

DRAFT #1
WAKEFIELD ZONING BYLAW
DECEMBER 31, 2023

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SECTION 190-1.0 PURPOSE AND AUTHORITY

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

1.2 PURPOSE. This Zoning By-law (herein, "this Bylaw") has been enacted to promote and protect the public health, safety, convenience, and general welfare of the inhabitants of the Town of Wakefield and:

- * to plan for the orderly growth of the Town;
- to prevent blight;
- to protect natural resources and prevent pollution of the environment;
- to encourage the appropriate use of land throughout the Town;
- to mitigate and reverse the effects of climate change; to encourage multi-modal transportation;
- to protect public health and safety;
- to embrace and encourage racial, cultural, generational, and socioeconomic diversity;
- to support the development of adequate municipal services consistent with managed growth of the Town;
- to maintain the scenic characteristics of the area as an attraction for recreational and tourist activities; and
- to preserve historical and other cultural resources.

~~§ 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.~~

~~§ 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.~~

1.3 AUTHORITY. This Bylaw is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

~~§ 190-2. Authority.~~

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

1.4 SCOPE. For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.5 APPLICABILITY. Except as set forth in Section 5.1 or as otherwise provided herein, all buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of this Bylaw. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. When the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

1.6 AMENDMENTS. This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town in the manner provided in M.G.L. c. 40A, s.5, and any amendments thereto.

~~§ 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.~~

~~The adoption or change of this chapter may be initiated by the submission of the proposed zoning bylaw or change to the Town Council by the Town Council, 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 Town Council shall, within 14 days of receipt of such zoning bylaw or change, submit it to the Planning Board for review. [Amended 11-5-2018 RTM by Art. 17]~~

~~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 Town Council. 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. [Amended 11-5-2018 RTM by Art. 17]

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.

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.

No zoning bylaw shall be adopted or changed except by a two-thirds (2/3) vote of the Town Meeting. 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.

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.

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.

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.

1.7 SEVERABILITY. The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

~~§ 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.

1.8 WHEN EFFECTIVE. The effective date of this Bylaw shall be the date of adoption by the Wakefield Town Meeting.

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.~~

~~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).~~

~~In addition, the following fees shall be paid:~~

~~Applications for petitions before the Zoning Board of Appeals:~~

~~Appeals from actions of administrative officials or agencies: \$125.~~

~~Residential variances related to dimensional regulations: \$50.~~

~~Nonresidential variances related to dimensional regulations: \$100.~~

~~Applications for petitions before a special permit granting authority:~~

~~Multifamily or attached dwelling development: \$70 per residential dwelling unit.~~

~~Cluster development: \$70 per residential dwelling unit.~~

~~Any other special permit required by this chapter: \$100.~~

~~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]~~

~~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.~~

~~Submissions to Zoning Board of Appeals.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

SECTION 190-2.0 DISTRICTS

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

Residential Districts

Special Single Residence (SSR)
Single Residence (SR)
General Residence (GR)
Multiple Residence (MR-1 or MR-2)

Business Districts

Business (B)
Neighborhood Business (NB)
Limited Business (LB)

Industrial Districts

Industrial (I)
Limited Industrial (LI)

2.1.1 General Description. All of the above district locations are shown on the Zoning Map. See the Table of Use Regulations and Table of Dimensional Regulations, for detailed requirements within each district, thus defining the available and prohibited uses and the dimensional standards within the districts. All unzoned land within the Town of Wakefield, if any, is hereby zoned as a Single Residence District.

2.1.2 Amendments in the Municipal District. See Section 9.2.

~~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.~~

~~Single Residence (SR). The Single Residence District is also composed of areas intended for singlefamily residences and allowed accessory uses. Minimum lot size is 12,000 square feet and minimum lot frontage is 100 feet.~~

~~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, twofamily residences and specified complementary and accessory uses. Minimum lot size is 8,000 square feet and minimum lot frontage is 80 feet.~~

~~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.~~

~~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.

~~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.~~

~~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).~~

~~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.~~

~~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.~~

~~Floodplain (FP). The Floodplain District is a special overlay district which regulates uses in the underlying districts which are subject to periodic flooding.~~

~~The Municipal District is a special overlay district, which regulates the use and dimensional requirements of buildings erected on Town-owned land and is shown on the Zoning Map entitled "Wakefield Municipal District." [Added 4-13-2000 ATM by Art. 26; amended 4-6-2009 ATM by Art. 27; 5-9-2011 ATM by Art. 6]~~

~~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]~~

~~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]~~

~~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]~~

~~The Municipal Building Reuse Overlay District is a special overlay district, which regulates the erection, construction, reconstruction, addition to, and/or alteration of buildings and structures, or the use of buildings, structures or land which is formerly owned by the Town or owned by the Town, but under agreement to be sold to a prospective purchaser or leased to a lessee, and is shown on the Zoning Map entitled "Wakefield Municipal Building Reuse Overlay District." [Added 8-17-2006 STM by Art. 2; 5-9-2011 ATM by Art. 6]~~

~~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]~~

~~The Assisted Living Facility Overlay District is a special overlay district to distinguish locations suitable for an assisted living facility use and to regulate that use within them. Within such district, all provisions of the Wakefield Zoning Bylaw applicable to the underlying districts shall continue to apply except as provided in § 190-103, entitled Assisted living facility development. [Added 5-14-2012 ATM by Art. 29]~~

2.2 OVERLAY AND SPECIAL DISTRICTS.

2.2.1 Establishment. The following overlay and special districts have also been established and are set forth in Section 9.0:

Floodplain Overlay District (FPOD)
Municipal District (MD)
~~Attached Dwelling Overlay District (ADOD)~~
Mixed Use Overlay District (MUOD)
Creative Development Overlay District (CDOD)
Municipal Building Reuse Overlay District (MBROD)
Signage Overlay District (SOD)
~~Assisted Living Facility Overlay District (ALFOD)~~
Wireless Communication Services Overlay District (WCSOD)

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2.3 ZONING MAP.

2.3.1 Establishment. Except as set forth below, the above zoning districts are shown on the map entitled "Wakefield Zoning Map," dated May 2, 2016. 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.

1. The Municipal District is located as shown on a separate map entitled "Wakefield Municipal District, dated February 6, 2014."
2. The Wireless Communication Services Overlay District is located as shown on a separate map entitled "Wakefield Wireless Communication Services Overlay District," dated May 9, 2011.
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.
5. The Municipal Building Reuse Overlay District is located as shown on a separate map entitled "Wakefield Municipal Building Reuse Overlay District," dated May 9, 2011.
6. The Creative Development Overlay District is located as shown on a separate map entitled "Wakefield Creative Development Overlay District," dated _____
- ~~6. The Assisted Living Overlay District is located as shown on a separate map entitled "Assisted Living Overlay District," dated February 6, 2014.~~

2.4 BOUNDARIES.

2.4.1 Guidelines. 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

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.

2.4.2 Disputes. 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.

2.5 SPLIT LOTS.

2.5.1 General. 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.

SECTION 190-3.0

USE REGULATIONS

3.1 GENERAL REGULATIONS

3.1.1 Purpose and Intent. It is the purpose and intent of this Section to list those uses which are specifically allowed or specifically prohibited in the various zoning districts listed in Section 2 of this Bylaw. Any use not listed herein is prohibited. See Section 3.2, Table of Use Regulations.

3.1.2 Table of Use Regulations. Except as otherwise provided in this Bylaw, no building, structure or land shall be used except as permitted in the Table of Use Regulations, Table 1, whether by right or by special permit. ~~for the purpose permitted in the district, by right or by special permit, as described in this Section.~~

3.1.3 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 Bylaw.

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

3.1.5 Existing Buildings and Land. This Section 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 Section, but it shall apply to any change of use thereof and to:

1. Any alteration of a building or structure when the same would amount to reconstruction, extension or structural change.
2. 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.

3.1.6 Mixed Uses. 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 Section 9.7, Creative Development, require a special permit from the Planning Board under Section 10.6 if within a Mixed Use Overlay District; and in all other cases require a special permit from the Board of Appeals.

3.2 TABLE OF USE REGULATIONS

3.2.1 Key. In the Table of Use Regulations, the following abbreviations shall apply:

- Y -- A use allowed as of right.
- N -- A prohibited use.
- BA -- A use allowed by special permit from the Zoning Board of Appeals.
- PB -- A use allowed by special permit from the Planning Board.

SB -- A use allowed by special permit from the Select Board.

3.2.2. Table 1, Table of Use Regulations. See Appendix A.

3.3 ACCESSORY USES

3.3.1 General. Accessory uses are allowed as set forth in the Table 1, Table of Use Regulations, Appendix A. In addition, other accessory uses are allowed in all districts provided they meet the definition of “accessory use,” which is “a use incidental and subordinate to the principal use, and located on the same lot”.

1. Scientific Accessory Uses. 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.

3.3.2 Residential Accessory Uses. Single-family residential accessory uses shall include the following:

1. Home occupation as set forth in Section 3.4.
2. 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.
3. Temporary yard, lawn or garage sales with permit (one day a year).
4. Garage for parking noncommercial vehicles.
5. Storage shed or barn not exceeding 1,200 square feet in area or 25 feet in height.

3.3.3 Multifamily Accessory Uses. 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.

3.3.4 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.

~~**1. Roadside Stand.** The Building Inspector shall grant a permit for a roadside stand in the districts where permitted, provided that: (1) The products and articles sold are limited to those permitted in § 190-19 (2) Such stand is set back at least 50 feet from any lot line. (3) Adequate provision is made for off-street parking on the premises (4) Such stand or display is neatly maintained.~~

1. 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. Any stand shall be set back at least 50 feet from any lot line.

3.3.5 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.

3.3.6 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.

3.3.7 Accessory Outdoor Storage and Display. Outdoor storage and display accessory to a business use or industrial use next to a residential district shall not be permitted within 15 feet of the district boundary.

3.3.8 Accessory Parking and Loading. Parking and loading accessory to a business use or industrial use is permitted in industrial and business districts, subject to the requirements of Section 6.1, Parking and Loading Requirements.

3.3.9 Accessory Industrial Retail. The finished products of an industrial establishment may be sold in the enclosed premises at retail, provided that:

1. The floor area devoted to such retail does not exceed 10% of the total gross floor area.
2. Accessory retail parking, signs and illumination are regulated as for a business district.
3. The retail portion of the establishment is closed to the public during periods of change of shift.

3.3.10 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.

3.4 HOME OCCUPATIONS.

3.4.1 Home Occupation - As of Right. A home occupation may be allowed as of right on a lot, provided that it:

1. Is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
2. Is clearly incidental and secondary to the use of the premises for residential purposes;
3. Does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

4. No regular sales of wares of goods shall be conducted on the premises;
5. Does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);
6. Does not exhibit any exterior indication of its presence or any variation from residential appearance, except a pole sign or wall sign no larger than 2 square feet;
7. Does not produce any customer or client trips to the location and has no nonresident employees.

3.4.2 Home Occupation - By Special Permit. One (1) home occupation may be allowed by special permit issued by the Board of Appeals on a lot, provided that it:

1. Fully complies with subsections 3.4.1.2, 3, 4, and 5, above;
2. Is conducted within a dwelling and solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than two nonresident employees; where employees leave vehicles on the premises while conducting business elsewhere, they shall be counted as nonresident employees;
3. Does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 6.2;
4. A special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer or other vehicle trips;
5. The special permit shall terminate at transfer of ownership of the property or end of lease term for the property.

~~190—18 HOME OCCUPATIONS.~~

~~3.4.1 General. 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:~~

- ~~1. 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.~~
- ~~2. The use is carried on strictly within the principal building.~~
- ~~3. 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.~~

- ~~4. 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.~~
- ~~5. 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.~~
- ~~6. 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.~~
- ~~7. Any such building shall include no feature of design not customary in buildings for residential use.~~
- ~~8. 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.~~
- ~~9. Off street parking must be available for any employees, clients or pupils in accordance with Section 6.1.~~

3.5 ACCESSORY PARKING IN RESIDENCE DISTRICTS.

3.5.1 Parking in Residence Districts.

1. 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.
2. Other vehicles. The allowable number of commercial vehicles which may park in a residential district shall be as follows. A special permit is required if the number of commercial vehicles exceeds the above number.
 - 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.

3.5.2 Parking of Commercial Vehicles in Residence Districts. The **overnight** parking of commercial vehicles in a residential district is subject to the following regulations:

1. The vehicle shall not exceed one-ton capacity (manufacturer's rating).
2. The vehicle shall not be loaded with flammable, noxious or dangerous materials.
3. The vehicle shall be permitted only if used as a means of transportation to and from the resident's place of business.
4. 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.

SECTION 190-4.0

DIMENSIONAL REGULATIONS

4.1 GENERAL REGULATIONS.

4.1.1 Purpose and Intent. The purpose and intent of this Section 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.

4.1.2 Table of Dimensional Regulations. Unless otherwise provided in this Bylaw, all new construction, reconstruction, and expansion of existing structures shall conform with Table 2, Table of Dimensional Regulations, Appendix B.

4.1.3 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.

4.1.4 Minimum Open Area Requirements. See Section 11.0 for the definition of "open area." Requirements are shown in Table 2.

4.1.5 Upland Area. All lots in residential districts only shall have upland area equal to at least 75% of the required lot area.

