

Town of Westborough Zoning Bylaws



As Amended
2017 Annual Town Meeting

ZONING BYLAWS

ADOPTED MARCH 5, 1990, ARTICLE 19

AMENDED THROUGH MARCH 18, 2017

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ARTICLE 1 ADMINISTRATION AND PROCEDURE (ADOPTED MARCH 5, 1990)

1100. PURPOSE

The purpose of this bylaw is to promote the health, safety, convenience, amenity and general welfare of the inhabitants of the Town of Westborough, through encouraging the most appropriate use of land, as authorized by Chapter 40A of the General Laws; and in particular, lessen congestion in the streets to conserve health, secure safety from fire, flood panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population to encourage housing for people of diverse income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Said regulations may include but are not limited to restricting, prohibiting, permitting or regulating: (Amended 3/2/1992, Article 20)

1. Uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;
2. Size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of Sections 29 through 33, inclusive, of Chapter 93 (General Laws), and to Chapter 93D;
3. Uses of bodies of water, including water courses;
4. Noxious uses;
5. Areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;
6. Density of population and intensity of use;
7. Accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and
8. The development of the natural, scenic and aesthetic qualities of the community.

1200. ADMINISTRATION

1210. BUILDING COMMISSIONER. This bylaw shall be administered by the Selectmen through a Building Commissioner. His duties shall consist of obtaining all routine information, issuing zoning and occupancy permits, and, in general, administering this bylaw under the control and direction of the Board of Selectmen. The Building Commissioner shall be notified by the Board of Selectmen as to the granting or refusal of any application over which he may have jurisdiction. (Amended 5/14/2011, Article 19)

1220. PERMITS REQUIRED. No structure shall be erected or externally altered without a Building Permit having been issued by the Building Commissioner. No land or buildings shall be occupied or changed from one use category of Section 2300 to another without an occupancy

permit having been issued by the Building Commissioner. No such permits shall be issued for construction or use in violation of any provision of this Bylaw. (Amended 5/14/2011, Article 19)

1230. PERMIT APPLICATION. Applications for permits for construction shall be accompanied by two prints of a plan of the lot, drawn to scale, showing the actual dimensions of the lot, exact location and size of any existing or proposed buildings, and streets and ways adjacent to the lot. Where such are involved, any parking areas for six or more cars and their means of egress, and any required screening or landscaping, shall also be shown.

1240. SITE PLAN REVIEW. Findings - Procedures. The Board of Selectmen shall review site plans for development prior to approval of application for Building Permits for all uses specified in Section 2300, Use Regulations Schedule, and which involve six (6) or more parking spaces; to make findings and determinations in regard to such cases in conformity with Section 1241 of this Bylaw. In such cases, the permitted use shall be allowed only if the Board of Selectmen make a finding and determination that the placement of existing and proposed buildings, existing and proposed topography, structure, parking spaces, loading areas, driveway openings, driveway, service areas, other open uses, park or recreation area and screening, all facilities for water, sewage, refuse and other waste disposal and for surface water drainage, storm drainage and all landscape features (such as walks, fences, walls, planting areas and greenbelts) will constitute a suitable development and will not result in substantial detriment to the neighborhood. (Amended 5/14/2011, Article 20)

No building located in any district, except residential districts, within 2500 feet of the Rotary, or no building, if involving six (6) or more parking spaces, shall be erected or externally enlarged, and no area for roadways, parking, loading or open space shall be established or changed on land developed under the provisions of this Section except in conformity with a site plan bearing the endorsement of approval of the Board of Selectmen. No certificate of zoning compliance shall be issued for any such building or buildings, unless the same conforms in all respects to such site plan and unless all facilities included in the site plan have been in accordance therein. (Amended 3/17/1997, Article 27)

No building in any district, except in residential districts, within 2500 feet of the Rotary shall be erected except as provided in Section 1245 of this bylaw. No building in any district except residential districts, within 2500 feet of the Rotary shall be externally altered except in conformance with Design Review approval prior to issuance of any required permits.

Single and two family residential uses shall be exempt from this Bylaw. Buildings where external changes are not proposed are exempt from the provisions of this Bylaw. (Amended 3/15/1997, Article 26)

1241. DESIGN REQUIREMENTS. The Board of Selectmen shall only approve a site plan upon a determination that, at a minimum, the following have been satisfied. In addition to these items, the Selectmen shall establish, after a public hearing, rules and regulations concerning the procedure for and content of an application for Site Plan Review. These rules and regulations shall be effective on the date the Board of Selectmen files them with the Town Clerk. (Amended 5/14/2011, Article 20; Amended 3/15/2014, Article 22)

- a. Internal circulation and egress are such that traffic safety is protected, and access via minor streets servicing single-family homes is minimized and the convenience and safety of vehicular and pedestrian movement in relation to adjacent streets and intersections are protected;

- b. Visibility of parking areas from public ways is minimized;
- c. Adequate access to each structure for fire and service equipment is provided, based on the functional standards of the Planning Board's Subdivision Regulations;
- d. Utilities and drainage in the vicinity either are or will be made adequate, based on the functional standards of the Planning Board's Subdivision Regulations;
- e. Lighting of parking areas avoids glare on adjoining properties;
- f. Major topographic changes or removal of existing trees are minimized;
- g. In or abutting Residential Districts, effective use is made of topography landscaping and building placement to maintain, to the degree feasible, the character of the neighborhood;
- h. Parking requirements of Section 3100 have been satisfied;
- i. Provisions of the Wetland Protection Act (Massachusetts General Laws Chapter 131) will be satisfied if applicable;
- j. All other requirements of the Zoning Bylaws have been satisfied;
- k. Estimated waste water effluent in gallons per day and type of effluent is provided with the Site Plan application.

1242. **DRAWING REQUIREMENTS.** Plans subject to site plan review shall show the boundaries of the lot, existing and proposed topography, existing buildings and proposed buildings, structure, parking, park or recreation area, screening, water, sanitary sewage, storm drainage, loading areas, driveway openings, driveways, service area and landscape features (such as walls, fences, walks, planting area and greenbelts).

1243. **SUBMISSION OF PLANS.** A person applying for site plan review shall file with the Building Commissioner eight (8) plans of the lot. He shall forward one (1) each to the Board of Selectmen, the Planning Board, the Westborough Treatment Plant Board, the DPW Manager, the Fire Department, the Conservation Commission and the Board of Health for this review. Such application and site plan shall include the elements on which the Board of Selectmen is to make a finding and determination, as provided in Section 1240 and shall also include information as to the nature and extent of the proposed use of buildings, and such further information in respect to such elements and use required in Sections 2200, 2300, 2500 and 2600, if applicable. In subsequent application concerning the same subject matter, the Board may waive the filing of plans and documents to the extent they duplicate those previously filed. (Amended 5/14/2011, Article 19)

1244. **PROCEDURES OF THE BOARD OF SELECTMEN.** The Board of Selectmen shall not make a finding and determination upon an application until it has received the final reports of the different Boards listed in Section 1243 or until thirty (30) days shall have elapsed since the transmittal of said copies of the application and site plans to the Boards, etc., without such report being submitted.

The Board of Selectmen shall hold a public hearing within sixty-five (65) days of the Building Commissioner accepting a completed application which meets all of the criteria required by the Zoning Bylaws, including the payment of any fees established by the Board of Selectmen, and

shall take action within thirty (30) days of the hearing, it nonetheless being the intention of this Bylaw that the Board of Selectmen shall act as expeditiously as is practical on such application. Such final action shall consist of either: (Amended 5/14/2011, Article 21)

- a. A finding and determination that the proposed construction, reconstruction, substantial exterior alteration, or addition will constitute a suitable development and will not result in substantial detriment to the neighborhood, or
- b. A written denial of the application for such finding and determination, stating the reasons for such denial, which reasons shall include a statement of the respect in which any elements in and particular features of the proposal are deemed by the Board to be unsuitable or detrimental to the neighborhood.
- c. A finding and determination may be made subject to such reasonable conditions, modifications and restrictions set forth therein as the Board may deem necessary to ensure that the proposed construction, reconstruction, substantial exterior alteration or addition will constitute a suitable development and will not result in substantial detriment to the neighborhood.
- d. In the event that no action is taken by the Board of Selectmen on or before the thirty (30) day period, it shall be deemed that the site plan is approved.

In the event that the Board of Selectmen approves a site plan under these provisions, any construction, reconstruction, substantial exterior alteration or addition shall be carried on only in conformity with any conditions, modifications and restrictions subject to which the Board shall have made its findings and determination, and only in conformity with the application and site plan on the basis of which the finding and determination are made.

1245. DESIGN REVIEW FOR THE DOWNTOWN WESTBOROUGH: (Added 3/15/1997, Article 26; Amended 5/14/2011, Article 19):

A. Purpose

It is the intent of this section to provide detailed review of exterior structural design and/or exterior alterations having substantial impact on any district, except residential districts, within 2500 feet of the Rotary, to prevent blight; to enhance the natural and aesthetic qualities of the Town; to preserve the value of land and buildings; and to protect and preserve the historic and cultural aspects and heritage of the Town.

Within (the) Downtown Westborough, Design Review approval shall be by the Design Review Board and its procedural requirements and design criteria of Section 1245 D.

B. Design Review Board

The Design Review Board shall be appointed annually by the Planning Board and shall consist of five (5) residents of the Town with the following credentials, if possible:

1. Chairman of the Planning Board or his/her designee;
2. One person qualified by training and experience in architecture or landscape design;
3. One person owning business property in the area governed by this bylaw;

4. One person qualified by training and experience in the graphic arts or design professions;
5. One member of the Historic Commission.

The Planning Board may also appoint up to two (2) voting alternate members who shall be citizens at large. At least one (1) of these alternates shall be a business owner in the area governed by this bylaw.

C. Applicability and Authority

The Design Review Board shall review applications for Design Review, as appropriate, submitted pursuant to Section 1200. It shall evaluate such requests based on Design Criteria in Section D below. Its written findings shall be submitted to the applicant along with any recommendations and conditions required for approval with 30 days from the request for design revisions. Such findings shall contain explanation and rationale as appropriate. Conditions of approval shall be to the appropriate permitting advisory authority.

1. Organization and Proceedings – The Design Review Board shall elect from among its members a Chairman, Vice-Chairman and clerk. The Design Review Board shall adopt such rules and guidelines as are considered necessary to the conduct of its responsibilities which shall be a matter of public record.

The Board shall keep records of its proceedings and the final decision of the Board. Records shall also be kept of all plans, photographs and any other documents pertaining to each case, as well as all examinations, findings determinations, and any other official action, including all reasons for all decisions and conditions prescribed; and all such items shall be a matter of public record. Decisions of the Design Review Board shall be by a simple majority and no final action shall be taken without the concurrence of at least a majority of the members.

2. Duties and Procedures of Design Review Board – Whether or not requested by the applicant, the Design Review Board shall review applications for building permits, site plan review, special permits or variances for all proposals for any district except residential districts within 2500 feet of the Rotary if involving new construction or exterior alteration. A copy of all usual submittals required for such proposals shall be provided through the Building Commissioner. The Design Review Board review shall preferably be done in consultation with the applicant or their designer. The Design Review Board shall make (an advisory) a report in writing to the applicant as follows:

- (a) Building Permits: To the Building Commissioner regarding any exterior design changes.
- (b) For Site Plan Review: To the Site Plan Review authority regarding the effect of the design on abutters and the neighborhood.
- (c) For Special Permits: To the Special Permit Granting authority regarding effect of the amenity on the neighborhood.
- (d) For Variances: To the Board of Appeals regarding possible detriment to the public good or derogation from the intent or purpose of the bylaw.

Lack of a report from the Design Review Board shall not be sufficient reason to delay action on a proposal which otherwise could be acted upon by the Building Commissioner, Site Plan Review Authority, Special Permit Granting Authority, or Board of Appeals.

D. Design Criteria

The Design Review Board shall review requests for external alterations and new construction. Designs shall comply with all the requirements of the appropriate permitting authority. In addition, where appropriate designs, as required by the permitting authority, shall comply with the following criteria:

1. Plans. Submittals shall include structural footprint and architectural elevations of all proposed buildings. Plans shall provide details responding to all elements outlined in item 3, below, and all other elements of the proposal as shall be requested by the Design Review Board.
2. Preservation and enhancement of landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance or neighboring development area.

Scenic views, if any, visible from public ways should be preserved to the degree reasonably consistent with the given type and scale of use.

3. Relation of buildings to environment. The proposed development shall be related harmoniously to the terrain and to the design, scale, and architecture of existing buildings in the surrounding area that have visual relationship to the proposed buildings, in so far as practical. Proposed buildings shall be related to their surroundings with respect to:

- (a) Street façade and exterior walls visible from public ways.
- (b) Variations and breaks in wall and/or roof planes.
- (c) Materials, textures and color
- (d) Roof slopes and materials

The appearance of primary wall and roof materials should match, to a degree reasonably consistent, that of materials commonly found on existing buildings within the Westborough downtown.

- (e) Scale
Domestic scale should be produced through massing devices such as breaks in wall and roof planes and through design of architectural features.
- (f) The building should not be made, in effect, a sign, through painting with bold patterns, checks, logos or other graphic devices, use of lighting or use of unconventional building form.
- (g) External lighting

(h) External windows

4. Open Space. All open space, landscaped and usable, shall be designed to add to the visual amenities of the area by maximizing, in so far as practical, its visibility for persons passing the site or overlooking it from nearby properties.
5. Heritage. Proposals to remove or disrupt historic or traditional structures, or architectural elements shall be minimized.
6. Cost. The Design Review Board shall be obligated to be sensitive to potential financial burden to the applicant.

E. Design Guidelines

The Design Review Board shall make available to the public as part of the building permit package, a booklet of guidelines based on the specific Design Criteria cited above to carry out the purposes of this section.

The Design Review Board shall adopt such recommendations and guidelines as are considered necessary to the conduct of its responsibilities which shall be a matter of public record.

1250. PENALTY. Whoever violates any provision of this Bylaw, or any of the conditions under which a building or occupancy permit is issued, or any decision rendered by a Permit Granting Authority or Special Permit Granting Authority under the provisions of this Bylaw, shall be liable to a fine of not more than one hundred dollars (\$100.00) for each violation. Each day that such violation continues shall constitute a separate offense.

1260. ENFORCEMENT. If the Board of Selectmen shall be informed, or have reason to believe that any provision of this Bylaw or of any permit or decree thereunder has been, is being, or is likely to be violated, they shall make or cause an investigation to be made of the facts, including an inspection of the property where the violation may exist, and, if they find any violation, they shall give immediate notice in writing to the owner or his duly authorized agent and to the occupant of the premises and shall order that any violation of the provisions of this Bylaw shall immediately cease. If, after such notice and order, such violation continues, or if any owner, agent or occupant fails to obey any lawful order of the Board of Selectmen with respect to any violation or any use contrary to the provisions of this Bylaw, the Board of Selectmen shall forthwith revoke any permit issued for the occupation of the premises, may make complaint to the Superior Court or any court of competent jurisdiction for an injunction or order restraining the further use of the premises, and shall take such other action as is necessary to enforce the provisions of this Bylaw. In the event the Building Commissioner is requested in writing to enforce the Zoning Bylaw and he declines to do so, he shall notify in writing the party requesting such enforcement of any action or refusal to act and the reasons therefor within fourteen (14) days of receipt of the request. (Amended 5/14/2011, Article 19)

1300. BOARD OF APPEALS

A Zoning Board of Appeals is hereby established under the provision of Section 12 of Chapter 40A as amended (General Laws) consisting of three (3) members and two (2) associate

members who shall be appointed and act in all matters under this Bylaw in the manner prescribed by Chapter 40A of the General Laws powers:¹

1310. APPEALS. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of Chapter 40A, General Laws, or taken by any officer or Board of the Town, or taken by any person aggrieved by any order or decision of the Building Inspector or other administrative official in violation of any provision of Chapter 40A, General Laws, or by this Bylaw; and, in any case, in accordance with Section 8 of Massachusetts General Laws Chapter 40A.

1320. VARIANCES. To authorize upon appeal, or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or Bylaw where such permit granting authority specifically finds that owing to circumstances relating to said conditions, - shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance of Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant 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 such ordinance or Bylaw. Except where local ordinances or Bylaws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located; provided however, that such variances properly granted prior to January first, nineteen hundred and seventy-six but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date. The Board of Appeals is hereby authorized to grant use variances conditioned upon the satisfaction of the criteria for the granting of variances in this section.

The permit granting authority may impose conditions, safeguards and limitations, both of time and use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to this section.

1330. SPECIAL PERMITS.

- A. To hear and decide applications for Special Permits for exceptions as provided in this Bylaw, subject to any general or specific rules therein contained, and subject to appropriate conditions or safeguards "and limitations on time or use," imposed by the Board. Special Permits may be granted unless, because of conditions peculiar to the particular case but not generally true for similar permitted uses on other sites in the same district, it appears that nuisance, hazard or congestion will be created, or for other reasons there will be substantial harm to the neighborhood or derogation from the intent of the bylaw. In the event any Special Permit required under this Bylaw or amendment thereto requires specific findings of the Board as described in Section 9 of General Laws Chapter 40A, such a finding is mandatory to the granting of such exception. (Amended 3/29/1994, Article 41)

¹ Except that a Highway Business District BA and BA(f), SLO, ID & MUD (ATM 2010) Special Permits and Appeals shall be heard and decided by the Planning Board unless stated elsewhere in these zoning bylaws.

- B. A Special Permit granted under these Bylaws pursuant to Section 9 of General Laws Chapter 40A as amended, shall lapse within six (6) months, subject however to the provisions of said Section 9 of General Laws Chapter 40A, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.
- C. The Board of Appeals shall hold a public hearing on any appeal, application or petition within sixty-five (65) days after the filing of an application with the Board of Appeals.

1340. PRESCRIBED TIME FOR ACTION AND PROCEDURE.

If the special permit granting authority shall fail to take final action within ninety (90) days of the required public hearing, or the permit granting authority (variances) shall fail to act within seventy-five (75) days after the date of the filing of an appeal, application or petition, then the petition shall be deemed approved subject to the following requirements:

The petitioner, after the expiration of the aforesaid period shall file with the Town Clerk a copy of his petition and an affidavit stating the date of the public hearing and the failure of the authority to render a decision within the required time.

Upon receipt of the petition and affidavit, the Town Clerk shall give notice of the filing to those persons entitled to a notice of the decision under Chapter 40A, Section 15, General Laws. The filing of a petition and affidavit in the office of the Town Clerk shall be deemed the equivalent of the filing of a decision for purposes of judicial appeals provided for under Chapter 40A, Section 17, General Laws.

If no appeal is taken within the required statutory period, then the Town Clerk shall furnish the petitioner with a certified copy of the petition and affidavit together with a certificate that no appeal has been filed; all of which shall be recorded in the manner prescribed under Chapter 40A, Section 15, General Laws, in lieu of the documents required to be recorded under that Section.

1350. FILING OF DECISIONS. Variances and Special Permits must be recorded in the Registry of Deeds with the conditions imposed thereon prior to any construction or use thereunder.

1360. REPETITIVE PETITIONS. Repetitive appeals, applications or petitions to the Board of Appeals or other applicable Special Permit Granting Authority shall be limited and subject to the provisions of Section 16 of Chapter 40A as amended, General Laws.

1400. AMENDMENTS

This Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided in Section 5 of Massachusetts General Laws Chapter 40A, as amended, and Massachusetts General Laws Chapter 40, Section 32, as amended.

1500. SEPARABILITY

The invalidity of any section or provisions of this Bylaw shall not invalidate any other section or provisions of this Bylaw. Where there exists any conflict between the provisions of this Zoning

Bylaw and Chapter 40A as amended, General Laws, the provisions of Chapter 40A shall control.

1600. APPLICABILITY

Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.

1700. EFFECTIVE DATE

The effective date of the adoption of this zoning Bylaw or any amendments to it, shall be the date on which such adoption or amendments were voted upon by Town Meeting. Upon its effective date, this Bylaw shall supersede the Zoning Bylaw and all amendments to it previously in effect.

NOTE: All Bylaws and amendments to it still must be submitted to the Attorney General for approval and said approval must be made public pursuant to General Laws Ch. 40, § 32.

ARTICLE 2 DISTRICT REGULATIONS (ADOPTED MARCH 5, 1990)

2100. ESTABLISHMENT OF DISTRICTS (Amended 3/12/1996, Article 66, Amended 3/13/2004, Article 38; 10/18/04, Article 10; 5/15/2010, Article 31 and 32)

2110. For the purposes of this Bylaw, the Town of Westborough is hereby divided into the following zoning districts:

Residential

Rural Residential	R60
Single Residential	R
Neighborhood Residential	R15
Garden Apartment	AA
High Rise Apartment	AB

Business

Highway Business	BA
Downtown Business	BB (1)
Gateway 2	G2 (6)

Industrial

Exclusive Industrial	IA
General Industrial	IB
Mixed Use Industrial	IC (5)
Conservation (2)	C
State, MDC and Municipal District	M
Town-owned Property	M-1
Adult Entertainment	AE(3)
Downtown Planning Overlay District	DPOD (4)
Senior Housing Overlay District (SLO)	SLO (7)
Mixed Use District	MUD (8)

- (1) All areas zoned Business lying within 2,500 feet of the intersection of the center lines of Milk, Main and South Streets.
- (2) To be established by vote of Town Meeting only on land owned by the Commonwealth of Massachusetts, the Town of Westborough, one of their agencies, or land on which the Conservation Commission hold a Conservation Restriction under Section 31-33, Chapter 184, General Laws.
- (3) Adult uses in accordance with Section 4800 Special Permits for Adult Uses:
- (4) In accordance with Section 4900, Special Permits for Downtown Planning Overlay Districts shall be issued by the Planning Board.
- (5) In accordance with Section 5000, Transit Oriented Village by Special Permit in Industrial C Zone shall be issued by the Planning Board.

- (6) In accordance with Section 5100 Special Permits in the gateway 2 District.
- (7) In accordance with Section 5300, Special Permits for the Senior Housing Overlay district shall be issued by the Planning Board.
- (8) In accordance with Section 5500 Special Permits for Mixed Use District.

2120. **OFFICIAL ZONING MAP.** The boundaries of these districts are defined and bounded on the latest adopted revision of the "Zoning Map of the Town of Westborough, Massachusetts" being hereby declared to be a part of this Bylaw.

2130. **DIMENSION LINES.** Except when labelled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary of lot lines, or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines shall be construed to be actually parallel, perpendicular, or radial thereto. When not locatable in any other way, boundaries shall be determined by scale from the Zoning Map.

2140. **SPLIT LOT.** Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for any district in which the lot has frontage on a street may be extended not more than thirty feet into the other district.

2150. In the Town of Westborough the subdivision of land in a residential district shall be completed as follows: (Amended 3/5/1990, Article 59)

2151. Where major residential development is proposed, the developer shall prepare two sets of concept plans for the parcel of land to be subdivided. One plan shall describe a conventional subdivision while the second shall describe an open space community according to section 4300 of this Bylaw. (Amended 3/5/1990, Article 59)

2152. In accordance with Chapter 40A, the Planning Board will hold a public hearing to review these conceptual plans. The Board will render a decision within sixty (60) days from the date of the closing of the public hearing as to which development plan the developer shall design. The action of the Board may create a special permit for an open space community in the residential district, if the Board determines that the plan is more beneficial to the Town than the conventional plan. The Open Space Community plan must be, in the judgement of the Planning Board, superior to a conventional plan in, preserving open space for conservation, agricultural, or recreation, utilizing natural features of the land, and allowing more efficient provision of public service. The special permit shall be recorded at the Worcester Registry of Deeds. (Amended 3/5/1990, Article 59)

2153. The developer may then submit a preliminary plan and then a final definitive plan to the Board for their consideration. For conventional subdivisions the Subdivision Rules and Regulations, and the dimensional use regulations as set forth in Section 2600 shall apply. For open space subdivisions, the subdivision Rules and Regulations, and the requirements of section 4300 shall apply. (Amended 3/5/1990, Article 59)

2200. USE REGULATIONS

No lot or land shall be used, no building or structure shall be erected or used except as set forth in Section 2300, Use Regulation Schedule, or as exempted by this Bylaw or statute. Symbols employed shall mean the following:

Y – A permitted use

N – An excluded or prohibited use

S – A use authorized by issuance of a Special Permit from the Board of Appeals as provided for in Section 1330 herein

SP – Special Permit to be issued by the Planning Board

2210. CLASSIFICATION OF USE. Where an activity might be classified under more than one of the following uses, the more specific classification shall determine permissibility; if equally specific the more restrictive shall govern.

