

**ZONING BY-LAWS  
OF THE  
TOWN OF BILLERICA**



THESE BY-LAWS WERE RECODIFIED BY A COMMITTEE AND APPROVED AT THE  
2025 ANNUAL SPRING TOWN MEETING

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# Billerica Zoning Bylaw

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## **Section 1. Purposes and Authority**

### **1.1 Authority**

The Billerica Zoning Bylaw (this Bylaw) is enacted in accordance with G.L. c. 40A, as amended, and the Home Rule Amendment, Article 89 of the Amendments to the Massachusetts Constitution.

### **1.2 Purpose**

The purpose of this Bylaw is to promote the public health, convenience, safety, and welfare of the inhabitants of the Town.

### **1.3 Objectives**

A. The objectives of this Bylaw are:

1. To lessen congestion in the streets;
2. To conserve health;
3. To secure safety from fire, flood, panic, and other dangers;
4. To provide adequate light and air;
5. To prevent overcrowding of land;
6. To avoid undue concentration of population;
7. To encourage housing for persons of all income levels;
8. To conserve the value of land, buildings, and structures;
9. To conserve natural resources;
10. To prevent blight;
11. To prevent pollution of the environment;
12. To encourage the most appropriate use of land throughout the Town
13. To preserve and increase amenities;
14. To preserve and enhance the development of the natural, scenic, and aesthetic qualities of the community;
15. To consider recommendations for the Town's master plan, comprehensive plan, strategic plan and the like, if any;
16. To prevent obnoxious, hazardous, or injurious uses to the neighborhood or property;  
and
17. To facilitate the adequate provision of:
  - a. Transportation
  - b. Water supply

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- c. Drainage
- d. Sewage disposal
- e. Schools
- f. Parks
- g. Open space
- h. Other public requirements

### **1.4 Applicability**

All buildings or structures erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town after the effective date of this Bylaw shall conform with the provisions of this Bylaw. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which it is located. Where 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.

### **1.5 Zoning Amendments**

- A. A change in this Bylaw through amendment, addition, or repeal may be initiated by the Select Board, Zoning Board of Appeals, Planning Board, Regional Planning Agency, an individual to be affected by the change, ten registered voters at an annual town meeting, ten registered voters at a special town meeting, and other methods as provided by the Town Charter.
- B. Any proposal to rezone land shall explicitly state the nature, extent, and location of the zoning change and shall include a perimeter plan on mylar or cloth stamped by a registered professional land surveyor in Massachusetts showing all metes and bounds and the total area of the rezoning along with a complete legal description. A sketch showing the general location of the land in the Town shall also be submitted.
- C. The Planning Board shall hold a public hearing on any written proposal to change this Bylaw or the Zoning Map. It shall report its recommendations, if any, to the Town Meeting within 21 days of the close of the hearing, as required under G.L., c. 40A, § 5.
- D. Notice of the time and place of the public hearing, of the subject matter sufficient for identification, and of the place where texts and maps of the proposed change(s) 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 and by posting a notice in a conspicuous place in the Town Hall for not less than 14 days before the day of the hearing. Notice of the hearing shall also be sent to the Executive Office of Housing and Livable Communities (EOHLC), the regional planning agency, and the planning boards of all abutting cities and towns.
- E. The applicant shall cover the costs of newspaper advertising, posting, and mailing the public hearing notice for the applicant's zoning change proposal.

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### **1.6 Severability**

The invalidity of any section or provision of this Bylaw shall not affect the validity of any other section or provision thereof.

### **1.7 Effective Date**

This Bylaw and any amendments to it as approved by the Attorney General shall be effective as of the date of the Town Meeting action unless otherwise provided for in this Bylaw.

## Section 2. Definitions

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the Bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot". the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined in this Section 2 but defined in the State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw.

**Above-Ground Utility:** Structures for communications or other public utilities that are not underground.

**Accessory Building, Structure, or Use:** A building, structure, or use that is subordinate to a principal building, structure, or use. An accessory building, structure, or use shall be customarily incidental to, serve the purposes of, and be located on the same lot as the primary building, structure, or use.

**Accessory Residential Building, Structure, or Use:** Any building, structure, or use customarily incidental to the principal residential use, such as a private garage, carport, playhouse, private greenhouse, tool shed, tennis court, storage of one recreational trailer, home utility trailer, boat, and snowmobile; or swimming pool.

**Accessory Non-Residential Building, Structure or Use:** Any building, structure or use customarily incidental to the principal non-residential use, such as a shed or mechanical storage building.

**Adult Day Care:** Daytime services, such as skilled care and supervision, group activities, provision of meals, transportation, trips, and light exercise, provided to elderly adults and the physically challenged who require assistance with daily needs of living.

**Adult Entertainment Establishments:** Adult entertainment establishments shall include:

- **Adult Bookstore:** An establishment having a substantial or significant portion (more than 20 percent) of its business activity, stock in trade, printed matter, books, magazines, picture periodicals, motion picture films, video cassettes or any other media, or coin-operated motion picture machines for sale, barter, or rental which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Sexual Conduct" as that term is defined in G.L. c. 272, § 31, as amended; or an establishment

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having for sale sexual devices which shall mean any device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, or anal area, or an establishment with a segment or section devoted to the sale or display of such materials.

- **Adult Live Entertainment Establishments:** Establishments which feature live entertainment that consists of entertainers engaging in “Sexual Conduct” or “Nudity” as defined in G.L. c. 272, § 31, as amended.
- **Adult Motion Picture Theater:** An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “Sexual Conduct” as defined in G.L. c. 272, § 31, as amended, for observation by patrons therein.
- **Adult Mini Motion Picture Theater:** An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing, or relating to “Sexual Conduct” as defined in G.L. c. 272, § 31, as amended, for observation by patrons therein.

**Affordable Housing Unit:** A dwelling unit available at a cost of no more than 30 percent of the gross household income of households at or below 80 percent of the Lowell Standard Metropolitan Statistical Area (SMSA) median income as reported by the U.S. Department of Housing and Urban Development and for which the town obtains credit with the Commonwealth as affordable housing as required under G.L. c. 40B, §§ 20-23 inclusive (“The Comprehensive Permit Law”).

**Affordable Housing Unit Purchaser or Tenant:** An individual or family with household incomes that do not exceed 80 percent of the median income, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD) and consistent with G.L. c. 40B, §§ 20-23 inclusive (“The Comprehensive Permit Law”).

