreation and Entertainment		
Restaurant and Fast Food		
Office Uses	15,000	50,000
Retail Services	5,000	20,000
Personal and Consumer Services	5,000	25,000
Vehicular Services	10,000	25,000
Industrial Uses		
Wholesale and Storage Uses		

ii) Unless modified by the Planning Board pursuant to Section 8.1.8 all required loading facilities shall have a minimum dimensions of twelve (12) feet wide, twenty-five (25) feet in length, fourteen (14) feet in height clearance, and located, arranged, and of sufficient number to allow service by the type of vehicle customarily excepted for the use while such vehicle is parked completely clear of any public way or sidewalk.

iii) The requirements of this section shall apply to individual users of new and substantially altered structures, provided that when a building existing on the effective date of this Bylaw is altered or expanded to increase the gross floor area by at least five thousand (5,000) square feet, only the additional gross floor area shall be counted toward the off-street loading requirements.

f) Lighting of Parking Areas.

All artificial lighting used to specifically illuminate any parking space, loading bay, maneuvering space, or driveway shall be so arranged that all direct rays from such lighting fall entirely within the parking or loading area and shall be shielded so as not to shine upon abutting properties or streets. The level of illumination of lighting for parking and loading areas shall be low so as to reduce the flow of ambient lighting perceptible at nearby properties or streets.

6. Location and Layout of Parking Facilities.

a) **Proximity to Principal Use**

Required off-street parking spaces and loading bays shall be provided on the same lot as the principal or accessory use they are required to serve, except as allowed under Section 8.1.8(d).

b) **Parking in Structures.**

Require off-street parking spaces or loading bays may be wholly or partly enclosed in a structure. When partly enclosed in a structure, such as in a building on support beams or stilts which are readily visible from a street, all sides of such a building directly facing streets must be fully enclosed with fixed building materials and/or sufficient natural buffering so as to screen the structured parking areas from the streets.

c) **Parking on Rights-of-Way.**

No parking area or aisles shall be laid out on land, which is reserved as a vehicular right-of-way, whether developed or undeveloped, and whether public or private unless otherwise permitted as provided in Section 8.1.4.

d) **Parking in Required Setbacks.**

No unenclosed parking area shall be allowed within five (5) feet of a front lot line except on a residential driveway.

e) **Village Commercial District.**

i) Parking lots shall be provided only at the side or to the rear of the buildings. The Planning Board may, at their discretion, allow up to 50 spaces, or 25% of the total parking, whichever is greater, to be located to the front of the structure as long as all other dimensional criteria are adhered to.

ii) No single section of parking may contain more than twenty-five percent (25%) of the total proposed parking spaces or more than fifty (50) spaces, whichever is less. As a method of division, 6' wide parking lot islands shall be installed to provide the proper break between adjacent parking lots. For projects which require less than fifty (50) spaces in total, the Planning Board may allow fifty (50) spaces to be located together if an effective visual buffer is provided. Each landscaped island must be 6' in width at the minimum. In locations where the possibility exists to enlarge the entire island or portions thereof, the Planning Board would recommend that such measures be taken.

f) **Residential Zoning Districts.**

i) For single- and multi-family dwellings, the front yard shall not be used for parking for accessory uses.

ii) Parking or outdoor storage of one (1) recreational vehicle (camper, etc.) and one (1) boat per dwelling unit may be permitted in an area to the rear of the front line of the building. All other recreational vehicles and boat storage (if any) shall be within closed structures.

iii) Garaging of off-street parking of not more than four (4) motor vehicles per dwelling unit may be permitted, of which four (4) motor vehicles, not more than two (2) may be commercial vehicles other than passenger sedans and passenger station wagons, but not counting farm trucks nor motor-powered agriculture implements on an agriculturally active farm or orchard on which such vehicles are parked.

7. Exceptions.

The regulations of this section shall not apply to residential and non-residential uses or structures whose minimum parking under the above schedule would amount to five (5) parking spaces or less.

8. Special Permits.

The Planning Board as SPGA, may grant a Special Permit modifying certain parking/loading standards of this Section and/or Section 8.4 (Screening and Landscaping Requirements for Off-Street Parking**)**, but only in the specific circumstances listed under "a" through "h" below. The SPGA may grant such special permit only when: (a) consistent with the purposes set forth in Section 8.1; (b) making the findings and determinations set forth in Section 10.3; (c) making a finding that the requested relief falls within one or more of the categories for the specific relief requested (any of cases "a" through "h" below); and, (d) upon a determination that the relief does not cause detriment to the surrounding neighborhood based upon any of the following applicable criteria:

(i) Increase in traffic volumes;
(ii) Increased traffic congestion or queuing of vehicles;
(iii) Change in the type(s) of traffic;
(iv) Change in traffic patterns and access to the site;
(v) Reduction in on-street parking; and/or,
(vi) Unsafe conflict of motor vehicle and pedestrian traffic.

If a proposed development or project seeking a Special Permit pursuant to this Section 8.1.8 also requires the granting of a Site Plan Approval Special Permit pursuant with Section 8.3 (Site Plan Review), the conditions and requirements under this Section 8.1 shall be incorporated into and combined as a single application, review, and approval process for a Site Plan Review Special Permit issued in accordance with Section 8.3.

The surface of the area where parking spaces may be reduced under a Special Permit for this section shall be suitable landscaped but shall not be used for purposes of satisfying the Usable Open Space requirements under the Zoning Bylaw. Circumstances under which the SPGA may grant a Special Permit pursuant to this Section 8.1.8 are as follows:

a) **Modification of Parking Requirements for Non-Conforming Structures, Lots and Uses.** Where the total number of new parking spaces required by this Bylaw is five (5) or fewer for lots or sites that are determined by the Inspector of Buildings to be nonconforming with respect to parking, as specified in Section 8.1.

b) **Modification of Parking/Loading Area Design Standards**.
Where the design of a parking lot, loading area or aisle width differs from the provisions of Sections 8.1.5 or other parking provisions in this Zoning Bylaw, provided such design is prepared by a certified professional engineer or architect in the case of a parking garage or other structure, or by a certified professional engineer, architect or landscape architect in the case of a parking lot. Modification of parking design standards may be permitted to allow "Tandem Parking" (defined as two parking spaces placed one behind another in single file) on a temporary basis for purposes including but not limited to valet parking for restaurant uses, for employee parking, or other purposes upon such terms and conditions as may be acceptable to the Planning Board.

c) **Municipal Parking Facility.** To allow the substitution of space on a particular lot with parking spaces located within a municipal parking lot to satisfy the parking requirements of this Section 8.1.4, provided the municipal parking lot where such parking spaces are located is within a distance of five hundred (500) feet of the building or use (measured from property line to property line), which is intended to be served and demonstration that doing so will not exceed the cumulative peak demand of said municipal parking lot in a manner which is inconsistent with the objectives of Section 8.1.

d) Parking on a Separate Lot / Satellite Parking.

i) Required off-street parking facilities shall be provided on the same lot or premises as the principal use they are intended to serve, or on a lot in the same ownership adjacent to such use. When practical difficulties, as determined by the SPGA, preclude the establishment of the required parking spaces on such lot or premises (or lot or premises adjacent thereto), the SPGA may allow the establishment of parking on such other lot upon such terms and conditions as the SPGA may deem necessary to ensure the continued availability of such spaces.

ii) Where the applicant does not own such other lot, the applicant shall provide executed instruments establishing to the satisfaction of the SPGA that sufficient legal interest has been acquired in such premises to assure their availability for required parking as long as the use served is in existence. The provision of satellite (remote) parking areas, provided that:

1. The satellite parking spaces will be used solely by the employees and, where practicable, the clientele of the commercial use;

2. The off-site parking spaces shall be located to adequately serve the proposed use and shall be within six hundred (600) feet of the property served for clientele of the commercial use as measured from property line to property line; and,
3. Off-site parking for employees of the business may be located within a distance of one thousand two hundred (1,200) feet, provided that shuttle vehicle arrangements are provided as a condition of the approval.

e) Common Parking Areas and Multiple Use Facilities.

i) Notwithstanding the normal provisions of Section 8.1.4, where two or more activities or uses provide the required parking or loading in a common parking facility or loading area, the number of parking spaces or loading bays ordinarily required may be reduced below the sum of the spaces or bays required for separate activities or uses, if it can be determined that the hours, days, or peak parking or loading demand for the uses are so different that a lower total will provide adequately for all uses or activities served by the parking facility or loading bay, and that the location of the parking facility in relation to the uses proposed to be served by it is appropriate.

ii) A Special Permit authorizing such deviation from the normal standard shall only be granted upon submission of calculated parking demand for combined land uses based on methodologies and indices of the Institute of Transportation Engineers, Urban Land Institute, or other recognized methodology approved in writing by the Planning Board. A formal parking demand study may be waived by the SPGA for small developments where there is established experience with the land use mix and its impact is expected to be minimal.

iii) Where such facilities are shared by more than two (2) owners, the applicant shall provide executed and filed instruments with the Registry of Deeds establishing to the satisfaction of the SPGA that sufficient legal interest has been acquired in such premises to assure that the property(s) have a shared parking arrangement or peak hour parking arrangement and the availability for required parking as long as the uses served are in existence.

f) **Land Banked Parking.**

To reduce the area of impervious surface, encourage open space, accommodate future changes in land use and/or ownership, and shifts in shared parking demand, up to forty percent (40%) of the land area that would otherwise be needed to provide the required amount of parking may be land banked or set aside on the site to provide for the future construction of a parking area. The parking facility shall be designed/engineered to enable the site to satisfy the requirements of the Section 8.1 to meet the peak demands of the project(s) or use(s). Where it can be demonstrated by the applicant in the future that there is a need to convert all or a portion of the land-banked parking facilities because parking demand is in excess of 80% of parking supply on the property, then the applicant may convert the requisite number of land banked parking spaces to functioning parking spaces. For purposes hereof, parking demand shall be demonstrated through a report of the applicant's (or the then current owner's traffic engineering consultant), as the case may be, certifying that at any time during the four-hour peak demand period on a weekday or Saturday, the actual parking demand and utilization is in excess of 80% of parking supply on the property, with actual field site observations being conducted on two separate days during any consecutive 45-day period. Upon the Planning Board's determination the applicant has established the requisite parking need, and upon submission of the report to the Planning Board, the Planning Board may allow the conversion of all or a portion of the land-banked parking.

g) **Reduction in Parking.**
Where it can be demonstrated that a use or establishment needs a lesser number of parking spaces or loading bays than is required by Section 8.1.4, such as housing for persons with disabilities, low rate of vehicle ownership, the availability and implementation of transportation demand management alternatives, or other such circumstances as may be deemed appropriate by the Planning Board, the number of such parking spaces or bays may be reduced by not more than thirty-five percent (35%). An applicant shall submit documentary evidence satisfactory to the SPGA that the parking or loading experience of the specific use justifies a lesser number of spaces or bays. A Special Permit granted under this authority shall lapse upon change to a different type of use unless otherwise determined by the Planning Board, and shall not be considered to constitute a legal nonconformity with respect to parking for any new use.

h) **Modification of Screening and Landscaping Requirements for Off-Street Parking.**
Where it can be demonstrated to the satisfaction of the Planning Board that a plan for screening and landscaping would be enhanced without detriment to the surrounding neighborhood through the waiver or modification of one or more of the screening, landscaping and other criteria set forth under Section 8.4.

8.2 Automobile Service Stations and Other Automobile Services

Automobile service and filling stations, automobile repair shops, body shops and painting shops, tire stores, radiator shops or any of their appurtenances or accessory uses shall not be erected, placed or located within fifty (50) feet of any residence district or residence structure. In addition, the use or structure shall conform to the following requirements (in addition to district requirements):

1. The minimum frontage on a street shall be one hundred and fifty (150) feet.
2. The maximum width of driveways and curb cuts measured at the street lot line or lines shall be thirty (30) or barriers may be interrupted by normal entrances or exits and shall not be required with ten (10) feet of a street lot line.

8.3 Site Plan Review

1. **Purpose**
   a) The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures which may have significant impacts, both within the site and in relation to adjacent properties and streets; on pedestrian and vehicular traffic. This review considers the impact on public services and infrastructure; environmental, unique and historic resources; abutting properties; and community character and ambiance.
   b) This section of the Zoning Bylaw is adopted pursuant to Chapter 40A, Section 9. All Site Plan Review applications submitted under the provisions of this section shall be reviewed by the Planning Board as a Special Permit.
   c) Sites and developments to which this section applies shall comply with the regulations of this section as well as those other applicable Town Bylaws, or the requirements of the Commonwealth of Massachusetts, prior to any construction being undertaken in the Town of North Andover.
2. **Developments Which Require Site Plan Review**
   a) Site Plan is required when:
      i) Any new building(s) or construction which contains more than two thousand (2,000) square feet of gross floor area which is undertaken on land within the Town of North Andover or results in the requirement of five (5) or more new or additional parking spaces**;**

ii) Any construction which results in the addition of more than two thousand (2,000) square feet of gross floor area to an existing structure; or results in the requirement of five (5) or more new or additional parking spaces;

iii) Any construction, site improvements, new uses in existing structures or developments which contain new processes not normally associated with the existing use and which result in changes in the potential nuisance to adjacent property; traffic circulation; storm water drainage onto or off of the site; and/or the application of the parking standards of Section 8.1 indicate the need for five (5) or more new or additional parking spaces.

iv) The construction of any new wireless service facility on a previously permitted facility as set forth in Section 8.9(3)(a)(ii) Wireless Service Facilities Use Regulations (1998/38).

b) The following development(s) are exempt from Site Plan Review:

i) Single family dwelling(s) and two family dwelling(s);

ii) Small structures or additions which do not exceed two thousand (2,000) square feet of gross floor area and do not require five (5) or more parking spaces.

iii) Routine repairs and maintenance that do not exceed the provisions of Section (1)(c).

c) Waiver of Site Plan Review

i) When in the opinion of the Planning Board, the alteration or reconstruction of an existing structure or new use or change in use will not have a significant impact both within the site and in relation to adjacent properties and streets; on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties;
and community needs, the Planning Board may determine, without a public hearing, that submission of a site plan review application is not required.

ii) The applicant must request a waiver from Site Plan Review in writing and may be required to submit supporting documentation that Site Plan Review is not required. The waiver request will be discussed at a regular session of the Planning Board.

3. **Site Alteration - Violation of the Bylaw**

a) No building permit, site clearing, filling, grading, material deliveries or construction shall be initiated on any site which this section applies until Site Plan approval as required by this section is obtained.

b) Nothing herein shall be construed, however, to prohibit such clearing or altering as may be necessary for purposes of conducting pre-development studies, such as geotechnical tests, soil borings, wetlands determination, percolation tests for septic systems as required by the Board of Health, or other similar test as required in order to fulfill a requirement of any Town Bylaw or regulations of the Commonwealth.

4. **Procedures**

a) The site plan approved by the Planning Board becomes the official development plan for a site within the Town of North Andover. Town permits are issued or withheld based upon compliance with the approved site plan. The approved site plan is legally binding and can only be changed or adjusted in compliance with the provisions contained in Subsection VIII Revisions to Approved Site Plans.

b) Any proposed development meeting any of the criteria set forth in Subsection II Developments which require Site Plan Review, shall be subject to Site Plan Review and submit a Special Permit application to the Planning Board.

c) An applicant for site plan review shall file an application form, fee, eight copies of the site plan, and any additional information as may be required (See Subsection V Information Required), with the Planning Department. Once the applicant is deemed complete, the Planning Department will forward the application to the Town Clerk. An application will not be deemed complete until all required information and fees are submitted. The time periods set forth in this Zoning Bylaw and M.G.L. Ch.40A will not start until the application has been deemed complete and submitted to the Town Clerk.
d) The Planning Board shall have the authority to require that the applicant pay for necessary professional services required to adequately review and analyze the contents of any site plan or impact study requested by the Board.

5. **Information Required**
   a) Special Permit Application Form, along with any fees as may be set by the Town Bylaw;
   b) Drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Town Planner. Revised plans shall contain a notation listing and describing all revisions, additions, and deletions made to the originally submitted plans and the date of each.
   c) All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All stormwater management plans and drainage calculations **must be submitted with the stamp and signature of a Professional Engineer (PE) licensed to conduct such work in the Commonwealth of Massachusetts.**
   d) The times for submission of the site plans for review by the Planning Board are specified in Section 10.3 of the Zoning Bylaws (Special Permit Regulations)
   e) The following information must be submitted along with the application:
      i) NORTH ARROW/LOCATION MAP: A north arrow and a location map showing surrounding roadways and land uses adjacent to the site (1"=1500'). Location Map should show at least one intersection of two existing Town roadways.
      ii) SURVEY OF LOT/PARCEL: A boundary survey conforming to the requirements of the Essex County Registry of Deeds Office. The survey shall be dated and include any revision made to the survey or site plan. Any change in the survey shall be recorded before site plan approval may be granted.
      iii) NAME/DESCRIPTION OF PROJECT: The name of the development and the names, addresses and telephone numbers of the project listing tenants, land uses, development phases, or other pertinent information necessary to evaluate the proposed development plan.
      iv) EASEMENTS/LEGAL CONDITIONS: Identification of easement(s) or legal encumbrances(s) that are related to the sites physical development, and a listing of any condition(s) placed upon the site by the Board of Appeals, Planning Board, Conservation Commission, or any public body or agency, with the authority to place conditions on the sites development.
      v) TOPOGRAPHY: The present and proposed topography of the site, utilizing two foot (2') contour intervals. Existing topography fifty feet (50’) beyond the perimeter of the parcel as it appears on the most current Town of North Andover topographic mapping shall also be shown.
      vi) ZONING INFORMATION: All applicable Zoning Bylaw information shall be provided regarding the site's development. This information shall be placed in a table and list all

parking, setbacks, percent of lot coverage, floor-area-ratio, number of dwelling units, total amount of square feet, size of signs and any other applicable zoning information necessary for the proper review of the site plan by the Town Planner and Planning Board.

vii) DRAINAGE AREA MAP: A drainage area map showing pre and post construction watersheds, subwatersheds and stormwater flow paths, including municipal drainage system flows;

viii) STORMWATER MANAGEMENT PLAN: All applications for Site Plan Review shall include the submittal of a Stormwater Management Plan prepared in accordance with the latest version of the Massachusetts Stormwater Handbook and additional criteria established herein and demonstrating full compliance with the **Massachusetts Stormwater Standards** and the North Andover Stormwater Management and Erosion Control Regulations promulgated under Chapter 160 of the Town Bylaws (Stormwater Management and Erosion Control Bylaw);

ix) BUILDING LOCATION: Identification of all existing and proposed structure(s) located on the site. The number of stories, overall height in feet and gross floor area in square feet of all structure shall be indicated.

x) BUILDING ELEVATION: A drawing of the exterior of the building, as viewed from the front (street view) must be submitted. The Planning Board may request side and rear views if relevant to the Board's review. This drawing must be at least 8" x 11" in size.

xi) LOCATION OF PARKING/WALKWAYS: Identification of the location of all existing and proposed parking and walkways areas, including curb cuts that will be used to access the site from adjacent roadways, or access points.

xii) LOCATION OF WETLANDS/NOTICE OF INTENT: All resource areas as defined in M.G.L. Chapter 131, Section 40 and/or the Town of North Andover Wetland Protection Bylaw (Ch. 178), shall be shown on the site plan. If applicable, the applicant shall file a Notice of Intent with NACC concurrently with the application to the Planning Board for Site Plan Review.

xiii) LOCATION OF WALLS/SIGNS: Identification of the location, height and materials to be used for all retaining walls and signs located on the site. Signs will be reviewed using the guidelines set forth in Section 6.7 (H) of the Zoning Bylaw.

xiv) LOCATION OF ROADWAYS/DRIVES: Identification of all right-of-ways and driveways including the type of curb and gutter to be used, and their dimensions. Distances to all the nearest roadways and/or curb cuts shall be shown for both sides of any streets which is adjacent to the site.

xv) OUTDOOR STORAGE/DISPLAY AREAS: Identification of the location and type of outdoor storage and display areas on the site.

xvi) LANDSCAPING PLAN: The general outline of existing vegetation, wooded areas, significant trees, unique species and/or tree clusters and the extent of all vegetation, wooded areas, significant mature trees (>12 inches DBH), unique species and/or tree clusters to be removed and identification of the location and landscape schedule of all perimeter and interior landscaping, including but not limited to proposed paving materials for walkways, fences, stonewalls and all planting materials to be placed on the site. Any landscaping required by the Town Bylaws shall be indicated on the site plan in tabular form showing the amount required and the amount provided.

xvii) REFUSE AREAS: Identification of the location of each outdoor refuse storage area, including the method of storage and screening. All refuse areas must be fully enclosed.

xviii) LIGHTING FACILITIES: Identification of the proposed illumination, indicating the direction and the degree of illumination offered by the proposed lighting facilities, including an example of the light fixture to be used.

xix)

xx) TRAFFIC IMPACT STUDY: Identification of existing traffic levels, along with the expected traffic impacts to occur based upon the proposed project. Projects which access state highways, a traffic impact study shall be filed with MEPA concurrently with the Planning Board review. A copy of the MEPA study shall be filed with the application to the Planning Board.

xxi) COMMONWEALTH REVIEW: Any information required and submitted to any agency of the Commonwealth, shall be filed with the Planning Board upon the initial submission of the project for Board review.

xxii) UTILITIES: All utilities, including water line locations, sewer line locations and profiles, and storm drainage systems;

xxiii) FISCAL IMPACT: Projections of costs rising from increased demand for public services and infrastructure; provisions of benefits from increased tax revenues, employment and infrastructure improvements; and impacts on adjacent property values.

xxiv) COMMUNITY IMPACT: Analysis of the project's impact on the surrounding neighborhood in terms of architectural consistency, pedestrian movement and overall character; impacts on nearby historic structures or site; and an evaluation of the proposed project's consistency and compatibility with existing local and regional plans.

f) If the site plan review application is for the construction of any new wireless service facility on a previously permitted facility as set forth in Section 8.9(3)(a)9II) Wireless Service Facilities Use Regulations, the information required by Section 8.9(5) must also be submitted. The SPGA may grant a waiver from these submittal requirements if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility (1998/38).

6. Review Criteria/Design Guidelines

a) The following criteria and design guidelines shall be used by the Planning Board in evaluating the site plan review and all information submitted as part of the application.

i) General

a) Conformance with all appropriate provisions of the Zoning Bylaw.

b) Protection of abutting properties from detrimental site characteristics.

ii) Environmental

a) Protection of unique or important natural, historic or scenic features.

b) Adequacy of proposed methods of refuse disposal.

c) Ability of proposed sewage disposal and water supply systems within and adjacent to the site to serve the proposed use.

d) Adequacy of the proposed drainage system to mitigate runoff increases and protect water quality.

e) Provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage.

f) Adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction.

g) Protection of adjacent properties by minimizing the intrusion of lighting, Including parking lot and building exterior lighting.

h) The proposed development must not present a demonstrable adverse impact on the surrounding area resulting from excessive noise, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area.

iii) Design

a) Buildings shall be located with respect to setbacks placement of parking landscaping and entrances and exits with surrounding buildings and development.
b) The buildings shall relate harmoniously to each other in architectural style, the location and building exits and entrances.
c) Screening shall be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.
d) Electric, telephone, cable t.v., and other such lines and equipment must be placed underground.
e) Demonstrate that the scale, massing and detailing of buildings are compatible with those prevalent in the surrounding area.

iv) Traffic/Parking
a) The location and number of curb cuts shall be minimized to reduce turning movements, and hazardous exits and entrances.
b) Provision for access to adjoining properties shall be provided as appropriate.
c) Driveways shall be located opposite each other wherever possible.
d) Joint access driveways between adjoining properties shall be encouraged.
e) Internal circulation and egress shall provide for traffic safety, and access to and from minor streets servicing one family dwellings shall be minimized.

v) Stormwater Management
a) At a minimum all projects subject to Site Plan Review shall comply with the criteria, specifications, and performance standards of the most recent version of Massachusetts Stormwater Management Standards and accompanying Stormwater Management Handbook. The Lake Cochichewick Watershed Area shall be considered a Critical Area in terms of applicability of the standards.
b) Projects subject to the Bylaw shall also comply with the requirements and criteria outlined in Sections 7.0 through 10.0 of the North Andover Stormwater Management and Erosion Control Regulations promulgated under Chapter 160 of the Town Bylaws (Stormwater Management and Erosion Control Bylaw).

vi) Landscape Design
a) Landscape designs shall be developed based on soil, light and other site specific conditions. Plant species shall be chosen for their ability to thrive in the post-development soil, water and use conditions of the site without significant supplemental water or fertilizer, once established.
b) Plant species shall be native to inland Essex County or shall be cultivars of these native species.

7. Findings of the Planning Board

a) With the concurring vote of four members, of the Planning Board shall either A) approve, B) approve with conditions, or C) deny a site plan submitted for review.
i) The Planning Board shall approve a site plan with the following conditions are met:
A. The site plan complies with all current Bylaw requirements of the Town, and;
B. The site plan has been submitted in accordance with the regulations and procedures as outlined in this section and Section 10.31 (Conditions for Approval of Special Permit.)
ii) The Planning Board shall conditionally approve a site plan when the following conditions are met:
a) The application needs to go to any Town Board/Department or Commission for approvals, or requires approvals by any state, and/or federal agency and;
b) The site plan generally complies with Town Bylaw requirements, but requires minor changes in order to be completely in compliance with the Town Bylaw regulations.
iii) The Planning Board may deny approval of a site plan for the following reasons:

a) The plan does not include all the materials or information required in this section, or has failed to adhere to the procedures for Site Plan Review as outlined in this section, and Section 10.3 (Special Permits), or;
b) The plan as presented is not in compliance with Town Bylaws, or;
c) The plan has been drawn incorrectly or in such form that the Planning Board is unable to determine what information is being presented for review, or;
d) The applicants have failed to incorporate and adhere to any condition(s) for approval granted by any Town Board, Department or Commission, or requirements called for by any state or federal agency, which has proper authority upon which to place conditions on a matter before the Planning Board.

iv) The Planning Board shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office and other appropriate parties in accordance with the provisions of M.G.L. Ch. 40A.

v) The applicant shall be responsible for filing a copy of the decision at the Registry of Deeds. Prior to the issuance of a building permit, the applicant shall present evidence of such recording to the Building Inspector.

vi) For the purpose of securing the performance of all proposed work, including landscaping and off-site improvements, the Planning Board may require security submitted in the form of a check made out to the Town of North

vii) Andover in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements required. The check will then be placed in an interest bearing account and will be released upon the completion of the project. The Board, at its discretion, may release partial amounts of the security at certain stages of construction.

8. Revisions to Approved Site Plan

a) Any revisions to a development that has secured site plan approval shall be submitted to the Town Planner for review. No revisions shall be approved until the Town Planner receives three (3) copies of the revised plan and the revisions placed on the plan fall into the following categories:
   i) A change of location and layout of any parking area(s), signs, storage or accessory buildings, provided that no Town Bylaws are violated by the change;
   ii) The change in the proposed landscaping plan which does not violate any Town Bylaw;
   iii) A change of egress and ingress provided the same is in compliance with Town Bylaws and the requirements of the Commonwealth.

b) The revisions cited above may be completed without further review by Planning Board, upon approval by the Town Planner. The Town Planner may determine that the revisions as shown do not fall into the categories outlined in this subsection, and that the proposed revisions are in fact substantial and call for materially different site plan than approved by the Planning Board in that changes are called for in the type, location and manner of the facilities and site improvements to be constructed and shown in the approved site plan.

c) If the revisions are determined to be substantial and materially different by the Town Planner, the Town Planner shall direct the applicant to resubmit the site plan to the Planning Board in accordance with the provisions of this section. (Section 8.3 rewritten and reorganized May 6, 1996 Annual Town Meeting, Article 20)

8.4 Screening and Landscaping Requirements for Off-Street Commercial and Industrial Districts (1987/12)

For all commercial and industrial districts the following minimum screening and landscaping requirements shall apply for all off-street lots with more than 6 parking spaces, or in any instance when a commercial or industrial off-street parking area of any size abuts a residential district.

2. A strip of land at least six (6) feet wide (may be part of required yard setbacks) with trees or shrubs densely planted, to create at least an impervious screen, at least four (4) feet high at the time of planting and which are of a type that may be commonly expected to form a year round impervious screen at least five (5) feet high within three years.
3. If a natural screen as described in item 1 above cannot be attained, a wall or fence of uniform appearance at least five (5) feet high above finished grade will be allowed. Such a wall and/or fence may be perforated, provided that not more than 25% of the face is open.
4. All required screening, as described in items 1 and 2 above, shall be maintained in good condition at all times. Such screening may be interrupted by entrances or exits, and shall have no signs attached thereto other than those permitted in the district.

   For all off-street parking areas of 20 or more spaces the following criteria shall also apply.
5. On at least three sides of the perimeter of an outdoor parking lot, there shall be planted at least one tree for every thirty (30) linear feet. In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of 10 or more parking spaces face each other, a landscaped open space not less than 6 feet in width shall be provided. The landscaped strip may be provided either; 1) between the rows of parking spaces parallel to the aisle or, 2) in two or more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces, as illustrated below. Trees required by this section shall be at least 3.5 inches in diameter at a height four feet above the ground at time of planting and shall be of a species characterized by suitability and hardiness for location in parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this section. The following graphics are intended as illustrations and examples only and have not been incorporated into the requirements of this Bylaw. (See graphic after Tables and Footnotes at end of Bylaw).
6. All artificial lighting used to illuminate any commercial or industrial parking lot, loading bay or driveway shall have underground wiring and shall be so arranged that all direct rays from such lighting falls entirely within the parking, loading or driveway area, and shall be shielded or recessed so as not to shine upon abutting properties or streets.

Village Commercial Dimensional Requirements

In the Village Commercial Zoning District the following requirements shall be adhered to. The following requirements are only to be placed upon the Village Commercial Zoning District and shall take the place of the proceeding regulations found in paragraph 1-5.

Screening

Objective: Due to the high aesthetic standards to which the architecture shall be made to conform, the main purpose of the screening shall be to screen the parking and other accessory structures which may be a part of the development, the Planning Board may require any additional screening as may be reasonably required.

a. All buffer zones must be designed by a registered landscape architect, or other professional as approved by the Planning Board.
b. The Planning Board recommends that materials to be used in the buffer include but not limited to the following material:

   Natural/existing vegetation, natural topography, berms, stone walls, fences, deciduous and coniferous shrubs/trees, perennials, annuals, pedestrian scale walkways, gazebos and other

landscape material as it addresses the aesthetic quality of the site. The final approval of all material used within the buffer zone shall be at the discretion of the Planning Board.

c. Parking lots containing 10 or more spaces shall be required to provide one tree for every five spaces. All trees shall be a deciduous mix of at least 2.5 inch caliper when planted. Native trees and shrubs shall be planted wherever possible, in order to capture the "spirit of the locale" through indigenous species (such as lilac, viburnum, day lilies, ferns, red twig dogwood, oak, maple, sycamore, linden, hawthorne, birch, shadbush, etc.). In instances where healthy plant material exists on the site prior to its development, in part or in whole, for purposes of off street parking or other vehicular use areas, the Planning Board may adjust the application of the above mentioned standards to allow credit for such plant material if, in its opinion, such an adjustment is in keeping with and will preserve the intent of these standards.
d. To produce parking which is aesthetically pleasing, well screened, accessible and broken into smaller parcels that may directly and adequately service adjacent structures, a minimum of 5% landscaping and green space must be provided for all parking areas. This 5% is not intended to include the buffer zones, but shall include all internal landscaped islands in the parking areas. In all instances where natural topography lends itself to the screening of these parking areas it shall be left in its natural state. The Planning Board may at their discretion require additional screening at the owner's expense.

