

## Chapter 190

### ZONING

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Wakefield 6-2-1988 by Art. 33. Amendments noted where applicable. (The codification of the Zoning Bylaw as Ch. 190 was accepted by the Special Town Meeting 12-15-1997 by Art. 6. See Ch. 1, General Provisions, Art. II.)]**

#### GENERAL REFERENCES

Building construction — See Ch. 94.

Historic structures — See Ch. 126.

Sewers — See Ch. 165.

Streets and sidewalks — See Ch. 175.

Water — See Ch. 185.

Subdivision of land — See Ch. 320.

#### ARTICLE I

##### Title; Authority; Purpose

###### § 190-1. Title.

The title of this chapter shall be "Zoning Bylaw, Chapter 190 of the Code of the Town of Wakefield." The short title shall be "Zoning Bylaw, Town of Wakefield."

###### § 190-2. Authority.

This chapter is adopted pursuant to the authority granted by MGL c. 40A, as amended to date.

###### § 190-3. Purpose.

The purpose of this chapter is to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Wakefield; to lessen the danger from fire and congestion and from the hazards of floodwater inundation; to protect and conserve the value of property; to preserve and increase the amenities of the Town; to conserve natural conditions; to promote the educational, cultural and economic welfare of the public; to encourage an orderly expansion of the tax base; to encourage housing for all income and age levels; and to improve and beautify the Town by encouraging the most appropriate use of land in accordance with the Town-wide Master Plan and this chapter.

#### ARTICLE II

##### Definitions

###### § 190-4. Definitions and word usage.

###### A. General.

- (1) The intent of this section is to provide definitions for certain terms, words and/or series of words which are to be utilized in the interpretation of this chapter, whether or not the definition stated herein is contrary to common usage or contrary as quoted in a

dictionary.

- (2) For the purpose of this chapter and unless the context of usage clearly indicates another meaning, the following terms shall have the meanings indicated herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "used" or "occupied" includes the words "designed," "arranged," "intended," or "offered" to be used or occupied; the word "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is mandatory and directory, and "may" is the permissive. Any word indicating sex, such as "he" or "she," shall be construed to mean both sexes.
- (3) Terms and words not defined herein but defined in the Commonwealth of Massachusetts Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either this chapter or the Building Code shall have the meanings given in the most recent edition of Webster's Unabridged Dictionary. Uses listed in the Table of Use Regulations under the classes retail and service trades and wholesale trade and manufacturing shall be defined by the Standard Industrial Classification Manual published by the United States Bureau of the Census.

B. Definitions. The defined words and phrases are as follows:

**ABANDONMENT** — The cessation of a use as indicated by the visible or otherwise apparent intention of an owner to discontinue a use of a structure or lot or in removal of the characteristic equipment or furnishing used in the performance of the use without its replacement by similar equipment or furnishings or the replacement of a nonconforming use or structure by a conforming use or structure.

**ACCESSORY**

- (1) **ACCESSORY USE** — A use customarily incidental to, and on the same lot as, a use permitted in a district, provided that the accessory use is not injurious, noxious or offensive to nor inconsistent with the character of said district.
- (2) **ACCESSORY BUILDING** — A building devoted exclusively to an accessory use and on the same lot as the use to which it is accessory.

**ADULT BOOKSTORE** — An establishment having as a substantial or significant portion (greater than 20%) of its stock-in-trade books, magazines and other matter which are distinguished as characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. [Added 5-6-1996 ATM by Art. 37]

**ADULT CLUB** — An establishment having as a substantial or significant portion (greater than 20%) of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. [Added 5-6-1996 ATM by Art. 37]

**ADULT PARAPHERNALIA STORE** — An establishment having as a substantial or significant portion (greater than 20%) 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 c. 272, § 31. [Added 5-6-1996 ATM by Art. 37]

**ADULT 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 c. 272, § 31. [Added 5-6-1996 ATM by Art. 37]

**ADULT VIDEO STORE** — An establishment having as a substantial or significant portion (greater than 20%) of its stock in videos and other matters which are distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. [Added 5-6-1996 ATM by Art. 37]

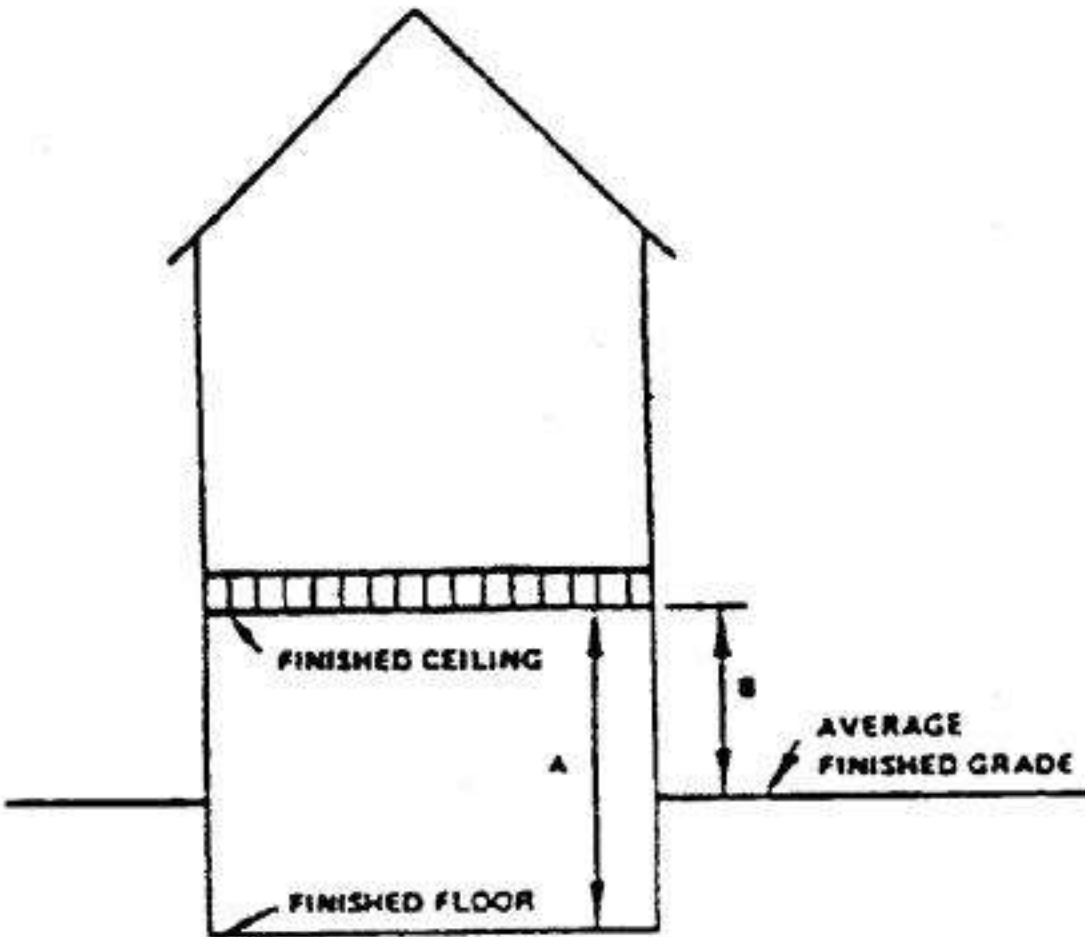
**AFFORDABLE DWELLING UNITS** — Dwelling units eligible to be counted toward the Town of Wakefield's total of "subsidized units" in the Massachusetts General Laws, Chapter 40B, Subsidized Housing Inventory, as the same may be revised from time to time. [Added 11-8-2004 RTM by Arts. 31, 33, 34]

**ATTACHED DWELLING** — A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is completely separated from any other unit by one or more common fire-resistant walls. "Attached dwellings" are also referred to as "townhouse dwellings" or "row house dwellings." (See § 190-32 for regulations related to attached dwellings.)

**ATTACHED DWELLING COMPLEX** — A group of three or more attached dwellings located on contiguous lots or on a single or commonly owned lot. "Attached dwelling complexes" are usually comprised of units for sale as individual townhouse dwellings (with their own lots) or as condominium units.

**BASEMENT (SEE ACCOMPANYING DIAGRAM)** — A portion of a building partly below grade which has more than 1/2 of its height, measured from finished floor to finished ceiling, above the finished grade of the ground immediately adjoining the building, as computed after construction of the building. A "basement" is not considered a story unless its ceiling is four feet six inches or more above the average finished grade.

## DEFINITION OF A BASEMENT



FOR A "BASEMENT", B IS GREATER THAN  $\frac{1}{2}$  A.

IF B IS GREATER THAN OR EQUAL TO 4' - 6", THEN THE BASEMENT IS CONSIDERED TO BE A STORY.

**BOARDINGHOUSE** — See "lodging or rooming house."

**BODY ART** — The practice of physical body adornment using, but not limited to, the following techniques body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin. [Added 4-5-2001 ATM by Art. 16]

**BODY ART ESTABLISHMENT** — A location, place or business where the practices of body art are performed, whether or not for profit. [Added 4-5-2001 ATM by Art. 16]

**BUFFER STRIP** — A strip of land intended to buffer uses on one lot from uses on an adjoining lot. Such strip shall include natural or planted vegetation sufficient to provide a visual and noise buffer

satisfactory to the reviewing authority.

**BUILDING** — A combination of any materials, whether portable or fixed, having a roof, enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals or property. For purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**BUILDING AREA** — The aggregate of the maximum horizontal footprint area of all buildings on a lot, exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, balconies and terraces. Such cornices, eaves, gutters, chimneys, steps, unenclosed and uncovered porches, balconies and terraces may extend beyond the minimum yard requirements as established in Article VI, but in no case shall such extension be in excess of five feet beyond the minimum yard requirements.

**BUILDING COVERAGE** — The building area expressed as a percent of the total lot area.

**BUILDING, DETACHED** — A building having open space on all sides.

**BUILDING FLOOR SPACE AREA** — The cumulative gross floor space of all floors of all buildings on a lot.

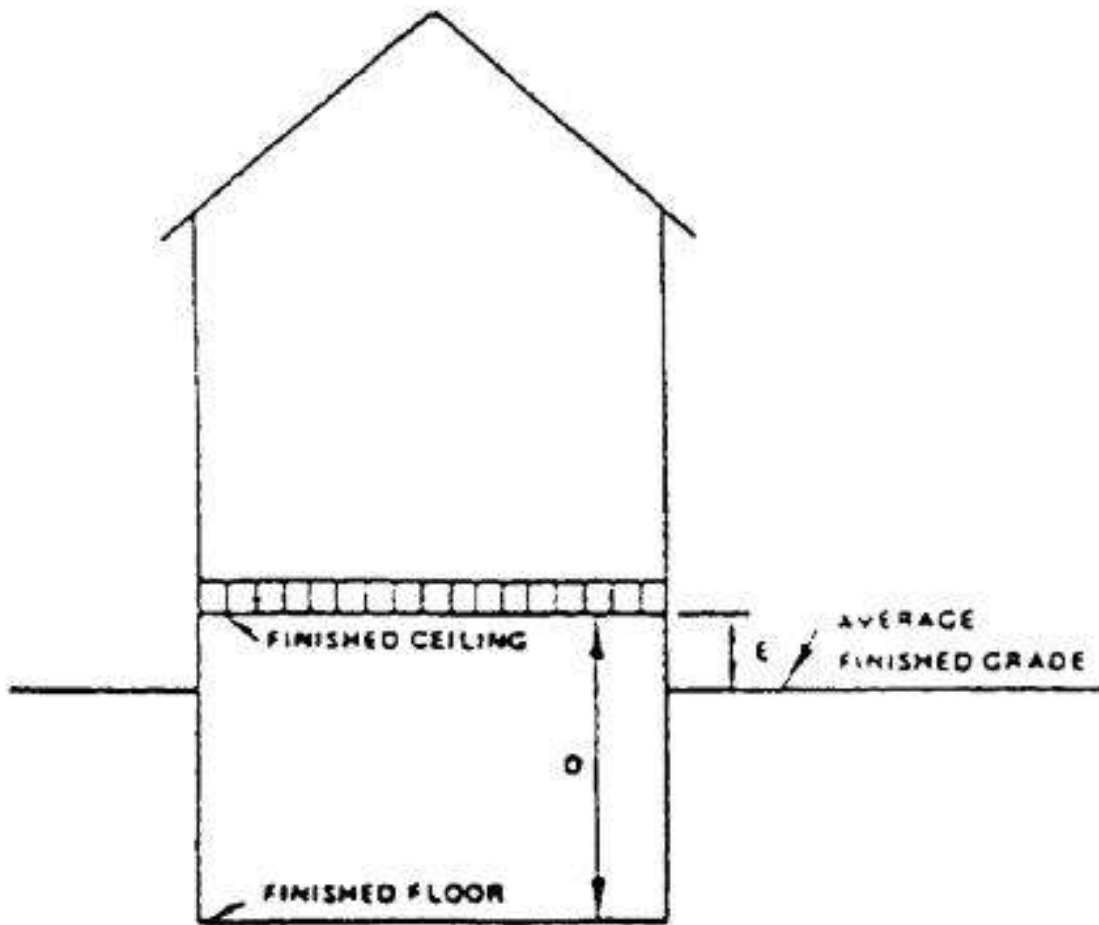
**BUILDING INSPECTOR** — The officially established Zoning and Building Enforcement Officer for the Town of Wakefield. The "Building Inspector" may be appointed Zoning Administrator by the Board of Appeals in accordance with MGL c. 40A, § 13.

**BUILDING, NONCONFORMING** — A building, lawfully existing at the time of adoption of this chapter or any subsequent amendment thereto, which does not conform to one or more of the applicable use, dimensional or density regulations for the district in which the building is located.

**BUILDING, PRINCIPAL** — A building in which is conducted the principal use of the lot on which it is located.

**CELLAR (SEE ACCOMPANYING DIAGRAM)** — A portion of a building, partly or entirely below grade, which has more than one-half (1/2) of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground immediately adjoining the building, as computed after construction of the building. A "cellar" is not deemed a story.

DEFINITION OF A CELLAR



FOR A "CELLAR", E IS LESS THAN  $\frac{1}{4}$  D.

**A CELLAR IS NOT DEEMED TO BE A STORY.**

**CERTIFICATE OF OCCUPANCY** — A statement signed by the Building Inspector setting forth either that a building or structure complies with this chapter or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

**CLUSTER DEVELOPMENT** — See § 190-33 hereof.

**COMMERCIAL VEHICLE**[Amended 5-6-1996 ATM by Art. 39]:

- (1) Any vehicle which has a vehicle weight, or curb weight, of more than 6,000 pounds as per the manufacturer's description of said vehicle, unless such vehicle is a sport utility vehicle or pickup, provided that such sport utility vehicle or pickup does not contain on the bed tools, supplies, material or equipment transported to or from a job site.

- (2) Any vehicle if on the roof or sides of the vehicle tools, supplies, materials or equipment is transported to or from a job site.
- (3) Any vehicle which has business advertisements or business markings thereon, excepting markings limited to the name, address, telephone number and logo of any corporation or other entity.
- (4) Any vehicle used to plow or for hire to transport or store goods, wares or merchandise.
- (5) Any vehicle used to store or transport goods, wares or merchandise intended for sale in the ordinary course of the vehicle operator's or owner's business.
- (6) Any vehicle with five or more wheels on the ground.

**DAY-CARE CENTER** — Any facility operated on a regular basis, whether known as a "day nursery," "nursery school," "kindergarten," "child play school," "progressive school," "child development center" or "preschool" or known under any other name, which receives children not of common parentage under seven years of age, or under 16 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. "Day-care center" shall not include any part of a public school system; any part of a private organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day-care home (defined below); an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor. (See also "family day-care home.")

**DRIVE-IN RETAIL OR SERVICE ESTABLISHMENT** — A business or commercial establishment which dispenses any food, beverages, goods or services from inside a building to persons standing outside or seated in their automobiles.

**DWELLING, ATTACHED** — See "attached dwelling."

**DWELLING, DETACHED** — A building which is designed or occupied as a one-family residence on its own lot and is separated by side yards from any other structure or structures, except accessory buildings.

**DWELLING, SEMIDETACHED** — A building which is designed or occupied as a one-family residence but may be attached on one side to a similar one-family residence (sometimes called a "duplex").

**DWELLING, TWO-FAMILY** — A structure on a single lot containing two dwelling units.

**DWELLING UNIT** — One or more rooms designed and equipped for one family to occupy as a housekeeping residence with permanent provisions for living, sleeping, eating, cooking and sanitation.

**ESTABLISHMENT WHICH DISPLAYS LIVE NUDITY FOR ITS PATRONS** — Any establishment which provides live entertainment for its patrons which includes the display of nudity, as that term is defined in MGL c. 272, § 31. [Added 5-5-1997 ATM by Art. 39]

**FAMILY** — Any number of persons related to one another by blood, marriage, adoption or foster

care placement, including spouses, children, parents and grandparents, or no more than four unrelated individuals, all residing together in a single housekeeping unit.

**FAMILY DAY-CARE HOME** — Any private residence which on a regular basis receives for temporary custody and care during part or all of the day children under seven years of age or children under 16 years of age if such children have special needs; provided, however, in either case, that the total number of children under 16 in a "family day-care home" shall not exceed six, including participating children living in the residence. "Family day-care home" shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives or the occasional care of children with or without compensation therefor. An occupancy permit from the office of the Building Inspector shall be required. See the definition of "day-care center" if over six children are served.

**FAST-FOOD ESTABLISHMENT** — An establishment whose primary business is the sale of food for consumption on or off the premises which is primarily intended for immediate consumption rather than for use as an ingredient or component of meals, available upon a short waiting time (five to eight minutes) and packaged or presented in such a manner that it can be readily eaten either inside or outside the premises where it is sold.

**FLOODLINE** — The limits of flooding from a particular body of water caused by a storm whose frequency of occurrence is once in a given number of years.

**FLOOR AREA RATIO** — The ratio of the gross floor area to the total area of the lot. (See definition of "gross floor area" below.)

**GARAGE, AUTO REPAIR** — Any building used for the keeping of motor vehicles and in which a business or industry dealing with the repair or servicing of such vehicles is maintained.

**GARAGE, PRIVATE** — Any building or portion of a building accessory to and located upon the same lot as a residential building or upon a lot in the same ownership and adjacent to the lot on which the served residential building is located which is used for keeping of a motor vehicle or motor vehicles.

**GARAGE, PUBLIC** — Any building used for the keeping of motor vehicles in which a business dealing with the storage of such vehicles is maintained either for profit or public service. Such business shall not involve the repair or servicing of any motor vehicles.

**GASOLINE STATION** — A building or part thereof with no more than two service bays whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service, car washing or auto repair, limited to tire servicing and repair, but not recapping or regrooving, replacement of miscellaneous parts and minor repairs and adjustments.

**GROSS FLOOR AREA** — The sum of the floor areas of all parts of the building(s) on a lot, measured from the outer faces of the walls, excluding basement areas whose interior height is more than 50% below finished grade and excluding enclosed parking garages.

**HEIGHT OF BUILDING** — The vertical distance of the highest point of the roof above the average finished grade of the ground immediately adjoining the building, as computed before the building is actually erected. This definition excludes chimneys, ventilators, skylights, water tanks, bulkheads, elevator penthouses and other accessory structures which are required or are customarily carried above the roofs of buildings and towers, spires, domes, cupolas and similar

parts of buildings if such areas are not used for living or storage purposes and if such structures are not equal to more than 20% of the space occupied by the ground floor of the building. Such accessory structures shall not exceed required height limits by more than 20 feet. Any berm or earth structure changing the grade of the ground shall be added to the elevation of the building to determine its height under this chapter.

HOME OCCUPATION — See § 190-18.

LODGING OR ROOMING HOUSE — A building where lodging units are rented to four or more persons. A "lodging house" shall not include convalescent, nursing or rest homes; dormitories of charitable, educational or philanthropic institutions; or apartments or hotels.

LODGING UNIT — One or more rooms for the semipermanent dwelling use of not more than three individuals not living as a single housekeeping unit and not having cooking facilities.

LOT — An area or parcel of land or any part thereof in individual, joint or common ownership, or in ownership by the entirety, which is designated on a plan as a separate lot and which has boundaries identical with those on a plan recorded in the South Middlesex Registry of Deeds.

LOT FRONTAGE — The continuous length of a lot line which is coterminous with the street line of a street to which the lot has legal access.

LOT WIDTH — The shortest distance between opposite side lines of a lot. Between the frontage and the points where the front setback intersects the lot side lines, the lot width shall be at least 90% of the required minimum lot width. At no point between, but not including the front setback and the principal structure, shall the lot be narrower than 75% of the required minimum lot width. Measured at all points through the principal structure on said lot, the lot width shall be at least 100% of the required minimum lot width. [Amended 4-5-1999 ATM by Art. 24]

MEMBERSHIP CLUB — A noncommercial social, sports or fraternal association or organization which is used exclusively by members and their guests and which does not have as a substantial or significant portion (greater than 20%) of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. [Amended 5-6-1996 ATM by Art. 38]

MULTIFAMILY DWELLING — A building (other than an "attached dwelling," as defined herein) designed or intended or used as the home of four or more families, each in a separate dwelling unit, living independently of each other and who may have a common right in halls and stairways. This definition is intended to include building types commonly known as "garden apartments," "mid-rise apartments" and "high-rise apartments," which are defined below: [Amended 11-8-2004 RTM by Art. 31]

- (1) GARDEN APARTMENT — A multifamily dwelling of not more than three stories in height, containing not fewer than three dwelling units and usually arranged with grounds planted and maintained with grass, shrubs and trees. (See also the definition for "attached dwelling complex.")
- (2) MID-RISE APARTMENT — A multifamily dwelling of more than three stories but not more than six stories in height.

OFFICE — A place in which functions such as directing, consulting, recordkeeping, clerical work

and sales (without the presence of merchandise of a firm) are carried on. Also, a place in which a professional person conducts his professional business.

**OPEN AREA** — A yard area which is unbuilt upon but which may include sidewalks, swimming pools, terraced areas, patios, tennis courts, play courts, playground facilities or similar facilities and is not devoted to streets, driveways or off-street parking or loading areas.

**OPEN SPACE LAND** — Land on a developed parcel which is unbuilt upon and contains no paved parking, loading or driveway areas but which may contain active or passive recreation areas, including incidental paving related thereto. A minimum of 35% of "open space land" must be usable open space, as defined herein.

**OPEN SPACE, LANDSCAPED** — Open space designed and developed for pleasant appearance in trees, shrubs, ground cover and grass, including other landscaped elements, such as natural features of the site, walks and terraces, and may also include open areas accessible to and developed for the use of the occupants of the property located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes.

**OPEN SPACE, USABLE** — Open space land which is free of automotive traffic and parking and readily accessible to those for whom it is intended. It must have an average grade of less than 8% and be sufficiently well drained to permit its use for informal recreation for most seasons of the year. Such space may include open areas intended for the exclusive use of site occupants as well as those accessible to the public.

**RECREATIONAL TRAILER OR VEHICLE** — A vehicular, portable unit designed for travel, camping or recreational use, including but not limited to the following:

- (1) **TRAVEL TRAILER** — A vehicular, portable dwelling unit built on a chassis, being of any length, provided that its gross weight does not exceed 4,500 pounds, or being of any weight, provided that its overall length does not exceed 28 feet.
- (2) **PICKUP CAMPER** — A portable dwelling unit designed to be mounted on a pickup truck or chassis, whether or not so mounted.
- (3) **MOTORIZED CAMPER** — A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (4) **TENT TRAILER** — A folding structure, constructed of canvas, plastic or similar water-repellent material, designed to be mounted on wheels to be used as a temporary dwelling.
- (5) **BOAT OR UTILITY TRAILER** — A vehicle without motive power designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other materials.

**REPAIR** — With respect to a building or structure, any construction which replaces materials and does not change the height, number of stories, size, use or location of a structure.

**RESTAURANT** — An establishment where the principal activity is the service or sale of food or drink for on-premises consumption.

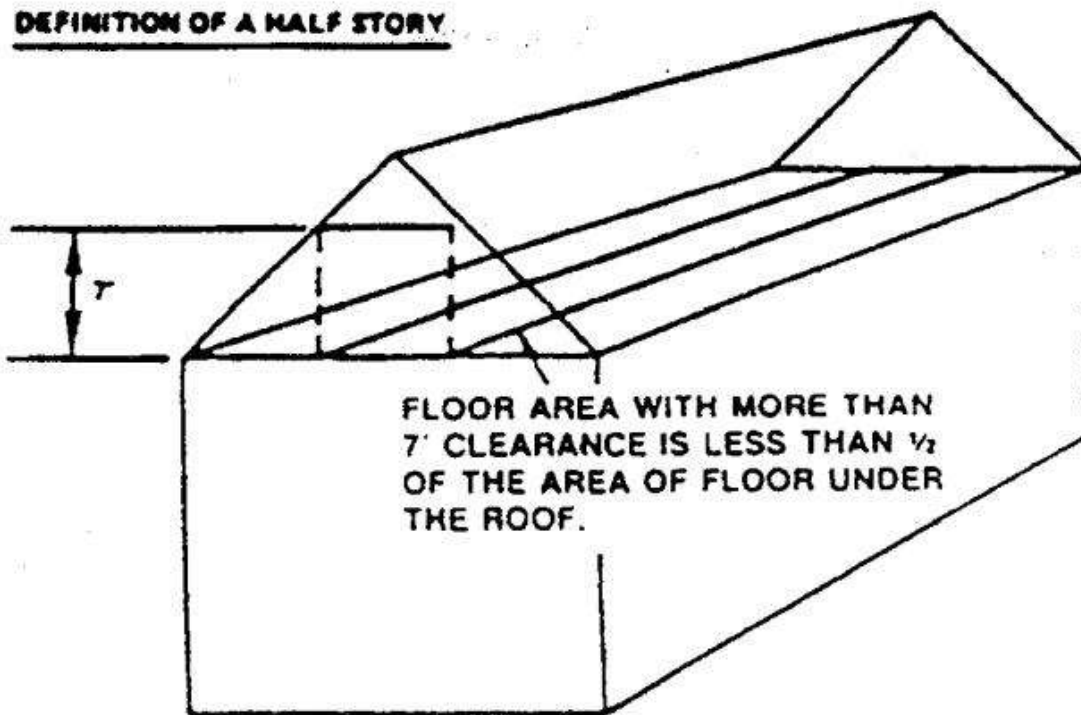
**ROW HOUSE** — See "attached dwelling."

**SETBACK** — The horizontal distance measured perpendicularly from the property line to the building line.

**SPECIAL PERMIT** — A use of a structure or lot or any action upon a premises which may be permitted under this chapter only upon application to and the approval of the appropriate board and in accordance with provisions of Article VIII of this chapter and MGL c. 40A, § 9.

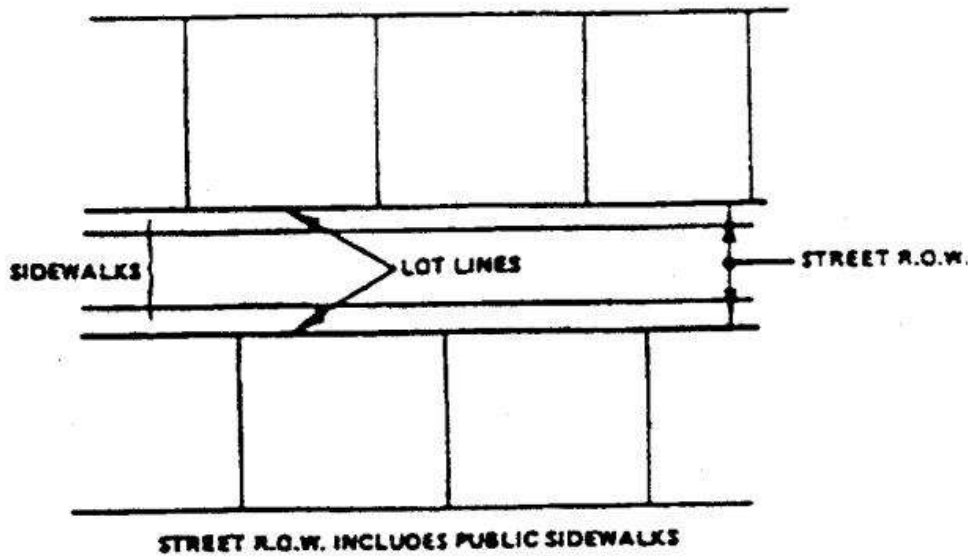
**STORY** — The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third ( $1/3$ ) of the area of the floor immediately below, it shall be deemed to be a "story." A basement shall be deemed to be a "story" when its ceiling is four feet six inches or more above the finished grade. A cellar shall not be deemed to be a "story." An attic shall not be deemed to be a "story" if unfinished and not used for human occupancy.

**STORY, HALF** (see accompanying diagram) — A story which is under a gable, hipped or gambrel roof, where less than one-half ( $1/2$ ) the floor area has a clear height of seven feet or more.



**STREET** (see accompanying diagram) — A public thoroughfare which has been accepted for public use; an existing private thoroughfare in use which has not been accepted for public use; or a Planning Board approved subdivision street. It shall be synonymous with the words "road," "avenue," "highway" and "parkway" and other similar designations. Prior to issuance of a building permit, the Building Inspector shall determine that the street will be passable for automobiles and emergency vehicles during all seasons of the year.

**DEFINITION OF A STREET RIGHT-OF-WAY**



**STREET LINE** — The outside limit of a street or way, either existing or contemplated, to which the public and/or abutters have rights, dividing the street and the lots which abut the street.

**STRUCTURE** — A combination of materials for permanent or temporary occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelter, pier, wharf, bin, fence, sign or the like.

**TOWNHOUSE** — See "attached dwelling."

**TRUCKING TERMINAL** — A terminal for the temporary or permanent storage, repair or refueling of interstate trucks described as "semitrailers" or "trailer trucks."

**UPLAND AREA** — That contiguous portion of the lot area that is not part of detention basins, retention basins, land under water (LUW), land subject to flooding (LSF), bordering vegetated wetlands (BVW) or floodplains. The principal structure must be located in the upland area, and the required minimum upland area, as defined in § 190-31J, must be directly accessible from the principal structure without crossing detention basins, retention basins, LUW, LSF, BVW or floodplains. For the purpose of this section, "LUW," "LSF," "BVW" and "floodplains" shall be as defined in the current edition of Massachusetts Code of Regulations 310 CMR 10.00, as amended from time to time. [Added 4-5-1999 ATM by Art. 25]

**USE** — The purpose for which a structure or lot is arranged, designed or intended to be used, occupied or maintained.

**USE, NONCONFORMING** — A use lawfully existing at the time of adoption of this chapter or any subsequent amendment thereto which does not conform to one or more provisions of this chapter.

**USE, PRINCIPAL** — The main or primary purpose for which a structure or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this chapter.

**VARIANCE** — A departure from the terms of this chapter authorized by the Board of Appeals

under the terms of § 190-66 of this chapter.

**YARD** — An open space unobstructed from the ground up, on the same lot with a principal building and extending along a lot line or front lot line and inward to the principal building. The size of a required "yard" shall be measured as the shortest distance between the outer face of the building and a lot line or front lot line. Structures which are below the finished lot grade shall not be deemed to occupy required "yards."

**YARD, FRONT** — A yard extending for the full width of the lot between the front line of the nearest building wall or building part and the front lot line.