**Agriculture:** Farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

**Alcohol and Drug Rehabilitation Hospital:** Any free-standing building or structure used to house patients for treatment of alcoholism, drug addiction, or both that shall be staffed full-time by a doctor(s), nurse(s), and security personnel.

**Alteration:** A change or modification of a building or structure, or the service equipment thereof, that affects safety or health and that is not classified as an ordinary repair under the Building Code.

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**Assisted Living Residence:** A residential development subject to certification by the Executive Office of Elder Affairs under G.L. c.19D, as amended, and defined as an entity, however organized, whether conducted for profit or not for profit, which meets all the following criteria:

- Provides room and board;
- Provides assistance with activities of daily living and personal care services for three or more non-related residents; and
- Collects payments or third-party reimbursements from or on behalf of residents to pay for the provision of assistance.

**Automobile:** A two-axle motor vehicle with a maximum ten thousand (10,000) pound gross vehicle weight and a maximum one hundred thirty-five (135) inch wheelbase.

**Automobile Repair:** The repair of motor vehicles, including auto body work and paint spraying.

**Automobile Service:** The sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances including any sale of motor vehicle accessories, and which may or may not include lubricating, washing, or otherwise servicing motor vehicles, but not including auto body work or paint spraying.

**Bakery:** An establishment that primarily bakes food products such as cakes, breads, cookies, pies, pastries, and similar goods, but not limited to traditional bakery products, exclusively intended for off-site consumption. A bakery may not offer drive-through window service.

**Billboard:** Any sign not an accessory sign, regardless of size. Refer to Section 10.2: Signs and Lighting.

**Buffer Zone:** A portion of land to be retained in a natural state, excluding those areas where access is necessary and must cross through the buffer zone.

**Buildable Lot:** A vacant lot on which a building can be erected under this Bylaw, including an undersized lot that is buildable in accordance with G.L. c. 40A, § 6.

**Building:** A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed having a roof, which may include an awning or similar covering, to form a structure for the shelter of persons, animals, or property.

**Building Perimeter:** A continuous line on the ground around a building that is perpendicular to the furthest roof extension.

**Camping Vehicle:** A registered self-propelled motor home or recreational vehicle that must be towed by another vehicle used as a mobile camping facility.

**Canopy:** A free-standing roof structure or a building extension roof structure with one or more side walls omitted.

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**Certificate of Use and Occupancy:** The certificate issued by the Inspector of Buildings that permits the use of a building in accordance with the approved plans and specifications, which certifies compliance with zoning for the use and occupancy of the building in its several parts together with any conditions or limitations of the use and occupancy of such building.

**Change of Use:** An alteration by change of a use in a building heretofore existing to a new use.

**Child Day Care Center:** Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name which receives children under seven years of age or under 16 years of age if such children have special needs for non-residential custody and care during part or all of the day separated from their parents. Child day care centers shall not include any part of a public school system; any part of a private, organized educational system unless the services of such a system are primarily limited to a kindergarten, nursery, or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home, as defined by G.L., c. 28A, § 9; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

**Commercial Vehicle, Light:** Any commercial vehicle under (10,000) pound gross vehicle weight.

**Commercial Vehicle, Heavy:** Any commercial vehicle ten thousand (10,000) pound gross vehicle weight or over, including equipment for landscaping and/or construction.

**Conservation:** Includes wildlife management, boating, fishing, and hunting.

**Contractor's Yard:** Land that is used for the storage of construction equipment, materials, supplies or for the parking of commercial vehicles.

**Curbside Pick-Up:** A parking place designated by a licensee for pickup of food or alcoholic beverages or an area not greater than 50 feet from an entry to a licensee's business premises.

**District:** An area or areas of the Town designated for buildings, structures, and uses of a certain kind that shall have uniform requirements for each class or kind of building, structure, or use within the District. There are three types of Zoning Districts in the Town:

- **Main:** These Zoning Districts consist of the Residential, Business, and Industrial Districts throughout the Town.
- **Special:** These Zoning Districts, located throughout Town, provide for specific uses that require review before they are permitted; and
- **Overlay:** These Zoning Districts overlay Main Districts and may limit or allow specific uses within those Districts.

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**Drive-Through And Drive-Up Establishments:** A service establishment designed to permit customers to be served while they remain in their motor vehicles. Excludes curbside pick-up.

**Dwelling:** A building or part of a building containing eating, sleeping, cooking, and sanitation facilities for occupancy by one or more families.

- One-family dwelling: A building designed for and occupied exclusively as a residence for one family and may include an accessory dwelling unit or an accessory in-law apartment.
- Two-family dwelling: A building designed for and occupied exclusively as a residence for two families
- Multi-family dwelling: Any building containing more than two dwelling units.

**Dwelling Unit:** A portion of a building designed, intended, and used as the residence of one family or individual, with suitable approved provisions for eating, sleeping, cooking, and sanitation.

**Earth Migration:** The movement of sod, loam, soil, clay, sand, peat, humus, gravel, or stone from:

- Any lot of land in the Town to another lot of land in the Town;
- Out of the Town to any lot of land in the Town;
- Any lot of land in the Town to anywhere out of the Town.

**Elderly:** A person who is 55 years of age or older.

**Extension:** An enlargement of a building or structure by extending a side or increasing the height. The expansion of a use.

**Family:** An individual or two or more persons, related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

**Family Day Care:** Any private residence, which on a regular basis receives other people for temporary custody and care during part or all of the day, as defined in G.L. c. 28A, §9.

**Fast-Order Food Establishment:** An establishment whose primary business is the sale of food for consumption on or off the premises which is (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold; and (d) primarily prepared in advance of a specific order for such food. Establishments that do not provide direct table service to their patrons shall be considered fast-order food establishments. Establishments providing primarily take-out service or delivery service shall be considered fast-order food establishments. Establishments in which patrons order at a counter or window and carry the food order to a table shall be considered fast-order food establishments.

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**Fire Lane:** An open space as designated by the Billerica Fire Department for the purposes of fire protection.

**Floor Area Ratio (F.A.R.):** The ratio of floor area to area of the site.

**Footprint:** The land area occupied by a building or structure at the surface of the ground.

**Forestry:** The cultivating and harvesting of forest products including firewood.

**Freight:** Goods or merchandise transported by a carrier generally for compensation.

**Frontage:** An uninterrupted distance measured between side lot lines that runs along the street abutting the lot. In the case of a corner lot, frontage shall be on both streets that abut the lot. The frontage on a corner lot shall be the distance between a side lot line and the intersection of street lines or of street lines extended. In the case of a through lot, frontage shall be on both streets that abut the lot. The measurement of lot frontage shall not include jogs in street width, back-up strips, and other irregularities in street line.