Residential Districts

Commercial vehicles in excess of one (1) ton capacity shall be garaged or screened from view of residential uses within three hundred (300) feet by either:

a. A strip at least four (4) feet wide, densely planted with trees or shrubs which are at least four (4) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years, or
b. An opaque wall, barrier, or fence of uniform appearance at least five (5) feet high, but not more than seven (7) feet above finished grade. Such screening shall be maintained in good condition at all times, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barriers may be interrupted by normal entrances or exits and shall not be required within ten (10) feet of a street lot line.
c. Garaging or off-street parking of an additional two (2) commercial vehicles may be allowed by Special Permit. When it is deemed to be in the public good, parking for additional pleasure vehicles may be allowed by Special Permit.

8.5 Planned Residential Development (PRD)

2. Purposes: The purpose and intent of the regulations contained in this section are to promote the public health, safety and general welfare of the citizens of the Town by providing for the following goals:
   a. To promote the more efficient use of land in harmony with its natural features;
   b. To encourage the preservation of open space;
   c. To protect water bodies and supplies, wetlands, floodplains, hillsides (1994/40), agricultural lands, wildlife, and other natural resources;
   d. To permit greater flexibility and more attractive, efficient and economical design of residential developments;
   e. To facilitate economical and efficient provision of utilities;
   f. To meet the town's housing needs by promoting a diversity of housing types.

3. Applicability: An application for a Planned Residential Special Permit (PRD) shall be allowed for parcels of land in the R-1, R-2, and R-3 Districts in accordance with the standards set forth in this

section. An application for a Planned Residential Development Special Permit shall be deemed to satisfy the requirements for Site Plan Review.

4. Permit Authority: The Planning Board shall be designated as the Special Permit Granting Authority, and shall grant special permits for PRD's consistent with the procedures and conditions set forth in this section as well as in Sections 10.3 and 10.31 (Special Permits) of this Bylaw.

5. Procedure for Approval:
   Preliminary Plan
   The applicant must submit a preliminary plan per Section 6(G) (1994/40) and schedule pre-application conference to discuss the proposed PRD with the Planning Board before the submission of the final special permit application and supporting documents, to the Board for review in a public hearing.

   Final Plan Submittal
   The applicant shall follow the procedures and standards contained in this section and Section 10.3 (Special Permit) in submitting a set of final plans to the Planning Board for review.

6. Information Required: Any applicant who desires a special permit under requirements of this section shall submit an application in writing in such form as the Planning Board may require which shall include at the minimum the following:
   A. Development Statement: Which shall consist of a petition; a list of the parties of interest with respect to the PRD parcel and any parcel proposed to be used pursuant to the subsection 5a below. A list of the development team and a written statement meeting the requirements of a site evaluation statement under the Subdivision Rules and Regulations of the Planning Board; and setting forth the development concept and the specific requirements of the Zoning Bylaw within a table which includes the following information:
      1. The number of units,
      2. Type size (number of bedrooms),
      3. Floor area,
      4. Ground coverage,
      5. Summary showing open space as percentages of the total area of the PRD tract,
      6. Development schedule for all site improvements.
         a. Copies of the proposed instruments to be recorded with the plans including the Usable Open Space perpetual restriction, which shall be deeded to a membership corporation, non-profit organization, trust, public agency, or the Town of North Andover.
         b. Development plans bearing the seal of a Massachusetts Registered Architect, Registered Civil Engineer or similar professional as appropriate and consisting of:
            1. Subdivisions - All plans shall be drawn at a scale of 1"=40' showing all site improvements and meeting, to the extent applicable, the requirements set forth for a Definitive Plan in the Subdivision Rules and Regulations of the Planning Board and; Site Plans – Plans submitted shall meet the requirements contained in Section 8.3 (Site Plan Review) to the extent applicable.

   B. Review by Other Town Departments: The Planning Board shall within ten days of receipt of an application under this section, refer the application to the Conservation Commission, Public Works Department, Board of Health, Building Inspector, Police Department, and Fire Department for written reports and recommendations. No decision shall be made until such

reports, are returned or thirty-five days have elapsed following such referral without receipt of such report.

C. Findings of the Planning Board: The Planning Board may issue a special permit under this section only if the Planning Board finds that the PRD is in harmony with the general purpose and intent of this section and Section 10.3 (Special Permit) and that the PRD contains residential development and open space in a variety to be sufficiently advantageous to the Town and meets the purpose and intent of this section, which renders it appropriate to depart from the requirements of this bylaw otherwise applicable to the Zoning District in which the PRD parcel is located.

If a special permit is granted, the Planning Board may impose a condition thereof that installation of municipal services and construction of roadways within the PRD shall comply with the requirements of the Subdivision Rules and Regulations of the Planning Board.

Further, the Regulations of the Planning Board may require sufficient security to ensure compliance with the Subdivision Rules and Regulations, planned recreation facilities and site amenities; and may impose additional safeguards pertaining to public safety, welfare and convenience.

7. Development Standards:

A. Allowable Parcel Size: For each application filed for a special permit under this section, the applicant must have a contiguous parcel of land, in single or consolidated ownership at the time of application, which is at least ten (10) acres in size.

B. Allowable Uses: The following principal uses are allowed in a Planned Residential Development:
   1. Single family detached houses;
   2. Residential structures with up to five dwelling units per structure, utilizing common wall construction;
   3. Church or other religious purposes;
   4. Agriculture on parcels greater than five (5) acres;
   5. Public parks;
   6. Conservation area or land preserved as permanent open space;
   7. Membership clubs for the exclusive use of the residents of the development.

C. Dimensional Regulations: Site Plans
   - Minimum Lot Size: Not Required
   - Lot Frontage: Not Required
   - All Yard Setbacks: Not Required
   - Height Limitation: 30' or 2.5 stories
   - Distance Between Structures: 50'
   - Buffer Zone: 50' from the parcel boundary to any structure located within a PRD Development. Said buffer shall remain open without pavement or roadway(s) and left in its natural condition.

D. Dimensional Regulations: Subdivisions
   - Minimum Lot Size: R-1 and R-2 21,780 square feet; R-3 12,500 square feet
   - Lot Frontage: 100' all zoning districts

- All Yard Setbacks: 20' (1)
- Height Limitation: 35’ and 2.5 stories
- Buffer Zone: (1993/33) A fifty-foot (50') border from the parcel boundary running the full length of the perimeter of the parcel. No structure shall be built within the Buffer Zone. The Buffer Zone shall remain in its natural state except;
  1. trees and/or shrubs may be added to improve the buffer characteristic of the Zone, and
  2. roadways perpendicular or nearly perpendicular to the Zone may be installed to access the Site, if approved as part of this PRD Special Permit granted be the Planning Board. Such roadways shall be minimized within the context of sound subdivision planning practices.

1. The structure may be placed upon a side lot line without a side yard setback, provided that the adjacent lot to which the zero setback is located has the required side yard setback.

E. Parking Requirements: For all Planned Residential Development off-street parking shall be provided as required by Section 8.1 (Off-Street Parking).

F. Usable Open Space: Usable Open Space shall be defined as the part or parts of land within the Usable Open Space shall be defined as the part or parts of land within the PRD, which are reserved for permanent open space or passive recreation use. The usable open space shall be open and unobstructed to the sky. Trees, planting, arbors, flagpoles, sculptures, fountains, outdoor open-air, passive/active recreational facilities and similar objects shall not be considered “obstructions”.

1. Usable Open Space Ratio:
   a. For subdivision PRD's the minimum usable open space requirements shall be 35% of the total parcel area; and no more than 25% of the total amount of required usable open space shall be wetland as defined pursuant to Wetlands Protection Act, M.G.L.c.131, s.40 and the Town of North Andover Wetland Protection Bylaw, Chapter 178 of the Code of North Andover.

   b. For site planned PRD's, the minimum usable open space requirements shall be 50% of the total parcel area; and no more that 25% of the total required usable open space shall be wetland as defined pursuant to Wetlands Protection Act, M.G.L.c.131, s.40 and the Town of North Andover Wetland Protection Bylaw, Chapter 178 of the Code of North Andover.

2. Usable Open Space Calculation:
   a. Parking areas and roadways may not be included in the calculation of open space area, but the calculation may include required setbacks, waterways, and walkways. If the Planning Board requires additional parking to facilitate use of the open space, then that added parking area may be included in the calculation of the open space.

   b. For the purpose of creating townhouses, condominiums, multi-family, or similar housing within a Site Plan Special Permit PRD and Subdivision PRD, that area of land extending a minimum of twenty-five feet (25’) from the foundation of the residential structure, eave, door, steps or stairway, patio area, deck, balcony, chimney or any other structure or improvement shall be excluded from the calculation of useable open space. If a residential

structure or dwelling is more than one story tall, the minimum twenty-five foot (25') area must be measured from the furthest point from the structure or improvement.

c. The usable open space shall be contiguous. Usable open space may still be considered contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw.

d. Wastewater/Stormwater Structures: At the discretion of the Planning Board, subsurface wastewater and stormwater management systems serving the PRD may be located within the open space, with the approval of the Planning Board. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.

e. Accessory Structures: The Planning Board may permit up to five percent (5%) of the open space to be paved (pervious "paving" materials are encouraged) or built upon for structures accessory to the dedicated use or uses of such open space (for example, pedestrian walks and bike paths). Parking areas and areas used for vehicular access or egress shall not constitute open space.

f. At the sole discretion of the Planning Board, the Planning Board may waive the conditions in Section 8.5.6(F)(2) Useable Open Space Calculations if it finds that the project satisfies the purpose and intent of the Section 8.5 and improves the overall PRD design.

3. Ownership and Accessibility:
   a. For all PRD's the Usable Open Space shall be owned in common by and readily accessible to the owners of all the units in the PRD by any of the following groups:
      i. A non-profit organization or trust whose members are all the owners and occupants of the units;
      ii. Private organization including but not limited to the Trustees of Reservations or Essex County Greenbelt Association whose primary function is preservation of open space;
      iii. The Town of North Andover; and Any group as indicated by the Planning Board, which exists or is created for the purpose of preserving open space for the owners of the units located in a PRD Project.

   b. The usable open space shall be to greatest extent practicable accessible to the general public (unless restricted) and not for the exclusive use of a homeowner, homeowners' association or non-profit organization. For open space maintained strictly for active agricultural purposes, public access may be limited or completely excluded. This agricultural and access restriction shall be included as a deed restriction running with the land.

4. Restrictions:
   a. A perpetual restriction of the type described in M.G.L. Chapter 184, Section 31, (including future amendments thereto and corresponding provisions to future laws) running to or enforceable by the Town shall be recorded in respect to such land. Such restriction shall

provide that the Usable Open Space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, or recreation.

b. Such restriction(s) shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the Usable Open Space as the Planning Board may deem appropriate.

G. Calculation of Allowable Residential

Except as noted in Subsection H below, the maximum number of buildable lots and/or dwelling units in a PRD will be equal to the number of buildable lots and/or dwelling units which would result from an approved conventional subdivision plan. In order to determine the residential density of a PRD, the applicant must submit to the Planning Board a plan which:

1. meets the criteria of a Preliminary Subdivision Plan as defined in Section IV of the "Rules and Regulations Governing the Subdivision of Land" in effect at the time of plan submittal,
2. is fully compliant with the "Zoning Bylaw" in effect at the time of plan submittal, and
3. requires no zoning variances.

The Planning Board will use this plan to determine the maximum number of buildable lots and/or dwelling units allowed in a PRD.

H. Density Bonuses

1. Affordable Housing Bonus

For all PRD's the total number of allowable lots and/or dwelling units may be increased up to 20% if the developer designates at least 30% of the total number of units for use in conjunction with one or more state or federal housing assistance programs.
However, in the instance where the use of federal or state programs are not available to the Housing Authority, the Planning Board, after consultation with the Housing Authority, may propose alternative methods of attaining the Affordable Housing Bonus.

The developer shall certify, in writing to the Planning Board that the appropriate number of dwelling units have been set aside and conveyed to the North Andover Housing Authority (or other actions are required), before the Planning Board shall grant any special permit with density bonus provisions.

Further, the developer shall be responsible to work with the North Andover Housing Authority to initiate and conclude occupancy of said units within one year of their completion. Failure to do so shall be deemed a violation of the special permit criteria.
The granting of this bonus density shall not exempt the proposed development from any other criteria required by this section or regulation contained in the Town Bylaws.

2. Open Space Bonus

For multi-family PRD's, the total number of allowable dwelling units maybe increased up to 10% if the proposed PRD provides sixty-five percent (65%) usable open space consistent with the definition of usable open space as provided in this section. The granting of this bonus density shall not exempt the proposed development from any other criteria required by this section.

3. Maximum Density

Proposed PRD's may utilize both bonus provisions, i.e. affordable housing and open space; however, the granting of bonus densities shall not exempt the proposed development from any other criteria required by this section.

8.6 Satellite Receiver Discs (1987/83)

To restrict the erection and/or installation of satellite microwave receiver discs in residential districts to a ground level area, to the rear of the rear line of the building, within the side boundary lines of the same building so that it is out of sight from the street.

[Note: 8.7 Growth Management deleted May 2004 per Article 39.] (2004/39)

Section 8.8 Adult Use Zone

The Adult Use Zone is herein established as an overlay district and shall be superimposed on the other districts established by this Bylaw. The requirements enumerated for this Adult Use Zone shall be in addition to, rather than in place of, the requirements of the other districts. Adult uses may be allowed by Special Permit in the Adult Use Zone, as described below. Adult uses shall be prohibited at any other location in the Town.

The following regulation shall apply to Adult Uses as defined in Section 2 of this Bylaw.

1. Boundaries: Boundaries of the Adult Use Zone are shown on the Zoning Map and shall include the following parcels as identified on the 1995 Assessor's Map: Map 34 Parcels 27 and Map 77 Parcels 3, 12, 13, 14 & 17.

Map 34 Parcel 27

Northerly 250' +/- by Holt Road
Easterly 340' +/- by Lot 2
Southerly 240' +/- by City of Lawrence Airport
Westerly 330' +/- by Lot 4;

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 Comm.
Southerly 465 +/- by City of Lawrence Airport Comm.
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 Comm.; and

Map 77 Parcel 17

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

Westerly 590'+\-by City of Lawrence Airport Comm.

2. Separation Distances: Adult uses may not be located:
   a) within five hundred feet (500') of the property line of any Residential Zoning Districts, church, school, park, or playfield.
   b) within five hundred feet (500') of other adult use as defined herein;
   c) within three hundred feet (300') of any establishment licensed under MGL Ch. 138, Sec. 12.

3. Maximum Usable Floor Area: With the exception of an adult cabaret or an adult motion picture theater adult uses may not exceed three thousand five hundred (3,500) square feet of useable floor area.

4. Parking Requirements: The following parking requirements shall apply:
   a) Parking shall be provided in the side or front yard only.
   b) All parking areas shall be illuminated, and all lighting shall be contained on the property.
   c) Parking areas shall be landscaped in conformance with the appropriate provisions of the zoning by-law.

Screening and buffering: At a minimum, a five (5) foot wide landscaped buffer shall be provided along the side and rear property lines of an adult use establishment consisting of evergreen shrubs or trees not less than five (5) feet in height at the time of planting, or a solid fence not less than six (6) feet in height.

2. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

3. No adult use shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. Sec. 31 Ch. 272.

4. Application information: The application for a special permit for an adult use establishment must include the following information:
   a) Name and address of the legal owner of the establishment, and of the legal owner of the property;
   b) Name and address of all persons having lawful equity or security interests in the establishment;
   c) Name and address of the manager;
   d) Number of employees;
   e) Proposed provisions for security within and without the establishment; these provisions must include and detail specifications for the following requirements:
      (i) Security personnel paid for by the establishment owner to remain inside the business during operating hours of the establishment.
      (ii) Security personnel paid for by the establishment owner to patrol the parking lot.
      (iii) The security plans and personnel referenced in items Section 8.8.7(e)(i) and (ii) shall be approved by the North Andover Police Chief.
   f) The physical layout of the interior of the establishment.

5. Special Permit Granting Authority: The Zoning Board of Appeals shall be the Special Permit Granting Authority.

6. No adult use special permit shall be issued to any person convicted of violating the provisions of MGL Ch. 119, Sec. 63, or MGL Ch. 272, Sec. 28.

7. An adult use special permit shall only be issued following a public hearing held within sixty-five (65) days after the filing of an application with the special permit granting authority, a copy of which shall forthwith be given to the Town Clerk by the applicant.

8. Special permits for adult uses shall be granted only upon the determination by the Special Permit Granting Authority that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.

9. Any section of this by-law, or portion thereof, declared invalid shall not affect the validity or application of the remainder of the by-law. (Section 8.8 created and approved May 6, 1996 Annual Town Meeting, Article 22)

Section 8.9 Wireless Service Facilities

1) Purpose
   a) It is the express purpose of this Bylaw to minimize the visual and environmental impacts as well as any potential deleterious impact on property value, of wireless service facilities upon properties located within the Town or adjacent thereto. No wireless service facility shall be placed, constructed or modified within the Town without first obtaining site plan 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 wireless service 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.
   b) The regulation of wireless service facilities is consistent with the purpose of the North Andover Zoning Bylaw and planning efforts at the local government level to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; protection of the natural resources of North Andover, enhancement of open space areas and respect for North Andover's rural character.

2) Definitions:
   a) **Above Ground Level (AGL).** A measurement of height from the natural grade of a site to the highest point of the structure.
   b) **Above Mean Sea Level (AMSL).** A uniform point from which height above sea level (or zero elevation) can be measured.
   c) **Antenna.** The surface from which wireless radio signals are sent and received by a wireless service facility.

d) **Camouflaged**. A wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within a preexistent or proposed structure is considered to be "camouflaged."
e) **Carrier**. A company that provides wireless services.
f) **Co-location**. The use of a single mount on the ground by more than one carrier (vertical colocation) and/or several mounts on a preexistent building by more than one carrier.
g) **Cross-polarized (or dual-polarized) antenna.** A low mount that has three panels flush mounted or attached very close to the shaft.
h) **Elevation.** The measurement of height above mean sea level.
i) **Environmental Assessment (EA).** An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a wireless service facility is placed in certain designated areas.
j) **Equipment Shelter**. An enclosed, structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.
k) **Functionally Equivalent Services.** Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.
l) **GPS.** Ground Positing System by satellite location of antennas.
m) **Guyed Tower**. A lattice tower that is tied to the ground or other surface by diagonal cables.
n) **Lattice Tower**. A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.
o) **Licensed Carrier**. A Company authorized by the FCC to construct and operate a commercial mobile radio service system.
p) **Monopole**. The type of mount that is self-supporting with a single shaft of wood steel or concrete and a platform (or racks) for panel antennas arrayed at the top.
q) **Mount.** The structure or surface upon which antennas are mounted, including the following four types of mounts:
   (1) Roof Mounted: Mounted on the roof of a building.
   (2) Side-mounted: Mounted on the side of a building
   (3) Ground-mounted: Mounted on the ground.
   (4) Structure-mounted: Mounted on a structure other than a building.
r) **Omnidirectional (whip) antenna**. A thin rod that beams and receives a signal in all directions.
s) **Panel Antenna.** A flat surface antenna usually developed in multiples.
t) **PCS. Communications Services.** These are broadband radiowave systems that operate at a radio frequency in the 1850 - 1900 megahertz range.
u) **Radiofrequency (RF) Engineer**. An engineer specializing in electric or microwave engineering, especially the study of radio frequencies.
v) **Radiofrequency Radiation (RFR).** The emissions from wireless service facilities as defined in the FCC Guidelines for Evaluating the 65 Environmental Effects of Radiofrequency Radiation (FCC Guidelines) or any other applicable FCC guidelines and regulations.
w) **Security Barrier**. A locked impenetrable wail, fence or berm that completely seals an area from unauthorized entry or trespass.
x) **Separation.** The distances between one array of antennas and another array.
y) **Utility.** A system of wires or conductors and supporting structures that functions in the transmission of electrical energy or communication services (both audio and video) between generating stations, sub-stations, and transmission lines or other utility services.
z) **Wireless Service Facility**. Facilities used for the principle purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, wireless communications services, paging

services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes and accessory structures.

aa) **Wireless Services**. The three types of services regulated by this Bylaw: commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services.

3) District Regulations

a) **Use Regulations**: A wireless service facility shall require a building permit in all cases and may be permitted as follows:

i) The carrier must demonstrate that the facility is necessary in order to provide adequate service to the public.

ii) A wireless service facility may locate as of right on any existing guyed tower, lattice tower, monopole or electric utility transmission tower for which a special permit issued under this Section 8.9 is in effect, provided that the new facility shall first obtain site plan review approval from the Planning Board and, provided further that any new facility shall not exceed the terms and conditions of the special permit in effect for the existing facility on which it is to be located.

iii) No wireless service facility shall be located in the Town except upon issuance of a special permit in accordance with Section 10.3 of this Bylaw. Such a facility may be located in any zoning district in the Town, provided that the proposed facility satisfies all of the requirements set forth in this Bylaw.

b) **Location:** Applicants seeking approval for wireless service facilities shall comply with the following:

i) If feasible, wireless service facilities shall be located on preexistent structures, including but not limited to buildings or structures, preexistent telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of preexistent telephone and electric utility structures as sites for one or more wireless service facilities. The applicant shall have the burden of proving that there are no feasible preexistent structures upon which to locate.

ii) If the applicant demonstrates to the satisfaction of the SPGA (Special Permit Granting Authority) that it is not feasible to locate on a preexistent structure, wireless service facilities shall be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, with natural and/or artificial plantings (as indicated through site plan review), and placement within trees.

iii) The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or Special Permit.

c) **Dimensional Requirements**: Wireless service facilities shall comply with the following requirements:

i) **Height, General** Regardless of the type of mount, wireless service facilities shall be no higher than ten feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of a wireless service facility shall not exceed by more than 10 feet the height limitations of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. Wireless service facilities may locate on a building that is legally non- conforming with respect to height, provided that the facilities do not project above the existing building height.

ii) **Height, Ground-Mounted Facilities** Ground-mounted wireless service facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may exist or may be planted on site.

iii) **Height, Side-and Roof-Mounted Facilities** Side-and roof-mounted wireless service facilities shall not project more than ten (10) feet above the height of an existing building or structure nor project more than ten (10) feet above the height limit of the zoning district within which the facility is located. Wireless service facilities may locate on a building that is legally nonconforming with the respect to height, provided that the facilities do not project above the existing building height.

iv) **Height, Preexistent Structures (Utility)** New antennas located on any of the following structures existing on the effective date of this bylaw shall be exempt from the height restrictions of this bylaw provided that there is no increase in height of the existing structure as a result of the installation of a wireless service facility: Water towers, guyed towers, lattice towers, fire towers and monopoles.

v) **Setbacks** All wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed.

(1) In order to ensure public safety, the minimum distance from the base of any ground-mounted wireless service facility to any property line, shall be 2x the height of the facility/mount, including any antennas or other appurtenances. This set back is considered the "fall zone". A minimum setback of 600 feet shall be required for all wireless devices, antenna and their mounting structures, whether attached to a new or existing structure, as measured from the adjacent property line of properties which are either zoned for, or contain, residential and or educational uses of any types.

(2) In the event that a preexistent structure is proposed as a mount for a wireless service facility, the setback provisions of the zoning district shall apply. In the case of the preexistent non-conforming structures, wireless service facilities and their equipment shelters shall not increase any non-conformity.

4) Design Standards

a) Visibility/Camouflage Wireless service facilities shall be camouflaged as follows

i) **Camouflage by Existing Buildings or Structures**

(1) When a wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind preexistent architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

(2) Wireless service facilities which are side-mounted shall blend with the preexistent building's architecture and, if over 5 square feet, shall be shielded with material which is consistent with the design features and materials of the building.

ii) **Camouflage by Vegetation.** If wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and under story vegetation in all directions to create an effective year-round visual buffer. Ground-mounted wireless service facilities shall provide year-round vertical evergreen vegetated buffer of 50 feet, or 75% of the overall height of the structure,

in all directions. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. Vegetation should be natural in appearance and consistent with surroundings.

iii) **Color**

(1) Wireless service facilities, which are side-mounted on buildings, shall be painted or constructed of materials to match the color of the building material directly behind them.

(2) To the extent that any wireless service facilities extend above the height of the vegetation immediately surrounding it, they must be painted in a light gray or light blue hue which blends with sky and clouds

iv) **Equipment Shelters** Equipment shelters for wireless service facilities shall be designed consistent with one of the following design standards:

(1) Equipment shelters must be located in underground vaults; or

(2) designed consistent with traditional materials, color and design of the area, or

(3) camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and /or wooden fence acceptable to the permitting authority

b) Lighting and signage

i) Wireless service facilities shall be lit only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot-candle measurements at the property line shall be 0.0 initial foot-candles when measured at grade.

ii) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. No tower or other facility shall contain any signs or other devices for the purpose of advertisement. All signs shall comply with the requirements of Section 6; Signs and Outdoor Lighting Regulations of this bylaw.

iii) All ground mounted wireless, service facilities shall be surrounded by a security barrier and shall be protected against unauthorized climbing or other access by the public.

c) Historic Buildings

i) Any wireless service facilities located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

ii) Any alteration made to a historic structure to accommodate a wireless service facility shall be fully reversible.

iii) Wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

iv) The Historic District Commission must review all appropriate facilities.

d) Scenic Landscapes and Vistas

i) No facility shall be located within 300 feet of a Scenic Road. If the facility is located farther than 300 feet from the scenic road, the height regulations described elsewhere in this Bylaw shall apply.

ii) Wireless service facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required in the Camouflage section above, all ground mounted wireless service facilities that are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.

e) Environmental Standards

i) Wireless services facilities shall not be located in wetland resource areas. Locating of wireless facilities in wetland buffer areas shall he avoided whenever possible and disturbance to wetland buffer areas shall be minimized. All Conservation Commission regulations and procedures must be followed.

ii) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on site. Applicant must comply with all federal, state and local regulations governing hazardous materials.

iii) Storm water run-off as a result of the wireless facility shall be contained on-site and comply with the DEP Storm Water Management regulations as applicable.

iv) Ground-mounted equipment for wireless service facilities shall not generate acoustic noise in excess of 50 dB at the security barrier.

v) Roof-mounted or side-mounted equipment for wireless service facilities shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

f) Safety Standards

i) **Radiofrequency Radiation (RFR) Standards.** All equipment proposed for a wireless service facility shall be authorized per the FCC *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation* (FCC Guidelines) or any other applicable FCC guidelines and regulations.

ii) **Structural Integrity.** The applicant shall provide certification by a structural engineer that the wireless service facility is structurally sound for the proposed facility.

5) Application Procedures

a) **Special Permit Granting Authority (SPGA).** The Special Permit Granting Authority (SPGA) for wireless service facilities shall be the Planning Board.

b) **Pre-Application Conference.** Prior to the submission of an application for a Special Permit under this regulation, the applicant is strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed wireless service facility in general terms and to clarify the filing requirements.

c) **Pre-Application Conference Filing Requirements.** The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed wireless service facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.

d) **Application Filing Requirements.** The following shall be included with an application for a Special Permit for all wireless service facilities:

i) **General Filing Requirements**

(1) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants. A 24-hour emergency telephone contact number shall be included for use during construction as well as operation of the wireless communication facility.

(2) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the wireless service facility

(3) Every application for a wireless service facility Special Permit shall include at least one licensed carrier and the owner of the land as an applicant or a co-applicant.

(4) Original signatures are required for the applicant and all co-applicants applying for the Special Permit. If an agent represents the applicant or co-applicant, an original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted. All other filing requirements in the Zoning Bylaw and the Rules and Regulations as applicable must be complied with.

ii) **Location Filing Requirements**

(1) Identify the subject property by including the name of the nearest road or roads, street address, and Assessors Map and Parcel number of subject property

(2) Identify the Zoning District designation for the subject parcel. Submit a copy of Town zoning map with parcel identified.

(3) A locus map at a scale of 1" = 1500' showing the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.

(4) A map showing the other preexistent and approved wireless service facilities in North Andover and outside North Andover within one mile of its boundary.

(5) GPS all equivalent system locating by latitude and longitude wireless service facilities

iii) **Siting Filing Requirements**. A one-inch-equals-40 feet plan prepared by a Registered Professional Engineer in the Commonwealth of Massachusetts showing the following:

(1) Property lines for the subject property.

(2) Property lines of all properties within 300 feet of the proposed location.

(3) Tree cover on the subject property and all properties directly abutting the subject property, by dominant species and average height.

(4) Outline of all existing buildings, including purpose (e.g. residential buildings, garages, Accessory structures, etc.) on subject property and all properties adjacent to the subject property.

(5) Proposed location of antenna, mount and equipment shelter(s).

(6) Proposed security barrier, indicating type and extent as well as point of controlled entry.

(7) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the wireless service facility.

(8) Distances, at grade, from the proposed wireless service facility to each building on the vicinity plan.

(9) Contours at each 2 feet AMSL for the subject property and adjacent properties within 300 feet.

(10) All proposed changes to the preexistent property, including grading, vegetation removal and temporary or permanent roads and driveways.

(11) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the wireless service facility.

(12) Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from 'Sight Lines" subsection below.

(13) Location of all wetlands on the subject property and within 100' of the proposed facility as approved by the Conservation Commission.

iv) **Sight lines and photographs as described below:**

(1) Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the wireless service facility. Each

sight line shall be depicted in profile, drawn at one-inch equals 40 feet scale. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

(2) Preexistent (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road and any residential building within 300 feet.

(3) Proposed (after condition) photographs. Each of the preexistent condition photographs shall have the proposed wireless service facility superimposed on it to show what will be seen from public roads and residential buildings if the proposed wireless service facility is built.

(4) Siting elevations or views at-grade from the north, south, east and west for a 50-foot radius around the proposed wireless service facility plus from all preexistent public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eight inch equals one foot scale and show the following:

(a) Antennas, mounts and equipment shelter(s), with total elevation dimensions and average ground level (AGL) of the highest point. All future proposed antennas, mounts and equipment shelters if any must be shown in order to be included in the Special Permit.

(b) Security barrier. If the security barrier will block views of the wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

(c) Any and all structures on the subject property.

(d) Preexistent trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

(e) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours AMSL.

v) **Design Filing Requirements**

(1) Equipment brochures for the proposed wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

(2) Materials of the proposed wireless service facility specified by generic type and specific treatment (e.g. anodized aluminum stained wood, painted fiberglass, alloys, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

(3) Colors of the proposed wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antenna mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

(4) Dimensions of the wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.

(5) Appearance shown by at least two photographic superimposition’s of the wireless service facility within the subject property. The photographic superimposition’s shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.

(6) Landscape plan including preexistent trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.

(7) During the public hearing process the applicant shall schedule with the Planning Board a balloon or crane test at the proposed site, at the expense of the applicant, to illustrate the height of the proposed facility.

(8) If lighting on the site is required by the FAA, the applicant shall submit a manufacturer's computer generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and twenty-five *(25)* feet beyond property lines. The printout shall indicate the locations and types of luminaries proposed.

vi) **Noise Filing Requirements**

(1) The applicant shall provide a statement listing the preexistent and maximum future projected measurements of noise from the proposed wireless service facilities, measured in decibels Ldn (common logarithmic scale, accounting for greater sensitivity at night), for the following:

(a) Preexistent or ambient: the measures of preexistent noise

(b) Preexistent plus proposed wireless service facilities: maximum estimate of noise from the proposed wireless service facility plus the preexistent noise environment.

(c) Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet DEP requirements and Section 8.9(4)(e).

vii) **Radiofrequency Radiation (RFR) Filing Requirements**

(1) All telecommunications facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies, power levels and standards, including FCC Radio Frequency Emissions standards. The applicant shall provide certification demonstrating that the maximum allowable frequencies; power levels will not be exceeded. Certifications shall include technical specifications, a written explanation of those specifications, and, if necessary, field verification. The Permit Granting Authority may condition any Special Permit granted under this section upon a periodic submittal of certification of compliance with said standards.