**YARD, REAR** — A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**YARD, SIDE** — A yard, unoccupied except by an accessory structure or use as herein permitted, between a building and a side lot line extending from the front yard to the rear yard. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a "side yard."

**ZONING ADMINISTRATOR** — The Board of Appeals, in accordance with MGL c. 40A, § 13, may appoint, subject to confirmation by the Board of Selectmen, a Zoning Administrator. The Board of Appeals may delegate to said Zoning Administrator some of its powers and duties. Any person aggrieved by a decision or order of the Zoning Administrator may appeal to the Board of Appeals in accordance with MGL c. 40A, § 14. The Building Inspector may also serve as Zoning Administrator if so appointed.

### **ARTICLE III Districts**

#### **§ 190-5. Establishment.**

The Town of Wakefield is hereby divided into the following classes of districts:

Special Single Residence (SSR)

Single Residence (SR)

General Residence (GR)

Multiple Residence (MR-1 or MR-2)

Business (B)

Neighborhood Business (NB)

Limited Business (LB)

Industrial (I)

Limited Industrial (LI)

Floodplain (FP)

Municipal District (MD)

[Added 4-13-2000 ATM by Art. 26]

Attached Dwelling Overlay District (ADOD)

[Added 11-8-2004 RTM by Art. 31]

Mixed Use Overlay District (MUOD)

[Added 11-8-2004 RTM by Art. 33]

Creative Development Overlay District (CDOD)

[Added 11-8-2004 RTM by Art. 34]

Municipal Building Reuse Overlay District (MBROD)

[Added 8-17-2006 STM by Art. 2]

Signage Overlay District

[Added 5-3-2010 ATM by Art. 29]

#### **§ 190-6. General description.**

A. See Article IV, Use Regulations, and Article VI, Dimensional Regulations, for detailed requirements within each district. General description of districts:

- (1) Special Single Residence (SSR). The Special Single Residence District is composed of those areas intended for single-family residences and allowed accessory uses. Minimum lot size is 20,000 square feet and minimum street frontage is 100 feet.
- (2) Single Residence (SR). The Single Residence District is also composed of areas intended for single-family residences and allowed accessory uses. Minimum lot size is 12,000 square feet and minimum lot frontage is 100 feet.
- (3) General Residence (GR). The General Residence District is composed of specific areas primarily adjacent to Wakefield Center and Greenwood which are intended for single-family residences, two-family residences and specified complementary and accessory uses. Minimum lot size is 8,000 square feet and minimum lot frontage is 80 feet.
- (4) Multiple Residence (MR). The Multiple Residence District is composed of those specific areas potentially suitable for multifamily dwellings and attached dwellings (townhouses). It is divided into two parts. MR-1 allows garden apartments and attached dwellings at a maximum density of 14 units per acre. A special permit is required. Height could not exceed three stories. MR-2 allows garden apartments, attached dwellings and mid-rise apartments at a maximum density of 36 units per acre. A special permit is required. Height could not exceed six stories.
- (5) Neighborhood Business (NB). The Neighborhood Business District includes business areas primarily serving the convenience needs of local residential neighborhoods rather than the Town at large. Permitted uses are those business uses that would serve residential needs but would not have an adverse environmental impact on residential areas.
- (6) Limited Business (LB). The Limited Business District includes business areas suitable

for office and predominantly nonretail business uses and possibly multiple-residence uses (with a special permit). Most LB Districts are located near Route 128 or other major roadways.

- (7) Business (B). The Business District includes those business areas in Wakefield Center and Greenwood. Uses allowed are those that serve a community-wide need and encourage the growth of a healthy Town or village business center. Multiple-residence uses are also allowed (with a special permit).
- (8) Industrial (I). The Industrial District is largely located adjacent to Wakefield Center along the railroad corridors and on the northerly side of Route 128. Uses permitted are primarily light industrial uses which would not have detrimental environmental impacts on a primarily residential community.
- (9) Limited Industrial (LI). The Limited Industrial District is similar to the Industrial District but requires a special permit for certain specified uses and requires a larger minimum lot size than the Industrial District (80,000 square feet rather than 20,000 square feet) and other more stringent dimensional requirements.
- (10) Floodplain (FP). The Floodplain District is a special overlay district which regulates uses in the underlying districts which are subject to periodic flooding.
- (11) The Municipal District is a special overlay district which regulates the use and dimensional requirements of buildings erected on Town-owned land. [Added 4-13-2000 ATM by Art. 26; amended 4-6-2009 ATM by Art. 27]
- (12) The Attached Dwelling Overlay District (ADOD) is a special overlay district to distinguish locations suitable for attached dwelling use and to regulate that use within them. Within such districts the provisions of the districts they overlay shall continue in full force except as provided at § 190-93I, Attached Dwelling Overlay District. [Added 11-8-2004 RTM by Art. 31]
- (13) Mixed Use Overlay District (MUOD) is a special overlay district to distinguish locations suitable for mixed residential and business uses and to regulate such use mixtures within them. Within such a district the provisions of the districts it overlays shall continue in full force except as provided at § 190-94, Mixed use development. [Added 11-8-2004 RTM by Art. 33]
- (14) Creative Development Overlay District (CDOD) is a special overlay district to allow creation of compact residential or mixed use development within a planned setting specifically approved by Town Meeting. Within such a district the provisions of the districts it overlays shall continue in full force except as provided at § 190-95, Creative development. [Added 11-8-2004 RTM by Art. 34]
- (15) The Municipal Building Reuse Overlay District is a special overlay district which regulates the use and dimensional requirements of buildings on formerly Town-owned land. [Added 8-17-2006 STM by Art. 2]
- (16) The Signage Overlay District is a special overlay district where signs are regulated under Article XVI. Within such district the provisions of the underlying districts, and Mixed Use Overlay District, where mapped, shall continue in full force, excepting only

that the provisions of Article XIII shall not apply to signs in the Signage Overlay District. [Added 5-3-2010 ATM by Art. 29]

- B. All of the above district locations are shown on the Zoning Map.
- C. When the Board of Selectmen receives any written request to insert an article in a warrant for a scheduled regular or special Town Meeting or to call a special Town Meeting and insert in the warrant therefor an article authorizing the Board of Selectmen to convey a parcel or lot of land zoned as being part of the Municipal District, which request does not include an article containing a proposed amendment of the zoning district for such parcel or lot of land to be the same as the zoning district surrounding such parcel or lot of land, or, in the case of a parcel or lot of land adjacent to two or more zoning districts, the same as the most restrictive such zoning district; the Board of Selectmen shall forthwith adopt and submit to the Planning Board, pursuant to MGL c. 40A, § 5, an article so amending the zoning district and such article shall be submitted to a vote at Town Meeting prior to a vote on the article authorizing the Board of Selectmen to convey such parcel or lot of land; provided, however, that nothing in this subsection shall be construed or applied to infringe upon the rights of any voter registered to vote in the Town deriving from MGL c. 39, § 10. [Added 4-5-2001 ATM by Art. 14]

**§ 190-7. Zoning Map.**

- A. Except as set forth below, the above zoning districts are shown on the map entitled "Wakefield Zoning Map, dated May 10, 2010." Said zoning map is hereby adopted and declared to be a part of this chapter and replaces all previous editions and amendments of said Zoning Map.<sup>1</sup> [Amended 4-6-2009 ATM by Art. 28; 5-3-2010 ATM by Art. 28]
  - (1) The Municipal District is located as shown on a separate map entitled "Wakefield Municipal District, dated May 10, 2010."
  - (2) The Wireless Communication Services Overlay District is located as shown on a separate map entitled "Wakefield Wireless Communication Services Overlay District, dated May 10, 2010."
  - (3) The Mixed Use Overlay District is located as shown on a separate map entitled "Wakefield Mixed Use Overlay District, dated May 10, 2010."
  - (4) The Signage Overlay District is located as shown on a separate map entitled "Wakefield Signage Overlay District, dated May 10, 2010." [Added 5-3-2010 ATM by Art. 29]
- B. All unzoned land within the Town of Wakefield, if any, is hereby zoned as a Single Residence District. [Amended 4-13-2000 ATM by Art. 26]

**§ 190-8. Boundaries.**

- A. Guidelines for determining the boundaries between districts shall be, unless otherwise indicated: the center line of a street, alley or railroad; a line parallel to a street, alley, railroad

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<sup>1</sup>. Editor's Note: The Zoning Map is available in the office of the Town Clerk.

or other feature, at a distance designated on the Zoning Map; a metes and bounds description; and a property line shown on the Wakefield Tax Assessment Tax Maps.

- B. In the case of a disputed boundary, the decision shall be made by the Building Inspector using the above guidelines, subject to the appeal procedures provided by law.

**§ 190-9. Lots in two districts.** [Amended 5-5-1997 ATM by Art. 42]

Where a district boundary line divides a lot in single ownership at the time of the adoption of such line, the regulation for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided that the lot has the required frontage on a street in the less restricted district.

**§ 190-10. General requirements for all districts.** [Added 6-7-1990 ATM by Art. 39]

- A. The open display or open storage of junk shall be prohibited in all districts, including but not limited to worn-out, cast-off or discarded articles and materials which are ready for destruction or have been stored or collected for salvage or conversion into some other use. Any storage of such articles and materials shall be enclosed or screened so that they are not visible from adjacent streets or properties.
- B. Within a district, no equipment or process shall be utilized in any use of land, buildings or structures which creates a common nuisance by virtue of unreasonable noise, vibration, glare, fumes or odors.

**ARTICLE IV  
Use Regulations**

**§ 190-11. Applicability.**

Except as herein provided, the provisions of this chapter shall apply to the erection, construction, reconstruction, alteration or use of buildings or structures or use of land. Except as herein provided, any existing nonconforming use, structure or lot shall not become further nonconforming.

**§ 190-12. Existing buildings and land.**

This chapter shall not apply to an existing building or structure, nor to the existing use of any building, structure or land, to the extent to which it is legally used at the time of adoption of this chapter, but it shall apply to any change of use thereof and to:

- A. Any alteration of a building or structure when the same would amount to reconstruction, extension or structural change.
- B. Any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration or for its use for the same purpose to a substantially greater extent.

**§ 190-13. Mixed uses.** [Amended 11-8-2004 RTM by Arts. 33, 34]

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used. Combinations of permitted uses within a single building are permitted, provided that health and safety regulations are followed. Proposed new buildings that mix residential and nonresidential uses are allowed by right within a Creative Development Overlay District under the provisions of § 190-95, Creative development; require a special permit from the Planning Board under § 190-94 if within a Mixed Use Overlay District; and in all other cases require a special permit from the Board of Appeals.

**§ 190-14. Purpose and intent.**

It is the purpose and intent of this article to list those uses which are specifically allowed or specifically prohibited in the various zoning districts listed in Article III of this chapter. Any use not listed herein is prohibited.

**§ 190-15. Applicability of use regulations.**

Except as provided in this chapter, no building, structure or land shall be used except for the purpose permitted in the district, by right or by special permit, as described in this chapter.

**§ 190-16. Uses subject to other regulations.**

Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this chapter.

**§ 190-17. Trailers and/or mobile homes.**

Residing or living in trailers and/or mobile homes is not allowed in the Town of Wakefield, with the following exceptions:

- A. The owner or occupier of a residence which has been destroyed by fire or other natural holocaust may place a mobile home on the site of such residence and reside in such home for a period not to exceed 12 months while the residence is being rebuilt. Any such mobile home shall be subject to the provisions of the State Sanitary Code.
- B. Trailers and/or mobile homes used on construction projects as offices or places of storage must have a permit from the Building Inspector to be used as such and may be used only for the time limit as stated on the permit. If the time expires, a new permit will be needed.

**§ 190-18. Home occupations.**

A home occupation is an accessory use which is incidental and subordinate to a single-family-dwelling use. Home occupations allowed by right include dressmaking, teaching of not more than two students simultaneously and offices of medical doctors, dentists, attorneys, architects or certified public accountants. Other home occupations that are quiet and noncommercial in nature may be allowed by special permit from the Board of Appeals, provided that they meet the following conditions, which apply to all home occupations:

- A. No nonresident shall be employed therein, except that a physician, dentist or other medical professional may employ one nonresident. An attorney, architect, certified public accountant

or other allowed home occupation may employ one nonresident upon issuance of a special permit by the Board of Appeals.

- B. The use is carried on strictly within the principal building.
- C. There shall be no exterior alterations or accessory buildings on display which are not customary with residential buildings. No signs, other than a single identifying sign not exceeding two square feet in area, shall be permitted.
- D. Not more than 25% of the existing gross floor area of the dwelling unit, not to exceed 700 square feet, is devoted to such use. In connection with such use, there is to be kept no stock-in-trade, commodities or products which occupy space beyond these limits.
- E. There shall be no display of goods or wares visible from the street. No retail or wholesale sales or services to customers or clients shall take place on the premises, except as provided herein.
- F. The building or premises occupied shall not be rendered objectional or detrimental to the residential character of the neighborhood due to its exterior appearance or emission of odor, gas, smoke, dust, noise or disturbance or in any other way become objectional or detrimental to any residential use within the neighborhood.
- G. Any such building shall include no feature of design not customary in buildings for residential use.
- H. If business clients or pupils come to the house for consultation or instruction on a regular basis, a special permit shall be required from the Board of Appeals.
- I. Off-street parking must be available for any employees, clients or pupils in accordance with Article VII hereof.

**§ 190-19. Seasonal sale of home produce.**

The seasonal outdoor display and sale of fresh fruits, vegetables and nursery plants which were raised on the premises is permitted in the Single Residence and Special Single Residence Districts, provided that such displays and sales are limited to the summer growing season and sufficient parking facilities for customers are available.

**§ 190-20. Private swimming pools.**

Private swimming pools are allowed in all residential districts, provided that they:

- A. Conform to the yard requirements for accessory buildings.
- B. Are surrounded by a wall, barrier or uniform fence of at least five feet in height designed to discourage unauthorized access to the pool.
- C. Are, if constructed below grade, equipped with a permanently installed drainage system designed to prevent overflow onto adjacent ways.

**§ 190-21. Parking in residence districts.**

- A. Unregistered vehicles. The ungaraged parking of an unregistered car, truck or trailer is not permitted in any residential district unless specifically authorized by the Board of Appeals by special permit. No such vehicle shall be stored between the principal building and a street line.
- B. Other vehicles. [Amended 5-6-1996 ATM by Art. 39]
  - (1) The allowable number of commercial vehicles which may park in a residential district shall be as follows:
    - (a) Special Single Residence District. No more than one commercial vehicle shall be parked on one lot.
    - (b) Single Residence District. No more than one commercial vehicle shall be parked on one lot.
    - (c) General Residence District. No more than one commercial vehicle per dwelling unit shall be parked on one lot.
  - (2) A special permit is required if the number of commercial vehicles exceeds the above number.
  - (3) The parking of commercial vehicles in a residential district is subject to the following regulations:
    - (a) The vehicle shall not exceed one-ton capacity (manufacturer's rating).
    - (b) The vehicle shall not be loaded with flammable, noxious or dangerous materials.
    - (c) The vehicle shall be permitted only if used as a means of transportation to and from the resident's place of business.
    - (d) The vehicle shall be parked within the property lines of the lot but shall not be parked in the area immediately in front of the principal dwelling unless the area is paved and leads to a garage.

**§ 190-22. Accessory uses.**

- A. Residential accessory uses.
  - (1) Single-family. Single-family residential accessory uses shall include the following:
    - (a) Home occupation as defined in § 190-4, Definitions and word usage.
    - (b) Private swimming pool, provided that a fence or protective barrier not less than five feet in height and having self-latching devices on all gates shall be installed and maintained so as to completely enclose the swimming pool. All latches shall be located not less than four feet above ground.
    - (c) Temporary yard, lawn or garage sales with permit (one day a year).
    - (d) Garage for parking noncommercial vehicles.
    - (e) Storage shed or barn not exceeding 1,200 square feet in area or 25 feet in height.

- (f) Accessory apartments. [Added 5-10-1993 ATM by Art. 34]
- [1] Purpose and intent. It is the specific purpose and intent of allowing accessory apartments within one-family properties, except where enforceable deed covenants prohibit the same, in all one-family residence districts to meet the special housing needs of families. To help achieve these goals and to promote the other objectives of this chapter, specific standards are set forth below for such accessory apartment uses.
  - [2] Accessory apartments may be created only within single-family dwellings which are located on lots meeting the minimum lot area and width requirements of the applicable zone.
  - [3] Owner occupancy required. The owner(s) of the one-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises. The special permit shall be issued to the owner of the property. Should there be a change in ownership, a change in the residence of the owner or the death or removal of the surviving parent or family member occupying the accessory apartment, the special permit use and the certificate of occupancy for the accessory apartment shall become null and void. Within 90 days of the death or removal of the surviving parent or family member, or prior to a change in ownership or residence, the second kitchen shall be removed and the house shall revert to a single-family status. Should the new owner decide to live in the structure and desire to continue the use of the second dwelling unit, he shall apply to the Zoning Board of Appeals for a special permit. The owner-applicant shall be required to file on the subject property a declaration of covenants prior to the issuance of a special permit for an accessory apartment. This declaration shall be in favor of the Town of Wakefield and state that:
    - [a] The special permit for an accessory apartment or any renewal of said special permit shall terminate upon the death of the undersigned and the spouse of the undersigned or upon the transfer of title to said premises or upon the undersigned no longer occupying the premises as his principal residence.
    - [b] The new owner of the premises shall have to apply to the Zoning Board of Appeals for a special permit to continue the accessory apartment.
  - [4] The special permit shall be issued on a year-to-year basis, and the Board of Appeals shall not renew any such permit where the need for such accessory use no longer exists. The Board shall require a bond or surety to insure that any improvements made shall be removed at the expiration of such special permit or the sale of the premises, whichever occurs first.
  - [5] An accessory apartment must be located in the principal dwelling, provided that such principal dwelling conforms to the other requirements of this chapter, unless a variance therefor shall have been granted by the Zoning

Board of Appeals.

- [6] Apartment size. The minimum floor size for an accessory apartment within a principal dwelling building shall be 300 square feet, but in no case shall it exceed 25% of the habitable area of the dwelling in which it is located, unless in the opinion of the Zoning Board of Appeals a greater or lesser amount of floor area is warranted by the specific circumstances of the particular building.
  - [7] The accessory apartment shall not involve the extension or enlargement of the principal dwelling, except to provide access or egress, nor shall it change the single-family characteristic of the dwelling.
  - [8] There shall be no more than one accessory apartment for a total of two dwelling units permitted per lot.
  - [9] Applications for accessory apartments shall be subject to approval solely by the Board of Appeals.
  - [10] Applications need only contain such information to determine compliance with regulations set forth herein.
- (2) Multifamily. In multifamily developments, the following accessory uses may be included if reserved for the occupants' use: administrative offices, club rooms, common laundry room, swimming pool and other recreational facilities.

B. Agricultural accessory uses.

- (1) Agricultural accessory retail. The sale of natural products raised on the premises and of articles manufactured on the premises from such products is a permitted accessory use to commercial farming, provided that this shall not include any salesroom or other building for the sale or manufacture of such products unless specifically allowed by the Table of Use Regulations.<sup>2</sup>
- (2) Roadside stand. The Building Inspector shall grant a permit for a roadside stand in the districts where permitted, provided that:
  - (a) The products and articles sold are limited to those permitted in § 190-19.
  - (b) Such stand is set back at least 50 feet from any lot line.
  - (c) Adequate provision is made for off-street parking on the premises.
  - (d) Such stand or display is neatly maintained.

C. Business accessory uses.

- (1) Accessory business production. Light manufacturing or preparation of products customarily sold on the premises by the producer to the consumer is permitted if limited to not more than 25% of the total gross floor area of the establishment and not engaging more than five employees at one time.

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2. Editor's Note: See § 190-23.

- (2) Accessory drive-up service. A drive-up or drive-in window for a bank, laundry drop or the like shall require a special permit from the Board of Appeals to ensure that moving or waiting cars create no hazard or obstruction on a street or parking lot used by the general public. Drive-up service shall not constitute a nuisance of any type and shall not operate after 11:00 p.m.
- (3) Accessory outdoor storage and display. Outdoor storage and display accessory to a business next to a residential district shall not be permitted within 15 feet of the district boundary.
- (4) Accessory parking and loading. Parking and loading accessory to a business use is permitted in industrial and business districts, subject to the requirements of Article VII, Parking and Loading Requirements.

D. Industrial accessory uses.

- (1) Accessory parking and loading. Parking and loading accessory to an industrial use is permitted in industrial and business districts, subject to the requirements of Article VII, Parking and Loading Requirements.
- (2) Accessory outdoor storage and display. The requirements of Subsection C(3) above for business shall apply.
- (3) Accessory industrial retail. The finished products of an industrial establishment may be sold in the enclosed premises at retail, provided that:
  - (a) The floor area devoted to such retail does not exceed 10% of the total gross floor area.
  - (b) Accessory retail parking, signs and illumination are regulated as for a business district.
  - (c) The retail portion of the establishment is closed to the public during periods of change of shift.
- (4) Accessory employee services. Provision may be made on the premises of an industrial or office establishment or within an industrial park for the primary use of persons employed or having business there to serve food, to sell small convenience articles, to provide areas for recreation and meeting and for the provision of a day nursery, kindergarten or day-care center.

**§ 190-23. Table of Use Regulations.**

- A. See Table 1 which is declared to be a part of this chapter.
- B. In the following Table of Use Regulations, the uses permitted by right in the district are designated by the letter "Y." Those uses that are permitted by special permit in the district are designated by the letters "SP." Those uses that are not permitted in the district are designated by the letter "N."

**Table 1**



Conversion of pre-1935 dwelling to 2-family use on a lot of at least 12,000 square feet (see § 190-32G)	N	SP	Y	Y	Y	N	Y	N	N
Conversion of a dwelling to 3- or 4-family use on a lot of at least 13,000 square feet (see § 190-32G)	N	N	SP	N	N	N	SP	N	N
Telephone exchange or public utility use, excluding any office, storage or repair use	N	SP	SP	Y	Y	Y	Y	Y	Y
Hospital, sanitarium or convalescent or nursing home	N	N	SP	N	SP	SP	N	N	SP
Cemetery	N	SP	SP	N	Y	SP	SP	Y	Y
2-family dwelling	N	N	Y	Y	Y	N	Y	N	N
Mobile home park	N	N	N	N	N	N	N	N	N
Garden apartment or attached dwelling complex [Amended 11-15-2001 RTM by Art. 15]	N	N	N	SP	N	SP	SP	SP	SP
Mid-rise apartment [Amended 11-15-2001 RTM by Art. 15]	N	N	N	SP	N	SP	SP	SP	SP
Day-care center	N	N	SP	SP	SP	SP	SP	SP	SP
Family day-care home	SP	SP	SP	N	SP	N	SP	N	N
Accessory use to a permitted residential use	Y	Y	Y	Y	Y	Y	Y	N	N
Accessory apartments in Single Residence uses as set forth in § 190-22A(1)(f) [Added 5-10-1993 ATM by Art. 33]	N	SP	N	N	N	N	N	N	N
Accessory apartments in Special Single Residence uses as set forth in § 190-22A(1)(f) [Added 5-19-1994 ATM by Art. 36]	SP	SP	N	N	N	N	N	N	N
<b>Business uses</b>									
Retail store or service establishment [Amended 5-7-1992 ATM by Art. 33]	N	N	N	N	Y	SP	Y	SP	SP
Retail, service or restaurant use accessory to an allowed industrial or commercial use	N	N	N	N	Y	SP	Y	SP	SP
Drive-in retail store or service establishment or bank	N	N	N	N	SP	SP	SP	SP	SP
Restaurant [Amended 6-7-1990 ATM by Art. 38; 5-23-1994 ATM by Art. 37]	N	N	N	N	Y	SP	Y	Y	Y
Fast food [Amended 5-23-1994 ATM by Art. 37]	N	N	N	N	N	N	SP	N	N
Office of a physician, dentist, lawyer or	N	N	SP	SP	Y	Y	Y	Y	Y



[Added 5-6-1996 ATM by Art. 37]

Adult theater N N N N N N N SP SP

[Added 5-6-1996 ATM by Art. 37]

Adult video store N N N N N N N SP SP

[Added 5-6-1996 ATM by Art. 37]

Adult paraphernalia store N N N N N N N SP SP

[Added 5-6-1996 ATM by Art. 37]

Establishment which displays live nudity for its patrons N N N N N N N SP SP

[Added 5-5-1997 ATM by Art. 39]

Body art establishment N N N N N N N SP SP

[Added 4-5-2001 ATM by Art. 16]

Municipal utility servicer or provider (including electric and gas), including related offices, warehouse, garages, parking of equipment and vehicles indoors or outdoors, storage of equipment and materials indoors or outdoors

[Added 5-3-2010 ATM by Art. 27] N N N N N N SP N SP

**Industrial uses**

Light manufacturing establishment, provided that it is not environmentally offensive and does not use noxious or hazardous materials N N N N N N N Y Y

Light manufacturing, when a major portion of products is sold on the premises N N N N SP N Y Y Y

Fabrication or assembly plant N N N N N N N Y Y

Dry-cleaning plant or laundry N N N N N N SP Y Y

Printing plant N N N N N N SP Y Y

Wholesale or warehouse establishment N N N N N N SP Y Y

Lumber yard, contractor's yard, outdoor storage of merchandise or equipment, excluding junk or salvage N N N N N N SP SP Y

Research or testing laboratory, provided that it is not environmentally offensive and does not use noxious or hazardous materials N N N N N SP SP SP Y

Trucking terminal N N N N N N N N N

Accessory industrial use -- -- -- -- SP Y Y Y Y

NOTES:

<sup>1</sup>MR includes the MR-1 and MR-2 Districts, which are identical except that mid-rise apartments are not permitted in the MR-1 District.

<sup>2</sup>Creation of more than four lots (unless restricted from residential use) or building permit issuance for more than four dwelling structures may be subject to a special permit granted pursuant to § 190-93, Open space development. See § 190-93A.

[Added 11-8-2004 RTM by Art. 30]

<sup>3</sup>"N" unless located within an Attached Dwelling Overlay District as provided at § 190-93I.

[Added 11-8-2004 RTM by Art. 31]

<sup>4</sup>"SP" if located within a Mixed Use Overlay District as provided at § 190-94.

[Added 11-8-2004 RTM by Art. 33]

<sup>5</sup>Except "N" if not located within a Creative Development Overlay District as provided at § 190-95.

[Added 11-8-2004 RTM by Art. 34]

- C. The use regulations set forth in this article applicable to every lot of land in the Municipal District shall be the same as the use regulations applicable to the zoning district surrounding such lot of land as set forth in Table 1, the Table of Use Regulations; except that in the case of a lot of land in the Municipal District which is adjacent to two or more zoning districts, the use regulations applicable to such lot of land shall be the same as the use regulations applicable to the least-restrictive such adjacent zoning district. [Added 4-13-2000 ATM by Art. 26]
- D. Any residential use may be allowed by a municipal building reuse special permit in the Municipal Building Reuse Overlay District. [Added 8-17-2006 STM by Art. 2]

**§ 190-24. Adult uses.** [Added 5-6-1996 ATM by Art. 37; amended 5-5-1997 ATM by Art. 39]

Adult bookstores, adult clubs, adult theaters, adult video stores, adult paraphernalia stores and establishments which display live nudity for their patrons are subject to the following regulations:

- A. Adult bookstores, adult clubs, adult theaters, adult video stores, adult paraphernalia stores and establishments which display live nudity for their patrons may not be located:
  - (1) Within 1,000 feet of each other.
  - (2) Within 500 feet of the nearest lot line of:
    - (a) A residential district.
    - (b) A place of worship or a building used for religious purposes unless the Board of Appeals first determines, in writing, that the use will not be detrimental to the spiritual activities.
  - (3) Within 1,000 feet of a nonprofit educational use, library or museum.
  - (4) Within 1,000 feet of a park or playground.
- B. All adult bookstores, adult clubs, adult theaters, adult video stores, adult paraphernalia stores and establishments which display live nudity for their patrons must meet the setback requirement of the appropriate district. All signage must meet the requirements of the Sign

Bylaw.<sup>3</sup> No advertisement, display or other promotional material which contains sexually explicit graphics or sexually explicit text is to be visible to the public from any public way, including but not limited to pedestrian walkways.

- C. If the business allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All shall be clearly seen from the center of the establishment.
- D. The application for a special permit under § 190-44 must include the following information:
  - (1) Name and address of the legal owner of the establishment.
  - (2) Name and address of all persons having a lawful equity or security interest in the establishment.
  - (3) A sworn statement must be provided stating that neither the applicant nor any person having an equity or security interest in the establishment has been convicted of violating MGL c. 119, § 63 or MGL c. 272, § 28.
  - (4) Proposed security precautions.
  - (5) The number of employees.
- E. No special permit shall be issued under this section to any person convicted of violating MGL c. 119, § 28.

## ARTICLE V Floodplain District

### § 190-25. Purpose.

The purpose of this article, in addition to the purposes enumerated in § 190-3 of this chapter, is to provide that lands in the Town of Wakefield subject to seasonal or periodic flooding, as described hereinafter, shall not be used for residence or other purposes in such a manner as to endanger health, safety or welfare of the occupants thereof or the occupants of other areas of the Town or region that might be affected by flooding.

### § 190-26. Establishment. [Amended 5-23-1994 ATM by Art. 40; 5-3-2010 ATM by Art. 28]

The Floodplain District is hereby established as an overlay district. The underlying permitted uses are allowed, provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains. The Floodplain District includes special flood hazard areas within the Town of Wakefield designated as Zones A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Wakefield are Panel Numbers 25017C0313E, 25017C0314E, 25017C0318E, 25017C0427E and 25017C0431E, dated June 4, 2010. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by

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3. Editor's Note: See Art. XIII, Signs, of this chapter.

the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and the Planning Board.

**§ 190-27. Development regulations.**

The following requirements apply in the Floodplain District:

- A. Within Zone A, where the base flood elevation is not approved on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
- B. In floodways, designated on the FIRM maps, all encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited. [Amended 5-3-2010 ATM by Art. 28]
- C. Required documentation of floodway data. [Added 5-3-2010 ATM by Art. 28]
  - (1) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - (2) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.
- D. All subdivision and development proposals must be designed to assure that: [Added 5-3-2010 ATM by Art. 28]
  - (1) Such proposals minimize flood damage;
  - (2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (3) Adequate drainage is provided to reduce exposure to flood hazards.