**Frontage Street:** A street, road, or way to which the owner of the lot has a legal right of access and which provides access to the lot.

**Fully Automated Business Establishment:** A business where an employee is not generally present when the establishment is open for business, such as an automatic bank teller, kiosk, laundromat, or automat.

**Grade Plane:** A reference plane representing the average of finished ground level adjoining the building or structure at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

**Golf Courses:** A mixed use consisting of the principal uses of golf links, pro shop, and clubhouse, and such accessory uses, structures, and buildings as a driving range, restaurant, and function hall.

**Greenhouse:** A non-agricultural, commercial facility that includes greenhouses for growing plant materials and a salesroom or stand for the sale of nursery, garden, or farm products.

**Gross Floor Area:** The aggregate horizontal area in square feet of all floors of a building or several buildings on the same lot measured from the exterior faces of walls enclosing each building, exclusive of garages, and of cellars and basements used only for storage incidental to the operation or maintenance of such building or buildings.

**Group Home:** Premises for residential care in any single principal building that provides resident care services for individuals, of whom one or more are unrelated. These individuals must be designated as emotionally, physically, or intellectually handicapped, or in

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need of adult supervision and should be provided publicly assisted service and supervision in accordance with their individual needs. It shall not include rooming houses, boarding houses, guest houses, hotels, inns, lodging houses, dormitories, hospitals, sanitariums, convalescent or nursing homes, hospices, boarding homes, temporary shelter facilities, or family foster care facilities.

**Height:** As defined in the most recent edition of the State Building Code.

**Home Occupation:** The practice or conduct of a profession, trade, service, occupation, or business, other than a retail business, which is customarily incidental to and is conducted in a dwelling unit by the residents thereof as an accessory use, not limited to offices of an accountant, agent, architect, attorney, bookkeeper, broker, consultant, counselor, dentist, physician, registered engineer, sales representative, barber shop, beauty salon, dressmaker, photographer, tailor, and teacher or tutor. Home occupation shall not include the operation of a commercial kennel or stable; or repairing or servicing of motor vehicles, boats, or contractor's equipment.

**Indoor Amusement:** Includes theatres, concert halls, dance halls, skating rinks, swimming pools, bowling alleys, health clubs, dance studios, video arcades, and other indoor recreation provided for or not for profit.

**Industrial Road:** A road within the interior of a subdivision of industrial land created by the Planning Board under the Subdivision Control Law.

**In-Law Apartment:** A dwelling unit accessory to a single-family dwelling designed to provide complete and separate living facilities for occupancy by a maximum of two individuals who are related to the occupants of the principal residence.

**Inspector Of Buildings:** The person appointed as Inspector of Buildings pursuant to the State Building Code.

**Kiosk:** A small structure or building used as a refreshment booth, newsstand, photo sales and services booth, automated bank booth, and the like.

**Kennel, Commercial:** A facility in which dogs, cats or domesticated animals are housed, boarded, trained or provided daycare services.

**Lodge Or Club:** Any social, athletic, or fraternal organization that caters to members and their guests and is not conducted primarily for profit.

**Lot:** An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or structures or for any other definite use.

- **Corner Lot:** A lot bounded by more than one street which has an interior angle of 135 degrees or less formed by the tangents or straight segments of the street lines where they intersect. Both lot lines on the intersecting streets shall be front lot lines.
- **Interior Lot:** A lot that has no street frontage.

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- **Through Lot:** A lot bounded by two streets that are not connected. The frontage on both streets shall be front lot lines.

**Lot Area:** Area of a lot, measured in square feet.

**Lot Coverage:** An aggregate sum of all building and structure footprints on the lot.

**Lot Lines:** The boundary lines that enclose a lot and divide a lot from another lot or from a street or any public place.

- **Front lot line:** The boundary line located on the frontage.
- **Rear lot line:** The boundary line of a lot that is opposite or approximately opposite the front lot line. Where because of irregular lot shape, no clear determination can be made concerning the designation of a lot line, such line shall be considered a rear lot line. In the case of a corner or through lot, all lot lines other than the front lot lines shall be side lot lines.
- **Side lot line:** The boundary lines of a lot that connect front lot lines with rear lot lines. In the case of a corner or through lot, the side lot lines run from two front lot lines and intersect.

### **Manufacturing:**

- **Light Manufacturing:** Fabrication, processing, packaging, or assembly operation, employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, and free from agents disturbing to the neighborhood, such as odors, gas, fumes, smoke, cinders, flashing or excessively bright lights, electromagnetic radiation, heat or vibration and undertaken entirely within the confines of the building or structure. Quiet shall mean undetectable from the exterior of the building. (Allowed by right within the Industrial Zone).
- **Heavy Manufacturing:** Manufacturing other than light manufacturing. (Allowed by Site Plan Special Permit in the Industrial Zone),

**Massage/Bodywork/Movement Education:** Treatment and education by massage therapists that promote health and well-being.

**Mixed Use:** Use of a building, structure, or land for any combination of more than one use.

**Multiple Tenant Establishment:** A non-residential establishment with more than three occupants or tenants.

**Municipal:** The Town of Billerica including their utility pump stations.

**Neon Sign:** A sign that utilizes neon light in its design. Neon light is produced by applying an electrical current to either neon or argon gas.

**Non-Conforming Use, Building, or Structure:** A use, building, or structure that is lawfully existing by virtue of proper permits or that pre-existed the adoption of zoning in the Town of Billerica, which no longer conforms to the zoning regulations for the District in which such use,

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building, or structure is located, but which at the time of commencement of the use or construction of the building or structure complied with the zoning then in effect, if any.

**Nursing Home:** An institution or distinct part of an institution which is licensed by the Commonwealth of Massachusetts as a Long-Term Care Facility to provide twenty-four-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

**Open Air Sales:** Includes a lumber yard or other facility where the principal use is the sale at wholesale or retail of products and material that cannot easily be sold inside a building or structure.

**Outdoor Storage:** Storage of inventory, equipment, or the like outside of a building or structure and left outside after business hours that is accessory to a principal use located in a building or structure. Such storage shall not exceed 20% of total inventory, equipment, and the like located in the principal building or structure.