4.1.6 Irregular Shape – Residential Lots. 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 0.65 as determined by the formula: $r = 16 A / p$

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.

4.2 YARD AND SETBACK REGULATIONS.

4.2.1 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.

4.2.2 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).

4.2.3 Storage Limitations in Residential Districts - Front Yard. 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.

4.2.4 Parking Limitations in Business and Industrial Districts. 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.

4.2.5 Unenclosed Porch. 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.

4.2.6 Setback Modifications. 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).

4.2.7 Displays. 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.

4.2.8 Accessory Buildings. 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.

4.2.9 Swimming Pool. 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.


4.2.10 Commercial Agricultural Use. No structure intended for commercial agricultural use, such as a greenhouse or a building, structure or pen for poultry or other livestock, shall be less than 100 feet from any lot line. If such structure is for a noncommercial use, then it shall be deemed an accessory building and subject to the yard requirements applicable thereto. No commercial farming establishment shall be allowed in an area not zoned for agriculture unless the parcel is of five acres or more, or unless the parcel is of two acres or more and the sale of products produced by that farming establishment on the said parcel annually generates at least \$1,000 per acre based on gross sales dollars.

4.2.11 Existing Dwellings in Single Residence District. 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.

4.2.12 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.

4.3 SPECIAL REGULATIONS

4.3.1 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 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.

4.3.2 FAR Reduction for Bank. The Board of Appeals may allow reductions and/or increases to the floor area ratio (FAR), maximum building coverage, minimum open area and front yard setback requirements of the Table of Dimensional Regulations, for a bank building by special permit in the Business District. Any such reductions and/or increases shall be supported by evidence of lack of suitable land or design considerations or other similar factors. The Board of Appeals must also find that the granting of said special permit will not adversely affect the health, safety, convenience, character or welfare of the neighborhood or the  Town.

4.4 SCREENING AND BUFFER STRIPS

4.4.1 Applicability. The following requirements for screening and buffer strips shall apply in industrial, business, and multiple residence districts.

4.4.2 Width. 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.

4.4.3 Plantings. 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.

SECTION 190-5.0 NONCONFORMING USES AND STRUCTURES

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

5.1 APPLICABILITY.

Except as herein after provided, this Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice or 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 in 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 a structural change to a single or two unit residential structure does not increase the nonconforming nature of said structure.

5.1.1 Commencement of Construction or Operation. Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Bylaw, unless the use or construction is commenced within a period of not more than twelve months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

5.2 NONCONFORMING USES.

The Zoning Board of Appeals may grant a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

5.2.1 Permissible Changes. The following types of changes to nonconforming uses may be considered by the Zoning Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, less detrimental, nonconforming use. When a special permit is granted under this subsection, no use variance shall be required with regard to use or dimensional aspects of the application.

5.3 NONCONFORMING STRUCTURES.

The Zoning Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.3.1 Permissible Changes. The following types of changes to nonconforming structures may be considered by the Zoning Board of Appeals:

1. Reconstructed, extended or structurally changed;
2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

5.4 VARIANCE REQUIRED.

Except as provided in Section 5.5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance; provided, however, the extension of an exterior wall at or along the same nonconforming distance within a required yard shall require special permit by the Zoning Board of Appeals.

5.5 NONCONFORMING SINGLE AND TWO UNIT RESIDENTIAL STRUCTURES.

Nonconforming single and two unit residential structures may be extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and that such reconstruction, extension, alteration or change does not increase the gross floor area of the structure by more than 100%.

5.5.1 Permissible Changes. The following circumstances shall not be deemed to increase the nonconforming nature of said structure and a building permit may be issued:

1. *Insufficient Area.* Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements.
2. *Insufficient Frontage.* Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
3. *Encroachment.* Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and not result in any increase in building height in the area of encroachment.

If the Building Inspector determines that proposed alteration, extension or change exceeds the all of the criteria set forth above, the Zoning Board of Appeals may, by special permit, allow such alteration, extension or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. In the case of voluntary demolition of a single or two unit structure, reconstruction thereafter shall be governed by Section 5.7.

5.6 ABANDONMENT OR NON-USE.

A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Bylaw; provided, however, that by special permit the Zoning Board of Appeals may reestablish a nonconforming use or structure otherwise

abandoned or not used upon a finding that that the reestablished nonconforming use or structure will not result in substantial detriment to the neighborhood.

5.7 RECONSTRUCTION AFTER CATASTROPHE OR VOLUNTARY DEMOLITION.

5.7.1 After Catastrophe. Any nonconforming structure may be reconstructed after a catastrophe. Said nonconforming structure may be restored and used after a catastrophe regardless of the estimated restoration cost, provided that the new or restored structure is not substantially more nonconforming than the former structure.

5.7.2 After Voluntary Demolition; Procedures.

1. Reconstruction of said premises shall commence within two years after such demolition..
2. A building may be reconstructed as of right if (a) it will be located on the same footprint as the original nonconforming structure and (b) it will not exceed the gross floor area of the original nonconforming structure.
3. A building may be reconstructed upon the grant of a special permit from the Zoning Board of Appeals if (a) the proposed reconstruction would cause the structure to exceed the gross floor area of the original nonconforming structure or (b) the proposed reconstruction would cause the structure to be located other than on the original footprint upon a finding that that the reconstruction will not result in substantial detriment to the neighborhood. Such special permit shall be obtained prior to voluntary demolition.

5.8 REVERSION TO NONCONFORMITY.

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

5.9 SUBSTANDARD LOTS.

When a prior lawful nonconforming structure is located on a lot which does not meet current dimensional requirements, such lot shall not be changed, unless the change does not result in an increase of an existing nonconformity or a new nonconformity.

5.10 EMINENT DOMAIN.

When a lot is changed by eminent domain so as to become deficient in area, frontage, width, building setback, uplands requirement, lot coverage, or any other dimensional requirements, any structure located thereupon shall be considered a nonconforming structure subject to the rules of this Section 5.0.

~~§ 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.~~

~~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. 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.~~

~~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.~~

SECTION 190-6.0 GENERAL REGULATIONS

6.1 OFF-SITE PARKING AND LOADING.

6.1.1 Intent and Purpose. It is the intent and purpose of this Section to stipulate provisions for off-street parking and loading requirements.

6.1.2 General Requirements. 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:

1. Access. All required 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.
2. Screening. All required parking or loading areas in any district shall be screened in accordance with ***§ 190-31G.
3. Illumination. All illumination of required 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.

6.1.3 Location and Design of Off-Street Parking Spaces. 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 Section, is provided.

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

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.

TABLE OF REQUIRED PARKING SPACES

Principal Use	Number of Spaces Required
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
Multifamily dwellings or attached dwellings: 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 lane
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 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
Warehouses, wholesale establishments and public utility stations	1.0 per 1,200 square feet of gross floor area
Auto sales and display (new and used)	1.0 per each 7 autos licensed for sale

6.1.5 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 Section.

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.

6.1.6 Exceptions for Business Districts and Industrial Districts. When the literal application of the standards for off-street parking and loading required herein proves to be infeasible in the NB, LB, B, LI and I Districts 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.

1. 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.

2. Sidewalk cafes with less than 10 seats are exempt from off-street parking requirements.

6.1.7 Location of Required Spaces. 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 grant a special permit for 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 500 feet distant from the lot line of the lot they are designed to serve.

6.1.8 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.

6.1.9 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.

6.1.10 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:

TABLE OF AISLE WIDTHS

Angle of Parking	Minimum Aisle Width (feet)
Parallel	12
30°	11
45°	13
60°	18

6.1.11 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 *** 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 this Bylaw. Open parking BB 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.

6.1.12 Landscaping of Interior of Parking Lot with More than 40 Spaces. 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%.

6.1.13 Screening in Business, Industrial and Multiple Residence Districts next to Residence District. 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 Section 4.4 before construction commences.

6.1.14. Parking for Handicapped Persons. Parking for handicapped persons in accordance with the published standards of the Massachusetts Architectural Barriers Board shall be provided.

6.1.15 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.

6.1.16 Driveways.

1. Unless authorized by special permit from the ZBA, 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.
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 §6.1.17 below for common driveways.

6.1.17 Common Driveways. Common driveways ~~serving required parking on more than one lot~~ are allowed only where specifically authorized in this Section, such as for development under the provisions of Section 8.6, 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:

1. Common driveways shall provide access to not more than four lots.
2. Common driveways shall be not less than 16 feet in width, with center line and curb radii adequate for fire and other emergency vehicles.
3. 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).
4. 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%.
5. 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.
6. 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.
7. 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.

6.1.18 Design of Loading Spaces.

1. Loading 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.
2. 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.
3. 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.
4. 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.

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

TABLE OF REQUIRED OFF-STREET LOADING BAYS

Number of Loading Bays Required by Gross Floor Area of Structure (in thousands of square feet)

Type of Use	2-10	10-50	50-100	100-150	Each additional 150
Retail trade, wholesale, storage, industry, communications and utilities	0	1	2	3	1
Office building, hotel, dormitory, institution, recreation and education	0	0	1	1	1

6.2 SIGNS. (in progress)

6.3 PERFORMANCE STANDARDS.

Performance Standards for all districts.

The open display or open storage of junk shall be prohibited in all districts, including but not limited to wornout, 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.

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.

Performance Standards for all districts.

The open display or open storage of junk shall be prohibited in all districts, including but not limited to wornout, 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.

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.

6.3.1 Purpose. The following performance standards have been adopted in order to control the size, scale, and impacts of nonresidential and multifamily developments that require a special permit and/or site plan review.

6.3.2 Procedures; Rules and Regulations. Applicants for special permits or site plan approval for nonresidential or multifamily uses shall comply with these Performance Standards. "Nonresidential or multifamily use" shall mean any use any nonresidential use or a multifamily dwelling or mixed use structure with six (6) or more dwelling units. The SPGA or the Planning Board (as the case may be) may adopt rules and regulations for these Performance Standards. The SPGA or Planning Board may require the establishment of an escrow account, pursuant to M.G.L. c. 44, s. 53G during the special permit process or site plan approval, to cover all or part of the cost of the technical review required by the project, including services provided by, but not limited to, attorneys, traffic engineers, landscape architects, civil engineers, fiscal analysts, and other professionals.

6.3.3 Exemptions. The following are exempt from these special permit standards:

1. Emergency Response. Emergency responses performed by a private entity or a public agency and fire or burglar alarms.
2. Municipal Uses and Structures. All uses and structures, including schools, leased, owned or operated by the Town.
3. Events. Properly permitted or authorized parades, fairs or outdoor entertainment between the hours of 7:00 a.m. and 11:00 p.m.

6.3.4 Lighting Standards. The proposed development shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town. Lighting practices and systems shall

(i) reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the Town; (ii) conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity; and (iii) preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town.

1. **Shielding.** All outdoor light fixtures shall be shielded so as to meet the goals of this Section.

2. **Light Trespass.** Light overspill and glare, including direct light from the light source, is to be confined within the property boundaries. Lighting shall also comply with International Dark Sky Standards when feasible.

3. **Light Intensity.** Outdoor lighting shall be designed to provide the minimum intensity needed at any particular time. LED lighting is preferred.

4. **Illuminated Surfaces.** Preferred surfacing for lighted areas shall be of materials such as blacktop which reflect a relatively small fraction of incident light. Parking area lighting shall be reduced or eliminated outside business hours. The SPGA or Planning Board may require an electrical configuration for parking areas which support shut off for specific unused areas to reduce the glare from lighting.

5. **Searchlights.** The operation of laser shows or searchlights for advertising purposes is prohibited; provided however, that same may be authorized for a period of not more than fourteen days by special permit issued by the SPGA or Planning Board.

6. **Indoor Lighting.** Indoor light sources will not be projected outside in a manner to defeat the intent of this Section.

7. **Outdoor Signs.** Outdoor light fixtures used to illuminate an outdoor sign shall be mounted on top of the sign structure or otherwise restricted to prevent up-light and light trespass.

8. **Flickering and Flashing Lights.** No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.

9. **Height of Fixtures.**

a. *Wall Mounted Fixtures.* Luminaires attached to a building for area lighting shall be mounted no higher than fifteen (15) feet above grade;

b. *Pole Mounted Fixtures.* Pole mounted exterior lighting fixture types shall be mounted no higher than 20 feet above grade.

10. **Hours of Operation.** Except as may be deemed appropriate for site safety or security, all external lighting, including lighting accessory to authorized signs, shall be extinguished one half hour after the facility is closed for the business day. Such lighting may be timed to resume one half hour prior to the arrival of the first employee on the premises. Motion activated lights are encouraged for security purposes.

6.3.5 Noise Standards. The proposed development shall not unreasonably interfere with the reasonable use and enjoyment of property within the Town as a result of the generation of noise. Practices and systems shall (i) reduce noise pollution in order to preserve and enhance the natural and aesthetic qualities of the Town; (ii) preserve property values; and (iii) preserve neighborhood character.

1. **Limitation.** No person or entity shall operate or cause to be operated any source of sound in a manner that creates a sound level of 10 dBA above ambient, as set forth in 310 CMR 7.10, measured at the property boundary of the receiving land use. The Board of Health shall administer this provision.