**§ 190-28. Uses allowed by the Board of Appeals.**

- A. If any land shown on the Zoning Map or defined in this chapter as being in a Floodplain District is proven by the applicant to be in fact not subject to flooding or not unsuitable for human occupancy because of drainage and topographic conditions, the Board of Appeals may permit buildings for human occupancy on such land in accordance with the requirements of the underlying district after the necessary proof has been presented to and reported by the Planning Board, Board of Health and Conservation Commission. [Amended 5-23-1994 ATM by Art. 42]
- B. Such special permit shall be applied for in the manner required for regular building permits but shall be superscribed "Floodplain District Special Permit Application." The Building Inspector shall issue a building permit only as directed by the Board of Appeals.
- C. The Board of Appeals, in hearing each such application, shall consider, in addition to any

other factors said Board deems pertinent, the following aspects with respect to flooding and Floodplain District zoning provisions:

- (1) Geographic location of proposed building and security of driveway or walkway access to it during flooding.
  - (2) Foundation elevations of proposed buildings and security of foundations during flooding, including assurance that foundations would not be undermined and that the proposed building would not be floated off, swept away or battered off during flooding.
  - (3) Disposal of sewage from the proposed buildings and containment of sewage during flooding.
  - (4) Safety of water, sewage, gas, electric and fuel utilities from breaking, leaking, short-circuiting, grounding, igniting, electrocution or other dangers during flooding.
- D. The applicant shall also seek and obtain a Letter of Map Amendment (LOMA) under Part 70 of the National Flood Insurance Program from the Federal Emergency Management Agency.
- E. The Floodplain District is established as an overlay district to all other districts. [Added 5-3-2010 ATM by Art. 28]
- (1) All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40, of the Massachusetts General Laws and with the following:
    - (a) The section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
    - (b) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
    - (c) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
    - (d) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).
  - (2) Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures and applicable state regulations.

**§ 190-29. Site plan approval.**

- A. Applications for site plan approval of uses in the Flood Plain District are reviewed by the Zoning Board of Appeals and complete applications are required in accordance with § 190-73. [Amended 5-23-1994 ATM by Art. 43; 4-8-2002 ATM by Art. 39]
- B. The site plan shall show at least the following:
- (1) The location, boundaries and dimensions of each lot.
  - (2) Two-foot contours of the existing and proposed land structure (Wakefield Sewer Base).

- (3) The location of existing and proposed structures, watercourses, drainage easements, means of access, drainage and sewer disposal facilities.
  - (4) The area and location of existing or proposed leaching fields, if any.
  - (5) Site plans shall be at a suitable scale, prepared by a registered land surveyor or registered professional civil engineer. [Added 4-8-2002 ATM by Art. 39]
- C. In addition to the above, the following information shall be provided:
- (1) A chart showing all required dimensional requirements in the district where the development is proposed and comparing them to the dimensions being proposed.
  - (2) Drainage calculations for all runoff within the site.
  - (3) Map showing existing and proposed two-foot contours. For sites which are relatively flat, one-foot contours may be required. Cross section(s) through the site may also be required.
  - (4) Map showing all outdoor lighting, including the direction and intensity of such lighting.
- D. The above features may all be shown on one site plan, if legibility allows.
- E. Notification of watercourse alteration. In a situation relating to, formed by, or resembling a river, including tributaries, stream, or brook, the Town Engineer or Town Building Official shall notify the following of any alteration or relocation of a watercourse: [Added 5-3-2010 ATM by Art. 28]
- (1) Adjacent communities;
  - (2) NFIP (National Flood Insurance Program) State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
  - (3) NFIP (National Flood Insurance Program) Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

ARTICLE VI  
**Dimensional Regulations**

**§ 190-30. Purpose and intent.**

The purpose and intent of this article is to provide adequate lot size, frontage, privacy, daylight, sunlight and air in the Town; to secure safety; to prevent overcrowding of land; to provide at least a minimum of useful outdoor space; and to establish a minimum and a maximum relationship between lot and structure for the purpose of retaining and preserving the amenities of the various areas of the Town of Wakefield.

**§ 190-31. General regulations.**

- A. Number of one- or two-family residential buildings on a lot. Any one lot shall not contain more than one single-family or two-family dwelling.
- B. Frontage requirements for all districts. Upon approval of the Planning Board, the required frontage for lots on curved streets where the radius of the arc at its degree of greatest curve is less than 100 feet and lots on turning circles may be reduced by not more than 50%, provided that the required lot width is attained at the required minimum front setback line.
- C. Yard requirements for all districts. Where a side or rear yard is adjacent to a street, the side or rear yard requirement shall be the same as the distance specified for front yard setback (unless specifically excepted herein).
  - (1) No front yard shall be used for the open storage of boats, vehicles, travel trailers or any other equipment. In residential districts, parking of vehicles is prohibited in the front yard, except for automobiles parked in the driveway. A driveway in any residential district shall not serve more than one lot, except within an open space development as provided at § 190-93. Driveways shall not exceed a width of 20 feet in residential districts without a special permit from the Board of Appeals, and 60% of the front yard shall be maintained as open area, without parking. In business and industrial districts, parking is permitted in the front yard area, provided that a fifteen-foot landscaped strip is provided adjacent to the street right-of-way line. [Amended 5-6-1996 ATM by Art. 34; 11-8-2004 RTM by Arts. 30 and 33]
  - (2) An unenclosed first story porch with a roof area not exceeding 50 square feet may extend into a required front yard by not more than eight feet.
  - (3) No building need provide a front yard in excess of 20% of the depth of the lot nor more than the average of the building setback on either side (assuming a vacant lot to meet the district requirement).
  - (4) Business structures or uses shall not display goods for sale purposes or display coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this chapter.
  - (5) An accessory building attached to a principal building shall comply in all respects with the yard requirements of this chapter for the principal building. An unattached accessory building serving a one- or two-family dwelling may be located in a rear yard within 7.5 feet of a side or rear lot line.
  - (6) No swimming pool over 24 inches in depth shall be located within 30 feet of any street line or within a required side yard area or within 7.5 feet of a rear lot line.
  - (7) No structure intended for agricultural use, such as a commercial greenhouse or a building, structure or pen for poultry or other livestock, shall be less than 100 feet from any lot line. No commercial farming establishment shall be allowed unless the parcel is over five acres.
  - (8) Any residential dwelling in the Single Residence Zoning District which was in existence prior to the adoption of the current fifteen-foot side yard setback requirement

and is situated so that it is in violation of said setback may make alterations, repairs, additions or the like which encroach into the fifteen-foot side yard setback, provided that such alterations, repairs, additions or the like do not encroach any closer to the side lot line than that of the existing dwelling. [Added 6-7-1990 ATM by Art. 41]

- D. Minimum open area requirements. See § 190-4 for the definition of "open area." Requirements are shown in Table 2.<sup>4</sup>
- E. Exemptions to maximum height regulations. See § 190-4 for the definition of "height of building."
- F. Traffic visibility at driveways and corners. A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot, provided that in the front yard area no such structure or vegetation shall be over two and one-half (2 1/2) feet in height above the adjacent ground within five feet of the front lot line unless it can be shown that such vegetation or structure will not restrict visibility in such a way as to hinder the safe entry or exit of a vehicle from any driveway to the street or restrict visibility at a corner of two streets.
- G. Screening and buffer strips in industrial, business, and multiple residence districts.
  - (1) Screening and buffer strips containing no buildings, parking areas or accessory uses shall be required in any industrial, business or multiple residence district which abuts a residential district. The minimum width of this strip shall be 15 feet, of which 10 feet shall not be paved.
  - (2) The strip shall contain a screen of plantings of vertical habit not less than three feet in width and four feet in height at the time of occupancy of such lot and shall grow to a minimum of four feet in width and five feet in height at maturity. Individual shrubs or trees shall be planted not more than 10 feet on center and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year round. At least 50% of the plantings shall consist of evergreens. A solid wall or fence, five feet in height, complemented by suitable plantings, may be substituted for such landscaped screen planting. No screen shall be closer than five feet to a public or private street right-of-way line.
- H. Setback from open stream. In no case shall any building or structure be permitted within 50 feet of the embankment of any open stream, as defined by the Conservation Commission using the applicable Massachusetts Department of Environmental Quality Engineering standards.
- I. (Reserved)<sup>5</sup>
- J. All lots in residential districts only shall have upland area equal to at least 75% of the required lot area. [Added 4-5-1999 ATM by Art. 25]
- K. No residential lot shall be substantially irregular in shape. For purposes of this provision, "substantially irregular" is defined as having a coefficient of regularity lower than sixty-five

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4. Editor's Note: The Table of Dimensional Regulations (Table 2) is included at the end of this chapter.

5. Editor's Note: Former Subsection I, pertaining to gradient of driveways, added 11-12-1996 STM by Art. 17, was repealed 11-8-2004 RTM by Art. 30.

hundredths (0.65) as determined by the formula:

$$r = \frac{16 A}{p^2}$$

Where:

- r = coefficient of regularity,  
A = area of the lot in square feet,  
p = perimeter of the lot in linear feet.

Upon approval of the Planning Board, the requirements of this section may be waived for any lot that can contain an inscribed shape meeting the requirements of minimum lot area and coefficient of regularity and when, in the opinion of the Planning Board, the lot satisfies the purpose of this section.

[Added 4-5-1999 ATM by Art. 26]

**§ 190-32. Multifamily dwellings.** [Amended 11-8-2004 RTM by Arts. 33 and 34]

The provisions of § 190-32 shall not apply to development proposed under the provisions of § 190-94, Mixed use development, or § 190-95, Creative development.

- A. Garden apartments or attached dwellings or a combination of the same may be allowed by special permit by the Board of Appeals in the MR-1 District, MR-2 District, Business District, Limited Business District, Industrial District and Limited Industrial District. Mid-rise apartments or a combination of mid-rise and garden apartments and attached dwellings may be allowed by special permit by the Planning Board in the MR-2 District, Business District, Limited Business District, Industrial District and Limited Industrial District. It is the intent of this section to encourage the development (in appropriate locations) of attractive, functional multifamily and attached dwellings which respond to the social and economic characteristics and needs of the present and future Wakefield population. [Amended 11-15-2001 RTM by Art. 15]
- B. In order to grant a special permit for a multifamily or attached dwelling development in districts where permitted, the Special Permit Granting Authority must find that the developer has met all of the general requirements for a special permit set forth in Article VIII. In addition, the following specific requirements shall also be met: [Amended 11-15-2001 RTM by Art. 15]
- (1) The minimum lot size for multifamily dwellings, where permitted, shall be 40,000 square feet in the MR-1 District, Business District, Limited Business District, Industrial District and Limited Industrial District and 60,000 square feet in the MR-2 District.
  - (2) Density.
    - (a) The maximum overall density for garden apartments and attached dwellings in the MR-1 District shall be 14 units per acre of lot area (with not more than 28

bedrooms per acre of lot area).

- (b) The maximum overall density for mid-rise apartments or a combination of mid-rise and garden apartments or attached dwellings in the MR-2 District, Business District, Limited Business District, Industrial District and Limited Industrial District shall be 36 units per acre of lot area (with not more than 63 bedrooms per acre of lot area).
  - (3) Where a development containing multifamily or attached dwellings is adjacent to a single-family district or preexisting commercial or industrial development, a buffer strip as described in § 190-31G shall be required.
  - (4) Any proposed multifamily or attached dwelling development shall be served by public water and sewerage systems.
  - (5) A special permit for multifamily dwellings in the Business District, Limited Business District, Industrial District and Limited Industrial District shall be granted only if the Special Permit Granting Authority determines that the proposed residential use will not be detrimental to the economic health of said Business District, Limited Business District, Industrial District and Limited Industrial District and that the proposed location is a suitable residential environment.
- C. Parking areas and open space for multifamily dwellings. [Amended 11-15-2001 RTM by Art. 15]
- (1) No open parking or driveway shall be closer than 12 feet to a wall containing windows to habitable rooms of a dwelling unit which is on the ground floor or basement floor. This shall not apply, however, to the following: (i) to an individual driveway exclusively serving a single unit and/or dwelling or (ii) underground or structured parking.
  - (2) At least 30% of the total area of the multifamily dwelling complex shall be maintained as open area. (See § 190-4 for the definition of "open area".)
- D. Summary of dimensional regulations for multifamily dwellings. The minimum dimensional controls for multifamily dwelling shall be as follows (minimum requirements in feet unless otherwise indicated):

	<b>Mid-Rise Apartment Complex</b>	<b>Garden Apartment or Attached Dwelling Complex</b>	<b>Individual Attached Dwellings</b>
Lot coverage (maximum)	35%	35%	40% <sup>1</sup>
Open area	30%	30%	20% <sup>1</sup>
Lot frontage	180	150	18
Lot width	180	150	18
Height			

Feet	50	35	30
Stories	5	3	2.5
Yards			
Front	30 <sup>2</sup>	30 <sup>2</sup>	20
Side	30 <sup>2</sup>	30 <sup>2</sup>	None
Rear	30 <sup>2</sup>	30 <sup>2</sup>	20
Minimum number of attached units in a row	--	--	3
Distance between unattached buildings	50 <sup>3</sup>	50 <sup>3</sup>	--
Maximum number of attached units in a row	--	--	8

NOTES:

<sup>1</sup>Percent of exclusive use zone [see Subsection F(4)].

<sup>2</sup>Or height of building, whichever is greater.

<sup>3</sup>Or height of taller building, whichever is greater.

- E. Parking and loading. The minimum parking and loading requirements shall be as specified in Article VII of this chapter.
- F. Additional requirements. [Amended 11-15-2001 RTM by Art. 15]
- (1) There shall be a paved driveway or paved walk adequate to accommodate emergency vehicles within 50 feet of the outside entrance of each dwelling structure.
  - (2) Deleted.
  - (3) Individual attached dwellings may be sold as condominium units only and may not be sold as row houses with their own individual lots. Nothing in this subsection is meant to restrict the allocation of outdoor space adjacent to dwelling units for the exclusive use of the occupants of specific dwelling units.
  - (4) In attached dwelling developments, exclusive use zones for the exclusive use of occupants or individual dwelling units shall be shown on the site plan. The ground floor area of the dwelling units shall be shown on the site plan. The ground floor area of the dwelling unit plus the outdoor space allocated for the exclusive use of the dwelling unit shall make up the exclusive use zone. The ground floor of the building shall not occupy more than 40% of the exclusive use zone, and 20% of the exclusive use zone shall be outdoor open area not devoted to driveways or parking areas.
  - (5) No required parking areas for multifamily or attached dwellings shall be placed in the required front yard area of a multifamily or attached dwelling complex, except short-term or visitor parking, which shall not cover more than 40% of such area. This

shall not apply, however, to a parking area in the form of a driveway exclusively serving a single unit and/or dwelling.

- (6) The intent of this Subsection (6) is to increase the supply of housing in the Town of Wakefield that is permanently available to and affordable by low and moderate income households and to encourage a greater diversity of housing accommodations to meet the needs of families and other Wakefield residents; and developing and maintaining a satisfactory proportion of the Town's housing stock as affordable dwelling units. To that end, the Special Permit Granting Authority at the time of the granting of the special permit pursuant to § 190-32 shall require the applicant to provide affordable dwelling units equal in number to 18% of the total number of dwelling units provided on the sites which is the subject of the § 190-32 application. Affordable dwelling units shall be defined as dwelling units which count toward the Town of Wakefield's Massachusetts General Laws, Chapter 40B Subsidized Housing Inventory as the same may be amended from time to time. When the percentage calculation does not result in a whole number it shall be rounded to the nearest whole number, but not less than one. Thus if so required by the Special Permit Granting Authority, [Amended 4-5-2004 ATM by Art. 13; 11-7-2005 RTM by Art. 9<sup>6</sup>]
- (a) The applicant shall submit to the Special Permit Granting Authority, a use restriction or regulatory agreement that establishes an affordability restriction for the maximum period allowed by law for the designated affordable dwelling units. The applicant shall provide, when requested by the SPGA, (1) a copy of the application for a Local Initiative Project or similar program, acceptable to the SPGA, that allows the units be added to the Town's subsidized housing inventory under Massachusetts General Laws, Chapter 40B, as amended from time to time; (2) a complete draft regulatory agreement; and (3) a letter stating the site has been preliminarily approved by the Department of Housing and Community Development or successor agency. This is in order to ensure the long-term affordability of the designated affordable dwelling units. The applicant shall submit proof to the Special Permit Granting Authority that the use restriction or regulatory agreement was recorded at the Registry of Deeds prior to obtaining any building permit for the project;
- (b) The use restriction or regulatory agreement selected by the applicant shall be subject to the approval of the Special Permit Granting Authority using the Department of Housing and Community Development Guidelines. The use restriction or regulatory agreement shall include a right of first refusal upon the transfer of such restricted units for the Town of Wakefield;
- (c) The affordable dwelling units shall be integrated into the overall development or building in which they are situated so as to prevent the physical segregation of such units and their exterior appearance shall be designed to be indistinguishable from the market rate units in the same development or building;
- (d) At the time of application, the applicant shall identify the floor areas of all units.

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**6. Editor's Note: This article also provided that it shall not apply to any special permit decision signed by the Wakefield Planning Board prior to this Town Meeting Vote.**

The affordable dwelling units shall have the same number of bedrooms as the non-affordable dwelling units on a proportionate or pro-rata basis or they may have a smaller number of bedrooms if agreed to by the Special Permit Granting Authority.

- (e) With the approval of the Special Permit Granting Authority, this affordable dwelling unit requirement may be met by placing some or all of the required affordable dwelling units on an alternative site or sites suitable for housing as solely determined by the Special Permit Granting Authority. Existing offsite units that are converted to affordable dwelling units shall not be counted in the total number of units for the purpose of determining the required number of affordable dwelling units. However, new offsite housing units created to satisfy the requirement for affordable dwelling units under this section, shall be considered part of the total number of units for the purpose of determining the total required number of affordable dwelling units. Offsite affordable dwelling units may be located in an existing structure, but, they must be units which are not already counted in the Town of Wakefield's Massachusetts General Laws, Chapter 40B Subsidized Housing Inventory, as amended, at the time of the application. Offsite affordable dwelling units provided through this provision shall comply, in all respects other than onsite location, with the requirements of this Subsection (6).
- (f) The following requirement shall be a condition of special permits which require affordable dwelling units in order to prevent disproportionate number non-affordable dwelling units being occupied prior to the completion and occupancy of affordable dwelling units:
  - (i) No market rate units exceeding 25% of the total shall be occupied unless 25% of the affordable dwelling units have been completed and occupancy permits issued therefor.
  - (ii) No market rate units exceeding 50% of the total shall be occupied unless 50% of the affordable dwelling units have been completed and occupancy permits issued therefor.
  - (iii) No market rate units exceeding 75% of the total shall be occupied unless 75% of the affordable dwelling units have been completed and occupancy permits issued therefor.
  - (iv) No market rate units exceeding 95% of the total shall be occupied unless 100% of the affordable dwelling units have been completed and occupancy permits issued therefor.

G. Conversions to apartments. [Amended 5-3-2010 ATM by Art. 30]

- (1) A single-family dwelling in the Single Residence District may be converted, within the existing building's footprint and volume, to a two-family dwelling, provided that the dwelling contains nine or more rooms, was originally constructed prior to 1935 and is

located on a lot of 12,000 square feet or more. In the Single Residence District, a special permit shall be required from the Board of Appeals. [Amended 5-23-1994 ATM by Art. 39]

- (2) A single- or two-family dwelling in the General Residence District or Business District may be converted, within the existing building's footprint and volume, to a three- or four-family dwelling, provided that:
  - (a) The dwelling is located on a lot of 13,000 square feet or more.
  - (b) There shall be a minimum lot area of 3,500 square feet for each dwelling unit provided.
  - (c) There shall be a minimum floor area of 650 square feet for each dwelling unit provided.
  - (d) A special permit shall be obtained from the Board of Appeals. Conversions in the Business District shall be granted only if the Board of Appeals determines that the proposed residential use will not be detrimental to the economic health of the Business District and that the proposed location is a suitable residential environment.
  - (e) The conversion shall meet all building codes, fire, safety and health regulations and other sections of this chapter.

**§ 190-32.1. Multifamily dwelling dimensional control and exclusive use area relief.** [Added 11-15-2001 RTM by Art. 16]

- A. The Special Permit Granting Authority, as provided in § 190-32, may allow reductions and/or alterations in the dimensional controls for multifamily dwellings as required under § 190-32D and Table 2 (Table of Dimensional Regulations) of the Zoning Bylaw by special permit, according to procedure contained in Article VIII, and if it deems the reductions will enhance the multifamily project as a whole or allow it to benefit the neighborhood in which it is situated or the Town of Wakefield as a whole.
- B. The Special Permit Granting Authority, as provided in § 190-32, may reduce the requirements of § 190-32F(3) by special permit, according to procedure contained in Article VIII, and if it deems the common open space is adequate to accommodate all of the units and/or dwellings.

**§ 190-33. (Reserved)**<sup>7</sup>

**§ 190-34. Table of Dimensional Regulations.** [Amended 4-13-2000 ATM by Art. 26]

- A. The dimensional regulations set forth in this article applicable to every lot of land in the Municipal District shall be the same as the dimensional regulations applicable to the zoning district surrounding such lot of land as set forth in Table 2, the Table of Dimensional

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<sup>7</sup>. Editor's Note: Former § 190-33, Cluster development, was repealed 11-8-2004 RTM by Art. 30. See now § 190-93, Open space development.

Regulations;<sup>8</sup> except that in the case of a lot of land in the Municipal District which is adjacent to two or more zoning districts, the dimensional regulations applicable to such lot of land shall be the same as the dimensional regulations applicable to the least-restrictive such adjacent zoning district.

- B. Variation from the dimensional regulations of Article VI applicable to a particular lot of land in the Municipal District shall be allowed by a special permit granted by the special permit granting authority, according to the procedure contained in Article VIII.

**§ 190-35. Front and rear yards.** [Added 11-12-1996 STM by Art. 15]

No lot on which any building is located shall be divided or subdivided in such a way that the original front yard of such existing building shall face the rear yard, as defined by this chapter, of any proposed lot or lots.

**ARTICLE VII  
Parking and Loading Requirements**

**§ 190-36. Intent and purpose.**

It is the intent and purpose of this article to stipulate provisions for off-street parking and loading requirements.

- A. General requirement. In order that all structures and land uses eventually shall be provided with sufficient off-street parking and loading to meet the needs of persons employed at or making use of such structures or land uses, no land shall be used and no building shall be erected, enlarged or used unless off-street parking area, conforming in amount and type to the requirements of this article, is provided.
- B. Exceptions for existing nonconforming uses and buildings. The addition of off-street parking for an existing nonconforming use or building shall be required only in the following instances:
  - (1) Change of use. Where a nonconforming use is increased in area or changed to a use requiring more parking or loading than the present use according to the tables below, additional spaces shall be provided in the amount necessary so that said expansion or change in use will not result in any increased violation of the requirements of this article.
  - (2) Change to building or lot. Any spaces lost by exterior alteration of a nonconforming building shall be replaced by the same number or by enough to make up the total number required by the tables below for the use, whichever is less.
  - (3) Parking exemption for small establishment. Off-street parking space shall not be required for nonresidential uses when the computed requirement results in four spaces or fewer for all the nonresidential uses on the lot.
- C. Exceptions for Business District. When the literal application of the standards for off-street

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<sup>8</sup>. Editor's Note: The Table of Dimensional Regulations is included at the end of this chapter.

parking and loading required herein proves to be infeasible in the Business District or the Municipal District, the Board of Appeals may reduce the requirements by issuance of a special permit. Any such reductions shall be supported by evidence of infeasibility due to lack of suitable land, design considerations or other similar factors. The Board of Appeals must also find that the granting of such special permit will not adversely affect the health, safety, convenience, character or welfare of the neighborhood or district or of the Town. [Amended 4-13-2000 ATM by Art. 26]

**§ 190-37. Location and design of off-street parking spaces.**

- A. On the same lot or off-lot by special permit. Required off-street parking areas shall be provided on the same lot they serve, except that the Board of Appeals may permit off-street parking areas to be provided on another lot in the same ownership as the principal use, but in no event shall the access to such areas be more than 200 feet distant from the lot line of the lot they are designed to serve.
- B. Construction. Off-street parking areas may be open or enclosed in a structure, provided that, if open, such areas shall be graded, drained and surfaced in conformance with currently applicable engineering standards as determined and promulgated by the Director of Public Works. In no instance shall surface drainage be permitted to drain onto land of adjacent property owners or the Town right-of-way. The Director of Public Works may require a permeable surfacing in areas designated as high-runoff areas.
- C. Size of parking spaces. Each required off-street parking space shall be marked and shall not be less than nine feet in width and 18 feet in length for angle parking or 22 feet in length for parallel parking, exclusive of drives, walks and maneuvering space.
- D. Aisles. Each required off-street parking space shall have direct access to an aisle or driveway having a minimum width of 24 feet in the case of two-way traffic (22 feet for aisles providing access primarily for overnight parking) or the following widths in the case of one-way traffic only:

<b>Angle of Parking</b>	<b>Minimum Aisle Width (feet)</b>
Parallel	12
30°	11
45°	13
60°	18
90°	20

- E. Landscaping of parking lot.

- (1) Required setbacks. The surfaced areas of off-street parking areas shall be set back a minimum of 7.5 feet from all buildings, except as may be approved by the Planning Board where specifically authorized in acting under § 190-93, Open space development, or comparable provisions of other zoning provisions, upon its determination that the required amounts of open space will be provided, and that locating that open space as proposed better serves the objectives of the Zoning Bylaw. Open parking areas shall be separated from the street line by a landscaped strip not less than 15 feet in width, except at entrances and exits, at which locations the provisions of § 190-31F, Traffic visibility, shall be observed. [Amended 11-8-2004 RTM by Arts. 30, 33, 34]
  - (2) Interior of parking lot. At least 5% of the interior of any parking lot with 40 or more parking spaces shall be landscaped (i.e., off-street parking areas, with the exception of parking structures, shall be planted with shade trees of a species and size approved by the Town Arborist. There shall be a minimum of one tree for each 2,000 square feet of parking area and located as approved by the Town Arborist. Any trees surrounded on three or more sides by pavement shall be planted with a raised island bound by a curb a minimum of six inches high, covered with a porous material for water drainage to the tree roots, and have a surface drainage area immediately around the tree a minimum of 30 square feet in area.), but planting or screening along the perimeter shall not be counted as part of this 5%.
- F. Screening in business, industrial and multiple residence districts next to residence. Any yard in a business, industrial or multiple residence district which adjoins a lot in a residential district and which is used for accessory parking or loading shall be screened as described in § 190-31G before construction commences.
- G. Parking for handicapped persons. Parking for handicapped persons in accordance with the published standards of the Massachusetts Architectural Barriers Board shall be provided.
- H. Wheel blocks. Wheel blocks (bumper logs) made of cement concrete or other suitable material shall be provided to prevent motor vehicles from being parked beyond the boundaries of the lot or within the required setback or buffer areas.
- I. Driveways. [Amended 11-8-2004 RTM by Arts. 30, 33, 34]
- (1) Unless authorized by special permit, which may permit a driveway of no more than 40 feet, driveways serving parking facilities shall not exceed 30 feet in width at the street line and shall not be spaced closer than 100 feet to another driveway serving the same lot. [Amended 11-8-2007 RTM by Art. 4]
  - (2) No driveway shall have an average gradient of more than 10% over the 40 feet thereof adjacent to the point where such driveway meets the street. See § 190-37I(3)(d) below for common driveways.
  - (3) Common driveways. Driveways serving required parking on more than one lot ("common driveway") are allowed only where specifically authorized in this section, such as for development under the provisions of § 190-93, Open space development. Where allowed, they shall be subject to the following, except as may be approved in unusual circumstances by the Planning Board in acting under § 190-93 or comparable

provisions of other authorizing zoning sections:

- (a) Common driveways shall provide access to not more than four lots.
- (b) Common driveways shall be not less than 16 feet in width, with center line and curb radii adequate for fire and other emergency vehicles.
- (c) The maximum length of a common driveway shall be 400 feet (measured along its center line from its intersection with the side line of a street to the most distant point on its turnaround).
- (d) The grade of any common driveway shall not exceed 10% and shall not exceed 5% within 40 feet of its street intersection. With the approval of the Planning Board as specified above, short sections may exceed 10% but in no event shall any section exceed 13%.
- (e) Street addresses for all premises on a common driveway shall be posted in a manner sufficient for public safety purposes both at the intersection of the common driveway and the street and at the intersection of the common driveway and each individual driveway.
- (f) An agreement providing access over the common driveway to all lots and making all lots served by the common driveway jointly responsible for its maintenance and repair, including snowplowing, shall be recorded at the Middlesex County Registry of Deeds. Evidence of the recording shall be submitted to the Building Inspector prior to the issuance of a building permit for any lot served by the common driveway.
- (g) The Planning Board shall require engineered plans for the driveways and related drainage and also security for their completion unless it deems plans or security to be unnecessary in an unusual case. Design and construction shall be consistent with the requirements of the Subdivision Regulations of the Wakefield Planning Board, except as may otherwise be authorized by the Planning Board.

**§ 190-38. Design and layout of off-street loading.**

A. Design.

- (1) Size and location of space. Each required loading space shall be no less than 12 feet in width, 14 feet in height and 30 feet in length in a business district and 50 feet in length in an industrial district, exclusive of drives and maneuvering space, and such space, including necessary maneuvering areas, shall be entirely on the lot being served.
- (2) General design. Spaces, maneuvering areas and access drives shall be designed so that they do not constitute a nuisance or a hazard or unreasonable impediment to traffic on public ways or in parking lots open to the public.

B. Enclosure. Loading spaces may be enclosed in a structure and shall be so enclosed if located within 50 feet of a residence district where the use involves regular night operation.

C. Construction. All driveways, entranceways and loading areas shall be graded, surfaced and

drained to the satisfaction of the Director of Public Works and to the extent necessary to prevent nuisances of dust, erosion or excessive water flow across public ways.

**§ 190-39. Required off-street loading.**

- A. Interpretation. Off-street loading bays shall be provided for new structures and new additions in accordance with the following table.
- B. Table of Required Off-Street Loading Bays.

<b>Type of Use</b>	<b>Number of Loading Bays Required by Gross Floor Area of Structure (in thousands of square feet)</b>				
	2-10	10-50	50-100	100-150	Each additional 150
Retail trade, wholesale, storage, industry, communications and utilities	1	2	3		1
Office building, hotel, dormitory, institution, recreation and education			1	1	1

**§ 190-40. Protection of residence districts.**

Except for parking accessory to dwellings, all parking and loading, including outdoor storage, sale or service to automobiles or to their occupants, shall meet the following requirements:

- A. Access. All such parking or loading areas shall have access either directly from a public way or through a business or industrial district and not through a residential district.
- B. Screening. All such parking or loading areas in any district shall be screened in accordance with § 190-31G.
- C. Illumination. All illumination of such parking and loading areas shall be continuous light installed and shielded in such a manner that will prevent direct light from shining upon any other property in a residence district.

**§ 190-41. Required off-street parking.**

- A. Interpretation.
  - (1) Fractions. Where the computation of required spaces results in a fractional number, the next larger whole number shall be used.
  - (2) Joint parking lot. The aggregate number of spaces required for each of several uses separately may be provided on a common parking lot serving all of these uses, and, where it can be demonstrated that the combined peak parking needs of all the uses sharing the lot will, because of differences in peak hours or days, be less than the aggregate normally required for each use separately, the number of parking spaces to

be provided may be reduced accordingly.

- B. Table of Required Off-Street Parking. Off-street parking shall be provided for new structures and new additions or for changes in use in accordance with the following table.