(2) In order to determine compliance with applicable FCC regulations, the applicant shall provide a statement listing the preexistent and maximum future projected measurements of RFR from the proposed wireless service facility, including all co-locators, for the following situations:

(a) Preexistent or ambient: the measurement of preexistent RFR.

(b) Preexistent plus proposed wireless service facilities: maximum estimate of RFR from the proposed wireless service facility plus the preexistent RFR environment.

(c) Certification, signed by an engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Radiation Standards subsection of this Bylaw.

(3) Applicant must submit a copy of the letter from the Massachusetts Department of Public Health approving the site for this facility as required by 105 CMR 122.000 requires that the Department of Public Health approve all sites for wireless facilities with respect to emissions.

viii) **Federal Environmental Filing Requirements**

(1) At the time of application filing, an Environmental Assessment (EA)that meets FCC requirements shall be submitted to the Town for each wireless service facility site that requires such an EA to be submitted to the FCC

(2) The applicant shall list location, type and amount (including radiation trace elements) of any materials proposed for use within the wireless service facility that are considered hazardous by the federal, state or local government.

ix) **Waiver.** The SPGA may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

6) Co-location

a) Licensed carriers shall share wireless service facilities and sites where feasible and appropriate, thereby reducing the number of wireless service facilities that are stand-alone facilities. All applicants for a Special Permit for a wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:
   i) A survey of all preexistent structures that may be feasible sites for co-locating wireless service facilities;
   ii) Contact, with all other licensed carriers for commercial mobile radio services operating in the Commonwealth of Massachusetts; and
   iii) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

b) An Applicant shall demonstrate to the Planning Board that it has made a good faith effort to co-locate its facility upon an existing facility. The Town may retain a technical expert in the field of RF engineering and/or a structural engineer to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a Special Permit to an applicant who has not demonstrated a good faith effort to provide for co-location,

c) If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies that show the final appearance and operation of the wireless service facility at full build-out.

d) If the SPGA approves co-location for a wireless service facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Pursuant to Section 8.9(3) Regulations facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit. This allows a carrier to "pre-permit" a site for additional facilities so that they will not have to apply for another Special Permit later.

e) In order to determine compliance with all applicable FCC Regulations, estimates of RFR emissions will be required for all facilities, including proposed and future facilities both for the applicant and all co-locators.

7) Modifications

a) A modification of a wireless service facility may be considered equivalent to an application for a new wireless service facility and will require a Special Permit when the following events apply:
   i) The applicant and/or co-applicant want to add any equipment or additional height not specified in the original design filing.
   ii) The applicant and/or co-applicant want to alter the terms of the Special Permit by changing the wireless service facility in one or more of the following ways:
      (1) Change in the number of facilities permitted on the site;
      (2) Change in technology used for the wireless service facility.

8) Monitoring and Maintenance

a) After the facility is in operation, the applicant shall submit to the SPGA, within 90 days of beginning operations and at annual intervals from the date of issuance of the Special Permit, preexistent and current RFR measurements. Such measurements shall be signed and certified by an RF engineer, stating that RER measurements are accurate and are in compliance or why the measurements fail to comply with all applicable FCC Guidelines as specified in Section

8.9(4)(c)(1) RFR Filing Requirements of this Bylaw. The measurements shall be submitted for both the applicant and all co-locators.

b) After the wireless service facility is in operation the applicant shall submit to the SPGA; within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, preexistent and current measurements of acoustic noise from the wireless service facility. Such measurements shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section 6.13.14.5 of this Bylaw

c) The applicant and co-applicant or their successor in interest shall maintain the wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier and maintenance of the buffer and landscaping.

d) Failure to obtain the information required in this subsection 8.9(8) of the Bylaw shall result in a fine of not more than $300 dollars for each offense. Each day that such violation continues shall constitute a separate, offense.

9) Abandonment or Discontinuation of Use

a) At such time that a licensed carrier plans to abandon or discontinue operation of a wireless service facility, such carrier will notify the Town by certified US mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the wireless service facility shall be considered abandoned upon discontinuation of operations.

b) Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

   i) Removal of antennas, mount, equipment shelters and security barriers from the subject property.

   ii) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

   iii) Restoring the location of the wireless service facility to its natural condition, except that any landscaping and grading shall remain the after-condition.

c) As a condition of any special permit for the placement, construction or modification of a wireless service facility, a carrier shall place into escrow a sum of money to cover the costs of removing the facility from the subject property. Said amount shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. Said funds shall be held by an independent escrow agent to be appointed by the carrier and the SPGA. The carrier shall authorize and, as necessary, shall obtain the authorization of the owner of the property to allow the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued. In the event the posted amount does not cover the cost of demolition and/or removal the Town may place a lien upon the property covering the difference in cost.

d) A facility shall be deemed to be abandoned or discontinued if it has not been used *for* the purpose for which it was originally constructed for a period of six (6) months or more. Once abandonment or discontinuance has occurred, the carrier shall remove the facility from the subject property within ninety days. In the event that the carrier fails to remove the facility, the town shall give notice to the carrier arid the independent escrow agent that the facility shall be removed by the escrow agent forthwith and the escrow agent, after affording written notice seven days in advance to the carrier, shall remove the facility.

e) Failure to follow the provisions of this subsection 8.9(9) shall result in a fine of not more than $300 dollars for each offense. Each day that such violation continues shall constitute a separate offense.

10) Reconstruction or Replacement of Existing Towers and Monopoles

a) Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of Section 8.9 this Bylaw may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the SPGA finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the preexistent non-conforming structure. In making such a determination, the SPGA shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts.

11) Performance Guarantees

a) Insurance in a reasonable amount determined and approved by the SPGA after consultation at the expense of the applicant with one (1) or more insurance companies shall be in force to cover damage from the structure, damage from transmissions and other site liabilities. Annual proof of said insurance must be filed with the SPGA.
b) Funds, sufficient in the opinion of the SPGA to cover annual maintenance of the facility, shall be placed into escrow and shall be held by the independent escrow agent who shall be authorized to expend the funds for the maintenance of the facility on terms to be agreed upon by the carrier and the SPGA as a condition of approval of the special permit.
c) Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute shall be filed with the SPGA by the Special Permit holder.

12) Term of Special Permit.

a) A Special Permit issued for any wireless service facility shall be valid for **three (3)** years. The special permit may be renewed under the same criteria as the original special permit, provided that the application for renewal of the special permit is made prior to the expiration date of the original or any renewed special permit. Additional measures governing the administration of the special permit are found in Section 10.3 of this Zoning Bylaw (1998/36).

13) Exempt Facilities: **Municipal Emergency Wireless Service Facility**

a) Wireless service facilities necessary to provide and ensure adequate town-wide coverage for public safety communications to include Police, Fire, Ambulance, Emergency Medical Services, and Emergency Management shall be exempt from the provisions of this bylaw. Commercial or private wireless service facilities, unless they are under contract with the Town of North Andover to provide public safety communication, shall not co-locate on or utilize a municipal emergency wireless service facility and shall not be exempt under this section. Further, if said municipal emergency wireless service facility is to be located on private property, the Town must obtain the permission of the landowner. **(12-5-2005 Article 6)**

Section 8.10 Lot/Slope Requirements

1. Lot/Slope Requirements: In the residential zoning districts the following provisions of this Section 8.10 shall apply:
   a. **Purpose:** The purpose of this bylaw is to preserve and enhance the landscape by encouraging the maximum retention of natural topographic features, such as drainage swales, streams,

slopes, ridge lines, rock outcroppings, vistas, natural plant formations and trees; to minimize water runoff and soil-erosion problems incurred in grading of steep slopes; to encourage innovative architectural, landscaping, circulation and site design. For the purposes of this subsection, the term "natural" shall be defined as the condition of the ground surface as it exists at the time a subdivision or development is proposed including any man-made alterations such as grading, excavation or filling which may have occurred prior to the time such subdivision or development is submitted. No land intended for subdivision or development may be regraded or filled in such manner as to circumvent this bylaw

b. **Provisions:** The provisions of this Subsection 8.10 shall not apply to building lots in a definitive subdivision plan submitted in accordance with M.G.L. Chapter 41 in order to obtain the protections afforded by M.G.L. Chapter 40A, Section 6.
c. **Defining the Slope:** The slope of land at any point, stated as a percentage, shall be defined as the change in elevation over a horizontal distance measured perpendicular to the contours divided by the distance over which the change occurs multiplied by 100. The slope of land at any point, may be stated as a ratio (2:1, 3:1, 4:1, etc.). The first number of the ration indicates the horizontal distance and the second number indicates the vertical rise.
d. **Undisturbed Slopes:** All natural slopes exceeding 33% (3:1) over a horizontal distance of 30 feet as measured perpendicular to the contour on a tract or parcel of land intended or proposed for subdivision or on a building lot are protected and shall remain undisturbed.
e. **Slope Exclusion for Minimum Lot Area Calculation:** All areas with natural slopes exceeding 33% (3:1) over a horizontal distance of 30 feet as measured perpendicular to the contour on a tract or parcel of land intended or proposed for subdivision or development, or on a lot intended for building purposes, shall be excluded from the calculation of the minimum lot area required for the applicable zoning district.
f. The Planning Board may grant a special permit for exemption from the provisions of this section if, in the Board's opinion, the proposal satisfies the purposes of Subsection 8.10.1.a above.

   In cases where the proposal includes disturbing or creating slopes exceeding 33%, the request for special permit must be accompanied by:

   i) A geotechnical report prepared by a registered professional civil engineer in the Commonwealth of Massachusetts that recommends methods for slope stabilization.
   ii) A commitment from the applicant to fund construction inspection services of a geotechnical engineer.

Section 8.11 Wind 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 Site Plan Review 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.

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: ng marijuana or marijuana-related products shalof 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.

SECTION 9 NON-CONFORMING USES

9.1 Non-Conforming Uses

Any non-conforming building, structure, or use as defined herein, which lawfully existed at the time of passage of the applicable provision of this or any prior by Law or any amendment thereto may be continued subject to the provisions of this Bylaw. Any lawfully non-conforming building or structure and any lawfully non-conforming use of building or land may be continued in the same kind and manner and to the same extent as at the time it became lawfully non-conforming, but such building or use shall not at any time be changed, extended or enlarged except for a purpose permitted in the zoning district in which such building or use is situated, or except as may be permitted by a Special Permit or otherwise by the North Andover Board of Appeals. Pre-existing non-conforming structures or uses, however, may be extended or altered, provided that
no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension, or alteration shall not be substantially more detrimental than the existing non- conforming use to the neighborhood. When a pre-existing structure has been made non-conforming due to changes in the lot size required by this bylaw, such structure may be extended or altered based on a finding by the Zoning Enforcement Officer that such structure after the change meets all current zoning requirements except for lot size. (1995/43)

9.2 Alteration or Extension

A use or structure housing a use, which does not conform to the regulations of this Bylaw but which did conform to all applicable regulations when initially established shall not be changed, extended or enlarged except in accordance with the following provisions:

1. Such change shall be approved by a Special Permit or otherwise by the Board of Appeals.
2. Such change shall be permitted only upon the same lot occupied by the non-conforming use on the date that it became non-conforming.
3. Any increase in volume, area, or extent of the non- conforming use shall not exceed an aggregate of more than twenty five percent (25%) of the original use.
4. No change shall be permitted which tends to lengthen the economic life of the non-conforming longer than a period reasonable for the amortization of the initial investment.

9.3 Pre-Existing Non-conforming Single Family Residential Structures and Uses in the Residential 1, Residential 2, Residential 3, Residential 4 and Residential 6 Districts:

a. **Pre-existing Non-conforming Single Family Structures:** Pre-existing non-conforming single family residential structures in the R1, R2, R3, R4 and R6 Districts, may be changed, extended or altered, provided that there is a finding by the Zoning Enforcement Officer (Building Commissioner) that such change, extension, or alteration shall not render the structure more nonconforming than the existing structure. Upon such determination, a building permit may be issued where applicable. The following circumstances shall be deemed not to increase the nonconforming nature of said structure:
    1. Alteration of a structure which complies with all current yard setbacks, building coverage, and building height requirements but is located on a lot with insufficient area, where the structure after alteration will comply with all of current Bylaw requirements except for lot area.
    2. Alteration to a structure which complies will all current yard setbacks, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the structure after alteration will comply with all of current Bylaw requirements except for frontage.
    3. Alteration to a structure which encroaches upon one or more required yard setbacks, where the structure after alteration will comply with all current bylaw requirements except for yard

setbacks (the provisions of this clause shall apply regardless of whether the lot complies with current area and frontage requirements).

4. Alteration of a structure which encroaches upon one or more required yard setbacks, where the altered part of the structure will comply with all current yard setbacks, or the alteration is to the side or face of the structure which encroaches upon a required yard setback, and the alteration does not further encroach upon the required yard setback. In either case, the altered structure must comply with current building coverage and building height requirements (the provisions of this clause shall apply regardless of whether the lot complies with current area and frontage requirements).
5. Alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded. In the event that the Zoning Enforcement Officer (Building Commissioner) determines that the nonconforming nature of such structure would be increased by the proposed extension, alteration, or change, the Zoning Board of Appeals may, by special permit, allow such extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

b. **Pre-existing Nonconforming Single Family Structures**: No portion of this Section 9.3, Pre-Existing Non-Conforming Single Family Residential Structures and Uses in the Residential 1, Residential 2, Residential 3, Residential 4 and Residential 6 Zoning Districts shall be construed to allow for any uses other than those expressly allowed as defined in each above listed zoning district of the Zoning Bylaw. (2004/41)

9.4 Building After Catastrophe

Any non-conforming building or structure destroyed or damaged by fire, flood, lightning, earthquake or wind to the extent of sixty-five percent (65%) or more of its reproduction cost at the time of such damage shall not be rebuilt, repaired, reconstructed nor altered except for a purpose permitted in that zoning district in which such building is located, or except as may be permitted by a Special Permit or otherwise by the Board of Appeals acting under Massachusetts General Laws Chapter 40A.

9.5 Abandonment

If any lawfully non-conforming building or use of a building or land be at any time discontinued for a period of two years or more, or if such use or building be changed to one conforming with the North Andover Zoning Bylaw in the district in which it is located, it shall thereafter continue to conform; or take any other action relative thereto

SECTION 10 ADMINISTRATION

10.1 Enforcement

The North Andover Zoning Bylaw shall be enforced by the North Andover Building Inspector. The Building Inspector, upon being informed in writing of a possible violation of this Bylaw or on his own initiative, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation may exist. If the Building Inspector is so informed in writing and declines to act, he shall within fourteen (14) days of his receipt of such information give to his informant, in writing, his reasons for refraining from taking any action. The Building Inspector, on evidence of any violation after investigation and inspection, shall give written notice of such violation to the owner and to the occupant of such premises, and the Building Inspector shall demand in such notice that such violation be abated within such reasonable time as may be given by mail addressed to the owner at the address appearing for him on the most recent real estate tax records of North Andover, and to the occupant at the address of the premises of such seeming violation. If, after such notice and demand, such violation has not been abated within the time specified, the Building Inspector or the Selectmen shall institute appropriate action or proceedings in the name of the Town of North Andover to prevent, correct, restrain, or abate any violation of this Bylaw.

10.1.1 Building Permit

No building shall be erected, altered, moved, razed or added to in North Andover without a written permit issued by the Building Inspector. Such permits shall be applied for in writing to the Building Inspector. The Building Inspector shall not issue any such permit unless the plans for the building and the intended use thereof in all respects fulfill the provisions of the North Andover Zoning Bylaw (and other applicable Town Bylaws) except as may have been specifically permitted otherwise by action of the North Andover Board of Appeals, provided a written copy of the terms governing any exception so permitted be attached to the application for a building permit and to the building permit issued therefore. One copy of each such permit, as issued, including any conditions or exceptions attached thereto, shall be kept on file in the Office of the Building Inspector. In addition to the information required above, a plot plan shall indicate provisions for all other physical requirements of this Bylaw, including but not limited to off-street parking, screening and fencing. Upon granting a permit the Building Inspector shall cause a copy to be posted on the property to which it relates in a conspicuous place.

10.12 Certificate of Use and Occupancy

No building hereafter erected, enlarged, extended, or altered shall be used or occupied in whole or in part until a certificate of use and occupancy has been issued by the Building Inspector. No building or land changed from one use to another, in whole or in part, shall be occupied or used until a certificate of use and occupancy has been issued by the Building Inspector. This certificate shall certify compliance with the provisions of this Bylaw and of all applicable codes (1974).

10.13 Penalty for Violation

Whoever continues to violate the provisions of this Bylaw after written notice from the Building Inspector demanding an abatement of a zoning violation within a reasonable time, shall be subject to a fine of three hundred dollars ($300). Each day that such violation continues shall be considered a separate offense. (1986/15)

10.14 Planning Board, associate member

In addition to the five (5) member of the Planning Board already allowed by statute, the Town Manager may appoint one (1) associate member. As guided by M.G.L. Chapter 40A this associate

member will only be allowed to sit on Special Permit applications to the Planning Board. The Chairman of the Planning Board may authorize the associate member to vote in case of a vacancy to the board, or in the case of absence, inability to act, or conflict of interest on the part of any member of the board.

10.2 Board of Appeals

10.21 Appointment and Organization

There shall be a Board of Appeals of five (5) members and not more than three (3) Associate Members, which shall have and exercise all the powers provided under G.L. Chapter 40A,and which shall hear and decide all matters specifically referred to the Board of Appeals by the North Andover Zoning Bylaw and other matters referred to such Board by statute. The Board of Appeals members and Associate Members shall be appointed by the Selectmen in the manner provided by statute. Within two (2) weeks of the beginning of each calendar year, the Zoning Board of Appeals shall organize and elect a Chairman and Clerk from within its own membership.

The length of terms of the members of the Board of Appeals shall be such that the term of one member expires each year. A member of the Board of Appeals may be removed for cause by the Board of Selectmen only after written charges have been made and a public hearing has been held.

10.22 Powers of the Board of Appeals

The Board of Appeals shall have the following powers:

1. To hear and decide actions and appeals as provided herein;
2. To hear and decide applications for appropriate Special Permits and variances which the Board of Appeals is required to act upon under this Bylaw.

10.3 Special Permit

The Special Permit Granting Authority shall adopt rules and regulations for the conduct of its business relative to the issuance of Special Permits. A copy of these rules and regulations shall be filed with the Town Clerk. The rules and regulations shall contain, as a minimum, a description of the size, form, contents, style and number of copies and number of plans and specifications to be submitted and the procedures for submission and approval of Special permits. The Special Permit Granting Authority may grant a Special permit within the framework of this Bylaw only after holding a public hearing which must be held within sixty-five (65) days after the applicant files for such Special Permit. The sixty-five (65) days period shall be deemed to have begun with the filing of the application with the Special Permit Granting Authority. The applicant is responsible for transmitting a copy of the application for a Special Permit within twenty-four (24) hours of the filing of the application with the Planning Board or the Board of Selectmen and to the Town Clerk. If an application for a Special Permit is to be filed with the Board of Appeal, the applicant shall file the application with the Town Clerk, who shall transmit the application to the Board of Appeals within twenty-four (24) hours.

10.31 Conditions for Approval of Special Permit

1. The Special Permit Granting Authority shall not approve any such application for a Special permit unless it finds that in its judgment all the following conditions are met:
   a. The specific site is an appropriate location for such a use, structure or condition;
   b. The use as developed will not adversely affect the neighborhood;
   c. There will be no nuisance or serious hazard to vehicles or pedestrians;
   d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;

e. The Special Permit Granting Authority shall not grant any Special Permit unless they make a specific finding that the use is in harmony with the general purpose and intent of this Bylaw.

2. In approving a Special Permit, the Special Permit Granting Authority may attach such conditions and safeguards as are deemed necessary to protect the neighborhood such as, but not limited to, the following:
   a. Requirements of front, side, or rear yards greater than the minimum required by this Bylaw.
   b. Requirements of screening parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other devices as specified by the Special Permit Granting Authority.
   c. Modification of the exterior features or appearances of the structure;
   d. Limitation of size, number of occupants, method or time of operation, or extent of facilities;
   e. Regulation of number, design and location of access drives or other traffic features.

3. Special Permit granted under the provisions contained herein shall be deemed to have lapsed after a two (2) year period from the date on which the Special permit was granted unless substantial use or construction has commenced. If the applicant can show good cause why substantial use or construction has not commenced within the two (2) year period, the Special Permit Granting Authority, as its discretion, may extend the Special Permit for an additional one (1) year period. Included within the two (2) year period stated above, is the time required to pursue or wait the determination of an appeal from the provisions of the Bylaw.

4. The Special Permit Granting Authority may, within the guidelines for Special Permits contained herein, allow accessory uses whether located on the same lot as the principal use or not, wherever necessary in connection with scientific research, scientific development or related production provided that the Special Permit Granting Authority finds that the proposed accessory use does not substantially derogate from the public good.

5. Within (90) days following the date of the public hearing, the Special Permit Granting Authority shall take final action in the matter in order to issue a Special Permit provided for in this Zoning Bylaw. There shall be at least four (4) of the five (5) members of the Granting Authority voting in favor of issuing the Special Permit.

6. A Special Permit granted under the provisions of this Bylaw shall not take effect until:
   a. The Town Clerk certifies on a copy of the decision that twenty (20) days have elapsed without filing of an appeal or that any appeal filed has been dismissed or denied;
   b. The certified decision has been recorded at the owner's expense in the Essex County Registry of Deed's indexed in the grantor index under the name of the record owner, and noted on the owner's Certificate of Title;
   c. If the Special Permit involves registered property, the decision, at the owner's expense shall also be filed with the Recorder of the Land Court.

10.32 Temporary Permit

The Board of Appeals may grant a temporary Special Permit for use or occupancy permit for a period of not more than one (1) year at a time, subject to a single renewal. Such permits shall be subject to conditions imposed by the Board related to safeguarding the character of the district affected and shall be processed in accordance with the procedures provided herein for the granting of Special Permits.

10.4 Variances and Appeals

The Zoning Board of Appeals shall have power upon appeal to grant variances from the terms of this Zoning Bylaw where the Board finds that owing to circumstances relating to soil conditions, shape, or topography of the land or structures and especially affecting such land or structures but not affecting generally the zoning district in general, a literal enforcement of the provisions of this Bylaw will involve substantial hardship, financial or otherwise, to the petitioner or applicant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw (1998/32).

Additionally, an appeal may be taken to the Zoning Board of Appeals as provided herein by a person aggrieved by reason of his inability to obtain a permit or enforcement action from the Building Inspector, by the Merrimack Valley Planning Commission, or by any person including an officer or Board of the Town of North Andover, or an abutting city or town, aggrieved by an order or decision of the Building Inspector or other administrative officials in violation of any provision of this Bylaw. Any petition for an appeal above must be taken within thirty (30) days of the date of the order or decision that is being appealed by filing a notice of appeal, specifying the grounds thereof with the Town Clerk, who shall forthwith transmit copies of the appeal to such officer or Board, whose order or decision is being appealed, and to the Zoning Board of Appeals. Such officer or Board shall forthwith transmit to the Zoning Board of Appeals all documents and paper constituting the records of the case in which the appeal is taken.

1. No petition for a variance or appeals shall be granted until a public hearing is held on the matter by the Zoning Board of Appeals within sixty-five (65) days after the Zoning Board of Appeals receives the petition from the Town Clerk.
2. The Zoning Board of Appeals must make its decision on a petition for a variance or appeal within One Hundred (100) days after the date of the petition is filed with the Town Clerk. In order to grant a petition for a variance or an appeal, four (4) of the five (5) members of the Board must concur. If the Zoning Board of Appeals fails to act within the time limits specified herein, the petition for a variance or appeal shall be deemed granted.
   a. In the case of a variance, the Zoning Board of Appeals may impose conditions, safeguards and limitations of time and use, however, these conditions cannot require continued ownership of the land or structure to which the variance pertains by the applicant, petitioner, or owner. Furthermore, if the rights authorized by the variance are not exercised within one (1) year of the date of the grant, they shall lapse and may be re-established only after notice and a new hearing.
3. The Zoning Board of Appeals shall cause to be made a detailed record of its proceedings indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons which shall be filed within the fourteen (14) days in the office of the Town Clerk and shall be a public record.

   Notice of the decision shall be mailed forthwith to the petitioner, applicant, or appellant, to the parties in interest designated herein, and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify that appeals, if any, shall be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk. The decision shall also contain the names and addresses of the owner, and identification of the land and/or structure affected (if a variance procedure - how the variance complies with the statutory requirements for issuing a variance). Certification that copies of the decision have been filed with the Planning Board and Town Clerk are required.

10.5 Amendments to Zoning Bylaw

This Bylaw shall be adopted and shall be amended from time to time by a two-thirds vote at an annual or special town meeting. Amendments to this Bylaw may be initiated by submission of the amendment to the Board of Selectmen by any of the following: a) Board of Selectmen; b) Zoning Board of Appeals; c) by an individual owning land to be affected by the amendment; d) by request of registered voters of the town pursuant to Section 10, Chapter 39 of the Mass. General Laws; e) the Planning Board; and f) by the Merrimack Valley Planning Commission.

10.51 Submission of Amendment to Planning Board

Within fourteen (14) days of the receipt of an application for an amendment to this Bylaw, the Board of Selectmen shall submit the proposed amendment to the Planning Board for review. The Planning Board shall hold a public hearing on any North Andover Town Meeting Warrant Article to amend the Zoning Bylaw or the zoning map and shall report its recommendations thereon, if any to the Town Meeting.

Each warrant article to change the zoning map shall explicitly state the nature, extent, and location of the map change proposed and shall be accompanied by:

1. Three blackline prints of a diagram to scale showing and stating clearly the dimensions in feet of the land area proposed to be changed as to zone;
2. Also a sketch or other explicit identification of the location of such land in relation to the majority of the rest of the town.

10.52 Public Hearing

Within sixty-five (65) days after receipt of a proposed amendment from the Board of Selectmen, or within sixty five (65) days after the receipt of an application for a Special Permit, the Planning Board or Zoning Board of Appeals, as the case may be, shall hold a public hearing, notice of which shall be published in a newspaper of general circulation covering the town once in each of two (2) successive weeks. The first publication may not be less than fourteen (14) days before the day of the hearing, (the date of the public hearing shall not be counted in the fourteen (14) days).

Additionally, notification of the public hearing shall be posed in a conspicuous place in the North Andover Town Hall for a period of not less than fourteen (14) days before the date of the hearing. Further, notification of the public hearing shall be sent to the Massachusetts Department of Community Affairs, the Merrimack Valley Planning Commission and Planning Board of all abutting cities and towns prior to public hearing date. Notice of the public hearing shall include: a) the time and place of hearing; b) the subject matter; c) the place where texts and maps may be inspected.

10.53 Report by Planning Board

No vote to adopt the proposed amendment shall be taken by the Town Meeting until the report with recommendations by the Planning Board has been submitted to the Town Meeting or until twenty-one (21) days after said hearing has elapsed without submission of said reports or submissions. After such notice, hearing, and report, or after twenty-one (21) days shall have elapsed after such hearing, without submission of such report, the Town Meeting (annual or special) may adopt, reject, or amend any such proposed amendment.

10.54 Failure to Adopt

If the Town Meeting fails to vote to adopt any proposed Bylaw amendment within six (6) months after the hearing described heretofore, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as heretofore provided.

10.55 Repetitive Petitions

If any proposed Bylaw amendment thereto is acted upon unfavorably by the Town Meeting (annual or special), it shall not be acted upon again for a period of two (2) years from the date of the unfavorable action unless the Planning Board recommends in favor of the petition in the report.

10.56 Procedural Defects

In accordance with Chapter 40A, no claim or invalidity of this Bylaw or any amendment to this Bylaw arising out of a possible defect in the procedure of adoption or amendment shall be made in any legal proceeding and no state, regional, county, or municipal officer shall refuse, deny, or revoke any permit, approval, or certificate because of any such claim of invalidity unless such claim is made within one hundred twenty (120) days after the adoption of the Bylaw or amendment. Notice specifying the court, parties, invalidity claim, and date of filing is filed together with a copy of the petition, with the Town Clerk within seven (7) days after commencement of the action.

10.57 Effect of Subsequent Amendments

In the case of amendments to this Bylaw or changes in the districts or the boundaries subsequent to the date this Bylaw becomes effective, the right to continue the use or maintenance of any building, structure, or premises which was lawful when such amendment or change, except as provided by statute, specifically: that construction or operations under a building permit or Special Permit shall conform to any subsequent amendment unless the use or construction is commenced within a period of not less than six (6) months after the issuance of the permit, (the date of issuance shall be considered to be the date on which the building permit was issued or in the case of a Special Permit, the date on which the Planning Board voted final action) and in cases involving construction unless such construction is contained through completion as continuously and expeditiously as is reasonable.

10.6 Conflict of Laws

In general, this Bylaw is supplementary to other North Andover Bylaws affecting the use, height, area, and location of buildings and structures and the use of premises. Where this Bylaw imposes a greater restriction upon the use, height, area, and location of buildings and structures and the use of premises than is imposed by other Bylaws, the provisions of this Bylaw shall control.

10.7 Validity

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

10.8 Repetitive Petitions

When 1) the Planning Board denies an application for a Special Permit; or 2) the Board of Appeals denies a petition or a variance, no application on the same matter may be heard and acted favorably upon for a two (2) year period unless the following conditions are met:

In the case of 1) above, four (4) of the five (5) members of the Planning Board find that there are specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the records of it proceedings, and only after a public hearing at which such consent will be considered and after notice is given to the parties in interest.

In the case of 2) above, the Zoning Board of Appeals may not act favorably upon a petition which has been previously denies within a two (2) year period of time unless four (4) of the five (5) members of the Zoning Board of Appeals find that there are specific and material changes in the conditions upon which the changes in the records of its proceedings and only after a public hearing, held by the Planning Board, at which consent to allow the petitioner to re-petition the Zoning Board of Appeals will be considered and after notice is given to parties in interest and only with four (4) of the five (5) members of the Planning Board voting to grant consent.

10.9 Withdrawal Without Prejudice

Any petition for a variance which has been transmitted to the Zoning Board of Appeals or any application for a Special Permit which has been transmitted to the Planning Board may be withdrawn, without prejudice, by the petitioner prior to the publication of notice of a public hearing thereon, but thereafter be withdrawn without prejudice only with approval (majority vote) of the Zoning Board of Appeals or Planning Board respectively.

SECTION 11 PLANNED DEVELOPMENT DISTRICT

11.1 Jurisdiction

The Planning Board may grant a Special Permit for construction of a PDD in the following district: I-S. The Special Permit shall conform to this Bylaw and to G.L. Chapter 40A, Section 9, and to regulations which the Planning Board shall adopt for carrying out its duties hereunder. Except as set out hereunder, or in the Planning Board's regulations, or in a specific permit granted hereunder, the provisions of the Zoning Bylaw shall continue to govern.

11.2 Purpose

The purpose of the PDD District is to provide for a mixture of land usage at designated locations at greater density and intensity than would normally be allowed provided that said land usage:

1. Does not detract from the livability and aesthetic qualities of the environment.
2. Is consistent with the objectives of the Zoning Bylaw.
3. Promotes more efficient use of land while protecting natural resources, such as water resources, wetlands, floodplains, and wildlife.
4. Promotes diverse, energy-efficient housing at a variety of costs.