2. **Hours of Operation.** As a condition of any special permit or site plan approval, the SPGA or Planning Board may prohibit or regulate the following circumstances regarding hours of operation.

a. The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or other objects or materials for sale or storage or use in a manner that causes a condition of noise pollution at any time but most specifically between the hours of 6:00 p.m. and 8:00 a.m. across a real property boundary in any district established under this Bylaw.

b. Operating or permitting the operation of tools or equipment used in construction, drilling or demolition work between the hours of 6:00 p.m. and 8:00 a.m. on weekdays or Saturday or at any time on Sundays or Holidays so that the sound creates a condition of noise pollution across a real property boundary.

c. The operation of construction devices between the hours 8:00 a.m. and 6:00 p.m. including such items as compressors, jackhammers, bulldozers, cranes, etc., in a manner that causes a condition of noise pollution that could be avoided by the application of best available technology, which might include mufflers where commercially available.

6.3.6 Site Development Standards. To the extent practicable, the proposed development shall be located to preserve and enhance the natural features of the site, to avoid disturbances of environmentally sensitive areas, to minimize adverse impacts of development on adjoining properties, to minimize the alteration of the natural features of the site and to preserve and enhance scenic points, historic buildings and places and similar community assets which add value and attractiveness to the development and the Town.

1. **Land Disturbance.** Site/building design shall preserve natural topography outside of the development footprint to reduce unnecessary land disturbance and to preserve natural drainage on the site.

2. **Replication.** Clearing of vegetation and alteration of topography shall be replicated with native vegetation planted in disturbed areas as needed to enhance or restore wildlife habitat.

3. **Clearing for Utility Trenching.** Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized wherever feasible to protect root systems of trees.

4. Site Design.

- a. Placement of buildings, structures, or parking facilities shall not detract from the site's scenic qualities and shall blend with the natural landscape.
- b. Building sites shall be directed away from the crest of hills, and foundations shall be constructed to take advantage of the natural terrain.
- c. Sites shall be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site, and to maintain contiguous forested areas.

5. Archeological or Historical Resources. If the structure is not subject to demolition delay, the SPGA or Planning Board may require applicants to submit the proposed development plan to the Town's Historical Commission and/or the Massachusetts Historical Commission for review and comment regarding possible archaeological or historical resources on the site.

6. Preservation of Existing Vegetation. Priority shall be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees. Understory vegetation beneath the dripline of preserved trees shall be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.

7. Revegetation. Proper revegetation techniques shall be employed during construction using native plant species, proper seed bed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within seven (7) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species.

8. Limit of Clearing. Development envelopes for structures, driveways, wastewater disposal, lawn areas and utility work shall be designated to limit clearing and grading. In order to minimize the clearing and grading on a site associated with construction activities such as parking of construction vehicles, offices/trailers, stockpiling of equipment/materials, such activities may be limited to areas already planned for permanent structures. Topsoil shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers.

9. Finished Grade. Finished grades should preserve, match, or blend with the natural contours and undulations of the land to the greatest extent possible. Finished grade shall be no higher than the trunk flare(s) of trees to be retained. The design of grade changes at the base of existing large trees shall be subject to the approval of the SPGA or Planning Board or its agent.

10. Topsoil. A minimum of 6 inches of topsoil shall be placed on all disturbed surfaces which are proposed to be planted.

11. Irrigation. The SPGA or Planning Board may require that water for the purpose of irrigation shall be provided by an on-site well, after consultation with the Water Department.

12. Phasing of Development. After consultation with the Water Commission and Board of Health, the SPGA or Planning Board may limit the extent of a site exposed at any one time through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.

6.3.7 Pedestrian and Vehicular Access; Traffic Management Standards. The proposed development and/or redevelopment shall be designed with a forecast for the next five years from the time of application to (i) minimize hazards to public health and safety as a result of traffic; (ii) provide safe access and circulation on the site for expected vehicles, pedestrians, and emergency vehicles; (iii) provide off-site traffic mitigation, where required, to offset the impact of the development; (iv) reduce the traffic impacts of the proposed development on the area and the Town by incorporating traffic management devices; and (v) minimize the impact on scenic roads, historic districts, natural resources, and community character. The development shall not degrade safety for pedestrians, bicyclists, motor vehicle occupants, or property.

1. Access. To the extent feasible, access to nonresidential uses and structures shall be provided via one of the following: (i) Access via a common driveway serving adjacent lots or premises; (ii) Access via an existing side street; (iii) Access via a cul-de-sac or loop road shared by adjacent lots or premises. Access via roadways abutting residential districts shall be avoided where possible. Access and egress to a development with frontage on more than one street shall be in a manner that causes the least impact to the surrounding neighborhoods as determined by the SPGA or Planning Board.

2. Driveways. Each development shall be served by an adequate driveway. The SPGA or Planning Board may, in certain circumstances, allow additional driveways as a condition of approval where the access is shared or the project has frontage on two separate streets. All driveways shall be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.

3. Curb Cuts. Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 20 feet for a residential property or 30 feet for a commercial property, unless waived by the SPGA or Planning Board for commercial truck traffic. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

4. Interior Circulation. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bikeways, and vehicular traffic.

5. Transportation Plan Approval. The proposed development shall be subject to Transportation Plan approval by the SPGA or Planning Board. The Transportation Plan shall consist of the following information:

a. A plan showing the proposed parking, loading, and traffic circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.

b. A traffic study, prepared by a qualified traffic engineer licensed by the Commonwealth of Massachusetts, detailing the expected traffic impacts. For proposed development in excess of 25,000 gross square feet, the required traffic study shall substantially conform to the Institute of Transportation Engineers "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition (TIAS). The SPGA shall approve the geographic scope and content of the TIAS. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.

c. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.

d. For proposed development in excess of 25,000 square feet of gross floor area, the applicant shall submit a Traffic Management Component (TMC) as part of the Transportation Plan. The TMC shall provide information on the number of expected person trips to and from the site, broken down by various travel modes (e.g., single occupancy vehicle, carpool, walk, bicycle, commuter rail, shuttle bus, etc.). The TMC may also incorporate one or more of the following techniques to reduce the number of single occupancy vehicle trips by employees coming to and departing from the proposed use:

(1) Establishment of or contribution to a Traffic Management Association (TMA) within the region, which shall provide shuttle services for employees and other services as may be appropriate;

(2) Employee carpools or vanpools sponsored by the employer or the TMA;

(3) Subsidized commuter rail passes, provided by the employer, and sold on the site or offered through payroll deduction;

(4) Monetary incentives to employees who do not use a parking space;

(5) On-site shower facilities and/or bicycle racks for employees who do not drive to work;

(6) Other techniques as may be deemed appropriate by the SPGA or Planning Board or its traffic consultant.

6. Level of Service Maintenance or Improvement.

a. If the proposed project will result in an intersection level of service below a rating of LOS D, the applicant may be required to provide detailed plans with a cost estimate (including reconstruction concepts), that when implemented would result in an intersection level of service rating of D or better.

b. If the proposed project will result in a reduction in level-of-service of one letter grade or an increase of 10 seconds of delay to a signalized or unsignalized intersection, the applicant may be required to provide detailed plans with a cost estimate that when implemented would result in a return to existing conditions.

7. Dangerous Intersections. The SPGA may require mitigation for any net increase in traffic volumes of 10% or more at an intersection that has an accident history of more than five accidents in the last three years for which data is available.

8. Sight Distance. Acceptable sight distance shall be provided and maintained at all access locations, egress locations, and all intersections affected by the Development. At a minimum, these site distances shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials standards for safe-stopping sight distances.

9. Maximum Parking. The maximum parking allowed for a development shall be no more than 200% of the minimum number of spaces required under zoning.

10. Mitigation. The SPGA or Planning Board may require as a condition of any special permit off-site improvements to mitigate the impact of the proposed development. Such improvements include intersection widening and traffic signals or the components of the TMC.

11. Pedestrian and Bicycle Safety. Pedestrian and bicycle circulation, and the amenities required thereof, on and off site, shall be in accordance with the following requirements:

a. All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with adjoining properties, where deemed appropriate by the SPGA or Planning Board.

b. Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries.

c. All road and intersection widening and new traffic signals or modification of existing traffic signals required as part of a Development or Redevelopment shall include appropriate bicycle and pedestrian accommodation.

d. The SPGA or Planning Board may require proposed development and redevelopment to provide sufficient rights-of-way on their properties to accommodate expected needs for bicycle and pedestrian use.

e. Sidewalks, crosswalks, walkways, bike racks or other pedestrian access shall be provided to allow access to adjacent properties and between individual businesses within a development.

f. If the property abuts a public bikeway/ right-of-way, a paved access route to the bikeway may be required.

12. Location of Parking Areas. Where feasible, the SPGA or Planning Board may require parking areas to be located to the side or behind buildings so as to provide an appropriate setting for the building within the context of the site and neighborhood and allow parking areas to be shared with adjacent businesses. The SPGA or Planning Board may require alternative studies of parking area layouts. Except where physical constraints, site configuration, or safety considerations preclude strict compliance, all parking must be accessible by driveways to the parking areas of adjacent nonresidential uses and land zoned for nonresidential uses.

13. Parking in Required Front Setback. The SPGA or Planning Board may prohibit parking within the required front setback.

14. Traffic Calming Features. Traffic calming measures such as crosswalks, bike lanes, rumble strips and landscaped islands may be required.

6.3.8 Aesthetic Standards. The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties, with natural and built environment in the area and the surrounding neighborhood.

1. Compatibility with Neighborhood. The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties, with natural and built environment in the area and the surrounding neighborhood, with consideration to be given to the following:

a. Harmony in scale, bulk, massing, and density;

b. Consistency with the goals and objectives of the Master Plan and with any other plan that has been adopted by the Town.

6.3.9 Utilities; Security; Emergency System Standards. The proposed development shall be adequately served by public or private utilities, security systems, and emergency systems.

1. Wastewater Treatment and Disposal. The SPGA or Planning Board may require a report from the Board of Health confirming that the proposed site development provides for wastewater treatment and or disposal in a manner that is consistent with regulations of the Commonwealth of Massachusetts and the Board of Health.

2. Water. There shall be sufficient water capacity to meet the flow demands of the proposed use without causing municipal water flow characteristics off-site to fall below the standards adopted by the Town.

3. Site Security. There shall be a certification by the Police Chief that the petitioner has provided a written plan for site security, which plan has been approved by the Police Chief.

4. Underground. All electrical, cable and telecommunications services shall be installed underground.

5. Fire Alarm System. There shall be sufficient municipal fire alarm system capacity to meet the operating requirements of the proposed site development and use under applicable codes, regulations, and statutes enforce by the Fire Chief.

6.3.10 Fiscal Analysis Standards. The proposed development shall maintain a positive net fiscal position for the long term, giving consideration to revenue estimates and actual growth in municipal service costs induced by the proposed development.

1. The applicant shall provide an analysis of fiscal costs from the development, including increases in marginal costs, assessment of the capacity of existing municipal facilities to serve the new development, and, by order of magnitude, share of capital costs if improvements are needed.

2. The applicant shall identify an order of magnitude estimate as to the extent to which this development would generate the additional need for responses from police, fire, EMS, schools and affordable housing.

6.3.11 Waiver of Standards. The SPGA or Planning Board, in the course of granting a special permit or site plan approval for nonresidential or multifamily development as defined in Section 6.4.1, may waive any of these performance standards where such waiver is not inconsistent with public health and safety, and where such waiver does not derogate from the purposes of this Section because the proposed development will adequately serve the goals and objectives set forth in Section 6.4.1, hereof.

6.3.12 Enforcement. Issuance of an Occupancy Permit is contingent upon compliance with all conditions set forth in any special permit or site plan approval, including conditions required by this Section 6.4. The SPGA or Planning Board may ensure compliance with these performance standards at the application stage by requiring evidence of probable compliance, whether by example of similar facilities or by engineering analysis, verified by technical peer review. In addition, the SPGA or Planning Board may require a monitoring program post-permit issuance for compliance purposes for a time period as may be specified in the special permit or site plan approval.

SECTION 190-7.0

SPECIAL REGULATIONS

7.1 ADULT USES

~~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:~~

7.4.1 General. Adult Uses, as defined in Section 11.0, are subject to the following regulations.

7.4.2 Purpose. The purpose of this Section is to address and mitigate the secondary effects of Adult Uses and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety and general welfare of the Town and its inhabitants.

1. The provisions of this Section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to Adult Uses or to sexually oriented matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

7.1.3 Authority. This Bylaw is enacted pursuant to M.G.L. c. 40A and pursuant to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain Adult Uses for the reasons set forth, above.

7.1.4 Location. ~~Adult Uses~~~~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; or (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; or
4. Within 1,000 feet of a park or playground.

7.1.5 Setback and Sign Requirements. All Adult Uses~~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 Section 6.2. 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.

1. 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.

7.1.6 Special Permit Application. The application for a special permit under this Section 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 M.G.L. c. 119, § 63 or M.G.L. c. 272, § 28. No special permit shall be issued under this section to any person convicted of violating M.G.L. c. 119, § 28.
4. Proposed security precautions.
5. The number of employees.