**Table 3**  
**Table of Required Off-Street Parking**

<b>Principal Use</b>	<b>Number of Spaces Required</b>
1- or 2-family houses	2.0 per dwelling unit
Housing for the elderly (publicly assisted)	0.5 per dwelling unit
Multifamily dwellings or attached dwellings	
2 bedrooms or fewer	1.5 per dwelling unit
3 bedrooms or more	2.0 per dwelling unit
Hotels	1.0 per 2 employees in maximum working shift, plus 1.0 per guest room, plus 1.0 per 3 seats in a restaurant, plus 1.0 per 200 square feet of space in function rooms not designed for eating
Accessory lodgings or lodging	1.0 per room offered for rent
Places of public assembly, such as churches, theaters, assembly halls, stadiums, clubhouses and function halls	1.0 per 5 seats or 10 linear feet of bench space or 50 square feet of floor area open to public assembly where no seats or benches are provided, plus 1.0 per 2 employees in the maximum working shift
Eating places serving food or beverages	1.0 per 3 employees in the maximum working shift, plus 1.0 per 4 seats, plus 1.0 per 100 square feet of function rooms not designed for eating
Funeral homes; undertakers	1.0 per 4 seats or 1 per 50 square feet in parlors, whichever is greater
Bowling alleys	2.0 per bowling alley
Hospitals, chronic or convalescent sanatoriums and nursing or convalescent homes	1.0 per 2 employees in the maximum working shift, plus 1.0 per attending doctor, plus 1.0 per 2 patient beds
Schools and museums	2.0 per 3 staff members, plus 1.0 per 3 students of driving age (unless car usage is prohibited) or 1.0 per 6 seats in largest place of assembly (whichever is greater)
Retail and service establishments	1.0 per 250 square feet of gross floor area
Business offices	1.0 per 250 square feet of gross floor area
Medical and dental offices	1.0 per 200 square feet of gross floor area
Research and development	1.0 per 450 square feet of gross floor area or 1.0 per 2

	employees in the maximum working shift (whichever is greater)
Industrial, including printing and publishing	1.0 per 600 square feet of gross floor area <sup>1</sup> or 1.0 per 2 employees in the maximum working shift (whichever is greater)
Gasoline stations or repair garages	1.0 per 300 square feet of gross floor area <sup>1</sup>
Warehouses, wholesale establishments and public utility stations	1.0 per 1,200 square feet of gross floor area <sup>1</sup>
Auto sales and display (new and used)	1.0 per each 7 autos licensed for sale

NOTES:

<sup>1</sup>Square feet of gross floor area is defined as follows: the sum of the floor areas of all parts of the building(s) measured from the outer faces of the walls, excluding basement areas whose interior height is more than 50% below average finished grade and excluding enclosed parking garages.

ARTICLE VIII  
**Special Permits and Site Plan Review**

**§ 190-42. Purpose and intent.**

It is the purpose and intent of this article to provide the designation of the board or agency which shall act on the various special permits, the general and specific regulations governing special permits and the procedures by which special permits shall be granted.

**§ 190-43. Designation of special permit granting authority.** [Amended 4-8-2002 ATM by Arts. 37 and 39]

The Board of Appeals shall act as the special permit granting authority for all special permits required under this chapter, except where the Planning Board or other agency is specifically designated as the special permit granting authority by this chapter. See § 190-73 for the general submission requirements for applications to the Zoning Board of Appeals and the Planning Board.

- A. The Board of Selectmen and the Planning Board shall appoint an associate member of the Planning Board for a term of one year. When the Planning Board has been designated as a special permit granting authority by this chapter, the chairman of the Planning Board may designate the associate member to sit on the Planning Board in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Planning Board.

**§ 190-44. General regulations.**

Certain uses, structures or conditions are designated in Article IV, Use Regulations, as requiring a special permit. Upon submission of a written application duly made to the special permit granting authority, the special permit granting authority may, in appropriate cases, subject to the requirements of state law, applicable conditions contained herein and to all other reasonable

conditions and safeguards, grant a special permit for such uses, structures or conditions.

- A. Before granting a special permit, the special permit granting authority, with due regard to the nature and condition of all adjacent structures and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
- (1) The use requested is listed in the Table of Use Regulations<sup>9</sup> as requiring a special permit in the district for which application is made.
  - (2) The requested use is essential and/or desirable to the public convenience or welfare.
  - (3) The requested use will not create or add to undue traffic congestion or unduly impair pedestrian safety.
  - (4) The requested use will not overload any public water, drainage or sewer system or any other municipal system for such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
  - (5) The requested use will not impair the integrity or character of the district or adjoining districts nor be detrimental to the public health, convenience or welfare.
  - (6) The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.
- B. The special permit granting authority shall also impose, in addition to any applicable conditions specified in this chapter, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose of this chapter, including but not limited to the following:
- (1) Front, side or rear yards greater than the minimum required by this chapter.
  - (2) Screening buffers or planting strips, fences or walls.
  - (3) Modification of the exterior appearance of the structures.
  - (4) Limitation upon the size, number of occupants, method and time of operating for the duration of the permit or extent of facilities.
  - (5) Regulation of the number and location of driveways or other traffic features.
  - (6) Off-street parking or loading or other special features beyond the minimum required by this chapter.
- C. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the special permit granting authority. Any special permit granted under this article shall lapse within 12 months if a substantial use thereof has not sooner commenced, except for good cause, or, in the case of a permit for construction, if construction has not begun by such date, except for good cause. Additionally, if construction or operations have not begun within 12 months or if construction is not continuing toward completion in as continuous or expeditious manner as

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9. Editor's Note: See § 190-23.

is reasonable during the initial 12 months, then the construction or operations shall conform to any amendment to this chapter. (See MGL c. 40A, § 9.)

- D. Incomplete applications. [Added 5-3-2010 ATM by Art. 29]
- (1) An application shall not be deemed complete until all copies of the required information and documentation have been filed with the special permit granting authority.
  - (2) The special permit granting authority shall notify applicants by registered mail or in person at a public hearing that an application is incomplete, and the applicant shall have 14 days from the mailing of such notice or the giving of such notice at a public hearing to complete the application. Failure to complete an application within such time or to file plans with the agencies or officials set forth in the Zoning Bylaw and any applicable rules and regulations shall be deemed a nonsubmittal of the application, and the application shall be denied without prejudice.
  - (3) Failure of the special permit granting authority to issue notice of an incomplete application shall not give rise to a presumption that the application is complete.

**§ 190-45. Site plan review in conjunction with special permit application.**

- A. In order that the special permit granting authority may determine that the aforementioned requirements are to be met, applications shall be submitted in accordance with § 190-73. [Amended 4-8-2002 ATM by Art. 39]
- B. Such site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas and other open uses; all facilities for sewage, refuse and other waste disposal and for surface water drainage; and all landscape features, such as fences, walls, planting areas and walks on the lot and tract.
- C. In addition to the above, the following information shall be provided:
- (1) A chart showing all required dimensional requirements in the district where the development is proposed and comparing them to the dimensions being proposed.
  - (2) Drainage calculations for all runoff within the site.
  - (3) Map showing existing and proposed two-foot contours. For sites which are relatively flat, one-foot contours may be required. Cross section(s) through the site may also be required.
  - (4) Map showing all outdoor lighting, including the direction and intensity of such lighting.
- D. The above features may all be shown on one site plan, if legibility allows.
- E. An applicant may, prior to submitting his application for a special permit to the granting authority, meet with the special permit granting authority and orally describe the project. The special permit granting authority may waive or modify the requirements for a detailed site plan, as described above, after such a meeting.

- F. Notwithstanding anything contained in this chapter to the contrary, the submission or distribution of site plans as herein set forth shall not be required in the following instances: [Amended 6-7-1990 ATM by Art. 40; 4-8-2002 ATM by Art. 39]
- (1) In special permit applications pursuant to § 190-22A(1)(f), Accessory apartments.
  - (2) In special permit applications pursuant to § 190-18, Home occupations.
- G. In reviewing a site plan, the special permit granting authority and the other applicable agencies shall consider, among other things, the following:
- (1) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements.
  - (2) Adequacy of the methods of disposal for sewage, refuse and other wastes and the methods for surface and storm water drainage.
  - (3) Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the lot or tract.<sup>10</sup>

**§ 190-46. Site plan review where special permit is not required.** [Added 6-5-1989 ATM by Art. 51]

All proposals which are located in an area of the Town zoned as a Neighborhood Business District, a Limited Business District, a Business District, a Limited Industrial District or an Industrial District and which do not require a special permit from the special permit granting authority must be approved by the Planning Board through site plan review prior to the issuance of a building permit.

- A. The Planning Board is hereby authorized to exercise the powers of site plan review over proposals not subject to a special permit application and located on parcels zoned or currently used as neighborhood business, limited business, business, limited industrial or industrial land uses.
- B. The site plan review regulations which the Planning Board adopts may:
- (1) Provide for the safe and attractive development or change or expansion of use of the site and guard against such conditions as would involve danger or injury to health, safety or prosperity by reason of:
    - (a) Inadequate drainage or conditions conducive to flooding of the property or that of another.
    - (b) Inadequate protection for the quality of groundwater.
    - (c) Minimizing elements of pollution, such as noise, smoke, soot, particulates or any other discharge into the environment which might prove harmful to persons, structures or adjacent properties.
    - (d) Inadequate provision for firesafety, prevention and control.

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<sup>10</sup>. Editor's Note: Former Subsections H, I and J, as amended, which immediately followed this subsection, were repealed 4-8-2002 ATM by Art. 39.

- (2) Provide for the harmonious and aesthetically pleasing development of the municipality and its environs.
- (3) Provide for open spaces and green spaces of adequate proportions.
- (4) Require the proper arrangement and coordination of streets within the site in relation to other existing or planned streets or with features of the Official Map of Wakefield.
- (5) Require suitably located access roads of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings and coordinated so as to compose a convenient system.
- (6) Require, in proper cases, that plans showing new access roads or narrowing or widening of such access roads be submitted to the Planning Board for approval.
- (7) Require that the land indicated on plans submitted to the Planning Board shall be of such character that it can be used for building purposes without danger to health.
- (8) Include such provisions as will tend to create conditions favorable for health, safety, convenience and prosperity.

C. The site plan review regulations which the Planning Board adopts shall:

- (1) Provide procedures which the Board shall follow in reviewing site plans.
- (2) Define the purposes of site plan review.
- (3) Specify the general standards and requirements with which the proposed development shall comply, including appropriate reference to accepted codes and standards for construction.
- (4) Include provisions for guaranties of performance, including bonds or other security.
- (5) Include provision for waiver of any portion of the regulations in such cases where, in the opinion of the Planning Board, strict conformity would pose an unnecessary hardship to the applicant, and provided that such waiver would not be contrary to the spirit and intent of the regulations.

D. The site plan review regulations of the Planning Board may stipulate, as a condition precedent to the approval of the plan, the extent to which and the manner in which streets shall be graded and improved and to which water, sewer and other utility mains, piping, connections or other facilities shall be installed. The regulations or practice of the Planning Board:

- (1) May provide for the conditional approval of the plat before such improvements and installations have been constructed.
- (2) Shall provide that, in lieu of the completion of street work and utility installations prior to the final approval of a plat, the Planning Board shall accept a performance bond, irrevocable letter of credit or other type or types of security as shall be specified in the site plan review regulations. The Planning Board shall have the discretion to prescribe the type and amount of the bond or other security and specify a period for completion

of the improvements and utilities to be expressed in the bond or other security in order to secure the municipality the actual construction and installation of such improvements and utilities. The municipality shall have the power to enforce such bonds or other securities by all appropriate legal and equitable remedies.

- E. The Planning Board may, as part of its site plan review regulations, require an applicant to pay all costs for notification of abutters and may provide for the assessment of reasonable fees to cover the Board's administrative expenses and costs of special investigation and the review of documents and other matters which may be required by particular matters.
- F. Administration. When exercising its powers of site plan review, the Planning Board shall hold a public hearing pursuant to MGL c. 40A, § 11 on any complete site plan review application within 30 days of its submission. The Planning Board shall make a final decision regarding a site plan within 90 days after the date of its public hearing. The required time limits for public hearing and Planning Board action may be extended by written agreement between the applicant and the Planning Board. Failure of the Planning Board to act within said 90 days or extended time, if applicable, shall be deemed an approval of the site plan.
- G. Appeal of decision. Pursuant to MGL c. 40A, § 8, any party aggrieved by a decision by the Wakefield Planning Board to approve, conditionally approve or deny a commercial, industrial or multifamily site plan may appeal said decision by making application for an appeal from the terms of the decision to the Wakefield Zoning Board of Appeals.
  - (1) Any such appeal must be filed within 20 days of the decision and must demonstrate all of the following:
    - (a) A significant diminution of surrounding property values will not occur.
    - (b) Granting the appeal will be of benefit to the public interest.
    - (c) The Planning Board's decision will result in an unnecessary hardship being imposed. (The physical or economic condition of an individual or firm is not sufficient grounds for hardship.)
    - (d) Granting the appeal would do substantial justice.
    - (e) The proposed use is not contrary to the spirit of this chapter.
  - (2) The failure of an applicant to demonstrate all of the foregoing shall result in the denial of the appeal by the Wakefield Zoning Board of Appeals.
  - (3) The satisfactory demonstration of all of the foregoing shall result in the approval of the appeal by the Wakefield Zoning Board of Appeals.

#### **§ 190-47. Scientific research and development.**

Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit, provided that the special permit granting authority finds that the proposed accessory use does not substantially derogate from the public good.

**§ 190-48. Public hearing and review procedures.**

The special permit granting authority shall follow the required public hearing and review procedures set forth in MGL c. 40A, § 9 and in § 190-68 hereof. The public hearing shall be held within 65 days of the filing of the petition, and a decision shall be made within 90 days of the public hearing.

**ARTICLE IX  
Nonconforming Uses**

**§ 190-49. Nonconforming use of structure.**

Nonconforming use of a structure is herein defined as a use of a building, lot or structure that does not conform to a use regulation prescribed by this chapter for the district in which it is located but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

**§ 190-50. Continuation and extension.** [Amended 5-5-1997 ATM by Art. 40]

Except as hereinafter provided, this chapter shall not apply to uses, buildings or structures lawfully in existence or lawfully begun or to a building or special permit issued before the first publication of notice of the public hearing on this chapter required by MGL c. 40A, § 5, 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.

- A. Preexisting single- and/or two-family residential structures may be reconstructed, changed, extended or altered without the necessity of a public hearing, provided that it is determined that no such reconstruction, change, extension or alteration shall increase the nonconforming nature of said structure. Such determination shall be made by the Board of Appeals or the Zoning Administrator. In the event that such reconstruction, change, extension or alteration increases the nonconformity of said structure, no such reconstruction, change, extension or alteration shall be permitted unless there is a finding by the Board of Appeals pursuant to a public hearing that such reconstruction, change, extension or alteration shall not be substantially more detrimental than the existing nonconformity to the neighborhood.
- B. Preexisting nonconforming buildings, structures or uses (with the exception of single- or two-family structures) may be changed, extended or altered, provided that no such change, extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.
- C. This article shall not apply to billboards, signs and other advertising devices subject to the provisions of MGL c. 93, §§ 29 through 33, inclusive, and MGL c. 93D.

**§ 190-51. Abandonment.**

Nonconforming uses, buildings or structures abandoned or not used continuously for a period of two years shall be required to conform to the current bylaw provisions.

**§ 190-52. Cases where permit is already issued.**

Nothing herein shall require any change in plans, construction or intended use of a building for which an unexpired permit has heretofore been issued and the construction of which shall be commenced within a period of six months and completed according to such permit within one year after the issuance of the permit.

**§ 190-53. Restoration after fire.**

Any nonconforming structure may be restored and used regardless of the estimated restoration cost, provided that the new or restored structure is not substantially more nonconforming than the former structure.

**§ 190-54. Ruling principle.**

In no instance shall nonconforming uses or structures be made more nonconforming unless the Board of Appeals finds that such additional nonconformity will fulfill the intents and purposes of this chapter and will be in the general welfare.

**§ 190-55. Nonconforming lot.**

A nonconforming lot is a lot which does not meet the current area or frontage requirements for lots in the district in which it is located. Such lot may or may not be buildable depending upon the date it became nonconforming and any applicable exemptions provided by local law or MGL c. 40A.

ARTICLE X  
**Administration and Enforcement**

**§ 190-56. Intent and purpose.**

The intent and purpose of this article is to provide the specific means by which this chapter is administered, enforced, varied and amended.

**§ 190-57. Administrative official.**

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Building Inspector, who shall have such powers as are conferred upon him by this chapter and as reasonably may be implied. He shall be appointed as presently specified by the bylaws of the Town of Wakefield.

**§ 190-58. Duties of the Building Inspector.**

- A. It shall be the duty of the Building Inspector, or his duly authorized agents, to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of provisions of this chapter as provided by MGL c. 40A, § 7.

- B. When the Building Inspector, in the course of his or her duties, determines that any plans, buildings or premises are in violation of the provisions of this chapter, he or she shall order the responsible party, in writing, to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered, the time permitted for such action and the penalties and remedies which may be invoked by the Town and the violator's right of appeal, all as provided for by this chapter.
- C. On the serving of notice by the Building Inspector to the owner for any violation of any provisions of this chapter, the certificate of occupancy shall be considered null and void, and a new certificate of occupancy shall be required for any further use of such building or premises unless the above written order provides otherwise.
- D. The Building Inspector shall maintain a permanent public record of all matters considered and all action taken by him, and such records shall form a part of the records of his office.
- E. An individual permanent file for each application by street address for a permit provided for by this chapter shall be established at the time the application is made. Said file shall contain one copy of the application and all supporting documents, maps and plans; notations regarding pertinent dates and fees and the like; as appropriate, one copy of the resolution of the special permit granting authority or the Board of Appeals in acting on the application; and the date the permit applied for was issued or denied by the Building Inspector.
- F. If the Building Inspector is requested, in writing, to enforce this chapter against any person allegedly in violation of the same and the Building Inspector declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefor within 14 days after such receipt.
- G. The Building Inspector shall prepare a monthly report. Said report shall cite all actions taken by the Building Inspector, including all referrals made, all permits and certificates issued and denied, all complaints of violations received, all violations found and the action taken consequent thereon. A copy of this monthly report shall be transmitted by the Building Inspector to the Board of Selectmen, the Board of Assessors, the Planning Board and the Board of Appeals.

**§ 190-59. Building permits.**

- A. It shall be unlawful for any owner or person to erect, construct, reconstruct or alter a structure, including a sign, or change the use or lot coverage, increase the intensity of use or extend or displace the use of any building, other structure or lot without applying for and receiving from the Building Inspector the required building permit therefor. For purposes of administration, such permit and application procedure involving a structure may be made at the same time and combined with the permit required under the Building Code.<sup>11</sup>
- B. An application for a permit shall be accompanied by a plan, accurately drawn on a scale of one inch equals 40 feet, prepared and stamped by a registered engineer or land surveyor showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings or

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<sup>11</sup>. Editor's Note: See Ch. 94, Building Construction.

structures to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this chapter.

- C. No permit shall be issued under this section if the building, structure or lot as constructed, altered, relocated or used would be in violation of any provision of this chapter. Whenever such permit or license is refused because of some provisions of this chapter, the reason therefor shall be clearly stated in writing. The Building Inspector shall taken action on an application for permit, either granting the permit or disapproving the application, within 30 days of receipt of the application.
- D. Construction under a building permit shall begin within six months after the date of issuance and shall continue through to completion as continuously and expeditiously as is reasonable.

**§ 190-60. Certificates of occupancy.**

No building hereafter erected, altered substantially in its use or extent or relocated shall be used or occupied, and no change shall be made of the use of any building or of any parcel of land, unless a certificate of occupancy signed by the Building Inspector has been granted to the owner for occupancy of such land or building. Such certificate shall not be granted unless the proposed use of the land and building and all accessory uses comply in all respects with this chapter and if use shall be made of such land or building that is not authorized by such certificate of occupancy.

**§ 190-61. Permit and certificate fees.**

Fees shall be established from time to time for this chapter by the Town Meeting of the Town of Wakefield. These fees are set forth in Article XII of this chapter.

**§ 190-62. Violations and penalties.**

If the Building Inspector shall be informed in writing or have reason to believe that any provision of this chapter has been, is being or may be violated, he shall make or cause to be made an investigation of the facts and inspect the property where the violation may exist. If he shall find any such violation, he shall serve a notice of violation and order to any owner or person responsible for such violation of any approved plan, information or drawing pertinent thereto or in violation of a permit or certificate issued under the provisions of this chapter, and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a reasonable time to be specified by the Building Inspector. Any owner having been served with a notice and who ceases any work or other activity shall not leave any structure or lot in such condition as to be a hazard or menace to the public safety, health or general welfare.

**§ 190-63. Prosecution of violations; noncriminal disposition.** [Amended 6-5-1989 ATM by Art. 48; 4-5-1999 ATM by Art. 23]

If the notice of violation and order is not complied with promptly, the Building Inspector shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use of condition and to restrain, correct or abate such violation. Penalties for violations shall, upon conviction, be affixed in the sum of \$100 for each offense. Each day, or portion of a day, that any

violation is allowed to continue shall constitute a separate offense. Any alleged violation of any of the provisions of this chapter may, in the sole discretion of the Building Inspector or his designee, be made the subject matter of proceedings initiated by the Building Inspector pursuant to the provisions of MGL c. 40, § 21D, that is disposition. If the Building Inspector so elects to proceed under MGL c. 40, § 21D, all the terms and provisions of such chapter and section shall thereafter govern said action.

**§ 190-64. Board of Appeals.**

- A. Membership. There shall be a Zoning Board of Appeals (hereafter called "Board of Appeals") consisting of five members and three associate members. All members of said Board of Appeals shall be registered voters in the Town of Wakefield. The Board of Appeals shall annually elect a Chairman and a Clerk from its membership. [Amended 12-15-1997 STM by Art. 8]
- B. Appointment. Members of the Board of Appeals in office at the effective date of this chapter shall continue in office for the duration of their appointed terms. However, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to MGL c. 40A (the Zoning Act) and the bylaws of the Town of Wakefield.
- C. Powers.
- (1) Under this chapter, the Board of Appeals shall have the following powers:
    - (a) To hear and decide appeals.
    - (b) To hear and decide applications for certain special permits referred to in this chapter.
    - (c) To hear and decide petitions for variances, as provided in § 190-66 hereof.
    - (d) To hear and make findings allowing the extension, reconstruction or alteration of preexisting nonconforming uses as provided in the Zoning Act.<sup>12</sup>
  - (2) In exercising the powers under Subsection C(1) above, the Board of Appeals may impose limitations both of time and use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time thereafter.
  - (3) In exercising these powers, the Board of Appeals may, in conformity with the provisions of this chapter and the Zoning Act, reverse or affirm, in whole or in part, or may modify any order or decision and may make such order or decision as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
- D. Adoption of rules. The Board of Appeals shall adopt rules, pursuant to the Zoning Act<sup>13</sup> and not inconsistent with the provisions of the bylaws of the Town, for conducting its business and otherwise carrying out the purposes of this chapter. A copy of such rules shall be filed in

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12. Editor's Note: See MGL c. 40A.

13. Editor's Note: See MGL c. 40A.

the office of the Town Clerk.

- E. Meetings of the Board of Appeals shall be held at the call of the Chairman or when called in such other manner as the Board of Appeals shall determine in its rules. The Board of Appeals shall hold a hearing on any appeal, application or petition. The Board of Appeals shall cause notice of such hearing to be published and sent to parties in interest as provided for in MGL c. 40A and shall notify the Planning Board of Wakefield and the Planning Board of adjacent cities and Towns which may forward recommendations with respect to said matter for the consideration of the Board of Appeals. The Chairman or, in his absence, the Acting Chairman may administer oaths, summon witnesses and call for the production of papers. The vote of at least four members of the Board of Appeals shall be necessary to reverse any order or decision of the Building Inspector or Zoning Administrator, if any, under this chapter. [Amended 5-17-1993 ATM by Art. 37; 4-4-2002 ATM by Art. 19]

**§ 190-65. Appeals.**

- A. Any person, as defined by MGL c. 40A, § 8, aggrieved by reason of his inability to obtain a permit from the Building Inspector under the provisions of this chapter or by order or decision of the Building Inspector may take an appeal to the Board of Appeals.
- B. Appeals pursuant to MGL c. 40A, § 8 shall be taken within 30 days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, who shall forthwith transmit copies thereof to such officer whose order or decision is being appealed and to the Board of Appeals. The Building Inspector shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the area in which the appeal is taken.
- C. All hearings of the Board of Appeals shall be open to the public. The decision of the Board shall be made within 75 days after the date of the filing of an appeal, application or petition, except in regard to special permits, when the decision shall be made within 90 days after the public hearing. Failure by the Board to act within said 75 days shall be deemed to be grant of the relief, application or petition sought, subject to an applicable judicial appeal. The Board of Appeals shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question or, if absent or failing to vote, indicating such fact and setting forth clearly the reason or reasons for its decision and of its official actions, copies of all of which shall be filed within 14 days in the office of the Town Clerk and shall be a public record, and notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties in interest designated in MGL c. 40A, § 11 and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify that appeals, if any, shall be made pursuant to MGL c. 40A, § 17 and shall be filed within 20 days after the date of filing of such notice in the office of the Town Clerk.
- D. Further appeals. Any person aggrieved by a decision of the Board of Appeals, whether or not previously a party to the proceeding, or any municipal officer or board may appeal to the Superior Court or to the Land Court under MGL c. 240, § 14A for the county in which the land concerned is situated by bringing an action within 20 days after the decision has been filed in the office of the Town Clerk. Notice of the action with a copy of the complaint shall

be given to the Town Clerk so as to be received within such 20 days. The complaint shall allege that the decision exceeds the authority of the Board of Appeals, and any facts pertinent to the issue, and shall contain a prayer that the decision be annulled. There shall be attached to the complaint a copy of the decision appealed from, bearing the date of filing thereof, certified by the Town Clerk with whom the decision was filed.

**§ 190-66. Variances.**

- A. The Board of Appeals shall have the power, after giving appropriate public hearing notice as described in § 190-68 hereof and after holding said hearing within 65 days after the Board of Appeals receives the petition from the Town Clerk, to grant upon appeal or upon petition a variance from the terms of this chapter where the Board of Appeals finds that, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this chapter 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 this chapter.
- B. A request for a variance from the provisions of this code shall be filed with the Zoning Board of Appeals in accordance with § 190-73D. An appeal of a decision of the Zoning Board of Appeals regarding a variance shall be filed in the same manner as described under § 190-65D hereof. [Amended 4-8-2002 ATM by Art. 39]
- C. The decision of the Board of Appeals shall be made within one hundred days of the filing of the petition. The time period for holding of the public hearing is inclusive of the one-hundred-day period. [Amended 4-4-2002 ATM by Art. 20]
- D. No variance shall be granted unless there is a concurring vote of at least four members of the Board of Appeals. [Amended 4-4-2002 ATM by Art. 21]
- E. If the Board of Appeals fails to act within the specified time period, the petition shall be deemed to be granted for the relief sought.
- F. The Board of Appeals may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structures but excluding any conditions, 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.
- G. 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 reestablished only after notice and a new hearing pursuant to this section.
- H. The decision regarding the variance shall contain:
  - (1) The name and address of the owner.
  - (2) An identification of the land and/or structure affected.
  - (3) Description of how the variance complies with the statutory requirements for issuing a variance.

- (4) Certification that copies of the decision have been filed with the Planning Board and the Town Clerk.
- (5) Specification that appeals, if any, shall be made pursuant to MGL c. 40A, § 17 and shall be filed within 20 days after the date the notice of decision was filed with the Town Clerk.

**§ 190-67. Repetitive petitions; withdrawal.**

- A. No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals or by another Town agency or board shall be acted favorably upon within two years after the date of final unfavorable action unless the acting board or agency finds, by a unanimous vote, specific and material changes in the conditions upon which previous unfavorable action was based and describes such changes in the record of its proceedings and unless all but one of the members of the Planning Board consent thereto and after notice is given to parties in interest (as defined in § 190-68B hereof) of the time and place of the proceedings when the question of such consent will be considered.
- B. Any petition for a variance or application for a special permit which has been transmitted to the Board of Appeals may be withdrawn without prejudice by the petitioner prior to the publication of the notice of a public hearing thereon but thereafter may be withdrawn without prejudice only with the approval of the Board of Appeals.

**§ 190-68. Public hearings.**

- A. In all cases where notice of a public hearing is required, notice shall be given by publication in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days (not including the date of the hearing) before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of such hearing (not including the date of the hearing). In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid.
- B. "Parties in interest," as used in this chapter, shall mean the petitioner; abutters; owners of land directly opposite on any public or private street or way and owners of land within 300 feet of the property line, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or Town; and the Planning Board of the Town and the Planning Board of every abutting city or Town. The Assessors maintaining any applicable tax list shall certify to the Board of Appeals the names and addresses of parties in interest, and such certification shall be conclusive for all purposes. The Board of Appeals may accept a waiver of notice from or an affidavit of actual notice to any party in interest or, in his stead, any successor owner of record who may not have received a notice by mail and may order special notice to any such person, giving no less than five nor more than 10 additional days to reply.
- C. Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing and the nature of the section or relief

requested, if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in Wakefield.

## ARTICLE XI

### **Adoption and Amendment; Severability; When Effective**

#### **§ 190-69. Purpose and intent.**

It is the purpose and intent of this article to describe how this chapter will be originally adopted and subsequently amended, as well as to describe the effects of a decision holding a part of this chapter invalid and the effective date of this chapter.

#### **§ 190-70. Adoption and amendment.**

This chapter will be originally adopted and from time to time changed by amendment, addition or repeal in the manner hereinafter provided.

- A. The adoption or change of this chapter may be initiated by the submission of the proposed zoning bylaw or change to the Board of Selectmen by the Board of Selectmen, Zoning Board of Appeals, by an individual owning land to be affected by the change or adoption, by 10 registered voters in the Town, by the Planning Board or by the Regional Planning Agency. The Board of Selectmen shall, within 14 days of receipt of such zoning bylaw or change, submit it to the Planning Board for review.
- B. No zoning bylaw or amendment thereto shall be adopted until after the Planning Board has held a public hearing thereon at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within 65 days after the proposed zoning bylaw or change is submitted to the Planning Board by the Board of Selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing (not counting the day of the hearing), and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of said hearing.
- C. Notice of said hearing shall also be sent by mail, postage prepaid, to the Massachusetts Department of Community Affairs, the Regional Planning Agency and to the Planning Boards of all abutting cities and Towns.
- D. No vote to adopt any such proposed bylaw or amendment shall be taken until a report with recommendations by the Planning Board has been submitted to the Town Meeting or 21 days after said hearing have elapsed without submission of such report, after which the Town Meeting may adopt, reject or amend any such proposed bylaw. If the Town Meeting fails to vote to adopt any proposed bylaw or amendment within six months after such hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as above provided.
- E. No zoning bylaw shall be adopted or changed except by a two-thirds (2/3) vote of the Town Meeting.

- F. No proposed zoning bylaw or amendment which has been unfavorably acted upon by the Town Meeting shall be again considered by the Town Meeting within two years after the date of such unfavorable action unless the adoption of such proposed bylaw or amendment is recommended in the final report of the Planning Board.
- G. The effective date of the adoption or amendment of this chapter shall be the date on which such adoption or amendment was voted upon by the Town Meeting. The adoption or amendment shall be published in a Town bulletin or pamphlet and posted or shall be published in a newspaper pursuant to MGL c. 40, § 32. After the adoption of the zoning bylaw or amendment and approval of the Attorney General, the Town Clerk shall send a copy of the zoning bylaw, as amended, to the Department of Community Affairs forthwith.
- H. No claim of invalidity of this chapter arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding, and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless within 120 days after adoption of this chapter or amendment legal action is commenced and notice specifying the court, parties, invalidity claimed and date of filing is filed, together with a copy of the petition, with the Town Clerk within seven days after commencement of the actions.
- I. All procedures not stated herein but stated in MGL c. 40A (the Zoning Act) shall be governed by the Zoning Act as may be amended from time to time.