**Parcel:** A distinct area of land in one ownership that may or may not be a buildable lot.

**Parking Space:** An area in a building, structure, or on a lot available for parking one motor vehicle, with free and unimpeded access to a street, road, or way over unobstructed passageways, aisles or driveways. The unimpeded access requirement does not apply to a single-family house lot.

**Permit:** An official document or certificate issued by the authority having jurisdiction that authorizes the performance of a specified activity.

**Permit Granting Authority:** The authority having jurisdiction that authorizes performance of a specified activity.

**Person:** Includes a corporation, firm, partnership, association, LLC, organization, and any other group acting as a unit, as well as individuals. It shall also include an executor, administrator, trustee, receiver, or other representative appointed according to law. Whenever “person” is used in any section of this Bylaw to prescribe a penalty or fine, as to partnerships, associations and LLCs, the word shall include the partners or members thereof, and as to corporations, shall include the officer, agent or members thereof who are responsible for any violation of this Bylaw.

**Personal Services:** Any facility that provides services, such as a barber shop, beauty shop, tailor, dressmaker, laundry, dry cleaner, watch repair shop, or shoe repair shop.

**Philanthropic:** A non-profit use that promotes social welfare.

**Private or Public Dumping Ground:** Any facility used for a sanitary landfill, a refuse incinerator with a grate area in excess of 10 square feet, an incinerator used for disposing of human or animal parts irrespective of grate area, a refuse composting plant, a residual waste

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storage or treatment plant, a dumping ground for refuse, or any other works for treating or disposing of refuse, including solid or liquid waste materials, radioactive materials, garbage and rubbish, and sludge and residual waste, but not including sewage.

**Private Way:** A way which is not public as defined by G.L. c. 82, dedicated for public use prior to 1846, or public by prescriptive use.

**Professional Office:** The office of one engaged in such generally recognized professions as physicians, dentists, veterinarians, lawyers, engineers, architects, accountants, or interior designers.

**Public (in reference to units of government):** The Town, Middlesex County, Commonwealth of Massachusetts, United States Government, or an agency thereof.

**Reconstruction:** The rebuilding of a building or structure in accordance with this Bylaw.

**Recorded:** The due recording with the Middlesex North Registry of Deeds, or, as to registered land, the due filing with the Middlesex County Land Registration Office.

**Recyclable Materials Transfer Center:** A facility wherein used materials, namely paper, plastic, aluminum and tin cans, cardboard and electronics, which are commonly and purposely separated from trash, garbage and refuse, are received, sorted and transported off-site, but not including processing such materials into new products for reuse or use by consumers. Such facility shall be located at least 500 feet from any residential district boundary and within 1500 feet of a limited access highway.

**Refuse Transfer Station:** A facility for the transfer of solid or liquid waste materials, including garbage and rubbish, sludge and residual waste, but not including radioactive materials or sewage.

**Repair Shop:** A shop for the repair of appliances, office equipment, bicycles, lawnmowers or similar equipment.

**Research Facility:** Facility for scientific or medical research.

**Restaurant:** An establishment serving food and drink to patrons seated in a dining area with service being provided to the patrons by wait staff. Take-out orders may be permitted as an incidental and subordinate percentage of the business. A restaurant may not offer drive-through or drive-up window service. A bakery is not a restaurant.

**Retail Store:** Establishments that offer retail goods and services not specifically listed in the Table of Uses to the general public.

**Sanitary Sewer:** A public sanitary sewer of the Town.

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**Self-Service Storage Facility:** An establishment consisting of a structure or group of structures containing individual storage spaces of varying sizes leased or rented for dead storage, as defined in G.L., c. 105A. Truck terminals are specifically excluded from this definition.

### **Signs. All Associated Definitions:**

**Sign:** Any device designed to inform, direct, or attract attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations of this Bylaw:

- Flags and insignia of any government, except when displayed in connection with a commercial promotion.
- Legal notices, identification, informational or directional signs erected or required by governmental bodies.
- Integral decorative or architectural features of buildings, except letters, trademarks, moving parts of moving lights.

**Accessory Sign:** Any sign or other advertising device which advertises, calls attention to or indicates the person or activity occupying the premises on which the sign is erected or that advertises the property or some part of it for sale or lease and which contains no other advertising matter.

**Architectural;** A sign that is an integral, decorative or architectural feature of a building, which may include letters or numbers relating to the building:

**Artisan's:** A temporary sign of a mechanic, painter, or other artisan performing work to the premises on which the sign is located.

**Awning:** A temporary or permanent covering or shelter which is supported entirely from the exterior wall of a building.

**Banner:** A temporary sign made of a piece or strip of cloth, paper, canvas, plastic or similar material, on which a message, slogan or emblem is painted, drawn or otherwise projected, colored, or shaped with no enclosing framework.

**Billboard:** Any sign or other advertising device subject to licensing by the State Outdoor Advertising Board, or signs subject to the provisions of G.L., c. 93, §§ 29-33 or c. 93D.

**Construction:** A temporary sign located on the premises where construction or development is taking place and which identifies the contractors, engineers, architects, and financial institutions that are involved in projects

**Directory:** A sign listing the occupants of a building and the street address or room number of the occupants.

**Filling Station:** A combination of signs permitted in the Business District only, including movable letter motor vehicle fuel price signs; signs indicating separate operations or departments on the premises, such as a mini market; and brand or name of motor vehicle fuel being sold.

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**Freestanding:** A sign directly or indirectly connected to the ground and not attached to any buildings or other structures. If a sign support holds more than one sign, each sign is considered a separate freestanding sign.

**Governmental:** A sign erected by or on behalf of or pursuant to the authorization of a governmental body, or required by any law, governmental order or regulation, including legal notices; identification and informational signs; and traffic, directional, or regulatory signs.

**Home Occupation:** A sign that identifies a home occupation in any residential district.

**Identification:** A sign that indicates the place name and address of a use, building or structure in a Multifamily District.

**Industrial Directory:** A sign that identifies the occupants in an industrial development.

**Institutional:** A type of freestanding sign for a religious or educational institution.

**Landscaped Sign:** A sign characteristically constructed of a mixture or display surface, evergreen shrubbery, flowers and a structure of brick, masonry, stone and like building materials which are located on a lawn, garden or unconstructed locus of the lot.

**Monument.** A low-profile freestanding sign erected with a wide base on the ground.

**Moveable Letter or Message Board:** A temporary or permanent sign on which the letters are temporary and interchangeable, but not including changeable letters in a filling station sign, governmental sign, or institutional sign.