SECTION 7.2 REGISTERED MARIJUANA DISPENSARIES

7.2.1 Purpose. The intent of this Section is to address possible adverse public health and safety consequences related to the passage of State Referendum Question 3 on November 6, 2012. It is the purpose of this Section to minimize any potential adverse impacts on the quality of life in the Town. It is the intent of this Section to establish specific zoning standards and regulations for registered marijuana dispensaries, medical marijuana infused products, medical marijuana paraphernalia, manufacturers, and medical marijuana growing and cultivation operations either related to a registered marijuana dispensary; to provide for the limited establishment of registered marijuana dispensaries in appropriate place's and under strict conditions in acknowledgment of the passage of the said Question 3; to minimize the adverse impacts of registered marijuana dispensaries on adjacent properties, schools and other places where children congregate, and other land uses potentially incompatible with said dispensaries; to regulate the siting, design, placement, safety, monitoring, modification, and removal of registered marijuana dispensaries; and to limit the overall number of registered marijuana dispensaries in the Town to what is essential to serve the public necessity.

7.2.2 Definitions. See Section 11, "Registered Marijuana Dispensaries."

7.2.3 Location. Registered marijuana dispensaries may be permitted pursuant to a special permit subject to the following limitations:

1. Registered marijuana dispensaries and marijuana cultivation may not be located within 500 feet of the following:
 - a. Any school, child-care establishment, or place where minors frequent (e.g., a library, ball field, sports or family recreation facility, religious facility or the like);

- b. Any drug or alcohol rehabilitation facility;
 - c. Any group home, halfway house or similar facility; or
 - d. Any other registered marijuana dispensary;
2. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in § 7.2.3.1 to the nearest point of the property line of the proposed registered marijuana dispensary.

7.2.4 Permit Procedure. The Zoning Board of Appeals shall be the special permit granting authority for a registered marijuana dispensary special permit. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other Town boards and departments, the special permit granting authority shall act upon such a permit application. In addition to the materials required under §§ 10.6 and 10.7, for special permits and site plan review, respectively, the applicant shall include in its application for such a special permit:

- 1. A copy of its registration as a registered marijuana dispensary from the Massachusetts Department of Public Health; and
- 2. A detailed floor plan of the premises of the proposed registered marijuana dispensary that identifies the square footage available and describes the functional areas of the registered marijuana dispensary, including areas for any preparation of marijuana-infused products.

7.2.5 Site Plans. The applicant shall also submit a detailed site plan that includes the following information:

- 1. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this bylaw;
- 2. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
- 3. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic offsite can reasonably be expected to be substantially affected by on-site changes;
- 4. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
- 5. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and adequacy of water supply, surface and subsurface drainage and light.
- 6. A copy of the security measures, including employee security policies, approved by the Department of Public Health for the registered marijuana dispensary;

7. A copy of the emergency procedures approved by the Department of Public Health for the registered marijuana dispensary;
8. A copy of the policies and procedures for patient or personal caregiver home delivery approved by the Department of Public Health for the registered marijuana dispensary;
9. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between registered marijuana dispensaries approved by the Department of Public Health;
10. A copy of proposed waste disposal procedures; and
11. A description of any waivers from the Department of Public Health regulations issued for the registered marijuana dispensary.

7.2.6 Special Permit Conditions. The special permit granting authority shall impose conditions reasonably appropriate to improve site design, traffic flow and public safety; to protect water quality, air quality and significant environmental resources; to preserve the character of the surrounding area; and otherwise to serve the purpose of this bylaw. In addition to any specific conditions applicable to the applicant's registered marijuana dispensary, the special permit granting authority shall include the following conditions in any special permit granted under this bylaw:

1. Hours of operation, including dispatch of home deliveries;
2. The permit holder shall file a copy of any incident report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer, the Chief of Police and the special permit granting authority within 24 hours of creation by the registered marijuana dispensary. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
3. The permit holder shall file a copy of any cease and desist order, quarantine order, suspension order, order limiting sales, notice of a hearing, or final action issued by the Department of Public Health or the Division of Administrative Law Appeals, as applicable, regarding the registered marijuana dispensary with the Zoning Enforcement Officer, the Chief of Police and the special permit granting authority within 48 hours of receipt by the registered marijuana dispensary.
4. The permit holder shall provide to the Zoning Enforcement Officer and Chief of Police the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
5. The special permit shall lapse five years after its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.
6. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the registered marijuana dispensary.

7. The special permit shall lapse upon the expiration or termination of the applicant's registration by the Department Public Health.

8. The permit holder shall notify the Zoning Enforcement Officer and special permit granting authority, in writing, within 48 hours of the cessation of operation of the registered marijuana dispensary or the expiration or termination of the permit holder's registration with the Department of Public Health.

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

~~§ 190-110. Severability.~~

~~The provisions of this bylaw are severable. Many provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.~~

7.3 ADULT USE MARIJUANA ESTABLISHMENTS

7.3.1 Purpose. The purpose of this Section is to regulate all types of Adult Use Marijuana Establishments (“Marijuana Establishments”), which shall be allowed by special permit exclusively in the Industrial District.

7.3.2 Definitions. See Section 11.0, “Adult Use Marijuana Establishments.”

7.3.3 Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) shall be the Planning Board.

7.3.4 Application Requirements. All applicants are encouraged to contact the Planning Office to schedule a pre-application meeting. In addition to all the application requirements related to special permits the applicant shall include the following at the time of application:

1. Copies of all licenses, permits and documentation demonstrating application status, registration or licensure by the Commonwealth of Massachusetts Cannabis Control Commission.
2. A security plan showing the arrangement of pedestrian circulation and access to the public points of entry to the premises from the nearest public or private street or off-street parking area. The security plan shall detail how the property will be monitored so as to avoid, deter and prevent illegal activities from taking place upon or about the applicant’s premises and shall show the location of any walkway structures, lighting, gates, fencing and landscaping.
3. A list of all managers, officers, directors, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the Marijuana Establishment.

4. A list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment, including capital in the form of land or buildings.
5. Proof that the Marijuana Establishment is registered to do business in the Commonwealth of Massachusetts as a domestic business corporation or another domestic business entity in compliance with 935 CMR 500 and is in good standing with the Secretary of the Commonwealth and Department of Revenue.
6. Documentation of a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling or winding down of the Marijuana Establishment, if required.
7. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative and engineering controls that will be implemented to control such odors, including maintenance of such controls.
8. An applicant who is not the property owner shall submit evidence in the form of a deed, an executed lease or valid purchase and sale agreement documenting the applicant's contingent property interest and legal right to operate a Marijuana Establishment at the property.

7.3.5 Use Regulations.

1. No special permit shall be granted for any Adult Use Marijuana Establishment sited within a radius of five hundred (500) feet of a public or private, primary or secondary school, licensed daycare center, public library, public park or playground. The 500 foot distance under this Section shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed Marijuana Establishment. Each applicant for a special permit under this section shall submit a plan signed by a licensed surveyor, depicting compliance with the linear distance requirements set forth herein.
2. All aspects of a Marijuana Establishment relative to the cultivation, possession, processing, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the building. A Marijuana Establishment shall not be located in a trailer, storage freight container, motor vehicle or other similar movable enclosure.
3. No outside storage of marijuana, marijuana products, or related supplies is permitted.
4. The Marijuana Establishment shall provide an odor control plan that provides for proper and adequate ventilation at such facilities in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the facilities. All resulting odors, smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation shall be effectively confined to the premises or so disposed of so as to avoid any air pollution.

5. The Marijuana Establishment shall provide for adequate and proper security at the premises so as to avoid, deter and prevent illegal activities from taking place upon or about the applicant's premises.

6. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises. All Marijuana Establishments permitted under this Section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.

7.3.6 Dimensional Requirements. A Marijuana Establishment shall comply with the dimensional controls for the Industrial District as set forth in Section 4.0 of this Bylaw.

7.3.7 Abandonment or Cessation of Use. A Marijuana Establishment shall be required to remove all materials, plants, equipment and other paraphernalia within ninety days of ceasing operations or immediately following revocation of its license issued by the Cannabis Control Commission. The SPGA may require the Marijuana Establishment to post a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling and winding down of the Marijuana Establishment.

7.3.8 Special Permit Approval Criteria. After notice and public hearing, and after due consideration of the evidence submitted, including the reports and recommendations of other Town departments and the criteria for special permit decisions set forth in Section 10.6, the SPGA may grant such a special permit provided that it finds in addition that:

1. The Marijuana Establishment does not derogate from the purposes and intent of this Section and this Bylaw.
2. The application information submitted is adequate for the SPGA to consider approving the special permit request.
3. The proposed establishment is designed to minimize any adverse impacts on abutting properties.
4. The security plan provides sufficient assurance that adequate security controls have been implemented to ensure the protection of the public health and safety during hours of operation and that any marijuana or marijuana related products are adequately secured on-site or via delivery.
5. The odor control plan proposed adequately provides for the ongoing safe operation of the establishment and minimizes any adverse impacts to abutting properties from odor-emitting activities to be conducted on-site.
6. The proposed design and operation of the Marijuana Establishment will meet the requirements of this Section.

7.3.9 Lapse. A special permit granted under this Section shall lapse if not exercised within two years of issuance.

~~§ 190-111 — § 190-113~~

~~ARTICLE XIX~~

~~Temporary Moratorium on Marijuana Establishments~~

~~[Added 5-1-2017 ATM by Art. 27]~~

~~§ 190-111. Purpose.~~

~~At the Massachusetts election held on November 8, 2016, the voters of the Commonwealth approved a new law which, among other things, established MGL c. 94G, entitled "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed." That statute permits "marijuana establishments" to be licensed by a new Cannabis Control Commission (the "Commission") throughout Massachusetts for the cultivation, testing, manufacture and sale of marijuana products. The Commission was initially to promulgate regulations concerning marijuana establishments by September 15, 2017, which date has been extended to March 15, 2018 by Chapter 351 of the Acts of 2016. The regulation of recreational marijuana raises many complex questions concerning law, planning and public safety. The Town cannot adequately address those questions until the Commission issues its regulations. The purpose of this temporary moratorium is to provide the Town time for study, reflection and decision concerning the said regulations and the challenges posed by recreational marijuana.~~

~~§ 190-112. Temporary moratorium.~~

~~For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaws to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a "marijuana establishment" as defined in MGL c. 94G, § 1. This moratorium shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012. The moratorium shall be in effect through June 30, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana on the Town, consider the regulations to be issued by the Commission, determine whether the Town should ban any or all types of marijuana establishments within the Town, decide whether to prohibit on-site consumption of marijuana products at marijuana establishments, and otherwise weigh its options in addressing the issues raised by recreational marijuana.~~

~~§ 190-113. Severability.~~

~~The provisions of this article are severable. If any provision, paragraph, subsection, sentence or clause hereof, or the application thereof to any person, establishment or circumstance, shall be held invalid or illegal, such invalidity or illegality shall not affect the other provisions hereof, or the application hereof to other persons, establishments or circumstances.~~

7.4 TRAILERS AND/OR MOBILE HOMES.

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

1. The owner or occupier of a residence which has been destroyed by fire or other natural catastrophe holocaust may place a mobile home on the site of such residence and reside in such home for a period not to exceed 18 months while the residence is being rebuilt. This period may be extended by 12 months by the Building Inspector for good cause. Any such mobile home shall be subject to the provisions of the State Sanitary Code.
2. 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.

SECTION 190-8.0 SPECIAL RESIDENTIAL REGULATIONS

8.1 ACCESSORY APARTMENTS.

8.1.1 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 Bylaw, specific standards are set forth below for such accessory apartment uses.

8.1.2 Eligible Location. Accessory apartments may be created ~~only within single-family dwellings or two family dwellings~~ which are located on lots which meet the standards of this Section. ~~meeting the minimum lot area and width requirements of the applicable zone.~~

1. Applications for accessory apartments shall be subject to approval solely by the Board of Appeals.
2. Applications need only contain such information to determine compliance with regulations set forth herein.

8.1.3 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 ~~dwelling unit 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 ~~or two-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.

8.1.4 Declaration of Covenants. 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:

1. 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.
2. 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.
3. 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.

4. An accessory apartment must be located in the principal dwelling, provided that such principal dwelling conforms to the other requirements of this Bylaw, unless a variance therefor shall have been granted by the Zoning Board of Appeals.

8.1.5 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.

1. 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.
2. There shall be no more than one accessory apartment for a total of two dwelling units permitted per lot.

8.2 ART/CRAFT STUDIO.

8.2.1 Purpose and Intent. It is the specific purpose and intent that an art/craft studio, whether attached or detached from the principal building, will be compatible with other permitted uses, particularly in residential neighborhoods.

8.2.2 General Requirements.

1. The space will be principally used as a studio for independent arts/crafts people in the creation of their own work. Mass production and assembly line techniques are prohibited.
2. The type of studio use shall be appropriate to the particular building and its location. The building shall be structurally sound.
3. The proposed studio use will not generate traffic in volume or type in excess of that normally occurring in the adjacent neighborhood.
4. No bulk storage of toxic or highly flammable materials shall occur.
5. The proposed studio use shall satisfy all applicable building, firesafety, and health codes.
6. Noise shall be restricted to levels customarily permitted in the districts.
7. Noxious odors, dust, and/or fumes shall be effectively disposed of and confined to the premises to avoid air pollution and nuisance to the adjacent neighborhood.
8. The building will conform to dimensional regulations regulated in Section 4.0.
9. Storage of materials must be carried out within the building.