2300. USE REGULATION SCHEDULE

AE Added 3/12/1996, Article 66; DPOD added 3/13/2004, Article 38; IC Added 10/18/2004, Article 10; G2 Added 5/14/2005, Article 41; ID Added 5/15/2010, Article 30; MUD Added 5/15/2010, Article 32; Amended 10/21/2013, Article 26

RESIDENTIAL USES (1)	C	R	AA AB	BA	G2	BB	IA	IB	IC	ID	M	M-1	AE	All Others	DPOD	MUD	
Single Family dwelling:	N	Y	Y	SP		Y	N	N	Y	N	N	N		Y	SP	N(7)	
Two-family dwelling:	N	S	Y	SP		Y	N	N	Y	N	N	N		S	SP	N(7)	
Conversion of existing structure to more than two-family dwelling:	N	N	S	SP		S	N	N	SP	N	N	N		N	SP	N(7)	
Boardinghouse:	N	S	S	SP		S	N	S	SP	S	N	N		S	SP	N	
Multi-family dwelling (See Section 4200):	N	N	Y	SP (5)		N	N	N	N	N	N	N		N	SP	N(7)	Amended 5/13/2006, Article 30
Open Space Communities (See Section 4300):	N	SP	N	N		N	N	N	N	N	N	N		N	SP	N(7)	Amended 3/5/1990, Article 52A
Mobile Home:	N	N	N	N		N	N	N	N	N	N	N		N	N	N	
Campground, mobile home park:	N	N	N	N		N	N	N	N	N	N	N		N	N	N	
Mixed Use Residential/Commercial with Industrial Components (see Section 5000)									SP								Added 10/18/2004, Article 10)
Senior Living Overlay (see Section 5300) (6)	N	SP	SP	N	SP	SP	SP	SP	N		N	N		SP	SP	SP	Added 5/15/2010, Article 31

OPEN USES	C	R	AA AB	BA	G2	BB	IA	IB	IC	ID	M	M-1	AE	All Others	DPOD	MUD	
Farm:																	
With pigs, animals raised for pelts: (2)	N	N	S	SP		S	N	S	S	S	N	N		N	N	N	
Other:	S	Y	Y	Y		Y	N	Y	Y	Y	N	N		Y	N		
Nursery, greenhouses (commercial):	S	N	Y	Y		Y	N	Y	Y	Y	N	N		N	SP	N	
Recreational Camps	S	N	N	SP	SP	Y	N	S	S	S	Y	Y		N	N	N	Amended 3/15/2014, Article 21
Cemetery	N	Y	Y	Y		Y	N	Y	Y	Y	N	N		Y	N	N	
Drive-in Theaters, Amusement Park or similar commercial outdoor recreation: (3)	N	N	N	N		N	N	N	N	N	N	N		N	N	N	
Outdoor recreation other than the above operated by a governmental agency:	S	Y	Y	Y		Y	N	Y	Y	Y	N	N		Y	Y	Y	
Other:	S	S	S	SP		S	N	S	S		N	N		S	SP		
Sale of Christmas Trees:	S	Y	Y	Y		Y	N	Y	Y	Y	N	N		Y	Y	Y	

- (1) Animal keeping may be subject to permit from the Board of Health.
- (2) But no animals kept closer than 500 feet to any lot line.
- (3) temporary carnival sponsored by a non-profit organization permitted upon approval by the Board of Selectmen. (Added 3/2/1992, Article 23)
- (4)
- (5) Multi-Family dwellings are allowed in the Highway Business (BA) District upon grant of a Special Permit by the Planning Board in accordance with Section 5200 (Added 5/13/2006, Article 30)
- (6) In accordance with the requirements and restrictions of Section 5300
- (7) These uses are prohibited except when proposed as part of a Senior Living Overlay Project in conformance with Section 5300

<u>INSTITUTIONAL USES</u>	<u>C</u>	<u>R</u>	<u>AA</u> <u>AB</u>	<u>BA</u>	<u>G2</u>	<u>BB</u>	<u>IA</u>	<u>IB</u>	<u>IC</u>	<u>ID</u>	<u>M</u>	<u>M-1</u>	<u>AE</u>	<u>All</u> <u>Others</u>	<u>DPOD</u>	<u>MUD</u>
Religious, sectarian, denominational or public educational uses, religious purposes:	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y		Y	Y	Y
Other educational uses: (3)	S	N	N	Y		S	N	S	S	S	Y	Y		N	SP	SP
Municipal use voted at Town Meeting (not more specifically cited in Section 2300):	S	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y		Y	Y	Y
Hospital, sanitarium, convalescent, nursing or rest home, congregate housing:	N	S	Y	SP		Y	N	Y	Y	S	Y	Y		S	SP	SP
Patriotic, fraternal or social clubs if not conducted for profit; other philanthropic institution or club:	N	N	S	SP		S	N	S	S	S	Y	Y		N	SP	SP

<u>COMMERCIAL USES</u>	<u>C</u>	<u>R</u>	<u>AA</u> <u>AB</u>	<u>BA</u>	<u>G2</u>	<u>BB</u>	<u>IA</u>	<u>IB</u>	<u>IC</u>	<u>ID</u>	<u>M</u>	<u>M-1</u>	<u>AE</u>	<u>All</u> <u>Others</u>	<u>DPOD</u>	<u>MUD</u>
Motor vehicle service station (See Section 3300):	N	N	N	S (1)		S (1)	N	S (1)	S	S (1)	N	N		N	N	N
Animal kennel or hospital as licensed under Chapter 140, Sec. 137a, General Laws:	N	N	S	SP		Y	N	Y	N	Y	N	N		N	N	N
Indoor Recreation:	N	N	N	Y		Y	N	Y	SP	Y	N	N		N	SP	SP
Banks, office space:	N	N	N	Y		Y	Y	Y	SP	Y	N	N		N	SP	SP
Restaurants:	N	N	N	Y(2)		Y(2)	N	Y(2)	SP	Y(2)	N	N		N	SP	SP
Hotel, motel, motor court:	N	N	N	SP		Y	N	Y	SP	Y	N	N		N	SP	SP
Other retail sales & services:	N	N	N	Y		Y	N	Y	SP	Y	N	N		N	SP	N (6)
Display and sale of natural products, a significant portion of which are raised by the proprietor in Westborough:	N	S	S	Y		Y	Y	Y	SP	Y	N	N		S	SP	SP

- (1) Special Permits to be issued by Selectmen rather than the Board of Appeals.
- (2) Except "SP" where a restaurant involves any drive-up or walk-up window service.
- (3) Shall not apply to land or structures for religious or educational purposes on land owned or leased by Commonwealth or any of its agencies, subdivisions or bodies, politic or by a religious sect or denomination or by a non-profit educational corporation.
- (4) Small professional offices in residential style structure limited to a maximum of 4,000 square feet of gross floor area
- (5) Limited to a maximum of 5,000 square feet of gross floor area
- (6) Except as an accessory use to a permitted use, and then only by Special Permit

<u>INDUSTRIAL, UTILITY USES</u>	<u>C</u>	<u>R</u>	<u>AA</u> <u>AB</u>	<u>BA</u>	<u>G2</u>	<u>BB</u>	<u>IA</u>	<u>IB</u>	<u>IC</u>	<u>ID</u>	<u>M</u>	<u>M-1</u>	<u>AE</u>	<u>All</u> <u>Others</u>	<u>DPOD</u>	<u>MUD</u>
Airport, heliport:	N	N	N	N		N	S	S	S	S	N	N		N	N	N
Public/Private utility with outside equipment or storage (2)																
With outside equipment or storage:	S	N	N	Y		Y	Y	Y	Y	Y	N	N		N	N	N
With none of above:	S	S	S	Y		Y	Y	Y	Y	Y	N	N		S	SP	SP
Earth removal (See Sec. 4100): (1)	S	S	S	S		S	S	S	SP	S	N	N		S	SP	SP
Research laboratory:	N	N	S	Y		Y	Y	Y			N	N		N		
Trucking terminal, bulk storage contractor's yard:	N	N	N	N		N	Y	Y	SP	Y	N	N		N	N	N
Manufacturing, Processing and Warehouse:	N	N	N	SP		N	Y	Y	Y	Y	N	N		N	N	N
Adult Entertainment Uses																Added 3/12/1996, Article 66

<u>OTHER PRINCIPAL USES</u>	<u>C</u>	<u>R</u>	<u>AA</u> <u>AB</u>	<u>BA</u>	<u>G2</u>	<u>BB</u>	<u>IA</u>	<u>IB</u>	<u>IC</u>	<u>ID</u>	<u>M</u>	<u>M-1</u>	<u>AE</u>	<u>All</u> <u>Others</u>	<u>DPOD</u>	<u>MUD</u>
Other use having externally observable attributes similar to one of above:																
All other uses:	N	N	N	N		N	N	N	N	N	-	N		N	N	N

ACCESSORY USES	C	R	AA AB	BA	G2	BB	IA	IB	IC	ID	M	M-1	AE	All Others	DPOD	MUD	
Home occupations (See Sec. 4410):	N	Y	Y	Y		Y	S	Y	Y	Y	N	N		Y	SP	N	
Customary uses & structures (See. 4400):	Shall incur the same use regulations as the principal use listed in this Section																
Agriculture, Horticulture or Floriculture.	Insofar as it can be established that the primary purpose of the use of the land falls within the above-mentioned categories, the regulations herein shall not apply, if same is deemed unreasonable, nor shall such use require a Special Permit. Expansion or reconstruction of existing structures upon land primarily being used for agriculture, horticulture or floriculture, shall not be prohibited or unreasonably regulated except that all such activities may be limited to parcels of more than five (5) acres in areas not zoned for agriculture, horticulture, or floriculture. Land divided by a public or private way or a waterway shall be construed as one parcel.																
Large-Scale Ground-Mounted Solar Photovoltaic Installations	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y		N	N	N	(Added 10/15/2012, Article 16)
Marijuana Establishment, Medical Marijuana Treatment and Dispensing Facilities & Marijuana Cultivation	N	N	N	N	N	N	N	N	N	N	N	SP (2)		N	N	N	(Added 3/16/2013, Article 16)

(1) Special Permits to be issued by Selectmen rather than the Board of Appeals.

(2) Except for Large Scale Ground-Mounted Solar Photovoltaic Installation as defined and in accordance with Section 5600

2400. NONCONFORMING USES

This Zoning Bylaw or any amendment thereto shall not apply to the use of any structure or land uses lawfully in existence or lawfully begun, or to a Building or Special Permit issued before the first publication or notice of the public hearing on such Bylaw required by Section 5 of General Laws Chapter 40A as amended, but shall apply to any change or substantial extension of such use, to a Building or Special Permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.

2410. PRE-EXISTING NONCONFORMING USES OR STRUCTURES (EXTENSIONS AND ALTERATIONS).

- a. Pre-existing nonconforming structures or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated under this Bylaw that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. This section shall not apply to billboards, signs and other advertising devices subject to the provisions of Section 29 through 33, inclusive, of Chapter 93 and of Chapter 93D, General Laws.
- b. Building construction and Special Permits. Construction or operations under a Building or Special Permit obtained in conformity with this Zoning Bylaw or lawful amendments thereto, shall conform to any subsequent amendments of the Zoning Bylaw unless the use or construction is commenced within a period of not more than six (6) months after the issuance of such Permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- c. Alterations. A nonconforming structure may not in any twelve (12) month period be altered except as ordered by the Building Commissioner to make it safe, to the extent that the cost of such alterations exceed fifty percent (50%) of the assessed value of the structure at the time of change. (Amended 5/14/2011, Article 19)

- d. **Extension.** An increase in the area or extent of the nonconforming use of a structure or land may be made on Special Permit from the Special Permit Granting Authority, up to fifty percent (50%) increase in the nonconforming floor area or land uses at the time the use became nonconforming.

2420. ABANDONMENT. A nonconforming use which has been abandoned or discontinued for a period of two (2) years, or a nonconforming sign which has been abandoned or discontinued for a period of (6) months, shall not be re-established and any future use shall conform with the Bylaw, except in the case of land used for agriculture, horticulture or floriculture where such non-use shall have existed for a period of five (5) consecutive years.

2430. RESTORATION. Any nonconforming building or structure in existence at the time of adoption of the Bylaw or any amendment thereto may be reconstructed on the old foundation area if destroyed by fire or other accidental or natural cause provided such reconstruction takes place within a period of two years (1) from the date of catastrophe, or else such reconstruction must comply with this Bylaw.

2440. CHANGES. Premises may be changed from one nonconforming use to another only on Special Permit from the Special Permit Granting Authority. Such Permit shall be granted only for uses whose externally observable attributes are no more damaging to or inharmonious with the environs than those-of the use being replaced. See Section 2410 (a) for additional criteria for the granting of Special Permit hereunder.

- (1) Six months in the case of nonconforming signs.

2500. DIMENSIONAL REGULATIONS

All principal buildings hereafter erected in any district shall be located on a lot such that all of the requirements set forth in Section 2600 are conformed to except where specifically exempted by this Bylaw or General Laws.

2510. EXEMPTIONS. Certain lots in subdivisions or in separate ownership are exempted from some of these requirements through Section 6 of General Laws, Chapter 40A as amended. In addition, lots in non-residential districts and/or to be built upon for non-residential use shall enjoy the same exemption as if being built upon for residential use in a residential district.

2520. CHANGING NONCONFORMING LOT DIMENSIONS. No existing lot conforming with the Dimensional Schedule shall be changed in size or shape, except through a public taking, or changed in use, so as to result in violation of the requirements set forth below. No existing lot already nonconforming shall be changed except through a public taking so as to increase the existing degree of nonconformity.

2530. AVERAGE OF BUILDING SETBACKS. No building need provide a front yard depth greater than the average of the yards provided by existing buildings on abutting lots fronting on the same street.

2540. MULTIPLE USES. Not more than one principal use shall be allowed on a lot, except as allowed elsewhere in these Bylaws. (Amended 3/15/2014, Article 23)

2600. DIMENSIONAL SCHEDULE. (Amended 3/29/1994, Article 75, Amended 3/12/1996, Article 64; Amended 5/15/2010, Article 31)

2610. All building in Residential and Conservation Districts (R, AA, AB, C) and Residential buildings in Other Districts, and Senior Housing in the Senior Living Overlay, shall comply with the following dimensional regulations. (Senior Living Overlay added 5/15/2010, Article 30)

	USE CATEGORY				
	Garden Apartment (AA)	High-Rise Apartment (AB)	Senior Living Overlay	All Other	
Min. lot area:	2 acres (a)	10 acres (b)	5 acres	50,000 sf (h) (l)	
Min. lot frontage (d):	140 ft	140 ft	(n)	200 ft(h)	
Min. front yard (d):	100 ft	100 ft (c)	25 feet (n)	50 ft (f) (i)	
Min. side yard:	50 ft	50 ft (c)	25 feet (n) (o)	15 ft (g) (l)	
Min. rear yard:	50 ft	50 ft (c)	25 feet (n) (o)	30 (g) (l)	
Min. bldg. separation on same lot:	50 ft	50 ft (e)	-	-	
Max. bldg. height:	35 ft	-	45 feet	35 ft (l)	
Max. bldg. stories:	3	-	3	2 1/2 (l)	
Max. lot coverage (%):	30	30	-	30	
Min. open space per d.u.:	1,500 sf	600 sf	-	-	
Min. habitable floor area per d.u.:	600 sf	600 sf	600 feet	720 sf (j) (l)	
Min. lot width:	-	-	-	as required (k) (l)	Amended 3/12/1996, Article 64
Min. open space (%):	-	-	(n)	40 (q)	Amended 10/21/2013
Max. lots permitted on a common driveway (m)	-	-	(5 for independent living, no requirement otherwise, or PB determines via special	5	Added 3/29/1994, Article 75
Min. number of affordable unit (%)			20% (p)		

- (a) But not less than 2,500 square feet (sf) per dwelling unit (d.u.) plus 500 square feet per bedroom.
- (b) But not less than 1,000 square feet per dwelling unit (d.u) plus 300 square feet per bedroom.
- (c) But not less than 1.5 times building height.
- (d) Corner and through lots shall observe frontage and front yard requirements for each portion of a lot that adjoins a public way. Footnote (d) shall not apply in the Senior Living Overlay.
- (e) But not less than the sum of their heights for principal bldgs.
- (f) Increase to 75 feet abutting Turnpike Road.
- (g) Reduce to 5 feet for one-story accessory structure not occupying more than 25% of either required or actual yard.
- (h) For two-family dwelling 250 feet; 55,000 square feet area per lot.
- (i) Deleted 10/21/2013, Article 23
- (j) Shall not apply to single family dwellings.
- (k) Minimum Width of Lot – The required minimum lot frontage extending from the front lot line to the rear building line of the main building. (Amended 3/12/1996, Article 64)
- (l) For congregate housing, the minimum lot area is six (6) acres; the minimum side and rear yards and lot width may be reduced or eliminated by Special Permit to allow the construction of congregate housing and a nursing home on contiguous parcels with minimal separation between buildings, the maximum building height is thirty-eight (38) feet; the maximum building stories is four (4); and the minimum habitable floor area per dwelling unit shall not apply. Separate buildings for congregate housing and a nursing home may be erected on the same lot.
- (m) In all districts in the Town of Westborough, Common Driveways serving more than two (2) detached single family dwellings shall be required to receive a Special Permit from the Planning Board. In no case will a common driveway serve more than five (5)

detached single family dwellings. In granting a Special Permit for a common driveway, the Planning Board shall require that the common driveway meet the standards defined in the Rules and Regulations Governing the Subdivision of Land in the Town of Westborough.

- (n) For these yard requirements, in all residential districts, SLO shall be required to conform to Section 2610 of this Bylaw. SLO uses in all non-residential districts shall be required to conform to Section 2620. Except, where abutting a residential district it shall conform to Section 2610.
- (o) Except 50 feet if adjacent to residentially zoned land. In the G2 District, a fifty (50) foot buffer strip shall be maintained where abutting a residential district, forty (40) feet of this to remain undisturbed, except for the planting of additional natural vegetative screening.
- (p) The minimum of 20% of the units that are to be designated affordable must comply with the requirements of the Massachusetts Department of Housing and Community Development or a successor agency. Such units shall have deed restrictions regarding affordability which will continue in perpetuity and will allow the units to “count” as State recognized affordable units. All such affordable units shall be priced at levels affordable to individuals or families earning no more than 80% of Area Median Income (AMI) as published by the State/US Department of Housing and Urban Development (HUD).
- (q) Man-made retention and detention areas shall not be considered open space

2620. NON-RESIDENTIAL BUILDINGS IN NON-RESIDENTIAL DISTRICTS (BB, IA, IB, IC, ID and G2) (See 2610 for residential buildings) (Amended 10/18/04, Article 10; 5/14/05, Article 41; Amended 5/15/2010, Article 30)

	<u>BA (f)</u>	<u>BB</u>	<u>G2</u>	<u>IA, IB</u>	<u>ID</u>	<u>DPOD(g)</u>	<u>MUD</u>	
Minimum lot area (sq):	15,000	10,000	15,000	15,000	15,000	10,000	10,000	
Minimum lot frontage (ft) (a):	125	100	125	125	125	100	100	
Minimum front yard (ft) (a,b,c):	25	25 (e)	25	25	25	10	10	
Minimum side yard (ft) (d):	25 (d)	0	25	25 (d)	25	0	0	
Minimum rear yard (ft) (d):	25(d)	0	25	25(d)	25	0	0	
Maximum building height (ft):	60	35	45	60	95	60	60	Amended 3/17/2001, Article 44)
Maximum building stories:	2.5	2 1/2	2 1/2	4	6	4	4	
Maximum lot coverage (%):	40	100	40	40	60	-(h)	-(h)	
Minimum distance between edge of curb cut & nearest side lot line or corner (ft):	20	-	20	-	-	-(h)	-(h)	
Minimum open space (%):	60	-	60	60	40	-(h)	-(h)	Amended 3/5/1990, Article 61
Max. square foot floor area	-	-	(i)	-	-	-	-(h)	

(DPOD Added 3/13/2004, Article 38; ID Added 5/15/2010, Article 30; MUD added 5/15/2010, Article 32)

- (a) Corner and through lots shall observe frontage and front yard requirements for each portion of a lot that adjoins a public way.
- (b) Increase to 75 feet abutting Turnpike Road.
- (c) But not less than 50 feet measured from the street centerline.
- (d)
 - (1) Decrease to zero (0) feet where abutting a railroad right-of-way.
 - (2) A one hundred (100) foot buffer strip shall be maintained where abutting a Residential District. Seventy-five (75) feet of this to remain undisturbed, except for the planting of additional natural vegetative screening. (Amended 3/2/1992, Article 19)
 - (3) In the G2 District, a fifty (50) foot buffer strip shall be maintained where abutting a Residential District, forty (40) feet of this to remain undisturbed, except for the planting of additional natural vegetative screening. (Amended 5/14/2005, Article 41)

- (e) No building need provide a yard greater than that existing on any abutting parcel on the same street.
- (f) With Special Permit issued by the Special Permit Granting Authority. (Added 3/15/04, Article 38)
- (g) With Special Permit issued by the Special Permit Granting Authority. (Added 3/15/04, Article 38)
- (h) Determined by the sole discretion of the Special Permit Granting Authority during Special Permit process.
- (i) Newly constructed professional offices shall be in residential style structure and be limited to a maximum of 4,000 sq. ft. gross floor area; newly constructed retail sales and services shall be limited to a maximum of 5,000 sq. ft. gross floor area. (Amended 5/14/2005, Article 41)
- (j) The Industrial D District (ID) is an overlay district. The maximum dimensional schedule shall be allowed only by Special Permit by the Planning Board. Otherwise, the underlying requirements of the Industrial B District (IB) are applicable. (Added 5/15/2010, Article 30)

2621. Non-Residential buildings in Non-Residential Districts (AE) (see 2610 for residential buildings. (Added 3/12/1996, Article 66)

In the case of Adult Entertainment uses, all the dimensional requirements of Section 4822 shall be met in addition to the applicable requirements of Section 2620, BA and BA (f) Districts;

2630. BUILDING IN M-1 DISTRICT (M-1)

Dimensional regulations for municipal or institutional buildings or structures on land zoned M-1 shall be established for each building or structure by two-thirds vote of Town Meeting. Notwithstanding the foregoing, no vote to establish such dimensional requirements shall be taken until a public hearing has been held by the Planning Board and a report with recommendations by the Planning Board has been submitted to the Town Meeting pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 5, as amended, and further that the Site Plan Review process as defined by Town Bylaws shall apply to any such buildings or structures approved by the Town Meeting (Amended 3/16/2002, Article 42 and Article 43)

2640. BUILDINGS IN MUNICIPAL DISTRICT (M)

Dimensional regulations for municipal institutional buildings or structures on land in M zoned Districts shall be established for each building or structure through the issuance Special Permit as provided in Section 1330.

2650. Should any building or structure need be erected in Zoning District M-1, Section 2630 shall not apply provided that the total estimated cost of construction be less than two thousand dollars (\$2,000.00).

ARTICLE 3 GENERAL REGULATIONS (ADOPTED MARCH 5, 1990)

3100. PARKING AND LOADING REQUIREMENTS

3110. GENERAL. Except in the Downtown Business (BB) District, which is exempt from these requirements, adequate off-street parking must be provided to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Such parking shall be either on the same premises as the activity it services, or within three hundred (300) feet on a separate parcel, which may be jointly used with other premises for this purpose.

3120. SCHEDULE OF PARKING AREA REQUIREMENTS. In applying for a Building or Occupancy Permit, the applicant must demonstrate that the following minimums will be met unless these are reduced on Special Permit from the Special Permit Granting Authority upon their determination that special circumstances render a lesser provision adequate for all parking needs. Requirements are additive for multiple uses on the same lot. Where uses cannot be calculated separately, the use requiring the higher number of spaces shall be used throughout.