**§ 190-71. Severability.**

In case any section or provisions of this chapter shall be held invalid in any court, the same shall not affect any other section or provision of this chapter, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

**§ 190-72. When effective.**

The effective date of this bylaw shall be the date of adoption by the Wakefield Town Meeting.

ARTICLE XII  
**Fees and Submission Requirements**  
**[Amended 4-8-2002 ATM by Art. 39]**

**§ 190-73. Schedule of fees and complete submissions.**

The following schedule of fees is established to cover the costs of legal notices, mailings and other costs related to the review of applications and petitions submitted to the Zoning Board of Appeals, the Planning Board or other special permit granting authority, if any.

- A. For all applications there is a fee of \$100 to cover advertising and notification of the first 20 parties to be notified (\$2 will be charged for each additional party over 20).
- B. In addition, the following fees shall be paid:
  - (1) Applications for petitions before the Zoning Board of Appeals:
    - (a) Appeals from actions of administrative officials or agencies: \$125.

- (b) Residential variances related to dimensional regulations: \$50.
  - (c) Nonresidential variances related to dimensional regulations: \$100.
- (2) Applications for petitions before a special permit granting authority:
  - (a) Multifamily or attached dwelling development: \$70 per residential dwelling unit.
  - (b) Cluster development: \$70 per residential dwelling unit.
  - (c) Any other special permit required by this chapter: \$100.
- (3) Applicants for a sign permit within the Signage Overlay District shall pay a review fee of \$50. [Added 5-3-2010 ATM by Art. 29]
- C. Combinations of separate applications or petitions listed above shall not be filed on one application. The petitioner shall file separate petitions and pay the appropriate fee for each application or petition filed.
- D. Submissions to Zoning Board of Appeals.
  - (1) In cases where an application is filed with the Zoning Board of Appeals, as required by the zoning code, for site plan approval, variances, and special permits, applicants are required to provide 25 copies of the application, complete plan sets and any documentation such as traffic and/or drainage studies with any application filed. The Zoning Board shall seek comments from municipal departments by distributing copies of the submission within seven days as follows:

nine copies to the Zoning Board of Appeals;

six copies to the Planning Board; and

one copy each to the Conservation Commission, the Health Department, the Historical Commission, the Director of Public Works, the Town Engineer, the Town Planner, the Building inspector, the Police Chief, the Fire Chief, and the Town Clerk.

- (2) In cases where an application is filed with the Zoning Board of Appeals, as required by the zoning code, for a special permit, variance, or appeal of the Building Inspector's ruling regarding a sign, applicants are required to provide 17 copies of the application, complete plan sets and any documentation required under § 190-101. The Zoning Board of Appeals shall seek comments from municipal departments by distributing copies of the submission within seven days as follows:

nine copies to the Zoning Board of Appeals;

three copies to the Design Review Board;

one copy each to the Planning Board, Historical Commission, the Town Planner, the Building Inspector, and the Town Clerk.

- E. In cases where an application is filed with the Planning Board, as required by the zoning code, for site plan review or a special permit, applicants are required to provide 18 copies of the application, complete plan sets and any documentation such as traffic and/or drainage studies with any application filed. The Zoning Board shall seek comments from municipal departments by distributing copies of the submission within seven days as follows:

two copies to the Zoning Board of Appeals;

six copies to the Planning Board; and

one copy each to the Conservation Commission, the Health Department, the Historical Commission, the Director of Public Works, the Town Engineer, the Town Planner, the Building Inspector, the Police Chief; the Fire Chief, and the Town Clerk.

- F. Town boards or Town agents that receive copies of submissions, as listed above, shall have 30 days to investigate the pending application and submit a written recommendation to the board reviewing the application (either the Planning Board or the Zoning Board of Appeals, as stipulated by the zoning code). Action on a pending application may not be taken until all written reports are submitted to the board reviewing the application, or until 30 days have elapsed after the commenting Town board or Town agent received the application, whichever comes first.
- G. If an applicant revises any plan or report related to the proposal that will change the project's impact on drainage or traffic, the proposed number of dwelling units, the location or design of buildings on the site, or in any other way that the reviewing board deems to be substantive the applicant shall submit copies of the changed plans or report, with an written explanation of the change, for redistribution under §§ 190-73D and 190-73F, above, All time periods for distribution and comment, as required by § 190-73F, will begin anew. Final plans that have been revised to incorporate comments form other boards and conditions of approval are required for attachment to the final decision of the reviewing board; redistribution of these plans may be required for attachment to the notice of decision provided to other boards, but not for additional comment.

### ARTICLE XIII

#### Signs

[Added 5-4-1992 ATM by Art. 38; amended 5-4-1992 ATM by Art. 39]

#### § 190-74. Intent and purpose.

- A. It is the intent and purpose of this article to provide for the manner in which signs, billboards and other advertising devices shall be constructed, altered and displayed in the Town of Wakefield.
- B. Within the context of the above general intent and purpose, additional purposes of this article are as follows:
- (1) To restrict private signs which overload the public's capacity to receive information, which violate privacy or which increase the probability of accidents by distracting attention or obstructing vision.

- (2) To encourage signing and other private communications which aid orientation, identify activities, express local history and character or serve other educational purposes.
- (3) To reduce conflict among private signs and between the private and public environmental information systems.

**§ 190-75. Applicability; exceptions; removal of certain signs.**

- A. General applicability. All new or reconstructed or renovated signs shall conform to the provisions of this article, except as specifically exempted from Town bylaws by the Massachusetts General Laws, as amended.
- B. Nonconforming signs.
  - (1) A nonconforming sign is any sign which does not conform to the regulations of this article. Any nonconforming sign legally erected prior to the adoption of this article or any amendment hereto may be continued to be used and maintained but shall not be enlarged, reduced, redesigned or altered in any way unless it conforms to the provisions contained herein. Rewording of a sign is allowed except when there is a change of use. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed 80% of the replacement value as of the date of destruction shall not be repaired, rebuilt, restored or changed unless in conformity with this article.
  - (2) The exemption herein granted shall not apply to any sign which has been abandoned (not used for six months or more) or which shall not have been repaired or properly maintained within 60 days after notice to that effect has been given by the Building Inspector.
- C. Signs under construction. Any sign, the erection of which has been lawfully begun and carried on in good faith before this article becomes operative, may be completed according to laws and regulations then in force but shall conform hereto as far as practicable without hardship. If such sign does not conform to the provisions of this article it shall be classified as a nonconforming sign.
- D. Removal of certain signs.
  - (1) The owner of a discontinued or abandoned sign of the kind specified in Subsection D(1)(a) or (b) below or the owner of the premises shall remove said sign, together with any separate supporting structure, within 60 days after written notification from the Building Inspector:
    - (a) A sign accessory to a nonconforming use when the nonconforming use has been abandoned.
    - (b) A sign erected after adoption of this article which, because of a change in the type of occupancy or because of nonuse of the premises for six successive months, ceases to refer to a business conducted or product sold on the premises, unless such a sign has been altered so as to again be accessory to the premises.
  - (2) The Building Inspector may cause to be removed any sign that endangers public safety.

**§ 190-76. Definitions.**

For the purpose of this article, the following words and terms used herein are hereby defined or the meanings thereof are explained or limited as follows:

**ACCESSORY SIGN** — Any billboard, sign or other advertising device that advertises, calls attention to or indicates the person or persons occupying the premises, as defined herein, on which the sign is erected or the business transacted thereon or advertises the property itself or any part thereof as "for sale" or "to let," even though it contains no other advertising matter.

**AWNING** — Any structure made of cloth or other flexible material with a frame attached to a building and projecting over a sidewalk, or a sidewalk portion of a way, without supports on the ground.

**BOARD OF APPEALS** — The Board of Appeals established or operating in the Town of Wakefield under MGL c. 40A, as amended.

**BUILDING INSPECTOR** — The Building Inspector appointed under the provisions of the Building Bylaw of the Town of Wakefield as now or hereafter in force and effect.<sup>14</sup>

**BUILDING SIGN** — A sign attached to a building in a business district which identifies the building as a whole or its predominant use.

**BUSINESS DISTRICT** — The area within the Town zoned for business, limited business, neighborhood business, limited industrial and industrial uses under this chapter.

**CANOPY or MARQUEE** — Any structure, other than an awning, on frames attached to a building, projecting over a sidewalk, or a sidewalk portion of the way, and carried by a frame, whether or not supported by the ground or sidewalk.

**ERECTED** — Shall include the words "attached," "built," "constructed," "altered," "enlarged" and "moved."

**FREESTANDING SIGN** — Shall include any exterior sign erected on or affixed to the land and not attached to a building.

**NONACCESSORY SIGN** — Any billboard, sign or other advertising device that does not come within the foregoing definition of an "accessory sign."

**OCCUPANCY SIGN** — A sign attached to a building identifying the occupancy within a specific portion of the building.

**PARKING AREA** — A public parking area or a private parking area that is open to parking of motor vehicles for business activities.

**PEDESTRIAN SIGN** — An occupancy sign at pedestrian eye level.

**PERSON** — Includes an individual, two or more individuals having a joint common interest, partnership, association, corporation, governmental agency, business trust, estate or any other legal entity.

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<sup>14</sup>. Editor's Note: See Ch. 94, Building Construction.

PREMISES — A lot with separate frontage as shown on the Assessors' map or on a subdivision plan.

RESIDENTIAL DISTRICT — Any area situated within a district zoned for residential purposes under this chapter. It includes Special Single Residence Districts, Single Residence Districts, General Residence Districts and Multiple Residence Districts.

SIGN — Includes any letter, word, symbol, drawing, picture, design, device, article and/or object that advertises, calls attention to or indicates any premises, person or activity, whatever the nature of the material and manner of composition or construction.

#### SIGN, AREA OF

- A. The area of a sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any cutouts or extensions, but shall not include any supporting structure or bracing.
- B. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that of the smallest quadrangle or a triangle which encompasses all of the letters and symbols.
- C. The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross section of that object.
- D. In computing the area of signs, only one side of back-to-back signs shall be included.

STORE — Includes any establishment, office or place of business.

STREET — A public way or a private way.

ZONING BYLAW — The Zoning Bylaw of the Town of Wakefield as from time to time in force and effect.

#### **§ 190-77. Allowed accessory signs.**

No person shall erect, display or maintain a billboard, sign or other advertising device (nonaccessory sign) within the Town of Wakefield, except those specifically exempt under state law or as otherwise provided for hereinafter.

- A. Residential districts. No accessory sign shall be erected or maintained in any residential district except as hereinafter expressly provided:
  - (1) For each residential building housing not more than two families, there may be one such sign for each residence. Such sign shall not exceed one square foot.
  - (2) For each residential building housing more than two families or, in the case of a group of such buildings forming a single housing establishment, with each such establishment there may be one primary sign which shall not exceed three square feet and one secondary sign for each separate building in a group of such buildings which shall not exceed one square foot.
  - (3) During construction there may be one temporary, unlighted sign on each lot advertising

the sale or rental of the premises or the name and address of the contractor responsible for any construction, painting or repair, provided that such sign shall not exceed nine square feet in area and shall be removed within 14 days after such sale, rental or construction, painting or repair has been completed.

- (4) There may be one temporary unlighted sign on each lot advertising rental or sale of the premises, provided that such sign shall not exceed nine square feet in area and shall be removed within 30 days after the rental or sale of the premises.
- (5) There may be an accessory sign or signs on the premises of any building constructed, erected, altered, enlarged, extended or reconstructed which is used for the purpose of any permitted nonconforming or nonresidential use, the number and type in each case to be subject to the approval of the Board of Appeals. Window signs comprising posters, placards or signs painted on or otherwise displayed on windows and visible from the street shall not exceed 10% of the individual window area or 5% of the glass area of any exit door.
- (6) No nonaccessory signs shall be erected or maintained in a residential district.
- (7) Churches, schools or public uses shall not be subject to the limitations of this section.
- (8) A permitted home occupation shall be allowed a single identifying sign not exceeding two square feet in area.
- (9) Temporary signs shall be permitted as described in Subsection G below.

B. Business districts. In business districts, only those signs may be erected or maintained which are permitted in residential districts as provided above or which comply with the following provisions:

- (1) Accessory signs. Signs whose subject matter relates exclusively to the premises on which they are located or to products, accommodations or activities on those premises (accessory signs) shall be allowed.
- (2) Number and type of signs.
  - (a) Each building may have one building sign oriented to each street on which the premises have frontage identifying the building as a whole or its predominate use.
  - (b) In addition, there may be one occupancy sign and one pedestrian sign oriented to each street or parking area on which the premises have frontage relating to each occupancy within the building.
  - (c) Freestanding signs are allowed in business and industrial districts. Each lot may have one sign 30 square feet in area and no more than six feet in height and which must be set back no less than eight feet from the edge of the right-of-way. If the building on a lot is more than 100 feet or greater from the edge of the right-of-way line, then a freestanding sign of no more than 50 square feet in area or 10 feet in any linear dimension or 20 feet from the ground is allowed. The sign must be set back no less than eight feet from the edge of the right-of-way line. Freestanding signs shall be erected within a landscaped island designed to protect the signs from damage by vehicles.

C. Other signs. The following are allowed in addition to signs as limited above:

- (1) Names of buildings, date of erection, monumental citations and commemorative tablets up to 10 square feet in area, when made a permanent and integral part of the building.
- (2) Building directories. In a business or industrial zone each lot is allowed one freestanding directory sign. The area shall be no greater than one square foot per occupant or tenant. Such sign may be white lighted indirectly. The height from the base on the ground to the highest part should not exceed six feet. No part of the sign structure shall be set back less than 100 feet from the edge of the right-of-way on which the industrial or business building is situated.
- (3) Traffic control and guidance signs in conformance with public traffic sign standards but located on private property and orientational signs up to two square feet in area displayed for purposes of direction or convenience, including signs identifying rest rooms, freight entrances and the like.

D. Location of signs.

- (1) No sign shall project over a public right-of-way or come within three feet of the curbline. A sign on a marquee or canopy providing shelter may project over a sidewalk but may not come within three feet of the curbline on a private right-of-way. A sign attached to a building, built flush with the front property line, may extend into the public right-of-way by an amount equal to the width of the sign but not more than 12 inches.
- (2) No sign shall extend more than three feet above the roofplate line of the wall to which it is attached nor above the third floor of a multistory building. No roof signs are allowed.
- (3) The top of pedestrian signs shall be no higher than 10 feet above the sidewalk.
- (4) Occupancy signs for other than first floor occupants, if any, shall be located between the second and third floors.
- (5) Any sign attached to a building shall meet the setback requirements for that building. Any other sign shall be set back from any lot line a distance equal to its height, but not less than eight feet.

E. Size of signs.

- (1) Individual sign sizes. The total sign area allowed, as calculated in accordance with the provisions of Subsection E(2) below, may be distributed among the various signs on the premises. However, individual signs shall not exceed the following maximum sizes:
  - (a) Building signs and occupancy signs shall not exceed 50 square feet in area, shall not be more than three feet overall in height and shall not extend more than three-fourths (3/4) of the width of the wall.
  - (b) Pedestrian signs shall not exceed five square feet in area.
  - (c) Freestanding signs shall not exceed 50 square feet in area or 10 feet in any linear

dimension or 20 feet in height.

- (2) Total area of signage permitted per lot, not to exceed the maximum sizes stated in Subsection E(1).
  - (a) If a building on a lot is to be located 100 feet or less from the edge of the right-of-way, then the total area of all signs on the exterior of the building, including freestanding signs, shall not exceed one and one-half (1 1/2) square feet times the total street frontage on the rights-of-way.
  - (b) If a building on a lot is more than 100 feet from the edge of the right-of-way, then the total area of all signs on the exterior of the building, including freestanding signs, shall not exceed two square feet times the total street frontage on the rights-of-way.
- (3) Permanent window signs. Permanent signs on the surface of or inside display windows shall cover no more than 10% of the display window area.

F. Illumination.

- (1) Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign or internal to it, without causing glare for motorists, pedestrians or neighboring premises.
- (2) Illuminated signs, including neon signs, shall not produce more than one footcandle of illumination four feet from the sign.
- (3) Signs shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless related to an establishment operating between those hours.
- (4) All permanent outdoor lights, such as those used for area lighting or building floodlighting, shall be steady, stationary, shielded sources directed so as to avoid causing glare for motorists, pedestrians or neighboring premises. The marginal increase in light, as measured at any property line other than a street line, shall not exceed one footcandle.

G. Temporary signs (all districts). The following temporary signs are allowed without a permit:

- (1) Construction signs identifying parties involved in construction on the premises. These signs shall be set back a minimum of eight feet from any lot line and shall be removed after completion of construction.
  - (a) Residential (one- and two-family homes): one unlighted sign of up to nine square feet.
  - (b) Business and multiple residence districts: one illuminated sign of up to 25 square feet.
  - (c) Subdivision sign. One unlighted sign of up to 25 square feet identifying a residential or nonresidential subdivision may be erected and displayed for a period of up to two years or until all lots are sold, whichever comes first.
- (2) Real estate signs: one unlighted sign of up to nine square feet pertaining to the sale,

- rental or lease of the premises on which the sign is displayed, to be removed within 14 days after sale, rental or lease.
- (3) Display window signs: signs on the surface of or inside display windows, lighted only by building illumination and covering no more than 20% of the display area (business districts only).
  - (4) Political signs: freestanding unlighted sign of six square feet or less. Such sign shall be put up no earlier than 30 days prior to the election and shall be removed no later than 10 days after the election. Political signs shall be set back a minimum of eight feet from any lot line and shall not be attached to trees or utility poles but shall have their own self-supporting frame and means of being affixed to the land.
- H. Event signs. Banners and posters (except posters intended for window display) covering social, seasonal, holiday and religious events, including garage sales, shall be referred to the Board of Selectmen for approval and issuance of a temporary permit. Temporary signs and banners must be firmly attached to a supporting device and present no undue hazard to the public. The time allowed this type of advertising shall not exceed 30 days.

**§ 190-78. Prohibited devices.**

- A. No sign or light shall move, flash or make noise. This shall include commercial balloon devices and high-powered searchlights. (Indicators of time or temperature may move.)
- B. Colored lights and illuminated signs employing colors in use in traffic signal lights are prohibited within view of any signalized intersection.
- C. Any imitation of official traffic signs or signals and the use of such words as "stop," "look," "danger," "go slow," "caution" or "warning" are prohibited.
- D. No red or green lights or any lighting effect utilizing such colors shall be used on any sign if, in the opinion of the Chief of Police, such light or lighting would create a hazard to the operation of motor vehicles.
- E. Portable signs with or without replaceable letters which may be moved from one location to another shall be prohibited.
- F. Signs on unregistered vehicles which are visible from nearby public rights-of-way (except for temporary "for sale" signs) shall be prohibited.

**§ 190-79. Construction and maintenance.**

- A. Wall signs. No sign shall be painted or posted directly on the exterior surface of any wall. All signs must be painted, posted or otherwise securely affixed to a substantial intermediary removable surface which shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent the installation of a sign by individual letters or devices cut into, or securely affixed to, the exterior wall of a building. The material of the sign and intermediary surface and the manner in which they are affixed to their respective surfaces or walls shall be subject to the approval of the Building Inspector.
- B. Maintenance. All signs, including temporary signs, shall be securely erected or affixed and

shall be kept safe, neat and clean and in good and safe repair and operating condition, to the reasonable satisfaction of the Building Inspector.

- C. Illuminated signs. Illuminated signs shall be constructed of noncombustible materials, except that facings, letters, figures, decorations and structural trim may be made of approved combustible plastics as defined in accordance with American Society for Testing and Materials standard methods.

**§ 190-80. Administration.**

- A. Required permits. A permit from the Building Inspector is required before sign erection, alteration or enlargement, except for ordinary maintenance, and if necessary a permit from the Electrical Inspector and/or approval of the Chief of Police is required before sign erection.
- B. Signs not requiring permits. No permit shall be necessary for the following signs:
  - (1) Those exempted under § 190-81, which follows.
  - (2) Residential signs as described in § 190-77.
  - (3) Temporary signs as described in § 190-77.
- C. Application for permit. The owner or lessee of the premises on which a sign is to be erected shall file the following with the Building Inspector:
  - (1) An application in duplicate for a permit on appropriate forms furnished by the Building Inspector. The written consent of the owner of the premises concerned, or of his authorized agent, shall be required.
  - (2) Full name, residence and business address of the owner of the property, of the lessee, if any, and of any authorized agent to whom notices may be sent.
  - (3) Location, position and dimensions of sign.
  - (4) Such plans, structural drawings and specifications as the Inspector may require for temporary examination and permanent record.
  - (5) A surety company bond as required by the Building Code of the Town of Wakefield.<sup>15</sup>
- D. Powers of Building Inspector and other inspectors.
  - (1) Issuance of permit. The Building Inspector shall, within 21 days, approve or reject any applications for a sign filed with him in accordance with all requirements of this article and all other applicable laws, bylaws and regulations.
  - (2) Electrical inspections. Electrical permits are required for any sign which is to be illuminated. The permit must be issued simultaneously with the building permit. The sign and the sign's power supply shall conform to the National Electrical Code.
  - (3) Applicability of Building Code. Signs shall be deemed to be structures subject to all

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<sup>15</sup>. Editor's Note: See Ch. 94, Building Construction.

applicable provisions of the Town Building Code<sup>16</sup> and to all of the powers thereby granted to the Building Inspector.

- E. Violations and penalties; noncriminal disposition. Any alleged violation of the provisions of this article may, in the sole discretion of the Building Inspector or his designee, be made the subject matter of the proceedings initiated by the Building Inspector pursuant to the provisions of MGL c. 40, § 21D, that is noncriminal disposition. If the Building Inspector so elects to proceed under MGL c. 40, § 21D, all the terms and provisions of such chapter and section shall thereafter govern said action.
- F. Appeals. Appeals from administrative decisions may be made to the Board of Appeals in accordance with the same procedures used by the Board of Appeals for zoning appeals and/or Building Code appeals, depending upon the type of appeal being made.
- G. The Board of Appeals, by vote of at least four members, after due notice and public hearing, upon a written petition addressed to the Board, may vary the application of this article, without, however, making any change in its provisions or departing from its substantial intent or purpose, in specific cases wherein its strict enforcement would involve substantial hardship and shall vary it so far as necessary in any case to avoid constitutional guaranties but shall not otherwise vary it. [Amended 4-4-2002 ATM by Art. 22]

#### **§ 190-81. Exemptions.**

- A. The following shall not be considered signs within the context of this article:
  - (1) Flags and insignia of any government, except when displayed in connection with commercial promotion.
  - (2) Legal notices or informational devices erected or required by public agencies.
  - (3) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights.
  - (4) On awnings or similar devices, lettering not exceeding three inches in height or symbols; together they cannot exceed four square feet in area.
- B. Nonprofit religious organizations and schools and public uses shall not be subject to this article but are requested to use it as a guide to their use of signs, in the public interest.
- C. Interior signs. Except as specifically included in § 190-77 (window signs), signs wholly within a building shall not be governed by this article.
- D. Gasoline pumps. A standard type of gasoline pump, bearing thereon in usual size and form the name of the type of gasoline and the price thereof, shall not be deemed to be a sign. Temporary or movable signs of any and every type are specifically prohibited, with the exception of signs designating state motor vehicle inspection locations.

#### **§ 190-82. Fees.**

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<sup>16</sup>. Editor's Note: See Ch. 94, Building Construction.

- A. Applications for sign permits shall be accompanied by a fee of \$25.
- B. All appeals or applications for a variance or special permit shall be accompanied by a fee of \$125. The petitioner will be billed directly for any advertising costs required.

**§ 190-83. Severability.**

The invalidity of any part or provision of this article or of the application thereof to any particular subject matter shall not invalidate any other part or provision hereof or affect the application hereof to any other subject matter.

ARTICLE XIV

**Wireless Communication Services Overlay District**  
**[Added 4-13-2000 ATM by Art. 27]**

**§ 190-84. Purpose.**

- A. The purpose of this article is to establish an overlay district in which wireless communications services may be provided by special permit with minimal harm to the public health, safety and general welfare. Specifically, the Wireless Communication Services District has been created to:
  - (1) Protect the general public from hazards associated with wireless communications towers and facilities; and
  - (2) Minimize the visual impacts of wireless communications towers and facilities in the Town of Wakefield.
- B. For the purposes of this article, "wireless communications services" shall mean the provision of the following types of wireless services: telephone, personal communications, Internet and enhanced mobile radio service and paging. Such services, it is anticipated, will require installation of facilities, including, but not limited to, antennas, transmitters/receivers, supporting structures, principal and accessory equipment and, in some instances, towers, masts or other structures. These facilities may be sited only in the Wireless Communications Services Overlay District.

**§ 190-85. Findings required.**

Collocation or siting on existing facilities and structures is desired. No special permit or modification of the conditions of a special permit relating to a facility for wireless communications services shall be authorized by the special permit granting authority (SPGA) unless it finds that such facility:

- A. Is necessary to meet current or expected demands for the services supported by the wireless communications services facility for the applicant's network;
- B. Conforms to all applicable regulations promulgated by the Federal Communications Commission (FCC);
- C. Is designed and constructed in a manner which minimizes its visual impact to the extent practical;

- D. Complies with all other regulations of this article; and
- E. Is an appropriate site within the technically feasible area for the location of the wireless communications services facility.

**§ 190-86. Location of District.**<sup>17</sup>

- A. The Wireless Communications Services Overlay District shall be located as follows:
  - (1) Any facility meeting the definition of this article may, with SPGA approval, be sited in an Industrial District and Limited Industrial District, provided that no component of the facility is within 600 feet of a residentially zoned district, historical district, historical site, archeologically significant site, schoolground or park, notwithstanding the Town's boundary.
  - (2) Any facility meeting the definition of this article may, with SPGA approval, be sited on a Town-owned water tank, provided that the transmitters/receivers do not extend above the tank by more than five feet and that the transmitters/receivers are screened in such a way that they appear to be part of the tank.
  - (3) Any facility meeting the definition of this article may, with SPGA approval, be collocated on an existing dedicated telecommunications structure, electric transmission or distribution tower, lighting pole or standard or utility pole or transmission wire between utility poles designed for that purpose, provided that the existing structure or pole is not increased in height, the wireless communications equipment does not present an unusual hazard should it fall and the wireless communications equipment so mounted does not detract from the visual appearance of the surrounding neighborhood.
  - (4) Any facility meeting the definition of this article and which has all components entirely concealed from view from all exterior vantage points at existing grade or is fully camouflaged so as to blend indiscernibly, in the opinion of the SPGA, in with the natural and man-made features surrounding the site and normally existing in communities such as Wakefield in eastern Massachusetts, may be sited in an Industrial District, Limited Industrial District or Business District, provided that no component of the facility is within 250 feet of a residentially zoned district, historical district, historical site, archeologically significant site, schoolground or park, notwithstanding the Town's boundary.
- B. The Wireless Communications Services District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect except as may be specifically superseded herein.
- C. For purposes of this section "historical site" and "archeologically significant site" are those historical sites or archaeologically significant sites (a) which are listed on the National Register of Historic Places or (b) which are on an inventory provided to the Building Inspector by the Wakefield Historical Commission and on file with the Massachusetts

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<sup>17</sup>. Editor's Note: Pursuant to the 7-11-2000 letter from the Office of the Attorney General, this section shall be given the following construction: "There shall be an overlay district within which, subject to stated separations, facilities may be installed consisting of the underlying industrial, limited industrial, and business districts; and in addition to the overlay district, facilities may be installed, subject to stated conditions, in any district on the structures and objects specifically identified in Subsections (2), (3), and (4)."

Historical Commission and have been designated as significant buildings or sites after a finding by the Wakefield Historical Commission that buildings or structures are either:  
[Added 4-8-2002 ATM by Art. 38]

- (1) Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town of the Commonwealth; or
- (2) Historically or architecturally significant (in terms of period, style, method of building construction, or association with a famous architect or building); or
- (3) Of archaeological importance as designated by the Massachusetts Historical Commission.

**§ 190-87. Exemptions.**

The following types of wireless communications facilities are exempt from this article.

- A. Amateur radio installations used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that the facility is not used or licensed for any commercial purpose.
- B. Towers and antennas erected by the Town of Wakefield exclusively for public safety or other Town communications purposes.

**§ 190-88. Submittal of application.**

- A. An application for a special permit shall be filed in accordance with § 190-73. [Amended 4-8-2002 ATM by Art. 39]
  - (1) Site plans prepared by professional engineers, architects and landscape architects, as appropriate, that are registered in the State of Massachusetts. Plan shall be submitted at a scale of 1:40 showing the following:
    - (a) Tower location and tower height.
    - (b) Accessory buildings.
    - (c) Topography.
    - (d) Fencing and landscaping.
    - (e) Access and parking.
    - (f) Lighting.
    - (g) Areas to be cleared of vegetation and areas of proposed earth removal or earth fill.
    - (h) Site boundaries.
    - (i) Abutters and other property owners within 300 feet of the site boundaries.
    - (j) All existing structures within a radius of 600 feet from the transmitter/receiver,

and all existing and proposed structures on the site of the proposed facility. (The use, whether residential, business, industrial, educational, institutional or any other use, of all structures shown shall be designated on the plan. Structures that do not have human occupancy shall be so designated.)

- (k) Tree cover on the subject property and adjacent properties within 600 feet from the transmitter/receiver, by dominant species and average height, as measured by or available from a verifiable source.
  - (l) All other items required by the Department of Public Works, 105 CMR 122, Fixed Facilities Which Generate Electromagnetic Fields in the Frequency Range of 300 kHz to 100 GHz and Microwave Ovens.
- (2) The locus map at a scale of 1:1000 which shall show all streets, bodies of water, landscape features, historic sites and habitats for endangered species within 600 feet from the antenna; the "cell" region to be served by the proposed facility; the locations and areas served by adjacent and overlapping "cells"; and all existing buildings, structures, towers or other sites within the "cell" of the proposed facility that are technically feasible as alternative sites for the proposed facility; all existing wireless communications facilities and structures with heights exceeding 75% of the height of the proposed tower within a two-mile radius of the proposed site.
- (3) Photographs of existing site conditions and photographs to represent the completed facility as follows:
- (a) One eight inch by ten inch photograph of existing site conditions that are visible from each public road within 600 feet of the proposed facility, and from such other vantage points as the SPGA may deem necessary to evaluate visual impact of the proposed facility.
  - (b) For each photograph described in (a) above, a same-size reprint with the proposed facility superimposed to show what will be visible from the same vantage points.
  - (c) At the discretion of the SPGA, realistic renderings may be substituted for photographs.
- (4) Reports prepared by one or more qualified professional engineers, which shall:
- (a) Describe the facility and the technical, economic and other reasons for the tower design.
  - (b) Demonstrate that the facility complies with all applicable standards of the federal and state governments.
  - (c) Describe the capacity of the facility, including the number and types of transmitter/receivers that it can accommodate and the basis for the calculation of capacity.
  - (d) Provide measurements of existing, or ambient, radio frequency radiation (RFR) at the site, calculations of the maximum RFR from the proposed facility plus the measured ambient, and certification that the RFR measurements are accurate and

that the proposed plus ambient RFR meet FCC guidelines.