11.3 Procedures

1. Pre-Application Conference
   Prior to the submission of an application for a Special Permit, the applicant at his option may confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

2. Submission of Preliminary Plans
   The applicant shall file a preliminary plan accompanied by the form titled "Submission of Preliminary Plan, Planned Development" to the Planning Board at a regularly scheduled meeting. A copy of the preliminary plan and the above form shall also be filed in the Office of the Town Clerk. The Planning Board, within sixty (60) days from receipt of the plan by the Town Clerk, shall review and determine whether the proposed project is consistent with the most suitable development of the town. The Planning Board may suggest modifications and changes to the preliminary plan in anticipation of the filing of
   the definitive plan. If the Planning Board fails to act within sixty (60) days, the applicant may proceed to file his definitive plan.
   Contents of Preliminary Plan: Planned Development District:
   a. Planned Development Boundaries, north point, date, scale, legend, and title "Preliminary Plan: Planned Development:, the name or names of applicants, and engineer or designer.
   b. Names of all abutters, land uses, and approximate location and width of all adjacent streets.
   c. In a general manner, the existing and proposed lines of streets, ways, easements, and of any public areas within or next to the Planned Development.
   d. The approximate boundary lines of existing and proposed lots with approximate areas and dimensions.
   e. The proposed system of drainage, including adjacent existing natural waterways and the topography of the land in a general manner.
   f. Existing and proposed buildings, significant structures and proposed open space in a general manner.
   g. An analysis of the natural features of the site, including wetlands, floodplains, slopes over 12%, soil conditions, and other features requested by the Planning Board.

h. A description of the neighborhood in which the tract lies, including utilities and other public facilities and the general impact of the proposed PDD upon them.
i. A summary of environmental concerns relating to the PDD.

3. Submission of Definitive Plan:
The applicant shall submit an application for a Special Permit accompanied by the original of the definitive plan plus twelve (12) copies thereof.

Contents of Definitive Plan:
The application for a Special Permit and Site Plan Review shall be accompanied by the original copy of the definitive plan and other data required to be submitted in triplicate and shall contain the following data: All items in "Contents of the Preliminary Plan: Planned Development District" (a through and including i) shall be incorporated.

a. It shall be drawn at a scale of one-inch equals forty feet unless another scale is requested and found suitable by the Planning Board.
b. The Plan shall be prepared by a land surveyor, professional engineer, or architect.
c. The scale, date, and north arrow shall be shown.
d. The plan shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
e. The corner points of the lot and change of direction of lines shall be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker and shall be so marked.
f. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.
g. Easements within the lot and abutting thereon.
h. The location of existing or proposed buildings on the lot.
i. The location of existing wetlands, water bodies, wells, 100 year floodplain elevation and other natural features requested by the Planning Board.
j. The dimensions of the existing and proposed buildings in feet.
k. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
l. Percent of the lot coverage.
m. Average finished grade of each proposed building.
n. The elevation above average finished grade of the floor and ceiling of the lowest floor of each proposed building.
o. Existing and proposed topographical lines at two (2) foot intervals.
p. The use designation of each building or part thereof, and of each section of open ground, plaza, or usable roof space.
q. Numbering of parking spaces.
r. Height of all proposed buildings, above average finished grade of abutting streets.
s. Number of apartments, meeting rooms, and restaurant and theater.
t. Total square feet of floor space of all landscape and recreation areas, and depiction of materials to be used (grass, 5-foot shrubs, etc.).
u. Deed or other recorded instrument that shows the application to be the owner or owner under option of the land to be designated as a Planned Development.

11.4 Minimum Requirements

The Plan shall be subject to the following conditions and the Planning Board shall make a determination that the project meets all the following conditions:

1. The project is consistent with the purposes set out in Section 2.
2. If more than twenty-five percent (25%) of the PDD is located within a residential district, at least fifty-one percent (51%) of the building area and accessory facilities in the PDD shall be used for residential purposes.
3. Ingress and egress for traffic flow is designed properly so that there will be no serious hazard to vehicles or pedestrians.
4. Adequate parking facilities are provided for each use and structure in the development.
5. Major facilities or functions which require citing within scenic areas are designed to be visually compatible with the natural or historical characteristics.
6. The project does not adversely affect the natural environment to the detriment of community character and public health and safety.

11.5 Permitted Uses

In a Planned Development District, the following uses are permitted:

1. Residential
   a. Detached 1, 2, or 3 family residential structures.
   b. Apartment Houses
   c. Town Houses

2. Business
   a. Restaurant
   b. Theater, Museums
   c. General retail sales and service (except retail sales of automobile, mobile homes, house trailers and except automobile service station).
   d. Banks and financial services.
   e. Business and professional offices.
   f. Personal services.
   g. Recreation

3. Industrial Use
   a. Any uses which the Planning Board determines are not injurious to the safety or general welfare of the area.

Area Regulations

PDD Site Area

No PDD shall be permitted on a site of less than 60,000 square feet.

Usable Open Space

In all PDD's, at least twenty percent (20%) of the land shall be set aside as permanent usable open space, for the use of the PDD residents, or for all PDD users, or for the community. The required open space shall be conveyed to the Conservation Commission or to a non-profit conservation organization, or to a corporation to trust representing persons responsible for the PDD, and shall be protected by a conservation restriction as required by G.L. Chapter 40A, Section 9 for common open space in cluster developments. A covenant shall be placed on the land such that no part of the PDD can be built, sold or occupied until such time as a satisfactory written agreement has been executed for protection of the open space.

Setback Requirements
Insofar as the PDD abuts a residential district, all proposed structures and facilities within the PDD shall be set back not less than twenty-five (25) feet from adjacent property lines or adjacent street lines where the PDD shall be separated or shielded from adjacent property lines by means of a buffer, fencing, setbacks, or appropriate landscaping.

Notwithstanding anything to the contrary in this Bylaw, an Applicant for a Planned Development District Special Permit may propose a sign master plan for the District which, if approved by the Planning Board, may allow for signage which deviates from the specific sign requirements of the Zoning Bylaw, including Section 6.6, provided that such signage would, in the opinion of the Planning Board, be consistent with the general purpose and intent of Section 11.2 (Purpose of Planned Development District);

11.6 Relation to Subdivision Control Act

Approval of a Special Permit hereunder shall not substitute for compliance with the Subdivision Control Act, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time period for Board consideration under that law. However, in order to facilitate processing, the Planning Board may insofar as practical under existing law, adopt regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board's regulations under the Subdivision Control Act.

SECTION 12 LARGE ESTATE CONDOMINIUM CONVERSION

12.1 Purpose

The purpose of this subsection is to permit existing buildings or large tracts of land in Residence Districts 1, 2, and 3 to be converted to single family condominium dwelling unit compatible with such residence districts, to create new housing involving relatively little new construction, to generate tax revenue to the Town, to preserve existing buildings, to preserve the residential character of the Town and to preserve open space in the Town. In order to provide for development that is compatible with Residence Districts 1, 2, and 3, which districts are primarily for single-family residences, the conversions to dwelling units under this subsection are to condominium dwelling units, which can be separately owned, and are therefore a type of development similar in character to other development in such districts.

12.2 Requirements

Properties meeting the following requirements shall be eligible for consideration for a condominium conversion Special Permit:

1. Parcels with one (1) or more existing buildings in a Residence 1, 2, or 3 District of not less than ten (10) acres and with not less than one hundred and fifty (150) feet of frontage on the public way.
2. Any dwelling located on a lot of record as of April 24, 1982 may be converted to condominium dwelling units.
3. The total number of dwelling units that can be created under a condominium conversion Special Permit shall not exceed n-2, where "n" is the number of acres in the parcel.
4. Each condominium dwelling unit shall be an independent dwelling unit intended for use by a single family, with its own bath and toilet facilities and its own kitchen. The average square footage of the interior living space of the units shall be not less than eight hundred and fifty (850) square feet per unit.
5. No building (including both buildings converted to condominium dwelling units and other buildings not converted to condominium dwelling units) shall be externally enlarged except with the approval of the Planning Board, and in no event shall such enlargement add to any one building more floor area than a number equal to five percent (5%) of the above grade floor area of such building, the floor area of porches and decks to be included in the calculations of floor area.
6. No new building for dwelling purposes may be built on the parcel. New structures may be built pursuant to paragraph 8 (b) below.
7. Parking requirements are subject to Section 8 of the Zoning Bylaw.
8. For the purposes of this subsection, "open space" shall mean all the land on the parcel except that land occupied by buildings to be converted to condominium dwelling units and existing buildings to be used for parking purposes. To insure that preservation of open space, the following requirements shall be met:
    a. Open space may be used for the following purposes: flower gardens, gardens, landscaping, required parking, roadways and driveways reasonably necessary for the development, underground utilities, recreation not requiring any facility or structure, and land left in its natural state. The open space may be used for other purposes permitted in the residence district if approved by the Planning Board as consistent with the condominium development and character of the neighborhood.
    b. On open land all facilities and structures for accessory purposes (such as swimming pools, tennis courts, garages, carports, parking areas, lamp posts, small sheds for tools or sports equipment, fences, including the kind enclosing a tennis court or swimming pool, bath houses, and other accessory structures for accessory purposes) shall be subject to the approval of the

planning Board as to their number, design, locations, uses, and sizes; provided, however, that all such facilities and structures, including roadways and driveways, shall not involve the use of more than twenty percent (20%) of all of the open land on the parcel.

c. All new utilities, including wiring for lights on open space, paths, and driveways, shall be placed underground.

12.3 Contents of Application

An application for a condominium conversion Special Permit shall include the following:

1. Proposed Master Deed and proposed plans to be recorded therewith, including floor plans, at least one (1) elevation for each building being converted to dwelling units, and a site plan for the parcel locating at least each building, roadways and driveways, parking, recreation facilities, utilities, and accessory facilities and structures.
2. Proposed Bylaws.
3. A sample proposed Unit Deed.
4. A locus plan showing the parcel and all land immediately adjacent thereto, including nearby buildings and structures.
5. Such other plans, photographs, models or elevations as the Planning Board shall reasonably deem necessary or appropriate to help understand the proposal.

12.4 Change in Application

After a condominium conversion Special Permit has been granted, any change in the location or use of a building, any enlargement of a building, any material exterior restoration, any material change in the use of open space, or in the facilities or structures thereon, shall not be permitted except upon an amendment to the Special Permit which shall be upon petition of the Planning Board and after a public hearing (with the provisions of Paragraph 12.5 applying) and upon a finding by the Planning Board that the proposed change or changes do not substantially derogate from the intent and purpose of this subsection.

12.5 Review by the Planning Board

Prior to recording, a Special Permit granted under this section shall be subject to the review by the Planning Board of the final plans, and of the Master Deed, and plans to be recorded therewith, and Bylaws, as they are to be initially recorded, which final plans, Master Deed, plans and Bylaws shall all be substantially the same as those approved with the Special Permit in all respects material to considerations relevant to the Special Permit, in which case the Chairman of the Planning Board shall endorse copies of such final plans and such Master Deed, plans and Bylaws having received final review and approval under this subsection, which endorsement shall be conclusive evidence thereof. Thereafter, the Master Deed and plans recorded therewith, and Bylaws may be amended without Planning Board approval; provided, however, that an amendment to the Special Permit shall be required for those matters specified in Paragraph 12.4 thereof. Any amendment to the Master Deed and plans recorded therewith and Bylaws related to an amendment to the Special Permit shall be endorsed by the permitted District (s) with greater flexibility from the pattern otherwise permitted in such districts.

SECTION 13 CONTINUING CARE RETIREMENT CENTER

13.1 Establishment

There is established a Continuing Care Retirement Center (CCRC) as a permitted use under the Special Permit provision of this Bylaw. Such permitted use may only be authorized in existing Residence 1, Residence 2 and Village Residential Districts. A CCRC parcel may include land which is in the Residential-1 District, provided that no development shall be permitted in the Residential-1 portion of a CCRC parcel in excess of ten percent (10%) of the lot areas of the Residential-1 portion within such CCRC parcel. The authorization will empower the Planning Board to review and approve a definitive plan under the Special Permit provisions in Section 10.3 and as in otherwise provided for in this section. A CCRC shall include a nursing home care facility and congregate housing units and may also include independent dwelling units and assisted living units. A CCRC may also only include any or all of the foregoing housing types provided it is affiliated with a nursing home.

13.2 Purpose

The purpose of the CCRC is to provide for the development and use of specialized housing and nursing care for the elderly on the basis of the Planning Board to issue a Special Permit in the permitted Districts with greater flexibility from the pattern otherwise permitted in such districts. It is intended to create health care, including home health care, housing and other supportive services designed to meet the needs of the elderly population and to enable that population to live independently. It is further intended to encourage the preservation of open spaces; to allow for new nursing care facilities and housing that causes relatively little demand on Town services; and to preserve the Town's residential character. In creating an alternative to existing nursing and housing possibilities for the elderly, the CCRC is intended to allow for a greater mixture of buildings, structures and uses with regard to density than is otherwise permitted thereby allowing for the nursing care of the elderly and the relief of the physical, economic and emotional stress associated with the maintenance and care of traditional nursing home and residential properties.

13.3 Definitions

a. Nursing Care Facility. A facility for the care of elderly persons requiring regular attention by medical or nursing personnel for reasons of age, ill health or physical incapacity and which has been licensed as a long-term care facility by the Massachusetts Department of Public Health.
b. Congregate Housing Units. Dwelling units providing private or communal living for elderly persons who ordinarily are ambulatory and require no or limited medical attention or supervision. Such dwelling units shall consist of a room or group of rooms forming a habitable unit for one, two, or three persons, with facilities used, or intended to be used, for living, bathing, cooking, eating and sleeping.
c. Independent Dwelling Units. Dwelling units similar in character and use to congregate housing units and providing elderly residents of such units with access to all supportive services provided in congregate housing units. Independent dwelling units may only consist of free-standing buildings which contain up to five (5) dwelling units per structure.
d. Assisted Living Units. Dwelling units for elderly individuals or couples in need of assistance with activities of daily living. Such dwelling units may not include facilities for cooking or eating.
e. Elderly. A single person who is 62 years of age or older; or two or more persons sharing a household, the older of whom is 62 years of age or older.
f. Wetlands. Any area within a parcel of land in a CCRC falling within the definition contained in Chapter 131 of the General Laws of Massachusetts as amended from time to time, or any regulations promulgated pursuant to said chapter.
g. Home Health Care. Medical and therapeutic services provided to residents in their dwelling units.

13.4 Permitted Uses

A. Principal uses. The following uses shall be permitted in a CCRC:
   1. Nursing care facilities;
   2. Congregate housing units;
   3. Independent dwelling units;
   4. Assisted living units;
   5. Home health care;
   6. Facilities for supportive services, including, but not limited to medical, rehabilitative, recreational, social and nutritional programs, dining and function rooms, kitchens facilities and laundry facilities. These and others shall be designed for the primary use of residents. Such supportive services may not be designed or used as a general business for the larger community of North Andover and environs.
   7. Any other use deemed reasonably necessary or ancillary by the Planning Board to facilitate the uses described above, meaning and intending to permit those services and programs customarily offered in CCRC.

13.5 Standards and Restrictions

a. Minimum Lot Size. A CCRC shall be permitted only within a single lot containing a total area of not less than twenty-five (25) acres. Existing public or private ways need not constitute boundaries of the lot, but the area within such ways shall not be counted in determining minimum lot size. As used in Section 13, parcel and lot shall have the same meaning.
b. Permissible Density. Unless in compliance with the bonus density provisions of subsection 6., the dwelling unit density shall not exceed an average of four (4) units per acre in a parcel which is located within the Residential-1 District or Residential-2 District and five (5) units per acre in a parcel which is located within the Village Residential District exclusive of the nursing care facility. When a parcel is located in a combined portion of either the Residential-2 and Residential-1 Districts or the Village Residential and Residential-1 Districts, a density factor of 2 units per acre shall be applicable to the portion in the Residential-1 District. However, in no instance shall any development such as the construction of buildings, roads and parking lots be permitted in excess of ten percent (10%) of the lots area in that portion of the CCRC parcel located in the Residential-1 District nor shall any development in Residential-2 or Village Residential District adversely impact the Residential-1 District. For parcels which are located in a combined portion of the Residential-1 or Residential-2 Districts and the Village Residential Districts, the permissible density for each District shall be applicable. Also, in no event shall the total number of independent dwelling units exceed fifteen (15) percent of the total number of dwelling units otherwise allowed in any CCRC parcel. Further, in no instance shall the Floor Area ration of the entire project exceed 0.25, nor shall the total number of dwelling units exceed 300 for any parcel regardless of total acreage or density bonuses provided under paragraph 6.
c. Maximum Lot Coverage. In no event shall the maximum lot coverage of buildings and structures exceed twenty-five (25) percent.
d. Dimensional Requirements.
   1. Perimeter Setback. The setback area is intended to provide a perimeter greenbelt around the CCRC except for road and utility crossings. No building or other structure shall be located within one hundred (100) feet of perimeter lines of CCRC parcel. Common open space lying within a setback area shall qualify as fulfilling this requirement. A perimeter landscaping plan shall be submitted to the Planning Board for its approval provided that nothing shall prevent the construction of walls and fences. The Planning Board may authorize or require landscaping

in the Residential-1 District if it is consistent with the objective of screening the CCRC from existing or potential residential development.

2. Minimum Frontage. Frontage on any public street or way shall be one hundred fifty (150) feet, except on Route 114 where for reasons of public safety, the minimum frontage shall be two hundred fifty (250 feet).
3. Maximum Height. The height of any structure shall not exceed three (3) stories and in no event more than thirty-five (35) feet, excluding bulkheads, chimneys, flagpoles, mechanical penthouses, and similar traditional roof appurtenances. Further, the Planning Board may exempt ornamental or non-habitable architectural features added for aesthetic purposes.

e. Common Open Space. Land within the CCRC parcel or lot which is not specifically reserved for the support of the CCRC facilities and which is not covered by buildings, roads, driveways, parking areas, or service areas which is not set aside as private yards, patios or gardens for residents shall be Common Open Space. Further, all Common Open Space shall be open and unobstructed to the sky; flagpoles, sculptures, benches, swimming pools, tennis courts, atriums, trees and similar objects shall not be considered obstructions. The area of Common Open Space shall equal at least fifty (50) percent of the total area of the CCRC parcel or lot and no more than twenty-five (25) percent of the minimum required Common Open Space shall be situated within wetlands. The Common Open Space shall have a shape, dimension, character and location suitable to enable its enjoyment and use for conservation, recreation and agriculture purposes by the residents of the CCRC. Further a permanent conservation restriction of the type described in MGL Chapter 184, Section 31, (including future amendments thereto and corresponding provisions in future laws) running to or enforceable by the Town shall be recorded in respects to the Common Open Space. Such restrictions shall provide that the common open space shall be retained in perpetuity for one or more of the following uses: conservation, recreations or agriculture. Such restriction shall be in a form and substance as the Planning Board shall prescribe including the management of said conservation restriction by the Town Conservation Commission, Trustees of Reservations, Essex County Greenbelt Association or other agency or body, all as subject to the approval of the Planning Board.

f. Parking. The minimum number of parking spaces provide in connection with the uses permitted under this section shall be as follows:
   1. Nursing Care Facility. One parking space for every sleeping room for single or double occupancy.
   2. Congregate Housing, Assisted Housing and Independent Dwelling Units. One parking space for each unit. The Planning Board shall have the discretion to waive the applicant's compliance with these parking requirements provided that the applicant's plans demonstrate the capacity to fully comply with all other requirements of Section 13.

g. Public Safety. The Planning Board shall require all CCRC applications to include statements, drawings and/or plans indicating that all applicable public safety (including fire safety and suppression devices) have been provided as required by law. Further, in recognition of the unique requirements of the elderly for protection against the hazards due to fire, applicants are advised to incorporate sprinkler systems in accordance with provisions of the National Fire Protection Association (NFPA 13D).

h. Public Sewer. All CCRC projects shall be connected to the public sewer system. The North Andover Department of Public Works shall review all proposed sewering plans and report as to their adequacy to the Planning Board.

13.6 Bonuses

a. Affordable Housing. For all CCRC's the total number of allowable dwelling units may be increased up to 50%, if the applicant designates at least 10% of the total number of units for uses

as affordable housing units. Such units may be rented, sold or otherwise provided to elderly persons qualified to receive federal or state rental assistance or subsidies for reducing mortgage payments in accordance with income and assets limitations established by the authorizing state or federal agency. The applicant may choose to meet affordable housing requirements directly by utilizing similar income and assets standards and establishing rents, sales prices or entry fees for units which are determined to be generally consistent with those established under the various subsidy programs. For this purpose, the Planning Board in consultation with the Housing Authority, any establish rent, carrying charge, maintenance fee, sales price or entry fee in order to meet the requirements for affordable housing. Such units shall be maintained as affordable housing units for the life of the CCRC development. In the event that the applicant is unable to meet its obligations in the manner prescribed above, or as an alternative program, the Planning Board may allow the applicant to contribute funds, in lieu of housing units, to the: Town, Housing Authority or any public or non-profit agency which is authorized to develop or support affordable housing for the elderly. The rate of contribution shall be two (2) dollars per square foot of gross floor area of all buildings and structures exclusive of pools and parking. The granting of this density bonus shall not exempt the applicant from meeting any of the other requirements of this or other referenced section of the Bylaw.

b. Open Space. The total number of allowable dwelling units may be increased by 15% if the proposed CCRC provides 75% usable open space consistent with the definition of open space in this section. The granting of this bonus density shall not exempt the applicant from meeting any of the other requirements of this or other referenced sections of the Bylaw.

13.7 Approval

a. Facilities proposed to be built in a CCRC shall be subject to the following procedures:
   1. The applicant shall be required to meet with the Planning Board to discuss the provisions of Section 13 and other referenced Sections, the elements of the proposed development and the requirements and specific provisions of the preliminary site plan to the Planning Board for its review and recommendations.
   2. The applicant will be required to submit a "Definitive Plan" in accordance with the applicable provisions of Section 11.3. The Planning Board may issue a special permit if is determines that all of the applicable requirements for the CCRC have been met and the definitive plan is generally consistent with the preliminary site plan.

b. <u>Relationship to Subdivision Regulations</u>. The requirements of the special permit in no way or manner release the applicant from the requirements of the Subdivision Regulations of the North Andover Planning Board.

c. <u>Density Bonus Limitations</u>. The use of all density bonuses provided herein may not exceed 50%.

SECTION 14 INDEPENDENTLY ELDERLY HOUSING

14.1 Establishment

Independent Elderly Housing shall be permitted use under the special permit provisions of this Bylaw in the Residential-3 District. The Planning Board may review a definitive plan under the special permit provisions in Section 10.3 and as is otherwise provided in this section.

14.2 Purpose

The purpose of an Independent Elderly Housing special permit is to provide an alternative and supplement to the traditional forms of elderly housing promoted by the Town. It is further intended to encourage the preservation of open space; and to preserve the Town's residential character.

14.3 Definition

Independent Elderly Housing is a multi-family residential structure, each dwelling unit with separate access; restricted to individuals and couples 55 years of age and older, but not excluding physically or mentally handicapped individuals.

14.4 Permitted Uses

Single, duplex and multi-family residential structures.

14.5 Standards and Restrictions

a. Minimum Lot Size: A single lot at least 10 acres.
b. Permissible Density: Four dwelling units per acre, with no more than eighty (89) dwelling units in any one independent elderly housing development, or not more than one hundred (100) in the event of compliance with the provisions of paragraph 6 below (Density Bonus); and in no instance shall the maximum FAR exceed 0.20.
c. Maximum Lot Coverage: In no event shall the maximum lot coverage of buildings exceed twenty-five percent (25%).
d. Setbacks:
    1. Perimeter Setback: The setback area is intended to provide a perimeter greenbelt around any independent elderly housing development except for roads and utility crossings. No building or other structure shall be located within one hundred (100) feet of the perimeter lot lines of an independent elderly housing development.
    2. Minimum Frontage: Frontage: Frontage on any public street or way shall be one hundred fifty (150) feet, except Route 114 where for reasons of public safety shall be two hundred fifty (250) feet.
    3. Maximum Height: The height of any structure shall conform to the height requirement of the R-3 District.
e. Common Open Space: All land within the parcel or lot which is not specifically reserved for the support of dwelling units and which is not covered by buildings, roads, driveways, parking areas or service areas, or which is not set aside as private yards, patios or gardens for residents shall be common open space. Further, all common open space shall be open and unobstructed to the sky; flagpoles, sculptures, benches, swimming pools, tennis courts, atriums, trees and similar objects shall not be considered obstructions. The area of common open space shall equal at least fifty (50) percent of the total area of parcel or lot and not more than twenty-five (25) percent of the minimum required common open space shall be situated within wetlands. The common open space shall have a shape, dimension, character and location suitable to enable its enjoyment and use for conservation, recreation and agriculture purposes by the residents. Further, a permanent conservation restriction of the type described in MGL Chapter 184, Section 31 (including future

amendments thereto and corresponding provisions in future laws) running to or enforceable by the Town shall be recorded in respect to the common open space. Such restrictions shall provide that the common open space be retained in perpetuity for one or more of the following uses: conservation, recreation or agriculture. Such restriction shall be in a form and substance as the Planning Board shall prescribe including the management of said conservation restriction by the Town Conservation Commission, Trustees of Reservations, Essex County Greenbelt Association or other agency or body, all as subject to the approval of the Planning Board.

f. Parking: Two off-street parking spaces per dwelling unit.
g. Public Sewer: All projects shall be connected to the public sewer system. The North Andover Department of Public Works shall review all proposed sewering plans and report as to their adequacy to the Planning Board.
h. Approval: Facilities and/or units proposed to be built as Independent Elderly Housing shall be subject to the following procedures:
    1. The applicant shall be required to meet with the Planning Board to discuss the provisions of Section 14 and the referenced section, the elements of the proposed development and the requirements and specific provisions of the preliminary site plan. The applicant shall submit a preliminary site plan to the Planning Board for its review and recommendations.
    2. The applicant will be required to submit a "Definitive Plan" in accordance with the applicable provisions of Section 11.3. The Planning Board may issue a special permit if it determines that all of the applicable requirements for independent elderly housing have been met and the definitive plan is generally consistent with the preliminary site plan.
        i. Relationship to Subdivision Regulations: The requirements of the special permit in no way or manner release the applicant from the requirements of the Subdivision Regulations of the North Andover Planning Board.

14.6 Density Bonus

a. Affordable Housing: For all Independent Elderly Housing, the total number of allowable dwelling units may be increased by 25%, if the applicant designates at least 10% of the total number of units for use as affordable elderly housing units. Such units may be rented, sold or otherwise provided to elderly persons qualified to receive federal or state rental assistance or subsides for reducing mortgage payments in accordance with income and assets limitations established by the authorizing state or federal agency. The applicant may choose to meet affordable housing requirements directly by utilizing similar income and assets standards and establishing rents, sales price of entry fees for units which are determined to be generally consistent with those established under the various subsidy programs. For this purpose, the Planning Board in consultation with the Housing Authority, may establish the rent, carrying charge, maintenance fee, sales price or entry fee in order to meet the requirements for affordable housing. Such units shall be maintained as affordable housing units for the life of the Independent Elderly Housing development. In the event that the applicant is unable to meet its obligations in the manner prescribed above, or as an alternative program, the Planning Board may allow the applicant to contribute funds, in lieu of housing units, to the: Town, Housing Authority or any public or non-profit agency which is authorized to develop or support affordable elderly housing. The rate of contribution shall be two (2) dollars per square foot of Gross Floor Area of all buildings and structures exclusive of underground parking or swimming pools. The granting of
this density bonus shall not exempt the applicant from meeting any of the other provisions of this or other referenced sections of this Bylaw.

SECTION 15 PLANNED COMMERCIAL DEVELOPMENT DISTRICT

15.1 OBJECTIVES

The Planned Commercial Development District is intended:

a. to allow considerable flexibility under a special permit in the development of tracts of land as recommended in the Town of North Andover Master Plan in accordance the goals and objectives in the Master Plan;
b. to allow a developer to propose a site development use and plan unique to a particular location;
c. to provide under the special permit process a mechanism for the Planning Board to evaluate the potential impacts of a proposed development;
d. to permit a development which is compatible with the character of the Town and which benefits economic development of the Town;

15.2 PERMITTED USES

a. The following uses are permitted:
   i. Walk-In Bank: A free standing building with its own parking lots and excluding drive-through windows.
   ii. Business and other offices;
   iii. All uses allowed in the R-4 Zoning District as set forth in Section 4.122 of the Zoning Bylaw;

15.2.1. PRINCIPAL USES

15.2.1 (a) The following uses are allowed only by special permit pursuant to this Section 15 of the Bylaw:

i. Hotel or Motel (limited to one in each 2,000 linear feet of street or highway as measured along the frontage);
ii. Art Gallery;
iii. Funeral Parlor;
iv. Restaurants where the business primarily serves food to be consumed in within the building excluding "fast food and drive through" establishments; A fast food and drive through establishment is defined as a restaurant characterized by a large carryout clientele; long hours of service [some are open for breakfast, all are open for lunch and dinner, some are open late at night or 24 hours]; and high turnover rates for eat-in customers.
v. Retail uses, provided there is no outdoor storage or sale of materials or products;

15.2.2. ACCESSORY USES

i. Eating and drinking establishments within an office building for use principally by those employed within the structure;
ii. Private parking garages accessory to allowed principal uses;
iii. Indoor recreational facilities such as tennis and racquetball courts as an accessory to a hotel or motel for use principally by the guests of the hotel or motel. Public memberships to the recreational facilities are not allowed.
iv. No other uses shall be allowed.

15.3 DIMENSIONAL REGULATIONS

a. Residential Dimensional requirements for the R-4 zone shall be as set forth in Summary of Dimensional Requirements (Table II)
b. Commercial:
   i. Minimum Lot Size: 150,000 s.f.

ii. Height Maximum: 35 feet (a hotel only may be constructed in height to a maximum of (60 feet);
iii. Street frontage: 300 feet
iv. Front setback: 100 feet with the first 50 feet as a visual buffer which shall remain open and green, be suitably landscaped, un-built upon, unpaved and not parked on.
v. Side setback: 50 feet (except when directly adjacent to a residential use where it is 100 feet with a 50 foot visual buffer which shall remain open and green, be suitably landscaped, un-built upon, unpaved and not parked on).
vi. Rear setback: 50 feet (except when directly adjacent to a residential use here it is 100 feet with a 50 foot visual buffer which shall remain open and green, be suitably landscaped, un-built upon, unpaved and not parked on).
vii. Floor Area Ratio: 75:1
viii. Lot coverage: maximum of 25%
ix. Contiguous Buildable Area: 75% of minimum lot size.

15.4 SPECIAL PERMIT GRANTING AUTHORITY

The Planning Board shall be the Special Permit Granting Authority (SPGA) for the issuance of Planned Commercial Development District Special Permits. No structures associated with principal and accessory uses shall be placed, constructed or modified within the Planned Commercial Development District without first obtaining a Planned Commercial Development special permit from the Planning Board. 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

15.4.1 Procedures for Obtaining a Planned Commercial Development District Special Permit in accordance with Section 15.

A. <u>Pre-Application Conference</u>

Prior to the submission of an application for a Planned Commercial District Special Permit, the applicant is encouraged to confer with the Town Planner to obtain information and guidance regarding the development of the parcel. After such initial consultation with the Town Planner, the applicant may meet before the Planning Board at a public meeting. Such pre-application consultation shall be informal, non-binding, and directed toward:

• Reviewing the basic concepts of the proposal;
• Reviewing the proposal with regard to the master plan and zoning bylaw;
• Explaining the state and local regulations that may apply to the proposal;
• Preliminary discussion shall not bind the applicant or the Board;

B. <u>Submission of a Planned Commercial Development District Special Permit Application and Plan:</u>

1. Procedures:

i. The applicant shall file eight (8) copies of the Planned Commercial Development District Plan, supporting materials, filing and outside engineering review escrow fees, and three (3) copies of the form titled "Planned Commercial Development District Special Permit Application" to the Planning Board. The Town Planner shall certify that the plans and materials submitted have been time stamped by the Town Clerk's Office and meet the submittal requirements.
ii. The Planning Board, within sixty-five (65) days from receipt of the plan by the Town Clerk, shall determine whether the proposed project is generally consistent with criteria of

the paragraph 15.1 of this Section. The Planning Board will review the plans during a public hearing process and will receive comments from the public, other Town Departments, and the applicant.

iii. The applicant must follow the procedures for obtaining a Special Permit as set forth in Section 10.3 of the Zoning Bylaw.

iv. If applicable, the applicant must follow the procedures for Site Plan Review under Section 8.3 Site Plan Review.