- Dwellings: two spaces per dwelling unit
- Motel, motor court, lodging house: one space per guest unit plus one space per eight (8) guest units or fraction thereof
- Offices: three and one-half (3.5) spaces per one thousand (1,000) square feet: (1) (Amended 3/17/2001, Article 45)
- Retail Sales: one space per two hundred (200) square feet (1)
- Wholesale Sales (where the public is not allowed): one space per three hundred (300) square feet (1)
- Research and Development: three and one-half (3.5) spaces per one thousand (1,000) square feet, (1) (Amended 3/17/2001, Article 45)
- Restaurant, place of assembly: one space per four (4) seats
- Lounges: one space per two seats
- Restaurant (take-out): three spaces per each employee
- Bowling Alley: four spaces per lane
- Nursing Home: one (1) space per four (4) beds
- Hospital: one (1) space per bed
- Industrial: one (1) space per each one and one-half (1-1/2) employees per shift
- Congregate housing: one (1) space per two (2) dwelling units
- Others: individually determined by Selectmen upon Site Plan Review

(1) Square feet shall mean that total floor area enclosed within the outside walls of the building or, if not enclosed, it shall be the area of the smallest quadrangle which can encompass the area in use.

3130. PARKING AREA DESIGN. No off-street parking area shall be maintained within ten (10) feet of a street line. For parking areas of six (6) cars or more, the following shall apply:

3131. Parking area use shall not require backing on a public way.

3132. There shall be not more than one (1) entrance and one (1) exit from such lots per two hundred (200) feet of street frontage or fraction thereof. If necessary to meet this requirement, uses shall arrange for shared egress.

3133. Such parking lots shall be screened from any abutting residential use by densely planted evergreen shrubs or by a stockade-type fence, and shall be paved. Said shrubs shall be a minimum of four (4) feet in height; variety of shrub, the distance from any lot line, and spacing shall be subject to approval by the Tree Warden. Said fence shall be a minimum of six (6) feet in height and said paving shall be with generally accepted paving material as approved by the Board of Selectmen at the time of Site Plan Review.

3134. In a Residential district, no such parking lot shall extend into a required yard, except that such an extension may be permitted by Special Permit for congregate housing.

3135. **PARKING GARAGE.** A parking garage shall conform to Sections 3131 and 3132. Where a Parking Garage is attached to or part of a structure, it shall be constructed to give the same outward appearance as the structure to which it is attached. For the purpose of this Bylaw, a Parking Garage shall not be considered an accessory use or structure.

3140. **LOADING REQUIREMENTS.** Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no trucks need back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so.

3200. ENVIRONMENTAL CONTROLS

3210. **DISTURBANCES.** No use shall be allowed if it will cause sound, noise, vibration, odor, or flashing (except for warning devices, temporary construction or maintenance work, parades; recreational activities, or other special circumstances) perceptible without instruments more than four hundred (400) feet from the boundaries of the originating premises if in an Industrial District, or more than two hundred (200) feet from the boundaries of the originating premises if in a Business District.

(3220. Pollution Control and 3230. Liquid Waste deleted 10/21/2013, Article 24)

3220. **ROADSIDE AND PARKING AREA TREES.** (Amended 3/5/1990, Article 69, Amended 10/21/2013, Article 24)

In all zoning districts, the maintenance, establishment and protection of roadside and parking area trees is to be encouraged. Roadside trees are to at least meet the requirements of the Subdivision Rules and Regulations. In all zoning districts, minimum requirements for roadside and parking area trees shall conform to **Article 46 of the Town Charter and Bylaws.**

- A. Removal of healthy trees over five (5) inches in diameter (at breast height) is to be minimized along roadways and in areas proposed for parking areas.
- B. Planting new or replacement trees approximately every thirty-five (35) feet along roads is required. Such trees should be deciduous hardwoods in order that a stately atmosphere may ultimately be created; and, the placement of said trees is to be as approved by the permit granting authority and based upon recommendations from the tree warden.

- C. Planting new trees in parking areas of a size greater than six (6) parking spaces is required at a ratio of 1 tree per 12 parking spaces; and placement of said trees is to be as approved by the permit granting authority and based upon recommendations from the tree warden.
- D. Roadside and parking area tree plantings should meet the following criteria:
 - 1. Cast moderate to dense shade in summer;
 - 2. Be long-lived, i.e., over 60 years;
 - 3. Be tolerant of pollution and direct or reflected heat;
 - 4. Require little maintenance, by being mechanically strong and insect-and disease-resistant;
 - 5. Be able to survive with no irrigation by two (2) years after establishment.

3300. SIGN REGULATIONS

Signs erected after the adoption of this Bylaw shall be governed by Section 3300. Signs lawfully existing at the time of the adoption of this Bylaw shall be governed by Section 2400.

The following, however, shall not be considered signs within the context of this Bylaw;

- a. Flags and insignia of any government except when displayed in connection with commercial promotion;
- b. Legal notices or informational signs erected or required by government bodies;
- c. Temporary signs, erected for a maximum of thirty (30) days, for a charitable, non-profit or religious cause, provided that the sign area does not exceed six (6) square feet in a Residential District or twelve (12) square feet in any other zoning district.
- d. Standard fuel pumps bearing thereon in usual size and form the name, type and price of fuel;
- e. Integral decorative or architectural features of building, except letters, trademarks, moving parts, or parts internally illuminated or employing decorative lighting;
- f. Signs guiding and directing traffic and parking and not exceeding six (6) square feet in area, bearing no advertising matter,
- g. Lettering on approved U.S. Mail Boxes provided: said lettered area shall not exceed two (2) square feet.
- h. Signs posting "No Hunting" or "No Fishing" provided: said sign area shall not exceed two (2) square feet.

(Amended 10/19/2015, Article 5)

3310. GENERAL SIGN REGULATIONS

3311. Signs, any part of which moves or flashes, or of the traveling light or animated type, and all beacons and flashing devices whether a part of, attached to, or apart from a sign, are prohibited. Signs shall be prohibited from being internally lit in the Downtown Business District

(BB), Downtown Planning Overlay District (DPOD), and the Gateway 2 District (G2). (Amended 10/19/2015, Article 5)

3312. No illumination shall be permitted which casts glare onto any Residential District, or onto any portion of a way so as to create a traffic hazard. Externally lighted signs may be illuminated only by a white, steady, stationary light of reasonable intensity shielded and directed solely at the sign. When lighted from within, a sign may be illuminated only with light of reasonable intensity. Reasonable intensity of said light shall be determined by the Board of Selectmen based on the use and character of the immediate vicinity.

3313. No sign shall be placed within or projecting over a public way or on public property except with a permit from the Board of Selectmen.

3314. All new signs not elsewhere provided for in these Bylaws or qualifying as a nonconforming use under **our** Zoning Bylaws, having a sign area greater than twelve (12) square feet may only be erected, constructed or altered after a Permit has been issued by the Building Inspector.

3315. No sign shall be affixed to or painted on any living or natural object such as a tree or rock, and no sign shall be placed on land or affixed to any structure without permission from the owners thereof.

3316. **PROJECTING SIGNS.** Any sign any part of which projects more than ten (10) inches from a supporting wall of any building shall not be permitted.

3317. **WALL SIGNS.** Signs affixed to an exterior wall of any building shall be permitted only if conforming with the following:

- a. All parts of said sign shall be within ten (10) inches from its supporting wall.
- b. Sign area shall not exceed fifteen (15) percent of the wall area with which it is viewed.
- c. Said sign shall not extend beyond the wall dimensions, horizontally or vertically.
- d. not more than one (1) such sign shall be allowed on any building except as allowed or as further restricted elsewhere in this Bylaw. (Amended 10/19/2015, Article 5)

3318. **GROUND SIGNS.** Signs erected on the ground and which are wholly supported from the ground shall be permitted only if conforming with the following:

- a. No part of any such sign shall be within five (5) feet from any building.
- b. All such signs shall have a clear space where required to promote public safety. This shall be demonstrated at the proposed sign location prior to sign approval and sign installation. (Amended 10/19/2015, Article 5)
- c. No such sign shall have a horizontal dimension greater than fifteen (15) feet.
- d. Sign area shall not exceed fifty (50) square feet except if the lot fronts on Turnpike Road, the sign area shall not exceed one hundred (100) square feet.
- e. No such sign shall have a vertical height greater than twenty (20) feet except if the lot fronts on Turnpike Road, the vertical height shall not be greater than thirty (30) feet.

- f. No part of any such sign shall be less than ten (10) feet from any lot line except if the lot fronts on Turnpike Road, no part of any such sign shall be less than thirty- five (35) feet from any lot line. Signs within the Downtown Business (BB) District shall be exempt from this provision.
- g. Every sign within twenty-five (25) feet of the curb line of two (2) intersecting streets shall have a clear space, except for necessary structural supports, of not less than eight (8) feet between the ground and the lowest part of the sign.

3319. ROOF SIGNS. Signs affixed to a building or roof shall not extend more than twelve (12) feet above the height of the building. Any sign erected and maintained wholly upon or over the roof of any building with the entire support on the roof structure shall have a clear space, except for necessary structural supports, of not less than four (4) feet between the roof level and the lowest part of the sign. Said sign shall be more than four (4) feet measured from the inside dimension of the wall toward which the sign faces.

3320. TEMPORARY ACCESSORY SIGNS. Any temporary sign is permitted to be erected for up to thirty (30) days if in accordance with limitations set for permanent signs or the following: (Amended 10/19/2015, Article 5)

- a. An unlighted sign of up to twenty (20) square feet indicating parties involved in construction on the premises.
- b. An unlighted sign of up to twelve (12) square feet pertaining to lease, sale or rental of the premises on which the sign is located; except in a Residential District where the sign area shall not exceed six (6) square feet.
- c. A sign of up to ten (10) square feet pertaining to a subdivision while under development only with permission of the Planning Board.
- d. Signs inside display windows covering not more than thirty (30) percent of window area, illuminated by building illumination only. Temporary Signs inside a display window advertising a specific event or activity or notice to the public shall not be permitted for longer than 30 days, unless approved by the Building Commissioner, and shall be removed immediately upon the conclusion of the event or activity. Such sign shall not exceed 20% of the window area and shall not be separately list. (Amended 10/19/2015, Article 5)
- e. Signs which are mounted to any motor vehicle or trailer which is parked for the sole purpose of advertising or directing traffic to a business establishment on or off premise are prohibited except by Special Permit issued by the Board of Selectmen, and then only within Business (BA) (BB) and Industrial (IA) (IB) Districts. (Amended 10/19/2015, Article 5)
- f. Signs naming political issues or political candidates shall not exceed six (6) square feet in area. Said signs shall be allowed only from sixty (60) days prior to an election until five (5) days following the election. (Amended 10/19/2015, Article 5)

3330. PERMANENT ACCESSORY SIGNS. Signs whose content relates exclusively to the premises on which they are located, or to products, accommodations, services or activities on those premises, shall only be allowed if conforming to Sections 3331 through 3335.

3331. Signs, unlighted unless otherwise provided herein, which may be permitted in any Single Residence (R), Garden Apartment (AA), and High Rise Apartment (AB) Districts:

- a. One (1) identification sign for each dwelling unit provided said sign area shall not exceed two (2) square feet and it shall not be used other than for identifying the occupant and/or address thereof. Land used for ten (10) or fewer dwelling units may have one (1) sign not to exceed two (2) square feet in area indicating the owners or occupants. Sign area may be increased by one (1) square foot for each ten (10) additional dwelling units; sign area not to exceed twenty (20) square feet except if the land fronts on Turnpike Road, sign area may increase to forty (40) square feet.
- b. One (1) identification sign for each community facility provided; said sign area shall not exceed twelve (12) square feet, if lighted, it shall be illuminated with white light by indirect method only and it shall be set back from the front lot line by not less than one-half (1/2) the depth of the front yard.
- c. Signs of the Temporary Accessory type not elsewhere restricted.
- d. One (1) home occupation sign not to exceed two (2) square feet in area.
- e. A business in a High Rise Apartment shall have no sign pertaining to such place of business outside of any building and no illuminated sign pertaining to such place of business visible from a public way.

3332. Signs which may be permitted in any Business (BA) (BB) or Industrial (IA) (IB) District:

- a. Any sign permitted by Section 3331 subject to the same provisions.
- b. Each commercial or industrial enterprise may only have one (1) Ground Sign and one (1) Roof or two (2) Wall Signs. (Amended 5/14/2011, Article 18)
- c. One (1) additional Wall Sign used as a directory to the occupants or tenants of a building may be affixed to an exterior wall at one (1) entrance of said building. Said directory shall not exceed an area determined on the basis of one (1) square foot for each occupant or tenant; total sign area shall not exceed six (6) square feet.
- d. Each lot in a Business or Industrial District with a building put to commercial or industrial use may have not more than one (1) Ground Sign. Sign area shall not exceed that allowed for said lot. Each tenant may share equally in the allowed sign area. Where an industrial area is removed from a public way by a private access road, one (1) additional Ground Sign not to exceed twenty (20) square feet may be placed within view of said public way, but not within twenty (20) feet of said way.
- e. Information related to specific business operations on the premise, such as proprietors name; contact information, including phone number, hours of operation, web page address, and the like, as defined in the Town of Westborough's Signage Guidelines, shall be allowed on the primary customer entry door. Such information shall not occupy more than 25% of the door surface area. (Amended 10/19/2015, Article 5)

3333. Signs which may be permitted in any Conservation (C), State, MDC, Municipal (M) Districts:

- a. One (1) identification sign for each frontage on a public way shall be permitted.

b. Sign area shall not exceed twelve (12) square feet.

3334. A farm, institutional or non-commercial recreational use may have one (1) sign not to exceed twelve (12) square feet. Said sign must be located on the land so used. Should said land front on more than one public way, a sign shall be allowed for each such lot frontage.

3335. Signs, whose content relates jointly to "Brand Names" as well as information relating to the premises on which the sign is located, shall have the sign area divided equally between the "Brand Name" and the information relating to the premises.

3336. When any sign becomes insecure, in danger of falling, or otherwise unsafe, the owner thereof shall, upon written order of the Building Inspector, remove or repair the sign forthwith.

3337. HISTORICAL DISTRICTS AND/OR NATIONAL REGISTER PROPERTIES
(Amended 10/19/2015, Article 5)

a. Signs erected, altered or relocated within the confines of any National Register of Historic Places District or the Westborough Downtown Business District or any Zoning District within 2500 feet of the Downtown Rotary shall be in keeping with the historic character of that District. This places additional conditions upon design, materials, lettering and color of signs in these Districts. In Residential Districts within 2500 feet of the Downtown Rotary signage shall be in conformance with Section 4413 of this Bylaw. (Amended 3/5/90, Article 72; 3/29/1994, Article 39)

b. The Historical Commission approval is required for any new or revised existing signs which will be located in any Historic District, the Westborough Downtown Business District, or any Zoning District within 2500 feet of the Downtown Rotary. The Historical Commission shall prepare, and the Planning Board shall approve, guidelines relating to appropriate sign design for Historic Districts. Where there are overlapping review of building elements required by both the Historical Commission and the Design Review Board, the Design Review Board shall be the approving authority for signage on these buildings.

c. The Historical Commission Guidelines shall be applied by both the Historical Commission and the Design Review Board, where appropriate, in reviewing and approving signs. Copies of these guidelines shall be made available from both the Historical Commission and Building Commissioner. (Amended 3/12/1996, Article 74)

d. Following signage review Historical Commission or Design Review Board, where appropriate, shall provide a decision to the Building Commissioner.

e. Neon halo, gas-filled tube type illuminated signs and internally illuminated signs are not in keeping with the historic character of the Districts and shall not be allowed.

f. Lighting of signs within these Districts shall be limited to shielded light sources. For sign boards or other wall mounted signs, historically appropriate gooseneck light sources may be used. The design, material, and location of such light sources shall be reviewed and approved by the Historical Commission or Design Review Board, where appropriate. Indirect or downward-directed lighting may be used to illuminate projecting signs.

g. Enforcement of these requirements shall be the responsibility of the Building Commissioner.

3340. OFF-PREMISES SIGNS. Billboards or signs, whose content does not relate exclusively to the premises on which they are located, or to products, accommodations, services or activities on those premises, shall not be permitted. (Amended 10/19/2015, Article 5)

Off-Premises Signage may be allowed by the Building Commissioner if the Off-Premises Signage serves to reduce traffic congestion, improve public safety or serves a similar public benefit”; (Added 10/19/2015, Article 5)

“The Building Commissioner may also allow Off-Premises Signage to announce temporary events. The location and duration of the display of such Off-Premises Signage shall be determined by the Building Commissioner”; (Added 10/19/2015, Article 5)

3350. NON-CONFORMING SIGNS. Any sign that was legally erected prior to the adoption of Section 3300 of this Bylaw or has been legally erected since the adoption of this Section may continue to be maintained but shall not be enlarged or altered in any way unless it is brought into conformity with the requirements of this Bylaw. A non-conforming sign is subject further to the following regulations:

- a. A non-conforming sign shall not be moved or relocated unless it is brought into compliance with the provisions of this Bylaw.
- b. A non-conforming sign which is removed or abandoned for longer than 30 days or destroyed by more than 35% shall not be replaced unless it complies with this Bylaw.
- c. Any modification to a non-conforming sign, other than repainting, refurbishing and/or repairing it to its original condition shall void such non-conformity and any new sign shall comply with this Bylaw;

(Added 10/19/2015, Article 5)

3360. OUTSIDE DISPLAY.

- a. Display of merchandise or other materials exterior to a building in the Downtown Business District (BB), Downtown Planning Overlay District (DPOD), and the Gateway 2 District (G2) shall be reviewed and approved by the Design Review Board.
- b. Umbrellas serving outdoor seating or related activities in the Downtown Business District (BB), Downtown Planning Overlay District (DPOD), and the Gateway 2 District (G2) shall be considered an architectural feature and shall be reviewed and approved by the Design Review Board”;

(Added 10/19/2015, Article 5)

ARTICLE 4 SPECIAL REGULATIONS (ADOPTED MARCH 5, 1990)

4100. EARTH MOVING AND CLEARING OF PROPERTY REGULATIONS (Replaced 3/16/2002, Article 17)

4110. **GENERAL.** Earth moving and/or clearing shall be done only in accordance with Sections 4120 through 4170, except that the following shall be exempted from these provisions:

4111. The removal or addition of less than five hundred (500) cubic yards of such material, or clearing and grading activity which disturbs less than 20,000 square feet of land, within any twelve (12) month period. (Amended 3/2/1992, Article 21; Amended 3/29/1994, Article 43)

4112. Earth moving and/or clearing incidental to construction on a lot where such earth moving is explicitly allowed under a currently valid Building Permit, Special Permit, or Subdivision Approval. (Amended 3/29/1994, Article 43; Amended 10/21/2013, Article 22)

4113. Removal on a parcel for which removal was authorized under a legal permit issued prior to adoption of Section 4100 may continue until the expiration date of said permit, or for eighteen (18) months, whichever is the greater, provided that all bylaws, permits and conditions applicable prior to the adoption of this Section shall be complied with. Subsequent to that date, full compliance with all the requirements of Section 4100 must be met.

4114. Clearing on property that has received an approved Forest Cutting Plan development by a certified forester and approved by the Massachusetts Department of Environmental Management.

4120. **SPECIAL PERMIT OR APPROVAL.** Earth moving and/or clearing shall be allowed only under a Special Permit issued by the Planning Board, following a written application, a copy of which shall be forwarded to the Conservation Commission and Town Engineer. The following shall be conditions for such issuance: (Amended 10/21/2013, Article 22)

4121. The application shall be accompanied by a plan showing all natural and man-made features, including wetlands, water courses, 100- year flood plain, property lines, names and addresses of all abutters if available from the Assessors, including those across any street or way, topography at two (2) foot contour interval of the site and all land within one hundred (100) feet of the area of the earth moving and/or clearing activity together with any grades below or above which finish surface will now lie, and the proposed cover vegetation and trees. The application shall include a description of earth moving, clearing or construction activities, in sequence, which specifies the expected date of soil stabilization, vegetation and completion. If involving more than one (1) acre of clearing, the plan shall be prepared by a registered landscape architect. If involving more than five hundred (500) cubic yards of materials to be moved, the plan shall be prepared by a Registered Engineer. (Amended 3/29/1994, Article 43)

4122. A performance bond in the amount determined by the Planning Board shall be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of this Bylaw and such other conditions as the Planning Board may impose as conditions to the issuance of its permit.

4123. Before granting a permit, the Planning Board shall give due consideration to the location of the proposed earth moving and/or clearing, to the general character of the neighborhood surrounding such location, to the protection of water supply, to the general safety of the public

on the public ways in the vicinity, and to the recommendations of the Conservation Commission and Town Engineer. Prior to said consideration the applicant shall notify the abutters as to the time and place of consideration and shall provide the Planning Board with proof of such notification.

(Deleted 4125 10/21/2013, Article 22)

4126. INSPECTION AND COMPLIANCE. In order to ensure compliance with a Special Permit or approval granted under this regulation, the Planning Board will require the applicant to perform periodic inspections and submit written reports. The interval and content of such inspection and reporting shall be determined during review of the application. Upon satisfactory completion of earth moving, and/or clearing activity, the applicant shall request a certificate of compliance. The Planning Board, as the case may require, shall perform an inspection prior to granting such certificate and releasing the performance bond or other security. (Added 3/29/1994, Article 43)

4130. EARTH MOVING

4131. Finish grade shall not lie below a level that would reasonably be considered a desirable grade for the later development of the area, or below the grades specified on the plan accompanying the permit application. The Planning Board may specify a base grade below which excavation shall in no event take place. The Planning Board from time to time may require the site be surveyed by a registered land surveyor for compliance with these Bylaws. Cost of survey is to be paid by the permit holder.

4132. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

4133. The Planning Board may require an undisturbed fifty (50) foot buffer strip be maintained at all boundaries. (Amended 3/29/1994, Article 43; Amended 10/21/2013, Article 22)

4134. The visibility, sound and airborne particulates from processing equipment shall be screened from adjacent premises through the design and location of such equipment, and through use of natural vegetation planting, overburden piles and surge piles as screening.

4135. Dust from all earth-moving activities shall be controlled.

4136. Earth materials shall not be deposited onto public roads.

4137. Finish grade shall not lie below a level that is ten (10) feet above the natural, seasonal high groundwater table for the site. (Amended 3/29/1994, Article 43)

4138. Vegetative stabilization measures shall be employed during earth, moving and construction activity as required by the approving authority. All perimeter dikes and slopes, basin or trap embankments shall be stabilized with sod, seed, anchored straw mulch within seven (7) days of disturbance. All other disturbed areas shall be stabilized with sod; seed and anchored straw mulch within fourteen (14) days after disturbing activities are ceased.

Topsoil shall be stripped from disturbed areas and stockpiled in an approved area and stabilized with a temporary vegetative cover if left more than fifteen (15) calendar days.

Perimeter sediment controls shall be installed around stockpiled topsoil.

During cold weather months, when seeding and sodding may be impractical, anchored mulch shall be applied as approved.

4140. CLEARING PROCESS

4141. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

4142. The Planning Board may require an undisturbed fifty (50) foot buffer strip be maintained at all boundaries. (Amended 10/21/2013, Article 22)

4143. The visibility, sound and airborne particulates from processing equipment shall be screened from adjacent premises through the design and location of such equipment, and through use of natural vegetation planting.

4144. Dust shall be controlled.

4145. Vegetative stabilization measures shall be employed during clearing or grubbing activity as required by the Planning Board. All exposed soils shall be stabilized with sod, seed, anchored straw mulch within seven (7) days of disturbance. All other disturbed areas shall be stabilized with sod; seed and anchored straw mulch within fourteen (14) days after disturbing activities are ceased. During cold weather months, when seeding and sodding may be impractical, anchored mulch shall be applied as approved.

4150. RESTORATION. Forthwith following the expiration or withdrawal of a permit or upon voluntary cessation of operations, or upon completion of activities to the extent covered by the performance bond (Section 4122), that entire area shall be restored as follows:

4151. For earth moving activities, all land shall be so graded that no slope exceed one (1) foot vertical rise in three (3) feet horizontal distance and shall be so graded as to safely provide for drainage without erosion. The Planning Board may require the restored site be surveyed by a registered land surveyor for compliance with these Bylaws. Cost of survey is to be paid by the permit holder.

4152. For earth-moving activities, all boulders larger than one-half (1/2) cubic yard shall be removed or buried, and all tree stumps removed in compliance with the Westborough Board of Health Regulations. For clearing activities, all stumps shall be removed in compliance with the Westborough Board of Health Regulations.

4153. The entire area excepting exposed ledge rock shall be covered with not less than four inches of topsoil, which shall be planted with perennial cover vegetation adequate to prevent soil erosion.