- (e) Demonstrate that the facility and site comply with this regulation.
  - (f) Demonstrate that the proposed sources of nonionizing electromagnetic radiation (NIER) will comply with the standards of the National Council of Radiation Protection (NCRP) and the Massachusetts Department of Health, whichever is stricter, or as otherwise required by law.
  - (g) Demonstrate that exposures from the electromagnetic field (EMF) measured at the site boundaries and property lines will be as low as reasonably achievable and are within limits of all applicable regulations.
  - (h) Demonstrate, for any proposed new tower, that the tower is essential for one or more of the following reasons:
    - [1] The planned equipment would exceed the structural capacity of existing and approved wireless communications services facilities or other technically feasible structures, considering existing and planned uses for those structures.
    - [2] The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot reasonably be prevented.
    - [3] Existing or approved wireless communications services facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
    - [4] Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
    - [5] The property owner or owner of the existing tower, etc. or other structure refuses to allow such collocation.
  - (i) Document the cost of removal of the wireless communications services facility, including all equipment, tower structures, and related construction, without limitation, and for surrounding property restoration.
- (5) The applicant shall provide a copy of the requests made by the applicant to the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health; and provide a written statement that the proposed facility complies with applicable regulations administered by the agency or that the facility is exempt from those regulations. Copies of the response from each agency shall also be provided. If such response is not received by the applicant within 60 days of their first request and within 30 days of their second request, the application will be considered complete. The applicant shall send any subsequently received agency statement, if any, to the SPGA.
- (6) A letter from the applicant to the Town of Wakefield stating whether the applicant intends to lease excess space on the facility to other potential users at reasonable rental

rates and on reasonable terms. The SPGA may modify this condition if the facility is attached to an existing structure. The letter shall indicate the number of collocations possible at the proposed facility and commit the facility owner and successors in interest to do the following:

- (a) Respond in a timely, comprehensive manner to a request for information.
  - (b) Negotiate in good faith for shared use by third parties.
  - (c) Allow shared use if an applicant for shared use agrees in writing to pay reasonable rental charges or other consideration and to pay all costs of adapting the facility or existing users' equipment to accommodate a shared user without causing uneconomically correctable electromagnetic interference or causing electromagnetic radiation in excess of levels set by federal regulations and can otherwise agree on reasonable business terms and conditions for shared use of the facility.
  - (d) Respond to inquiries for shared use with the information required herein.
- B. Between submittal and the date of advertisement of the public meeting, upon 14 days' notice which must be submitted to the SPGA in writing at a regular public meeting and published in a newspaper in general circulation in the Town of Wakefield, the applicant shall erect a suitable temporary demonstration structure at the site to the height of the proposed tower, if any. A suitable temporary demonstration structure shall be either an extended crane, a balloon of suitable size and color to be clearly visible from a distance of one mile or such other temporary structure meeting the approval of the SPGA and the Building Official of the Town of Wakefield. Such temporary demonstration structure shall remain in place for three consecutive days, one of which must be a weekend day, for at least eight daylight hours each day.
- C. When a special permit is sought to collocate facilities on a common tower or site, the SPGA may, at its sole discretion, authorize reduction of submittal requirements. Applicants seeking relief under this provision shall submit to the SPGA, in advance of the filing of an application for a special permit, a specific written request for relief from submittal requirements. This written request shall describe, in sufficient detail for the SPGA's evaluation, the nature and extent of the proposed changes that will occur at the site and the specific submittal requirements that are requested to be waived.

**§ 190-89. Site plan approval; amendment of special permit.**

- A. Site plan approval and a special permit shall be granted by the SPGA in accordance with the Massachusetts General Laws, the provisions of this chapter for wireless communications services facilities and all other applicable bylaws, rules and regulations, ordinances and standards of any kind legally binding within the Town of Wakefield and the district in which the facility is proposed.
- B. Any extension, addition of equipment or construction or installation of new or replacement towers or transmitters/receivers shall be subject to an amendment of the special permit, following the same procedures as for an original grant of a special permit.

**§ 190-90. Site design requirements.**

- A. The facility shall be located in accordance with the Federal Communication Commission (FCC) and FAA regulations in effect at the time of construction. Furthermore, the operation of the facility shall comply with all requirements of these agencies.
- B. Irrespective of the all other setback requirements of this chapter, all towers shall be set back from all property lines by a distance that is at least equal to the height of the tower plus ten feet. For the purpose of this requirement and all other relevant requirements in this chapter, the height of the tower shall be measured from the average ground elevation at the perimeter of the tower foundation to the top of the highest element of the tower and of all components mounted on the tower, whichever is highest.
- C. The distance from the tower to all buildings with a primary use which includes human occupancy shall be not less than the height of the tower plus 10 feet.
- D. In reviewing a special permit application for a wireless services facility, the SPGA may reduce the tower setback requirements of § 190-90 and the limits on distance to buildings with a primary use that includes human occupancy by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such finding, the SPGA shall consider both the visual and safety impacts of the proposed use.
- E. Eight-foot-high fencing shall be provided to control access to the base of any tower; such fencing shall be compatible with the character of the Town and the surrounding neighborhood and shall not include barbed wire or razor wire. Irrespective of fencing, towers shall be designed to prevent climbing by unauthorized personnel, nor shall there be any permanent climbing pegs within 30 feet of the ground on any tower.
- F. The applicant shall demonstrate to the satisfaction of the SPGA that the location of any tower is suitable and that the size and height are optimal to minimize impact, including visual impact, on the site, abutters, the neighborhood and the Town of Wakefield.
- G. There shall be no signs, except for signs required by regulation, no trespassing signs and a sign identifying the owner and giving a telephone number where the owner can be reached on a twenty-four-hour basis and such other emergency and safety information as shall be deemed advisable. Expressly prohibited are signs providing any form of advertisement, whatsoever, as well as any signs that provide any information except that required by regulation or for safety and emergency, unless specifically provided herein. All signs shall comply with this chapter, unless required otherwise by regulation.
- H. Accessory use structures shall be limited to one structure per user per tower, but shall not exceed ten structures per tower. Unless the applicant demonstrates to the satisfaction of the SPGA that alternative arrangements would be more beneficial to the impact on the surrounding neighborhood, each accessory structure on a site with more than one accessory structure shall be connected to at least one other accessory structure by a common wall, and all accessory buildings shall be of similar architectural design and appearance. The architectural design and appearance shall complement the neighborhood. Unless the applicant demonstrates to the satisfaction of the SPGA that a larger structure is essential, each accessory structure shall not exceed 400 square feet in plan nor 10 feet in height.

- I. Site clearing shall be performed in a manner which will maximize preservation of natural beauty, conservation of natural resources, and visual shielding of the facility (including towers, if any) and will minimize marring and scarring of the landscape or silting of streams or other water resources.
- J. The facility shall be provided with vegetative and landscaping screening of the base area as stipulated by the SPGA.
- K. Ground-mounted equipment shall not generate noise in excess of 50 db at the property line.
- L. Roof-mounted or side-mounted equipment shall not generate noise in excess of 50 db at the closest ground level at the base of the building.
- M. No outside storage of vehicles, materials or waste shall be allowed, except for limited periods when the facility is undergoing additions, repair, service or renovation.
- N. Visual impacts of the facility shall be minimized.
- O. Whenever feasible, equipment shall be mounted on existing buildings or structures and designed and installed to blend into the appearance and architecture of the building or structure so as to maximize concealment and minimize disruption of the appearance of the building or structure.
- P. Equipment, including but not limited to transmitters/receivers, accessory equipment and all related support components, mounted on existing buildings or structures shall be designed and installed to minimize visual impact and to maximize public safety.
- Q. When it is not feasible to mount equipment on buildings or structures as provided in Subsection P above, equipment mounted on buildings shall be placed at a height and distance from the building features (such as the roof edge) so as to minimize, in the opinion of the SPGA, the visual impact on the surrounding area.
- R. Equipment mounted on buildings shall be shielded from view using technologically suitable materials that are intended and designed to cause the equipment to blend to the maximum extent possible, in the opinion of the SPGA, with the building and its surroundings.
- S. Equipment mounted on buildings and structures shall not project more than 10 feet above its mounting point on the building or structure, nor more than 10 feet above the height limit of the zoning district within which the facility is located, unless the equipment is entirely concealed within an existing building or structure.
- T. To justify the installation of a tower, the applicant shall demonstrate that alternative sites on existing buildings, structures or towers technically are not possible to serve the intended "cell" area or that the costs to install and maintain the facility on technically feasible alternative sites are at least three times the cost to install and maintain the tower and the facility on the proposed site. Alternatively, the applicant may justify the installation of a tower if the applicant demonstrates, to the satisfaction of the SPGA, that installation of the proposed tower will result in a net decrease in impact on the community by the reduction or elimination of facilities elsewhere within the community.
- U. The applicant shall demonstrate that proposed towers are of the minimum height necessary to accommodate the transmitter/receiver. No tower may extend more than 20 feet above the

average building height or canopy height of trees, whichever is higher, in the area within 600 feet of the tower.

- V. All towers shall be monopole in type. Lattice towers are prohibited, as are towers that require guy wires for support.
- W. The color of all towers shall be as approved by the SPGA with the intent of minimizing the visual impact on the surrounding area.
- X. Night lighting of towers shall be prohibited unless required by the FAA. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
- Y. Siting of towers shall be such that the view of the tower from surrounding areas shall be as minimal as possible.
- Z. Shared use of towers is encouraged. When technically not practical and more than one tower is to be placed on a site, towers shall be separated on the site so that one tower will not strike another if the support structure of one fails.
- AA. Towers shall be designed to accommodate the maximum number of uses technologically practical.
- BB. Transmitter/receiver arrays mounted on towers shall be of the minimum size and mounted as close to the tower as technically feasible.

**§ 190-91. Conditions of use.**

- A. The facility and its transmissions shall comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council for Radiation Protection (NCRP), or as otherwise required by law.
- B. Facilities or their components, including but not limited to any and all transmitters/receivers, equipment, support structures, towers, fencing, and accessory structures, which cease to be used for a period of six months shall be removed within one year of cessation of use or when the facility becomes technically obsolete, whichever comes first. The applicant shall submit a written agreement to remove all components of the facility, without limit, at his own expense in such an event.
- C. The owner shall maintain the facility in a safe manner. The owner shall maintain the facility such that its appearance does not degrade over time.

**§ 190-92. Performance guarantees; inspections.**

- A. Insurance in a reasonable amount determined and approved by the SPGA shall be in force for the entire period that the facility is in place to cover damage from the structure, damage from transmissions and other site liabilities. At the SPGA's discretion, the SPGA may consult, at the applicant's expense, with up to three insurance companies that issue such insurance for the purpose of determining the amount of insurance that is reasonable. Annually, the owner shall file with the Building Official a certificate of insurance as proof of coverage.
- B. Prior to issuance of a building permit, the applicant shall provide a financial security bond

for the removal of the wireless communications services facility with the Town of Wakefield as the assignee, in an amount approved by the SPGA, but not less than twice the certified cost of said removal.

- C. Annually, the holder of the special permit shall file with the Building Official certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, American National Standards Institute, and the Massachusetts Department of Public Health, to the extent that standards of these organizations apply to the approved facility.
- D. Every fifth year after construction is commenced, towers shall be inspected for structural integrity by a professional engineer registered in the State of Massachusetts and retained by the facility owner(s) and/or operator(s), and a copy of the inspection report shall be submitted to the Building Official within 14 days of its issuance.

ARTICLE XV  
**Residential Development**

**§ 190-93. Open space development (OSD).** [Added 11-8-2004 RTM by Art. 30]

A. Applicability.

- (1) In certain districts as specified in § 190-23, Table of Use Regulations, a special permit granted by the Planning Board pursuant to the following provisions is required for the creation of more than four lots (unless restricted from residential use) or for building permit issuance for more than four dwelling structures within any twenty-four-month period created from or for development on a property or a set of contiguous properties in common ownership at the time of adoption of § 190-93, Open space development, or subsequently, unless exempted by the provisions of Section 6 of Chapter 40A, MGL.
- (2) Land parcels which are in separate ownerships and/or are noncontiguous may be incorporated into the same development application, with density and open space determinations made as if all of the land were contained in a single contiguous parcel, provided that each owner involved is subject to agreements binding his participation in the development proposal.
- (3) Applicants for a residential development for which special permit approval under § 190-93, Open space development, is not required may choose to seek such special permit approval and thus to be governed by these requirements, provided that the type of open space development that is sought is allowed at that location under § 190-23, Table of Use Regulations.

B. Open space development purpose and intent.

- (1) The primary purposes for open space development provisions are the following:
  - (a) To allow for flexibility and creativity in the design of residential developments;
  - (b) To promote housing affordable to households as diverse as those which have traditionally resided in Wakefield.
  - (c) To encourage the permanent preservation of open space, agricultural land,

forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and historical and archeological resources in a manner that is consistent with the Wakefield Comprehensive Plan;

- (d) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than commonly occurs with a conventional or grid subdivision;
  - (e) To minimize the total amount of disturbance on the site;
  - (f) To further the goals and policies of the Wakefield comprehensive and open space plans;
  - (g) To facilitate the construction and maintenance of housing, streets, utilities, and public service in an economic and efficient manner.
- (2) The secondary purposes for open space development are the following:
- (a) To preserve and enhance the community character;
  - (b) To preserve and protect agriculturally significant land;
  - (c) To protect the value of real property;
  - (d) To protect community water supplies;
  - (e) To provide for a diversified housing stock;

C. Preapplication for open space development (OSD).

- (1) Conference. Applicants for open space development are very strongly encouraged to request a preapplication review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, and any other interested Town agencies or officials to attend. The purpose of a preapplication review is to minimize the applicant's costs of engineering and other technical experts, and to commence dialogue with the Planning Board at the earliest possible stage in the development. At the preapplication review, the applicant may outline the proposed concept plan and an alternative to it, if prepared, seeking preliminary feedback from the Planning Board and/or its technical experts, and setting a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, the Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate the applicant's submittal of a formal application for an open space development special permit.
- (2) The Planning Board shall adopt rules and regulations relative to the size, form, number and contents of the plans to be submitted for a preapplication review.

D. Procedures.

- (1) Application. An application for a special permit under § 190-93 shall include a yield plan and one or two concept plans (see below). The Planning Board shall adopt rules and regulations relative to the size, form, number and contents of those plans.

- (2) Yield plan. The basic maximum number of dwelling units to be allowed shall be derived from a yield plan. The yield plan shall show the maximum number of dwelling units that could feasibly be placed upon the site under a subdivision in compliance with the normally applicable use, dimensional, and other requirements, without the provisions of § 190-93F, Reduction in dimensional requirements, or § 190-93G, Open space requirements. The yield plan shall contain the same information as required for a concept plan as set forth below. The proponent shall have the burden of proof with regard to the basic maximum number of dwelling units resulting from the design and engineering specifications shown on the yield plan.
- (3) Concept plan.
  - (a) The concept plan shall be prepared by a registered landscape architect or by a multidisciplinary team of which one member must be a registered landscape architect. The concept plan shall address the general features of the land, give approximate configurations of the buildings, lots, open space, and roadways, and shall include the information listed under § 320-9C of the Subdivision Rules and Regulations of the Wakefield Planning Board. In addition, it is strongly recommended that in order to avoid costly later alterations, the concept plan should also indicate wetlands. The concept plan shall have been developed using the four-step design process outlined in § 190-93E below, and the design standards outlined in § 190-93H below.
  - (b) An "OSD concept plan" is one intended to comply with the provisions of § 190-93F, Reduction in dimensional requirements, and § 190-93G, Open space requirements. A "basic concept plan" is one not intended to do so. All provisions of § 190-93D other than § 190-93F, Reduction in dimensional requirements, and § 190-93G, Open space requirements, shall apply to the basic concept plan. An applicant proposing to develop based on a basic concept plan must also submit an OSD concept plan as a basis for comparison. A basic concept plan may serve as the required yield plan.
- (4) Relationship between the special permit plan and other plan requirements.
  - (a) Review of a submittal for either a preliminary or definitive plan approval under the Subdivision Control Law can normally take place concurrent with the § 190-93 special permit process, and approval may be granted concurrent with special permit approval.
  - (b) Neither the concept plan nor development on lots created consistent with an approved § 190-93 special permit require site plan review under § 190-46, Site plan review.
  - (c) No development pursuant to an approved § 190-93 special permit shall take place prior to Planning Board approval of the related definitive subdivision plan or endorsement of a land division plan not requiring such approval. Any § 190-93 special permit issued by the Planning Board shall specifically state that any subsequent plan based upon it and submitted for approval or endorsement under the Subdivision Control Law shall substantially comply with the concept plan as

approved or approved with conditions.

- (d) Any subsequent plan for the premises or portion thereof will be considered not to substantially comply with the § 190-93 special permit if the Planning Board determines that any of the following departures from that permit and its conditions exist, unless in its written determination the Planning Board 1) identifies where the plan substantially departs from the § 190-93 special permit; and 2) conditions that determination of compliance on conforming amendments to the § 190-93 special permit being applied for within a specific time period and subsequently approved by the Planning Board:

- [1] An increase in the number of building lots or dwelling units;

- [2] A significant decrease in the open space acreage;

- [3] A significant change in the lot layout;

- [4] A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;

- [5] Significant changes to the general stormwater management approach; and/or

- [6] Significant changes in the methods for wastewater management.

- (e) A public hearing on an application to amend the § 190-93 special permit pursuant to such a conditional determination may, at the applicant's request, be limited to the significant departures identified by the Planning Board in its determination cited at § 190-93D(4)(d), in which case those identified departures are the only considerations that the Planning Board may take into account in deciding whether to amend the § 190-93 special permit.

- (5) General procedures. Procedural matters including fees and distribution of application materials shall be as provided in § 190-73, Fees.

- (6) Site visit. Whether or not conducted during the preapplication stage, the Planning Board may conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

- (7) Other information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a § 190-93 special permit with its action on a preliminary subdivision plan or the public hearing required for approval of a definitive subdivision plan.

E. Four-step design process. At the time of the application for a § 190-93 special permit, applicants are required to demonstrate to the Planning Board that the following design process was performed with participation by a registered landscape architect and was considered in determining the layout of proposed streets, dwellings, lots and open space.

- (1) Step one: Identifying conservation areas. Identify preservation land by two steps. First,

primary conservation areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and secondary conservation areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated. Second, the potentially developable area shall be identified and delineated. To the maximum extent feasible, the potentially developable area shall consist of land outside identified primary and secondary conservation areas.

- (2) Step two: Siting dwellings. Locate the approximate sites of individual dwelling structures within the potentially developable area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. The number of units enjoying the amenities of the development should be maximized.
- (3) Step three: Aligning the streets and walks. Align streets in order to access the dwellings. Additionally, new walks or trails should be laid out where appropriate to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- (4) Step four: Lot lines. Draw in the lot lines.

F. Reduction of dimensional requirements. Lot area, lot frontage and width, and yard setback requirements of Table 2, Table of Dimensional Regulations (including footnotes 1 through 11) and the provisions of § 190-31, General regulations, Subsections A, B, C, D and K shall not apply to individual lots within a development authorized under a § 190-93 special permit as long as the resulting number of dwelling units within the development does not exceed the basic maximum determined by the yield plan, provided that the Planning Board has approved the proposed dimensional provisions, subject to the following limitations:

- (1) Lots having primary frontage on a street other than a street created by the development shall not have reduced frontage unless the Planning Board determines that doing so improves consistency of building spacing and bulk with the character of the existing vicinity.
- (2) At least 50% of the required frontage and yard setbacks for the district shall be maintained in the development unless a further reduction is authorized by the Planning Board reflecting special circumstances.
- (3) Maximum building coverage and minimum open space requirements shall apply only in the aggregate to the total development, not to individual lots.
- (4) The distance between buildings required in Table 2, Table of Dimensional Regulations, shall apply only in relation to separation between buildings, one of which is within the development and the other is located outside of it.
- (5) Maximum number of stories and maximum height in feet shall be as provided in Table 2, Table of Dimensional Regulations.

G. Open space requirements. The following open space requirements must be met unless the Planning Board approves a basic concept plan as provided at § 190-93J. In all other cases, a

minimum of 40% of the land contained in the development plan shall be reserved as open space land, within which a minimum of 10% of the tract shall be useable open space (see definitions, § 190-4). Any proposed open space land, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction and/or easement enforceable by the Town, in a form satisfactory to the Planning Board, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- (1) The percentage of the open space that is wetlands shall not normally exceed the percentage of the tract that is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this bylaw.
- (2) Designated open spaces shall be contiguous with each other in a continuous system except where separated by a roadway or an accessory amenity, and except where the Planning Board determines that allowing noncontiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.
- (3) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, visual amenity, or a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit up to 10% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths).
- (4) Wastewater and stormwater management systems serving the development may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
- (5) Ownership of the open space.
  - (a) The designated usable open space shall, at the Planning Board's election, be conveyed to:
    - [1] The Town or its Conservation Commission;
    - [2] A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;  
or
    - [3] A corporation or trust owned jointly or in common by the owners of lots or dwelling units within the development. If such corporation or trust is utilized, ownership thereof shall in perpetuity pass with conveyance of the lots or units. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot or unit. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust

or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide 14 days' written notice to the trust or corporation as to the inadequate maintenance, and if the trust or corporation fails to complete such maintenance, the Town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

- (6) Open space land other than usable open space shall, at the Planning Board's election, either be conveyed as above or remain as a designated portion of building lots or units, subject to a conservation restriction conveyed to the Conservation Commission, assuring perpetual maintenance for its intended purposes.

H. Design standards. The following generic and site specific design standards shall apply to all developments authorized under § 190-93 special permits and shall govern the development and design process:

(1) Generic design standards.

- (a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain existing natural topography and cover. Topography, tree cover, and natural drainageways shall be treated as fixed determinants of road, dwelling and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- (b) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- (c) Development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings.
- (d) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

(2) Site specific design standards.

- (a) Setbacks, building orientation and alignment, preservation of site features, public spaces, streetscape, street layout, and driveways and parking shall be in substantial conformance with "6.0 Design Guidelines" in the housing component of the Wakefield Master Plan, May 20, 2003.
- (b) Parking. Parking shall be provided as required at § 190-37. Parking spaces in

front of garages may count in this computation. All parking areas with more than three spaces shall be screened from view. Garage doors shall not be oriented to the street unless set back at least 10 feet behind the dwelling's front building line.

- (c) Buffer areas. A buffer area of not less than 20 feet shall be provided around identified resource areas on or adjacent to the tract, such as ponds, wetlands, streams and riverfront areas, rock outcrops, ledge, agricultural or recreational fields, and land held for conservation purposes. Driveways necessary for access and egress to and from the tract may cross such buffer areas. No vegetation in this buffer area shall be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The Planning Board may waive the buffer requirement in these locations when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein.
- (d) Drainage. Open (nonstructural) stormwater management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration should be used wherever appropriate. All structural surface stormwater management facilities shall be landscaped in accordance with a conceptual landscape plan.
- (e) Common/shared driveways. Common or shared driveways are allowed in compliance with § 190-37I.
- (f) On-site pedestrian and bicycle circulation. Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- (g) Disturbed areas. At least 40% of the total tract area shall be retained essentially in its natural vegetated state.

I. Attached Dwelling Overlay District. [Amended 11-8-2004 RTM by Art. 31]

- (1) Within an Attached Dwelling Overlay District all provisions of the underlying districts shall continue to apply, except that attached dwellings are allowed subject to the above provisions of § 190-93 and to the following, but are not subject to the provisions of § 190-32, Multifamily dwellings.
- (2) The intention of these provisions is for development character to be consistent with that of the neighborhood context as well as with the "6.0 Design Guidelines" in the housing component of the Wakefield Master Plan, May 20, 2003. At least five of the following means of achieving that must be met.
  - (a) Setbacks and building alignment should be reflective of that existing in the vicinity.
  - (b) Individual attached units should be distinguished from each other through building massing, such as through differences in facade setback, roof height, major unit or roof gable orientation, without reliance on surface decoration or trim to distinguish them.

- (c) Open space should be used to create positive spaces, such as courtyards, rather than simply being peripheral "leftovers."
  - (d) No more than six dwelling units should be attached together in a single structure.
  - (e) The scale of parking areas should be kept small through having no more than eight parking spaces within any parking area not separated from others by intensive landscaping and, if containing more than two spaces, being located somewhere other than within a front yard area.
  - (f) Garage doors should not be oriented to any existing street.
  - (g) Existing vegetation and other site features should be retained to the extent reasonably feasible.
  - (h) New plantings should be reflective of those common in the vicinity with regard to species, scale, and location, such as use to articulate the street line.
- (3) Affordability requirement. All open space developments that potentially create six or more housing units shall be subject to the affordability requirements of § 190-96.
- (4) Increases in permissible density. The Planning Board may approve an open space development containing more than the basic maximum number of dwelling units as determined under § 190-93D(2), Yield plan, upon the Board's determination that the proposed development, through the quality of its site selection, programming, and design, displays exceptional sensitivity to the objectives of this section. The increase over the basic maximum number of dwelling units otherwise allowed shall normally be equal to the following. However, in no event shall the number of "bonus" units allowed exceed 50% of the basic maximum number. Calculations of each individual bonus shall be rounded to the next lower number.
- (a) Open space. A bonus of 1/2% (0.5%) of the basic maximum number shall be awarded for each additional percent of the site over and above 40% that is set aside as open space, to a bonus limit of 10% of the basic maximum number.
  - (b) Housing design guidelines. Where the Planning Board determines that the development goes beyond simply meeting five of the criteria in § 109-93I(2) in achieving consistency with "6.0 Design Guidelines" in the housing component of the Wakefield Master Plan, May 20, 2003, a bonus of up to 10% of the basic maximum number may be awarded.
  - (c) Affordability. Dwelling units permanently restricted to occupancy by persons, families or households who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development, may be added as a density bonus, up to a bonus limit of 1/3 of the basic maximum number.
  - (d) Small lot/small house restriction. One-half dwelling unit may be added as a density bonus for each lot permanently restricted to development of a single-family dwelling with building coverage not to exceed the average existing on all developed lots abutting the development or, if smaller, 25%, and with

building height in stories not to exceed the average of existing dwellings on developed lots abutting the development or, if smaller, two stories.

J. Decision of the Planning Board.

- (1) The Planning Board shall approve or approve with conditions a special permit for development under a proposed OSD concept plan if it determines that the proposal will meet the requirements of the bylaw and will meet the guidance of § 190-93B, Open space development purpose and intent, better than would well-designed development under a basic concept plan, if one has been submitted, or better than would development without reliance upon § 190-93F, Reduction of dimensional requirements, and § 190-93G, Open space requirements, if no basic concept plan has been submitted.
- (2) The Planning Board shall approve or approve with conditions a special permit for development under a proposed basic concept plan if it determines that the proposal will meet the requirements of the bylaw and will meet the guidance of § 190-93B, Open space development purpose and intent, better than would well-designed development under an OSD concept plan.
- (3) The Planning Board shall disapprove a special permit proposed under § 190-93 if it determines that a well-designed development meeting the requirements of the bylaw without reliance upon § 190-93F, Reduction of dimensional requirements, and § 190-93G, Open space requirements, would better serve the purpose and intent stated at § 190-93B, Open space development purpose and intent, than would approval or approval with conditions for the plan or plans proposed.
- (4) In the event of disapproval of a § 190-93 special permit or in the event that an appeal of the Planning Board's action on a § 190-93 special permit is filed under § 17 of Chapter 40A, MGL, by any party other than the petitioner, a development plan for the same premises prepared without reliance upon § 190-93F, Reduction of dimensional requirements, and § 190-93G, Open space requirements, may be submitted under the Subdivision Control Law and shall be considered to be in compliance with the requirements of § 190-93, Open space development, without need for a special permit if submitted within 24 months of special permit disapproval by vote of the Planning Board or the filing of an appeal.

**§ 190-94. Mixed use development.** [Added 11-8-2004 RTM by Art. 33]

- A. Applicability and intent. The intent of § 190-94, Mixed use development, is to provide for compact development of a mix of business and residential uses under careful provisions for design, open space, and parking accommodation to assure compatibility with the existing context. As provided in § 190-23, Table of Use Regulations, these provisions apply only within Mixed Use Overlay Districts. Within a Mixed Use Overlay District all provisions of the underlying districts shall continue to apply, except that developments under special permit granted under § 190-94, Mixed use development, are allowed, subject to the following, and are not subject to the provisions of § 190-32, Multifamily dwellings, except as provided herein.

B. Procedures.

- (1) The special permit granting authority for mixed use development under these provisions shall be the Planning Board, regardless of dwelling type or height, provisions of § 190-32A notwithstanding. In order to grant a special permit for a mixed use development, the Planning Board must find that the developer has met all of the general requirements for a special permit set forth in Article VII and, in addition, that each of the following requirements has been satisfied. The Planning Board shall adopt and revise from time to time rules and regulations relative to the size, form, number and contents of submittals required in seeking such special permit.
- (2) Preapplication meeting. Applicants for mixed use development are very strongly encouraged to request a preapplication review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, and any other interested Town agencies or officials to attend. The purpose of a preapplication review is to minimize the applicant's costs of engineering and other technical experts and to commence dialogue with the Planning Board at the earliest possible stage in the development. At the preapplication review, the applicant may outline the proposed mixed use plan, seeking preliminary feedback from the Planning Board and/or its technical experts and setting a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, the Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for an open space development special permit.
- (3) All applications for a special permit for mixed use development shall be accompanied by the following:
  - (a) Residential uses proposed: tabulation of the number of dwelling units proposed, categorized by building type (multifamily, attached single-family, etc.), bedroom type (studio, one-bedroom, etc.), floor area in each type of dwelling unit, and sales or rental level, including affordability provisions.
  - (b) Open space proposed: tabulation of the extent of open space of various categories: land, landscaped, and usable.
  - (c) Nonresidential uses proposed: tabulation of floor area by land use category.
  - (d) Visual representations of the development, indicating general scale, massing, materials, and arrangement within the site, at least in plan, elevation, and sectional views, preferably supplemented with perspective or axonometric views.
  - (e) A plan view context drawing, covering the premises and at least all parcels abutting and across the street, indicating street and property lines, building locations, and other features of relevance, such as important trees.
  - (f) Any special provisions proposed, including grants of benefits to the Town such as land for public purposes, construction of or contributions towards off-site improvements, or restrictions proposed, such as view corridors or traffic management provisions.

- (g) A traffic analysis indicating that full construction and occupancy as provided in the concept plan will not cause the peak hour traffic level of service to either be lower than reasonably expectable from development not relying upon these provisions or below level of service "D," as defined in current publications of the Highway Research Board.
  - (h) A verbal and graphic analysis documenting that the development is assured to be compatible with the character and scale of the immediately surrounding neighborhood.
  - (i) An assessment of the impacts of the development upon natural resources, Town utilities, schools, housing needs, taxes or other topics of salience in the particular case.
- (4) Whenever an application for a mixed use special permit is filed with the Planning Board, the applicant shall also file, within five working days of the filing of the completed application, copies of the application, accompanying plans and other required documentation, to the Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within 35 days of receipt of the reviewing party of all of the required materials. Failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day review period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period.
  - (5) The Planning Board may require payment of reasonable fees for the engagement of architects, engineers, planners, lawyers, urban designers or other appropriate professionals to assist the Board in reviewing a project, using procedures, including any appeals of the selection of the consultant, consistent with Section 53G of Chapter 44, MGL.
  - (6) Site visit. Whether or not conducted during the preapplication stage, the Planning Board may conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

C. Use and dimensional requirements.

- (1) The proposal shall include both residential and business uses, with the gross floor area of fast floor business use(s) equal to not less than 20% of lot area.
- (2) Any use allowed in at least one of the districts under a given overlay district is allowed within a mixed use structure at any location throughout that mixed use overlay district, including within underlying districts where such use is not otherwise allowed. Dwelling units are allowed within such structures without limitation on type or form of tenure.