2. Submission Requirements:

The Planned Commercial Development District plan shall include all of the information required under **Section 8.3 (5)** of the Zoning Bylaw in addition to the following:

3. Minimum requirements:

The Plan, at a minimum, shall be subject to the following conditions. The Planning Board shall make a determination that the project meets all of the following criteria:

a. The project is consistent with the objectives set forth in Paragraph 15.1.
b. The proposed project shall not generate traffic flows that, in the opinion of the Planning Board, are excessive for the project location; further, ingress and egress for traffic flow and traffic circulation within the project are designed properly so that there will be no serious hazard to vehicles or pedestrians.
c. Adequate parking facilities are provided for each use and structure in the development.
d. Major facilities or functions are designed to be visually compatible with natural, historical and neighborhood characteristics of the site.
e. The project does not adversely affect the natural environment to the detriment of community character.
f. The project must meet the requirements of Section 8.9, Lot/Slope Requirements.

15.5 RELATION TO SUBDIVISION CONTROL ACT

Approval of a Planned Commercial Development District Special Permit hereunder shall not substitute for compliance with the Subdivision Control Act, nor obligate the Planning Board to approve any related definitive plan for subdivision, nor reduce any time period for Board consideration under that law. However in order to facilitate processing, the Planning Board may insofar as practicable under existing law, adopt regulations establishing procedures for submissions of a combined plan and application which shall satisfy this section and the board's regulations under the Subdivision Control Act. (2004/45).

SECTION 16 CORRIDOR DEVELOPMENT DISTRICT

16.1 Objectives

The Corridor Development District is intended:

1. To control the design of commercial and residential development along the primary corridors for vehicular travel through North Andover (Route 114, Route 133, and Route 125) in such a manner that encourages sound site planning, appropriate land use, the preservation of aesthetic and visual character, and promote economic development and diversity in the community tax base for the Town;
2. To foster a greater opportunity for creative development by providing control and design guidelines which encourage a mix of uses compatible with existing and neighboring residential properties;
3. To accommodate a compatible mixture of uses that complement commercial and residential uses typically associated with transportation corridors and large traffic flows.
4. To serve as a transition area between commercial development and the neighboring residential properties by ensuring that the appearance and effects of buildings and uses are harmonious with the character of the area;
5. To allow considerable flexibility under a special permit in the development of tracts of land as recommended in the Town of North Andover Master Plan in accordance with the goals and objectives in the Master Plan;
6. To allow a developer to propose a site development use and plan unique to a particular location.

16.2 Corridor Development District 1(CDD1) - Permitted Uses

In the Corridor Development District 1, no land shall be used and no building or structure shall be reconstructed, erected, altered or used for any other purpose than the following:

1. Retail uses excluding auto sales and repair provided there is no outdoor sales or storage of materials and products.
2. Restaurants excluding drive-through facilities.
3. Personal service establishments.
4. Public building or use and Public Service Corporation.
5. Professional offices including, but not limited to banks, real estate offices, insurance offices, physician offices, dentists, attorneys, architects, engineers or accountants. No drive-through facilities are permitted with these uses.
6. Art Gallery
7. Cultural Center or Museum
8. Place of worship
9. Same-structure/On-site Mixed Use Developments
    a. Residential uses shall not be located on the first floor of a structure or building.
    b. Apartments and condominiums shall be allowed where such use is not more than fifty percent (50%) of the gross square feet for a two (2) story building and not more than seventy-five percent (75%) of the gross square feet for a three (3) story building.
10. Drive-thru restaurants shall be permitted within the CDD1 zone provided that they are located more than 250 feet from the R6 zoned district.

16.3 Corridor Development District 2 (CDD2) - Permitted Uses

In the Corridor Development District 2, no building or structure shall be reconstructed, erected, altered or used for any other purpose than the following:

1. Retail uses provided there is no outdoor sales or storage of materials and products. However, auto sales and repair are not allowed.
2. Restaurants excluding drive-through facilities.
3. Personal service establishments.
4. Indoor recreation, fitness, and health care facility.
5. Indoor place of amusement or assembly.
6. Public building or use and Public Service Corporation.
7. Professional offices including, but not limited to banks, real estate offices, insurance offices, physician offices, dentists, attorneys, architects, engineers or accountants. No drive-through facilities are permitted with these uses.
8. Art Gallery
9. Cultural Center or Museum.
10. Place of worship.
11. Same-structure/On-site Mixed Use Developments
    a. Residential uses shall not be located on the first floor of a structure or building.
    b. Apartments and condominiums shall be allowed where such use is not more than fifty percent (50%) of the gross square feet for a two (2) story building and seventy-five percent (75%) of the gross square feet for a three (3) story building.
12. Farming, Livestock, Animal Care:
    a. Farming of field crops and row crops, truck gardens, orchards, plant nurseries, and greenhouses.
    b. On any lot of at least three (3) acres, the keeping of a total of not more than three (3) of any kind or assortment of animals or birds in addition to the household pets of a family living on such lot, and for each additional acre of lot size, the keeping of one (1) additional animal or bird up to a maximum of five (5) animals; but not the keeping of any animals, birds, or pets of persons not resident on such lot.
    c. On any lot of at least five (5) acres, the keeping of any number of animals or birds regardless of ownership and the operation of equestrian riding academies, stables, stud farms, dairy farms, and poultry batteries
    d. The sale of products raised as a result of the above uses on the subject land.
13. Fence businesses, fence contractor's yard, sales of sheds, swings sets and like equipment and supplies, including outdoor sales and outdoor storage of material, equipment, and supplies."
14. Drive-Thru restaurants shall be permitted within the CDD2 zone provided that they are located on a parcel or parcels collectively comprising at least five (5) acres or more of land, and further provided that such restaurant structures are located more than 400 feet from a lawfully permitted residential dwelling located within the R-3 zone.

16.4 Corridor Development District 3 (CDD3) - Permitted Uses

In the Corridor Development District 3, no building or structure shall be reconstructed, erected, altered or used for any other purpose than the following:

1. Retail uses provided there is no outdoor sales or storage of materials and products. However, auto sales and repair are not allowed.
2. Restaurants excluding drive-through facilities.
3. Personal service establishments.
4. Indoor recreation, fitness, and health care facility.

5. Indoor place of amusement or assembly.
6. Outdoor place of amusement or assembly.
7. Public building or use and Public Service Corporation.
8. Professional offices including, but not limited to banks, real estate offices, insurance offices, physician offices, dentists, attorneys, architects, engineers or accountants. One drive-through facility shall be permitted every 500 linear feet of street or highway as measured along centerline.
9. Medical Center.
10. Research and Development Facility not to exceed 25,000 square feet.
11. Printing and Reproduction.
12. Warehousing and Wholesaling.
13. Motel and Hotel.
14. Art Gallery.
15. Cultural Center or Museum.
16. Place of worship.
17. Day Care Center.
18. Same-structure/On-site Mixed Use Developments:
    a. Residential uses shall not be located on the first floor of a structure or building.
    b. Apartments and condominiums shall be allowed where such use is not more than fifty percent (50%) of the gross square feet for a two (2) story building and seventy-five percent (75%) of the gross square feet for a three (3) story building.
19. Light Manufacturing, including manufacturing, fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise provided such uses are conducted solely within a building and further provided such uses are not offensive, noxious, detrimental, or dangerous to surrounding areas or the town by reason of dust, smoke, fumes, odor, noise, vibration, light or other adverse environmental effect.

16.5 Uses Subject to a Special Permit

The following uses may be allowed in the Corridor Development Districts by granting of a Special Permit pursuant to Section 8.3 and 10.3 of the Bylaw:

1. No building or structure in excess of 3,000 gross square feet of building area shall be constructed, reconstructed, erected or altered in the Corridor Development District without the granting of the Special Permit. The granting of the Special Permit shall be pursuant to Section 8.3 and 10.3 of the bylaw and subject to the following conditions:"
    a. Submission of a traffic impact and mitigation plan by a professional traffic engineer/consultant.
    b. For those parcels abutting residential zoned properties, sufficient evidence must be provided to demonstrate that no reasonable alternatives to the site layout, site design, and parking configuration exist.
    c. A determination by the Planning Board that the proposed development will not create adverse traffic and safety impacts and neighborhood streets and uses are harmonious with the character of the area.
    d . A determination by the Planning Board that the proposed development provides sufficient screening and buffering for those parcels abutting residential zoned properties.
2. For outdoor storage, display, and sales of materials, products and goods in connection with retail uses and provided:
    a. Permissible area of land devoted to the specially permitted outdoor use may not exceed twenty percent (20%) within CDD1 and thirty percent (30%) within CDD2 of the indoor principal use devoted to retail sales.

b. The products, materials or goods displayed, stored or sold outdoors, by special permit, must not be visible from any residential use.
c. The goods, materials, and products permissible for outdoor storage, display and sales hereunder, shall explicitly exclude automobiles, motorcycles, or other wheeled vehicles and include only goods, materials, and products, which are customarily stored, displayed, or sold outdoors without the necessity for cover from the weather. Fertilizers and other toxic, hazardous chemicals are also excluded herein.
d. The amount of area designated for outdoor storage shall be included in the dimensional requirements for maximum lot coverage.
e. The entire outdoor storage area shall be enclosed by a wall of solid opaque material such as masonry or solid wood fencing which, in the opinion of the Planning Board, will not derogate from the surrounding area.
f. Sufficient landscaping shall be provided around the perimeter of the storage area at the discretion of the Planning Board.
g. Only living plants can be higher than the surrounding vertical structural screening.

3. Banks with a Drive-Through Facility within the CDD-2 District on a parcel or parcels collectively comprising at least five (5) acres or more of land.
4. Contractor's yard, landscaping, lumber or other building materials, including outdoor sales and outdoor storage of material, equipment, and supplies within the CDD3 District provided:
    a) The products, material or goods displayed, stored or sold outdoors must not be visible from any residential use
    b) The goods, materials and products permissible for outdoor storage, display and sales hereunder, shall explicitly exclude automobiles, motorcycles, or other wheeled vehicles and include only goods, materials, and products, which are customarily stored, displayed, or sold outdoors without the necessity for cover from the weather. Fertilizers and other toxic, hazardous chemicals are also excluded herein.
    c) The amount of area designated for outdoor storage shall be included in the dimensional requirements for maximum lot coverage
    d) The entire outdoor storage area shall be enclosed by a wall of solid opaque material such as masonry or solid wood fencing which, in the opinion of the Planning Board, will not derogate from the surrounding area. Sufficient landscaping shall be provided around the perimeter of the storage area at the discretion of the Planning Board.
    e) Only living plants can be higher than the surrounding vertical structural screening.

16.6 Design Standards

1. Any other performance standards of the town shall also apply to uses conducted under this Section 16.6 of the North Andover Zoning Bylaws;
2. Architecture should demonstrate the cohesive planning of the development and present a clearly identifiable design feature throughout. Applicants are encouraged to use traditional New England architectural elements in the design. It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity. Rather, cohesion and identity can be demonstrated in similar building scale or mass; consistent use of facade materials; similar ground level detailing, color or signage; consistency in functional systems such as roadway or pedestrian way surfaces, signage, or landscaping; the framing of outdoor open space and linkages, or a clear conveyance in the importance of various buildings and features on the site;
3. Buildings adjacent to usable open space should generally be oriented to that space, with access to the building opening onto the open space;
4. All new utilities shall be placed underground;

5. Landscaped space and pedestrian connectivity shall be designed and located to provide sufficient and safe access throughout the development and/or abutting residential neighborhoods. An alternative to a sidewalk, such as an asphalt path or trail, which better serves the purpose of connecting commercial businesses to each other and the community, may also be used;
6. Commercial uses shall be designed and operated, and hours of operation limited where appropriate, so that neighboring residents are not exposed to offensive noise, especially from traffic or late-night activity. No amplified music shall be audible to neighboring residents;
7. Vehicular access to and from public roads is intended to be consolidated. Vehicular access to lands from a public roadway shall generally be limited to one (1) access point, particularly when frontage along said roadway is two hundred (200) feet or less;
8. Driveway consolidation should be undertaken so as to reduce traffic conflicts on feeder or collector streets:
   a. Provision for Interior roadways and common curb cuts:
      i. To allow for the least disruption in flow on the primary corridors, and the opportunity for orderly growth within the zoning districts bordering this state roadway, the town considers the reduction of entrances and exits on the highway of major concern. For that reason, all site plans shall show reasonable plans for interior roadways linking neighboring parcels presently developed or which could be developed as future site development to a common access point.
      ii. The Planning Board may approve provisions for interior roadways utilizing joint access and/or egress, recognizing that the final design and permitting of access to the primary corridors is to be accomplished only through the access permit process of the Massachusetts Highway Department. The Planning Board shall have the authority to authorize the following density bonuses for abutting owners who develop interior roadways or feeder streets utilizing a common drive and curb cuts thereby eliminating per parcel access/egress point on the highway:
         1. an additional five (5%) percent in the amount of lot coverage allowed by the requirements of the bylaw for an existing or proposed use; and,
         2. an increase of one dwelling unit per acre for an existing or proposed residential use.

      iii. Applicants should notify the Massachusetts Highway Department as soon as possible of their intent to utilize the provisions of this bylaw in order to facilitate an orderly and cooperative permitting process between the Planning Board and the state highway department;
9. The design should preserve and enhance natural features such as topography, waterways, vegetation, and drainage ways;
10. The design should minimize impervious surfaces and incorporate other design features to minimize storm water runoff; and
11. Mixed Use Developments should maximize pedestrian transit-oriented development. Specifically they should use "traffic-calming" techniques liberally; provide networks for pedestrians as good as the networks for motorists; provide pedestrians and bicycles with shortcuts al alternatives to travel along high-volume streets, and emphasize safe and direct pedestrian connections to transit stops and other commercial and/or employment nodes; provide long-term, covered, bicycle parking areas; provide well-lit, transit shelters; incorporate transit-oriented design features; and establish Travel Demand Management programs at employment centers.

16.7 Screening and Landscaping Requirements

1. Front Yard: The ten (10) feet nearest the street or front lot line must be landscaped and such landscaping shall not affect vehicular sight distance.

2. Side Yards: The five (5) feet nearest the side lot line must be landscaped. A waiver to the landscape requirements may be granted if one access driveway services the lot.
3. Rear Yards: The ten (10) feet nearest the rear lot lines must be landscaped.
4. Side and Rear Yards: Where a lot abuts a residential zoning district, the fifteen (15) feet nearest the side and rear lot lines must be landscaped. In addition, within ten (10) feet of the side and rear lot line, a buffer of at least eight (8) foot high trees or shrubs must be planted and maintained in a healthy condition by the owner of the property in perpetuity. A six (6) foot stockade fence must be erected along the side and rear property lines to physically separate the residential zone from the Corridor Development District areas. The Planning Board may specify the type and species of natural buffering required.
5. Building Foundation: A minimum three (3) foot wide landscaping strip must be installed along the entire length of each building foundation wall, except at points of entry/exit, lawfully required fire access points, loading/receiving bay areas, and any other structural amenities necessary and ordinary to the use of the building.
6. The Planning Board shall have final discretion in determining if sufficient landscape screening and buffering of varying depth and height has been provided.
7. All required screening, as described in items 1 through 6 above, shall be maintained in good condition at all times and in perpetuity.

16.8 Lighting and Signs

1. All outdoor lighting shall be designed so as not to adversely impact surrounding uses and residential properties, while also providing a sufficient level of illumination for access and security purposes. Such lighting shall not blink, flash, oscillate or be of unusually high intensity of brightness.
2. Parking areas shall be illuminated to provide appropriate visibility and security during hours of darkness.
3. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries, and shall be directed toward the object or area to be illuminated. Light shall be directed away from residences. Where a lot abuts a residential zoning district, additional screening measures may be required at the discretion of the Planning Board.
4. Lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation. The glare from the installation of outdoor lights and illuminated signs shall be contained on the property and shall be shielded from abutting properties.
5. Landscape screening shall consist of planting, including evergreens, the plantings to be of such height, depth as needed to sufficiently screen from view abutting residential areas any unshielded light source, either inside or outside.
6. All signs shall conform to Section 6.6(D) Business and Industrial Districts.

16.9 Submission of a Special Permit Application and Plan

Procedures for submission of application and plan:

1. The applicant shall file eight (8) copies of Corridor Development District Plan, supporting materials, filing and outside engineering review escrow fees, and three (3) copies of the form titled "Corridor Development District Special Permit Application" to the Planning Board. The Town Planner shall certify that the plans and materials submitted have been time stamped by the Town Clerk's Office and meet the submittal requirements.
2. The Planning Board, within sixty-five (65) days from receipt of the plan by the Town Clerk, shall determine whether the proposed project is generally consistent with criteria of the paragraph 16.1

of this Section. The Planning Board will review the plans during a public hearing process and will receive comments from the public, other Town Departments, and the applicant.

3. The applicant must follow the procedures for obtaining a Special Permit as set forth in Section 10.3 of the Zoning Bylaw.
4. If applicable, the applicant must follow the procedures for Site Plan Review under Section 8.3, Site Plan Review.

16.10Parking Requirements

The Planning Board, at its sole discretion, may waive required parking spaces if it determines that the permitted use may allow for less than the zoning mandated parking requirement. The Planning Board may consider one of the following in its determination:

1. The elimination of up to 25% of the required parking spaces to be constructed.
2. The elimination of up to 25% of the required parking spaces to be initially constructed, but require an adequate area for future spaces should they be required at a later date.
3. The elimination of up to 25% of the required parking spaces to be initially constructed, but require an adequate area for future spaces should they be required at a later date due to a change of use.

16.11 Change of Use Subsequent to Granting of Special Permit

Special Permits granted under any Corridor Development District shall be subject to a new public hearing for a new Special Permit if, in the opinion of the North Andover Zoning Enforcement Officer, a change of use occurs and the initial Special Permit was granted a parking waiver under Section 16.10 herein.

16.12 Use of Existing Structure on Existing Lot

1. Upon review, the Planning Board may waive some or all of the special permit requirements outlined herein if a proposed change of use from residential to the Corridor Development District permitted use, results in no substantial change to an existing structure and is located on the same dimensional lot that existed prior to creation of any Corridor Development District.

2. To encourage the continued use of existing industrial and commercial structures and provide additional flexibility to landowners within the CDD3, an applicant may apply to the Zoning Board of Appeals for a Special Permit to expand the gross floor area of the non-conforming industrial and commercial structure(s) by up to twenty-five (25%) as existed on the date of enactment of the CDD3. The expansion permitted by the this Special Permit shall not be considered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas, smoke, dust, noise, disturbance, or in any way objectionable to or detrimental to any residential use within the neighborhood. After such approval has been obtained from the ZBA, the applicant must obtain a Site Plan Special Permit as required under Section 16.

16.13 Dimension and Density Requirements

16.13.1 Corridor Development District 1

1. Minimum lot size: 43,560 sq. ft.
2. Minimum frontage: 150 feet.
3. Maximum lot coverage including buildings, driveways, and parking areas: 70%.
4. Maximum building coverage: 50%.
5. Maximum height, not to exceed three (3) stories above ground: 35 feet.

6. Minimum building and structures front setback: 10 feet.
7. Minimum building and structures rear setback: 20 feet.
8. Minimum building and structures side setback: 15.
9. Minimum building and structures where lot abuts residential zoning district: 20 feet.
10. Minimum distance between buildings: 10 feet.
11. Minimum usable open space requirements: 30% of minimum lot size.
12. Floor area ratio: 0.75:1.

16.13.2 Corridor Development District 2

1. Minimum lot size: 87,120 sq. ft.
2. Minimum frontage: 250 feet.
3. Maximum lot coverage including buildings, driveways, and parking areas: 70%.
4. Maximum building coverage: 40%.
5. Maximum height, not to exceed three (3) stories above ground: 35 feet.
6. Minimum building and structures front setback: 10 feet.
7. Minimum building and structures rear setback: 25 feet.
8. Minimum building and structures side setback: 15.
9. Minimum building and structures where lot abuts residential zoning district: 20 feet.
10. Minimum distance between buildings: 10 feet.
11. Minimum usable open space requirements: 30% of minimum lot size.
12. Floor area ratio: 0.75:1.

16.13.3 Corridor Development District 3

1. Minimum lot size: 108,900 sq. ft.
2. Minimum frontage: 250 feet.
3. Maximum lot coverage including buildings, driveways, and parking areas: 70%.
4. Maximum height, not to exceed forty-five (45) feet above grade.
5. Minimum building and structures front setback: 15 feet.
6. Minimum building and structures rear setback: 30 feet.
7. Minimum building and structures side setback: 20
8. Minimum building and structures where lot abuts residential zoning district: 35 feet.
9. Minimum distance between buildings: 10 feet.
10. Minimum usable open space requirements: 30% of minimum lot size.
11. Floor area ratio: 0.75:1.

SECTION 17.0 OSGOOD SMART GROWTH OVERLAY DISTRICT (OSGOD)

17.1 Purpose

It is the purpose of this Section to establish an Osgood Smart Growth Overlay District and to encourage smart growth in accordance with the purposes of G. L. Chapter 40R, and to foster a range of housing opportunities along with a mixed-use development component, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby rail access. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning;
7. Enable the Town to receive Smart Growth Educational Aid payments for school children which may reside in residential developments within the OSGOD pursuant to G.L. Chapter 40S, and which are available only for new developments in 40R Smart Growth Zoning Overlay Districts; and
8. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G. L. Chapter 40R and 760 CMR 59.06 arising from the development of housing in the Osgood Smart Growth Overlay District.

17.2 Definitions

For purposes of this Section 17.0, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section 17.2, or as set forth in the rules and regulations of the Permit Approval Authority ("Regulations"). To the extent that there is any conflict between the definitions set forth in this Section 17.2 or the Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

1. ***Accessory Building*** – A detached building, the use of which is customarily subordinate and incidental to that of the principal building or buildings, whether or not located on the same lot.

2. ***Accessory Use*** – A use of a parcel customarily subordinate and incidental to the principal use of the lot, or a neighboring lot in the case of a use pursuant to an easement, or to a structure on the lot, or on a neighboring lot in the case of a structure erected and maintained pursuant to an easement.

3. ***Administering Agency*** – The local housing authority or other qualified housing entity designated by the PAA, pursuant to Section17.8.6, to review and implement the Affordability requirements affecting Affordable Housing in Projects under Section17.8.

4. ***Affordable Homeownership Unit*** - An Affordable Housing Dwelling Unit required to be sold to an Eligible Household.

5. ***Affordable Housing*** - housing that is affordable to and occupied by Eligible Households.

6. ***Affordable Housing Restriction*** - A deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, Section 31 and the requirements of Section 17.8 of this Bylaw.

7. ***Affordable Rental Unit*** - an Affordable Housing Dwelling Unit required to be rented to an Eligible Household.

8. ***Applicant*** – A person that files an application for Plan Approval and/or special permit and/or other approval pursuant to this Section 17. If the Applicant is not the owner of the real property on which the development is proposed, then the Applicant, as part of the application or notice shall obtain the owner's written authorization to file such application or notice. Such written authorization may take the form of pre-existing agreements or instruments including, without limitation, signed purchase and sale agreement(s) and signed easement(s) (whether or not yet recorded), or a written letter of authorization from the owner of the real property.

9. ***As-of-Right Project*** - Means a development of residential or non-residential under zoning without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A proposed development that requires a special permit pursuant to this Section 17.0 shall not be considered an As-Of-Right Project.

10. ***Building*** – A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, processes or property. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed, where the context requires, as though followed by the words "or part of parts thereof."

11. ***Building Area*** –The aggregate of the maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconied and terraces.

12. ***Building Height*** - Measured from the average ground height adjoining at the exterior walls of a building to highest point on the roof of the building, exclusive of decorative cupolas, weather vanes, chimneys and vent structures, antennas, satellite dishes, mechanical penthouses and other structures or enclosures not intended for human habitation.

13. ***Design Standards*** – Means provisions of Section 17.11 made applicable to developments within the OSGOD that are subject to the Plan Approval process.

14. ***Development*** – Any type of construction not defined as a "Project".

15. ***DHCD –*** Department of Housing and Community Development of the Commonwealth of Massachusetts, and any successor agency.

16. ***Driveway or Drive Lane*** – A portion of a lot designed for vehicular access to off-street parking or loading space or to a garage, whether or not located on the same development

real property. For purposes of this Section 17, a Driveway or Drive Lane is distinguished from a "Roadway" as defined below.

17 ***Dwelling Unit*** – One (1) or more living, kitchen and sleeping room(s) providing complete living facilities for the use or one (1) or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation, but not including mobile homes or trailers, however mounted, or commercial accommodations offered for transient occupancy of less than one month's duration.

18 ***Eligible Household*** - An individual or household whose annual income is less than 80 percent of the area-wide median income for the Lawrence MA-NH HMFA (HUD Metro FMR Area) as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

19 ***Enabling Laws*** - G.L. Chapter 40R and 760 CMR 59.00.

20 ***Fast Food Establishment*** – An establishment whose primary business is the sale of food upon a very short waiting time, served primarily through a drive-through facility, and which, because of the nature of the operation, causes or is a major contributor to a large volume or frequent turnover of vehicular traffic.

21 ***Floor Area, Gross --*** Gross floor area shall be the floor area within the perimeter of the outside walls of the building without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

22 ***Floor Area Ratio –*** The ratio of the floor area to the development site area defined in the Application, as determined by dividing the Gross Floor Area by the land area of the site which is the subject of the development defined in the Application.

23 ***Landscaped Buffer*** – A planted area intended to provide, when mature, a visual screen between uses. Landscaped buffers may include existing vegetation, new plantings and/or lawn areas. Fencing may form a part of the landscaped buffer or screening where appropriate or dictated by topography or other consideration.

24 ***Landscaping*** – Improvements to land to enhance its attractiveness and facilitate its use and enjoyment. Landscaping may include walks, terraces and the like, fencing, stone walls or other decorative walls, site furnishings, grading and reshaping of earth contours, planting, and lawn areas. Landscaping may also include existing natural areas indicated to remain and/or be renovated.

25 ***Lot Coverage*** - The gross floor area for principal and accessory structures permitted on a site.

26 ***Mixed-Use Development Project*** – A development containing a mix of residential uses and non-residential uses, as allowed in Section 17.6, and subject to all applicable provisions of this Section 17.

27 ***Multi-family Residential Use*** – Apartment or condominium Dwelling Units in one or more buildings, each of which buildings contains or will contain more than three (3) such Dwelling Units.

28 ***Open Space -*** The portion of a site within the OSGOD not occupied by buildings, parking, garages, roadways, driveways and drive lanes, but which shall include, among other areas, all landscaped areas, all un-built areas, all sidewalks and walkways, and all swimming pools, tennis courts and other recreational facilities primarily open to the sky, whether or not landscaped.

29 ***OSGOD*** – The Osgood Smart Growth Overlay District established in accordance with this Section 17.

30 ***PAA Regulations*** – The rules and regulations of the PAA adopted pursuant to Section 17. Such rules and regulations shall not take effect until approved by DHCD and filed with the Town Clerk.

31 ***Plan Approval*** – A determination made in the form of a written decision by the PAA that the proposed site plan for the development complies with the standards and criteria which a site located within the OSGOD must meet under the procedures established herein and in the Enabling Laws and/or G.L. c. 40A as more particularly provided herein.

32 ***Plan Approval Authority (PAA)*** For purposes of reviewing development applications and issuing decisions on development Projects and Commercial Projects within the OSGOD, the Planning Board (the "PAA"), consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority, and consistent with G.L. c. 40A, shall be the special permit granting authority or other approval authority as provided herein, and the PAA is authorized to approve a site plan to implement a development.

33 ***Principal Building*** – A building in which is conducted main or principal use of the site on which said building is situated. A development is permitted to have more than one Principal Building.

34 ***Principal Structure*** – The structure on a development site, which contains the primary use of the site. A principal use shall not be contained within an accessory structure as defined in the above. A development is permitted to have more than one Principal Structure.

35 ***Project*** - a Residential Project and/or Mixed Use Development Project, undertaken within the OSGOD in accordance with the requirements of this Section 17.

36 ***Project, Commercial*** – a development which is proposed and which either requires a special permit as provided herein, or is otherwise not a "Project" as defined above.

37 ***Residential Project*** - a Project that consists solely of residential, parking, and accessory uses.

38 ***Recreational Uses*** - Active recreational uses, including but not limited to ball fields; and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized uses shall not be considered eligible recreational uses.

39 ***Roadway*** – a main access corridor as defined under Section 17.11.14. A Roadway is not a "Driveway" or "Drive Lane" as defined above.

40 ***Structure*** – A combination of materials for occupancy or use, such as a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, reviewing stand, platform, shelters,

piers, bin, sign, swimming pool or the like; the term structure shall be construed as if followed by the words "or part thereof".

41 ***Sub-district*** **–** A specific and defined area of land within the OSGOD that is subject to specific requirements for allowable uses and/or dimensional requirements that may differ from the requirements for allowable uses and/or dimensional requirements in other specific and defined areas within the OSGOD. The boundaries and the names of the Sub-districts are referred to in Section 17.3.3 herein.

42 ***Underlying Zoning*** – The zoning otherwise established by the Zoning Bylaw without regard to this Article.

43 ***Use*** – The purpose for which a structure or land is used or intended to be used.

44 ***Use, Substantially Different*** – A use which by reason of its normal operation would cause readily observable, material differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

45 ***Zoning Bylaw*** - the Zoning Bylaw of the Town of North Andover, as amended.

17.3 Overlay District

17.3.1 Establishment

The Osgood Smart Growth Overlay District, hereafter referred to as the OSGOD, is an overlay district having a land area of approximately one hundred sixty-nine (169) acres in size that is superimposed over all underlying zoning districts, including without limitation all other overlay districts, established by the Zoning Bylaw now or hereafter applicable to the properties known as 1600 Osgood Street, and is shown on the Zoning Map as set forth on the map entitled "1600 Osgood Street Smart Growth Overlay District", dated March, 2007, prepared by the North Andover Division of Community Development. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk (the "OSGOD Zoning Map"). The OSGOD contains all of the real property described in a deed from Lucent Technologies, Inc. to 1600 Osgood Street, LLC dated August 21, 2003, recorded with the Essex North District Registry of Deeds in Book 8213, Page 272 as more particularly shown on the OSGOD Zoning Map.

17.3.2 Underlying Zoning

The OSGOD is an overlay district superimposed on all underlying zoning districts. As required by the Enabling Laws, 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 this Section 17. Within the boundaries of the OSGOD, a developer may elect to either develop a site in accordance with the requirements of this Section 17, or to develop a site in accordance with the requirements of the regulations for use, dimension and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

17.3.3 Sub-districts

The OSGOD contains three (3) Sub-districts, all hereby established and all in the locations shown on the OSGOD Zoning Map, including: (a) the Residential Mixed Use Zone, containing approximately 31.65

acres; (b) the Mixed-Use Development Zone, containing approximately 10.15 acres; and (c) the Business Opportunity Zone, containing approximately 125.94 acres. For purposes of the application of this Section 17, and for a proposed development which is located within a sub-district identified as the Mixed Use Zone and/or the Business Opportunity Zone, the uses permitted and the dimensional and other controls applicable in a Sub-district may be extended into the adjacent Subdistrict described above to the extent of one-hundred fifty (150) feet as long as the limit of said extension is reflected on the site plan for a proposed development for which Plan Approval is required under this Section 17. Moreover, a residential use may be accessed via a commercially zoned and/or mixed use Sub-district, and in turn, a non-residential use may be accessed via a residentially-zoned and/or mixed use Sub-district.

17.4 Administration, Enforcement, and Appeals

The provisions of this Section 17 shall be administered by the Planning Board, except as otherwise provided herein. Any appeal arising out of a Plan Approval decision by the PAA with respect to a Project shall be governed by the applicable provisions of G. L. Chapter 40R, except with respect to a Commercial Project or other development requiring a special permit or other approval under G.L. c.40A, in which case, the provisions of M.G.L. c.40A shall govern only the portion of the development for which a such special permit or other approval is required.