4154. Any performance bond shall not be released until sufficient time has lapsed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

4160. ADDITIONAL CONDITIONS. The Planning Board may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which earth moving and/or clearing may take place, hours during which vehicles may travel to and from the premises, routes to be used by hauling vehicles and trees to be planted. (Amended 3/29/1994, Article 43)

4170. RENEWAL OR REVOCATION OF PERMIT. No Permit or Approval shall be issued under the provisions of Section 4100 to extend for a term of more than one (1) year, but a Permit or Approval may be renewed upon application and after a Public Hearing. Prior to renewal, inspection of the premises shall be made by the Planning Board to determine that the provisions of this Bylaw are being complied with. The Planning Board, after a hearing and proof of violation of the Bylaw, shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with Section 4150. Violations of this bylaw, or of any condition of a Special Permit or approval granted under this section, shall be punished by a fine of not more than three hundred (\$300) dollars per day.

4200. MULTI-FAMILY DWELLINGS

Multi-family dwellings shall be permitted only subject to the following:

4210. UNITS BELOW GRADE. No floor in a dwelling unit except unoccupied basements shall be below grade of the adjoining ground at any place on its perimeter.

4220. BEDROOMS. Not more than 5% of all dwelling units in the entire apartment complex shall have more than two (2) bedrooms.

4230. BUSINESS IN HIGH-RISE APARTMENTS. Up to 5% of the gross floor area of structures proposed for high-rise apartments may be devoted to retail stores, offices and service outlets exclusively servicing on-site residents, provided that:

4231. There shall be no entrance to such place of business except from inside a building.

4300. OPEN SPACE COMMUNITIES (Amended 3/5/1990, Article 59)

4310. PURPOSE.

Provide for the public interest by the preservation of open space and natural landscape features in perpetuity, and ensure that residential development, to the maximum possible extent, respects the natural features of the land.

Promote housing patterns which are designed to be sensitive to and accommodate a site's physical characteristics. Such features include wetlands and water bodies, topography, vegetation, wildlife habitats, scenic views & vistas, the integrity of ancient ways, historic sites, and the remaining rural character of the community which is exemplified by its farmlands, open field and orchards.

4315. APPLICABILITY.

Open Space Communities shall be allowed within the Residential Zoning District subject to the requirements of this Bylaw for that District and in accordance with the additional requirements specified herein and in the Subdivision Rules and Regulations.

4320. GENERAL REQUIREMENTS.

1. Any parcel of land located within the residential zone containing ten (10) or more acres shall be considered for open community development.

- 2A. For major residential development, that is, the potential creation of more than six (6) residential house lots on a property or set of contiguous properties in common ownership, an open space community development is allowed only by Special Permit issued by the Planning Board.
- 2B. For minor residential development or a parcel of at least five (5) acres but less than ten (10) acres in size, at the owners option, an application can be made for an Open Space Community Special Permit in preferences to filing a conventional development plan.

4330. MINIMUM REQUIREMENTS.

- 1. Size: The total area of the tract or parcel proposed for the Open Space Community shall be at least ten (10) acres, and have a minimum of fifty (50) feet of frontage on an existing Town way.
- 2. Density: The total number of lots shall not exceed the number of lots which could reasonably be expected to be developed under a conventional plan in full conformance with zoning, subdivision regulations, and health codes. (Amended 3/29/1994, Article 40)
- 3. Intensity Regulations: The Planning Board may grant a reduction of all intensity regulations of the underlying zone regulations for all portions of an open space development if the Board finds that the reduction will result in better design, improved protection of natural and scenic resources, and will otherwise comply with these regulations, provided that in no instance shall any lot deviate from the following table of requirements:

Table of Requirements

Maximum Lot Size	15,000 square feet
Minimum Lot Size	8,000 square feet
Minimum Frontage	50 feet
Minimum lot width, at building line	80 feet
Minimum Front Yard Setback	30 feet
Minimum Side Yard	15 feet
Minimum Rear Yard	15 feet

- 4. The minimum front yard setback requirement contained in this Bylaw may be waived by the Board in order to achieve the purpose of this Bylaw.

4350. Common Open Space ownership and Management: Common open space in any development under this provision shall be conveyed to:

- 1. An Open Space Land Trust, or any other nonprofit corporation, approved by the Planning Board, the principal purpose of which is the land conservation and the preservation of open space; and/or
- 2. A corporation, trust or association owned or to be owned by the owners of the lots in the development, here-after referred to as the "Homeowners Association", provided that the land shall be conveyed to the "Homeowners Association" subject to covenants, enforceable by the Town, to keep the dedicated common space, open or in a natural state as approved by the Planning Board; and/or

3. The Town, and may be accepted by it for conservation and/or recreational use; and/or
4. Owners of the lots within the open space community subject to a conservation restriction acceptable to the Board.

4360. APPLICATION AND REVIEW PROCESS.

The application process for an Open Space Community Development is comprised of two steps. In the first step, the applicant submits a concept plan, as outlined in the Subdivision Rules and Regulations, which describes the overall development plan. The Planning Board shall grant or deny a Special Permit based upon the information contained in the concept plan. If the Special Permit is granted, the applicant then submits a preliminary plan based upon the concept plan. The Planning Board reviews the plan and then the applicant submits a definitive subdivision plan which incorporates comments made during the preliminary plan review. Two separate public hearings, one for the Special Permit and one for the definitive plan must be held.

4365. DURATION OF APPROVAL, DEDICATION OF OPEN SPACE AND RECORDING.

Notwithstanding anything to the contrary within/without this Bylaw, any Special Permit granted by the Planning Board for an Open Space Community, shall have a life span equal to that of conventional subdivisions.

All common open space shall be dedicated and recorded, with covenants, at or prior to the time the permit holder receives a Building Permit.

4370. SUBSEQUENT TO APPROVAL.

Subsequent to approval of such Open Space Community, no land therein shall be sold and no lot line shall be changed in such a way as to increase the number of lots or the extent of non-conformity with the provisions of section 2600 of this Bylaw.

4400. ACCESSORY USES AND STRUCTURES

4410. HOME OCCUPATIONS. Home occupations are permitted only if conforming to the following conditions:

4411. Floor area used for the home occupation shall not exceed 25% of the floor area of the dwelling or 30% of the combined floor area of the dwelling plus any accessory structures used in the home occupation.

4412. Not more than one person not a member of the household shall be employed on the premises in the home occupation.

4413. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or other variation from the residential character of the principal building other than a sign as provided in Section 3331 (d).

4414. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

4415. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

4416. Parking generated shall be accommodated off-street, but not more than two (2) spaces shall be in a required front yard.

4417. Should any home occupation create any variation from the normal activity within the neighborhood, the hours of operation shall be limited to 8:00 A.M. to 9:00 P.M. with Sundays to be days of no operation.

4418. One-day yard or garage sales are permitted only upon written permit from the Selectmen. Should any premises be used more frequently than two (2) days in one year for the purpose of a yard or garage sale, the sale shall be considered a home occupation and be governed by the regulation set forth in these Bylaws under Section 4410 through 4417.

4420. MOBILE HOMES AND CAMPERS

4421. A mobile home or camper may be temporarily occupied:

- a. by non-paying guests of the owner of the premises for a period not to exceed two (2) weeks in any calendar year, or
- b. as a temporary office incidental to construction or development of the premises on which it is located, upon issuance of a permit by the Selectmen, for a period of one (1) year, renewable once.

4422. Campers may be regularly stored within a structure and a single camper may be regularly stored in the open accessory to a permitted use in any district, provided that it is not within a required front yard or within ten (10) feet of a side or rear lot line, except when loading or unloading.

4430. SWIMMING POOL FENCING.

4431. Every outdoor swimming pool considered to be a Structure (see definition) or other body of water which constitutes a hazard whether or not filled with water shall be completely surrounded at all times by a fence or wall not less than four (4) feet in height above grade, which may be the pool wall itself.

4432. Every such fence or wall shall be so constructed as to not have openings, holes or gaps larger than four (4) inches in any dimension except for doors, gates and picket fences; in the latter case, however, the gaps between pickets shall not exceed four (4) inches.

4433. All gates or doors opening through such enclosure shall be of not less than four (4) feet in height and shall be equipped with a self-closing and self-latching device located at least four (4) feet above the underlying ground and inaccessible from the outside to small children. Every such gate or door shall be kept latched at all times when the swimming pool is not in use, and any ladders removed.

4434. A natural barrier, hedge, pool cover or other protective device approved by the Building Inspector may be used in lieu of a fence or wall so long as the degree of protection afforded by the substitute device or structure is not less than the protection afforded by the enclosure, gate and latch described herein.

4440. UNREGISTERED VEHICLES. No person shall permit more than one unregistered motor vehicle or trailer or major parts thereof, except for farm vehicles, to remain ungaraged on his premises at any time unless under a Class 1 or Class 2 license for sale of motor vehicles

(Section 57-69, Chapter 140, General Laws), or unless given written authorization by the Selectmen following an investigation and report thereon by the Board of Health. Authorization shall be granted only if no hazard to health or safety is involved, and no unsightly condition visible from adjacent property or public ways is created.

4450. STRUCTURES.

4451. STRUCTURES-NON-RESIDENTIAL AREAS. In non-residential areas, no structures (including but not limited to power generation or communication devices) shall be permitted with a height in excess of seventy-five (75) feet, nor shall any such structure be permitted as part of another structure or building with an aggregate height in excess of seventy-five (75) feet. Structure height is as measured from the ground adjacent to the structure to the highest point of the structure, including any moving parts or whip antennae.

4452. STRUCTURES RESIDENTIAL AREAS. In residential areas, no structures (including but not limited to power generation or communication devices) shall be permitted with a height in excess of thirty-five (35) feet, nor shall any such structure be part of a residential structure with an aggregate height in excess of fifty (50) feet. Holders of valid FCC licenses for 2-way communications of a non-commercial nature shall be permitted structures or aggregate height of a residence plus antenna not to exceed sixty (60) feet. Structure height is as defined in Section 4451. In the event of conflict with applicable rules of the FCC, the FCC rules shall apply.

4460. ACCESSORY DWELLING UNITS

Introduction:

Accessory dwelling units (also known as 'accessory apartments', 'in-law apartments', 'family apartments' or 'secondary units') provide units that can be integrated into existing single family neighborhoods to provide alternatives that have little or no negative impact on the character of the neighborhood. For two-family or multi-family uses refer to section 2300.

4461. PURPOSE AND INTENT: THE INTENT OF PERMITTING ACCESSORY DWELLING UNITS IS TO:

1. Provide older or disabled homeowners with a means of obtaining individual caregiver services, thereby enabling them to stay more independently in homes and neighborhoods they might otherwise be forced to leave;
2. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle.
3. Protect stability, property values, and preserve the residential character of a neighborhood.

4462. DEFINITIONS:

1. Accessory Dwelling Unit: An Accessory Dwelling Unit (ADU) is a self-contained housing unit incorporated within a single-family dwelling (not within accessory structures, except with a Special Permit) that is clearly a subordinate part of the single-family dwelling and complies with each of the criteria stated below.

2. Building, Attached: A building having any portion of one or more walls with more than five feet in common with another building and which contains a common passage between the buildings.
3. Building, Detached: A building having less than five feet of common walls.
4. Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.
5. Primary Residence: A building in which is conducted the principal use of the lot on which it is located. For residentially zoned lots, such a building would be a dwelling.

4463. PROCEDURAL REQUIREMENTS:

Review procedure: (Refer to section 1200 of this Bylaw)

4464. USE AND DIMENSIONAL REGULATIONS:

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an attached accessory dwelling unit within an existing or new owner-occupied, single-family dwelling only when the following conditions are met:
 - (a) The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
 - (b) Only one accessory dwelling unit may be created within a single-family dwelling or residential lot.
 - (c) The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.
 - (d) Any new separate outside entrance serving an accessory dwelling unit shall not be allowed, unless a Special Permit is issued by the Zoning Board of Appeals.
 - (e) The gross floor area of an accessory dwelling unit (including any additions) shall not be greater than 50% of the primary dwelling unit or one thousand (1000) square feet, whichever is smaller unless a special permit is issued by the Zoning Board of Appeals allowing a larger gross floor area.
 - (f) Once an accessory dwelling unit has been added to a single-family residence or lot, the accessory dwelling unit shall never be enlarged beyond the one thousand (1000) square feet allowed by this bylaw/ordinance.
 - (g) An accessory dwelling unit structure may be detached from the primary dwelling only by special permit issued by the Zoning Board of Appeals.
 - (h) An accessory dwelling unit may not be occupied by more than two (2) people nor have more than two (2) bedrooms, unless a special permit is issued by the Zoning Board of Appeals.
 - (i) The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws/ordinances and regulations.

- (j) Off-street parking spaces shall be available for use by the occupant(s).
 - (k) An accessory dwelling unit and its primary dwelling unit shall share utility metering.
 - (l) An accessory dwelling unit shall be designed to preserve the appearance of the single family dwelling.
 - (m) An accessory dwelling unit shall not be held or transferred into a separate ownership from the primary residence either through deed or 'condo' association documents.
 - (n) All stairways associated with an accessory dwelling unit leading to an above ground floor shall be enclosed and not visible to the outside.
2. Approval for an ADU requires that the owner must occupy one of the dwelling units. The zoning approval and the notarized letters required in 4464.3 and 4464.4 below must be recorded in the County Registrar of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.
 3. Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences.
 4. When a structure, which has received a permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Permit, must submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.
 5. Prior to issuance of a permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.

4465. ADMINISTRATION AND ENFORCEMENT

1. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw.
2. The property owner of the dwelling containing the accessory unit shall allow the Building Commissioner to inspect the unit for compliance with this bylaw.

4500. FLOOD PLAIN DISTRICT. Amended 3/5/1990, Article 74, Amended 6/20/90, Article 12, Deleted 10/21/2013, Article 25)

4600. PLANNED PARCEL DEVELOPMENT. (Amended 9/19/1995, Article 10; Deleted in its entirety 10/17/05, Article 12)

4700. AQUIFER AND WATERSHED PROTECTION DISTRICT. (Amended 3/29/1994, Article 42)

4710. PURPOSE OF DISTRICT. The purpose of this Aquifer and Watershed Protection District is:

1. To promote the health, safety and general welfare of the community by promoting an adequate quality and quantity of drinking water for residents, institutions, and businesses of the Town of Westborough;
2. To preserve and maintain the existing and potential groundwater supplies, aquifers and groundwater recharge areas of the Town and to protect them from adverse development or land use practices;
3. To preserve and protect present and potential sources of drinking water supply for the public health and safety;
4. To conserve the natural resources of the Town;
5. To prevent blight and the temporary or permanent pollution of the environment.
6. To ensure that only water supply related activities are permitted in the Zone 1 400 foot protective radius of the Town wells (Added 3/12/1996, Article 58)

4720. **SCOPE AND AUTHORITY.** The Aquifer and Watershed Protection District shall be considered as overlaying other Zoning Districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing activities or uses permitted in the portion of the District so overlaid shall be permitted, subject to all the provisions of this District, unless expressly prohibited under this overlay District.

4730. **ESTABLISHMENT AND DELINEATION OF AQUIFER AND WATERSHED PROTECTION DISTRICT.** For the purposes of this District, there are hereby established within the Town certain Aquifer and Watershed Protection areas, consisting of aquifer and/or aquifer recharge areas, which are delineated on the overlay map referenced in Section 4732.

4731. **DISTRICT.** The Aquifer and Watershed Protection District includes the aquifer itself, including the land above the most significant recharge areas for these aquifers and consists of:

- Zone I, which includes land within the protective four hundred (400) foot radius around an existing or potential public water supply well or wellfield; and,
- Zone II, which includes that area of an aquifer which contributes water to an existing or potential well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary); and,
- Zone III, (Contributing Watershed), which includes that land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface drainage area as determined by topography is commonly coincident with the groundwater drainage area and is used to delineate Zone III. In some locations, where surface and groundwater drainage are not coincident, Zone III shall consist of both the surface drainage and the groundwater drainage areas.

4732. **OVERLAY MAP.** The Boundaries of this District are delineated on a map at a scale of one inch equals eight hundred feet entitled Aquifer and Watershed Protection Districts, Town of Westborough, Massachusetts dated January, 2001. These boundaries reflect the best

hydrogeologic information available as of the date of the map. In the event of a discrepancy between the map and the criteria of Zones I, II and III, above, the criteria shall control. (Amended 3/12/1996, Article 58)

Where the bounds as delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s), the Town may engage a professional hydrogeologist or engineer to determine more accurately the location and extent of an aquifer or recharge area or to review information submitted by the owner(s), for all or part of the cost of the investigation.

4733. SPLIT LOT PROVISIONS. (Amended 3/17/2001, Article 30)

- Zone I Boundary Line. Where the Zone I boundary line divides any lot of record, the portion of the lot within Zone I shall remain undeveloped with the exception of the land uses directly related to the operation and maintenance of a public water supply and the uses and regulations pertinent to Zone II shall be applied to the development of the remainder of such lot.
- Zone II Boundary Line. Where the Zone II District boundary line divides any lot of record, the uses and regulations pertinent to Zone III shall be applied to the development of such lot provided that all structures and waste disposal systems are located in that portion of the lot lying in Zone III.
- Zone III Boundary Line. Where the Zone III boundary line divides a lot of record in any underlying District, the requirements of the Westborough Zoning Bylaws applicable to the less restrictive District may be applied to the development of such lot, provided that all structures and waste disposal systems are located in that portion of the lot lying in the less restrictive District.

4734. RECOVERABLE WATER YIELD CRITERIA. Aquifers and aquifer recharge areas are defined by standard geologic and hydrogeologic investigations which may include drilling observation wells, performing pumping tests, water sampling and geologic mapping. An aquifer recharge area, to be considered significant for drinking water purposes must generally be comprised of sand and gravel with at least twenty (20) feet of saturated thickness for transmissivity of at least ten thousand five hundred (10,500) gallons per day per foot and/or capable of continuous yield of at least one hundred (100) gallons per minute to a single well.

4740. USE REGULATIONS.

Within the Aquifer and Watershed Protection District, the requirements of the underlying Districts continue to apply as indicated in subsections 4741 and 4742, Use Regulations Schedule, or as exempted by this Bylaw or Statute.

Symbols employed shall mean the following:

Y - A permitted use

N - An excluded or prohibited use

S - A use authorized by the issuance of a Special Permit as provided for in Section 1330 and Section 4750 herein.

4741. PERMITTED USES. The following uses are permitted within the Aquifer and Watershed Protection district, (provided that all necessary permits, orders, or approvals required by law are also obtained):

- Conservation of soil, water, plants and wildlife;
- Outdoor recreation, native study, boating, fishing, hunting;
- Foot, bicycle and/or horse paths, and bridges;
- Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- Maintenance and repair of existing structures;
- Residential development, subject to Section 4742 (use regulation schedule) and Section 5740 (Special Permits);
- Farming, gardening, nursery, conservation, forestry, harvesting, grazing, subject to 4742 and 4750.
- Construction, maintenance, repair and enlargement of drinking water supply related facilities.

SECTION 4742. USE REGULATION SCHEDULE (AMENDED 3/29/1994, ARTICLE 42; AMENDED 3/12/1996, ARTICLE 58; AMENDED 3/17/2001, ARTICLE 30)

District Protection Area

Principal uses

Zone I II III

<u>Principal uses</u>	<u>Zone I</u>	<u>II</u>	<u>III</u>
Disposal or treatment of toxic or hazardous materials or hazardous wastes as a principal activity:	N	N	N
Manufacture, use, transport, storage of toxic or hazardous materials or hazardous wastes as a principal activity:	N	N	N
Truck terminal:	N	N	S
Sanitary landfill, junk yard, open dump, salvage yard, other solid waste disposal:	N	N	N
Landfilling of sludge or septage as defined in 310 CMR 32.05	N	N	S
Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;	N	N	S
Earth removal to within six (6) feet of high groundwater level, except for excavation for buildings, roads, and utility works:	N	N	S
Motor vehicle service, station, car wash:	N	N	S
Automobile Service and repair shops, automotive body and paint shops:	N	N	S
Disposal of snow from outside District area:	N	N	S
Storage of commercial fertilizers and soil conditioners, as defined in MGL c. 128, s. 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;	N	N	S
Industrial uses which discharge process wastewater on site; any commercial and service uses discharging wastewater on site containing contaminants other than domestic septic waste:	N	N	S
Storage of liquid petroleum products, except the following:			
a. normal household use, outdoor maintenance and heating of a structure:			
b. waste oil retention facilities required by statute, rule, or regulation;			
c. emergency generators required by statute, rule or regulation;			
d. treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters:			
Provided that storage, listed in items a through d above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.	N	N	S
Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;	N	N	S
Storage of animal manure unless covered or contained;	N	N	S
<u>Accessory Uses or Activities.</u>			
Disposal or treatment of toxic or hazardous materials as a secondary activity:	N	N	N
Manufacture, use, transport, storage of toxic or hazardous materials as a secondary activity:	N	N	S
Sanitary landfill, junkyard, open dump, salvage yard, other solid waste disposal:	N	N	N
Landfilling of sludge or septage as defined in 310 CMR 32.05	N	N	S
Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;	N	N	S
Storage of liquid petroleum products except the following:			
a. normal household use, outdoor maintenance, and heating of a structure:			
b. waste oil retention facilities required by statute, rule, or regulation;			
c. emergency generators required by statute, rule, or regulation;			
d. treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters:			
Provided that storage, listed in items a through d above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.	N	N	S
Underground storage of fuel oil, gasoline or chemicals:	N	N	S
Disposal of snow from outside District area:	N	N	S
Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;	N	N	S
Storage of animal manure unless covered or contained;	N	N	S
Storage of commercial fertilizers and soil conditioners, as defined in MGL c. 128 s.64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate.	N	N	S
Land uses that result in impervious surfaces of more than 15% or 2,500 square feet, whichever is greater, of any lot unless a means for providing ground water recharge of runoff is provided. Land uses on residential lots where impervious surfaces drain to pervious areas on the same lot do not require special permits in Zone II.	N	SP	Y

4750. Special Permits shall be granted if the Special Permit Granting Authority determines that the intent of this Bylaw, as well as the specific criteria of Sections 4751 through 4753 are met. The Special Permit Granting Authority shall be the Zoning Board of Appeals, except that, where

a Special Permit is required by Section 2300 (Use Regulation Schedule), the Special Permit Granting Authority authorized by that Section shall also be the Special Permit Granting Authority for the Special Permit required herein. In making such determination, the Special Permit Granting Authority shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to surface and groundwater quality which would result if the control measures were to fail. The Special Permit granting authority shall not grant a Special Permit under this section unless the application includes, in the Special Permit granting authority's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the criteria given in this section.

4751. SPECIAL PERMIT APPLICATION.

1. Each application for a Special Permit shall be filed with the Special Permit Granting Authority and shall be accompanied by nine (9) copies of the plan and documents;
2. Said application and plan shall be prepared in accordance with the data requirements of the proposed development (e.g., Site Plan Review, Erosion and Sedimentation Control Plan, etc.);
3. The following documents shall also be submitted in applying for a Special Permit:
 - a. A complete list of all chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
 - b. A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method.
 - c. For those activities using, storing, or generating such hazardous materials, an Aquifer Protection Management Plan shall be prepared and filed with the Board of Health, Building Department and Fire Chief.

The Plan shall include:

- Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
 - Provisions for indoor, secured storage of hazardous materials and waste with impervious floor surfaces;
 - Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
- d. Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) for any industrial waste treatment and disposal system or any wastewater treatment system over fifteen thousand (15,000) gallons per day capacity as regulated by 314 CMR 5.00 Massachusetts Groundwater Discharge Permit Program.
 - e. For underground storage of toxic or hazardous materials, evidence of qualified professional supervision of system design and installation.

- f. Analysis by a hydrogeologist or engineer experienced in groundwater evaluation and/or hydrogeology to demonstrate that the proposed activity will not be detrimental to the purpose of the District as set forth in Section 4710.
- g. Proposed and/or existing down-gradient location(s) for groundwater monitoring well(s) should the special permit granting authority deem the proposed activity a potential groundwater threat, together with a monitoring schedule.

4752. PROCEDURES.

The Special Permit Granting Authority shall refer copies of the application to the Board of Health, Planning Board, Board of Selectmen, Building Department, Conservation Commission, Town Engineer, Department of Public Works and Fire Department which shall review, either jointly or separately, the application and shall submit their recommendations to the Special Permit Granting Authority. Failure to make recommendations within thirty-five (35) days of the referral of the application shall be deemed lack of opposition.