**Non-Accessory Sign:** Any billboard or sign not an accessory sign.

**Off-Premise:** A sign which is located on a parcel other than the parcel on which the business to which the sign refers is located.

**Portable:** A sign that is constructed of any material and is designed to be easily relocated from one location to another, whether or not it is fastened to any object, vehicle, trailer, building or staked to the ground in any manner at any given time.

**Projecting Sign:** Any sign which is attached to a building and is not parallel to any wall to which it is attached. A sign in contact with the ground is not a projecting sign.

**Projecting:** A sign that is attached to a building and is not parallel to any wall to which it is attached. A sign in contact with the ground is not a projecting sign.

**Real Estate Subdivision:** A sign that advertises the sale of land or a building for a whole subdivision.

**Real Estate:** A temporary sign advertising the sale, rent or lease of the property on which it is located.

**Roof:** A sign erected upon and above a roof structure and wholly supported by the roof structure or a structure placed upon the roof. Roof signs shall also constitute any signage placed upon sloped building faces intended to appear as or actually be roof elements of the building.

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**Sign Size:** The size of a sign shall include any intermediary removable surface to which it is affixed. The area of a flat two-faced projecting or standing sign is the area of one face. The width of a sign is its horizontal dimensions even when this is the smaller dimension.

**Standing Sign:** The term “standing sign” shall include any and every sign that is erected on the land. If a sign support holds more than one sign, each such sign is considered a separate standing sign.

**Traffic Flow:** A sign that directs and guides traffic and parking on private property by bearing no advertising matter, symbols or other characteristics of a sign as defined in this Section.

**Wall Sign:** A sign fastened, placed or painted upon or parallel to the exterior wall of the face of a building wall, whether front, rear, or side of the building.

**Window Sign:** A sign affixed to or placed to be viewed through a window or transparent door. Signs on the interior of an establishment which are intended to be viewed from inside the establishment are not considered to be window signs even if they can be seen through a window or door. Displays of merchandise inside of a window are not considered to be window signs. (Neon signs are prohibited.)

**Site:** One or more lots or parcels, or combination thereof, which are contiguous or coterminous and under the lawful control and possession of one owner.

### **Solar Energy Conversion Systems; All Associated Definitions.**

**As-Of-Right-Siting:** As-of-right-siting shall mean that permit approval may proceed without the need for a special permit or other discretionary approval and cannot be prohibited if consistent with all zoning bylaws and regulations, as well as all state and federal rules and regulations.

**Occupied Building:** Any building or structure used for work, meetings or habitation, including but not limited to residences, schools, churches, office buildings, libraries, retail and wholesale sales and manufacturing.

**Public Property:** All land under the Town’s ownership but expressly not including State and Federal lands.

**Rated Nameplate Capacity:** the maximum rated output of electrical power production equipment as specified by the manufacturer.

**Solar energy conversion system (SECS):** All the equipment, machinery and structures that taken together are utilized to convert solar energy to electrical power.

**Special Permit:** A use permitted in this Bylaw after hearing and required findings by the Special Permit Granting Authority that may be subject to limitations and conditions.

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**Special Permit Granting Authority:** The Special Permit Granting Authority shall be the board designated to issue special permits under this Bylaw.

**Standard Metropolitan Statistical Area (SMSA).** A federally designated geographic area consisting of at least one major city and the surrounding towns that together make up a regional economy or labor force area.

**Story:** See the definition in the most recent edition of the State Building Code.

**Story, Half:** A story directly under a sloping roof in which the points of intersection of the bottom of the rafters and the interior faces of the walls are less than three feet above the floor level on at least two exterior walls.

**Street, Road, Or Way:** A public way duly laid out by the Town, the Middlesex County Commissioners, or the Commonwealth of Massachusetts; or a way which the Town Clerk certifies is maintained by public authority and is used as a public way; or a way that is shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law; or a way in existence having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Street, road, and way are synonymous terms.

**Street Line:** The boundary of a street right-of-way or layout.

**Structural Change:** Any change in the supporting members of a building or structure such as a change in bearing walls columns, beams, or girders.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall over four (4) feet, tent, reviewing stand, or platform bin. Fences over six feet height, sign, flagpole, recreational tramway, mast for radio antenna, or the like including in-ground swimming pools are structures. The word “structure” shall be construed, where the context requires, as though followed by the words, “or part or parts thereof.”

**Substantial Extension:** Extension of a use beyond the circumscribed area used prior to such extension or an increase in the time of use, or making the same use in a different and more intense manner.

**Supermarket:** A retail establishment primarily in the business of selling food stuffs to the individual consumer and general public.

**Swimming Pool:** A private, artificial, or semi-artificial receptacle capable of containing a body of water, whether in or above the ground, and all appurtenances, equipment, appliances, and other facilities for its operation, maintenance, or use, having a depth of 24 inches or greater and a surface area of 250 square feet or greater.

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**Temporary Structure:** A tent, construction trailer, or similarly portable structure intended for continuous use for not longer than three months. A temporary structure shall also include a manufactured home that is placed on the site of a residence, which has been destroyed by fire or other natural disaster, and which is being rebuilt. The manufactured home shall be removed from the site within twelve months of its placement and shall comply with the provisions of the state sanitary code.

**Temporary Use:** Use, operation, or occupancy of a parcel of land, building, or structure for a period not to exceed three calendar months.

**Town:** Town of Billerica.

**Townhouse:** A dwelling unit with finished living space on more than one story in a complex of three or more attached units as provided under the State Building Code.

**Tractor Trailer:** An articulated truck consisting of a towing engine and a trailer that carries freight.

**Tradesman's Shop:** Shop of a builder, electrician, mason, plumber, of similar occupation.

**Trailer:** A closed vehicle furnished for living and designed to be hauled behind another vehicle.

**Truck:** A motor vehicle other than an automobile as defined in this Bylaw.

**Truck Terminal:** A freight facility for the exchange of cargo among trucks; exchange of trailers among trucks; exchange of truck drivers among trucks; and temporary parking of trucks with or without cargo and trailers.

**Use:** The specific purpose for which land, a building, or a structure is designed, arranged, intended, or for which it may be occupied and maintained.

**Variance:** Relief from the non-use requirements of this Bylaw as provided for under G.L. c. 40A, §10, as amended.

**Warehouse:** A building used primarily for the storage of goods and material, for distribution, but not for sale on the premises.

**Wholesale Use:** The sale of goods in larger quantities as to retailers, tradesmen or jobbers rather than directly to the general public or individual consumer.