This Section shall be enforced by the Building Inspector, who may require the submission of plans, specifications and other information, which he deems to be necessary to determine compliance with its provisions. No building shall be constructed, reconstructed, enlarged, altered, moved, removed or demolished as part of a development governed by this Section without obtaining a building permit. The Building Inspector shall withhold such building permit if such building or such activity included in such a development governed by this Section, would be in violation of this Section. No actual use and occupancy (as opposed to construction and/or break-in period testing) of a building, a lot, or a portion of either of them shall be commenced or changed without the issuance by the Building Inspector of a certificate of compliance. The Building Inspector shall withhold such certificate of compliance unless the Building Inspector is satisfied that all work has been completed in accordance with the provisions of the applicable approved permits and of the applicable provisions of this Section, and that the proposed use will be in conformity with the applicable provisions of this Section.

17. 5 Applicability of OSGOD

In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a development located within the OSGOD may seek Plan Approval in accordance with the requirements of this Section 17. In such case, then notwithstanding anything to the contrary in this Zoning Bylaw, such application shall not be subject to any other provisions of this Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to building permit or dwelling unit limitations, including but not limited to limitations provided in Section 4.2 ("Phased Development Bylaw") of the Zoning Bylaw. The total number of residential Dwelling Units which can be developed within the OSGOD shall not exceed 530, and such Dwelling Units may only be developed within the Residential Mixed Use Zone and/or the Mixed Use Development Zone defined below and in accordance with the provisions of this Section 17.0.

17.6 Permitted Uses

The following uses are permitted, as more specifically described below:

17.6.1 Residential Mixed-Use Zone

17.6.1.1 Purpose

The purpose of the Residential Mixed-Use Zone is to increase the efficiency of land use, promote a diversity of housing types, emphasize and encourage pedestrian and bicycle circulation, and to encourage the integration of smaller commercial and retail activities to complement the primary residential uses.

17.6.1.2 As-Of-Right Uses

The following uses shall be permitted in the Residential Mixed Use Zone As-of-Right upon Plan Approval pursuant to the provisions of this Section 17:

1. Two-family, three- family, townhouse, and/or Multi-family Residential Use(s), provided that the minimum allowable as-of-right density requirements for residential use specified in Section 17.9 shall apply to the residential portion of a mixed-use development;
2. Assisted living units and facilities;
3. Continuing Care Retirement Center;
4. Independent Elderly Housing;
5. Day care center;
6. Eating and drinking establishment not to exceed 2,000 square feet in gross floor area per user and shall not contain a drive-through facility;
7. Municipal recreation area;
8. Non-profit School;
9. Outdoor recreation area;
10. Personal Services, banking and retail establishments not to exceed 3,000 square feet in gross floor area per user;
11. Places of worship;
12. Private School;
13. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages), as well as parking accessory to the uses described in Subsection 17.6.1.3 below; and,
14. Other accessory uses customarily incidental to any of the above permitted uses as determined by the Building Inspector.

17.6.1.3 Uses Allowed By Special Permit

The following uses shall be permitted in the Residential Mixed Use Zone by Plan Approval Special Permit issued by the Plan Approval Authority pursuant to the provisions of Section 17.6.5:

1. Eating and drinking establishment in excess of 2,000 square feet of gross floor area per user, but less than 15,000 square feet of gross floor area per user, provided that such establishment shall not contain a Fast Food Establishment;

2. Personal Services, banking and retail establishments in excess of 3,000 square feet of gross floor area per user but less than 15,000 square feet of gross floor area per user;
3. Nursing and Convalescent Homes;
4. Commuter Rail System; and,
5. Other accessory uses customarily incidental to any of the above permitted uses as determined by the Inspector of Buildings.

17.6.1.4 The total Gross Floor Area devoted to non-residential uses and non-residential accessory uses located within the Residential Mixed Use Zone shall not exceed 75,000 square feet.

17.6.2 Mixed-Use Development Zone

17.6.2.1 Purpose

The intent of the Mixed-Use Development Zone is to provide a transition between primarily residential development and compact, higher density commercial and mixed-use development, to increase the efficiency of land use on land which is Substantially Developed Area, to allow Commercial Projects which may include a mixture of complimentary land uses such as housing, retail, offices, commercial services, and civic uses, to create economic and social vitality and to encourage the linking of trips.

17.6.2.2 As-Of-Right Uses

The following uses shall be permitted in the Mixed Use Development Zone As-of-Right upon Plan Approval pursuant to the provisions of this Section 17.6.5 and other applicable provisions of this Section 17:

1. Agricultural Use;
2. Art Gallery;
3. Businesses, Professional and Other Offices;
4. Day Care Center;
5. Eating and drinking establishment not to exceed 2,000 square feet in gross floor area per user and which shall not be a Fast Food Establishment;
6. Funeral Parlor;
7. Guest house;
8. Medical Center and/or Medical Offices;
9. Motel/Hotel;
10. Outdoor recreation area, including but not limited to, tennis court, basketball court, athletic fields, tot lots, and passive recreation;
11. Personal Services Establishments;
12. Places of Worship;
13. Public Building or use;
14. Retail, banking, and service establishments not to exceed 20,000 square feet in gross floor area per user;
15. Parking accessory to any of the above permitted uses as well as uses described in Section 17.6.2.3, including surface, garage-under, and structured parking (e.g., parking garages), as well as parking accessory to the uses described in Subsection 17.6.2.3 below; and,
16. Accessory uses customarily incidental to any of the above permitted uses as determined by the Inspector of Buildings.

17.6.2.3 Uses Allowed By Special Permit

The following uses shall be permitted in the Mixed Use Development Zone by Plan Approval Special Permit issued by the Plan Approval Authority, as Special Permit Granting Authority (SPGA), pursuant to the provisions of this Section 17.6.5:

3. Two-family, three- family, townhouse, and/or Multi-family Residential Use(s), provided that the minimum allowable as-of-right density requirements for residential use specified in Section 17.9 shall apply to the residential portion of a mixed-use development;
4. Assisted living units and facilities;
5. Continuing Care Retirement Center;
6. Independent Elderly Housing;
7. Nursing and Convalescent Homes;
8. Retail and Service Establishments in excess of 20,000 square feet of gross floor area per user but less than 65,000 square of gross floor area per user;
9. Eating and Drinking Establishment provided that such establishment shall not be a Fast-Food Establishment; and shall not exceed 15,000 square feet of gross floor area per user;
10. Incubator or Business Park;
11. Indoor Place of Amusement or Assembly, including but not limited to, arenas, theatres, and athletic or recreational facilities;
12. Indoor Ice Skating Facility;
13. Non-profit school;
12. Private School for profit;
13. Research and Development Facilities; and,
14. Retail Plaza not to exceed 150,000 square feet of gross floor area, where any single user cannot exceed 65,000 square feet of gross floor area.
15. Accessory uses customarily incidental to any of the above permitted uses as determined by the Inspector of Buildings.

17.6.3 Business Opportunity Zone

17.6.3.1 Purpose

The intent of the Business Opportunity Zone is to encourage efficient land use by facilitating compact, high-density retail, commercial, industrial development and other Commercial Projects, and to facilitate development (land use, density and design) that supports public transit if applicable.

17.6.3.2 As-Of-Right Uses

The following uses shall be permitted in the Business Opportunity Zone As-of-Right upon Plan Approval pursuant to the provisions of this Section 17.6.5 and other applicable provisions of this Section 17:

1. Agricultural Use;
2. Art Gallery;
3. Business, Professional and Other Offices;
4. Day Care Center;
5. Funeral Parlor;
6. Medical Center and/or Medical Offices;
7. Motel/Hotel;

8. Places of Worship;
9. Public Building or use;
10. Eating and Drinking Establishment;
11. Personal Services Establishment;
12. Municipal Recreation Area;
13. Manufacturing;
14. Printing and Reproduction;
15. Research and Development Facilities;
16. Retail, banking, and service establishments not to exceed 20,000 square feet in gross floor area per user;
17. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages), as well as parking accessory to the uses described in Subsection 17.6.3.3 below; and,
18. Accessory uses customarily incidental to any of the above permitted uses as determined by the Inspector of Buildings.

17.6.3.3 Uses Allowed By Special Permit

The following uses shall be permitted in the Business Opportunity Zone by Plan Approval Special Permit issued by the Plan Approval Authority, as Special Permit Granting Authority (SPGA), pursuant to the provisions of this Section 17.6.5:

1. Commuter Rail System;
2. Incubator or Business Park;
3. Indoor Place of Amusement or Assembly, including but not limited to, such uses shall include arenas, theatres, and athletic or recreational facilities;
4. Indoor Ice Skating or other athletic facility;
5. Non-profit school;
6. Outdoor recreation area, including but not limited to, tennis court, basketball court, athletic fields, and passive recreation;
7. Private School for profit; and,
8. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages)
9. Retail and Service Establishments in excess of 20,000 square feet of gross floor area per user;
10. Retail Plaza;
11. Public Service Corporation;
12. Windmills up to one hundred-fifty (150) feet to the top of the hub at the center of the rotor; and,
13. Accessory uses customarily incidental to any of the above permitted uses as determined by the Inspector of Buildings.

17.6.4 Prohibited Uses. All uses not expressly allowed are prohibited.

17.6.5 Criteria for Special Permit and Other Applicable Approval by Plan Approval Authority.

17.6.5.1 Any development component for which a special permit is required to be issued by the Plan Approval Authority, as Special Permit Granting Authority pursuant to Section 9 of M.G.L. c.40A, or for a Commercial Project approved under G.L. c. 40A, shall only be issued in accordance with the requirements of this Subsection 17.6.5.

17.6.5.2 The Plan Approval Authority may grant a Special Permit or other approval within the framework of this Section 17 only after holding a public hearing which must be held within sixty-five (65) days after the applicant files for such Special Permit or other approval. The sixty-five (65) days period shall be deemed to have begun with the filing of the application with the Plan Approval Authority. The Applicant is responsible for transmitting a copy of the application for a Special Permit or other approval within twenty-four (24) hours of the filing of the application with the Planning Board and to the Town Clerk.

17.6.5.3 The Plan Approval Authority shall not approve any such application for a Special Permit or other approval unless it finds that in its judgment all the following conditions are met:

1. The specific site is an appropriate location for such a use, structure or condition;
2. The use as developed will not adversely affect the neighborhood;
3. There will be no nuisance or serious hazard to vehicles or pedestrians;
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;
5. With regard to a Special permit, the Plan Approval Authority shall not grant any Special Permit unless it makes a specific finding that the use is in harmony with the general purpose and intent of this Zoning Bylaw; and,
6. The use for which the special permit or other approval is sought complies with the dimensional and other criteria described in Sections 17.9 through 17.15 unless otherwise waived as provided therein.

17.6.5.4 In approving a Special Permit, the Plan Approval Authority may attach such conditions and safeguards only to the portion of the development requiring a special permit as are deemed necessary to protect the neighborhood such as, but not limited to, the following:

1. Requirements of front, side, or rear yards greater than the minimum required by this Bylaw:
2. Requirements of screening parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other devices as specified by the Plan Approval Authority:
3. Modification of the exterior features or appearances of the structure;
4. Limitation of size, number of occupants, method or time of operation, or extent of facilities; and,
5. Regulation of number, design and location of access drives or other traffic features.

17.6.5.5 Special Permits or other approvals granted under the provisions contained herein shall be deemed to have lapsed after a two (2) year period from the date on which the Special Permit or other approval was granted unless substantial use or construction has commenced. If the Applicant can show good cause why substantial use or construction has not commenced within the two (2) year period, the Plan Approval Authority, as its discretion, may extend the Special Permit or other approval for an additional one (1) year period. Included within the two (2) year period stated above, is the time required to pursue or wait the determination of an appeal from the provisions of the Bylaw.

17.6.5.6 The Plan Approval Authority shall also apply the same dimensional, design and other criteria described in Sections 17.9 through 17.15 as applied to As-of-Right uses unless otherwise waived as provided therein.

17.6.5.7 Within (90) days following the date of the public hearing, the Plan Approval Authority shall take final action in the matter in order to issue a Special Permit or other approval provided for in this Section.

There shall be at least four (4) of the five (5) members of the Plan Approval Authority voting in favor of issuing the Special Permit or other approval.

17.6.5.8 A Special Permit or other approval granted under the provisions of this Bylaw shall not take effect until: the Town Clerk certifies on a copy of the decision that twenty (20) days have elapsed without filing of an appeal or that any appeal filed has been dismissed or denied, and the certified decision has been recorded at the owner's expense in the Essex County Registry of Deeds indexed in the grantor index under the name of the record owner, and noted on the owner's Certificate of Title;

If the Special Permit or other approval involves registered property, the decision, at the owner's expense shall also be filed with the Recorder of the Land Court.

17.6.5.9 At the discretion of the PAA, an Applicant seeking approval of a development including both As-Of-Right uses as well as uses requiring a Special Permit or other approval may combine such applications into a single application, and the PAA may combine both hearings and issue a single decision on such a combined development, provided that all requirements for the As-Of-Right development are complied with in accordance with the Enabling Laws and this Section 17.0, and with respect to uses allowed by Special Permit or other approval, are complied with in accordance with M.G.L. c. 40A.

17.7 Project Phasing

The PAA, as a condition of any Plan Approval, may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable units and the proportion of market rate units shall be consistent across all phases.

17.8 Housing and Housing Affordability

17.8.1 Marketing Plan

As part of any application for Plan Approval for housing within the OSGOD, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with a Plan Approval application pursuant to Section 17.12 below, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

17.8.2 Number of Affordable Housing Units

For all Projects, not less than twenty percent (20%) of the housing units constructed in the District shall be Affordable Housing, as required by the Enabling Laws. For purposes of calculating the number of units of Affordable Housing required within the District, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

17.8.3 Requirements

Affordable Housing shall comply with the following requirements:

1. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming 1.5 persons per bedroom, unless other affordable program rent limits approved by the DHCD shall apply;

2. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming 1.5 persons per bedroom; and,

3. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

17.8.4 Design and Construction

Units of Affordable Housing shall be finished, but not furnished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and be compatible in initial construction quality and exterior design to other housing units in the development. The total number of bedrooms in the Affordable Housing shall be, insofar as practicable, proportionate to the total number of bedrooms in all the units in the development of which the Affordable Housing is part.

17.8.5 Affordable Housing Restriction

Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction approved by the PAA which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains at least the following:

1. Specification of the term of the affordable housing restriction which shall be no less than thirty years, and in the discretion of the PAA, the Restriction may be in perpetuity;

2. The name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;

3. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification;

4. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law for the Affordable Housing Units; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;

5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;

7. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

8. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the administering agency;

9. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;

10. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the administering agency and the Town and/or a nonprofit organization, in a form approved by municipal counsel, and PAA, and shall limit initial sale and resale to and occupancy by an Eligible Household;

11. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and the Town and/or a non-profit organization, in a form approved by municipal counsel, and the PAA, and shall limit rental and occupancy to an Eligible Household;

12. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the administering agency, in a form specified by that agency certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and,

13. A requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability.

17.8.6 Administering Agency

An administering agency which may be the Local Housing Authority, or other qualified housing entity (the "Administrating Agency") shall be designated by the PAA as the Administrating Agency for all Projects in the OSGOD. In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA or, in the absence of such timely designation, by an entity designated by the DHCD. The Applicant and its successor in title and interest shall pay for the services of the Administering Agency or other such entity providing the services required herein, with such payment not to exceed a reasonable amount for such services to be agreed upon by the PAA and the Applicant. In any event, such Administering Agency shall ensure the following, both prior to issuance of a Building Permit for a Project within the OSGOD, and on a continuing basis thereafter, as the case may be:

1. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. The housing marketing and resident selection plan conform to all requirements and is properly administered;

4. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;

5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds; and,

6. Enforce, by litigation or otherwise, the Affordable Housing Restrictions and the foregoing requirements.

17.8.7 Housing Marketing and Selection Plan

The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the administering agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

17.8.8 Age Restrictions

The District shall not include the imposition of restrictions on age upon the entire District, but the development of specific Projects within the District may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project, which includes age-restricted residential units, shall comply with applicable federal, state and local fair housing laws and regulations.

17.8.9 Twenty Percent Requirement

For all Projects where the Affordable Units proposed are Homeownership Units, not less than twenty percent (20%) of the total housing units constructed in a Project shall be Affordable Housing. For all Projects where the Affordable Units proposed are Rental Units not less than twenty five percent (25%) of total housing units in any building containing rental units shall be Affordable Housing; provided, however, that 20% of such units may be affordable where the Affordable Units are restricted to households earning less than 50% of area median income. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

17.8.10 Phasing

For housing that is approved and developed in phases, the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as described in 760 CMR 59.04 1(h)) shall be consistent across all phases.

17.8.11 Computation

Prior to the granting of any Building Permit for the housing component of a Project, the Applicant must demonstrate, to the satisfaction of the PAA, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of North Andover.

17.8.12 No Waiver

Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 17.8 shall not be waived.

17.9 Dimensional and Density Requirement

Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the OSGOD are as follows:

	40R Overlay Subdistricts		
Dimesional Requirements	**Mixed-Use Residential District**	**Mixed-Use Commercial District**	**Business Opportunity Zone**
Minimum Lot Area	NA	NA	1 Acre - 15 Acres Maximum
Minimum Lot Frontage on a Public Way	N/A	N/A	N/A
Maximum Building Height	55 Feet	55 Feet	55 Feet
Minimum Front Setback[1]	10 Feet Minimum - 25 Feet Maximum	0 Feet Minimum - 15 Feet Maximum	0 Feet Minimum - 10 Feet Maximum
Minimum Rear Yard Setback	15 Feet - 25 Feet Maximum	No required setback	No required setback
Minimum Side Yard Setback	5 Feet if lot line is on a street. 3 feet minimum - 10 feet maximum if adjacent to another lot line.	No required setback	No required setback
Minimum Open Space	20%	15%	15%
Allowable Dwelling Units/Acre[2]	20	20	Not Allowed
Minimum Setback between Principal Buildings	0 Feet Minimum - 20 Feet Maximum	0 Feet Minimum - 20 Feet Maximum	0 Feet Minimum - 20 Feet Maximum
Minimum Setback between either (a) Accessory Buildings, or (b) Principal Buildings and Accessory Buildings	0 Feet Minimum - 25 Feet Maximum	0 Feet Minimum - 5 Feet Maximum	0 Feet Minimum - 5 Feet Maximum
Multiple Buildings on One Lot	Allowed	Allowed	Allowed
Floor Area Ratio (FAR)	0.70:1	0.65:1	0.90:1
Lot Coverage	70%	90%	90%

Notes:
1. Refer to Section 17.9.1
2. Allowable Dwelling Units Per Acre shall mean the maximum number of Dwelling Units per acre averaged over the entire Residential Mixed Use Overlay District.

17.9.1 Interpretation of Table

1. A front yard setback of 50 feet for property within the OSGOD shall apply only to front yards abutting Route 125 (Osgood Street). There shall be no front yard setback requirement unless specified in the Sub-district.

2. Open Space shall be “Useable Open Space” which is defined as the part or parts of land within the OSGOD, which are reserved for permanent open space or passive recreation use. This space shall exclude parking areas, but include required setbacks and walkways. The Usable Open Space shall be open and unobstructed to the sky. Trees, planting, arbors, flagpoles, sculptures, fountains, outdoor open-air, passive/active recreational facilities, such items as streetscape elements (lights, planters, benches, etc.), outdoor areas devoted to dining, cafe or similar uses, and decorative

surface treatments for sidewalks and other hard surfaces (such as pavers, cobblestones or concrete surface treatments designed to resemble pavers or cobblestones), and similar objects shall not be considered obstructions. No more than 25% of the total amount of required Usable Open Space shall be "wetland" as defined by the requirements of M.G.L. Chapter 131, Section 40, and the Town's Wetland Bylaws.

17.10 Parking Requirements

Notwithstanding anything to the contrary in this Zoning Bylaw, the parking requirements applicable in the OSGOD are as follows:

	Residential Uses	
1	Residential Use (Minimum)	1 space per dwelling unit.
2	Residential Use (Maximum)	2 spaces per dwelling unit.
3	All other places with including(but not limited to) rooming houses, hotels, motels, hospitals, nursing homes.	1 space per sleeping room for accommodations single or double occupancy, 1 per 2 for rooms exceeding Double beds for rooms exceeding double occupancy

	Recreation Uses	
1	Passive Recreation (i.e. parks, picnic facilities)	5 spaces per acre.
2	Active Recreation (i.e. athletic fields)	1 space per 4 persons based on the design capacity of the facility.

	Business or Commercial Uses	
1	Auditoriums, theaters, funeral parlors, day care centers, and other places of assembly	1 space per 4 persons based on the design capacity of the facility.
2	Restaurants - sit down restaurants.	1 per 2 seats or 15 per 1000 GFA. (Whichever greater applies)
3	Retail store and service establishement.	5 spaces per 1,000 square feet (6 space per 1,000 s.f. maximum)
4	Offices	1 space per 300 square feet of GFA.
5	Medical Offices and Research facilities	3 Spaces per 1000 square feet GFA plus one space per employee.
6	Warehousing, wholesaling, distributing	1 space per 500 square feet GFA.

Mixed Use Development Projects	Residential requirement plus non-residential requirement.

	Industrial Uses	
1	Manufacturing, assembly, Fabrication, etc	1 space per 2 employees in the minimum working shift or 1 space per 1,000 GFA (Whichever greater applies).

17.10.1 Interpretation of Table.

1. Unless otherwise approved by the PAA, a minimum of 1 and a maximum of 2.0 off- street parking spaces shall be provided for each residential unit, inclusive of parking spaces within garages. The PAA may allow for additional visitor parking spaces beyond the 2.0 maximum spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in the required parking as provided in Subsections 4.a through 4.f below. Notwithstanding anything to the contrary herein, an Applicant may satisfy the parking requirements herein even though parking may not be located within the same Sub-district as the specific use, provided that suitable arrangements to the satisfaction of the PAA are in place to allow for the use of such parking to satisfy the parking requirement;

2. A parking space shall mean an area of not less than 9' x 18', accessible over unobstructed driveways not less than 24' wide.

3. Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking

demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies);

4. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced upon a demonstration to the reasonable satisfaction of the PAA that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

    a. The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus or an MBTA transit station;
    b. The availability of public or commercial parking facilities m the vicinity of the use being served;
    c. Shared use of off street parking spaces serving other uses having peak user demands at different times;
    d. Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
    e. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and,
    f. Such other factors as may be considered by the PAA.

17.11 General Design Standards

17.11.1 Intent

In order to ensure high-quality development within the OSGOD and to ensure design that respects the built and natural character of North Andover, the following design standards are established. These standards are intended to be flexible, and applied by the Plan Approval Authority as appropriate to the development as part of the site plan review process to enable the purpose of this District to be realized. While these guidelines apply to all site improvements and buildings and structures, it is not the intent of this section to prescribe or proscribe use of materials or methods of construction regulated by the state building code, but rather to enhance the appearance of the built environment within an OSGOD. In the case of inconsistency between applicable federal and state law, including without limitation state building code or life safety codes and these Design Standards, the applicable federal and state laws, rules and regulations shall govern.

17.11.2 Building and Structure Placement

The placement of buildings and structures in an OSGOD shall:

1. Provide for buffering of buildings and structures to adjoining properties either within the proposed OSGOD or to adjacent land uses. Such buffering includes, but is not limited to: landscaping, screening materials, natural barriers, fencing, and related measures;

2. Development should acknowledge Route 125 as its front entry. Rooftop equipment shall be appropriately screened to avoid visual impacts to residential uses;

3. Buildings adjacent to usable open space should generally be oriented to that space, with access to the building opening onto the open space;

4. Provide street trees with tree grates or in planter strips, using appropriate species to provide summer shade, and winter light. Species should be native, resistant to salt and drought, and be tolerant of urban conditions;

5. Orient structures to provide pedestrian entrances to the sidewalk;

6. Street design standards shall not be limited to defined rights of way but shall also apply to driveways and internal ways which function as streets;

7. Trash collection and dumpster locations shall be appropriately located and screened to avoid adverse impacts on neighbors and neighboring properties. Within a development, the containment of all solid waste storage and handling within the building(s) of the development is encouraged; and,

8. Any loading docks or areas associated with the mixed-use development component shall be located to minimize (visual and operational) impacts on the site and on neighboring properties.

17.11.3 Open Space

1. Create open space parks within the development;

2. Mature street trees have a high value to the development; minimize departures from development standards that would impair the health of a mature trees;

3. Use landscape materials that are native, sustainable, requiring minimal irrigation or fertilizer; and,

4. Encourage alternative and green paving materials to minimize stormwater run-off.

17.11.4 Building Massing/Articulation

The massing of buildings shall:

1. Avoid unbroken building facades longer than fifty feet (50'). Buildings shall not be longer than two hundred ten (210') feet in length, unless waived by the PAA. In approving building lengths that exceed 210', the PAA must find that pedestrian circulation is enhanced by the provision of archways, passageways, or other similar throughways;

2. Mixed-use buildings should incorporate the use of dual facades to foster integration of uses where appropriate;

3. Provide a variety of building heights and varied roofline articulation; and,

4. Buildings on corner lots shall be oriented to the corner and public street fronts. Parking and automobile access shall be located away from the corners, where practical.

17.11.5 Building Appearance and Treatment

To the extent not inconsistent with or pre-empted by the state building code, the following shall be considered as applicable:

1. It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity. Rather, cohesion and identity can be demonstrated by:
   a. Similar building scale or mass;
   b. Consistent use of facade materials;
   c. Similar ground level detailing, color or signage;

2. Preferred exterior building siding materials include brick, stone, wood, cement and composite materials and other types of exterior siding materials upon a determination by the PAA that the quality of such siding will not detract from the aesthetics of the proposed buildings.

3. **New Buildings.** The design of new buildings shall incorporate architectural features, such as:
   a. Transom or clerestory windows above entrances, display windows and projected bay windows are encouraged within commercial, retail, and industrial developments.
   b. Multiple paned windows that divide large areas of glass into smaller parts shall be used.
   c. Incorporate building entry treatments that are arched or framed and protects people from the elements.
   d. Non-reflective storefront windows and transoms; architectural detailing on the first floor; and detailing at the roofline.

4. **Ground Floor.** Transparent, open facades for commercial uses at street level;

5. **Middle Floors.** Architectural features may include change in materials and color and/ or texture that enhance specific elements of the building; and,

6. **Top Floors.** Clearly distinguish tops of buildings from the façade walls by including detail elements such as steep gables with overhangs, parapets and cornices.

17.11.6 Development Environment

Pedestrian Open Spaces and Entrances.

1. Entries for residential uses on the street (rather than from the rear of the property);

2. Overhead weather protection shall be designed to minimize gaps in coverage, except to accommodate street trees;

3. Sidewalks shall be surfaced with concrete, brick, or stone materials unless waived by the SPGA; minimum width shall be five feet unless waived by the SPGA; and,

4. Benches for seating shall be provided near retail entrances and at bus stops. At bus stops, such benches shall offer protection from the weather.

17.11.7 Landscaping

The landscape design shall strive to provide greenery so that streets and access drives are lined with shade trees, large paved areas are visually divided and screened and buffers are provided within and around the development. Said landscape design shall be prepared and stamped by a registered landscape architect. Landscaping criteria are as follows:

1. Native trees and shrubs shall be planted wherever possible such as lilac, viburnum, day lilies, ferns, red twig, dogwood, oak, maple, sycamore, linden, hawthorne, birch, shadbush, etc.).

2. Provide hedges or continuous shrubs to screen parking areas from streets, where practical;

3. All buildings shall have foundation landscaping, where practical;

4. All islands and landscape areas shall be of a minimum width and size to support healthy plant growth. The minimum width for plant beds shall be five (5) feet and an eight (8) foot width for trees;

5. All open areas, exclusive of areas to remain in an existing natural state shall be landscaped, utilizing both natural and man-made materials such as indigenous grasses, trees, shrubs, and attractive paving materials and outdoor furniture;

6. Deciduous trees shall be placed along new and existing streets and ways. Street Trees shall be located every thirty feet (30') on center along both sides of the roadway within the District. The species of street trees selected shall be a minimum of four different species from the list of recommended street trees below:

   a. Plantanus acerifolia (London Planetree);
   b. Fraxinus pennsylvanica (Green Ash);
   c. Ginkgo biloba (Ginkgo);
   d. Gleditsia triacanthos inermis (Honeylocust);
   e. Maple;
   f. Oak;
   g. Tilia cordata (Little leaf Linden);
   h. Pyrus calleryana (Chanticleer Callery Pear); and
   i. Zelkova serrata (Japanese Zelkova)

   The existing roadways, Route 125 and the existing property driveway, shall have larger trees that typically grow to heights greater than fifty feet. The species of street trees selected shall be a minimum of four different species from the list of recommended street trees below:

   a. Picea pungens (Colorado Blue Spruce);
   b. Picea abies (Norway Spruce);
   c. Fagus grandifolia (American Beech);
   d. Fraxinus Americana (White Ash);
   e. Betula alleghaniensis (Yellow Birch);
   f. Acer saccharum (Sugar Maple);
   g. Acer rubrum (Red Maple);
   h. Quercus rubra (Northern Red Oak);
   i. Quercus coccinea (Scarlet Oak);

j. Platanus acerifolia (London Planetree); and
k. Betula papyrifera (Paper Birch)

7. Outdoor lighting shall be considered in the landscaping plan and requires the submission of a photometric lighting plan. Cutoff shields shall be used to minimize glare and light spillover onto abutting property. Ornamental streetlights, sixteen feet (16') maximum height on minor roads and twenty-four feet (24') maximum height on major roads;

8. Preservation of existing vegetation or tree-lined areas shall be maintained; and,

9. Landscaped, required open space and green areas, in addition to serving as visual amenities, shall be employed to reduce the rate and volume of stormwater runoff compared to pre-development conditions; for that reason, Department of Environmental (DEP) Stormwater Best Management Practices and other measures to minimize runoff and improve water quality shall be implemented. It is also generally intended that said space be designed and located to connect with existing off-site usable open space, and provide potential for connection with future open space by extending to the perimeter of the development particularly when a plan exists for the location and networking of such future open space.

17.11.8 Lighting

1. All artificial lighting used to illuminate residential, commercial, and industrial parking lot, loading bay or driveway shall have underground wiring and shall be so arranged that all direct rays from such lighting falls entirely within the parking, loading or driveway area, and shall be shielded or recessed so as not to shine upon abutting properties;

2. Lighting in display windows to illuminates the sidewalk is recommended;

3. Architectural lighting to complement the architecture of the structure including transparent windows allowing views into and out of the structure;

4. Fixtures that produce glare or that spill light to adjoining sites are prohibited; and,

5. Installation of pedestrian light fixtures as part of a development's sidewalk improvements is strongly encouraged.

17.11.9 Parking Lot Landscaping

Parking areas and lots shall use landscaping and terracing to break up large areas of pavement. The following minimum screening and landscaping requirements shall apply for all lots with more than 6 parking spaces:

1. A strip of land at least six (6) feet wide (may be part of required yard setbacks) with trees or shrubs densely planted, to create at least an impervious screen, at least four (4) feet high at the time of planting and which are of a type that may be commonly expected to form a year round impervious screen at least five (5) feet high within three years;

2. If a natural screen as described in item 1 above cannot be attained, a wall or fence of uniform appearance at least five (5) feet high above finished grade will be allowed. Such a wall and/or fence may be perforated, provided that not more than 25% of the face is open; and

3. All required screening, as described in items 1 and 2 above, shall be maintained in good condition at all times. Such screening may be interrupted by entrances or exits, and shall have no signs attached thereto other than those permitted in the district;

For all off-street parking areas of 18 or more spaces the following criteria shall also apply.