The Special Permit Granting Authority shall hold a hearing, in conformity with the provisions of Massachusetts General Laws Chapter 40A, Section 9 within sixty-five (65) days after the filing of the application with the Special Permit Granting Authority and after the review of the aforementioned Town Boards/Departments.

Notice of Public Hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in Massachusetts General Laws Chapter 40A, Section 11. The decision of the Special Permit Granting Authority and any extension, modifications or renewal thereof, shall be filed with the Special Permit Granting Authority and Town Clerk within ninety (90) days following the closing of the Public Hearing. Failure of the Special Permit Granting Authority to act within ninety (90) days shall be deemed as a granting of the Permit. However, no work shall commence until a certification is recorded as required by said Section 11.

4753. APPROVAL CRITERIA. After notice and Public Hearing, and after due consideration of the reports and recommendations of the Planning Board, the Board of Health, the Conservation Commission, Board of Selectmen, Building Department, the Town Engineer, Department of Public Works and Fire Department, the Special Permit Granting Authority may grant such a Special Permit, only upon finding that the proposed use:

1. Will not cause groundwater quality to fall below the standards established in 314 CMR 6.00 Massachusetts Groundwater Quality Standards or for parameters where no standard exists, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation;
2. Is in harmony with the purpose and intent of this Bylaw and will promote the purposes of the Aquifer and Watershed Protection District;
3. Will not, during construction or thereafter, have an adverse environmental impact on any aquifer or recharge area in the Town and is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water related natural characteristic of the site to be developed; and,
4. Will not adversely affect the quality or quantity of an existing or potential water supply.

4760. VIOLATIONS. Written notice of any violation shall be provided by the Building Commissioner to the owner of the premises, specifying the nature of the violation and specifying a time for compliance, including cleanup of any spilled materials. The time allowed shall be reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than thirty (30) days be allowed for either compliance or finalizing of the plan for longer-term compliance. The cost of containment, clean-up or other action of compliance shall be borne by the owner and operator of the premises. (Amended 5/14/2011, Article 19)

NOTE: The Town voted (at the March, 1986 Annual Town Meeting) to adopt a plan entitled "Aquifer and Watershed Protection Districts, Town of Westborough, Massachusetts", dated January 10, 1986, which plan is on file in the Office of the Town Clerk.

4800. SPECIAL PERMITS FOR ADULT USES. (Section 4800 Deleted 6/20/1990, Article 11, Added 3/12/1996, Article 66)

A. Purpose and Intent:

This bylaw is enacted pursuant to MGL, Chapter 40A, Section 9A to serve the compelling Town interests of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of the deleterious effect on adjacent areas and in response to studies demonstrating their effect on generating crime and blight.

B. General:

Special permits shall be required to authorize the establishment of adult bookstores, adult video stores, adult paraphernalia, adult live entertainment establishments or adult motion picture theaters or establishments which display live nudity for its patrons as hereinafter defined. Such permit shall require specific improvements, amenities and locations of proposed use for which such permit may be granted. (Amended 11/18/1996, Article 13)

4810. DEFINITIONS – As used in this section, the following words shall have the following meanings:

Adult Book Store – An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis sexual depicting, describing, or relating to sexual conduct or excitement as defined in MGL, Chapter 272, Section 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject premise's gross floor area.

Adult Motion Picture Theater – An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL, Chapter 272, Section 31.

Adult Paraphernalia Store – An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL, Chapter 272, Section 31. For purposes herein, "Substantial or significant portion of stock" shall mean more than twenty-five percent (25%) of the subject establishment's inventory or more than twenty-five percent (25%) of the subject premise's gross floor area.

Adult Video Store – An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL, Chapter 272, Section 31. For purposes herein, “Substantial or significant portion of stock” shall mean more than twenty-five percent (25%) of the subject establishment’s inventory or more than twenty-five percent (25%) of the subject premise’s gross floor area.

Adult Live Entertainment Establishment – Any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or related to sexual conduct or sexual excitement as defined in MGL, Chapter 272, Section 31 and which excludes minors by virtue of age.

Establishment Which Displays Nudity For Its Patrons – Any establishment which provides Live entertainment for its patrons which includes nudity, as that term is defined in M.G.L. Ch. 272, Sec. 31. (Added 11/18/1996, Article 13)

4820. RULES AND APPLICATION REQUIREMENTS.

4821.

The special permit granting authority, the Westborough Planning Board, shall adopt and from time to time amend rules relative to the issuance of the permits, and shall file a copy of said rules in the office of the Town Clerk.

4822.

No special permit shall be granted by the Planning Board for an Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater or Adult Live Entertainment Establishment unless the following conditions are satisfied:

A. When submitting a proposal for a special permit under Section 4800 of these bylaws, the applicant shall obtain a copy of the application and procedures from the Westborough Planning Board, the permit granting authority. The applicant shall file one copy of the application with the Town Clerk and deliver a second, date stamped copy of the application from to the office of the Planning Board. All applications shall be accompanied by fifteen copies of the permit applied for. Special Permits issued by a special permit granting authority shall require a two thirds vote of boards with more than five members, a vote of at least four members of a five member board and a unanimous vote of a three member board.

B. Dimensional Requirements:

The proposed use shall observe the following minimum distance separations from all property lines of the proposed adult uses:

1. A minimum of one thousand (1000) feet from any residential district designated by Westborough zoning bylaws;
2. A minimum of one thousand (1000) feet from any public school, public library, daycare facility, or religious facility;

3. A minimum of five hundred (500) feet from any public playground, park, or recreational area where large numbers of minors regularly travel or congregate;
 4. A minimum of one thousand (1000) feet from any other adult bookstore, adult video store, adult paraphernalia store, adult entertainment establishment, or adult motion picture theater or from any establishment licensed under the provision of MGL, Chapter 138, Section 12.
- C. No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult bookstore, adult video store, adult paraphernalia store, adult motion picture theater or adult live entertainment establishment merchandise or which are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any adult bookstore, adult video store, adult paraphernalia store, adult live entertainment establishment or adult motion picture theater, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.
- D. No special permit shall be issued to any person convicted of violating the provisions of MGL, Chapter 119, Section 63 or MGL, Chapter 272, Section 28.
- E. Adult use special permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application with the special permit granting authority, a copy of which shall forthwith be given to the city or town clerk by the applicant. The special permit granting authority shall act within ninety (90) days following a public hearing for which notice has been given by publication or posting as provided in MGL, Chapter 40A, Section 11, and by mailing to all parties in interest. Failure by a special permit granting authority to take final action upon an application for a special permit within said ninety (90) days following the date of public hearing shall be deemed to be a grant of the permit applied for. Special Permits issued by a special permit granting authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five member board and a unanimous vote of a three member board.

4823. A special permit granted under this bylaw shall lapse after six months, and including such time required to pursue or await the determination of an appeal referred to in MGL, Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for a good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

4824. EXISTING ADULT ENTERTAINMENT ENTERPRISES. (Amended 11/18/1996, Article 13)

Any existing adult bookstore, adult motion picture theater, adult paraphernalia store, adult video store or establishment which displays live nudity for its patrons or adult video store shall apply for such permit with ninety (90) days following the adoption of this zoning bylaw.

4830. SEVERABILITY.

If any section of this bylaw is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the bylaw.

4900. DOWNTOWN PLANNING OVERLAY DISTRICT (DPOD) (Added 3/13/2004, Article 38)

4910. PURPOSE. The intent of this Downtown Planning Overlay District, which hereafter may be referred to as DPOD, is to permit greater flexibility and more creative and imaginative design for the development of retail, office, restaurant, residential and open space than is generally possible under conventional zoning provisions. It is further intended to promote and facilitate redevelopment of certain portions of downtown Westborough while providing a harmonious variety of uses, a higher level of amenities, a stimulus to the economic development of the community and providing vitality to the downtown area.

4920. SCOPE AND AUTHORITY. When land within the DPOD area has been approved by action of Town meeting as having a DPOD classification, it may then be developed or redeveloped by the owner either in accord with the underlying zoning district, or in accord with this DPOD Bylaw, at the election of the owner. If an owner, or applicant acting upon permission from the owner, elects to proceed under this bylaw, this Overlay District shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. When an owner elects to have a Special Permit application considered under the DPOD, the underlying zone remains in place and may always be used as the basis of the new application, even if a Special Permit has been granted under a DPOD. (Amended 10/18/04, Article 8)

4930. ESTABLISHMENT AND DELINEATION OF DOWNTOWN PLANNING OVERLAY DISTRICT.

For the purposes of this Bylaw, there is hereby established a Downtown Planning Overlay District (DPOD). This DPOD shall be only within twenty-five hundred (2,500) feet of the intersection of the centerline of Milk, Main and South Streets. Land in the DPOD area may be considered for classification as a DPOD at Town Meeting only if, at the time of the filing of the Warrant, the underlying zone classification of the land is Non-Residential. (Amended 10/18/04, Article 8)

4931. OVERLAY MAP. No property may be the subject of a Special Permit Application hereunder unless it has been designated, by 2/3 vote at Town Meeting, as having a DPOD zoning classification (In addition to its underlying Zoning). The classification of properties as a DPOD shall be indicated on the official Zoning map of the Town of Westborough. (Amended 10/18/04, Article 8)

4940. PERMITTED USES. Only land with the DPOD classification may be subject of a Special Permit Application under this Bylaw. Each parcel developed within the DPOD shall be designated by the owner either according to the existing underlying Zoning District or Mixed Use by Special Permit. In any Mixed Use development, no building or other structure shall be erected, altered or used and no land shall be used or occupied for any purpose except under a Special Permit issued by the Planning Board in accordance with the provisions and requirements of this Section and the rules and regulations of the Planning Board. (Amended 10/18/04, Article 8)

4950. RULES AND REGULATIONS. The Planning Board shall establish, after a Public Hearing, Rules and Regulations concerning the procedures for and content of an application for new building or change of use in a Downtown Planning Overlay District. The Planning Board shall require a filing fee as part of the application, the amount of which shall be prescribed in the Downtown Planning Overlay District Rules and Regulations. The Downtown Planning Overlay

District Rules and Regulations shall be effective on the date the Planning Board files them with the Town Clerk.

4951. PUBLIC HEARING AND APPROVAL.

A public hearing shall be required on any Downtown Planning Overlay District Building or Change of Use before any final action can be taken by the Planning Board on the application. The timing of and form of notice of the hearing shall be as prescribed in Massachusetts General Laws, Ch. 40A, §11 for Special Permits. After the Public Hearing, the Planning Board shall consider the development for a Special Permit. In its consideration the Planning Board shall determine whether the application meets the purpose of Section 1100, and of the Downtown Planning Overlay District regulations. The Planning Board shall specifically determine whether the development will contribute to the orderly and harmonious development of the Downtown Planning Overlay District Area and is consistent with the character of the neighborhood. The Board may recommend that the developer modify, alter, adjust or amend the development and may recommend such reasonable additional conditions as the Planning Board deems necessary.

4952. DENSITY REQUIREMENTS.

Within the Downtown Planning Overlay District, building lots shall be established by the applicants subject to approval of the Planning Board.

4953. MULTIPLE BUILDINGS.

Notwithstanding §2540 of this Bylaw, multiple buildings may be allowed on a lot in a Mixed Use project by Special Permit issued by the Planning Board.

4954. SIGNAGE.

Notwithstanding Section 3300 of this Bylaw, multiple signs may be allowed on a lot or building in a Mixed Use project by Special Permit issued by the Planning Board. The number, size and locations of signs shall be based on the nature, size, architecture and location of each building or portion thereof.

4960. SITE PLAN APPROVAL OF A DOWNTOWN PLANNING OVERLAY DISTRICT.

A Downtown Planning Overlay District Development, as herein permitted, shall be made only pursuant to a Site Plan Submission. Within a DPOD, the Board of Selectmen shall approve the Site Plan. All requirements as outlined in the Westborough Zoning Bylaws, Sections 1240 through 1245, shall apply.

The Site Plan Submission documentation shall be appropriate to the proposed project to show and convey the level of detail required for review by the Board of Selectmen and shall show at a minimum:

1. Topography and grades both existing and proposed for the site and its relation to surrounding areas
2. Proposed plan and cross sections of all street systems and pedestrian walkways and their relationship to the overall project.
3. Proposed preliminary layout and routing of storm and sanitary sewer systems, water supply, fire protection and power and communications services.

4. Proposed lot(s), their layout and areas.
5. Proposed areas of the site reserved for parks, parkways, playgrounds and other private or public open spaces and their location, use, areas and access.
6. Proposed location of all buildings, their proposed use, size and height and related parking facilities.
7. Tabulation of the total number of acres in the proposed project and, if applicable, the percentage thereof designated for each proposed building and use and related off-street parking, streets, parks and other uses;
8. Tabulation of all buildings and uses and the over-all and per lot coverage and density (Floor Area Ratio).
9. Preliminary plans and elevations of the major buildings, their use, location and floor areas.
10. Environmental issues and mitigation measures if any.
11. Any other items that may be required by the Board of Selectmen.

5000. TRANSIT-ORIENTED VILLAGE BY SPECIAL PERMIT IN INDUSTRIAL C ZONE. (Added 10/18/04, Article 10)

5010. PURPOSE. The purpose of this Transit-Oriented Village (T-OV) by Special Permit By-law is to:

- a. encourage the development of new "village oriented" transit development on appropriate properties, now zoned for industrial use, proximate to commercial areas, services and/or public transportation,
- b. foster the development of smaller living units, which by virtue of their size will be more affordable than larger single-family homes.
- c. provide additional housing units which meet the official State definition of affordability.
- d. contribute to the Town's efforts to preserve Open Space.
- e. create realistic incentives that will bring about the re-development of properties that are currently underutilized or on which there are outdated or unattractive non-residential structures.

5020. APPLICABILITY. In any zoning district in which Transit-Oriented Village ("T-OV") is allowed, such use shall be by way of Special Permit issued by the Planning Board and subject to the requirements of this Section 5000. TOV shall be allowed by Special Permit from the Planning Board in the following zones:

Industrial C (Mixed Use Industrial)

5030. MIXED USES. Development under this By-law may include a mixture of uses, combining those already allowed in the zone and those multi-family housing uses allowed by Special Permit pursuant to this By-law. The Planning Board shall have broad discretion in determining which uses are compatible and the degree to which various non-residential uses

may be mixed with the multi-family housing proposed for a particular site. However, no building shall have industrial uses in the same building as residential uses.

5040. REVIEW REQUIREMENTS. All applications for a Special Permit under this T-OV regulation shall be subject to design review by the Design Review Board in accordance with Section 1200 of these By-laws, and Site Plan Review, as prescribed in Section 1200 of these By-laws. These hearings may be combined at the option of the reviewing boards.

5050. GENERAL STANDARDS. All applications must meet all applicable dimensional, density, design, drainage, safety, parking, signage, lighting, and other land use standards and regulations set forth in these By-laws for the underlined zone, except for those standards that are specifically modified by the Planning Board in its review of the Special Permit application. In taking action on a T-OV Special Permit application, the Planning Board may wave and or modify such standards, including dimensional standards, upon a finding that to do so will further the purposes listed above without having a detrimental effect on the health, safety and general welfare of the Town's residents and the public. The Planning Board shall enjoy broad discretion to deny applications, to the extent that the proposed development is found to contain negative attributes which the Planning Board concludes outweigh the positive contribution to the purposes outlined above. The Planning Board may also approve a Special Permit application under this By-law with reasonable conditions, in keeping with its Special Permit powers.

5060. DIMENSIONAL REQUIREMENTS. Except to the extent specifically modified below, all dimensional requirements of the zone shall apply to any T-OV development. However, the Planning Board may, in accordance with the above paragraph on General Standards 5050, modify the dimensional requirements of the zone or the following special dimensional requirements upon a finding that such modification furthers the purposes of this By-law without detrimental effect.

A. Special Dimensional Requirements of T-OV:

1.	Min. lot area (sf)	10,000
2.	Min. lot frontage (ft)	90
3.	Min. front yard (ft)	25 [4]
4.	Min. side yard (ft)	15 [1][4]
5.	Min. rear yard (ft)	25 [4]
6.	Max. bldg height (ft)/stories	60/4* [2]
7.	Max. lot coverage (%)	60
8.	Max. floor area ratio (FAR) (both res. and non-res.)	1.2
9.	Max. building size (sf)	20,000
10.	Min. separation of buildings on same lot	20
11.	Min. open space (%)	40
12.	Base living units per acre	4 [6]
13.	Maximum units per acre	14
14.	Min. habitable floor area per d.u. (sf)	600 (studio) 750 (1-bdrm) 900 (2-3 bdrm)
15.	Max. number of units with more than 2 bedrooms (%)	20
16.	Min. number of affordable units (%)	20 [3]
17.	In mixed use structures, maximum non-residential floor area ratio	0.3

* Except only 2.5 stories and 35 feet within 100 feet of a recognized watercourse (pond, reservoir, river, etc.), or within 2,500 feet of the rotary in the center of Town or where property under consideration is adjacent to a residential district.

B. Notes to Dimensional Requirements

1. It is specifically noted that side yard setbacks may be reduced to zero in cases where the Planning Board determines that joined buildings add to the “village center” atmosphere that is envisioned by this By-law.
2. Where the Planning Board finds merit, it may allow taller structures where lot coverage on the development parcel is correspondingly reduced. For example, assuming all others features and characteristics of a Special Permit application comply with this regulation, a four story structure would be allowed with a maximum coverage of 60%. The proponent might suggest an 8-story building with a coverage of 30% (50% increase in allowed height and 50% decrease in coverage).
3. The minimum of 20% of the units that are to be designated affordable must comply with the requirements of the Massachusetts Department of Housing and Community Development or a successor agency. Such units shall have deed restrictions regarding affordability which will continue in perpetuity and will allow the units to “count” as State recognized affordable units. All such affordable units shall be priced at levels affordable to individuals or families earning no more than 80% of Area Median Income (AMI) as published by the State/US Department of Housing and Urban Development (HUD).
4. A 75-foot buffer strip shall be maintained where abutting a Residential District; thirty feet of this to remain undisturbed, except for the planting of additional natural vegetative screening.
5. No floor of a dwelling unit, except for unoccupied basements, shall be below grade of the adjoining ground at any place on its perimeter.
6. See Section 9 F below, Density Bonus for Preservation for Open Space by the use of Transfer of Development Rights.

5070. APPLICATION. An application for a Special Permit for T-OV shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the filing fee and the information, data and plans required in the Administration and Procedure Section of these By-Laws for other Special Permit applications, or as otherwise determined by the Planning Board. The Planning Board shall promulgate its own application requirements for the T-OV Special Permits.

5080. ACTION ON APPLICATION. The Planning Board, the Design Review Board, and other governmental agencies which are, by these By-laws, given review jurisdiction over applications under this T-OV By-law, shall process and take action on such applications as prescribed for each review board by zoning, other local by-laws or regulations, state statute or regulation. The Design Review Board shall promulgate its own review standards for T-OV which shall be stated in the Design Review Board Guidelines.

5090. DENSITY BONUS FOR THE PRESERVATION OF OPEN SPACE. Recognizing that one of the purposes of this By-law is the preservation of open space, the transfer of development rights (“TDR”) to parcels that are the subject of a Special Permit application under this By-law is allowed as follows:

- A. The parcel or parcels to be preserved as Open Space through a TDR shall be referred to as the “Sending Parcel(s)”, while the parcel(s) on which the Transit-Oriented Village is proposed under this By-law shall be referred to as the “Receiving Parcel(s)”.
- B. Sending and Receiving Parcels do not have to be contiguous or under common ownership, so long as each Sending Parcel is made part of an application for a Special Permit under this By-law.
- C. The Sending Parcel(s) shall provide a legal description (deed) and the Town’s GIS description of the property. Such description shall show property boundaries, area in acres or square feet, wetlands and wetlands setback lines, rivers protection setbacks, flood plain areas, topographical lines and other features and conditions normally included in an existing conditions survey. The applicant need not show that the land is capable of sustaining septic systems, or provide any geological or soils data. Once the sending parcel is accepted by the Planning Board, the applicant shall provide a field survey of the parcel by a licensed surveyor.
- D. In order to qualify as a Sending Parcel, the Planning Board in consultation the Open Space Preservation Committee must make a finding that the land to be preserved as Open Space: (1) has unique and/or valuable natural or physical attributes, or (2) that there exists a valid planning reason to preserve the land as Open Space, or (3) that the land is substantially developable, and that the Town would benefit more from the land’s permanent preservation as Open Space than from its development.
- E. The applicant must present a plan to treat the sending parcel as preserved Open Space in one of the manners prescribed in Article 4350 of these By-laws, entitled: “Common Open Space Ownership and Management”. Upon approval of a T-OV Special Permit, the ownership and management plan for the Open Space must be implemented, and the deed to the property sufficiently restricted, to accomplish the complete and permanent severance of development rights therefrom.
- F. For every acre of preserved land in a Sending Parcel that is in the Single Residence Zone, the Special Permit applicant shall be entitled to a bonus of 10 additional units in the multi-family project. For every acre of preserved land in a Sending Parcel that is in a zone other than the Single Residence Zone, the Special Permit applicant shall be entitled to a bonus of 5 additional units in the multi-family project. However, such density bonuses are usable only to the extent that the proposed project, with the added units, in the discretion of the Planning Board, continues to meet all other requirements of these By-laws including satisfying the goals stated in the Purpose Section herein.
- G. For example, if a parcel in the Industrial C Zone that is the subject of an application under this Transit-Oriented Village By-law meets all requirements for a total of 40 units (4 base units per acre on a 10-acre parcel) and the applicant is preserving 10 acres of acceptable land in the Single Residence Zone, the total possible units in the multi-family housing project would be 140 units (40 base units, 100 bonus units). This assumes that the 140-unit project still meets all requirements of this By-law, including those which are discretionary on the part of the Planning Board.
- H. In the event that a transfer of a partial acre of land from a Sending Parcel, or any other calculation, results in a number of bonus units, or total units per acre, which is a fraction, the total shall be rounded down to the previous whole number.

- I. In approving a T-OV, the Planning Board shall have the power and authority to condition the Special Permit on the fulfillment of reasonable improvements to or near the Sending Parcel, as well as its traditional authority to impose conditions on and near the site to be developed. For example, the Planning Board might condition a T-OV Special Permit on the installation of a certain number of parking spaces on the Sending Parcel to facilitate the Town's use and enjoyment of the preserved land.

5091. SPECIFIC SITE AND CONSTRUCTION STANDARDS.

Unless modified in accordance with the above paragraph on General Standards, the following specific site and construction standards shall be observed in the development of a T-OV project as stated in the T-OV Architectural Guidelines applied by the Design Review Board.

A. Architectural Standards:

Design characteristics shall be stated in the Special Permit application and shall include, but shall not be limited to: architectural design, building materials, massing, scale, color, roofline, street furniture, site and building landscaping, lighting and signage as stated in the Architectural Guidelines available from and administered by the Design Review Board.

B. Roadways/Pedestrian Access

Where intended for dedication and acceptance by the Town, the principal roadway(s) serving the site shall be designed to conform to the standards of the Subdivision Regulations and any other relevant standards of the Town unless otherwise required by the Planning Board. Private ways shall be adequate for intended vehicular, including public safety vehicle access, and pedestrian traffic and shall be maintained by an association of unit owners or by the applicant. It is intended that a sidewalk network will be provided throughout the T-OV area that interconnects all dwelling units with other dwelling units, non-residential uses, common open spaces, parking areas, transportation centers and major activity areas adjacent to the zone in which T-OV is permitted. The Planning Board may require construction of on-site or off-site sidewalks, footpaths or bicycle paths. Access to off-site areas is required, particularly to permit safe and convenient pedestrian and/or bicycle access to nearby amenities.

5092. AREA CONCEPT PLAN REQUIREMENT

- A. Each Special Permit application filed under this By-law, shall be accompanied by an updated Area Concept Plan ("ACP") covering all properties which are partially or completely within 300 feet of any property line of the site on which the applicant proposes to place a T-OV project. The ACP does not need to include any land outside the underlying zone in which T-OV is allowed by Special Permit.
- B. The Area Concept Plan (ACP) is not binding on any party, and does not need to meet the technical requirements of a Special Permit application. The ACP shall show a plan in scale of all existing buildings, as well as all parking lots, streets, sidewalks, bike paths, and other existing conditions in the area covered by the ACP.
- C. The applicant shall show on the Area Concept Plan (ACP) any changes to surrounding properties that it suggests might be made in the future so as to best integrate the applicant's proposed T-OV into the area around the site. For example, if the applicant's site is within walking distance of, but not adjacent to, an amenity, such as a park, parking lot, watercourse, transportation hub, or local shops, and if the goals of this By-law would be furthered by connecting pathways, streets or other alterations to nearby properties,

these should be shown on the ACP. The applicant need not have the permission of the owner of such nearby property to complete the ACP. However, if the Planning Board, in the course of its review and action on a Special Permit application hereunder, determines that such alteration on a nearby property would greatly enhance the application and further the goals of this By-law, the Planning Board may require that the applicant make a good faith effort to procure such permission. A failure to obtain permission from such neighboring property owner shall not, however, be the sole basis of denying the application.