- (3) The following dimensional requirements shall apply, and those of Table 2, Table of Dimensional Regulations (including footnotes 1 through 11), and § 190-31, Subsections A, B, C, D, G and K, shall not apply for mixed use development granted a special permit under § 190-94, except as provided below.
  - (a) Lot area shall equal not less than 2,000 square feet per dwelling unit, excluding those units which are "affordable," as defined at § 190-96. There is no additional lot area requirement for other uses, except that the floor area ratio requirement for the underlying district must be met counting only floor area in nonresidential uses.
  - (b) Building height shall not exceed four floors or 50 feet for those portions of structures located within 100 feet of a street having a right-of-way width of at least 80 feet, or three floors or 35 feet elsewhere.
  - (c) The minimum yard setbacks of the least restrictive district any portion of which is within the overlay district shall govern yard setbacks throughout the MUOD.
  - (d) The maximum building coverage of the least restrictive district any portion of which is within the Overlay District shall govern building coverage throughout the MUOD.
  - (e) Open area shall equal the greater of the underlying district requirement or 15%.

D. Other requirements.

- (1) Parking and loading.
  - (a) The number of parking spaces shall be as required by § 190-41, Required off-street parking. The number of required spaces may be reduced by the Planning Board in acting upon the special permit to reflect demand reduction commitments agreed to by the developer and enforceable by the Town, such as dwelling unit commitments to participation in the MassHousing "Take the T (and the ZIPCAR) Home Mortgage Program," or formal employee ride-sharing arrangements, as well as for different uses having different timing of peak demands.
  - (b) Legal on-street parking spaces on the same side of the street and adjacent to the premises may be included in satisfying the parking requirement.
  - (c) Parking shall preferably be structured, but in no event shall it be so located that it separates buildings from street sidewalks, instead being below the building or to its rear. Required parking may be located in part or whole off premises, provided that a substantial portion of the parking is within 300 feet of the premises served and is under permanently binding legal agreement for that use.
  - (d) Loading facilities must be provided as required at § 190-39.
  - (e) Access to parking and loading shall be shared with adjacent premises where feasible, subject to the provisions of § 190-37I, and shall be located so as to minimize interruptions of pedestrian movement along business-oriented streets.

- (2) Housing affordability. All mixed use developments that create six or more housing units shall be subject to the affordability requirements of § 190-96.
- (3) Usable open land. Usable open land shall cover at least 15% of the site, preferably in the form of a courtyard or similar positive space given some sense of enclosure through its location relative to buildings and other structures, unless in acting on the special permit the Planning Board determines that peculiarities of the site make meeting this provision either infeasible or inappropriate.
- (4) Contextual relationship.
  - (a) Where reasonably feasible, ground-level uses on site shall abut similar uses off site: business abutting business, residence abutting residence, parking abutting parking, open space abutting open space. In such cases, fencing or screening is neither required nor desirable. Where it is not, landscaped screening may be required to provide mitigation of visual, sonic, and lighting impacts.
  - (b) Pedestrian movement among the uses within the site and between them and abutting premises shall be strongly facilitated and given amenity to encourage its use.
  - (c) Buildings shall in their design be in scale and in proportion with adjacent existing structures, open space, and the natural and man-made environment. Height, materials, texture, color, street facades, roof types and slopes, fenestration, building details, landscaping, benches and other amenities are all means by which to reflect the intention of contributing to improvement in the quality of the environment.
  - (d) Site and building design shall be in substantial conformance with "6.0 Design Guidelines" in the housing component of the Wakefield Master Plan, May 20, 2003.

**§ 190-95. Creative development.** [Added 11-8-2004 RTM by Art. 34]

- A. Intent and applicability. The intent of § 190-95, Creative development, is to provide a process for Town Meeting to approve development standards tailored for special locations in consideration of a concept plan which it approves and which gives assurance of consistency between Town Meeting intent and development outcomes. Provisions of the underlying district shall continue to apply except for development subject to the Town Meeting-approved concept plan, which may be either more or less restrictive than the zoning provisions otherwise applicable within the underlying districts. The provisions of § 190-32, Multifamily dwellings, shall not apply to developments proposed pursuant to § 190-95, Creative development.
- B. Requirements.
  - (1) Any use allowed in at least one of the districts under a given Creative Development Overlay District is allowed at any location throughout that Creative Development Overlay District, including within underlying districts where such use is not otherwise allowed. Dwelling units are allowed within such structures without limitation on

structure type or form of tenure.

- (2) Lot area.
  - (a) Lot area shall be not less than as provided in an approved concept plan (§ 190-95C), which in no event shall be less than the following sum:
    - [1] The number of detached single-family dwellings times 1/8 acre each; plus
    - [2] The number of units in two-family or attached dwelling structures times 1/12 acre each; plus
    - [3] The number of units in other multifamily structures times 1/20 acre each.
  - (b) No additional lot area is required for nonresidential uses, except that, in satisfying the FAR requirements that may be established in the concept plan, nonresidential as well as residential uses shall be included.
- (3) Building height shall not exceed six stories or 70 feet. Rooftop mechanical equipment and its height shall be shown on special permit plan submittals, and shall be selected, located, and if necessary, screened in order to achieve harmonious integration with the building design.
- (4) Other dimensional standards shall be as provided in an approved concept plan (§ 190-95C), rather than those stated in Table 2, Table of Dimensional Regulations, or in § 190-3, General regulations.
- (5) Parking and loading.
  - (a) The number of parking spaces shall be as required by § 190-41, Required off-street parking. The number of required spaces may be reduced by the Planning Board in acting upon the special permit to reflect demand reduction commitments agreed to by the developer and enforceable by the Town, such as dwelling unit commitments to participation in the MassHousing "Take the T (and the ZIPCAR) Home Mortgage Program," or formal employee ride-sharing arrangements, as well as for different uses having different timing of peak demands.
  - (b) Legal on-street parking spaces adjacent to the premises may be included in satisfying the parking requirement.
  - (c) Parking shall preferably be structured, but in no event shall it be so located that it separates buildings from street sidewalks, instead being below the building or to its rear. Required parking may be located in part or whole off premises, provided that a substantial portion of the parking is within 300 feet of the premises served and is under permanently binding legal agreement for that use.
  - (d) Access to parking and loading shall be shared with adjacent premises where feasible, subject to the provisions of § 190-37I, and shall be located so as to minimize interruptions of pedestrian movement along business-oriented streets.
  - (e) Loading facilities must be provided as required at § 190-39.

- (6) Housing affordability. All developments authorized under CDOD provisions that create six or more housing units shall be subject to the affordability requirements of § 190-96.
- (7) Usable open land shall cover at least 15% of the site area.

C. Procedures.

- (1) Parties anticipating making proposals for establishment of a Creative Development Overlay District by Town Meeting are urged to work closely with the Planning Board and Town staff in developing their proposal in order to assure a well-informed process and similarly to arrange for exchanges with those who live near or otherwise would be impacted by the proposal.
- (2) All petitions presented to Town Meeting for creation of a Creative Development Overlay District (CDOD) shall include a concept plan and report for that district, which shall contain at least the following:
  - (a) Residential uses proposed: tabulation of the number of dwelling units proposed, categorized by building type (multifamily, attached single-family, etc.), bedroom type (studio, one-bedroom, etc.), floor area in each type of dwelling unit, and sales or rental level, including affordability provisions.
  - (b) Open space proposed: tabulation of the extent of open space of various categories: land, landscaped, and usable.
  - (c) Nonresidential uses proposed: tabulation of floor area by land use category.
  - (d) Visual representations of the development, indicating general scale, massing, materials, and arrangement within the site, at least in plan, elevation, and sectional views, preferably supplemented with perspective or axonometric views.
  - (e) A plan view context drawing, covering the premises and at least all parcels abutting and across the street, indicating street and property lines, building locations, and other features of relevance, such as important trees.
  - (f) Itemization of departures from the use, dimensional, parking or other provisions applicable to the underlying zoning districts.
  - (g) Special provisions proposed, including grants of benefits to the Town such as land for public purposes, construction of or contributions towards off-site improvements, or restrictions proposed, such as view corridors or traffic management provisions.
  - (h) A traffic analysis indicating that full construction and occupancy as provided in the concept plan will not cause the peak hour traffic level of service to either be lower than reasonably expectable from development not relying upon these provisions or below level of service "D," as defined in current publications of the Highway Research Board.
  - (i) A verbal and graphic analysis documenting that the development is assured to be compatible with the character and scale of the immediately surrounding

neighborhood.

- (j) An assessment of the impacts of the development upon natural resources, Town utilities, schools, housing needs, taxes or other topics of salience in the particular case.
- (3) The concept plan shall be provided to the Town Clerk and the Planning Board no later than the date on which first notice is published for the Planning Board hearing on the proposed zoning amendment creating the overlay district, with number of copies and distribution as may be provided in regulations adopted by the Planning Board for administration of these provisions, and shall be reviewed at that public hearing. The Planning Board's recommendation to Town Meeting shall include its observations and recommendations regarding the consistency of the concept plan and report with the requirements of § 190-95C and the intentions articulated at § 190-3, Purpose.
  - (4) Following Town Meeting approval for creation of a Creative Development Overlay District and its accompanying concept plan, permit applications relying upon that plan shall require site plan review by the Planning Board under the provisions of § 190-46, Site plan review where special permit is not required. The Planning Board shall approve such site plan, provided that it is consistent with the approved concept plan, and consistent with the provisions of § 190-46. A site plan shall not be found consistent unless each of the following is met:
    - (a) The uses proposed are consistent with those of the concept plan in type and extent.
    - (b) Although locations of individual buildings, parking, and open space may have been modified subsequent to plan approval, the general scheme is unaltered, and all of the applicable use and dimensional regulations have been met.
    - (c) Site and building design shall be in substantial conformance with "6.0 Design Guidelines" in the housing component of the Wakefield Master Plan, May 20, 2003.
    - (d) Means have been established to assure compliance with special provisions stipulated at § 190-95C(2)(g).
  - (5) A revised concept plan not consistent with the one approved at the time of Creative Development Overlay District creation may gain approval by going through the same process as required for an original concept plan, that is, being approved by Town Meeting pursuant to an article on the Warrant, following Planning Board hearing and review prior to Town Meeting action, as provided above.

**§ 190-96. Housing affordability.** [Added 11-8-2004 by Arts. 31, 33, 34]

- A. The intent of § 190-96 is to increase the supply of housing in the Town of Wakefield that is permanently available to and affordable by low- and moderate-income households and to encourage a greater diversity of housing accommodations to meet the needs of families and other Wakefield residents, and developing and maintaining a satisfactory proportion of the Town's housing stock as affordable dwelling units. To that end, developments made subject

to this section by other provisions of this bylaw shall assure that at least 18% of the total number of dwelling units in the development (rounded to the nearest whole number) will be affordable, as provided below.

- B. The applicant shall submit to the special permit granting authority (SPGA) for the use involved a use restriction or regulatory agreement for the designated affordable dwelling units. That agreement shall establish an affordability restriction for the maximum period allowed by law. Together with the special permit application the applicant shall provide:
  - (1) A site approval letter from either the subsidizing agency or other agency authorized by DHCD under Housing Appeals Committee regulations [CMR 31.01(2)]; and
  - (2) A complete draft regulatory agreement among the above agency, the developer, and the Selectmen.
- C. Prior to obtaining any building permit for the project, the applicant shall submit proof to the special permit granting authority that the use restriction or regulatory agreement was recorded at the Registry of Deeds. The use restriction or regulatory agreement selected by the applicant shall be subject to the approval of the special permit granting authority using the Department of Housing and Community Development Guidelines. The use restriction or regulatory agreement shall include a right of first refusal for the Town of Wakefield upon the transfer of such restricted units.
- D. The affordable dwelling units shall be integrated into the overall development or building in which they are situated so as to prevent the physical segregation of such units. Their exterior appearance shall be designed to be consistent with that of the market rate units in the same development or building, except for size;
- E. At the time of application, the applicant shall identify the approximate floor areas of all units. The affordable dwelling units shall have the same number of bedrooms as the nonaffordable dwelling units on a proportionate or pro-rata basis or they may have a smaller number of bedrooms if agreed to by the special permit granting authority.
- F. With the approval of the special permit granting authority, this affordable dwelling unit requirement may be met by placing some or all of the required affordable dwelling units on an alternative site or sites suitable for housing as solely determined by the special permit granting authority. Off-site affordable dwelling units may be located in an existing structure, but they must be units which are not already counted in the Town of Wakefield's Massachusetts General Laws, Chapter 40B, Subsidized Housing Inventory, as amended, at the time of the application. Off-site affordable dwelling units provided through this provision shall comply in all respects other than on-site location with the requirements of this § 190-96, with the following clarifications and modifications. Existing off-site units that are converted to affordable dwelling units shall not be counted in the total number of units for the purpose of determining the required number of affordable dwelling units. However, new off-site housing units created to satisfy the requirement for affordable dwelling units under this section shall be considered part of the total number of units for the purpose of determining the total required number of affordable dwelling units.
- G. The following requirement shall be a condition of special permits which require affordable dwelling units in order to prevent a disproportionate number of nonaffordable dwelling units

being occupied prior to the completion and occupancy of the affordable dwelling units.

- (1) No market rate units exceeding 25% of the total shall be occupied unless 25% of the affordable dwelling units have been completed and occupancy permits issued therefor.
- (2) No market rate units exceeding 50% of the total shall be occupied unless 50% of the affordable dwelling units have been completed and occupancy permits issued therefor.
- (3) No market rate units exceeding 75% of the total shall be occupied unless 75% of the affordable dwelling units have been completed and occupancy permits issued therefor.
- (4) No market rate units exceeding 95% of the total shall be occupied unless 100% of the affordable dwelling units have been completed and occupancy permits issued therefor.

**§ 190-97. Municipal Building Reuse Overlay District.** [Added 8-17-2006 STM by Art. 2]

- A. Uses permitted in Municipal Building Reuse Overlay District. The Municipal Building Reuse Overlay District shall be considered as overlaying other districts established by this Zoning Bylaw. Any residential uses permitted in that portion of the districts so overlaid shall be permitted. In addition, any residential use (including, without limitation, elderly housing and multifamily housing) may be permitted in such an overlay district under a municipal building reuse special permit issued pursuant to § 190-97C, below.
- B. Dimensional controls in Municipal Building Reuse Overlay District. Subject to the provisions of § 190-97C, below, buildings in a Municipal Building Reuse Overlay District previously owned or controlled by the Town of Wakefield and existing at the time of the issuance of a municipal building reuse special permit may remain and may be rehabilitated and rebuilt in their then location. The special permit granting authority under § 190-97C may allow reductions and/or alterations in the dimensional controls for buildings in the Municipal Building Reuse Overlay District as required under this § 190-97B and Table 2 (Table of Dimensional Regulations)<sup>18</sup> of the Zoning Bylaw by the municipal building reuse special permit, according to procedure contained in Article VIII, and if it deems the reductions and/or alterations will enhance the project as a whole or allow it to benefit the neighborhood in which it is situated or the Town of Wakefield as a whole.
  - (1) Enlargement of existing building. The existing building may be enlarged in a manner harmonious with the external character and appearance of the building; however, no such enlargement shall exceed a size equivalent to 25% of the gross square footage of the existing building.
  - (2) New construction. An additional building or buildings which contain the same use or uses as contained in the existing building (or one or more accessory uses) may be constructed on the lot in a manner harmonious with the external character and appearance of the existing building.
  - (3) Setback. The setback regulations applicable to the zoning district surrounding the lot, or in the case of a lot which is adjacent to two or more zoning districts, the setback regulations applicable to the least restrictive such adjacent zoning district, shall apply,

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<sup>18</sup>. Editor's Note: Said table is included at the end of this chapter.

except as otherwise permitted by the special permit granting authority in a municipal building reuse special permit.

- (4) Density. The special permit granting authority under § 190-97C may allow reductions and/or alterations in the dimensional controls for buildings in the Municipal Building Reuse Overlay District as required under this § 190-97B and Table 2 (Table of Dimensional Regulations) of the Zoning Bylaw by the municipal building reuse special permit, according to procedure contained in Article VIII, and if it deems the reductions and/or alterations will enhance the project as a whole or allow it to benefit the neighborhood in which it is situated or the Town of Wakefield as a whole.
- (5) Height. The height of any enlargement or additional building shall not exceed that allowed in the zoning district surrounding the lot, or in the case of a lot which is adjacent to two or more zoning districts, the height regulations applicable to the least restrictive such adjacent zoning district shall apply, except as otherwise permitted by the special permit granting authority in a municipal building reuse special permit.
- (6) Open space. Except as otherwise expressly authorized by the special permit granting authority in a municipal building reuse special permit, the open space on the lot or lots shall be not less than the lesser of the open space available at the time of the issuance of the municipal building reuse special permit or 25% of the area of the lot. Open space shall be completely devoid of any structure, parking space, loading space, accessway, private yards, patios or gardens for the exclusive or principal use of residents of individual dwelling units. The special permit granting authority shall strive to maximize open space.
- (7) Mixed residential use. With the approval of the special permit granting authority in the municipal building reuse special permit, mixed residential uses may be authorized.

C. Municipal building reuse special permit.

- (1) The Planning Board as the special permit granting authority may grant a municipal building reuse special permit for the rehabilitation and utilization of any building and the lot on which it is situated in a Municipal Building Reuse Overlay District, applying the criteria set forth in § 190-44 of this Zoning Bylaw, provided that as a result of the special permit process the following criteria are met:
  - (a) Parking. There shall be adequate numbers of off-street parking spaces and loading and unloading spaces, provided that the special permit granting authority may vary the requirements set forth in Article VII of this Zoning Bylaw. Parking may be located in any yard area approved by the special permit granting authority.
  - (b) Signs. All proposed signs shall comply with Article XIII of this Zoning Bylaw, except as specifically authorized by the special permit granting authority in the municipal building reuse special permit.
- (2) Once recorded, a municipal building reuse special permit shall remain valid and applicable regardless of any change in ownership of the lot or lots to which the permit relates, and regardless of any change in condition of the building(s) on such lot or lots.

Notwithstanding any other provision hereof to the contrary, any building that is subject to a municipal building reuse special permit may be rebuilt if destroyed by fire or other casualty.

- D. Special permit application process. An application may be made to the Planning Board as the special permit granting authority for a municipal building reuse special permit in compliance with the conditions set forth in § 190-97C, above. Site plan review must be completed by the Planning Board, as part of the application process. The provisions of § 190-45 and any site plan and special permit regulations of the Planning Board, as the same may be adopted and amended from time to time, shall apply.
- E. Affordability. Notwithstanding any other provision of this Zoning Bylaw, including without limitation § 190-32F(6), any use authorized under a municipal building reuse special permit may include a requirement that up to 18% of the units (i.e., between 0% and 18%, inclusive) be made affordable to low- and moderate-income households. If any affordability requirement is so included, the municipal building reuse special permit shall give preference in the selection of buyers or tenants to Wakefield residents.

ARTICLE XVI  
**Signage Overlay District**  
[Added 5-3-2010 ATM by Art. 29]

**§ 190-98. Purpose; definitions.**

- A. Purpose and intent. This article is adopted by the Town of Wakefield for the regulation and restriction of signs and other identification devices within the certain commercial areas:
  - (1) To promote the public safety and convenience of the streets and roads, sidewalks and other pedestrian spaces, public property and private property;
  - (2) To preserve for the present and future inhabitants the natural, architectural and historical assets and other qualities that distinguish the Town as a highly desirable residential community;
  - (3) To protect business viability, economic opportunity, property values, aesthetic integrity, town character, creativity and community appearance by exercising prudent control;
  - (4) To encourage compatibility and harmony with surrounding buildings, land and land uses; and
  - (5) To provide design assistance and guidance through a design review process.
- B. Application of the Signage Overlay District. Within the Signage Overlay District, all the provisions of the underlying districts shall continue to apply, except signs are subject to the provisions of this Article XVI and not Article XIII. Article XVI shall be effective upon adoption by Town Meeting.
- C. Definitions. As used in this Article XVI, the following words and terms shall have the following respective meanings. Whenever there may arise an ambiguity or dispute with respect to the meaning of any of the following words and terms, such ambiguity or dispute

shall be resolved in a manner that results in a more restrictive interpretation consistent with the stated purposes of this Article XVI.

**ABANDONMENT** — The cessation of a use of a sign as indicated by the visible or otherwise apparent intention of an owner or occupant to discontinue the use of a sign, structure or lot; or the removal of the characteristic equipment or furnishings used in the performance of the use.

**AGGREGATE SIGN AREA** — The total sign area existing, proposed or permitted on a lot.

**ALTERATION** — Any construction, reconstruction or other similar action resulting in a change in structural parts, height, dimensions, size, use or location.

**AWNING** — A nonrigid covering over a fixed or retractable frame attached to a building's facade that projects over an area adjacent to the building.

- (1) **FIXED AWNING** — A nonrigid covering over a fixed frame attached to a building's facade that projects over an area adjacent to the building.
- (2) **OPERABLE AWNING** — A nonrigid covering over a retractable frame attached to a building's facade that projects over an area adjacent to the building.

**AWNING SIGN** — Any and every sign displayed on an awning, which may include the entire awning.

**BEACON** — Any light source with one or more beams directed at one or more points not on the same lot as the light source.

**BILLBOARD** — Any sign, regardless of size, which advertises, calls attention to or promotes for commercial purposes any product, service or activity other than one manufactured, sold or engaged in on the lot at which the sign is located.

**BUILDING DIRECTORY SIGN** — Any sign, other than a building marker, that contains the name of a building and/or its tenants.

**BUILDING MARKER** — Any sign indicating the name of a building, date of construction or significant fact about the building or its site that is cut into a masonry surface or flat-mounted on a building's facade.

**BUSINESS ESTABLISHMENT** — Each separate place of business, whether or not consisting of one or more buildings.

**CANOPY** — An architectural projection, including a marquee, that provides weather protection, identity or decoration and is supported by the building to which it is attached, whether or not supported by one or more structural posts anchored to the ground or sidewalk. Typically, a canopy is a rigid structure to which a rigid covering is attached.

**CHANGEABLE COPY SIGN** — A sign on which message content or copy is changed manually or electronically, including through the utilization of attachable or digitally changeable letters, numbers, symbols, and other similar characters.

**CHANGING IMAGE SIGN** — Any sign that, through the use of electronic light-emitting diodes (LEDs), flat-screen panels, moving structural elements, flashing or sequential lights, lighting elements, or other method, results in movement, the appearance of movement or change of sign

image or message. A sign on which the only copy that changes is an electronic or mechanical indication of time and/or temperature shall be considered a changing image sign for purposes of this bylaw.

**COMMERCIAL MESSAGE** — Any sign, wording, logo, trademark, "trade dress," identifying color regime or other representation that directly or indirectly names, advertises or calls attention to a business, product, service, organization or other commercial activity.

**DIRECTIONAL SIGN** — Any sign limited solely to directing vehicular or pedestrian traffic to, or setting out use restrictions within, parking areas. A directional sign shall not include a commercial message.

**FLAG** — Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government or political entity.

**FREESTANDING SIGN** — Any sign or grouping of signs supported by structures or supports that are on, or anchored in, the ground and that are independent from any building or other structures.

**HAZARDOUS SIGN** — A sign constituting a hazard to the public safety because it does not meet the lateral and/or vertical loads as specified in the Building Code, or does not meet the wiring and installation standards of the Electrical Code.

**HISTORICAL MARKER or PLAQUE** — An historical plaque approved by the Wakefield Historical Commission, the State Department of Archives and History or the National Register of Historic Places.

**ILLUMINATED SIGN** — A sign that is illuminated in any manner by electrical or other devices, including the following:

- (1) **INTERNAL ILLUMINATION** — A light source that is within the sign and viewed through a translucent or transparent panel.
- (2) **EXTERNAL ILLUMINATION** — A light source that is placed outside of or away from the sign that illuminates the sign.
- (3) **SILHOUETTE ILLUMINATION** — A light source that illuminates a building surface or sign as a background.
- (4) **LUMINOUS TUBING** — A light source formed by glass tubes filled with gas, including neon lighting.
- (5) **LIGHT-EMITTING DIODE (LED) ILLUMINATION** — A light source formed by light-emitting diodes, known as "LED."

**IMAGE PROJECTIONS** — Light images created by a projection device that may be still, changeable or moving, that are shown on building walls, sidewalks or other surfaces.

**INTERNALLY ILLUMINATED SIGN** — Any sign that uses internal illumination.

**MENU BOARD** — Any sign that provides information to patrons while using a drive-through facility or walk-up machine such as an automated teller machine.

**MENU BOXES** — A sign affixed to a building that is capable of being read only at close range,

such as on the sidewalk, by restaurant patrons that displays the restaurant's menu, hours or the like. Said sign shall not attract attention from off the premises, and its contents should not be discernible from a public street.

**MONUMENT SIGN** — Any freestanding sign flush with the ground, the base of which is at least 75% as wide as the widest part of the whole sign. "Base" shall mean that portion of the sign that is flush with the ground.

**MOVING SIGN** or **ANIMATED SIGN** — Any sign or any part of a sign that mechanically moves, spins by the wind, flashes, or uses traveling lights, changeable copy, or changing images.

**NONCONFORMING SIGNS** — Any sign that does not conform to the provisions of this article that was lawfully erected.

**OFF-PREMISES ADVERTISING SIGN** — Any sign unrelated to the lot on which the sign is located or to which it is affixed. See "billboard."

**ON-PREMISES ADVERTISING SIGN** — Any sign related to the premises, or the use thereof, where the sign is located or to which it is affixed.

**PENNANT** — Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, but excluding flags.

**PORTABLE SIGN** — Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs on A- or T-frames; sandwich board signs; balloons used as signs; umbrellas used for advertising; signs attached to or painted on a vehicle parked and visible from the public right-of-way, unless said vehicle is used in the normal, day-to-day operations of the business.

**PRIMARY BUILDING FACADE** — The wall or plane (elevation) of a building that contains the building's main entrance.

**PROJECTING BRACKET SIGN** — Any sign that is suspended from a metal bracket and that extends more than six inches beyond the surface of the building to which it is attached.

**PROJECTING FIXED-BANNER SIGN** — Any sign of lightweight fabric or similar material that is held in place between upper and lower brackets or armatures that are permanently fixed to a building's facade in such a manner that it extends more than six inches beyond the surface of such building.

**PROJECTING SIGN** — Any sign that is affixed to a building and that extends more than six inches beyond the surface of such building. A mansard wall sign shall not be deemed a projecting sign.

**REPAIR** — With respect to a building, structure or sign, any construction that replaces the materials and does not change the dimensions, size, use or location thereof.

**ROOF SIGN** — Any and every sign located above, or projecting above, the lowest point of the eave or the top parapet wall of any building, or which is painted on or otherwise attached or affixed to a roof. A mansard wall sign shall not be deemed a roof sign.

**SECONDARY BUILDING FACADE** — The wall or plane (elevation) of a building that does not contain the building's main entrance.

**SIGN** — Any display, including its structure, consisting of any letter, figure, character, mark, point, plane, design, poster, pictorial, picture, video display, cartoon, stroke, stripe, line, trademark, reading matter or illuminated device, which is constructed, attached, erected, fastened or manufactured in any manner so that the same shall be used to convey any message whatsoever to the public.

**SIGN AREA** — The area defined by the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or supporting structure. Only one side of a flat, identical, back-to-back sign shall be included in calculating the sign area.

**SIGNBAND or FRIEZE** — A continuous horizontal segment of a building's facade, located above any ground-level storefront display windows and clerestory windows and below the second-story windows or building cornice. In many storefronts this area is designated by a distinct band of pre-cast concrete, plaster, wood or other material and is the typical location for business signs.

**SIGN HEIGHT** — The maximum vertical distance measured from the finished grade to the highest point of the sign or its supporting structure, whichever is higher.

**STOREFRONT OF A BUSINESS ESTABLISHMENT** — That portion of the first floor building wall comprised of the business establishment's public entrance and display windows that is adjacent to and corresponds to the height and width of the interior space rented or owned by the business establishment.

**STREET ADDRESS SIGN** — A sign indicating only the street address for a particular building or lot.

**STREETSCAPE DRAWING** — An architectural drawing of building facades that shows the outline of adjacent buildings, the height of parapets, rooflines, second-floor levels, and the size and location of window openings.

**TABLE OF AGGREGATE SIGN AREA** — A calculation table listing the area of each sign type and the total area of all signage installed on a lot.

**TEMPORARY SIGN** — Any and every sign, but not including window signs, which by its design and/or use is temporary in nature, frequently composed of paper, poster-board and/or cardboard, typically containing messages relative to sale, lease, rental or construction of property, garage or yard sales and similar occasional uses, special sales, bazaars, dinners or other events. Temporary signs include, but are not limited to, the following:

- (1) **ARTISAN'S SIGN** — Any sign of a mechanic, painter, or other artisan performing work on the lot.
- (2) **LAWN SIGN** — Any freestanding sign made of lightweight materials such as cardboard or vinyl that is supported by a frame, pole, or other support structure placed directly in the ground without foundation or other anchor.

- (3) **POLITICAL SIGN** — Any sign that refers only to the issues or candidates involved in a political election.
- (4) **SALES OR RENTAL SIGN** — Any sign advertising the sale or rental of the whole or any portion of the lot upon which it is located.
- (5) **BANNER** — Any sign of lightweight fabric or similar material that is mounted to a pole or building at one or more edges. Any such sign that meets the definition of a wall sign, projecting bracket sign, projecting fixed-banner sign, or projecting sign shall not be deemed a banner. Flags shall not be considered banners. All banners are temporary signs.

**WALL MURAL** — A directly applied wall sign that exceeds the maximum allowed sign area.

**WALL SIGN** — Any sign securely fixed parallel to the face of a building wall. Four types of wall signs specifically identified in this article are:

- (1) **DIRECTLY APPLIED WALL SIGN** — Any sign of painted, incised, or three-dimensional material applied directly to a building surface.
- (2) **RAISED PANEL WALL SIGN** — Any sign of painted, incised, or three-dimensional material applied to a panel that is less than two inches in thickness affixed directly to a building surface.
- (3) **SIGN BOX WALL SIGN** — Any sign of painted, incised or three-dimensional material affixed to a signboard or in a frame attached and parallel to a wall surface extending more than two inches, but less than six inches, from the wall surface.
- (4) **MANSARD WALL SIGN** — Any sign mounted on a sloping surface, such as a mansard roof.

**WINDOW SIGN** — Any and every sign of any material affixed directly to the surface of the window and/or any sign inside a building, the purpose of which is to be viewed or visible from the outside, including, without limitation, every such sign within three feet of the window or door. A window sign does not include any item of merchandise normally displayed within a merchant's display window.