### **Wireless Communications Facilities; All Associated Definitions**

**Wireless Communication Facilities - "WCF":** A facility for the provision of wireless communication service, including, but not limited to, towers, monopoles, antennas, antennas attached to existing structures and associated accessory structures, if any, which facilitate the provision of wireless communication service.

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**Wireless Communication Services – “WCS”:** The provision of the following types of services: Cellular Telephone, Personal Communications and Enhanced Specialized Mobile Radio Service as described in the Telecommunication Act of 1996.

**Above Ground Level (AGL):** A measurement of height from the natural grade of a site to the highest point of a structure.

**Acoustical Engineer:** An engineer or company registered with an accredited noise standard organization.

**Adequate Coverage:** The geographic area in which the carrier provides a level of service defined as a range of 70-100% coverage over 70-100% of the Town.

**Antenna:** The surface from which wireless signals, at varying frequencies, are sent and received by a wireless service facility. Whether a dish, rod, mast, pole, set of wires, plate, omnidirectional, panel, whip line, cable, or other arrangement serving such purpose.

**Camouflaged:** Disguising, incorporating, or concealing any or all components of a WCF as part of or within an existing or proposed structure or natural surrounding or making it to resemble an architectural feature of the building or structure on which it is placed.

**Carrier:** A Company, authorized by the FCC that provides WCS.

**Co-Location:** The use of a single mount by more than one carrier and/or several mounts on a tower, monopole, building, or structure by multiple carriers for the purpose of providing WCS. Each service on co- locations is a separate wireless communication facility.

**Emissions:** The frequencies emitted in conjunction with the operation of WCS.

**Environmental Assessment - EA:** Document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a WCF is placed in certain designated areas.

**Equipment Shelter / Base Facility / Base Area Transceiver Station:** A building, structure, cabinet, or shed used to house mechanical and electrical equipment accessory to a wireless communications facility used by a commercial telecommunications carrier to provide wireless communication services or data services.

**Fall Zone:** The ground area within a prescribed radius from the base of a WCF.

**Functionally Equivalent Services:** Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging. The services are equal under this bylaw.

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**Guyed Tower:** A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

**Lattice Tower:** A structure that is self-supporting with multiple legs and cross bracing usually of structured steel.

**Monopole Tower:** A single, self-supporting vertical shaft of wood, steel, or concrete with a platform for panel antennas at the top and a below grade foundation.

**Mount:** Structure or surface upon which antennas are mounted, including:

- **Roof-Mounted:** Mounted on the roof of a building.
- **Side/Surface Mounted:** Mounted on the side of building.
- **Ground Mounted:** Mounted on the ground.
- **Structure-Mounted:** Mounted on a structure.

**Panel Antenna:** A flat surface antenna usually developed in multiples.

**Radiofrequency Radiation (RFR):** The emissions from Wireless Communications Facilities.

**Security Barrier:** A locked area completely sealed from unauthorized entry or trespass.

**Site:** The location of a Wireless Communications Facility.

**Vendor/Carrier:** A company that provides wireless services.

**Yard:** An open space on a lot unoccupied by a building or structure or such parts thereof, such as covered or uncovered porches, cornices, and other projections. Fences, gates, or security stations; ornaments and furniture; and customary summer awnings are permitted in any yard but shall be subject to height limitations. Yards include:

- **Front Yard:** A yard extending between side lot lines across the front lot line. In the case of a corner lot there will be two front yards that extend between a side lot line and a front lot line across the remaining front lot line.
- **Rear Yard:** A yard extending between the side lot lines across the rear lot line. In the case of a corner or through lot there is no rear yard.
- **Side Yard:** A yard extending along each side lot line generally between the front and rear lot lines. In the case of a corner or through lot the side yard extends between the front lot line and another side lot line. In some cases, depending on the lot configuration, a side yard may extend along the side lot line between any combination of other lot lines.

## **Section 3. Administration and Enforcement**

### **3.1 Inspector of Buildings**

This Bylaw shall be administered and enforced by the Inspector of Buildings, as provided in G.L., c. 40A, § 7, as amended.

### **3.2 Issuance of Building and Use and Occupancy Permits**

- A. No building permit or use and occupancy permit shall be issued until the buildings, structures, their uses, primary and accessory, and uses of land comply in all respects with this Bylaw. All buildings, structures, or uses shall comply with all conditions, safeguards, or limitations of any applicable special permit, variance, or administrative appeal before the Inspector of Buildings can issue a building or use and occupancy permit. If surety is required by any Town board to ensure compliance with any condition, safeguard, or limitation, the Inspector of Buildings may issue a building permit or use and occupancy permit when, in the opinion of the Inspector of Buildings, the surety is sufficient to ensure full compliance with such conditions, safeguards, or limitations.
- B. Notwithstanding any language or conditions in this Bylaw, the use of materials or methods of construction of buildings or structures is regulated by the State Building Code, 780 CMR.
- C. As a prerequisite to the issuance of a building or use and occupancy permit, an applicant shall provide the following to the Inspector of Buildings:
  - 1. a properly completed pre-application with all required approvals;
  - 2. an approved permit for vehicle access curb and sidewalk openings from the appropriate Town authority;
  - 3. a valid sewage disposal permit issued by the Board of Health for all new buildings, structures, additions, or uses that will not be serviced by Town sewer or in the case of connection to the Town sewer, a valid Town Sewer Connection Permit;
  - 4. the book and page of the recorded deed for the owner of record;
  - 5. a copy of the first page of any special permit, variance, or administrative appeal decision recorded at the Middlesex North Registry of Deeds; and
  - 6. the filing fee set by the Town for filing a building or use and occupancy permit application.
- D. Applications for building and use and occupancy permits shall be filed with the Inspector of Buildings on forms provided by the Building Department. They shall be signed by the owner of record or the owner's agent. An owner represented by an agent shall provide a written statement that the agent is authorized to represent such owner's interests.
  - 1. Every application shall be accompanied by two copies of a plot plan certified and stamped by a land surveyor or civil engineer registered by the Commonwealth of Massachusetts of the lot upon which the proposed building(s) or structure(s) will be erected, or the proposed use commenced, drawn to scale and showing the following:

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- a. dimensions of the lot and yards;
  - b. easements of record;
  - c. water and sewer lines;
  - d. streets upon which said lot abuts; and
  - e. the location and size of the building(s) or structure(s), if any, existing and to be constructed upon said lot.
2. The plan shall note the intended use of the land, building(s), structures(s), or additions.
  3. The plan shall contain a certification that all proposed buildings, structures, and uses comply with this Bylaw. Any building used for agricultural purposes without a foundation is exempt from this provision.
  4. Once a foundation is constructed, the applicant shall submit a certified plot plan to the Inspector of Buildings showing all buildings, structures, and uses, and any other information or specifications necessary to demonstrate compliance with this Bylaw. The Inspector of Buildings shall determine compliance following a review of the information submitted by the applicant. This provision shall not preclude the Inspector of Buildings from requiring any other information or specifications required on plans submitted under the State Building Code, 780 CMR.
  5. No applicant for a use and occupancy permit for any building or structure erected, altered, or changed as to construction or use for which the building permit has been issued shall allow the building or structure to be occupied or used without a use and occupancy permit issued by the Inspector of Buildings.
  6. Whenever the Inspector of Buildings denies any building or use or occupancy permit application based on non-compliance with this Bylaw, the Inspector of Buildings shall clearly state the reasons for the denial in writing to the applicant.
  7. Construction on or use of property under a building permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within six months after the issuance of the building permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

### **3.3 Enforcement**

1. If the Inspector of Buildings is informed or has reason to believe that any provision of this Bylaw is being violated, they shall make or cause to be made an investigation of the facts and inspect the property where the violation may exist.
2. If upon an investigation and inspection the Inspector of Buildings finds evidence of a violation, they shall give notice thereof in writing to the owner and occupant of the premises and demand that any violation be abated within such time as the Inspector of Buildings deems reasonable. Violation notices and demands may be given by certified mail, addressed to the owner at the owner's address as it then appears on the records of the Board of Assessors of the Town, to the occupant at the address of the

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premises, and to the complainants, if any, of record.

3. If after the notice and demand the violation has not been abated within the time specified in the demand, the Inspector of Buildings shall institute appropriate action or proceedings in the name of the Town to prevent, correct, restrain, or abate the violation of this Bylaw.
4. Any person who abates a violation but subsequently reinstates it shall be deemed to have never abated the violation. Any proceedings previously commenced by the Inspector of Buildings to prevent, correct, restrain, or abate the violation, including any request for fines or penalties, shall continue from the date on which the Inspector of Buildings first provided notice of the violation by certified mail.

### **3.4 Penalty for Violations**

Anyone who violates a provision of this Bylaw, any of the conditions under which a permit is issued, or any conditions of a variance or special permit issued under this Bylaw shall be subject to a fine of not more than \$300 for each offense. Each day during which any portion of a violation continues shall constitute a separate offense.

### **3.5 Non-Criminal Disposition**

In addition to the penalties described above and the provisions for enforcement as set forth under G.L., c. 40A, § 7, as amended, the provisions of this Bylaw may also be enforced by non-criminal disposition, as provided in G.L., c. 40, § 21D, as amended. The penalty for the violation shall be a warning or \$100.00 fine for the first offense, \$200.00 fine for the second offense, \$300.00 fine for the third offense, and \$300.00 fine for the fourth and each subsequent offense. Failure to pay fines and penalties shall cause a lien to be placed on the real property located in the Town pursuant to G.L. c. 40, § 58.

## **Section 4. Land Use Boards and Permits**

### **4.1 Special Permit Granting Authority**

- A. Purpose of Regulations. The purpose of Section 4.1 is to describe the Special Permit Granting Authority under this Bylaw.
- B. Designation of Special Permit Granting Authority (SPGA). The SPGA shall be the Board designated to issue special permits for a particular use, building, or structure, as shown in the Table of Uses or in other provisions of this Bylaw. .
- C. Powers and Duties
  - 1. The SPGA shall hear and decide applications for special permits for uses as provided in this Bylaw.
  - 2. Each SPGA shall adopt rules not inconsistent with this Bylaw for the conduct of its business, including procedures for filing applications and petitions; holding public hearings; obtaining review by other Town boards, agencies, and outside consultants, before and after construction of a use, and including the design specifications for the use; and making decisions.

### **4.2 Zoning Board of Appeals**

- A. Appointment
  - 1. Within 30 days after the adoption of this Bylaw and thereafter as terms expire or vacancies occur, the Select Board shall appoint members to the Zoning Board of Appeals pursuant to G.L. c. 40A, § 12.
  - 2. The Zoning Board of Appeals shall consist of five members and two associate members, one or both of whom may be designated from time to time by the chair to sit in the place of any regular member who is absent, temporarily unable to perform their duties, or unable to sit because of personal interest in the subject matter involved.
  - 3. All regular and associate members shall be appointed for a term of three years.
- B. Powers and Duties. The Zoning Board of Appeals shall have and exercise all the powers provided under G.L. c. 40A, § 14, including the following powers:
  - 1. To hear and decide appeals in accordance with G.L., c. 40A, § 8;
  - 2. To hear and decide applications for special permits upon which the Zoning Board of Appeals is empowered to act under this Zoning Bylaw; and
  - 3. To hear and decide petitions for variances as set forth in G.L., c. 40A, § 10.
- C. The Zoning Board of Appeals shall adopt rules, not inconsistent with this Bylaw, for the conduct of its business, including procedures for filing applications and petitions; holding public hearings; obtaining review by other Town boards, agencies, and outside consultants, before and after construction of a use, and including the design specifications for such use; and making decisions.

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- D. All notices of public hearings by the Zoning Board of Appeals shall be in accordance with the Board's rules and G.L., c. 40A, § 11.

### **4.3 Special Permits**

- A. Filing an Application for a Special Permit. All applications for a special permit to the SPGA shall be in writing on required forms, shall contain the required information, and shall be reviewed by such other boards, agencies, and agents as prescribed by the SPGA in its rules for the conduct of its business unless otherwise noted below.

B. Requirements for Issuance of a Special Permit

1. The SPGA may issue a special permit for all uses permitted by special permit under this Bylaw if it finds that the use is:
  - a. in harmony with the general purpose and intent of this Bylaw, and
  - b. in compliance with all other requirements of this Bylaw for issuance of a special permit for the proposed use.
2. To carry out the purposes and objectives of this Bylaw, the SPGA may:
  - a. subject special permit applications to review by other boards, agencies, officers, and outside consultants as set forth in its rules on file with the Town Clerk;
  - b. grant special permits subject to appropriate conditions, safeguards, and limitations on time or use; and
  - c. require security to ensure compliance with all conditions, safeguards, and limitations.
3. All notices of public hearings by the SPGA shall be in accordance with the Board's rules and G.L., c. 40A, § 11, as amended.