8.2.3 Activities. All activities conducted in an accessory structure are limited in size by the provisions governing an accessory building type outlined in Section 4.0.

1. Such activity shall be carried on only by the person residing on the premises and no more than one person, not a member of the household, shall practice or be employed at one time per studio.
2. There shall be no retail sales except as may occur as an activity incidental to the exhibition permitted below.
3. No display of advertising signs except for a small announcement sign having an area of not more than three square feet.
4. Shipping and delivery is restricted to parcel and small freight carriers.
5. No more than one off-street parking space is permitted for the art/craft accessory use.

8.2.4 Public Exhibitions. Public exhibitions and their advertisement shall not be permitted except as specifically authorized in the special permit. The number and duration of any such exhibitions shall be specifically stated, shall be for arts/crafts created on the premises, and shall only be permitted upon finding that the residential or other prevailing neighborhood character will not be significantly, negatively affected.

8.2.5 Special Permit.

1. The special permit for an art/craft studio accessory use shall terminate upon the death of the owner and the spouse of the owner or upon transfer of title to said premises.
2. In issuing a special permit under this Section, the Zoning Board of Appeals shall state the specific arts and crafts uses or range of uses being authorized for each studio granted a permit.

8.3 CONVERSIONS TO APARTMENTS.

8.3.1 Single-Unit to Two Unit Dwelling in the Single Residence District. A single-unit dwelling in the Single Residence District may be converted, within the existing building's footprint and volume, to a two-unit 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. A special permit shall be required from the Board of Appeals.

8.3.2 Single or Two-Unit Dwelling to Three or Four Unit Dwelling in the GR or Business Districts. A single- or two-unit dwelling in the General Residence District or Business District may be converted by grant of a special permit from the Board of Appeals within the existing building's footprint and volume, to a three- or four-unit dwelling, provided that:

1. The dwelling is located on a lot of 13,000 square feet or more.
2. There shall be a minimum lot area of 3,500 square feet for each dwelling unit provided.
3. There shall be a minimum floor area of 650 square feet for each dwelling unit provided.

4. 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.

5. The conversion shall meet all building codes, fire, safety and health regulations and other sections of this Bylaw.

8.4 SENIOR HOUSING FACILITY.

8.4.1 Purpose. The purpose of this Section is as follows:

1. To provide for the development and use of alternative housing and nursing care for the elderly;
2. To create home health care, housing and other supportive services for the senior population outside of an institutional setting;
3. To encourage the preservation of open space;
4. To provide alternative housing for seniors that cause relatively little demand on Town services;
5. To preserve the Town's residential character;
6. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space;
7. To provide housing which is affordable to seniors who are residents of the Town.

8.4.2 Definitions. See “Senior Housing Facility” in Section 11.0.

8.4.3 Applicability. The Planning Board may grant a special permit for a Senior Housing Facility as defined in Section 11.0 and as set forth in the Table of Use Regulations, subject to the requirements of this Section.

1. This Section shall not apply to Senior Housing Facilities existing on the date of adoption of this Section.

8.4.4 Dimensional Requirements and Design Standards. Dimensional requirements and design standards shall be as follows:

1. **Minimum Lot Size.** The minimum lot size (square feet) shall be that required in the district.
2. **Building Height.** Any addition or new construction shall not exceed 35 feet in height as measured in accordance with the State Building Code. This shall not preclude the reuse and renovation of existing structures which may exceed this height limit.

3. **Building Setbacks.** Buildings shall be set back the distance required in the district for side and rear yards.
4. **Setback from Residential Dwellings.** All principal buildings associated with the Senior Housing Facility shall be no closer than 30 feet from existing residential dwellings unless reduced by the SPGA.
5. **Minimum Lot Frontage.** The minimum lot frontage shall conform to the requirements of the district where such use is located.
6. **Town Services.** Facilities shall be serviced by public water and sewer of sufficient capacity to serve the project. Any extension and/or replacement of sewer and/or water lines necessary to provide sufficient capacity shall be the responsibility of the applicant.
7. **Transportation Services.** The operator of the facility shall be required to provide or arrange for transportation to Town services and facilities.
8. **Access and On-site Circulation.** Adequate on-site circulation shall be provided to and from the site, taking into consideration the adjacent sidewalks and streets and accessibility of the site and building(s) thereon for emergency vehicles. Adequate provision shall be made for off-street loading and unloading requirements of delivery vehicles and passengers using private transportation.
9. **Public Safety.** The facility shall have an integrated emergency call, telephone and other communication system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of residents with emphasis on ensuring the safety of residents with physical impairments.
10. **Landscaping.** Landscaping and screening is required to obscure visibility from beyond the boundaries of the premises of parking areas, dumpster locations and loading areas. The minimum setback from all property lines of such parking lots, dumpster locations, and loading areas, except for their points of ingress and egress, shall be 15 feet.

8.4.5 Accessory Uses. The operator of the Senior Housing Facility may also provide optional services on the site for the convenience of residents, including but not limited to transportation, barber/beauty services, sundries for personal consumption, laundry services and other amenities, provided such uses serve primarily the residents and staff of the Senior Housing Facility and the accessory uses shall be wholly within a residential structure and shall have no exterior advertising display.

8.4.6 Special Permit Procedure. The procedure for a special permit under this Section shall be governed by Section 10.6.

8.5 MULTIFAMILY DWELLINGS AND MIXED-USE DEVELOPMENT.

8.5.1 Purpose. It is the intent of this Section to encourage the development (in appropriate locations) of attractive, functional multifamily dwellings and mixed-use projects that create street-level, sidewalk activity that responds to the social and economic characteristics and needs of the present and future

Wakefield. Mixed-use developments, including said dwellings in combination with other uses such as retail, outdoor and indoor dining, day care, educational and office uses that attract pedestrian activity and create walkable neighborhoods are desirable.

8.5.2 Special Permit Granting Authority (SPGA). Where housing, whether mid-rise apartments, garden apartments, attached dwellings, or combinations of same are allowed by special permit, as provided in the Table of Use Regulations, the Zoning Board of Appeals shall be the special permit granting authority.

8.5.3 Combination with Other Uses. Mid-rise apartments, garden apartments, attached dwellings, or combinations of same may be combined with other uses, whether permitted by-right or by special permit within the zoning district, as provided in the Table of Use Regulations, in a single building or group of buildings; however, the Zoning Board of Appeals shall determine whether the proposed combination of uses will or will not be detrimental to the project proposed or to the neighborhood. The Zoning Board of Appeals may deny or condition any special permit to protect the economic health and livability of the street and neighborhood where the proposed project is located.

1. Notwithstanding ***§ 190-13, § 190-94, § 190-95, and § 190-97, where the Table of Use Regulations allows mid-rise apartments, garden apartments, or attached dwellings, the provisions of overlay districts shall not apply to special permits under this Section.

8.5.4 Minimum Lot Size and Density.

1. The minimum lot size for a housing or mixed use project under this section is 4,000 square feet.
2. Where housing, whether mid-rise apartments, garden apartments, attached dwellings, or combinations of same are proposed within walking distance of commuter rail stations (measured as a 2,500 foot radius from the commuter rail station's boarding area to the nearest lot line of the development parcel) a minimum of 750 square feet of lot area per unit is required. Otherwise, a minimum of 1,200 square feet of lot area per unit is required.
3. There is no additional lot area requirement for other uses, whether permitted by-right or by special permit within the zoning district, as provided in the Table of Use Regulations.

8.5.5 Parking Areas and Open Space for Multifamily Dwellings.

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".)

8.5.6 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):

	Mid-Rise Apartment Complex	Garden Apartment or Attached Dwelling Complex	Individual Attached Dwellings
Maximum Lot Coverage %	35	35	40 ₁
Open area %	30	30	20 ₁
Lot frontage	180	150	18
Lot width	180	150	18
Height in feet	50	35	30
Height – stories	5	3	2.5
Front yard	30 ₂	30 ₂	20
Side Yard	30 ₂	30 ₂	None
Rear Yard	30 ₂	30 ₂	20
Minimum number of attached units in a row	---	---	3
Maximum number of attached units in a row	---	---	8
Distance between unattached buildings	50 ₃	50 ₃	---

NOTES:

1 Percent of exclusive use zone [see ***Subsection F(4)].

2 Or height of building, whichever is greater.

3 Or height of taller building, whichever is greater.

8.5.6 Parking and Loading. The minimum parking and loading requirements shall be as specified in Section 6 of this Bylaw.

8.5.7 Additional Requirements.

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. 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.

3. 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.

4. 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.

8.5.8 Inclusionary Requirement. The intent of this subsection 8.1.8 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 this Section 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 such 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.

8.5.9 Inclusionary Submittal Requirements. If so required by the Special Permit Granting Authority, 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 EOHLC 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;

8.5.10 Additional Inclusionary Requirements.

1. The use restriction or regulatory agreement selected by the applicant shall be subject to the approval of the Special Permit Granting Authority using the EOHLC 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;
2. 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;

3. At the time of application, the applicant shall identify the floor areas of all units. 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.

4. 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).

5. 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:

- a. 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.
- b. 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.
- c. 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.
- d. 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.

8.5.11 Multifamily Dwelling Dimensional Control and Exclusive Use Area Relief.

1. The Special Permit Granting Authority may allow reductions and/or alterations in the dimensional controls for multifamily dwellings as required under ***§ 190-32D and Table 2, the Table of Dimensional Regulations of this Bylaw by special permit, according to procedures contained in Section 10, 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.

2. The Special Permit Granting Authority may reduce the requirements of ***§ 190-32F(3) by special permit, according to procedure contained in Section 10, and if it deems the common open space is adequate to accommodate all of the units and/or dwellings.

8.6 OPEN SPACE DEVELOPMENT (OSD).

8.6.1 Applicability. Applicants for a residential development may choose to seek approval of an open space development (OSD) special permit to be governed by these requirements and conditions set forth in an open space development (OSD) special permit decision granted by the special permit granting authority, provided that the type of open space development that is sought is allowed at the location as set forth in the Table of Use Regulations.

8.6.2 Primary Purposes. The primary purposes of this Section are the following:

1. To allow for flexibility and creativity in the design of residential developments;
2. To promote housing affordable to households as diverse as those which have traditionally resided in Wakefield.
3. 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;
4. 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;
5. To minimize the total amount of disturbance on the site;
6. To further the goals and policies of the Wakefield comprehensive and open space plans;
7. To facilitate the construction and maintenance of housing, streets, utilities, and public service in an economic and efficient manner.

8.6.3 Secondary Purposes. The secondary purposes of this Section are the following:

1. To preserve and enhance the community character;
2. To preserve and protect agriculturally significant land;
- ~~3. To protect the value of real property;~~
3. To protect community water supplies;
4. To provide for a diversified housing stock;

8.6.4 Preapplication for Open Space Development. 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.

1. 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.

8.6.6 Application. An application for a special permit under this Section 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.

8.6.7 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.

8.6.8 Concept Plan. 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 design process outlined in § 190-93E below, and the design standards outlined in § 190-***93H below.

1. 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.

8.6.9 Relationship Between the Special Permit Plan and Other Plan Requirements.

1. 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.
2. Neither the concept plan nor development on lots created consistent with an approved OSD special permit require site plan review under §10.6, Site plan review.
3. No development pursuant to an approved OSD 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 OSD 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.
4. Any subsequent plan for the premises or portion thereof will be considered not to substantially comply with the OSD 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 OSD special permit; and 2) conditions that determination of compliance on conforming amendments to the OSD special permit being applied for within a specific time period and subsequently approved by the Planning Board:
 - a. an increase in the number of building lots or dwelling units;
 - b. a significant decrease in the open space acreage;
 - c. a significant change in the lot layout;
 - d. A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
 - e. Significant changes to the general stormwater management approach; and/or
 - f. Significant changes in the methods for wastewater management.

A public hearing on an application to amend the OSD 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 § 4.d, above, in which case those identified departures are the only considerations that the Planning Board may take into account in deciding whether to amend the § OSD special permit.

8.6.10 General Procedures. Procedural matters are set forth below. **Check the Planning Board Rules and Regulations for applicable fees and distribution of application materials.**

1. 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.

2. 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 an OSD special permit with its action on a preliminary subdivision plan or the public hearing required for approval of a definitive subdivision plan.

8.6.11 Six-Step Design Process. At the time of the application for an OSD 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.

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.

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.

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.

Step four: Lot lines. Draw in the lot lines.

Step five: Applicants shall provide building plans, landscape plans showing fences and walls, plantings, and existing and proposed trees, and provide sample building materials and color samples. The Planning Board may request models and renderings, rendered elevations of all buildings and site amenities. At the time final lot lines are proposed, the applicant shall submit draft covenants for drainage maintenance, open space preservation and maintenance, and any other covenants and easements that may be proposed. Subsequently, the applicant may submit a draft Planning Board decision with conditions to implement the project as proposed.

Step six: Prior to cutting trees on the site, blasting, grading, or changing ground elevations and prior to submitting plans for any building/construction permits, including foundations and installation of drainage or utilities, the applicant shall submit all permit plans to the Planning Board for review and approval. Such prior approval by the Planning Board shall be documented on every individual permit plan set submitted to the Inspectional Services Department and/or Department of Public Works. For verification, the Planning Board shall designate a subcommittee to review and approve plans submitted for permits. Subsequent to obtaining any

permits, the Planning Board may, at the applicant's expense, retain a professional third-party monitoring agent to verify the project is constructed as approved.