- D. If the applicant suggests changes to neighboring properties, it shall also provide renderings or elevations showing the modifications and the “tie-ins” to the applicant’s site.
- E. The applicant shall take into consideration any Area Concept Plans (ACP) that has been done by a previous applicant which covers all or part of the area to be covered by the new ACP.
- F. The purpose of the Area Concept Plan (ACP) requirement of this By-law is to encourage the greatest possible integration of the proposed new T-OV project into the surrounding area, recognizing the “village” character that is the objective of this By-law.

5100. GATEWAY 2 DISTRICT (Added 5/14/05, Article 41)

5110. PURPOSE. The portion of East Main Street from Lyman Street to Water Street, herein referred to as Gateway 2, contains a mix of land uses including single family residences, small professional offices, and other commercial uses. The intent of this Gateway 2 District, is to permit more creative and imaginative design for development in the District. It will also serve to retain East Main Street’s aesthetically pleasing elements and relatively unobtrusive buildings and parking areas. It is intended to allow for redevelopment and a limited amount of new development without significantly altering the areas character or introducing large amounts of new traffic.

5120. SCOPE AND AUTHORITY. The Gateway 2 Regulations shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses.

5130. ESTABLISHMENT AND DELINEATION OF GATEWAY 2 DISTRICT. For the purposes of this District, there is hereby established a Gateway 2 District area. Gateway 2 shall consist of those areas delineated on a map and approved at Town Meeting.

5140. PERMITTED USES. Each parcel developed within the Gateway 2 shall be approved by Special Permit. No building or other structure shall be erected, altered or used and no land shall be used or occupied for any purpose except under a Special Permit issued by the Planning Board in accordance with the provisions and requirements of this Section and the rules and regulations of the Planning Board governing Special Permits.

5150. RULES AND REGULATIONS. The Planning Board Rules and Regulations governing Special Permits shall apply. The Planning Board shall require a filing fee as part of the Special Permit application, the amount of which shall be prescribed in the Gateway 2 Special Permit application.

5151. PUBLIC HEARING AND APPROVAL. A public hearing shall be required on any Gateway 2 District Building or Change of Use before any final action can be taken by the

Planning Board on the application. The timing of and form of notice of the hearing shall be as prescribed in Massachusetts General Laws, c. 40A, §11 for Special Permits. After the Public Hearing, the Planning Board shall consider the development for a Special Permit. In its consideration the Planning Board shall determine whether the application meets the purpose of Sections 5100 and 1100, and of the Gateway 2 District regulations. The Planning Board shall specifically determine whether the development will contribute to the orderly and harmonious development of the Gateway 2 District and is consistent with the character of the neighborhood. The Board may recommend that the developer modify, alter, adjust or amend the development and may recommend such reasonable additional conditions as the Planning Board deems necessary.

5152. DESIGN REVIEW REQUIREMENTS. Design Review Board review and recommendations shall be required as prescribed in Section 1245 of these bylaws.

5200. MULTI-FAMILY HOUSING IN THE HIGHWAY BUSINESS DISTRICT.
(Added 5/13/2006, Article 30)

5210. PURPOSE. The Highway business district encompasses the majority of land fronting on Route 9 lying west of Connector Road. The area is highlighted by a series of strip centers, restaurants and other non-residential uses, but residential development is not contained in the mix. The Westborough Master Plan dated May 2003 identifies a perceived, but unrealized provision for multi-family housing. Smaller housing units available at prices available to a wider range of family types and incomes is lacking in Westborough. The purpose of the Multi-family Special Permit in the BA district is to allow residential units to be incorporated to the mix of uses in the highway business district, where residents could benefit from proximity to shopping and services, while maintaining an appropriate mix and scale of development.

5220. SCOPE AND AUTHORITY. The Multi-family housing Special Permit is an optional additional use and does not replace, but rather supplements, the uses allowed in the BA district. The Planning Board shall be the Special Permit Granting Authority for any project submitted in accordance with this Section and shall have the authority to approve a project upon grant of a Special Permit in accordance with Section 1300, Site Plan Review in accordance with Section 1240 and further upon a finding that the intent of Sections 1100 and 5200 have been met. The Planning Board may vary the dimensional and parking requirements of this section, or as noted in Section 2620 dimensional requirements, if, in its opinion, such change will result in a more desirable design of the development than could otherwise be developed without variation of the dimensional or parking requirement. This authority continues subsequent to occupancy.

5230. ESTABLISHMENT OF DISTRICT. The Multi-family housing Special Permit applies to all property within the Highway Business (BA) zoning district as an optional, alternate form of development where certain criteria specified within this Section 5200 can be satisfied. Multi-family housing may only be permitted on a parcel(s) of land that can and will be accessed by roadways other than Route 9.

5240. PERMITTED USES. Uses shall be permitted as indicated in Section 2300 Use Schedule under the column BA, including multi-family dwellings in accordance with this Section 5200.

5250. RULES AND REGULATIONS. The Planning Board may from time to time establish Rules and Regulations governing Special Permits under this section. The Planning Board shall

require a filing fee as a part of the Special Permit application, the amount of which shall be established by the Planning Board.

5251. PUBLIC HEARING AND APPROVAL. The Planning Board shall hold a public hearing on any multi-family proposal alleging compliance with Section 5250 in accordance with the public hearing and notice requirements of Massachusetts General Laws c. 40A §9 and §11. In considering the grant of a Special Permit for the application, the Planning Board shall make a finding that the provisions of this Section 5200 are satisfied.

5252. FINDINGS. The Planning Board shall specifically consider the following in determining whether the development will contribute to the orderly and harmonious development of the BA district and whether it creates a mix of uses supported by and consistent with the character of the neighborhood. Access shall only be allowed from roadways other than Route 9 [unless the Planning Board, in its sole discretion, finds that such access already exists and maintaining such access is in the best interests of the Town]

5252.1 Benefit to the residents and /or public such as dedication of valued open space, active or passive recreational facilities, tot lots if accompanied by other usable undeveloped areas for active or passive recreation.

5252.2 Sidewalks and pedestrian trail connections are made within the site, as well as on existing ways where none exist, in an effort to enhance pedestrian access to buildings and between sites.

5252.3 Curb cuts shall be limited to the extent feasible while maintaining appropriate emergency vehicle access. The Board may require provisions for off-site pedestrian and vehicular access to adjacent land in order to facilitate pedestrian access and to minimize curb cuts.

5252.4 Project design maximizes the opportunities for walking and bicycling, and integrates residential users with non-residential uses.

5252.5 Where feasible, structures and roadways shall be located so as not to disrupt the existing streetscape.

5252.6 Project incorporates best practices in energy efficient design, environmental protection, stormwater management, LEED (Leadership in Energy and Environmental Design) criteria and low impact development (LID) techniques wherever practicable.

5252.7 Existing mature vegetation is retained wherever possible, including winding of sidewalks and creative siting of structures.

5252.8 Landscape materials used as buffers are native, non-invasive, hardy for New England weather conditions and disease resistant.

5252.9 A mix of trees, shrubs, and perennial or annual flower beds are integrated as appropriate to the proposed use of the site.

5260. SPECIAL PERMIT REQUIREMENTS.

5261. Application For any use requiring a Special Permit, the applicant shall submit the number of copies of the application and plans in such form as the Planning Board may require by its Rules and Regulations. In addition, the following shall be provided

5261.1 APPLICATION FORM AND FEE.

5261.2 DEVELOPMENT STATEMENT. A development statement shall consist of a petition, a list of the parties in interest with respect to the land, a list of the development team and a written statement describing the major aspects of the proposed development.

5261.3 Development Plans shall bear the seal of a Massachusetts Registered Architect, Registered Civil Engineer or similar professional as appropriate. One set of reduced size plans shall be submitted measuring 11 x 17 inches. The following plans shall be submitted, unless waived by the Planning Board.

- (a) Site plans and specifications showing all site improvements and circulation.
- (b) Site perspective, sections, and elevations at a scale of 1/8 inch = 1 foot.
- (c) Detailed plans illustrating connection to public or private utilities and surface drainage; and
- (d) Detailed landscaping plans.

5261.4 ADDITIONAL INFORMATION AS THE BOARD MAY DETERMINE NECESSARY TO EVALUATE THE PROPOSAL.

5262. AFFORDABLE HOUSING. It is the intent of this bylaw to increase the range of housing options for people of different income levels and at different life stages. Multi-family housing projects within the BA zone shall provide a housing type distinct from conventional single-family homes and shall include housing only on upper floors, above non-residential uses. All residential proposals made in the BA zone shall allocate a minimum of 20% of the total number of dwelling units for ownership condominiums or 10% of the total dwelling units for rental apartments as housing that is affordable to households earning 80% or less of median income for the Worcester Metropolitan Statistical Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development. In the event that an approved rental apartment proposal is converted to ownership units at any time then the percentage of affordable units, as described above, shall increase to 20% of the total dwelling units. The affordable units must be subject to restrictions sufficient to maintain perpetual affordability exclusively to persons with qualifying incomes and to qualify the units as affordable under the Local Initiative Project Unit Application criteria of the Massachusetts Department of Housing and Community Development (DHCD), or successor agency. The applicant shall be responsible for preparing the marketing plan and obtaining DHCD approval of the affordable units such that they are included in the Town's inventory of affordable housing.

5263. PARKING. Parking shall be provided in accordance with Section 3100 except that one and one-half (1.5) spaces shall be provided for each residential unit, and bicycle parking shall be provided in close proximity to multi-unit structures unless individual garages are provided. Bicycle racks shall be provided at all structured common areas such as parks, playgrounds and/or club houses. The Planning Board shall have the authority to waive parking requirements to allow a lower or higher number of spaces as it deems appropriate to support the type of residential use(s) and/or the incorporation of publicly accessible cultural or recreational amenities and/or the opportunity for shared parking with non-residential occupants of the site. Parking structures and surface parking lots shall be appropriately landscaped to promote pedestrian flow within and between the various uses on the site and public ways.

5300. SENIOR OVERLAY DISTRICT. (Added 5/15/2010, Article 31)

5310. PURPOSE. The purpose of the Senior Living Overlay (SLO) is to provide the opportunity to diversify the Town of Westborough's housing stock by specifically addressing the needs of its aging population and, to provide an additional level of affordability for these housing units which meet the official Massachusetts definition of affordability.

5320. SCOPE AND AUTHORITY. The Senior Living Overlay provides for optional additional uses and does not replace, but rather supplements, the uses allowed in the designated overlay areas by grant of a Special Permit. The Planning Board shall be the Special Permit Granting Authority (SPGA) for any project submitted in accordance with this Section and shall have the authority to approve a project upon grant of a Special Permit in accordance with Section 1330, Site Plan Review in accordance with Section 1240 and further upon a finding that the intent of Sections 1100 (Purpose) and 5300 have been met.

The Planning Board may modify the density, parking and open space requirements of this Section or Section 2610 or 2620, where applicable, if, in its opinion, such change will result in a more desirable design of the development than could otherwise be developed without variation of the dimensional or parking requirement. This authority continues subsequent to occupancy. This bylaw does not specifically set density standards; however, it is expected that each site, housing type and project design will influence the appropriate number of residential units for any particular site. The density of units allowed shall be appropriate to the zone, neighborhood and development capacity of the site.

5330. APPLICABILITY. The Senior Living Overlay applies to all property within the Senior Living Overlay district as an optional, alternate form of development where certain criteria specified within this Section 5300 can be satisfied.

5340. ESTABLISHMENT OF DISTRICT. The Senior Living Overlay district shall include all land within the Mixed Use District (MUD) and all property located within five thousand (5,000) feet of the intersection of the centerlines of Milk, West Main, Brigham and South Streets, except that the district shall extend to six thousand five hundred (6,500) feet along East Main Street, provided that the land has frontage located within the SLO on one of said streets, SLO proposals shall comply with the dimensional standards of section 5360. The provisions of Section 2140 (split lots) shall not apply. The SLO shall not apply to any parcel of land located within a Highway Business (BA) district. (Amended Article 12 of 2016 ATM)

5350. PERMITTED USES. Independent Senior Housing, Senior Living Facility, and Continuing Care Retirement Communities shall be permitted in accordance with this Section 5300. In addition, accessory uses typically associated with these uses may be permitted by the Board, upon a finding that the accessory use is appropriate to the proposed development and not more detrimental to the neighborhood than the senior living use without such accessory uses.

5360. DIMENSIONAL REQUIREMENTS. All minimum standards in the Senior Housing Overlay district (SLO) shall be consistent with those requirements of the applicable underlying district found in Section 2610 or 2620.

5370. RULES AND REGULATIONS. The Planning Board may from time to time establish Rules and Regulations governing Special Permits under this section. The Planning Board shall require a filing fee as a part of the Special Permit application, the amount of which shall be established by the Planning Board.

5371. PUBLIC HEARING AND APPROVAL. The Planning Board shall hold a public hearing on any proposal alleging compliance with Section 5300 in accordance with the public hearing and notice requirements of Massachusetts General Laws c. 40A §9 and §11. In considering the grant of a Special Permit for the application, the Planning Board shall make a finding that the provisions of this Section 5300 are satisfied.

5372. FINDINGS. The Planning Board shall specifically consider whether the development will contribute to the orderly and harmonious development of the neighborhood and the Town that is consistent with the character of the neighborhood and satisfies community demand for the proposed uses, while responding to the performance standards of Section 5390.

- The Planning Board shall make findings related to the Town's current goals for the proposed type of senior housing. These findings might include, but are not limited to the following:
- Compatibility with the surrounding neighborhood;
- Consistency with any current planning documents or studies;
- Ability for public infrastructure such as water, roads, drainage or sewer system or any other municipal system to support the proposed development without causing impacts that would adversely affect health, safety or the general welfare;
- Appropriate design and layout of streets and driveways;
- Appropriate project mitigation or enhancement of services typically associated with senior housing. This mitigation may be provided on site, or at the SPGA's discretion be in the form of a contribution elsewhere in Town. Strong preference is given to mitigation providing public access and/or that is integrated with other Town services;
- Appropriateness of building architecture, orientation and site design;
- Incorporation of energy efficient and environmentally friendly design criteria;
- Incorporation of pedestrian amenities, appropriate accessory uses, and integration of community benefits (for larger projects);
- Preservation of open space, existing vegetation, natural, historical or archeologically significant features or resources.

5380. SPECIAL PERMIT REQUIREMENTS.

5381. PERMIT APPLICATION.

For any use requiring a Special Permit, the applicant shall submit the number of copies of the application and plans in such form as the Planning Board may require by its Rules and Regulations. In addition, the following shall be provided:

5381.1 APPLICATION FORM AND FEE.

5381.2 DEVELOPMENT STATEMENT.

5381.3 DEVELOPMENT PLANS.

5381.4 Additional information as the Board may determine necessary to evaluate the proposal.

5382. DECISIONS.

5382.1. The findings, including the basis of such findings, of the SPGA shall be stated in the written decision of approval, conditional approval, or denial of the application for Special Permit, and shall require a super-majority vote for approval.

5382.2. The SPGA may also require, in addition to any applicable conditions specified in this Bylaw, such conditions as it finds reasonably appropriate to safeguard the neighborhood, or

otherwise serve the purposes of this Bylaw, including, but not limited to the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, modification of the architectural design and exterior appearance of the structures; lighting, regulation of the number and location of driveways, or other traffic features; off-street parking or loading or any other special features beyond the minimum required by this bylaw.

5382.3. The SPGA shall specifically require project mitigation and/or enhancement of services, including possible integration with other Town services, as appropriate for the type and scale of development proposed.

5382.4. Such conditions shall be provided in writing, and the applicant may be required to post a performance guaranty for compliance with said conditions in an amount satisfactory to the SPGA.

5382.5. The Special Permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown as determined by the SPGA. Once construction has begun, it shall be actively and continuously pursued to completion within a reasonable time.

5383. PARKING REQUIREMENTS

Parking shall be provided in accordance with Section 3100 except as modified or amended by the following:

- Independent senior housing: one and one-half (1.5) spaces per dwelling unit.
- Assisted living: one-half (0.5) space per bedroom unit plus the number of employees expected on the premises at the peak hour of operation.
- Continuing Care Residence Community: 0.75 spaces per bedroom unit.
- Accessory Uses: As the board deems necessary taking into consideration Section 3100 and the potential for shared parking with other proposed uses on site.

Parking structures and surface parking lots shall be appropriately designed and landscaped to promote pedestrian flow within and between the various uses on the site and public ways.

5390. PERFORMANCE STANDARDS

Projects in the Downtown Business district (BB) shall require a positive recommendation of the Design Review Board in accordance with Section 1245. Projects in the SLO, but outside of the Downtown Business district shall comply with sub-sections 1245. D. 2-5, except that these requirements shall not apply to SLO projects in the Mixed Use District (MUD). For SLO proposals in the MUD District, the SPGA shall require the Design Review Board to provide a recommendation to the SPGA on the SLO proposal during the plan review process as provided in subsections 1245 D.1 and 3. a-c and f-h of this bylaw. (Amended Article 12 of ATM 2016)

Subdivision Rules & Regulations shall be used as a guideline; however, the Board may waive any of these standards based on a persuasive argument by the applicant that such compliance does not serve the best interests of the project or the public good.

In addition to other minimum requirements stated elsewhere in this bylaw, the following improvements, performance standards and/or conditions are required (insofar as they are applicable to the proposal) to support a grant of a Special Permit in the SLO.

- Natural resources are preserved or improved and cutting of mature and specimen trees is avoided wherever feasible.
- Landscaping and vegetated buffer strips are appropriate for the neighborhood.
- Soil removal is minimized and cuts and fills are balanced to the maximum extent reasonable.
- Pedestrian walks, patios and other amenities support intra- and inter-site access and gathering places for residents.
- Roads and driveways maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
- Architectural details are varied to avoid monotonous or repetitive styles.
- Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques.
- Shade trees are provided along internal roadways and pedestrian walks.
- Site lighting is designed to avoid unnecessary glare to abutting properties or the sky. Reflectors and shields provide total cut-off of light at the property boundaries.
- US Green Building Council Leadership in Energy and Environmental Design (LEED) criteria shall be incorporated into project buildings and site design.
- Stormwater Management incorporates Low Impact Design (LID) wherever feasible and appropriate for the context.
- Utilities shall be located underground.

5400. INDUSTRIAL D (ID) OVERLAY DISTRICT (Added 5/15/2010, Article 30)

5410. **PURPOSE.** The Industrial D (ID) Overlay District encompasses the majority of land fronting on Route 9 lying east of Connector Road including, Flanders Road (east of Connector Road), Old Flanders Road, Fruit Street, Gilmore Road, Washington Street, Friberg Parkway, West Park Drive, Computer Drive, and Technology Drive. This area is highlighted by a series of industrial and office parks and individual general industrial uses encompassed by the General Industrial (IB) District. The purpose of the ID Overlay District is to allow increased land use intensity through increased dimensional standards more permissive than those provided by the underlying IB District.

5420. **SCOPE AND AUTHORITY.** The Industrial D (ID) Special Permit is an optional increase in use through expanded dimensional standards, and does not replace, but rather supplements, the uses allowed in the IB district. The Planning Board shall be the Special Permit Granting Authority for any project submitted in accordance with this Section and shall have the authority to approve a project upon grant of a Special Permit in accordance with Section 1300, Site Plan Review in accordance with Section 1240 and further upon a finding that the intent of Sections 1100 and 5400 have been met. This authority continues subsequent to occupancy.

5430. **ESTABLISHMENT OF DISTRICT.** The Industrial D (ID) Overlay District Special Permit applies to all property within the Industrial D Overlay (ID) zoning district as an optional, alternate form of development where certain criteria specified within this Section 5400 can be satisfied.

5440. **PERMITTED USES.** Uses shall be permitted as indicated in Section 2300 Use Schedule under the column ID, in accordance with this Section 5400.

5450. RULES AND REGULATIONS. The Planning Board may from time to time establish Rules and Regulations governing Special Permits under this section. The Planning Board shall require a filing fee as a part of the Special Permit application, the amount of which shall be established by the Planning Board.

5451. PUBLIC HEARING AND APPROVAL. The Planning Board shall hold a public hearing on any proposal alleging compliance with Section 5450 in accordance with the public hearing and notice requirements of Massachusetts General Laws c. 40A §9 and §11. In considering the grant of a Special Permit for the application, the Planning Board shall make a finding that the provisions of this Section 5400 are satisfied.

5452. FINDINGS. The Planning Board shall specifically consider the following in determining whether the development will contribute to the orderly and harmonious development of the ID Overlay and underlying IB district.

5452.1 Project design maximizes the opportunities for walking and bicycling

5452.2 Project incorporates best practices in energy efficient design, environmental protection, stormwater management, LEED (Leadership in Energy and Environmental Design) criteria and low impact development (LID) techniques wherever practicable.

5452.3 Existing mature vegetation is retained wherever possible, including winding of sidewalks and creative siting of structures.

5452.4 Landscape materials used as buffers are native, non-invasive, hardy for New England weather conditions and disease resistant.

5452.5 A mix of trees, shrubs, and perennial or annual flower beds are integrated as appropriate to the proposed use of the site.

5460. SPECIAL PERMIT REQUIREMENTS.

5461. Application for any use requiring a Special Permit: the applicant shall submit the number of copies of the application and plans in such form as the Planning Board may require by its Rules and Regulations. In addition, the following shall be provided

5461.1 APPLICATION FORM AND FEE.

5461.2 DEVELOPMENT STATEMENT. A development statement shall consist of a petition, a list of the parties in interest with respect to the land, a list of the development team and a written statement describing the major aspects of the proposed development.

5461.3 Development Plans shall bear the seal of a Massachusetts Registered Architect, Registered Civil Engineer or similar professional as appropriate. One set of reduced size plans shall be submitted measuring 11 x 17 inches. The following plans shall be submitted, unless waived by the Planning Board.

- (a) Site plans and specifications showing all site improvements and circulation.
- (b) Site perspective, sections, and elevations at a scale of 1/8 inch=1 foot.
- (c) Detailed plans illustrating connection to public or private utilities and surface drainage; and

(d) Detailed landscaping plans.

5461.4 Additional information as the Board may determine necessary to evaluate the proposal.

5462. **PARKING.** Parking shall be provided in accordance with Section 3100 and bicycle parking shall be provided in close proximity to structures where determined by the Planning Board. The Planning Board shall have the authority to waive parking requirements to allow a lower or higher number of spaces as it deems appropriate to support the permitted use(s) and/or the opportunity for shared parking. Parking structures and surface parking lots shall be appropriately landscaped to promote pedestrian flow within and between the various uses on the site and ways.

5500. **MIXED USE DISTRICT (MUD).** (Added 5/15/2010, Article 32)

5510. **PURPOSE.** The intent of this Mixed Use District, which hereafter may be referred to as MUD, is to permit greater flexibility and more creative and imaginative design for the development of retail, office, restaurant, residential and open space than is generally possible under conventional zoning provisions. It is further intended to promote and facilitate redevelopment of certain portions of the former Westborough State Hospital and other State owned properties while providing a harmonious variety of uses, a higher level of amenities, a stimulus to the economic development of the community and vitality to the district.

5520. **SCOPE AND AUTHORITY.** This Mixed Use District shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Any activities or uses permitted in the District shall be permitted, subject to the provisions of this District, unless expressly prohibited. New uses shall only be permitted through the granting a Special Permit from the Planning Board.

5530. **ESTABLISHMENT AND DELINEATION OF MIXED USE DISTRICT.** For the purposes of this District, there is hereby established a Mixed Use District area as shown on the Westborough Zoning Map.

5531. **MIXED USE ZONING MAP.** The boundaries of properties within the Mixed Use District shall be delineated on a Zoning Map approved at Town Meeting.

5540. **PERMITTED USES.** In any Mixed Use development, no building or other structure shall be erected, altered or used and no land shall be used or occupied for any purpose except under a Special Permit issued by the Planning Board in accordance with the provisions and requirements of this Section and the rules and regulations of the Planning Board.