4. On at least three sides of the perimeter of an outdoor parking lot, there shall be planted at least one tree for every thirty (30) linear feet. In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of 9 or more parking spaces face each other, a landscaped open space not less than 6 feet in width shall be provided. The landscaped strip may be provided either (1) between the rows of parking spaces parallel to the aisle, or (2) in two or more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces; and,

5. Trees required by this section shall be at least 2.5 inches in diameter at a height four feet above the ground at time of planting and shall be of a species characterized by suitability and hardiness for location in parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this section. Native trees and shrubs shall be planted wherever possible including species such as lilac, viburnum, day lilies, ferns, red twig, dogwood, oak, maple, sycamore, linden, hawthorne, birch, shadbush, etc.

17.11.10 Pedestrian Amenities and Recreation

Development shall include the following components:

1. Provide long-term, covered, bicycle parking areas;

2. Provide well-lit, transit shelters where necessary;

3. Pedestrian-oriented features such as walkways, pergolas, outdoor sitting plazas, landscaped open space, drop-off areas, and recreational facilities shall be emphasized, and bike racks shall be provided in appropriate locations throughout the site; and,

4. Tree-lined or otherwise appropriately landscaped pedestrian paths and walkways shall link together areas designated as open space within the site, and wherever possible, to adjoining public areas.

17.11.11 Utilities – Basic Requirements

1. Installation: All utility lines, and/or other subsurface facilities within the street rights-of-way shall be installed prior to the placement of the roadway sub-base materials. All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to, telephone, Internet and cable;

2. Identification: The applicant shall provide and install utility identification tape for all underground utility installations. The tape shall be placed in the trench a minimum of twelve inches (12") above the pipe, conduit or cable and not less than twelve inches (12") below the finished grade;

   Identification tape for utilities shall be traceable, durable, and either non-biodegradable plastic or metallic, and shall be approximately six inches (6") wide by four thousandths (.004) inches, or four mil, in thickness;

   The following colors shall be used unless otherwise specified in the state building codes:
   a. Orange - Gas
   b. Yellow - Electric
   c. Green - Communications (telephone, cable, fire alarm)
   d. Blue - Water
   e. Red - Sanitary Sewer

3. Easements: Wherever necessary, the Board shall require perpetual, unobstructed easements for sewers, storm drains, power lines, water mains and other utilities. Such easements shall be a minimum width of twenty feet (20'), centered on the utility, and shall be indicated on the site plan approved pursuant to the Plan Approval decision by metes and bounds. The width of an easement may be changed if determined to be acceptable by the PAA or Department of Public Works:

   a. Easements for water, sewer, electric, telephone lines and drainage piping or channels shall be provided at locations determined by the Board and the Department of Public Works for the provision or extension of utilities within the development or to adjacent properties;

   b. Where the development is traversed by any open watercourse, drainage way, channel or stream, an easement shall be provided which substantially conforms to the lines of such features for the purpose of protection against encroachment or alteration;

   c. Where such easement or any part thereof crosses or appears on any developed lot in the development, the deed for said lot shall provide a restriction that shall run with the lot, which prohibits any encroachment or alteration within such easement;

   d. Utility easements into or crossing any open space or protected area shall be prohibited unless approved by the Board upon the recommendation of the Department of Public Works;

   e. Where easements have been approved entering into or crossing open spaces or protected areas they shall be restored to reflect as nearly as possible the conditions existing prior to the easement. Vegetative visual buffering required by the Planning Board in such easements shall be the responsibility of the developer and shall be reflected in the development performance guarantee;

   f. Easements for access to parks and conservation lands abutting a proposed development may be required by the Board. These easements shall be at a width determined by the Board to be sufficient for their purpose but will not normally exceed twenty (20’) feet in width;

   g. The developer may be required to obtain off-site drainage easements when, in the Board’s opinion, the development will cause an increase or change in the surface water volumes or

velocities, either through open channels or through culverts into or onto any abutting properties; and,

h. Where the easement is accessible from the street, the side slope shall be no greater than four feet (4') horizontal to one foot (1') vertical. The first twenty feet (20') of the easement from the back of sidewalk, or edge of roadway, shall have a twelve inch (12") deep base of gravel sub-base material beneath the topsoil to support maintenance equipment.

17.11.12 Signage Associated With The Residential Use Component

The residential component shall be limited to three types of sign: name of site, orientation and direction, and to identify common building spaces. At each principal entrance to the site, only one sign identifying the name and address of the development shall be permitted. The sign shall be limited to identifying the name and address of the development. Signs shall be made of natural materials, or have a natural appearance, and may not be interiorly illuminated. The PAA shall require the applicant to submit a signage master plan showing the overall design, location, size and material for all proposed signs within the development.

The following signs are prohibited in the OSGOD: roof signs, interior illuminated and ground signs (except those associated with the development entrance).

17.11.13 Signage Associated With the Non-Residential and Mixed-Use Component

The PAA shall approve signage within the non-residential and mixed-use components of the district(s) as part of the site plan review process. One sign will be permitted at the principal entrance(s) to the non-residential portion of the property. The sign shall be limited to identifying the name and address of the development.

1. One sign per non-residential use is permitted. The attached or hanging sign shall not exceed, in total area, more than ten percent (10%) of the dimensional elevation of the commercial building as determined by the building frontage multiplied by the floor to ceiling height of the individual business or as specified in applicable sections of the by-law;

2. For premises having multiple occupants, a single sign, identifying those occupants is permitted. The total area of attached signs including this one shall not exceed ten percent (10%) of wall area;

3. Temporary unlighted signs inside windows, occupying not more than twenty percent (20%) of the area of the window requires no sign permit;

4. No sign shall project more than three (3) feet over any public right-of-way. The sign shall be covered by appropriate liability insurance as determined by the Building Inspector and verified by a certificate of insurance filed with the Town Clerk;

5. Building directories shall be located inside of the building;

6. Traffic Control orientation and guidance signs located on private property, up to four (4) square feet in area, displayed for purposes of direction or convenience, including signs identifying parking, fire lanes, rest rooms, freight entrances and the like;

7. Design Standards for Signs:
   a. These standards are not mandatory.
   b. Sign content normally should not occupy more than forty percent (40%) of the sign background, whether a signboard or a building element.

8. Environmental Relationship
   a. Overhanging signs should be used only in such circumstances as on side streets where overhanging positioning is necessary for visibility from a major street;
   b. Sign brightness should not be excessive in relation to background lighting levels, e.g., averaging not in excess of one hundred foot-lamberts and not in excess of twenty foot-lamberts in unlighted outlying areas.

9. Building Relationship:
   a. Signs should be sized and located so as to not interrupt, obscure or hide the continuity of columns, cornices, roof eaves, sill lines or other elements of building structure Clutter should be avoided by not using support brackets extending above the sign or guy wires and turnbuckles.

10. Sign Master Plans. Notwithstanding anything to the contrary to the language contained in Section 17.11.12 and 17.11.13, an Applicant may, in lieu of seeking compliance with the sign provisions described, propose a Master Plan for signs to be permitted on the premises by the PAA. Such sign master plan shall include a listing of each sign type, square footage, location, height, color, materials, and such other information as may be requested by the PAA to confirm that the Master Plan, once implemented, shall consist of a single coordinated and clear plan for signage within said premises which generally conform to the Guidelines described in Sections 17.11.12 and 17.11.13, as applicable.

17.11.14 Roadways

Private roadways shall be allowed in OSGOD.

1. While roadway surface widths may be narrower than widths associated with a traditional subdivision, the durability of private roadway surfaces and sub surfaces within an OSGOD and should be designed based on standard engineering principals. Waivers of the following standards may be granted when appropriate. The following criteria apply:

Roadway Criterion	Minimum	Maximum
Min. ROW Width	50 feet	60 feet
Min. Pavement Width	18 feet	26 feet
Min. Centerline Curve Radius	225 feet	250 feet
Min. Tangent length between reverse curves	150 feet	150 feet
Min. Intersection Corner Curb Radius	40 feet	40 feet
Min. Horizontal and Vertical Site distance	200 feet	250 feet
Centerline Profile Grade – Max.	8%	7%
Centerline Profile Grade – Min.	1%	1%

Vertical Curve – Min. Length	100 feet	100 feet
Vertical Curve: K Value – Crest	30	30
Vertical Curve: K Value – Sag 40	40	40
Pavement Cross Slope – Normal Crown	3%	3%
Maximum Super elevation	6%	6%

2. The PAA shall encourage narrow pavement widths for traveled ways when appropriate. Pavement widths for traveled ways (excluding on-street parking spaces) shall not be less than eighteen feet (18) or more than twenty six (26) feet for two-way traffic, or less than fourteen (14) feet for one-way traffic. The PAA will have discretion to waive these standards when considering public safety and circulation issues, but under no circumstance shall vehicular ways be less than 14 feet wide;

3. Parking and vehicle access:
   a. Provide for continuous sidewalks that are minimally broken within a block by vehicular access.
   b. Unstructured surface parking areas facing the main street frontages are discouraged.
   c. Parking areas shall be setback from structures, property lines and internal ways by a minimum of 10 feet.
   d. Multi-purpose parking areas paved with unit pavers are encouraged (i.e., areas that serve both parking and public open space needs).

4. All two-way traveled ways shall provide a pedestrian sidewalk of a minimum six-foot (6') width on both sides of the roadway. All sidewalks shall be of standard concrete or brick set in concrete and are encouraged where applicable. Minor ways may provide a pedestrian sidewalk on a minimum of one side of the roadway. On cul-de-sac turnarounds and at intersections, vertical granite curbing shall be required. Vertical granite curb inlets with curb transition sections shall be required at the back of catch basins, on grades over six (6) percent, and at the intersections with arterial streets;

5. Crosswalks with handicap accessible curb cuts shall be provided at all intersections. All crosswalks and curb cuts shall comply with the requirements of the Massachusetts Architectural Access Board (MAAB) and/or Americans with Disabilities Act (ADA) requirements; and,

6. Streetscape elements shall be encouraged, including:

   a. Sidewalks and crosswalks as noted above;
   b. Ornamental street lights, sixteen feet (16') maximum height on minor roads, twenty-four feet (24') maximum height on major roads;
   c. Brick, concrete or other specialty pavements at building entrances;
   d. Ornamental fences of less than thirty inches (30") in height, when appropriate;
   e. Ornamental bollards to direct pedestrian traffic and define public space.

17.11.15 Storm Drainage

Storm water drainage systems shall be subject to the most recent Massachusetts laws, regulations, polices and guidelines including but not limited to the DEP Stormwater Management Policy, as amended, as well as local bylaws.

The design, construction and maintenance of stormwater systems shall be consistent with the following:

1. Detention / Retention Basin Side Slopes. Basin area side slopes shall be kept as close as possible to natural land contours, i.e. ten percent (10%) or less wherever possible. A maximum 3:1 side slope shall be constructed for the interior of the basin areas. For security purposes fencing may be required by the PAA. Drainage basins shall be designed to facilitate access for maintenance vehicles and personnel;

2. Drainage Easements. If it is necessary to carry drainage across lots within the development, storm drainage easements shall be provided, of such width and construction as will be adequate to accommodate the volume and velocity of the run-off. However, no such easement shall be less than thirty feet (30') in width;

   If a proposed drainage system would carry water across land outside the development boundaries to an approved outfall, appropriate drainage rights shall be secured by the applicant at the applicant's expense, and shall be referenced on the 40R Plan;

3. Discharging runoff directly into rivers, streams, watercourses, or enlarging the volume, rate or further degrading the quality of existing discharges/runoff is prohibited. Runoff shall be routed through vegetated swales, using native species and other structural and nonstructural systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle and remove pollutants. Such systems will utilize overland flow and re-infiltration as priority techniques for the treatment of run-off;

4. Retention and detention ponds, and methods of overland flow may be used to retain, detain and treat the increased and accelerated runoff which the development generates;

5. There shall be a minimum of two (2') feet of naturally occurring soils between the detention basin bottom and the maximum annual ground water table;

6. Water shall be released from detention ponds at a rate and in a manner approximating the natural conditions which would have occurred before development;

7. Intermittent water courses such as swales shall be vegetated;

8. The first one (1") inch of runoff from impervious surfaces, such as rooftops and paved surfaces, shall be treated in the site of the development;

9. Runoff from parking lots and streets shall be treated to remove oil and sediments. Catch basins shall be provided with hoods; in the alternative, drainage outfalls shall discharge to low velocity "vegetated treatment" swales;

10. The use of drainage facilities and vegetated buffer zones as open space and conservation areas shall be encouraged; and,

11. Neighboring properties shall not be affected by flooding from excessive runoff.

17.11.16 Water Facilities

1. Installation. The applicant shall be responsible for installing water facilities, including, but not limited to water supply, pipes, hydrants, hydrant markers, gates, valves, and all other related appurtenances, in accordance with the Regulations and Master Plan of the Water Department. Any extension of an existing pipe and construction of new pipes requires approval from the Water Department. Building service pipes and appurtenances from the system piping to the exterior line of the street right-of-way shall be constructed for each lot unless the Board of Health has approved individual wells. Said water facilities shall be shown on the 40R plan;

2. Fire Hydrants. Fire hydrants shall be required throughout the entire development. Fire hydrants, with hydrant markers, shall be located not more than five hundred feet (500') apart; shall be approved, in writing, as to location by the Fire Chief and the DPW; and shall be shown on the 40R Plan;

3. Extensions. Reasonable provisions shall be made for extension of the water system and pipes to adjoining property, including installation of water gates. Appropriate easements may be required;

17.11.17 Sewer

1. Installation. In the event that the Town sanitary sewer system is located within an existing public way within four hundred feet (400') measured along the existing public way or proposed roadway of the development, the applicant shall be responsible for connecting all lots to the sewerage system unless there are legal, design or operational considerations, in which case, alternative arrangements for sewage disposal such as through the existing on-site sewage treatment plant or other methods permitted by law may be utilized. If applicable, connection to the system shall require an approval from the DPW, and any other required approvals, including, but not limited to approvals issued by the Greater Lawrence Sanitary District, and a permit for extension/connection of the sewer system issued by the Massachusetts Department of Environmental Protection's Division of Water Pollution Control.

17.11.18 Electric and Communication Lines

1. Installation. All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to, telephone and community antenna television cable;

2. Electric Lines. The electrical power distribution shall be installed in accordance with the specifications of the Rules and Regulations of the Department of Public Works of the Town of North Andover in effect at the time of application.

17.11.19 Street Signs

Street signs shall be installed at all intersections in conformity with the specifications of the Department of Public Works. The signposts at the intersection of each street with any other street, shall have affixed thereto a sign designating such street as a private way.

17.11.20 Monuments

Monuments shall be four feet long, 6 inch square concrete or granite, and shall be installed at all roadway intersections, at all points of change in direction or at curvature of roadways, at two (2) property corners of all new lots and at any other points where, in the opinion of the Board, permanent monuments are necessary.

1. Monument Spacing. Monuments located in the street right-of-way shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street right-of-way limits. The maximum interval shall be one thousand feet (1000');

2. Monument Materials. Monuments shall be standard granite markers of not less than four feet (4') in length and not less than five inches (5") square, and shall have a drill hole in the center. If subsoil conditions prohibit installation of four (4') foot monuments, with advance approval by the Board, monuments meeting alternative specifications shall be installed. Monuments shall be set flush with the finished grade; and

3. Monument Certification. No permanent monuments shall be installed until all construction, which would destroy or disturb the monuments is completed. Placement and location of bounds are to be certified by a registered professional land surveyor after installation of the street, and shall be shown on the "as-built" or record plans.

17.11.21 Subzone Design Standards

1. Residential Mixed-Use Zone
Location: As shown on the OSGOD Map.

a. Building Type: The dwelling units in Residential Mixed-Use Zone may be situated in a single structure or in multiple structures.
b. Nonresidential Uses: If a building containing residential uses also includes permitted retail, restaurant, and professional services or other uses in the Residential Mixed-Use Zone, the nonresidential uses shall be centrally located on the ground floor of the building in which it is contained. Notwithstanding the foregoing, non-residential uses are preferred, but not required, to be located in buildings containing residential uses, and non-residential uses may be located in buildings which are separate from buildings containing residential uses as long as the non-residential use and building are designed to complement the primary residential use.

2. Mixed-Use Development Zone
Location: As shown on the OSGOD Map.

a. Building Type: For buildings which include a mix of residential and non-residential uses, the dwelling units in such buildings shall be situated over the allowed nonresidential space. Buildings may also be constructed which contain either solely residential uses or solely non-residential uses.

b. Nonresidential Uses: Non-residential uses are not required to be located in buildings containing residential uses, and non-residential uses may be located in buildings which include no residential uses.

3. ***Business Opportunity Development Subzone***
   a. Permitted uses in the Business Opportunity Development Subzone shall not exceed 150,000 square feet per development unless waived by the PAA.

17.12 Application for Plan Approval

17.12.1 Pre-application

Prior to the submittal of a site plan, a "Concept Plan" may be submitted to help guide the development of the definitive site plan for site buildout and individual elements thereof. Such Concept Plan should reflect the following:

1. Overall building envelope areas;

2. Approximate building massing, showing heights;

3. Open space and natural resource areas; and,

4. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed development design will be consistent with the design standards and other requirements of the OSGOD.

17.12.2 Application Submission.

An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fees which shall be as set forth in the Regulations.

17.12.3 Required Submittals

The application for Plan Approval shall be accompanied by such plans and documents as may be required and set forth in the PAA's Regulations. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA.

17.13 Procedures

17.13.1 Filing

An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the Regulations with the Town Clerk, and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA. An Applicant is encouraged to review the final application with the PAA or its Agent to confirm application completeness prior to filing the final application with the Town Clerk and PAA.

17.13.2 Circulation to Other Boards

Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

17.13.3 Hearing

The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.

17.13.4 Peer Review

The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R. Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, town counsel, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued shall be returned to the applicant.

17.14 Decision

17.14.1 Waivers

Upon the request of the Applicant, but subject to Section 17.8.12 as to Affordability, the Plan Approval Authority may waive dimensional and any other requirements of Section 17.0, including but not limited to, the design standards of Section 17.10, in the interests of design flexibility and overall development quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the OSGOD, or if it finds that such waiver will allow the development to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section17.0.

17.14.2 Plan Review

An Application for Plan Approval shall be reviewed for consistency with the purpose and intent of this

Section, and such Plan Review and shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

17.14.3 Plan Approval

Plan Approval shall be granted where the PAA finds that:

1. The applicant has submitted the required fees and information as set forth in the Regulations;

2. The development and site plan meet the requirements and standards set forth this Section 17.0, or a waiver has been granted there from; and,

3. Any extraordinary adverse potential impacts of the development on nearby properties have been adequately mitigated.

17.14.4 Plan Disapproval

A site plan may be disapproved only where the PAA finds that:

1. The applicant has not submitted the required fees and information as set forth in the Regulations; or

2. The development and site plan do not meet the requirements and standards set forth this Section 17.0, or a waiver has been granted there from; or

3. It is not possible to adequately mitigate significant adverse potential impacts on nearby properties by means of suitable conditions.

17.14.5 Form of Decision

The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application or notice. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

17.15 Change in Plans after Approval by PAA

17.15.1 Minor Change

After Plan Approval, an applicant may be apply to make minor changes involving minor utility or

building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA**.** The PAA may authorize such changes at any regularly scheduled meeting, without need upholding a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk.

17.15.2 Major Change

Those changes deemed by the PAA to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section 17.0.

17.16 Severability and Authority.

This Section 17.0 is promulgated pursuant to the authority of G.L. c. 40R and G.L. c. 40A, as applicable. If any provision of this Section 17 is found to be invalid by a court of competent jurisdiction, the remainder of Section 17 shall not be affected but shall remain in full force and effect. The invalidity of any provisions of this Section 17 shall not affect the validity of the remainder of this Section.

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,; 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.

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.. An application for the Downtown Overlay shall be deemed to satisfy the requirements for Site Plan Review as described in Section 8.3.

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 (18 or less units)
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. Multi-family dwelling (greater than 18 units)
10. All uses allowed in the underlying zoning district by Special Permit are allowed by Special Permit issued by the Planning Board.

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 that 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

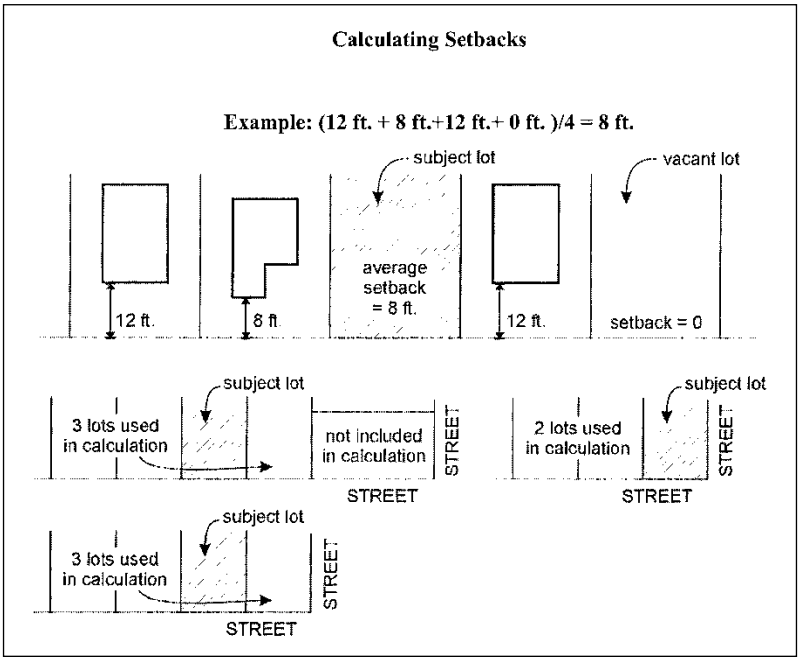
To accomplish the purposes of this Section, the Planning Board is authorized to grant a Special Permit to allow an increase in the height of structures either in existence, as reconstructed, or as new construction, so that the total height does not exceed forty-five (45) feet or three (3) stories within 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.

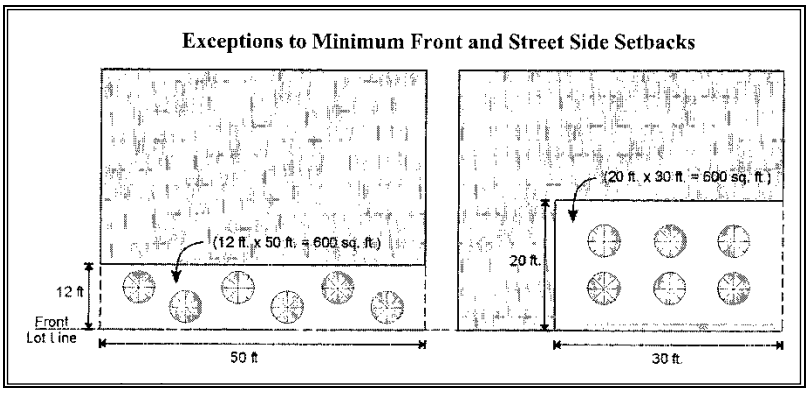
    i. If one or more of the lots required to be included in the averaging calculation is vacant, such vacant lot(s) will be deemed to have a yard depth of zero feet.
    ii. Lots fronting a street other than the subject lot or separated from the subject lot by a street or alley may not be used in the computing 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.

18.7 Relationship to 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 in accordance with 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 provisions of Section 18 shall govern.

Section 18.8 Downtown Overlay District—Sub-district A: Historic Mill Area

18.8.0 Purpose
The purpose of Sub-district A is to:

a) Encourage a diverse mix of residential, business, commercial, office, governmental, institutional, entertainment and other uses for workers, visitors, and residents;
b) Not detract from the livability and aesthetic qualities of the environment.
c) Promote more efficient use of land while protecting natural resources, such as water resources, wetlands, floodplains, and wildlife.
d) Permit the preservation of existing structures through conversion to new uses in a manner that maintains and enhances the visual character and architectural scale of existing development within the district;
e) Permit an appropriate density of new development to support a vibrant, mixed-use area;
f) Encourage first floor retail/restaurant space
g) Encourage an active streetscape through mixed-uses and high quality design;
h) Encourage a pedestrian and bicycle friendly environment;
i) Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.
j) Encourage consolidation of curb cuts for vehicular access and promote more efficient and economical parking facilities.
k) Allow for more compact development than may be permitted in other zoning districts to reduce the impacts of sprawl;

18.8.1 Establishment
Sub-district A - Historic Mill Area of the Downtown Overlay District is established as a separate and independent sub-district from the Downtown Overlay District provisions under Sections 18.0 through 18.7 of the Zoning Bylaw, and this Section 18.8 is superimposed over all underlying zoning districts established by the Zoning Bylaw now or hereafter applicable to the properties historically known as the former Davis & Furber Machine Company, and is shown as Downtown Overlay District: Sub-district A on the Zoning Map prepared by the North Andover Division of Community Development. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town.

18.8.2 Boundaries

Boundaries of the Downtown Overlay District – Sub-district A: Historic Mill Area are shown on the Zoning Map and shall include all of the real property as identified on the FY 2014 Town of North Andover Assessor's Map: Map 54 Parcel 1, Map 53 Parcel 25, Map 68 Parcel 10, Map 68 Parcel 1, and Parcel 3, as described by deed in Book 10601, Page 340 for the former rail road right of way, as more particularly shown on the Zoning Map.

18.8.3 Applicability and Relationship to Underlying Zoning

An application for a proposed project located within Sub-district A–Historic Mill Area may either use the standards in the underlying zoning district in their entirety, or those standards contained within Section 18.8 in their entirety. For those sites for which an application is filed in accordance with Section 18.8, review shall be in accordance with the standards set forth in this Section 18.8 by the Planning Board, as Special Permit Granting Authority, or otherwise. If an applicant elects to file an application for a project in accordance with the requirements of this Section 18.8, then to the extent that there is any conflict between the provisions set forth in this Section 18.8 and any other provisions of the Zoning Bylaw, the terms of this Section 18.8 shall govern.

18.8.4 Permitted Uses

The following uses are permitted, as more specifically described below:

18.8.4.1 The following uses shall be permitted by right in the Sub-district A:

a) Detached one- or two-family residential structures;
b) Multifamily dwellings, up to 6 dwelling units;
c) Townhouses;
d) Mixed-use structures (for permitted uses);
e) Retail sales establishments, excluding automobile service station, car wash, body shop, automobile repair shop, or sales of motor vehicles, of no more than 15,000 square feet of floor area;
f) Restaurant, café, or other establishment serving food and/or beverages, establishments of no more than 15,000 square feet of floor area;
g) Business Office ((a primary use consisting of office activities of any type, including business and financial office activities (including banks and financial institutions) and professional office activities, excluding automobile service station, car wash, body shop, or automobile repair shop));
h) Professional Office (A primary use consisting of office activities by a doctor, dentist, architect, lawyer, engineer or other professional person or persons);
i) Day care center;
j) Hall, club, theater, or other place of assembly, establishments of no more than 15,000 square feet of floor area;
k) Place of recreation;
l) Veterinary hospital;
m) Research and development facilities;
n) Light manufacturing, including fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise, craft brewing or food processing, provided such uses are conducted solely within a building;
o) Printing and reproduction;
p) Educational uses exempt from zoning prohibition by General Laws Chapter 40A, Section 3.
q) Religious uses exempt from zoning prohibition by General Laws Chapter 40A, Section 3.
r) Art gallery or museum;

s) Public building or use and public service corporations;

18.8.4.2 The following uses shall be permitted by special permit by the Planning Board in the Sub-district A:

a) Multifamily dwelling, seven or more units;
b) Mixed-use structures for uses allowed by special permit.
c) Independent elderly housing, congregate housing, assisted living, nursing care facilities;
d) Retail sales, establishments excluding automobile service station, car wash, body shop, automobile repair shop, or sales of motor vehicles, of more than 15,000 square feet of floor area;
e) Restaurant, café, or other establishment serving food and/or beverages, establishments of more than 15,000 square feet of floor area;
f) Hall, club, theater, or other place of assembly, establishments of more than 15,000 square feet of floor area;
g) Hotel or Motel;
h) Hospital;
i) Warehousing and wholesaling;
j) Pet day care or boarding;
k) Any drive-through facility accessory to an above use;
l) Free-standing automated teller machine;
m) Photovoltaic power generation systems;
n) Public garage;
o) Any accessory use customarily incident to any of the above permitted uses, provided that such use shall not be noxious or dangerous to the neighborhood

18.8.4.3 Other uses. All other uses are hereby expressly prohibited except uses which are substantially similar in character to the permitted uses enumerated above, as determined by the Planning Board, shall be treated as requiring a Special Permit to be issued by the Planning Board.

18.8.5 Design Guidelines

Redevelopment and new construction within the Overlay District shall be designed in a fashion to achieve one or more of the purposes of Sub-district A described in Section 18.8.0. The following guidelines are intended to aid the Planning Board in its review of projects during both the Master Plan and Definitive Plan review stages as described under Section 18.8.10, and are intended to be flexible guidelines and not rigid standards which the Planning Board may consider:

a) Where appropriate, new buildings should be oriented to face the public way, set close to the sidewalk, with parking located to the side or behind the buildings rather than between the building and the street.
b) Buildings shall be oriented to encourage convenient pedestrian and bicyclist access and public activity in visible areas.
c) Large blank walls should be avoided. New buildings should be divided visually into sub-elements, where appropriate, to express the functional diversity within the building; similarly, commercial ground floors of new buildings should emphasize transparency similar to traditional store fronts or the existing mill buildings.
d) New curb cuts on existing public ways shall be minimized.
e) Where possible, it is preferable to have underground utilities for new and redeveloped buildings.
f) Where possible historic features of historic buildings shall be preserved.

g) Signage and lighting shall be sufficient and consistent with the proposed use.
h) New development shall transition in height, density, scale, intensity, and use from the existing mill buildings to the surrounding neighborhoods abutting the Sub-district A.

18.8.6 Dimensional and Density Standards

18.8.6.1 Setbacks.

(a) Existing Buildings and Structures. In keeping with the purpose of Sub-district A it is recognized that the existing buildings have been developed with distinct development patterns to match the traditional needs of the lots and buildings that have made the Historic Mill Area unique. Building setbacks within the Sub-district A for buildings and structures in existence as of the date of adoption of this Section 18.8 shall include a minimum front yard setback, side yard setback, and rear yard setback of zero.

(b) New buildings and Structures, Additions to Existing Buildings and Structures. New buildings and structures, as well as additions to those buildings and structures existing as of the date of adoption of this Section 18.8, shall be subject to the following minimum dimensional requirements:

(i) A 35-foot setback of a new building from the Sub-district A boundary is required when the Sub-district A lot line abuts a residential zoning district located outside Sub-district A, subject to Section 18.8.6.2 below. The first 15 feet of the setback abutting the residential zoning district shall remain open and green, be suitably landscaped, unbuilt upon, unpaved, and not parked upon.

(ii) A 20 foot setback is required from any side or rear lot line for all newly constructed buildings, where not abutting a residential zoning district located outside Sub-district A, subject to Section 18.8.6.2 below.

(iii) With regard to additions to those buildings and structures existing as of the date of adoption of this Section 18.8, only the new portions of such additions shall be subject to the setback requirements under Section 18.8.6.1(b).

18.8.6.2 Building Height

(a) Existing Buildings and Structures. The building height of buildings and structures in existence as of the date of adoption of this Section 18.8 shall be deemed to be compliant with building height requirements under this Zoning Bylaw. Any increase in building height for existing buildings and structures in existence as of the date of adoption of this Section 18.8 shall require a Special Permit issued by the Planning Board.

(b) New buildings and Structures; Additions to Existing Buildings and Structures. New buildings and structures, as well as additions to buildings and structures in existence on or before the date of adoption of this Section 18.8, shall be limited to 55 feet in building height by right where located within the underlying I-S district, or within 100 feet of the underlying I-S zoning district boundary by special permit; and where such buildings or structures are not located within the underlying I-S district or within 100 feet of the underlying I-S zoning district boundary, the height limit shall be 35 feet by right, and such building or structure having a Building Height in excess of 35 feet but not more than 55 feet, shall be permitted only by special permit.