**§ 190-99. General provisions.**

- A. Sign permit and fee requirement. No sign, except a temporary sign and street address sign, may be erected, installed, or altered without a sign permit. Mere repair of an existing sign shall not require a permit. Sign permit applications must be submitted to the Building Inspector, and a review fee paid to the Town before a sign can be reviewed for a permit.
- B. Illumination.
  - (1) In no event shall the light from any illuminated sign exceed 0.2 footcandle at the property line of the lot on which such sign is located.
  - (2) Exterior illumination of signs shall be shielded, directed solely at the sign, and be steady and stationary.

- (3) No sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m., except signs on premises that are open for business, and then only upon issuance of a special permit by the special permit granting authority.
  - (4) Exposed light sources are prohibited.
  - (5) No sign shall change color or intensity.
  - (6) The brightness and surface illumination shall not exceed 10 footcandles measured at a distance of 10 feet from the sign.
  - (7) The light from any illuminated sign shall be shaded, shielded, or directed so that the intensity or brightness shall not adversely affect safe vision of operators of vehicles moving on public or private streets or parking areas. Light shall neither be obtrusive to nor interfere with the use of a residential structure.
  - (8) All exterior illumination of signs shall be from white light sources, typically incandescent light bulbs. Fluorescent lighting is prohibited.
- C. Prohibited signs. All signs not expressly permitted are prohibited. Without limiting the generality of the foregoing, the following signs are prohibited and shall not be allowed by special permit.
- (1) Signs that interfere with traffic. No sign, including window displays, or its illuminators shall by reason of its location, shape, size or color, whether illuminated or not, interfere with pedestrian or vehicular traffic or be confusingly similar to or obstruct the view or the effectiveness of any official traffic sign, traffic signal or traffic marking. No red or green lights shall be used on any sign if, in the opinion of the Building Inspector, such lights would create a driving hazard. Any imitation of official traffic signs or signals and the use of such words as "stop," "look," "listen," "danger," "go slow," "caution" or "warning" or any word, phrase, character, symbol, lights, motion, sound, fumes, mist, or other device that interferes with, misleads, or confuses traffic is prohibited. The brightness and surface illumination shall not exceed 10 footcandles measured at a distance of 10 feet from the sign. Signs that unreasonably obstruct a driver's view of the road and/or sidewalks are prohibited.
  - (2) Signs that make noise are prohibited.
  - (3) Portable signs are prohibited.
  - (4) Signs on unregistered vehicles (except for temporary "for sale" signs) are prohibited.
  - (5) Moving signs or animated signs, except barber poles at barbershops, are prohibited. All devices designed to attract attention by fluttering, rotating, spinning, or moving in some other manner, whether set in motion by movement of the atmosphere, or by mechanical, electrical or any other means, are prohibited. Such devices include, but are not limited to, pennants, ribbons, streamers, spinners, propellers, or discs, whether or not any such device has a written message.
  - (6) Signs displaying any obscene matter are prohibited.
  - (7) Strobe lights and flashing lights are prohibited.

- (8) Signs utilizing exposed luminous tubing are prohibited. Any luminous tubing used as borders, stripes, or window or door surrounds, or building edging, is prohibited.
- (9) Temporary signs, excepted as provided by § 190-77G, are prohibited.
- (10) Inflatable or lighter-than-air devices of any kind, including tethered balloons, bearing a commercial message, are prohibited.
- (11) All changeable copy signs, except those located at and used in connection with gasoline filling stations to provide notice of the current price of fuel sold by the gallon through the gasoline pumps.
- (12) Changeable image signs are prohibited.
- (13) Roof signs are prohibited.
- (14) Off-premises advertising and billboards are prohibited.
- (15) Signs attached to or strung from utility poles, streetlights, trees, plantings, fences, or vehicles are prohibited, except as permitted under § 190-100F(6).
- (16) Strings of lights (except illuminated holiday lights which are allowed as temporary signs), pennants, or flags are prohibited.
- (17) Beacons and searchlights are prohibited.
- (18) Signs in the public way, except projecting signs allowed by special permit and signs and traffic control devices installed and controlled by a government entity, are prohibited.
- (19) Internally illuminated signs are prohibited.
- (20) Fixed awnings are prohibited.
- (21) Awning signs are prohibited.
- (22) Sign box wall signs are prohibited.
- (23) Mansard wall signs are prohibited.

D. Exempt signs. The following signs are exempt from the provisions of this article:

- (1) Legal notices or informational devices erected by or required by government agencies;
- (2) Historical markers or plaques; and
- (3) Signs and billboards affixed to any fence on Town property if specifically authorized by the Board of Selectmen.

E. Maximum number and maximum area of permitted signs.

- (1) The only sign types allowed in the Signage Overlay District are listed in Table 1, below. Sign types not listed in Table 1 are not allowed in such district as of right or by special permit.
- (2) The aggregate sign area of all signs associated with each business establishment shall

not exceed 50 square feet or 10% of the primary building facade of the business establishment, whichever is less.

- (3) If a ground-floor business establishment has frontage on two streets and has a public entrance on both streets, then one additional sign is permitted on the secondary building facade, and such additional sign may increase the permissible aggregate sign area associated with that business establishment by up to 15 square feet.
- (4) If a business establishment consists of more than one building on a lot, an additional sign, not exceeding 15 square feet or 10% of the building's facade, whichever is less, may be affixed to a wall of each such building and the aggregate sign area associated with that business establishment increased by up to 15 square feet.
- (5) One directory sign may be installed at each public entrance of a building for all business establishments that do not have ground-floor storefronts. See § 190-100G.
- (6) Residential developments in the Signage Overlay District are subject to the sign regulations of the Signage Overlay District.

**Table 1**  
**Table of Aggregate Sign Area for Signs Allowed**

<b>Sign Type</b>	<b>Maximum Number</b>	<b>Maximum Area</b>	<b>Special Provisions</b>	<b>Maximum Letter Height (inches)</b>
Street Address Sign	2	—	§ 190-100B	14
Wall Sign	1	15 square feet	§ 190-100C	14
Projecting Bracket Sign (1)	1	9 square feet	§ 190-100D	N/A
Window Sign	N/A	10%	§ 190-100E	12
Temporary Signs	1	6 square feet	§ 190-100F	16
Building Directory Sign	1	6 square feet	§ 190-100G	3
Directional Signs	2	2 square feet	§ 190-100H	10

Notes:

- (1) All projecting bracket signs require special permits.

**§ 190-100. Special provisions.**

- A. Individual sign sizes. The total sign area (aggregate sign area) permitted, as calculated in accordance with the provisions of § 190-99E, may be distributed among the various signs on the lot. However, individual signs shall not exceed the maximum dimensions specified in § 190-99E (See Table 1.) and shall comply with the special provisions for each sign type

described below.

B. Street address signs.

(1) Location.

- (a) A street address sign is required for every occupied building on a lot.
- (b) A street address sign must include the street address for the lot, but may include the occupant's name, and the street name.
- (c) A maximum of two street address signs are permitted for each business establishment on a lot.

(2) Area.

- (a) For residential addresses and business establishments, the street numbers must be at least six inches high.
- (b) For business establishments, the street number shall not exceed 14 inches in height.
- (c) The area of street address signs for residential addresses shall not exceed two square feet.

C. Wall signs.

(1) Location.

- (a) Where a building has a sign band, any directly applied wall sign and/or raised panel wall sign must be located within the sign band.
- (b) If no sign band exists, a wall sign must be aligned in height and proportion with the location of wall signs of adjacent structures, provided such wall signs on adjacent structures conform to the provisions hereof.
- (c) In the case of a one-story building, no portion of a wall sign can be located higher than the roofline, and in the case of a multiple-story building, no portion of a wall sign can be located higher than the second-story floor line.
- (d) No portion of a wall sign can extend above a building's parapet.
- (e) No portion of a wall sign can cover ground-floor display windows or the window frame of the display windows.
- (f) Wall signs may not obscure architectural features such as arches, transom panels, windows, windowsills, moldings, cornices, etc.
- (g) For business establishments with no ground-level display windows, wall signs are prohibited on the building's facade.

(2) Area.

- (a) The maximum allowable sign area of a wall sign is set forth in Table 1, provided that the sign area of a wall sign shall not exceed 2/3 of the length of the business

establishment's storefront multiplied by one square foot, and the maximum length of a wall sign shall not exceed 2/3 of the length of the business establishment's storefront.

- (b) A wall sign shall not exceed three feet in height.
  - (3) Illumination. Fixed incandescent spotlights may be provided to illuminate a wall sign. Swivel-mounted spotlights are prohibited. All spotlights must be housed in shades to protect adjacent properties and occupants above from direct or excessive light. Internally illuminated signs are prohibited.
  - (4) Special review.
    - (a) After referral and comment by the Design Review Board, directly applied wall signs and raised panel wall signs meeting the requirements of this article may be permitted by the Building Inspector.
    - (b) Wall murals and image projections are permitted only by special permit.
- D. Projecting bracket signs.
- (1) Location.
    - (a) The height and proportion of a projecting bracket sign must be coordinated with the location of signs and awnings of adjacent structures, provided such signs and awnings conform to the provisions hereof.
    - (b) In the case of a one-story building, no portion of the bracket, guy-wires or the sign can be located or extend higher than the building's parapet.
    - (c) In the case of a multiple-story building, no portion of the bracket, guy-wires or the sign can be located higher than the header of the second-story windows.
    - (d) Architectural features such as moldings, cornices, transom panels, windows, windowsills, etc., cannot be cut away or removed to accommodate sign brackets, lighting fixtures or electrical conduits, nor may such features be covered or otherwise unreasonably obscured by such signs.
  - (2) Area.
    - (a) The area of one side of a flat, two-faced projecting bracket sign shall be considered the sign area.
    - (b) The sign area of a projecting bracket sign shall not exceed nine square feet.
    - (c) The panel suspended from a sign bracket shall not exceed three inches in thickness.
    - (d) It is contemplated that the bracket shall generally consist of an open ironwork pattern. The area of the bracket, however designed, shall not exceed 1/2 the area of the sign and shall not be counted as part of the sign area.
    - (e) Any object, symbol or icon incorporated into the sign's design, e.g., spectacles for an eye doctor or a shoe for a cobbler, shall be considered part of the sign, and the

area thereof shall be included in calculating the sign area.

- (3) Setback.
  - (a) Signs shall not project more than four feet eight inches from a building face or  $\frac{2}{3}$  the width of the sidewalk, whichever is less.
  - (b) The bracket and sign must be set back at least three feet from the curbline.
- (4) Height.
  - (a) The bottom of the sign shall not be less than eight feet from the grade level or sidewalk.
  - (b) The top of the sign shall not be higher than 14 feet from the grade level or sidewalk.
- (5) Illumination. Fixed incandescent spotlights may be provided to illuminate a projecting bracket sign. Swivel-mounted spotlights are prohibited. All spotlights must be housed in shades to protect adjacent properties and occupants above from direct or excessive light. Internally illuminated signs are prohibited.
- (6) Special review.
  - (a) All projecting bracket signs are to be referred to the Design Review Board for a recommendation.
  - (b) All projecting bracket signs are permitted only by special permit.

E. Window signs.

- (1) Location.
  - (a) Window signs shall be allowed only on windows located on the ground floor and second story of a primary building facade.
- (2) Area.
  - (a) Window signs shall not occupy more than 10% of the window area of any one window.
  - (b) All window signs (temporary and permanent) shall count towards the allowable aggregate sign area.
- (3) Illumination.
  - (a) No exterior illumination of window signs is permitted.

F. Temporary signs.

- (1) Temporary signs shall not be maintained for more than a thirty-day period, except as may be otherwise specifically provided below.
- (2) All temporary signs, except when attached to a building or in a display window, shall be set back a minimum of 10 feet from any lot line and shall not be attached to trees or

utility poles, but shall have their own self-supporting frame and means of being affixed to the land. Temporary signs are prohibited in public ways. No exterior illumination is permitted for a temporary sign.

- (3) Temporary signs shall be removed promptly after the sale or event advertised thereby.
- (4) Temporary sales or rental signs are not subject to the thirty-day display limitation but shall comply with Subsection (F)(3) above.
- (5) The area of a flat, two-faced sign shall be considered the sign area. Temporary lawn signs shall not exceed one sign per street frontage, shall not exceed six square feet in surface area per side and shall be erected so that no portion is more than four feet above ground level.
- (6) A special event sign or banner intended to inform the public of a unique happening, action, purpose, or occasion, of a nonprofit organization may be placed above or across a public or private street or way or in a park or on a Town building with the prior written permission of the Board of Selectmen upon such terms and conditions as it shall determine.
- (7) A maximum of one temporary sign for the identification of a new business establishment until permanent signs can be erected is allowed for a period not to exceed 90 days. A one-time extension up to a maximum of 90 days may be granted by the Building Inspector, provided a permit for a permanent sign has been applied for. Such temporary sign shall comply with the wall sign requirements of this article.
- (8) No more than one political sign per candidate or issue is permitted per dwelling unit or business establishment. Each such sign shall be a maximum of six square feet in area.
- (9) Holiday lights (if illuminated) and holiday displays are temporary signs.

G. Building directory signs.

- (1) Building directory signs shall be either wall-mounted or located on a door.
- (2) No building may have more than one building directory sign.
- (3) The area of a building directory sign shall not exceed one square foot for each business establishment occupying the building, or six square feet in total area, whichever is less.
- (4) Fixed incandescent spotlights may be provided to illuminate a building directory sign. Swivel-mounted spotlights are prohibited. All spotlights must be housed in shades to protect adjacent properties and occupants above from direct or excessive light. Internally illuminated signs are prohibited.
- (5) All building directory signs are to be referred to the Design Review Board for a recommendation.
- (6) All building directory signs are permitted only by special permit, and shall be considered a wall sign and, as such, shall be counted against the allowable aggregate sign area.

H. Directional signs.

- (1) Directional signs are solely intended to provide safe direction of vehicular and pedestrian traffic movement.
- (2) One directional sign may be installed per curbcut.
- (3) Directional signs shall not include any commercial message.
- (4) Directional signs shall not exceed four square feet in area.
- (5) The area of one side of a flat, two-faced directional sign shall be considered the sign area.
- (6) Fixed incandescent spotlights may be provided to illuminate a directional sign. Swivel-mounted spotlights are prohibited. All spotlights must be housed in shades to protect adjacent properties and occupants above from direct or excessive light. Internally illuminated signs are prohibited.

I. Menu boxes.

- (1) Location.
  - (a) Menu boxes shall be located adjacent to a restaurant's primary entrance.
  - (b) Architectural features such as moldings, cornices, transom panels, windows, windowsills, etc., cannot be cut away or removed to accommodate sign armatures, brackets, lighting fixtures or electrical conduits, nor may such features be covered or otherwise obscured by such signs.
- (2) Area.
  - (a) Menu boxes shall not exceed 14 inches by 19 inches in area and five inches in depth.
- (3) Illumination.
  - (a) Menu boxes shall be housed in a weatherproof box, not exceeding the area above, that may be lighted by incandescent, white light bulbs.
  - (b) Spotlights and interior illumination are prohibited.
- (4) Special review.
  - (a) All menu boxes are to be referred to the Design Review Board for a recommendation.
  - (b) All menu boxes are permitted only by special permit, and shall be considered a wall sign and, as such, shall be counted against the allowable aggregate sign area.

J. Menu boards for drive-through and walk-up services.

- (1) Location.
  - (a) Menu boards shall be counted as a portion of the total aggregate sign area of a business establishment.

- (b) One freestanding or wall-mounted menu board is allowed per business establishment.
- (c) Menu boards and speaker boxes must be at least 150 feet from any residential zoning district or be screened from residential view by masonry wall.
- (d) Speaker boxes are allowed as follows:
  - [1] Speaker boxes may not exceed 36 cubic inches and four feet in height.
  - [2] Speaker boxes may not contain a commercial message.
  - [3] The maximum speaker volume shall be set in the discretion of the special permit granting authority.
- (2) Area.
  - (a) Menu boards shall have a maximum area of 20 square feet.
- (3) Setback.
  - (a) Menu boards must be located no less than 45 feet from any street property line.
- (4) Illumination.
  - (a) Interior illumination is prohibited.
- (5) Special review.
  - (a) All menu boards are to be referred to the Design Review Board for a recommendation.
  - (b) All menu boards are permitted only by special permit and shall be considered a wall sign and, as such, shall be counted against the allowable aggregate sign area.

**§ 190-101. Administration; enforcement; violations and penalties; appeals; fees.**

**A. Application procedure.**

- (1) No person shall construct, erect, install, alter, enlarge, or move a sign, the structure supporting a sign, or any electrical devices related to a sign without a permit from the Building Inspector as required by this article, and, if applicable, without also obtaining a permit from the Electrical Inspector. Nothing herein shall be construed to require a sign permit from the Building Inspector for the mere repair of a sign that either conforms to the requirements of this article or that is a lawful prior nonconforming sign.
- (2) No person shall reconstruct, rebuild, relocate, alter, move or re-erect any sign that has been abandoned or not used for a period of two years or more unless it is made to comply with all applicable requirements of this article.
- (3) Nonconforming signs lawfully erected prior to the adoption of this article may not be enlarged, extended, altered or redesigned unless they are made to comply with all applicable requirements of this article.

B. Complete applications required.

- (1) Applicants shall submit electronic files on a compact disk compatible with the Town's computer systems in .pdf format for drawings, text and other documents described below. Complete descriptions of the application materials to be provided are set forth below. Photographs may be in .jpg format or a format compatible with the Town's filing system. Photographs submitted cannot be larger than 8 1/2 by 11. Smaller photographs must be fixed to 8 1/2 by 11 card stock.
- (2) Applications require the written consent of the owner of the premises concerned, or of an authorized agent, and the full name, residence and business address of the owner of the property, of the lessee, if any, and of any authorized agent to whom notices may be sent.
- (3) Applicants must provide the electronic files and six paper copies of complete application packets that include:
  - (a) A completed sign permit application form;
  - (b) Photographs of the existing building or site for the proposed sign;
  - (c) Photographs of any adjacent buildings and signage (preferably including the whole area within 100 feet of the site);
  - (d) Copies of the previous sign permits issued for the building or site;
  - (e) Photographs of existing signs on the building or site that are annotated with the permit information for existing signs, e.g., date of installation;
  - (f) A building facade drawing showing the proposed sign with dimensions;
  - (g) A table of aggregate sign area;
  - (h) A building elevation context drawing (preferably including a streetscape drawing of the building within the context of the adjacent buildings within 100 feet and all existing signs); and
  - (i) A wall section drawing showing the method of mechanical attachment of the sign to the building (additional details may be required).
- (4) If the application includes any electrical devices, conduits, or spotlights, the application shall include:
  - (a) A completed electrical permit application form;
  - (b) An annotated building facade drawing showing the location of all conduits and light fixtures;
  - (c) A wall section drawing showing any holes to be bored through any parapet or building walls to accommodate electrical conduits; and
  - (d) Copies of the manufacturer's cut-sheets with color photographs, catalog numbers and detailed specifications concerning the electrical lighting fixtures proposed for the sign.

C. Drawings required with the application.

- (1) Applications for a sign permit must include drawings prepared and sealed by a registered architect or engineer. Whenever possible, drawings of new signs should be in color and dimensioned. Material samples are to be submitted with the application. All existing and proposed signage and awnings or canopies must be accurately drawn and dimensioned. The required documents and drawings for each sign type are listed in Table 2 below:

**Table 2  
Drawings and Documentation Required According to Sign Type**

	Wall Sign	Projecting Bracket Sign	Window Sign	Building Directory	Directional Sign
Table of Aggregate Sign Area	●	●	●	●	●
Photographs of Existing Bldg	●	●	●	●	●
Photographs of Adjacent Bldgs	●	●	●		●
Photos of Existing Signs	●	●	●	●	●
Building Facade Drawing	●	●	●	●	
Streetscape Drawing	●	●	●		
Wall Section	●	●			
Enlarged Bldg Elev			●		
Enlarged Bldg Section	●	●			
Details of Attachments & Anchors	●	●	●	●	
Drawing of Sign Bracket		●			
Detailed Drawings of Proposed Sign	●	●	●	●	●

● Indicates the type of drawing or documentation required.

- (2) Requirements for each drawing type.
- (a) A building facade drawing is required to illustrate the sign in the location where it will be installed. Drawings must be at a scale of 1/4 inch per one foot or larger. Building facade drawings must show the architectural features such as sign bands, display windows, arches, transom panels, window sashes, windowsills, moldings, cornices, etc. Whenever possible, the building facade drawings should include the adjacent buildings to simplify the submission.
- (b) If there are adjacent buildings within 100 feet of the building's facade, a streetscape drawing is required that shows the outline of the adjacent buildings, the height of parapets, rooflines, second-floor levels, window openings and the size and location of any wall sign, projecting sign and projecting bracket signs. The requirement to provide a streetscape drawing may be waived by the special permit granting authority if photographs are provided that accurately and

completely provide the context information. Nothing herein is intended to suggest that projecting signs may be installed; the requirement of showing them, here and in the following subsection, applies only where there are preexisting projecting signs.

- (c) A wall section/elevation drawing is required showing the roofline and the second-story floor line if applicable, the height of the parapet, the height of the wall sign on the building's facade, the distance a wall sign, projecting sign, projecting bracket sign or awning projects from the face of the building and the height dimensions above the sidewalk. The curblineline must be shown.
  - (d) Enlarged building elevation drawings, drawn at a scale of 3/4 inch per one foot or larger are required of display windows and doorways for window signs. The requirement to provide enlarged building elevation drawings for window signs may be waived by the special permit granting authority if photographs are provided that accurately and completely provide the context information.
  - (e) Detailed drawings of the proposed sign are required. Section and elevation drawings are required, at a scale of one inch per one foot or larger, of the proposed signage with the materials dimensioned and labeled. All lighting fixtures, conduits, junction and transformer boxes, and the like are to be accurately shown on the building facade and wall section drawings, as well as in the detail drawings. Manufacturers' catalog specifications and illustrations of all lighting fixtures are to be submitted with the application. The type of light bulb and lumens are to be specified. The building facade and wall section drawing shall include the outline of light to be cast on the signage and the building's facade.
  - (f) The detailed drawings required above may be waived by the special permit granting authority or Zoning Administrator if photographs are provided that accurately and completely depict the sign proposed.
- D. Referral of a sign permit application to the Design Review Board.
- (1) Applications are deemed incomplete unless six copies are submitted to the Building Inspector.
  - (2) Applications are deemed incomplete if any of the documentation required under § 190-10B and C is omitted.
  - (3) Copies of the complete application packets shall be distributed as follows:
    - (a) Three copies to the Design Review Board;
    - (b) One copy to the Town Planner;
    - (c) One copy to the Historical Commission; and
    - (d) One copy is to be retained by the Building Inspector.
  - (4) Complete application packets are to be distributed within seven days of receipt.

- E. Review procedure by the Design Review Board and report to the Building Inspector.
- (1) The Design Review Board shall meet and review the application packet within 14 days after a completed application is filed. All sign permit applications shall be reviewed by the Design Review Board.
  - (2) Meetings of the Design Review Board are to be posted.
  - (3) The Chairman of the Design Review Board shall establish the agenda of meetings.
  - (4) Sign permit applications are to be reviewed by the Design Review Board as open meetings without public hearing.
  - (5) Applicants for a sign permit are to be advised to the date and time of the review and may attend the meeting.
  - (6) Within 21 days after filing of an application, the Design Review Board shall provide a report to the Building Inspector and the Zoning Board of Appeals containing its recommendations. If, in the process of reviewing an application, the Design Review Board discovers additional permits, variances or special permits are required, it shall so notify the Building Inspector. The Board shall forward recommendations to the Zoning Board of Appeals regarding the findings.
  - (7) The Design Review Board shall, within the said twenty-one-day period, either recommend approval or disapproval of the proposed sign, or obtain a written agreement from the applicant to extend the time to review the permit application so that the application may be modified for reevaluation.
  - (8) The Building Inspector must act within 30 days of the filing of an application. If the Building Inspector fails to act within 30 days, such failure to act shall constitute a denial.
- F. Special permits for signs.
- (1) The Zoning Board of Appeals shall be the special permit granting authority for signs.
  - (2) The special permit granting authority shall consider requests for special permits in accordance with Article VIII, §§ 190-42 through 190-44, of this Zoning Bylaw. Site plan review is not required, provided that all special permit requirements of this article are met.
  - (3) The special permit granting authority may grant a special permit for signs that do not comply with the provisions of this article, provided that:
    - (a) The sign's scale is determined to be in reasonable relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures;
    - (b) The sign's size, shape, and placement serve to define or enhance architectural elements of the building such as columns, sill lines, cornices, and roof edges, and do not unreasonably interrupt, obscure, or hide them;
    - (c) The sign's design is in harmony with other signage on the same or adjacent structures, and provides reasonable continuity in mounting location and height,

proportions and materials;

- (d) The sign's materials, colors, lettering style, illumination and form are reasonably compatible with building design, neighborhood context and use; and
  - (e) The sign's size, location, design and illumination are not judged to present a safety hazard to vehicular or pedestrian traffic.
- (4) Notwithstanding the above the special permit granting authority shall not grant special permits for signs specifically prohibited by § 190-99C.
  - (5) The Design Review Board shall make a report to the special permit granting authority giving its recommendations regarding compliance with the above criteria.
  - (6) An unfavorable report of the Design Review Board shall indicate which of the above criteria were not met and shall state what modifications to the sign or signs could be made to render a favorable report.
  - (7) The special permit granting authority may add conditions in granting a special permit, including but not limited to: color, size, illumination, hours of illumination, and removal.
- G. Review procedure when a special permit is required. In the case of an application for a sign permit requiring a special permit, the applicant shall provide the number of copies of application materials required under § 190-73D to the Zoning Board of Appeals.
- (1) Application packets are to be distributed as required by § 190-73D and three copies delivered to the Design Review Board.
  - (2) Before the Zoning Board of Appeals considers the application, the Design Review Board shall review the application and provide a recommendation to the Zoning Board of Appeals.
  - (3) Applicants for a sign permit are to be advised of the date and time of the design review and may attend the meeting.
  - (4) The Design Review Board shall forward recommendations to the Zoning Board of Appeals in advance of the scheduled special permit hearing.
- H. Signs not requiring permits. No permit shall be necessary for the following signs:
- (1) Those exempted under § 190-99D.
  - (2) Street address signs under § 190-100B.
  - (3) Temporary signs under § 190-100F.
- I. Powers of Building Inspector and other inspectors.
- (1) Issuance of permit. The Building Inspector shall, within 30 days, approve or reject any application for a sign filed with him in accordance with all requirements of this article and all other applicable laws, bylaws and regulations. Failure to act within the thirty-day period shall constitute a denial.

- (2) Electrical inspections. Electrical permits are required for any sign that is to be illuminated. The permit must be issued simultaneously with the sign permit. The sign and the sign's power supply shall conform to the National Electrical Code.
  - (3) Applicability of Building Code. Signs shall be deemed to be structures subject to all applicable provisions of the State Building Code and to all of the powers thereby granted to the Building Inspector.
- J. Violations and penalties; noncriminal disposition. Any alleged violation of the provisions of this article may, in the sole discretion of the Building Inspector or his designee, be made the subject matter of the proceedings initiated by the Building Inspector pursuant to the provisions of MGL c. 40, § 21D, that is, noncriminal disposition. If the Building Inspector so elects to proceed under MGL c. 40, § 21D, all the terms and provisions of such chapter and section shall thereafter govern said action.
- K. Appeals. Appeals from administrative decisions may be made in accordance with the same procedures for other zoning appeals and/or Building Code appeals, depending upon the type of appeal being made.
- L. Fees. Review and application fees are set forth under § 190-73.
- M. Removal of hazardous signs. The Building Inspector may direct the removal of any sign, including an existing sign that may be a legal nonconforming sign, if he determines such sign to be a hazardous signs.

**§ 190-102. Design Review Board.**

- A. Purpose of the Design Review Board. The Design Review Board shall review and make recommendations concerning all sign applications.
- B. Design Review Board.
- (1) Composition of the Design Review Board.
    - (a) The Design Review Board shall be appointed by the Board of Selectmen and consist of three residents of Wakefield, one of whom shall be a member or associate member of the Zoning Board of Appeals, and the other two of whom shall preferably have the following qualifications: training and experience in the art or design professions, or qualified by training and experience in architecture.
    - (b) The Board of Selectmen may appoint up to two alternate members of the Design Review Board. In the absence of a member, the Chairman of the Design Review Board may designate an alternate member to serve in the place of the absent member. An alternate member so designated may discuss, vote, and otherwise participate as a Design Review Board member in matters that come before the Design Review Board.
  - (2) Phased Implementation. Until such time as the Design Review Board has been appointed and the Chairman of the Design Review Board provides written notification to the Zoning Board of Appeals and the Board of Selectmen that the Design Review Board has been sufficiently organized and ready to receive and review applications, the

Zoning Board of Appeals shall act as the Design Review Board.

- C. Authority and specific powers. Recommendations of the Design Review Board are advisory. The Design Review Board shall evaluate sign applications based on the design criteria set forth in § 190-102E below. The Design Review Board shall review applications for sign permits, meet with applicants for sign permits and provide recommendations to modify a sign's design to meet the design criteria in § 190-102E. The Design Review Board's findings, along with any recommended restrictions and conditions, shall be forwarded either to the Building Inspector and, if a special permit is required, to the Zoning Board of Appeals also. Sign permit applicants who meet all applicable criteria set forth in this article and who do not require a special permit are entitled to sign permits as of right from the Building Inspector, notwithstanding any negative recommendation by the Design Review Board; however, the Building Inspector shall endeavor to convince such an applicant to conform his sign to the reasonable suggestions of the Design Review Board.
- D. Pre-application review. Applicants for multiple signs and larger projects are very strongly encouraged to request a pre-application review at a regular business meeting of the Design Review Board. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence dialogue at the earliest possible stage in the project's development.
- E. Design criteria. The Design Review Board shall review requests for sign permits and special permits under this article based on the following standards:
  - (1) To the greatest extent practicable, signs shall be designed to preserve and enhance the Town's New England character.
  - (2) Signs shall harmoniously relate to the streetscape and other surroundings, the building's architectural character, use, scale, and architectural detail. Signs shall be related to their host building with respect to:
    - (a) Height;
    - (b) Street facade;
    - (c) Rhythm of solids and voids;
    - (d) Spacing of buildings or signs;
    - (e) Materials, textures, and color;
    - (f) Roof slopes; and
    - (g) Scale.
  - (3) Signs should contribute to a functional and vibrant downtown that serves the modern needs of the residents of the Town. Without limiting the generality of the foregoing, signs should be functional and visually related to the use and design of the building to which they will be attached, and such attachment should be effected by the least destructive feasible method.
  - (4) The work of the Design Review Board should lead over time to the removal of

incongruous signage that is visually disruptive to historic structures and the architectural character of the neighborhood.

- F. Design guidelines. The Design Review Board may either publish guidelines based on the design criteria set forth and cited above in § 190-102E, and/or provide references to resource materials that facilitate an applicant's understanding of the purposes of this article.
- G. Responsibility to maintain the file system. Permits and application files are to remain in the Building Inspector's office. Electronic files provided by the applicant are to be stored on the Town's computer system using a street address filing system cross-referenced with tax map numbers.