5550. **RULES AND REGULATIONS.** The Planning Board shall establish, after a Public Hearing, Rules and Regulations concerning the procedure for and content of an application for new building use or change of use in the Mixed Use District. The Planning Board shall require a filing fee as part of the application, the amount of which shall be prescribed in the Mixed Use District Rules and Regulations. The MUD Rules and Regulations shall be effective on the date the Planning Board files them with the Town Clerk.

5551. **PUBLIC HEARING AND APPROVAL.** A public hearing shall be required on any Mixed Use District Building or Change of Use before any final action can be taken by the Planning Board on the application. The timing of and form of notice of the hearing shall be as prescribed in Massachusetts General Laws, c. 40A, §11 for Special Permits. After the Public Hearing, the Planning Board shall consider the development for a Special Permit. In its

consideration the Planning Board shall determine whether the application meets the purpose of Section 1100, and of the Mixed Use District regulations. The Planning Board shall specifically determine whether the development will contribute to the orderly and harmonious development of the Mixed Use District Area and is consistent with the character of the neighborhood. The Board may recommend that the applicant modify, alter, adjust or amend the proposed development and may recommend such reasonable additional conditions as the Planning Board deems necessary.

5552. DENSITY REQUIREMENTS. Within the Mixed Use District, building lots shall be established by the applicants subject to approval of the Planning Board.

5553. MULTIPLE BUILDINGS. Notwithstanding §2540 of this Bylaw, multiple buildings may be allowed on a lot in a Mixed Use Project by Special Permit issued by the Planning Board.

5554. SIGNAGE. Notwithstanding Section 3300 of this Bylaw, multiple signs may be allowed on a lot or building in a Mixed Use Project by Special Permit issued by the Planning Board. The number, size and locations of signs shall be based on the nature, size, architecture and location of each building or portion thereof.

5560. SITE PLAN APPROVAL OF A MIXED USE DISTRICT. A Mixed Use District Development, as herein permitted, shall be made only pursuant to a Site Plan Submission. Within a MUD, the Board of Selectmen shall approve the Site Plan. All requirements as outlined in the Westborough Zoning Bylaws, Sections 1240 through 1245, shall apply. The Site Plan Submission documentation shall be appropriate to the proposed project to show and convey the level of detail required for review by the Board of Selectmen and shall show at a minimum:

1. Topography and grades both existing and proposed for the site and its relation to surrounding areas.
2. Proposed plan and cross sections of all street systems and pedestrian walkways and their relationship to the overall project.
3. Proposed preliminary layout and routing of storm and sanitary sewer systems, water supply, fire protection and power and communications services.
4. Proposed lot(s), their layout and areas.
5. Proposed areas of the site reserved for parks, parkways, playgrounds and other private or public open spaces and their location, use, areas and access.
6. Proposed location of all buildings, their proposed use, size and height and related parking facilities.
7. Tabulation of the total number of acres in the proposed project and, if applicable, the percentage thereof designated for each proposed building and use and related off-street parking, streets, parks and other uses.
8. Tabulation of all buildings and uses and the over-all and per lot, coverage and density (Floor Area Ratio).
9. Preliminary plans and elevations of the major buildings, their use, location and floor areas.

- 10. Environmental issues and mitigation measures if any.
- 11. Any other items that may be required by the Board of Selectmen.

5600. LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS. (Added 10/15/2012, Article 19)

5610. PURPOSE.

The purpose of this bylaw is to allow the creation of new Large-Scale Ground-Mounted Solar Photovoltaic Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate assurance for the eventual decommissioning of such installations.

5620. APPLICABILITY.

This section applies to Large-Scale Ground-Mounted Solar Photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall only be allowed in the Districts as noted below. These Districts are those listed in Article 2 District Regulations, Section 2100, Establishment of Districts and Section 2200, Use Regulations.

	<u>C</u>	<u>R</u>	<u>AA</u> <u>AB</u>	<u>BA</u>	<u>G2</u>	<u>BB</u>	<u>IA</u>	<u>IB</u>	<u>IC</u>	<u>ID</u>	<u>M</u>	<u>M-1</u>	<u>All</u> <u>AE</u>	<u>Others</u>	<u>DPOD</u>	<u>MUD</u>
Large-Scale Ground-Mounted Solar Photovoltaic Installations with outside equipment or storage:	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N

5630. General Requirements For All Large Scale Ground-Mounted Solar Photovoltaic Installations:

The following requirements are common to all Large-Scale Ground-Mounted Solar Photovoltaic Installations to be sited in designated locations.

5631. COMPLIANCE WITH LAWS, ORDINANCES AND REGULATIONS.

The construction and operation of all Large Scale Ground-Mounted Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed in accordance with the State Building Code.

5632. BUILDING PERMIT AND BUILDING INSPECTION.

No Large Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

5633. FEES.

The application for a building permit for a Large-Scale Ground-Mounted Solar Photovoltaic Installation must be accompanied by the fee required for a building permit.

5634. SITE PLAN REVIEW.

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall undergo Site Plan Review by the Site Plan Review Authority, as specified under Section 1240 of these Zoning Bylaws prior to construction, installation or modification as provided in this section.

5635. GENERAL.

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

5636. SETBACKS.

For Large-Scale Ground-Mounted Solar Photovoltaic Installations, front side and rear setbacks shall be as follows:

- a. Front Yard: The front yard shall have a depth of at least 25 feet provided, however, that where the lot abuts a Residential district or residential use within the district allowing Large-Scale Ground-Mounted Solar Photovoltaic Installations, the front yard shall not be less than 100 feet;
- b. Side Yard: Each side yard shall have a depth of at least 25 feet provided, however, that where the lot abuts a Residential district or residential use within the district allowing Large-Scale Ground-Mounted Solar Photovoltaic Installations, the side yard shall not be less than 100 feet;
- c. Rear Yard: The rear yard shall have a depth of at least 25 feet provided, however, that where the lot abuts a Residential district or residential use within the district allowing Large-Scale Ground-Mounted Solar Photovoltaic Installations, the rear yard shall not be less than 100 feet.

5637. ADDITIONAL CONSIDERATIONS.

- a. Where Large-Scale Ground-Mounted Solar Photovoltaic Installations abut residential uses, there must be increased consideration for mitigating visual impact to the residential use. For example, such items as increased setbacks, visual screening or sound buffering and the like may be required by the Site Plan Review Authority;
- b. Where the Installation panels could pose sun glare to abutting properties or roadways, additional screening or other public safety measures may be considered;
- c. The Site Plan Review Authority reserves the right to hire independent third party consultants to review Large-Scale Ground-Mounted Solar Photovoltaic Installation proposals in consideration of the proposals impact to surrounding properties or public safety implications. Fees associated with the hiring of these consultants shall be born solely by the project proponent;
- d. Operation and Maintenance Plan: The project proponent shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, which shall include measures for maintaining safe access to the Installation, storm water controls, as well as general procedures for operational maintenance of the Installation;
- e. Utility Notification: No Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed until evidence has been given to the Site Plan Review Authority that the

utility company that operates the electrical grid where the Installation is to be located has been informed of the Installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid Installations or systems shall be exempt from this requirement;

- f. Appurtenant Structures: All appurtenant structures to Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be subject to reasonable regulations concerning the bulk and height of structures, building coverage requirements, lot area, setbacks, sound or noise level generated by equipment, open space and parking. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures shall be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

5638. DESIGN STANDARDS.

- a. Lighting: Lighting of Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be consistent with local, state and federal law. Lighting of other parts of the Installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be of reasonable height and reasonably shielded from abutting properties. Where feasible, light of the Large-Scale Ground-Mounted Solar Photovoltaic Installation and appurtenant structures shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- b. Signage: Signs on Large-Scale Ground-Mounted Solar Photovoltaic Installations shall comply with Section 3300, Sign Regulations of the Westborough Zoning Bylaws. A sign that identifies the owner and provides a 24-hour emergency contact phone number shall be required. Large-Scale Ground-Mounted Solar Photovoltaic Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Installation.
- c. Utility Connections: Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections for Large-Scale Ground-Mounted Solar Photovoltaic Installations underground on-site, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

5639. MODIFICATIONS.

All material modifications to a Large-Scale Ground-Mounted Solar Photovoltaic Installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

5640. ABANDONMENT OR DECOMMISSIONING.

5641. REMOVAL REQUIREMENTS:

Any Large-Scale Ground-Mounted Solar Photovoltaic Installation which has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the Installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. The owner shall be responsible for all associated decommissioning activities and associated costs. Decommissioning shall consist of:

- a. Physical removal of all Large-Scale Ground-Mounted Solar Photovoltaic Installations, structures, equipment, security barriers and transmission lines from the site;
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

5650. DEFINITIONS.

5651. AS-OF-RIGHT SITING. As-of Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to Site Plan Review to determine conformance with local zoning bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Building Commissioner or local inspector, or the Site Plan Review Authority, as provided in Sections 1200 through 1244 of these Zoning Bylaws.

5652. LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION. A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC as measured by the sum of the nameplate ratings at Standard Test Conditions of the solar modules installed at the site or a solar installation that utilizes at least one-thousand (1,000) square feet, including all supporting equipment, appurtenant structures and ground area between solar panels.

5700. MARIJUANA ESTABLISHMENTS, MEDICAL MARIJUANA TREATMENT AND DISPENSING FACILITIES AND MARIJUANA CULTIVATION. (Added 3/16/2013, Article 16) (Amended Article 3, 2016 Fall Town Meeting)
The zoning of Marijuana Establishments, Medical Marijuana Treatment and Dispensing Facilities and, Marijuana Cultivation uses, including, but not limited to the sale, use, and consumption of marijuana, marijuana accessories, or marijuana products in the Town of Westborough shall be governed in accordance with this section, Section 5700.

5710. PURPOSE.

It is the purpose of this section titled “Marijuana Establishments, Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation” to establish specific zoning standards and regulations for marijuana establishments, medical marijuana centers (treatment and dispensing facilities), marijuana products, marijuana accessories, manufacturers, and marijuana growing and cultivation;

To provide for the limited establishment of Marijuana Establishments, and Medical Marijuana Treatment and Dispensing Facilities in appropriate places and under strict conditions;

To minimize the adverse impacts of Marijuana Establishments, Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said uses;

To regulate the siting, design, placement, safety, monitoring, modification, and removal of Marijuana Establishments Medical Marijuana Treatment and Dispensing Facilities; and Marijuana Cultivation.

5720. APPLICABILITY.

The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for either general or medical use is prohibited unless permitted as a Medical Marijuana Treatment and Dispensing Facility under this Section.

5721. No Marijuana Establishments, Medical Marijuana Treatment and Dispensing Facility or any Marijuana Cultivation use shall be established except in compliance with the provisions of this Section.

5722. Nothing in this Bylaw shall be construed to supersede federal laws governing the sale and distribution of narcotic drugs.

5723. If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

5730. GENERAL.

Marijuana Establishments, Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation shall be authorized by Special Permit only in District(s) provided, as set forth in Section 2300, Use Regulation Schedule of the Zoning Bylaws. Any such Special Permit issued by the Special Permit Granting Authority shall comply with all relevant local, state, and federal laws.

5740. DISALLOWANCE.

No Marijuana Establishments, Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation Special Permit shall be issued to any person convicted of violating the provisions of Mass General Law, Chapter 119, Section 63, or General Law, Chapter 94C, or similar laws in other jurisdictions. Any applicant for special permit under this Bylaw must allow for a criminal background check which includes jurisdiction beyond Massachusetts.

5750. ELIGIBLE LOCATIONS.

Any Marijuana Establishment, Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation activities permitted under this Section shall be located only in a zoning district that is designated for its use within this Zoning Bylaw.

No Marijuana Establishment, Medical Marijuana Treatment and Dispensing Facilities use or Marijuana Cultivation activities shall be located within five hundred (500) linear feet of a property line where the following Districts or activity or uses occur:

1. Any Residential District as defined in these Zoning Bylaws;
2. Any school or child care establishment; or place where minors frequent (e.g. a library, ball field, sports or family recreation facility, religious facility or the like);
3. Any other Medical Marijuana Treatment or Dispensing Facility or Marijuana Cultivation site; or any other general retail establishment where marijuana is sold, consumed, used or where marijuana is grown, cultivated, produced, processed or refined.
4. Any drug or alcohol rehabilitation facility;

5. Any correctional facility, half-way house or similar facility; or
6. Any establishment licensed under the provisions of General Law, Chapter 138, Section 12.

5751. No marijuana or marijuana based product shall be sold or grown or cultivated, interior or exterior, of a residential dwelling unit or residential district. Growing and related cultivation activities shall occur only in districts as permitted in this Bylaw.

5752. **SEPARATION.** Distances shall be calculated by direct measurement from the nearest property line of the land used for school or child care purposes or places where minors frequent or any other use listed above in Section 5750 to the nearest portion of the building in which the medical marijuana dispensary or marijuana establishment is located.

5753. **NO ENTITLEMENT OR VESTED RIGHTS TO PERMITTING.** No person shall be deemed to have any entitlement or vested rights to permitting under this Bylaw by virtue of having received any prior permit from the Town including, by way of example only, any zoning permit or any wholesale food manufacturer's license. In order to lawfully engage in the business of selling, cultivating marijuana, or manufacturing marijuana for medical or general use, or marijuana products in the Town on and after the date of passage of this Bylaw, any person must qualify for and obtain a special permit in accordance with the requirements of this Bylaw.

5754. All sales and distribution of medical marijuana by a licensed Medical Marijuana Treatment and Dispensing Facility shall occur only upon the permitted premises. In addition, the delivery of general retail, non-medical, marijuana to any consumer at any location shall be strictly prohibited unless specifically permitted through the special permit process governed by this Section.

5755. **SIGNAGE.** Any permitted Marijuana Establishment, Medical Marijuana Treatment and Dispensing Facilities site shall comply with the requirements of the Town Sign Bylaws at all times. In addition, upon penalty of special permit revocation, no permitted Marijuana Establishment, Medical Marijuana Treatment and Dispensing Facility or Marijuana Cultivation Facility shall use any advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors. Off-site signage or advertising in any form, including billboards shall not be allowed.

5756. **VISIBILITY.** There shall be no visibility of marijuana accessories, activities, products or treatment occurring within or on the premises of a Marijuana Establishment, Medical Marijuana Treatment or Dispensing Facility or Marijuana Cultivation Facility from the exterior of such facility or premises.

5757. **MANUFACTURING.** A local special permit for marijuana or any marijuana product manufacturing may be issued only in locations where Marijuana Establishments, Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation activities are permitted.

5758. **CULTIVATION ACTIVITIES.** Cultivation, as defined in this Bylaw, by any Marijuana Establishment or Medical Marijuana Treatment and Dispensing Facility in any location other than where specifically permitted shall be disallowed.

5760. **TERM OF SPECIAL PERMIT.**

Any local special permit issued pursuant to this Section shall be valid for a period of two years from the date of issuance. Any renewal of the special permit shall be governed by the standards and procedures set forth in this Section and any regulations adopted pursuant thereto by the Planning Board/Zoning Enforcement Officer and/or Licensing Board.

5761. NOTIFICATION. Any new applications sought under this Section must be publically advertised for a period of no less than fourteen (14) days, not including the date of the required special permit public hearing. Abutters and abutters-to-abutters within five hundred (500) feet shall be notified in writing of said application, and include any and all dates and locations of public hearings on said application.

5770. CONFLICT OF LAWS.

In the event of any conflict between the provisions of this Bylaw and any other applicable state or local law, the stricter provision, as deemed by the Zoning Enforcement Officer, shall control.

DEFINITIONS.

Medical Marijuana Treatment and Dispensing Facilities: a not-for-profit entity, as defined by Massachusetts Law as a "Medical Marijuana Treatment Center", registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments or marijuana accessories), transfers, transports, sells, material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock in trade marijuana or non-FDA approved marijuana based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts Law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of marijuana infused products.

Marijuana: In addition to the Commonwealth's definition under Chapter 94C of Mass General Laws, our definition shall include: Marijuana, Marihuana, Cannabis, Hashish, Cannabis seeds, THC (tetrahydrocannabinol) and its derivatives and extracts as well as any substances containing THC whether in plant, including its flowers, oil, resin, solid, liquid or aerosol form.

Marijuana Cultivation: the process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or other grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to Medical Marijuana Treatment and Dispensing Facilities

Consumer: a person who is at least 21 years of age.

Manufacture: to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

Marijuana accessories: equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana cultivator: an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana establishment: a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

Marijuana product manufacturer: an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana products: products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana testing facility: an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

Marijuana retailer: an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Process or processing: to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means.

SECTION 5800. MARIJUANA NOT MEDICALLY PRESCRIBED

Consistent with MGL Ch. 94G, Section 3(a)(2), all types of marijuana establishments as defined in MGL Ch. 94G, Section 1(j), to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Westborough.

ARTICLE 5 DEFINITIONS (ADOPTED MARCH 5, 1990)

In this Bylaw, the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed:

Accessory Building: (Amended 3/15/2014, Article 23; Deleted 10/20/2014, Article 34)

Accessory Use: A use that constitutes only an incidental or insubstantial part of the total activity that takes place on a lot and is commonly associated with and integrally related to the principal use. Even though a use may be a principal use in another situation, it may be conducted as an accessory use in conjunction with another principal use. (Added 3/15/2014, Article 23)

Agricultural shall mean the science, art and business of cultivating the soil, producing crops, and raising of livestock, useful to man. Agricultural shall not include any uses or activities associated with Marijuana Establishments or Medical Marijuana Treatment and Dispensing Facilities or Marijuana Cultivation activities, such as the growing, sale, manufacturing, processing, refinement and consumption of marijuana, marijuana accessories, or marijuana products. Medical Marijuana Treatment and Dispensing Facilities and Marijuana Cultivation are defined elsewhere in Article 5 Definitions. (Amended 3/16/2013, Article 16) (Amended Article 3, 2016 FTM)

Airport shall mean any area on a lot used for the landing and take-off of aircraft or similar fixed-wing craft on a regular or intermittent basis.

Animal Kennel or Hospital shall mean harboring and/or care of more than three (3) dogs three (3) months old or over, or of other domestic animals, irrespective of the purpose for which they are maintained.

Apartment, Garden shall mean premises not over three (3) stories high, accommodating three (3) or more dwelling units, irrespective of ownership or tenure. Includes town houses.

Apartment, High Rise shall mean premises over three (3) stories high, accommodating three (3) or more dwelling units, irrespective of ownership or tenure.

Aquifer shall mean a geologic formation composed of sand and gravel that contains significant amounts of potentially recoverable potable water. (Amended 3/29/1994, Article 42)

Bedroom shall mean a habitable room in a residence for the purpose of sleeping and that contains a space for the use of a closet. (Amended 10/21/2013, Article 27)

Boardinghouse shall mean a building used for lodging seven (7) or more persons, with or without meals, for compensation with owner resident on premises.

Buffer Strip shall mean lot area not used for any commercial, business or industrial purposes nor covered by any structure or pavement. The buffer strip shall be kept stabilized with natural vegetative cover adequate to prevent soil erosion.

Building, Accessory shall mean building that is subordinate and customarily incidental to the principal building and is located on the same lot as the principal building. (Added 10/20/2014, Article 34)

Building Height shall mean the vertical distance from the mean finished grade of the ground adjoining the building to the highest point of the roof or parapet for flat or shed roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip, and gambrel roofs. Not included are spires, cupolas, TV antennae or other parts of structures which do not enclose potentially habitable floor space.

Building, Principal shall mean that a building's primary purpose is for the furtherance of the functioning of the principal use and is located on the same lot as the principal use. (Added 10/20/2014, Article 34)

Camping, Supervised Amended 10/21/2013, Article 27; Deleted 3/15/2014, Article 21

Clearing: The removal and/or cutting of trees, shrubs, bushes, or brush. Clearing shall also include grubbing. Grubbing shall mean the removal of stumps and/or roots from the soil. (Added 3/16/2002, Article 17)

Common Driveway: (Added 3/29/1994, Article 75) The primary means of access and egress, which is not considered a local Town road or way of public access, serving more than two (2) but not more than five (5) detached single family dwellings.

Congregate Housing shall mean a structure providing living accommodations and communal facilities for elderly persons (over age sixty), including those requiring limited medical attention, which is located on the same parcel or on a parcel of land contiguous to a parcel on which a nursing home is located and to which it is attached. Such a structure may contain retail stores, offices and service outlets provided that such places of business exclusively service on-site residents, and there is no entrance (other than emergency) to any such place of business except from inside a building.

Continuing Care Retirement Community (CCRC) shall mean a senior housing development that is planned, designed and operated to provide a full range of accommodations for older persons, including independent living, congregate care and assisted living facilities, and which shall also include a nursing home or skilled-housing/care facility. Residents of a CCRC have the ability to move from one level of housing/care to another as their needs change. (Added 5/15/2010, Article 31)

Convalescent, Nursing or Rest Home shall mean any institution licensed as a nursing, convalescent or rest home or charitable home for the aged by the Department of Public Health pursuant to Section 71, Chapter III General Laws.

Corner Lot shall mean a continuous parcel of land with legal definable boundaries, and having frontage on at least two streets or recorded ways open to public use.

Density shall mean the number of dwelling units, households or housing structures per unit of land (minimum lot area as defined herein). (Added 5/15/2010, Article 31)

Discharge shall mean the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of toxic or hazardous material upon or into any land or waters in the Town of Westborough. Discharge includes, without limitations, leakage of such materials from failed or discarded containers or storage systems, and disposal of such materials into any on-site sewage disposal system, drywell, catch basin or unapproved landfill. The term, discharge, as used and applied in this Bylaw does not include the following:

1. Proper disposal of any material in a sanitary or industrial landfill that has received and maintained all necessary legal approvals for that purpose;
2. Application of road salts in conformance with Section 4700 and the Snow and Ice Control Program of the Massachusetts Department of Public Works; and,
3. Disposal of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by Title 5 of the Massachusetts Environmental Code, unless restricted by Section 4700. (Amended 3/29/1994, Article 42)

Dwelling shall mean building or part of a building used exclusively as the living quarters for one (1) or more families.

Dwelling, Single Family shall mean premises accommodating a single dwelling unit.

Dwelling Unit shall mean building or portion of a building providing living quarters for a single family and up to six (6) boarders.

Earth Moving: The moving within, removal from and/or addition to any lot or parcel of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, or gravel. (Added 3/16/2002, Article 17)

Family shall mean any number of individuals living and cooking together on the premises as a single non-profit housekeeping unit.

Floor Area, Habitable shall mean the total interior floor area of a dwelling, excluding areas where ceiling height is less than five (5) feet, areas with more than half of floor to ceiling height below average grade of the adjoining ground, and excluding community laundries or foyers, utility rooms, communicating corridors, porches or terraces.

Floricultural shall mean the cultivation of flowering plants for sale or otherwise.

Groundwater shall mean all the water found beneath the surface of the ground. (Amended 3/29/1994, Article 42)

Heliport shall mean a landing and take-off place for a helicopter on a regular or intermittent basis.

Home Occupation shall mean a business or profession engaged in within a dwelling or its accessory building by a resident thereof as a use accessory thereto.

Horticultural shall mean the science or art of cultivating plants, gardens.

Impervious Surface shall mean a material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil. (Added 3/29/1994, Article 42)

Independent Senior Housing shall mean a building or series of buildings containing independent dwelling units intended to provide housing for persons not requiring health or other services, and designed and occupied by individuals or families in which at least one household member is 55 years of age or older and in which no resident (as opposed to visitor) is 18 years of age or younger. (Added 5/15/2010, Article 31) (Amended Article 12, 2016 ATM)

Lot shall mean a continuous parcel of land with legally definable boundaries.

Lot Area shall mean the horizontal area of the Lot exclusive of any area in a street or recorded way open to public use. (Amended 10/21/2013, Article 27)

Lot Area – Minimum Buildable shall mean at least 90% of the Lot Area as required for the zoning district as shown in Section 2600, Dimensional Schedule and shall be land exclusive of wetland resource areas as currently defined in the Massachusetts Wetland Protection Act, MGL c. 131 Section 40 and regulations promulgated under 310 CMR 10.00. (Added 10/21/2013, Article 27)

Lot coverage shall mean percentage of the Lot Area as required for the district as shown in Section 2600, Dimensional Schedule, covered by Structures. (Amended 10/21/2013, Article 27)

Lot Frontage shall mean that portion of a lot fronting upon and having access to a street. Lot frontage shall be measured continuously along one (1) street line between side lot lines. In the case of a corner lot, lot frontage shall be measured between one (1) side lot line and the midpoint of the arc made by the corner radius.