8.6.12 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 an OSD 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.

8.6.13 Open Space Requirements. The following open space minimum requirements must be met when filing a basic concept plan as provided under § 8.3.8. The applicant may propose and be bound by greater standards. A minimum of 10% of the land contained within the development parcel shall be identified as usable open space land (see Definitions and word usage, §11.0 and a minimum of 15% of the land contained within the development parcel shall be identified as open space land (see Definitions and word usage, § 11.0); therefore, a minimum of 25% of the development parcel will be classified as open space. The applicant shall provide a concept plan and subsequent definitive subdivision plan that identifies both the open space land and usable open space land as separate nonbuildable lots. The definitive subdivision plans for the development shall include easements and rights of access to enter and maintain said open space land and usable open space land parcels. The applicant shall prepare and record restrictive covenants and/or easements enforceable by the Town, a homeowners' association of the development, or a subsequent individual lot-owner within the development. Said restrictive covenants and/or easements shall:

1. Be in a form satisfactory to the Planning Board;
2. Provide that such land shall be perpetually kept in an open state;

3. Specify whether public access is contemplated, the manner of such access, and control thereof;
4. Provide the manner that the parcels shall be maintained and the funding for such care;
5. Provide monitoring as to whether the open space parcels are being preserved for purposes set forth herein; and Provide default provisions should the covenant fail to accomplish its intended purposes.

8.6.14 Generic Design Standards. The following generic and site specific design standards shall apply to all developments authorized under an OSD special permits and shall govern the development and design process:

1. 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.
2. 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.
3. 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.
4. 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.

8.6.15 Site Specific Design Standards.

1. 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, or later version accepted by Town Meeting.
2. Parking. Parking shall be provided as required at §6.1. 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.
3. 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.

4. 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.

5. Common/shared driveways. Common or shared driveways are allowed in compliance with § ***190-37I.

6. 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.

7. Disturbed areas. At least 40% of the total tract area shall be retained essentially in its natural vegetated state.

8.6.16 Decision of the SPGA. The Planning Board may approve or approve with conditions a special permit for an open space development if it determines that the proposal will meet the requirements of this Section bylaw and will meet the guidance of § 8.3.13 open space development purpose and intent, and will result in a well designed development under a basic concept plan, if one has been submitted, or better than would development without reliance upon §8.3.12 Reduction of dimensional requirements and §8.3.13 Open space requirements, if no basic concept plan has been submitted.

1. In the event of disapproval of an OSD special permit or in the event that an appeal of the Planning Board's action on an OSD special permit is filed under § 17 of M.G.L. Chapter 40A, by any party other than the petitioner, a development plan for the same premises prepared without reliance upon this Section § 190-93F Reduction of dimensional requirements and § 190-93G, Open space requirements may be submitted under the Subdivision Control Law.

190-93.I ATTACHED DWELLING OVERLAY DISTRICT

9.5.1 Purpose. The purpose 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.

9.5.2 Requirements. At least five of the following means of achieving the purpose of this Section must be met:

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. Setbacks and building alignment should be reflective of that existing in the vicinity.
3. 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.

4. Open space should be used to create positive spaces, such as courtyards, rather than simply being peripheral "leftovers."
5. No more than six dwelling units should be attached together in a single structure.
6. 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.
7. Garage doors should not be oriented to any existing street.
8. Existing vegetation and other site features should be retained to the extent reasonably

feasible.

9. 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.

9.5.3 Affordability Requirement. All open space developments that potentially create six or more housing units shall be subject to the affordability requirements of § ***190-96.

9.5.4 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.

9.5.5 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.

9.5.6 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.

9.5.7 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.

9.5.8 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.

8.7 HOUSING AFFORDABILITY.

8.7.1 Purpose. The intent of this Section 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.

8.7.2 Affordable Requirement. 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.

8.7.3 Special Permit. 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 preliminary site approval letter indicating potential support from either the subsidizing agency or other agency authorized by EOHLC under Housing Appeals Committee regulations 760 CMR 56.04(2); and
2. A complete draft regulatory agreement among the above agency, the developer, and the Town Councilors.
3. 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.
4. 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;
5. 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 market rate 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.
6. 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 Section, 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.

7. The following requirement shall be a condition of special permits which require affordable dwelling units in order to prevent a disproportionate number of **market rate** ~~nonaffordable~~ dwelling units being occupied prior to the completion and occupancy of the affordable dwelling units.

- a. 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.
- b. 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.
- c. 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.
- d. 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.

SECTION 190-9.0 SPECIAL DISTRICT REGULATIONS

9.1 FLOODPLAIN OVERLAY DISTRICT (FPOD).

9.1.1 Purpose. The purpose of this Section ~~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.

9.1.2 Establishment. The FPOD 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 FPOD 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 FPOD may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by 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.

9.1.3 Development Regulations. The following requirements apply in the FPOD:

1. 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.
2. In floodways, designated on the FIRM maps, all encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited.
3. Required documentation of floodway data.
4. 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.
5. 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.
6. All subdivision and development proposals must be designed to assure that such proposals minimize flood damage. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and adequate drainage is provided to reduce exposure to flood hazards.

9.1.4 Uses Allowed by the Board of Appeals. If any land shown on the Zoning Map or defined in this Section as being in a FPOD 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. 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.

1. 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.
2. 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 FPOD zoning provisions:
 - a. Geographic location of proposed building and security of driveway or walkway access to it during flooding.
 - b. 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.
 - c. Disposal of sewage from the proposed buildings and containment of sewage during flooding.
 - d. Safety of water, sewage, gas, electric and fuel utilities from breaking, leaking, short-circuiting, grounding, igniting, electrocution or other dangers during flooding.

~~The Floodplain District is established as an overlay district to all other districts. [Added 5-3-2010 ATM by Art. 28]~~

9.1.5 Compliance with Other Regulations. All development in the FPOD, 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:

1. 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");
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

5. 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.

9.1.6 Site Plan Approval. Applications for site plan approval of uses in the FPOD are reviewed by the Zoning Board of Appeals and complete applications are required. Site plans shall be at a suitable scale, prepared by a registered land surveyor or registered professional civil engineer. The site plan shall show at least the following information:

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.

~~In addition to the above, the following information shall be provided:~~

5. A chart showing all required dimensional requirements in the district where the development is proposed and comparing them to the dimensions being proposed.
6. Drainage calculations for all runoff within the site.
7. 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.
8. 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.~~

9.1.7 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:

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

9.2 MUNICIPAL DISTRICT.

9.2.1 Purpose and Map. The Municipal District is a special overlay district, which regulates the use and dimensional requirements of buildings erected on Town-owned land and is shown on the Zoning Map entitled "Wakefield Municipal District," dated February 16, 2014.

9.2.2 Use Regulations. 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 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.

9.2.3 Dimensional Regulations. 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 the Table of Dimensional 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 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.

9.2.4 Dimensional Variation. Variation from the dimensional regulations of Section 4.0 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 Section 10.6.

9.2.5 Warrant Article to Convey Land in District. When the Town Council 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 Town Council 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 Town Council shall forthwith adopt and submit to the Planning Board, pursuant to M.G.L. 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 Town Council 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 M.G.L. c. 39, § 10.

9.3 MUNICIPAL BUILDING REUSE OVERLAY DISTRICT (MBROD).

9.3.1 Uses. 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 or dwellings) and accessory uses to said residential use may be permitted in such an overlay district under a municipal building reuse special permit issued pursuant to this Section, notwithstanding provisions, restrictions or requirements of any other section of this Zoning Bylaw.

9.3.2 Dimensional Controls. Subject to the provisions of this Section, buildings in a Municipal Building Reuse Overlay District 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 may allow reductions and/or alterations in the dimensional controls for buildings and/or land in the Municipal Building Reuse Overlay District as required under Table 2 (Table of Dimensional Regulations) and any other dimensional regulations or requirements of this Bylaw by the municipal building reuse special permit, according to procedure contained in Section 10.6, 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.

9.3.3 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.

9.3.4 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.

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

9.3.6 Density. The special permit granting authority may allow reductions and/or alterations in the dimensional controls for buildings in the Municipal Building Reuse Overlay District as required under Table 2 (Table of Dimensional Regulations) and any other dimensional regulations or requirements of this Bylaw by the municipal building reuse special permit, according to procedure contained in 10.6, 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.

9.3.7 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.

9.3.8 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.

9.3.9 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.~~

9.3.10 Special Permit. 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 §10.6 of this Bylaw, provided that as a result of the special permit process the following criteria are met:

1. **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 Section 6.1 of this Bylaw. Parking may be located in any yard area approved by the special permit granting authority.
2. **Signs.** All proposed signs shall comply with section 6.2 of this Bylaw, except as specifically authorized by the special permit granting authority in the municipal building reuse special permit.

9.3.11 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 this section. Site plan review must be completed by the Planning Board, as part of the application process. The provisions of §10.6 and §10.7 shall apply

9.3.12 Affordability. An application to the Planning Board may include housing permanently available to and affordable to low- and moderate-income households. If any affordability condition is so included, the municipal building reuse special permit shall give preference in the selection of buyers or tenants to Wakefield residents.

9.3.13 Miscellaneous Provisions.

1. 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.
2. 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.

9.4 SIGNAGE OVERLAY DISTRICT (in progress)

9.5 MIXED USE OVERLAY DISTRICT (MUOD).

9.5.1 Applicability and Intent. The intent of this Section 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 the notes to the 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 this Section are allowed, subject to the following, and are not subject to the provisions of §8.5, except as provided herein.

9.5.2 Procedures. The Special Permit Granting Authority (SPGA) for mixed use development under these provisions shall be the Planning Board, regardless of dwelling type or height. 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 this Section 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.

9.5.3 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.

9.5.4 Special Permit Application. All applications for a special permit for mixed use development shall be accompanied by the following:

1. 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.
2. Open space proposed: tabulation of the extent of open space of various categories: land, landscaped, and usable.
3. Nonresidential uses proposed: tabulation of floor area by land use category.
4. 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.
5. 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.
6. 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.
7. 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.
8. A verbal and graphic analysis documenting that the development is assured to be compatible with the character and scale of the immediately surrounding neighborhood.

9. 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.

9.5.5 Transmittal to Other Boards and Officials. 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.

9.5.6 Fees. 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 M.G.L. Chapter 44.

9.5.7 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.

9.5.8 Use Requirements. 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. 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.

9.5.9 Dimensional Requirements. 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.

1. 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.
2. 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.
3. 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.

4. 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.

5. Open area shall equal the greater of the underlying district requirement or 15%.

9.5.10 Parking and Loading. The number of parking spaces shall be as required by § 6.1, 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.

1. 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.

2. 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.

3. Loading facilities must be provided as required at § 190-39.

4. 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.

9.5.11 Housing Affordability. All mixed use developments that create six or more housing units shall be subject to the affordability requirements of §8.7.

9.5.12 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.

9.5.13 Contextual Relationship.

1. 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.

2. 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.

3. 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.

4. 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.

9.6 WIRELESS COMMUNICATION SERVICES OVERLAY DISTRICT (WCSOD)

9.6.1 Purpose. The purpose of this Section 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 WCSOD 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.

3. Limit the siting of wireless communications services to the WCSOD, to the extent permitted by law.

9.6.2 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, in lieu of the criteria set forth in Section 10.6, that such facility:

1. Is necessary to meet current or expected demands for the services supported by the wireless communications services facility for the applicant's network;
2. Conforms to all applicable regulations promulgated by the Federal Communications Commission (FCC);
3. Is designed and constructed in a manner which minimizes its visual impact to the extent practical;
4. Complies with all other regulations of this Section; and
5. Is an appropriate site within the technically feasible area for the location of the wireless communications services facility.

9.6.3 Location of District. The WCSOD shall be construed as an overlay district. All requirements of the underlying zoning district shall remain in full force and effect except as may be specifically superseded herein. The WCSOD shall overlay the following locations with regard to any facility meeting the requirements of this Section with SPGA approval:

1. 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. 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. 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. In an Industrial District, Limited Industrial District or Business District, provided that the facility 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, and further 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.

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

1. 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.
2. Towers and antennas erected by the Town of Wakefield exclusively for public safety or other Town communications purposes.

9.6.4 Special Permit Application. An application for a special permit shall be filed in accordance with Section 105 and the SPGA's regulations. The application shall include a site plan, prepared by professional engineers, architects and landscape architects, as appropriate, that are registered in the State of Massachusetts. The site plan shall be submitted at a scale of 1:40 showing the following:

1. 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.
2. Tower location and tower height;

3. Accessory buildings;
4. Topography;
5. Fencing and landscaping;
6. Access and parking;
7. Lighting;
8. Areas to be cleared of vegetation and areas of proposed earth removal or earth fill;
9. Site boundaries;
10. Abutters and other property owners within 300 feet of the site boundaries;
11. 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);
12. 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;
13. 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 Oven;
14. Photographs of existing site conditions and photographs to represent the completed facility as follows. At the discretion of the SPGA, realistic renderings may be substituted for photographs.
 - 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.
15. 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: (a) 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; (b) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot reasonably be prevented; (c) 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; (d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures; (e) 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.
- j. 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.