Notwithstanding anything to the contrary in this Section 18.8, new buildings or structures, as well as additions to buildings and structures constructed after the date of the adoption of this Section 18.8, may be allowed between 55 feet and 70 feet in building height by special permit issued by the Planning Board , provided that a portion of such structure's

occupiable space is located within 50 feet of a structure existing on or before the adoption of this Section 18.8, and that no part of such structure is located more than 200 feet from such an existing structure.

18.8.6.3 Floor Area Ratio
A maximum Floor Area Ratio of 1.0 shall be permitted by right. By special permit, the Planning Board may permit an FAR of up to 2.0, where it can be shown to be consistent with the purposes of Section 18.8.0. For the purposes of calculating FAR, the lot area shall be the sum of all parcels included as part of a Master Plan per Section 18.8.10 and located within the Overlay; parcels included may be separated by public rights of way or other privately held land, and are not required to be held in common ownership.

18.8.6.4 Extension, Alteration and Reconstruction of Existing Buildings and Structures
Notwithstanding any provisions of this Zoning Bylaw to the contrary, buildings and structures existing as of the date of adoption of Section 18.8 may be extended or altered or reconstructed, provided, that no such extension or alteration or reconstruction shall be permitted unless there is a finding by the Planning Board, as the special permit granting authority, that such change, extension or alteration or reconstruction shall not be substantially more detrimental than the existing structure to the neighborhood and shall be consistent with the purposes of Section 18.8.

18.8.7 Site Design Guidelines
To encourage good site design, the Planning Board shall encourage the use of the following site design and architectural features, where appropriate, in reviewing an Application.

18.8.7.1 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

18.8.7.2 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) Exterior materials, doors and windows
e) Exterior colors
f) Signage, flags and banners
g) Sign design standards as applicable and consistent with Section 6 of this Bylaw
h) Exterior illumination

18.8.7.3 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

18.8.8 Site and Design Standards
The site and design criteria within this Section shall be applicable to all residential projects greater than six (6) units, mixed use and nonresidential property.

18.8.8.1 Site Access
a) Curb cuts within two hundred (200) feet of intersections shall be minimized.
b) Curb cuts greater than thirty (30) feet and driveway openings greater that twenty (20) feet shall be minimized. Full width curb cuts are prohibited.

18.8.8.2 Parking. Existing and proposed structures and uses within the Overlay shall provide adequate off street parking for activities within the development in accordance with the standards described in Section 8.1. The Planning Board may waive any requirements of Section 8.1, including, but not limited to, required ratios, design standards, or location where it can be shown to further the Purpose of this Section in accordance with the review procedures of Section 18.8.8. Street parking within 100 yards of a parcel shall be deemed included in the parking count for the property. In addition, leased or owned parking within 400 yards of the property line may be used to meet the parking requirement by special permit.

As part of its review of the Master Plan and subsequent Definitive Plan(s), the Planning Board shall review proposed parking ratios, locations, and design standards to ensure that adequate parking is provided and that the Purposes of Section 18.8.0 and the Guidelines of Section 18.8.5 are being satisfied. In making this determination, the Planning Board shall consider opportunities for shared parking for visitors to multiple uses on site, uses operating at different times of the day or week, and the presence of public on-street parking.

18.8.8.3 Bicycle Accommodation. Bicycle parking shall be provided in safe locations, and conveniently accessible to entries and/or sidewalks. An appropriate number of spaces shall be determined as part of Master Plan and subsequent Definitive Plan review.

18.8.8.4 Pedestrian Accommodation. Parking, sidewalks, and landscaping areas shall provide for safe and convenient pedestrian circulation through the site, to buildings, parking areas, and public ways.

18.8.8.5 Landscaping and Appearance. Redeveloped or newly developed areas of the site shall be landscaped in an attractive way that enhances the character of the development as a downtown, mixed-use neighborhood.

a) Any required setback from a residential property, per Section 18.8.6.1.(a) shall be screened by a solid fence or tight landscaping having a height of no less than five (5) feet unless such screening would interfere with sight distance. A chain link fence shall not be permitted.

b) New parking areas with more than 20 parking spaces shall devote at least 5% of the interior of parking area to landscaping. In addition a minimum of 1 shade tree shall be planted for every six parking spaces built. In the event planting trees would not be practical

amid the parking area, planting of shade trees elsewhere on the property shall satisfy this requirement.

c) A minimum of 1 shade tree shall be planted for every 40 feet of street frontage or fraction thereof in appropriate locations.

d) Where appropriate, benches, planters, outdoor seating, and other amenities shall be installed to encourage pedestrian use.

18.8.8.6 Waiver. The preceding provisions under this Section 18.8.8 may by waived as a part of a Sub-district A special permit issued by the Planning Board where such waiver furthers one or more of the Purposes of Section 18.8.0

18.8.8.7 Noise. As a mixed-use center containing office, retail, and light industrial uses among others, it is acknowledged that tenants as well as mechanical systems may emit noise. All development shall comply with applicable state air pollution control regulations and policies in connection with sound levels.

18.8.8.8 Light. The site shall be adequately lit to provide for safety and visibility. Lighting instruments shall be oriented or shielded such that they do not have spillover of greater than one foot candle onto abutting properties or interfere with public ways.

18.8.9 Sign Master Plan

Notwithstanding anything to the contrary in this Bylaw, and as part of Definitive Plan review, the Planning Board may approve a comprehensive signage master plan for the project which, if approved by the Planning Board, may allow for signage which deviates from the specific sign requirements of the Zoning Bylaw, including Section 6.6, provided that such signage would, in the opinion of the Planning Board, be consistent with the general purpose and intent of Section 18.8.0. The signage master plan proposal should show proposed sizes, locations, and general design approach for signs, banners, awnings, etc. in such detail as the Planning Board may deem reasonably necessary to make a decision to approve such master plan. Following approval of a signage master plan as part of any Definitive Plan, signs may be installed, removed, and replaced with the approval of the Building Inspector, provided that such signage conforms to the signage plan approved in the Definitive Plan decision.

18.8.10 Plan Review and Approval Process

The review and approval process for an application for approval of a project under this Section 18.8 shall be governed by the following review procedures:

18.8.10.1 Uses which are permitted by right are allowed within buildings and structures in existence as of the date of adoption of this Section 18.8, subject to building code and other applicable Town bylaw and regulations.

18.8.10.2 Approval of a use requiring a special permit, and/or approval of a new structure or expansion of an existing structure, shall require a special permit, subject to the following procedure:

18.8.10.3 Pre-Application Conference. Prior to the submission of Preliminary Master Plan or Definitive Plan under Sub-district A, the applicant, at its option, may confer with the Planning Board and Town Planning Staff to obtain information and guidance before beginning the formal application process.

As a part of the Pre-Application Conference, the Planning Board may agree to waive the Preliminary Master Plan process described in Section 18.8.10.4 below and proceed directly with the filing of a Definitive Plan if it deems that the submission of a Master Plan is unnecessary, due to the minor nature of the proposal.

18.8.10.4 Submission and Approval of Preliminary Master Plan. The applicant shall file, if not waived by the Planning Board as provided above, a Preliminary Master Plan accompanied by an application for Preliminary Master Plan Review with the Planning Board, and the Board shall schedule a meeting at a regularly scheduled Board meeting which shall be noticed in accordance with Section 11 of M.G.L. c. 40A. A copy of the Preliminary Master Plan and the above form shall also be filed in the Office of the Town Clerk. The Planning Board shall review and determine whether the proposed project is consistent with the objectives articulated under Section 18.8.0 within 60 days of receipt of the plan by the Town Clerk. In approving a Master Plan, the Planning Board may suggest modifications and changes in anticipation of the filing of the Definitive Plan(s).

A Preliminary Master Plan shall include the following components:

a) A locus plan, showing the names of abutters, land uses, and location and width of all adjacent streets.
b) An existing site plan, showing existing buildings or structures, parking and circulation areas, open space, landscaping and topography, easements, public areas within or next to the development, and lot boundaries and areas.
c) A proposed conceptual site plan, showing, in a general manner, all proposed buildings or structures, parking and circulation areas, open space, landscaping and topography, easements, public areas within or next to the development, proposed lot boundaries and areas, and the proposed system of drainage, including adjacent existing natural waterways.
d) A narrative including: a description of the overall concept for the Master Plan, including general building locations, site improvements, and land uses, and demonstrating how the Plan conforms to the Purpose of this Section; a description of the natural features of the site, including wetlands, floodplains, slopes over 12%, soil conditions, and other features requested by the Planning Board; and a description of the neighborhood in which the tract lies, including environment, traffic, utilities, and other public facilities and the general impact of the proposed Master Plan upon the Town.

18.8.10.5 Submission and Approval of Definitive Plan. Following approval of a Preliminary Master Plan, the expiration of the 60-day period above without Planning Board action on the Preliminary Master Plan, or waiver of the same as provided above, the applicant shall file a Definitive Plan accompanied by an application for Definitive Plan Review prior to an application for a building permit. Review of a Definitive Plan shall follow the procedures of Section 18.8.10.9 and Section 9 of M.G.L. c. 40A. An application for Definitive Plan approval shall include the following components unless waived by the Planning Board:

a) A locus plan showing the names of abutters, land uses, and location and width of all adjacent streets.
b) Landscape plans showing proposed plantings.
c) Engineered drawings showing proposed utilities, storm water management, vehicular circulation, parking, and other requirements as appropriate.
d) Proposed sign master plan, as described in Section 18.8.9.
e) A narrative describing how the proposed building(s), anticipated land uses, site design, parking, circulation, landscaping and other features conform to the Master Plan Special Permit and the Purpose of this Section.

f) It shall be drawn at a scale of one-inch equals forty feet unless another scale is requested and found suitable by the Planning Board.
g) The Plan shall be prepared by a land surveyor, professional engineer, or architect.
h) The scale, date, and north arrow shall be shown.
i) The plan shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
j) The corner points of the lot and change of direction of lines shall be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker and shall be so marked.
k) Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.
l) Easements within the lot and abutting thereon.
m) The location of existing or proposed buildings on the lot.
n) The location of existing wetlands, water bodies, wells, 100 year floodplain elevation and other natural features requested by the Planning Board.
o) The dimensions of the existing and proposed buildings in feet.
p) The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
q) Percent of the lot coverage.
r) Average finished grade of each proposed building.
s) The elevation above average finished grade of the floor and ceiling of the lowest floor of each proposed building.
t) Existing and proposed topographical lines at two (2) foot intervals.
u) Height of all proposed buildings, above average finished grade of abutting streets.

18.8.10.6 Phasing. In the event of phased development of an approved Master Plan, the applicant may divide the proposed development described in the Master Plan into several phases which shall be reviewed either through a single combined Definitive Plan, or through a series of separate Definitive Plans that address the proposed area of work.

18.8.10.7 Consolidation of Review. An application for approval under this Section 18.8 is also intended to consolidate review and approval under other applicable provisions of this Zoning Bylaw as a single special permit review process with a single special permit issued by the Planning Board. To this end, if an application for approval under this Section 18.8 also triggers review under Section 8.1 (Parking), and/or 8.3 (Site Plan Approval) and/or Section 6.6 (signs), the Planning Board shall consolidate its review such that an application filed under Section 18.8 for a Sub-district A special permit shall be deemed to satisfy the requirements under Sections 8.1, 8.3, and 6.6, and the Applicant shall also use the standards under said Sections 8.1, 8.3 and 6.6 as guidance and without the need to file for separate zoning relief under said Sections, and the conditions and requirements under Sections 8.1 and/or 8.3 and/or 6.6 shall be incorporated into the Sub-district A special permit review and approval process.

18.8.10.8 Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Definitive Plan Approval application. Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, town counsel, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued shall be returned to the applicant.

18.8.10.9 Procedures

a) The Sub-district A Definitive Master Plan approved by the Planning Board under Section 18.8 becomes the official development plan for a site for which an application for Sub-district A Definitive Master Plan Special Permit is filed. Town permits shall be issued or withheld based upon compliance with the approved Definitive Master Plan. The approved Definitive Master Plan is legally binding and can only be changed or adjusted in compliance with the provisions contained in Section 18.8.10.10 (Revisions to Approved Definitive Master Plans).

b) A Definitive Master Plan approval is by Special Permit issued by the Planning Board, as special permit granting authority, and shall be noticed in accordance with Sections 9 and 11 of M.G.L. c.40A.

c) An applicant for a Sub-district A Definitive Master Plan Special Permit shall file with the Planning Department an application form, fee, the Definitive Master Plan, and any additional information as may be required as described herein or as provided in regulations and/or instructions of the Planning Board. Once the application is deemed complete, the Planning Department will forward one copy of the application to the Town Clerk. An application will not be deemed complete until all required information and fees are submitted. The time periods set forth in this Zoning Bylaw and M.G.L. c..40A will not start until the application has been deemed complete and submitted to the Town Clerk. The application shall also be subject to the procedures and requirements for special permits under Sections 10.3 and 10.31 of the Zoning Bylaw.

d) The Planning Board shall have the authority to require that the applicant pay for necessary professional services required to adequately review and analyze the contents of any Definitive Master Plan or technical review requested by the Board.

18.8.10.10 Revisions to Approved Definitive Master Plan

(a) Any revisions to a development that has secured Sub-district A Definitive Master Plan approval shall be submitted to the Town Planner for review. No revisions shall be approved until the Town Planner receives three (3) copies of the revised plan and the revisions placed on the plan fall into the following categories:

(i) A change of location and layout of any parking area(s), signs, storage or accessory buildings, provided that no Town Bylaws are violated by the change;

(ii) The change in the proposed landscaping plan which does not violate any Town Bylaw;

(iii) A change of egress and ingress provided the same is in compliance with Town Bylaws and the requirements of the Commonwealth; or,

(iv) Such other adjustments deemed minor by the Town Planner with consent by the Planning Board.

(b) The revisions cited above may be completed without further approval by the Planning Board, upon approval by the Town Planner. The Town Planner may determine that the revisions as shown do not fall into the categories outlined in this subsection, and that the proposed revisions are in fact substantial and call for a materially different site plan than approved by the Planning Board in that changes are called for in the type, location and manner of the facilities and site improvements to be constructed and shown in the approved Definitive Master Plan.

(c) If the revisions are determined to be substantial and materially different by the Town Planner, the Town Planner shall direct the applicant to resubmit the site plan to the Planning Board for approval in accordance with the provisions of this section.

18.8.10.11 Standards for Approval – Special Permit.
In addition to satisfying the specific criteria for the grant of a special permit contained in Section 10.31 of this bylaw, and under Section 9 of M.G.L. c. 40A, the Planning Board shall issue a special permit only after consideration of the following factors:

a) Compliance with the criteria established under this Section 18.8 unless otherwise waived;
b) Impact on the neighborhood visual character, including architectural design, views and vistas; and,
c) The project meets one or more of the purposes established under Section 18.8.0.

Table 1: Summary Of Use Regulations

	Zoning Districts																			OSGOD Smart Growth Overlay		
	Residential					Commerical										Industrial				RMUZ	MUZ	BOZ
Permitted Use	R1-3	R4	VR	R5	R6	B1	B2	B3	B4	VC	GB	PCD	CDD1	CDD2	CDD3	I1	I2	I3	IS			
Agricultural Use*	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	N	Y	Y	Y	Y	Y	Y	Y
Art Gallery	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	SP*	Y	Y	Y	Y	Y	Y	N	N	Y	Y
Auto Service Station*	N	N	N	N	N	N	Y*	Y*	N	N	Y	N	N	N	N	N	Y*	N	SP	N	N	N
Auto & Vehicle Repair/ Body Shop	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	Y	N	N	N	N	N
Bus Garage	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	Y	N	Y	N	N	N
Business & Other Offices	N	N	N	N	Y	N*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Car Wash	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	N	N	Y	N	N	N	N	N
Commuter Rail System																	N			N	N	Y
Congregate Housing	N	SP	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	Y	Y	N
Continuing Care Retirement Center	Y*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N
Day Care Center	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	SP	Y	SP	SP	SP	SP	Y	Y	N
Eating & Drinking Establishment	N	N	N	N*	SP*	N*	Y	Y	N*	Y	Y	SP*	Y	Y	Y	N*	N*	N*	SP	Y[1]	Y[1]	Y
Funeral Parlor	N	N	N	N	SP	N	Y	Y	N	Y	Y	SP*	Y	Y	Y	N	N	N	N	N	Y	Y
Golf Course	Y	Y	Y	Y	Y	N	N	N	N	N	N	Y	N	N	Y	Y	Y	Y	Y	N	N	Y
Guest House	N	Y	Y	Y	Y	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	Y	N
Incubator or Business Park																	N			N	Y	Y
Independent Elderly Housing	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N
Indoor Place of Amusement or Assembly	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N	Y	Y	N	N	N	N	N	SP	SP
Indoor Ice Skating Facility	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	SP	SP	SP	N	N	SP	SP
Lumber, Fuel Storage or Contractor's Yard	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	N	N	Y	Y	Y	N	N	N
Manufacturing*	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	N	N	Y
Medical Center*	N	N	N	N	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N	Y	Y
Motel or Hotel	N	N	N	SP	N	N	N	N	Y*	N	N	SP*	N	N	Y	N	N	N	N	N	Y	Y
Multi-Family Dwellings & Apts.	N	N	Y**	Y*	Y	Y	SP	N	N	N	N	SP*	N	N	N	N	N	N	N	Y	SP	N
Municipal Recreation Area	Y	Y	Y	N	Y	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N	N	N	N	N
New Car Sales*	N	N	N	N	N	N	N	Y	N	Y	Y	N	N	N	N	N	N	N	N	Y	SP	SP
Non-Profit School	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N
Nursing & Convalescent Homes*	SP	SP	SP	SP	SP	N	N	N	Y	N	N	SP	N	N	N	N	N	N	N	N	N	N
One-Family Dwelling	Y	Y	Y	Y	Y	Y	N	N	N	N	N	Y	N	N	N	N	N	N	N	Y[1]	Y	Y
Personal Services	N	N	N	N*	SP*	Y	Y	Y	N*	Y	Y	N	Y	Y	Y	N*	N*	N*	N*	Y	Y	Y
Places of Worship	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y
Printing & Reproduction	N	N	N	N	SP*	N	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	SP	SP
Private School for Profit	SP	SP	SP	SP	SP	N	Y	Y	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Professional Offices*	N*	N*	N*	Y*	Y*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Public Building or Use	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y	Y	N	SP	SP
Public Garages & Accessory Buildings	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Public Service Corporation	N	N	N	N	SP	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	N	N	N
Public Sanitary Disposal Site	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Public Storage of Equipment	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
Recreation Area	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	Y	Y	SP	SP	SP	N	Y	Y	Y
Renewable/Alternative Energy Research & Development Facilities and Manufacturing	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y[2]	N	N	N	N	N
Research & Development Facilities	N	N	N	N	SP	N	N	Y	Y	Y	Y	N	N	N	Y	Y	Y	Y	Y	N	SP	Y
Retail Establishment	N	N	N	N*	SP	Y	Y	Y	N*	Y*	Y*	SP*	Y	Y	Y	N*	N*	N*	N*	Y[1]	Y[1]	Y
Retail Plaza																	N*			N	SP	Y
Rooming House	Y*	Y*	Y*	Y*	Y*	N	N	N	N	N	N	Y*	N	N	N	N	N	N	N	N	N	N
Taxis Depot	N	N	N	N	N	N	Y	Y	N	Y	Y	N	N	N	N	N	N	N	N	N	N	N
Town House	N	N	N	Y	Y	N	SP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Two Family Dwelling	N	SP*	Y	Y	Y	Y	N	N	N	N	N	SP*	N	N	N	N	N	N	N	N	N	N
Veterinary Hospital & Kennel	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	N	N	N	N	N
Warehousing & Wholesaling	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	N*	Y	N*	Y	N	N	N
Windmill																	N			N	N	Y

SP: Allowable with a Special Permit only.

Note: This Chart is for summary information purposes only and is not a substitute for the detailed District Use Regulations in Section 4 of this Bylaw.

* See detailed District Use Regulations in Section 4 of this Bylaw.

** Only with the provision of publicly owned and maintained sewers or Town approved and accepted private sewers. (see Footnote 12 of Table 2) and with no more than 5 dwelling units per structure

Y[1] - Refer to Sections 17.6.1 and 17.6.2 for gross floor area restrictions.

Y[2] - Refer to Section 4.133.11b, allowed by right with min. of 25 acres

Table 2: Summary Of Dimensional Requirements

	Res. 1	Res. 2	Res. 3	Res. 4	Village Res.[14]	Res. 5[6][7]	Res. 6	Bus. 1	Bus. 2	Bus. 3	Bus. 4	Village Comm.	PCD	General Bus.	CDD 1	CDD 2	CDD 3	Ind. 1	Ind. 2	Ind. 3	Ind. S
Lot Area Min. S.F.	87,120	43,560	25,000	12,500	43,560	43,560[7]	130,680	25,000	25,000	120,000	80,000	90,000	150,000	25,000	43,560	87,120	108,900	80,000	80,000	435,600	50,000
Height Max (ft)	35	35	35	35	35	35	35	35	35	35	60	40*[17]	35***	45	35	35	45	55	55	55	55
Steet Frontage Min (ft)	175	150	125	100	85[13]	150	150[13]	125	125	300	200	200	300	125	150	250	250	150	150	150	150
Front Setback Min. (ft)	30	30	30	30[8]	25	30	25	30	25	100	50	50**[17][1]	100	25	10[1]	10[1]	15[1]	50	50	100[10]	30
Side Setback Min. (ft)	30	30	20	15	15	25	15	20[2]	25[2]	50[3]	50[3]	25**[17]	50	25[2]	15	15	20	50[3]	50[3]	200[10]	20[2]
Rear Setback Min (ft)	30	30	30	30	30	30	30	30[2]	30[2]	50[3]	50	25**[17]	50	35[2]	20	25	30	50[3]	50[3]	200[10]	30[2]
Floor Area Ratio Max.	N/A	N/A	N/A	N/A	N/A	0.75:1	0.25:1[15]	0.30:1	0.75:1	0.40:1	1.50:1	N/A	0.75:1	N/A	0.75:1	0.75:1	0.75:1	0.50:1	0.50:1	0.50:1	0.50:1
Lot Coverage Max.	N/A	N/A	N/A	N/A	N/A	20%	20%	30%	35%	30%	25%	25%	25%	35%	70%	70%	70%	35%	35%	35%[11]	35%
Dwelling Unit Density Max/Acre	N/A	N/A	N/A	N/A	1/acre[12]	Multi-Fam.[12] Town House	9/acre[12]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Open Space												25%**[16]			30%	30%	30%				

*Two stories not to exceed 40ft.
** Refer to Sections 8.1 (13) and 8.4 (6)
*** See detailed District Use Regulations
Please refer to footnotes for additional information

Town of North Andover Zoning Bylaw Footnotes and Graphics

1. In all districts except Village Commercial and any Corridor Development District front setbacks along Route 114 shall be a minimum of 100'. Front setbacks shall be 100' along 125 in Industrial 1 and 2 Districts; the first 50' of front setbacks under this requirement shall be made to provide an effective visual buffer and no parking shall be permitted.

2. Adjacent to residential district, an additional 15 foot side or rear setback shall be required. The first 15 feet of the total setback abutting the residential district shall remain open and green, be suitably landscaped, unbuilt upon, unpaved and not parked upon. In the Business 2 District, the side yard requirements may be eliminated when two (2) adjoining property owners agree to share a party wall.

3. Adjacent to residential districts, the required side or rear setback shall be 100 feet. The first 50 feet of such setback abutting the residential district shall remain open and green, be suitably landscaped, unbuilt upon, unpaved and not parked upon.

4. If an enclosed parking structure is provided, lot coverage may be increased up to the amount of such parking area but not exceed a total coverage of 45%.

5. Minimum lot size for a townhouse complex shall be 43,560 square feet although individual townhouse lots may be a minimum of 3,000 square feet. Minimum lot size for an apartment complex shall be 60,000 square feet.

6. Dimensional regulations for townhouse complexes shall meet the requirement of the Residence 5 District; individual townhouses within the complex, however, shall be regulated as follows:

Minimum Street Frontage:	18 Feet
Minimum Front Setback:	30 Feet
Minimum side Setback:	None required where a party wall is constructed between units; otherwise a 25 foot side setback shall be provided.
Minimum Rear Setback:	30 Feet
Maximum Floor Area Ratio:	1.20:1
Maximum Lot Contiguous Units:	10

7. The Following additional requirements shall apply when apartments or townhouse complexes are constructed in this district.
    a) There shall be a paved driveway or paved walk adequate to accommodate emergency vehicles within 50 feet of the outside entrance of each dwelling unit.
    b) Any road providing access to townhouses or lots intended for townhouses shall conform to the Subdivision Control Regulations of the Planning Board.
    c) Any road providing access to more than 18 apartment dwelling units or more than 24 parking spaces shall conform to appropriate provisions of the Subdivision Control Regulations as if it were a minor residential street. Before issuing a building permit in such cases, the Building Inspector shall obtain a report from the Planning Board on the extent of such conformity.
    d) Maximum height (apartment building): 40 feet.
    e) Maximum stories of living quarters (apartment building): 3.
    f) Maximum units per structure (apartment building): 18.

8. In Residence 4 Districts only, front setback may be the average of all front setbacks of dwelling units within 250 feet on either side of lot. Buildings on corner lots shall have the required front setback from both streets except in the Residence 4 Districts, where setback from the side street shall be a minimum of 20 feet.

9. Nursing and convalescent homes shall have at least 600 square feet of lot area per bed. Minimum lot size for such homes in R1, R2, and R3 shall be 2 acres.

10. Where a public sanitary disposal site is the primary use, the setback area shall be used to provide a screening, natural or artificial, from adjacent residential use of public roadway.

11. Where a public sanitary disposal site is the primary use, an increase up to 100% of the lot coverage shall apply, not including the setback areas.

12. If multi-family structures are selected to attain the maximum density allowed, the proposed project shall be subject to the minimum open space requirements found in Section 8.5 (Planned Residential Development), and to the site plan review requirements of Section 8.3.

    In the instance where no public sewer service is provided and there is not private sewer system acceptable to the Town, the allowed density in the Village Residential Zone shall be one dwelling unit per acre and said dwelling and associated lot shall conform to all the regulations consistent with development in the R-2 Zone. Further, under no circumstances

shall multi-family development be allowed in the Village Residential Zone, regardless of density, without the provisions of public sewer or a town approved and accepted private sewer system.

13. In instances where a lot fronts on Route 114, for purposes of public safety, the required lot front shall be 250 feet.

14. The dimensional criteria described in the table below applies only to detached single family development. Multi-family structures developed in this district shall be subject to all criteria applicable to multi-family developments as stated in Section 8.5. However, in no instances shall the bonus density subsections of Section 8.5 apply in the Village Residential District.

15. In accordance with the procedures and regulations set forth in Section 10.3 and 10.31 of this Bylaw, an application for a special permit may be submitted to increase the allowed Floor Area Ratio (Maximum) from 0.25:1 to 0.30:1 provided that at least 5,000 sq. ft. (excluding basements) of the resulting gross floor area be deeded to the Town for public use purposes; that at least 2,500 sq. ft. of said area be located at street level, and that the entire square footage, exclusive of basements, deeded to the Town be supported with parking spaces at the rate of one space per 250 square feet.

16. Open space shall be consistent with the definition of usable open space as contained in Section 8.5, subsection 5f. Usable open Space no loading areas shall be allowed on the usable open space.

    All required front, rear, and side yard requirements may be calculated as part of the usable open space, but in no instance shall any area designated for open space be less than 15 feet in width.

    Further, no more than 25% of the total area required for open space shall be a wetland area, and no permanent or standing waterbodies shall be calculated as part of the required open space.

17. **Village Commercial Dimensional Requirements**

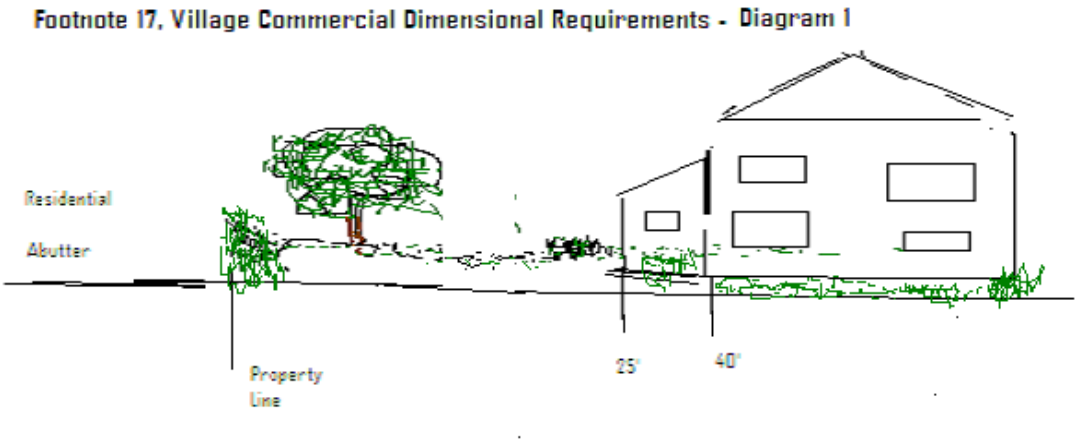
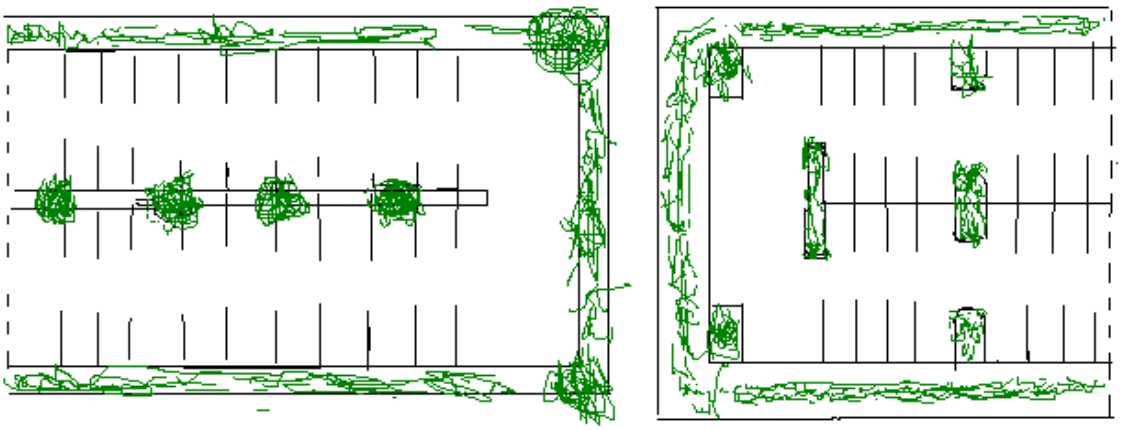
Setbacks

Objective: The setbacks have been determined and arranged in such a way as to promote a quality development which lends itself to the surrounding community in an unobstructive manner.

a) Front setbacks for structure along Route 114 shall be a minimum of 50’, all of which shall be used as an effective visual buffer. No parking shall be allowed within that 50’ buffer. Any roadways or drives within that 50’ buffer shall be as necessary for access only.

b) When adjacent to a Residential District the minimum setback shall be 40', with the first 25' remaining as an effective visual buffer. The Planning board may allow the minimum setback adjacent to a Residential District to be reduced to 25' providing that the maximum height of the proposed structure be 25', not to exceed one (1) story. Further, for every 1 foot that the structure is moved closer than 40' to the Residential Property Line the maximum allowed height of the structure shall be reduced by 1 foot (See Diagram 1). In no instances shall a structure be closer than 25' to a side or rear setback. Any roadway or drives within those setbacks shall be as necessary for access only.

Zoning Bylaw Footnotes and Graphics
Diagram 1.



Graphics from Section 8.4.5