Major Residential Development Added 3/5/1990, Article 59; deleted 10/21/2013, Article 27

Marijuana: In addition to the Commonwealth's definition under Chapter 94C of Mass General Laws, our definition shall include: Marijuana, Marihuana, Cannabis, Hashish, Cannabis seeds, THC (tetrahydrocannabinol) and its derivatives and extracts as well as any substances containing THC whether in plant, including its flowers, oil, resin, solid, liquid or aerosol form. (Added 3/16/2013, Article 16)

Marijuana Cultivation: The process of propagation, including germination, using soil, hydroponics, or other mediums to generate growth and maturity. The intended process of bringing a plant or other grown product to maturity for harvesting, sale, refining or use as an ingredient in further manufacturing or processing. This definition encompasses marijuana cultivation related to Medical Marijuana Treatment and Dispensing Facilities. (Added 3/16/2013, Article 16)

Medical Marijuana Treatment and Dispensing Facilities shall mean a not-for-profit entity, as defined by Massachusetts Law as a "Medical Marijuana Treatment Center", registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, material to qualifying patients or their personal caregivers. It shall also include any establishment having as any portion of its stock in trade marijuana or non-FDA approved marijuana based products or its active ingredient, THC (tetrahydrocannabinol); or paraphernalia for the consumption or delivery of marijuana or products containing marijuana as allowed for medical uses under Massachusetts Law, including but not limited to retail distribution, wholesale distribution or growth and/or cultivation of marijuana; production or sale of marijuana (cannabis) seeds; or the refinement or manufacturing or sale of marijuana infused products. (Added 3/16/2013, Article 16)

Mining shall mean the removal or relocation of geological materials such as topsoil, sand, gravel, metallic ores or bedrock. (Added 3/29/1994, Article 42)

Minor Residential Development added 3/5/1990, Article 59; deleted 10/21/2013, Article 27

Mobile Home shall mean a moveable or portable dwelling built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round living.

Motor Vehicle Service Station shall mean premises devoted primarily to retail sale of fuels and lubricants and/or washing of motor vehicles, with any repair services or other sales or services of secondary importance.

Nursery or Greenhouse shall mean premises used for the propagation of trees, shrubs, vines, flowers, or other plants for transplanting, stock for grafting, or for cut flower, pine needles, bark, or other organic materials.

Open Space shall mean that portion of the Lot Area as required for the district as shown in Section 2600, Dimensional Schedule which is not covered by any Structure and not used for drives, parking or storage. All Open Space shall be kept stabilized with natural vegetative cover. (Amended 10/21/2013, Article 27)

Parking Garage shall mean a structure constructed for the intended purpose of parking and/or the storing of vehicles.

Parking Space shall mean space adequate to park an automobile, not less than nine (9) by twenty (20) feet, plus means of access. Where spaces are not marked, each space shall be assumed to require three hundred fifty (350) square feet.

Principal Use: The primary use to which the premises are devoted, and the main purpose for which the premises exist as defined in Section 2300: Use Regulation Schedule. (Added 3/15/2014, Article 23)

Recharge Areas shall mean areas composed of permeable porous materials that allow infiltration and collection of precipitation or surface water and thereby transmit this water to aquifers. (Amended 3/29/1994, Article 42)

Recreational Camps shall mean facilities as licensed by the Massachusetts Department of Health under 105 CMR 430.000. (Added 3/15/2014, Article 21)

Senior Living Facility shall mean an assisted living residence as defined by the Massachusetts Executive Office of Elder Affairs pursuant to M.G.L. c. 19D and which provides assistance with activities of daily living, such as assistance with bathing, dressing, eating, toileting and medication reminders and which provides room and board for three or more adult residents. Senior living facilities shall also include senior congregate housing that includes room and board, but without necessity for assistance with activities of daily living. (Added 5/15/2010, Article 31)

Septic Wastes shall mean wastewaters arising from ordinary domestic water use as from toilets, sinks and bathing facilities, etc., and containing such concentrations and types of pollutants as to be considered normal wastes.

Sign shall mean any device located on or off the premises, designed to inform or attract public attention promoting a use or uses; (Amended 10/19/2015, Article 5)

Sign, Area of shall mean the surface area within a single continuous perimeter enclosing all the display area of the sign, but not including structural members not bearing advertising matter unless internally or decoratively lighted. One side only of flat, back-to- back signs shall be counted. For a sign consisting of individual letters, designs, and/or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs and symbols.

Signs, Non-Conforming shall mean any sign which does not comply with Section 3300 of the Zoning Bylaws. (Added 10/19/2015, Article 5)

Solid Wastes shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

Story shall mean that portion of a building between the top of any floor and the top of the floor or roof next above, counting as a half story such portion if more than half its exterior wall area is below grade or if directly under a sloping roof in which more than half the exterior wall perimeter has less than three (3) feet floor-rafters interior dimension, and excluding cellar or attic spaces used solely for utilities and storage.

Street shall mean a way providing legally sufficient frontage for subdivision of land under the requirements of Chapter 41, Section 81L General Laws.

Structure shall mean anything constructed or erected, the use of which requires fixed location on the ground, or attachment to something located on the ground, including swimming pools having capacity of 4,000 gallons or more and mobile homes, but not including walls, pavement or fences. The construction of walls and fences shall comply with the Massachusetts State Building Code. (Amended 10/21/2013, Article 27)

Town House shall be synonymous with "Garden Apartment".

Toxic or Hazardous Materials shall mean any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water; and, shall include without limitation synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious waste, acids and alkalis, and all substances defined as Toxic or Hazardous under MGL, Chapter 21C and 21 E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use. (Amended 3/29/1994, Article 42)

Yard shall mean a required open space, unoccupied and unobstructed by any structure or portion of a structure, except the following:

- a. fences, walls, poles, posts and other customary yard accessories, ornaments and furniture;
- b. in front yards only, eaves, steps, noncovered porches and signs.

Yard, Front shall mean a yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins, measured from the street line, assumed to be twenty-five (25) feet from the center of the travelled roadway where no such right-of-way line has been established or can be readily determined.

Yard or Garage Sale shall be considered any offering for sale to the general public any and all items new or used, said sale taking place on premises by the resident thereof.

Yard, Rear shall mean an open space on the same lot as the main building unoccupied except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot.

Yard, Side shall mean the portion of the yard situated between the building and the side line of the lot and extending from the front yard to the rear yard.

WESTBOROUGH ZONING BY-LAW APPENDIX

2017 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/18/17	Added Sec. 5800: Marijuana Not Medically Prescribed	33
3/18/17	Sec. 4400, 4460: Accessory Dwelling Units	34
3/18/17	Sec. 2300: Highway Business District Amendment	35

2016 Fall Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
10/17/16	Amend Zoning Map: Parcels 42, 49, 49A, 41, 41A (Map 33)	2
10/17/16	Sec. 5700: Marijuana Treatment, Dispensing & Cultivation	3

2016 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/12/16	Amend the Use Schedule – MUD	11
3/12/16	Amend the SLO Bylaw, Definitions & District Regs.	12
3/12/16	Amend the Zoning Map – Spurr House – 7 Parkman	39

2015 Fall Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
10/19/15	Amend Zoning Map: Parcels 53, 55, 56 (Map 21)	4
	Parcels 1, 4, 176, 177, 180, 181, 182 (Map 28)	
10/19/15	Sec. 3300: Sign Regulations	5

2014 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/15/14	Sec. 2300 and Article 5: Definitions	21
3/15/14	Sec. 1200, 1241: Administration – Design Requirements	22
3/15/14	Sec. 2500, 2540: Dimensional Regulations – Multiple Buildings and Article 5: Definitions	23

2013 Special Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
10/21/13	Sec. 4100, 4112, 4120, 4125, 4133, 4142: Earth Moving	22
10/21/13	Sec. 2600: Dimensional Schedule	23
10/21/13	Sec. 3200m 3220, 3230, 3240: Environmental Controls	24
10/21/13	Sec. 4500: Flood Plain District	25
10/21/13	Sec. 2300: Use Regulation Schedule – Residential Uses	26
10/21/13	Article 5: Definitions	27
10/21/13	Zoning Map amendment Country Club	30
10/21/13	Zoning Map amendment Town Hall	31

2013 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/16/13	Added Sec. 5700 Medical Marijuana Treatment & Dispensing Facilities & Marijuana Cultivation	16

2012 Special Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
10/15/12	Added Sec. 5600: Large-Scale Ground-Mounted Solar Photovoltaic Installations	19

2012 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/17/12	Zoning Map Change – 36 West Main St. – to BB	27
3/17/12	Zoning Map Change – 44-46 East Main St. – to BB	28
3/17/12	Zoning Map Change – Downtown Planning Overlay Dist.	29

2011 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
5/14/11	Sec. 3300, Subsection 3332 Sign Regulations	18
5/14/11	Delete Bldg. Inspector & replace Bldg. Commissioner	19
5/14/11	Sec. 1240, 1241 Site Plan Review	20
5/14/11	Sec. 1200, 1244 Site Plan Review Public Hearing	21

2010 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
5/15/10	Amend Zoning Map Parcels 44, 53, &53A (Map 33)	18
5/15/10	Sec. 5400 Industrial D (ID) Overlay District	30
5/15/10	Sec. 5300 Senior Housing Overlay District	31
5/15/10	Sec. 5500 Mixed Use District (MUD)	32

2009 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
5/16/09	Amend Zoning Map – R to BA	27

2008 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
5/17/08	Amend Zoning Map – Highway Business District	29

2007 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
No Zoning Bylaws Passed in 2007		

2006 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
5/13/2006	Sec. 2300: Multi-Family Dwelling	30
5/13/2006	Sec. 5200: Multi-Family Housing in (BA)	30

2005 Special Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
10/17/05	Sec. 4600: Delete Planned Parcel Development (PPD)	12

2005 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
5/14/05	Sec. 2620: Non-Residential (District Chart)	41
5/14/05	Sec. 2110: Zoning-District Sub.Sec. Business (G2)	41
5/14/05	Sec. 2110: Footnote (6)	41
5/14/05	Sec.5100: (G2) Gateway District	41
5/14/05	Amend Zoning Map (BA) → (G2)	41
5/14/05	Sec. 2300: Delete "Other" from Use Reg. Schedule	41
5/14/05	Amend Zoning Map (Parcel 77, Map 21)	42
5/14/05	Replace Zoning Map with GIS Map	44

2004 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/15/04	Sec. 2100: Sub.Sec. 2110 DPOD (4)	38
3/15/04	Sec. 2300: Add DPOD to District Column	38
3/15/04	Sec. 2620: Add DPOD to District column	38
3/15/04	Sec. 4900: Downtown Planning Overlay District	38
3/15/04	Zoning Map: Amend in Accordance with Sec. 4900	39
3/15/04	Licenses for Alcohol Sales in DPOD	40

2004 Special Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
10/18/04	Sec. 4900: DPOD	8
10/18/04	Amend Zoning Map: Parcels 23-A, 24-A, 27, 28, 40, 46 and 50 (Map 33); Parcels 48, 49, 51 (Map 33); Parcels 43, 43-A, 47 (Map 33); Parcels 41, 42 (Map 33)	9
10/18/04	Sec. 2100: Sub. Sec, 2110 'Mixed-Use Industrial'	10
10/18/04	Sec. 2110: Footnote (5)	10
10/18/04	Sec. 2300: Add MUI (IC) to Dist. Column	10
10/18/04	Sec. 2620: Add MUI (IC) to Sec. 5000	10
10/18/04	Amend Zoning Map: Parcels 96, 96B and 96C (Map 19); Parcels 49, 50, 11, 51, 10, 10, 9, 4, 5, 6, 24 and 3 (Map 18)	10

2003 Annual Town Meeting

No Zoning By-laws Passed in 2003

2002 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/18/02	Zoning Map: Parcel 113 (Map 34)	36
3/18/02	Sec. 2630: Building in M-1 District	42
3/18/02	Sec. 2630: Wording of Building in M-1 District	43
3/18/02	Sec. 4100: Earth Moving Replacement and Definitions	17

2001 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/17/01	Sec. 4700- 4733: Split Lot Provisions	30
3/17/01	Sec. 4700-4742: Use Regulation Schedule	30
3/17/01	Sec.4700-4742: Word Change	30
3/17/01	Sec.4700-4732: Updated Overlay Map	30
3/17/01	Sec. 2600-2610: Footnote (i): Rejected by AG	36
3/17/01	Amend Zoning Map: Route 9	40
3/17/01	Amend Zoning Map: Gilmore and Flanders Road	41
3/17/01	Zoning Map Label Changes	42
3/17/01	Sec. 2620: Non-Res. Buildings in Non-Res. Districts	44
3/17/01	Sec. 3120: Schedule of Parking Area Requirements	45
3/17/01	Zoning Map: Parcels 60, 60A (Map 27) Parcel 20A (Map 28)	46

2000 Annual Town Meeting

No Zoning By-laws passed in 2000

1999 Annual Town Meeting

<i>Date</i>	<i>Bylaw</i>	<i>Article</i>
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3/13/99 *Zoning Map: Parcels 59, 59A, 60 (Map 28)* 47

1998 Annual Town Meeting

No Zoning By-laws passed in 1998

1997 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/15/97	<i>Sec. 1241: Add Section 1245</i>	26
3/15/97	<i>Sec. 1240: Site Plan Review</i>	27
3/15/97	<i>Zoning Map: Parcels 22, 23, 24 (Map 28)</i>	49
3/15/97	<i>Zoning Map: Parcels 62, 254 (Map 27)</i>	50
3/15/97	<i>Zoning Map: Parcel 26 (Map 4)</i>	51

1996 Annual Town Meeting /Special Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/23/96	<i>Sec. 4700: Aquifer & Watershed Protection District</i>	58
3/23/96	<i>Sec. 2600 :Dimensional Schedule, District Regulations</i>	64
3/23/96	<i>Sec. 4800: Special Permits for Adult Uses</i>	66
3/23/96	<i>Sec. 3337: Sub. Sec. C- Historical Commission</i>	74

1996 Special Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
11/18/96	<i>Special Adult Uses Revision</i>	13

1995 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/7/95	<i>Zoning Map: Parcels 25, 27 (Map 28)</i>	51
3/7/95	<i>Zoning Map: Parcel 21 (Map 28)</i>	25
3/7/95	<i>Zoning Map: Parcels 22, 23, 258 (Map 8) → PPD</i>	48

1995 Special Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
9/19/95	<i>Special Regulations 4600 (Planned Parcel Development)</i>	10

1994 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/29/94	<i>3337A: Historical Dist. &/or National Reg. of Properties</i>	39
3/29/94	<i>Sec. 4330: Minimum Requirements (Wording)</i>	40
3/29/94	<i>Sec.1330: Special Permits</i>	41
3/29/94	<i>Sec. 4700: Aquifer & WPD to comply with DEP</i>	42
3/29/94	<i>Sec. 4100: 4111-4137 Earth Moving Changes</i>	43
3/29/94	<i>Sec. 2610: District Reg. and Article 5: Common Driveway</i>	75

1993 Annual Town Meeting

No Zoning By-laws passed in 1993

1992 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/2/92	<i>Sec. 2620: Footnote (d) Revision</i>	19
3/2/92	<i>Sec. 1100: Purpose Revision</i>	20
3/2/92	<i>Sec. 4100: Earth Removal Revisions</i>	21
3/2/92	<i>Sec. 2300: Use Regulation Schedule</i>	23

1991 Annual Town Meeting*No Zoning By-laws passed in 1991***1990 Annual Town Meeting**

<i>Date</i>	<i>By-laws</i>	<i>Article</i>
3/5/90	<i>Entire Westborough Zoning Bylaws</i>	19
3/5/90	<i>Addition of Sec. 4800: Critical Resource Protection Dist.</i>	26
3/5/90	<i>Sec. 2300: Open Space Communities</i>	52A
3/5/90	<i>Sec. 2300: Use Regulation Schedule: Commercial Uses</i>	52F
3/5/90	<i>Sec. 2150-2153 and 4300</i>	59
3/5/90	<i>Sec. 2600 Sub. Sec. 2620</i>	61
3/5/90	<i>Sec. 3200 Sub. Sec. 3240</i>	69
3/5/90	<i>Sec. 3337 Sub. Sec. A</i>	72
3/5/90	<i>Sec. 4500: Changes – Flood Plain District</i>	74

1990 Special Town Meeting

<i>Date</i>	<i>By-laws</i>	<i>Article</i>
6/20/90	<i>Deletion of Sec. 4800 – Adult Uses</i>	11
6/20/90	<i>Sec. 4500: Changes at ATM 1990: Nullified</i>	12

1989 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/21/89	<i>3337 Historical Dist &/or National Register Properties</i>	43

1988 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/14/88	<i>Article 5 Definition: Parking Garage</i>	70
3/14/88	<i>Sec. 3135: Parking Garage</i>	71
3/14/88	<i>Sec. 4651: Planned Parcel Development</i>	72
3/14/88	<i>Sec. 4653: Planned Parcel Development</i>	73
3/14/88	<i>Sec. 2300: Banks and Office Space</i>	76
3/14/88	<i>Sec. 4320: Replacement - Total Number of Lots</i>	77
3/14/88	<i>Sec. 4300: Lot Dimensional Requirements</i>	78

1987 Annual Town Meeting*No Zoning By-laws were passed in 1987***1986 Annual Town Meeting**

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/15/86	<i>Article 5 Definitions: Airport and Heliport</i>	67
3/15/86	<i>Article 5 Definitions: Aquifer, Discharge, Groundwater, Recharge Areas, Septic Wastes, Solid Wastes, Toxic or Hazardous Materials.</i>	75
3/15/86	<i>4700 Aquifer and Watershed Protection Dist.</i>	76
3/15/86	<i>Article 5 Definitions: Open Space</i>	86
3/15/86	<i>Sec. 2610: Dimensional Schedule</i>	87
3/15/86	<i>Sec. 2300: Customary Accessory Uses and Structures</i>	88
3/15/86	<i>Sec. 2400: Nonconforming Uses – add “uses”</i>	89

1985 Annual Town Meeting

<i>Date</i>	<i>By-law</i>	<i>Article</i>
3/16/85	<i>Sec. 2610: Min. Lot Frontage (d)</i>	19

3/16/85	Sec. 4136: <i>Earth Removal – finish grade</i>	73
3/16/85	Sec. 2620: <i>Dimensional Schedule Footnote (a)</i>	85

1984 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/5/84	Sec. 1240, 1241, 1242, 1243, 1244: <i>Replacement</i>	14
3/5/84	Sec. 3120: <i>Schedule of Parking Area Requirements</i>	17
3/5/84	Sec. 1700: <i>Effective Date Replacement</i>	26
3/5/84	Sec. 2400: <i>Nonconforming Uses – word change</i>	34
3/5/84	Sec. 2300: <i>Institutional Uses</i>	51
3/5/84	Sec. 2600: <i>Footnote L.</i>	52
3/5/84	Sec. 3120: <i>Congregate Housing</i>	53
3/5/84	Sec. 3130: <i>Sub. Sec. 3134 Replacement</i>	54
3/5/84	Article 5 <i>Definition: Congregate Housing</i>	55
3/5/84	Sec. 1210: <i>Building Inspector</i>	60
3/5/84	Sec. 2410: <i>Nonconforming Uses – word change</i>	66

1983 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/7/83	Sec. 3337: <i>Sign unlawfully installed - deletion</i>	47
3/7/83	Sec. 2620: <i>Min. Open Space Requirements</i>	50
3/7/83	Sec. 4450: <i>Structures</i>	58

1982 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/1/82	Sec. 4600: <i>Planned Parcel Development</i>	35
3/1/82	Sec. 2620: <i>Min. Side Yard</i>	37
3/1/82	Sec. 2540: <i>Replacement</i>	46
3/1/82	Sec. 1242: <i>Subsection J</i>	52
3/1/82	Sec. 1240: <i>Site Plan Review</i>	53

1981 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/2/81	Sec. 2300: <i>Open Space Communities</i>	28
3/2/81	Sec. 2650: <i>Dimensional Regulations</i>	31
3/2/81	Sec. 2610: <i>Min. Open Space</i>	35
3/2/81	Sec. 1250: <i>Penalty</i>	49
3/2/81	Sec. 2300: <i>Industrial, Utility Uses</i>	57
3/2/81	Sec. 2300: <i>Motor Vehicle Ser. Stat. and Earth Removal</i>	64
3/2/81	2410(d), 3120, 2440, 2620(f)	70
3/2/81	Article 5 <i>Definitions: Structure</i>	71
3/2/81	Sec. 1300: <i>Footnote</i>	74
3/2/81	Sec. 2620: <i>Min. Open Space</i>	75
3/2/81	Article 5 <i>Definitions: Open Space</i>	76
3/2/81	Sec. 4540: <i>Footnote</i>	79

1980 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/3/80	Article 5 <i>Definitions: Lot Frontage</i>	20
3/3/80	Article 5 <i>Definitions: Buffer Strip</i>	21
3/3/80	Sec. 2620: <i>Footnote (d)</i>	22
3/3/80	Sec. 4112: <i>Replacement</i>	23
3/3/80	Sec. 2200: <i>Special Permit</i>	24

3/3/80	Sec. 2300: Code Symbol 'S' → 'SP'	25
3/3/80	Sec. 2300: Use Regulation Schedule	26

1979 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/21/79	Sec. 2640: Buildings in Municipal Districts	11

1978 Special Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
12/21/78	Deletion of Sec. 1330, Addition of 4600	1
12/21/78	Sec. 2110: Residential Districts	2(a)
12/21/78	Sec. 2200: Use Regulations: 'S' Substitution	2(b)
12/21/78	Sec. 2300: Use Regulations Schedule: BA, BB	2(c)
12/21/78	Sec. 2300: Use Regulations Schedule: R60, R25, R15	2(d)
12/21/78	Sec. 2300: Use Regulations Schedule: TC	2(e)
12/21/78	Sec. 2300: Use Regulations Schedule: M	2(f)
12/21/78	Sec. 2600-2610: Dimensional Schedule	2(g)
12/21/78	Sec. 2600-2620: Dimensional Schedule: BA, BA(f)	2(h)
12/21/78	Sec. 2600-2620: Dimensional Schedule	2(i)
12/21/78	Addition of Sec. 4700 Planned Unit Development	3
12/12/78	Zoning Map: IB & BB → BA	4
12/12/78	Zoning Map: R25 & IB → R60	5
12/12/78	Zoning Map: R25 → R15	6
12/12/78	Zoning Map: R25 → TC	7
12/12/78	Zoning Map: Municipal District 'M'	8
12/12/78	Proposed Zoning Map of the town of Westborough	9

1977 Annual Town Meeting

<u>Date</u>	<u>By-law</u>	<u>Article</u>
3/7/77	Sec. 2300 Use Regulation Schedule: Res. Uses Footnote	22
3/7/77	Sec. 3120: Boarding House	23
3/7/77	Sec. 3133 Substitution	25
3/7/77	Sec. 1320: Variances	37(1)
3/7/77	Sec. 1360: Repetitive Petitions	37(2)
3/7/77	Sec. 2510: Exemptions	37(3)
3/7/77	Sec. 1100: Purpose Replacement	37 A
3/7/77	Sec. 1250: Penalty	37 B
3/7/77	Sec. 1260: Enforcement	37 C
3/7/77	Sec. 1300: Board of Appeals & Subsections Substitution	37 D
3/7/77	Sec. 1400: Amendments	37 E
3/7/77	Sec. 1500: Separability Substitution	37 F
3/7/77	Sec. 2300: Use Regulation Schedule	37 G
3/7/77	Sec. 2300: Agriculture, Horticulture, Floriculture	37 H
3/7/77	Sec. 2400: Non-Conforming Uses	37 I
3/7/77	Sec. 2510: Exemption	37 J
3/7/77	Article 5: Def.- Agricultural, Horticultural, Floriculture	37 1
3/7/77	Sec. 2200: District Regulations	38
3/7/77	Sec. 1240: Site Plan Review	40
3/7/77	Sec. 3311 through 3337	67
3/7/77	Sec. 3340: Non-Accessory Signs Substitution	70
3/7/77	Article 5 Definitions: Sign, Sign (Area of)	72
3/7/77	Sec. 3110: General	73
3/7/77	Sec. 2600: Dimensional Schedule	74