- k. 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.

9.6.5 Reduction of Submittal Requirements. 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.

9.6.6 Temporary Demonstration Structure. 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.

9.6.7 Site Plan Approval; Special Permit. Site plan approval and a special permit shall be granted by the SPGA in accordance with the Massachusetts General Laws, the provisions of this Bylaw 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.

1. 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.
2. 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.

3. 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.

9.6.8 Site Design Requirements. 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.

1. Irrespective of the all other setback requirements of this Bylaw, 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 Bylaw, 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. All signs shall comply with this Section, unless required otherwise by regulation.

8. 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.
9. 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.
10. The facility shall be provided with vegetative and landscaping screening of the base area as stipulated by the SPGA.
11. 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.
12. Visual impacts of the facility shall be minimized.
13. All towers shall be monopole in type. Lattice towers are prohibited, as are towers that require guy wires for support.
14. The color of all towers shall be as approved by the SPGA with the intent of minimizing the visual impact on the surrounding area.
15. 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.
16. Siting of towers shall be such that the view of the tower from surrounding areas shall be as minimal as possible.
17. 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.
18. Towers shall be designed to accommodate the maximum number of uses technologically practical.

9.6.9 Equipment Requirements.

1. Ground-mounted equipment shall not generate noise in excess of 50 db at the property line.

2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. Transmitter/receiver arrays mounted on towers shall be of the minimum size and mounted as close to the tower as technically feasible.

9.6.10. Conditions of Use. 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.

1. 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.

9.6.11 Discontinuance of Use. 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.

9.6.12 Performance Guarantees; Inspections. 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. 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. 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. 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.

9.7 CREATIVE DEVELOPMENT **OVERLAY DISTRICT (CDOD).**

9.7.1 Purpose. The intent of this Section 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.

The CDOD is an overlay district, superimposed over underlying districts as shown on the map entitled . 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.

1. The provisions of Section 8.2, Multifamily dwellings, shall not apply to developments proposed pursuant to this Section, Creative development.

9.7.2 Uses.

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.

9.3.3 Lot Area. Lot area shall be not less than as provided in an approved concept plan 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.

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.

9.3.4 Building Height. 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.

9.3.5 Other Dimensional Standards. Other dimensional standards shall be as provided in an approved concept plan, rather than those stated in Table 2, Table of Dimensional Regulations, ~~or in § 190-3, General regulations.~~ Usable open land shall cover at least 15% of the site area.

9.3.6 Parking and Loading.

1. The number of parking spaces shall be as required by Section 6.1, 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 **affordable** 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.
2. Legal on-street parking spaces adjacent to the premises may be included in satisfying the parking requirement.
3. 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.
4. 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.
5. Loading facilities must be provided as required at § ***190-39.

9.7.7 Housing Affordability. All developments authorized under CDOD provisions that create six or more housing units shall be subject to the affordability requirements of § 8.6.

9.7.8 Concept Plan. 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. A petition to be presented to Town Meeting for creation of a Creative Development Overlay District shall include a concept plan and report for that district, which shall contain at least the following:

1. 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.
2. Open space proposed: tabulation of the extent of open space of various categories: land, landscaped, and usable.
3. Nonresidential uses proposed: tabulation of floor area by land use category.

4. 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.
5. 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.
6. Itemization of departures from the use, dimensional, parking or other provisions applicable to the underlying zoning districts.
7. 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.
8. 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 by MassDOT ~~in current publications of the Highway Research Board.~~
9. A verbal and graphic analysis documenting that the development is assured to be compatible with the character and scale of the immediately surrounding neighborhood.
10. 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.

9.7.9 Procedures. 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 § 9.3.8. ~~and the intentions articulated at § 190-3, Purpose.~~

9.7.10 Site Plan Approval. 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 § 10.6, site plan review, where a 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 § 10.6. A site plan shall not be found consistent unless each of the following is met:

1. The uses proposed are consistent with those of the concept plan in type and extent.
2. 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.

3. 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.
4. Means have been established to assure compliance with special provisions stipulated at § 9.3.8.
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.

SECTION 190-10.0 ADMINISTRATION AND PROCEDURES

10.1 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.~~

10.1.1 Building Inspector. Administrative Official. The duty of administering and enforcing the provisions of this Bylaw is hereby conferred upon the Building Inspector, who shall have such powers as are conferred upon him or her **by M.G.L. c. 40A,** this Bylaw, and as reasonably may be implied. He shall be appointed as presently specified by the bylaws of the Town of Wakefield.

10.1.2 Duties of the Building Inspector. It shall be the duty of the Building Inspector, or his or her 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 Bylaw as provided by M.G.L c. 40A, § 7.

1. 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 Bylaw, 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 Bylaw.
2. On the serving of notice by the Building Inspector to the owner for any violation of any provisions of this Bylaw, 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.

10.1.3 Records. 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. An individual permanent file for each application by street address for a permit provided for by this Bylaw 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.

1. 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 Town Council, the Board of Assessors, the Planning Board and the Board of Appeals.

10.1.4 Enforcement Requests. If the Building Inspector is requested, in writing, to enforce this Bylaw 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.

10.2 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY.

10.2.1 Building Permit Required. 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.

10.2.2 Application. 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 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 Bylaw.

10.2.3 Compliance Required. 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 Bylaw or the State Building Code. Whenever such permit or license is refused because of some provisions of this Bylaw, the reason therefor shall be clearly stated in writing. The Building Inspector shall take action on an application for permit, either granting the permit or disapproving the application, within 30 days of receipt of the application.

10.2.4 Commencement of Construction. 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.

10.2.5 Certificate of Occupancy Required. 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 Bylaw and if use shall be made of such land or building that is not authorized by such certificate of occupancy.

10.3 VIOLATIONS AND PENALTIES.

10.3.1 Notice of Violation. If the Building Inspector shall be informed in writing or have reason to believe that any provision of this Bylaw has been, is being or may be violated, he or she shall make or cause to be made an investigation of the facts and inspect the property where the violation may exist. If he or she shall find any such violation, he or she 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 Bylaw, 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.

10.3.2 Penalty 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 **\$300** for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.

10.3.3 Noncriminal Disposition. Any alleged violation of any of the provisions of this Bylaw 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 M.G.L. c. 40, § 21D, that is noncriminal disposition. If the Building Inspector so elects to proceed under M.G.L. c. 40, § 21D, all the terms and provisions of such Bylaw and section shall thereafter govern said **action**.

ALL TO RULES AND REGULATIONS

~~1.4~~ **Filing Fees and Hiring of Outside Consultants**

~~1.4.1~~ **Filing Fees**

~~Any application for a Special Permit, variance, and/or appeal for a commercial project (non-residential) shall be accompanied by a filing fee of \$500.00; for a residential project the filing fee shall be \$300.00, plus any additional expenses as specified in this Bylaw.~~

~~1.4.2~~ **Hiring of Outside Consultants**

- ~~A. Purpose. As provided by G.L. Ch. 44 §53G, the Erving Planning Board may impose reasonable fees for the employment of outside consultants, engaged by the Planning Board, for specific expert services. Such services shall be deemed necessary by the Planning Board to come to a final decision on an application submitted to the Planning Board pursuant to the requirement of: Town of Erving Subdivision Regulations, as they may be amended or enacted from time to time. The Planning Board may also impose fees for other consultant services, related to application review, or permit conditioning or monitoring, under any of the above referenced laws or regulations.~~
- ~~B. Special Account. Funds received pursuant to these rules shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation as provided in G.L. Ch. 44 §53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a consultant fee has been collected from the applicant. Expenditures of accrued interest may also be made for these purposes.~~
- ~~C. Consultant Services. In hiring outside consultants, the Planning Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Planning Board and to ensure compliance with all relevant laws, ordinances, bylaws and regulations. Specific consultant services may include but are not limited to analysis of applications, title searches, mapping of lot and/or municipal boundaries and/or right of way, and environmental or land use law. Services may also include on site monitoring during construction, or other services related to the project deemed necessary by the Planning Board. The consultant shall be chosen by, and report only to, the Planning Board and/or its administrator.~~

10.4 ZONING BOARD OF APPEALS.

10.4.1 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 Chairperson and a Clerk from its membership.

10.4.2 Appointment. Members of the Board of Appeals in office at the effective date of this Bylaw shall continue in office for the duration of their appointed terms. However, as terms expire or vacancies occur, the Town Council shall make appointments pursuant to M.G.L. c. 40A and the bylaws of the Town of Wakefield.

10.4.3 Powers. Under this Bylaw, the Board of Appeals shall have the following powers:

1. To hear and decide appeals. In exercising these powers, the Board of Appeals may, in conformity with the provisions of this Bylaw 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.
2. To hear and decide applications for certain special permits referred to in this Bylaw.
3. To hear and decide petitions for variances, as provided in § 190-66 hereof.

The Board of appeals may/may not grant a use variance.

4. To hear and make findings allowing the extension, reconstruction or alteration of preexisting nonconforming uses and structures as provided in Section 5.

10.4.4 Conditions. In exercising the powers under Subsections (2) and (3), 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.

10.4.5 Adoption of Rules. The Board of Appeals shall adopt rules, pursuant to the Zoning Act¹ and not inconsistent with the provisions of the bylaws of the Town, for conducting its business and otherwise carrying out the purposes of this Bylaw. A copy of such rules shall be filed in the office of the Town Clerk.

DELETED – LET THE STATUTE SPEAK FOR ITSELF.

~~Meetings of the Board of Appeals shall be held at the call of the Chairperson 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 Chairperson or, in his absence, the Acting Chairperson may administer oaths, summon witnesses and~~

¹ . Editor's Note: See MGL c. 40A.

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 Bylaw. [Amended 5-17-1993 ATM by Art. 37; 4-4-2002 ATM by Art. 19; 11-5-2018 RTM by Art. 17]

~~§ 190-65. Appeals.~~

~~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.~~

~~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. 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. 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.~~

DELETED - LET THE STATUTE SPEAK FOR ITSELF

~~§ 190-66. Variances.~~

~~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.~~

~~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]~~

~~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]~~

~~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]~~

~~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.~~

~~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.~~

~~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:~~

~~The name and address of the owner.~~

~~An identification of the land and/or structure affected.~~

~~Description of how the variance complies with the statutory requirements for issuing a variance.~~

~~Certification that copies of the decision have been filed with the Planning Board and the Town Clerk.~~

~~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.~~

10.4.6 Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

10.5 PLANNING BOARD.

10.5.1 Establishment. The Planning Board shall consist of five (5) elected members and two appointed associate members.

10.5.2 Powers. The Planning Board shall have the following powers:

1. To hear and decide applications for special permits, when designated as the SPGA in this Bylaw.

2. To hear and decide applications for site plan approval pursuant to Sections 10.6 and 10.***.

10.5.3 Associate Member. The Town Council 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 Bylaw, the Chairperson 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.

10.5.4 Regulations. The Planning Board may adopt rules and regulations for the administration of its powers.

10.5.5 Fees. The Planning Board may adopt reasonable administrative fees and technical review fees for applications for special permits and site plan review.

10.6 SPECIAL PERMITS.

~~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.~~

~~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.~~

10.6.1 Special Permit Granting Authority. When designated by this Bylaw, the Board of Appeals, the Select Board, and the Planning Board shall act as the Special Permit Granting Authority (SPGA).

~~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.~~

10.6.2 Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

- 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 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.~~

10.6.3 Procedures. An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority and M.G.L. c. 40A, s. 11.

1. Incomplete applications. 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.

10.6.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw. Such conditions may include, but are not limited to the following:

1. Setback requirements greater than the minimum required by this Bylaw;
2. Requirements as to installation of screening, fencing or other means of protecting adjacent property;
3. Modification of the exterior features or appearance of any structure;

4. Limitation as to size, number of occupants, or method and time of operation of any proposed use;

5. Regulation of number, design and location of access drives and other traffic features;

6. Requirement of off-street parking and other special features;

7. Installation of mechanical or other devices to limit noise, light, odor or other objectional aspects of use; and

8. Requirement for surety bonds or other security for the performance of any conditions attached to the special permit.

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 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.)~~

10.6.5 Referral. The Board of Appeals, Board of Selectmen and Planning Board, when serving as the SPGA, shall refer a special permit application to the Board of Health, Conservation Commission, and the Department of Public Works for written comments and recommendations before taking final action on said special permit application. The SPGA may refer a special permit application to any other town agency, board, or department for comments and recommendations if it so desires before taking final action on said special permit application. A public hearing on said referral shall not be required. Any such Board or Agency to which applications are referred for comment shall make its recommendations

and send copies thereof to the SPGA and the applicant within thirty-five (35) days of receipt of the referral request by said board or agency or there shall be deemed no opposition or desire to comment. The SPGA shall not act upon said special permit until either comments from referred board or agencies have been received, or said thirty five (35) days have elapsed, whichever is sooner. Applications referred to more than one board or agency may be reviewed jointly by said boards or agencies.

10.6.6 Plans. Unless otherwise provided by rule or regulation of the Special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 10.7, herein. The provisions of this Section shall not apply to applications for special permits pursuant to Section 5.0 to alter a nonconformity. The Zoning Board of Appeals shall establish procedures governing such applications by regulation.

10.6.7 Regulations. Pursuant to M.G.L. c. 40A, s. 9, the Planning Board may adopt rules relative to the issuance of special permits. These rules and regulations may relate to the size, form, content and style of the plans and procedures for submission and approval of such special permits, and shall not be inconsistent with the General Laws and provisions of this Bylaw. The Planning Board may from time to time amend these rules. Copies of the rules shall be on file and available for review at the office of the Town Clerk.

10.6.8 Fees. The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

10.6.9 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 36 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

10.7 SITE PLAN REVIEW.

10.7.1 Purpose. The purpose of site plan review is to ensure the design and layout of certain developments which are located in areas zoned as Neighborhood Business District, Limited Business District, Business District, Limited Industrial District, or Industrial District and which do not require a special permit from the special permit granting authority. Such developments must be approved by the Planning Board through site plan review prior to the issuance of a building permit.

10.7.2 Applicability. The following activities shall require site plan approval from the Planning Board:

1. Any new development, expansion, or change of use other than a single-unit or two-unit residence in the Neighborhood Business District, Limited Business District, Business District, Limited Industrial District, or Industrial District, which would, under the parking schedule "Off-Street Parking Regulations" of Section 6.1, require five (5) or more parking spaces, regardless of the number of parking spaces preexisting on the premises; and
2. Any new development expansion, or change of use other than a single-unit or two-unit residence in the Neighborhood Business District, Limited Business District, Business District, Limited Industrial District, or Industrial District, which would involve the construction of alteration of more than _____ sf of gross floor area.

10.7.3 Procedure. The Planning Board shall serve as the approval authority for site plan review. All decisions shall be made by a majority of the Board, as constituted. The Planning Board shall hold a public hearing for consideration of an application of site plan approval. Said hearing shall be conducted in accordance with the procedures set forth in M.G.L. c. 40A, § 11 for special permits. The written decision of the Planning Board shall be filed with the Town Clerk within 90 days of the close of the public hearing. Failure to file the decision within 90 days of the close of the public hearing shall be constructive approval of the site plan application.

~~§ 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.~~

1. Pre-Application Review. A prospective applicant for site plan approval is encouraged to request a pre-application review with the staff of the Planning Board to address any questions regarding the process or the applicability of this Section 10.6.

~~A. 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.~~

10.7.4 Site Plan Requirements. Plans subject to site plan review shall be prepared by a Registered Architect, Landscape Architect, or Professional Engineer licensed by the Commonwealth of Massachusetts. The site plan shall be prepared at a scale no greater than 1"=40', and shall show the following:

1. Locus map at a scale not greater than 1"=2,000';
2. All existing and proposed buildings and structures;
3. All existing and proposed contour elevations;
4. All existing and proposed parking spaces, driveway openings, driveways, and service areas;
5. All existing and proposed facilities for sewage, refuse, and other waste disposal;
6. All wetlands, surface water, and areas subject to the 100-flood;
7. All existing and proposed facilities for surface water drainage;
8. All existing and proposed landscape features such as fences, walls trees and planting areas, walks and lighting.

9. All contiguous land owned by the applicant or by the owner of the property.

10.7.5 Additional Application Requirements. The applicant shall also submit the following in accordance with Section 6.4:

1. Such material as may be required regarding measures proposed to prevent pollution of surface or ground water, soil erosion, increased runoff, changes in groundwater level, and flooding.

2. Such material as may be required regarding design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectional features from neighbors.

3. Such material as may be required regarding the projected traffic-flow patterns into and upon the site for both vehicles and pedestrians and an estimation of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

10.7.6 Waiver of Technical Compliance. The Board may, upon written request of the applicant, waive any of the technical or procedural requirements of this Section where the project involves relatively simple development plans.

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.~~~~
- ~~(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.~~

10.7.7 Decision; Criteria. Site plan approval shall be granted upon determination by the Board that the plan meets the following objectives. The Board may impose reasonable conditions at the expense of the applicant to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. The Planning Board shall use the parking, signage, landscaping and other performance standards prescribed in Section 6.0 of this Bylaw in considering all site plans, in order to promote the following goals:

1. Protection of adjacent areas against detrimental or offensive uses on the site by provisions of adequate surface water drainage, buffers against lighting, sight, sound, dust, vibration, and the allowance of sun, light, and air;
2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
3. Adequacy of facilities of handling and disposal of refuse and other production by-products;
4. Protection of environmental features on the site and in adjacent area;
5. Promotion of appropriate arrangement of structures within the site and in relation to existing structures within the district and neighborhood;
6. Coordination with and improvement of systems of vehicular and pedestrian access, drainage, water supply, sewage disposal, lighting, landscaping, wetlands, water courses, buildings and other features that support the neighborhood;
7. Compliance with all applicable sections of this Bylaw.

C. ~~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.~~
- (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.~~

10.7.8 Performance Guarantee. As a condition of site plan approval, the Planning Board may require that construction and site alteration permitted and specified by said approval be secured by one, or in part by one and in part by the other, of the methods set forth in M.G.L. c. 41, s. 81U (except for the statutory covenant).

10.7.9 Release of Guarantee. Performance guarantees may be released in whole or from time to time, in part, when the work has been satisfactorily completed in the opinion of the Planning Board. The Planning Board shall then release the interest of the town in such bond and return any bond or deposit to the person who furnished the same. Request for all releases shall be by certified, return receipt letter to the Planning Board and the Town Clerk and shall outline that portion of the work to be released and shall be accompanied by an engineer's or surveyor's certification that the work has been done in accordance with the requirements of the granted site plan approval. If the Planning Board determines that said construction or site alteration has not been completed, it shall specify in a notice sent by registered mail to the applicant and to the Town Clerk, the details wherein said construction or site alteration fails to comply with the site plan approval and upon failure to do so within forty-five (45) days after the receipt by said Town Clerk of said request by the applicant, all obligations under any bond shall cease and terminate by operation of law, and any deposit shall be returned. In the event that said forty-five day period expires without such specification, or without the release and return of the bond or return of the deposit as aforesaid, the said Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

10.7.10 Lapse. Site plan approval shall lapse after three years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Board upon the written request of the applicant.

10.7.11 Regulations. The Board may adopt reasonable regulations for the administration of site plan review.

10.7.12 Fee. The Board may adopt reasonable administrative fees and technical review fees for site plan review.

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

- A. ~~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.~~
- B. ~~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.~~
- C. ~~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.~~

10.7.13 Appeal. Any decision of the Planning Board pursuant to this Section shall be appealed in accordance with M.G.L. c. 40A, s. 17 to a court of competent jurisdiction.

D. ~~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.~~

10.8 SITE PLAN REVIEW FOR DOVER AMENDMENT USES.

10.8.1 Purpose. The purpose of this Section is to provide for site plan review of religious uses, educational uses, and child care centers otherwise “exempt” pursuant to M.G.L. c. 40A, s. 3. These are items B.1, B.2 and B.3 in the Table of Use and Parking Regulations.

10.8.2 Site Plan Review Required. Prior to the issuance of any building permit or certificate of occupancy, the establishment, alteration, change, extension, or reconstruction of uses B.1, B.2, or B.3, as set forth in the Table of Use and Parking Regulations, shall require site plan approval from the Planning Board pursuant to this Section.

10.8.3 Scope of Site Plan Review. Under this Section, Site Plan Review shall be limited to two inquiries:

1. Whether the use qualifies for protection under M.G.L. c. 40A, s. 3; and, if so,

2. What reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, if any, should be imposed on the use.

10.8.4 Required Information. All applications for Site Plan Review shall be in writing and provide, at a minimum, the following information:

1. Name and address of applicant person or entity;
2. Name and address of property owner;
3. Description of the proposed use and any documents necessary to establish threshold compliance with M.G.L. c. 40A, s. 3; and
4. Reason that relief is requested from otherwise applicable zoning requirements.
5. If necessary to reach a decision on the application, the Planning Board may request further information from the applicant consistent with M.G.L. c. 40A, s. 3, specifying in detail the information required.

10.8.5 Required Information. All applications for Site Plan Review shall be in writing and provide the information required by Section 10.6 determined by the Planning Board to be reasonably necessary to determine the scope of regulations that shall be applied to the Dover Amendment Use.

10.8.6 Decision. The Planning Board may approve, approve with conditions, or deny an application for site plan approval. In making its decision, the Board shall be guided exclusively by M.G.L. c. 40A, s. 3. Denial of an application shall be based solely on lack of qualifications under M.G.L. c. 40A, s. 3, or an incomplete application. The Board shall file a written decision with the Town Clerk within 90 days of receipt of the application. Failure to file a decision within ninety (90) days shall constitute approval of the site plan.

10.8.7 Appeal. Any appeal of the Planning Board's decision shall be made pursuant to M.G.L. c. 40A, s. 17, to a court of competent jurisdiction.

10.9 REQUEST FOR REASONABLE ACCOMMODATION.

10.9.1 Purpose. Under the FHA, it is a discriminatory practice to refuse to make "a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling" 42 U.S.C. Section 3604(f)(3)(B). The same standard applies under the ADA, which also addresses nonresidential facilities providing services to persons with disabilities. 42 U.S.C. 12102(b)(5). See also M.G.L. c. 40A, s. 3. The purpose of this Section is to facilitate housing and/or services for persons with disabilities and to comply fully with the spirit and the letter of the FHA and, where applicable, the ADA.

10.9.2 Request. Any person eligible under the FHA or any provider of housing to persons eligible under the FHA, or any person eligible to operate a nonresidential facility providing services to persons eligible under the ADA, may request a Reasonable Accommodation as provided by the Fair Housing

Act and/or the ADA. A Request for a Reasonable Accommodation does not affect a person's or provider's obligations to act in compliance with other applicable laws and regulations not at issue in the requested accommodation.

10.9.3 Zoning Board of Appeals. All requests for Reasonable Accommodation under the FHA and/or the ADA shall be submitted to the Zoning Board of Appeals (ZBA).

10.9.4 Information. All requests for Reasonable Accommodation shall be in writing and provide, at a minimum, the following information:

1. Name and address of person(s) or entity requesting accommodation;
2. Name and address of property owner;
3. Name and address of dwelling or facility at which accommodation is requested;
4. Description of the requested accommodation and specific regulation or regulations for which accommodation is sought;
5. Reason that the requested accommodation may be necessary for the person or persons with disabilities to use and enjoy the premises; and
6. If the requested accommodation relates to the number of persons allowed to occupy a dwelling, the anticipated number of residents, including facility staff (if any).
7. If necessary to reach a decision on the request for Reasonable Accommodation, the ZBA may request further information from the applicant consistent with the FHA and/or ADA, specifying in detail the information required.

10.9.5 ZBA Procedures. The ZBA shall decide a request for reasonable accommodation by majority vote at an open meeting. The ZBA may seek information from other Town agencies in assessing the impact of the requested accommodation on the rules, policies, and procedures of the Town. Upon written notice to the ZBA, an applicant for a reasonable accommodation may withdraw the request without prejudice. The ZBA shall consider the following criteria when deciding whether a request for accommodation is reasonable:

1. Whether the requested accommodation is reasonable;
2. Whether the requested accommodation would require a fundamental alteration of a legitimate Town policy; and
3. Whether the requested accommodation would impose undue financial or administrative burdens on the Town government.

10.9.6 Decision. After conducting an appropriate inquiry into the request for reasonable accommodation, the ZBA may:

1. Grant the request;

2. Grant the request subject to specified conditions; or

3. Deny the request.

The ZBA shall issue a written final decision on the request in accordance with M.G.L. c. 40A, s. 15. If the ZBA fails to render its decision on a request for reasonable accommodation within the time allotted by M.G.L. c. 40A, s. 15, the request shall be deemed granted. The ZBA's decision shall be filed with the Town Clerk and sent to the applicant by certified mail.

10.9.7 Appeal. The ZBA's decision pursuant to this Section may be appealed to a court of competent jurisdiction in accordance with M.G.L. c. 40A, s. 17 or otherwise.

10.9.8 File. The ZBA shall maintain a file of all requests for reasonable accommodation under the FHA and/or the ADA and a file of all decisions made on such requests. The file(s) may be reviewed in the Office of the ZBA upon request during regular business hours.

10.9.9 Other Laws. While a request for a reasonable accommodation is pending, all laws and regulations otherwise applicable to the premises that is the subject of the request shall remain in full force and effect.

10.10 DESIGN REVIEW BOARD

10.10.1 Purpose of the Design Review Board. The Design Review Board shall review and make recommendations concerning all sign applications.

10.10.2 Composition of the Design Review Board. The Design Review Board shall be appointed by the Town Council 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. The Town Council may appoint up to two alternate members of the Design Review Board. In the absence of a member, the Chairperson 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. Until such time as the Design Review Board has been appointed and the Chairperson of the Design Review Board provides written notification to the Zoning Board of Appeals and the Town Council 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.

10.10.3 Authority and 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 *** 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.

10.10.4 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.

10.10.5 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: Height; Street facade; Rhythm of solids and voids; Spacing of buildings or signs; Materials, textures, and color; Roof slopes; and 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.

10.10.6 Design Guidelines. The Design Review Board may either publish guidelines based on the design criteria set forth and cited above and/or provide references to resource materials that facilitate an applicant's understanding of the purposes of this Section.

10.10.7 Responsibility to Maintain 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.

~~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.~~