C. Conformance to Subsequent Amendments

1. Construction on or use of property under a special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within six months after the issuance of a building permit, or where a building permit is not required, after the issuance of a use and occupancy permit, and in cases involving construction, unless the construction is continued through to completion as continuously and expeditiously as is reasonable.
2. A use is commenced on land or within a building once activity has begun under a use or occupancy permit. Construction is commenced upon completion of any foundation and continuation of construction thereafter in accordance with an issued building permit, or in the case of a structure, upon beginning construction of a structure in accordance with an issued building permit.
3. A special permit shall lapse within two years from the granting thereof or such shorter time as specified in said special permit 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. This period shall be extended by the time required to pursue or await the determination of a court appeal.

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### D. Effective Date for Special Permits

1. Any special permit issued by the SPGA will not be in effect until recorded at the Middlesex North Registry of Deeds at the applicant's expense.
2. The Inspector of Buildings shall not issue a use or occupancy permit or a building permit until the applicant provides the Inspector of Buildings with a copy of the first page of the record that proves the special permit was recorded at the Middlesex North Registry of Deeds.

### 4.4 Variances

- A. Filing a Variance Petition. All petitions for a variance to the Permit Granting Authority shall be in writing and on required forms; shall contain the required information; and shall be reviewed by such other boards, agencies, and agents as prescribed by the Permit Granting Authority in its rules for the conduct of its business.
- B. Use Variance. Use variances are expressly prohibited under this Bylaw. If a use is not permitted by right or by special permit, a petitioner may not seek a variance for it.
- C. Requirements for Issuance of a Non-Use Variance.
  1. The Permit Granting Authority may issue a variance if the petitioner proves and the Permit Granting Authority finds that:
    - a. 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 Bylaw would involve substantial hardship, financial or otherwise, to the petitioner;
    - b. desirable relief may be granted without substantial detriment to the public good; and
    - c. desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this Bylaw.
  2. To carry out the purposes of this Bylaw, the Permit Granting Authority may:
    - a. subject variance petitions to review by other boards, agencies, officers, and outside consultants as set forth in its rules on file with the Town Clerk;
    - b. grant variances subject to conditions, safeguards, and limitations both of time and of use, including the continued existence of any particular buildings or structures, but excluding any conditions, safeguards, or limitations based upon the continued ownership of the land, buildings, or structures to which the variance pertains by the petitioner or any owner;
    - c. require security to ensure compliance with all conditions, safeguards, and limitations.
  3. The Permit Granting Authority shall hear and decide any variance as prescribed by G.L., c. 40A, § 10, as amended.
- D. Timely Exercise and Extension. If the rights authorized by a variance are not exercised by obtaining a building permit, or if no building permit is required, by obtaining a use or

## Billerica Zoning Bylaw

occupancy permit, within one year of the date of grant of such variance, the variance rights shall lapse. They may be reestablished only after notice and a new hearing. The Permit Granting Authority may grant a six-month extension of the variance if the petitioner applies for an extension before the expiration of the one-year period.

- E. Effective Date for Variances. Any variance granted by the Permit Granting Authority shall not be in effect until recorded at the Middlesex North Registry of Deeds at the expense of the petitioner. The Inspector of Buildings shall not issue a use or occupancy permit nor a building permit until the petitioner provides the Inspector of Buildings with a copy of the first page of the record that proves the variance was recorded at the Middlesex North Registry of Deeds.

### **4.5 Administrative Appeals**

- A. Filing an Appeal. All appeals to the Zoning Board of Appeals shall be in writing on required forms; shall contain the required information; and shall be reviewed by other boards, agencies, and agents as prescribed by the Zoning Board of Appeals in its rules for the conduct of its business.

- B. Requirements for Determining an Administrative Appeal

Any person aggrieved by reason of their inability to obtain a permit or enforcement action from the Inspector of Buildings or other administrative officer under the provisions of this Bylaw may appeal to the Zoning Board of Appeals. An appeal may also be filed by the Regional Planning Agency, an officer or board of the Town, or an officer or Board of every abutting city or town.

1. Any appeal of an order or decision shall be taken within 30 days after the date of the order or decision which is being appealed.
  2. The Zoning Board of Appeals shall obtain all documents and papers constituting the record of the case in which the appeal is taken from the officer or administrative official whose decision is being appealed.
  3. The Zoning Board of Appeals shall hear and decide any appeal as prescribed by G.L., c. 40A, as amended.
  4. The Zoning Board of Appeals shall hear and decide any appeal as prescribed by G.L., c. 40A, as amended.
  5. In exercising its powers, the Zoning Board of Appeals may issue or direct the issuance of a permit, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision of the officer or administrative official whose decision is being appealed, and to that end shall have all the powers of the officer or administrative official from whom the appeal is taken.
- C. Effective Date for Administrative Appeals. The decision of the Zoning Board of Appeals shall not be in effect until recorded at the Middlesex North Registry of Deeds at the expense of the appellant. The Inspector of Buildings shall issue neither a use or occupancy permit nor a building permit until the appellant provides the Inspector of Buildings with a copy of the first page of the record that proves the special permit was recorded at the Middlesex North Registry of Deeds.

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### **4.6 Planning Board**

- A. Membership. The Planning Board shall consist of seven elected members, each serving a three-year term so arranged so that as nearly an equal number of terms as possible shall expire each year.
- B. Powers and Duties
  - 1. The Planning Board shall have and exercise all the powers provided under G.L. c. 40A, §§ 5 and 9, and G.L. c. 41, § 81A-81GG, including the following powers:
    - a. To hear and decide applications for special permits, including Site Plan Special Permits, upon which the Planning Board is empowered to act under this Zoning Bylaw;
    - b. To initiate amendments to this Zoning Bylaw and the Zoning Map and to hold public hearings on proposed amendments to this Zoning Bylaw and Zoning Map and to make recommendations on such to Town Meeting;
    - c. To make the Town Master Plan in accordance with G.L. c. 41, § 81D;
    - d. To review and act upon subdivision plans in accordance with G.L. 41, §§ 81A-81GG; and
    - e. To have all the powers and duties given to the Planning Board by general laws and such additional powers and duties as may be provided by charter, by bylaw or by other town meeting vote.
    - f. To review and consent to any filing of a repetitive petition for a special permit, variance, or administrative appeal before the petition may be reheard by the Planning Board or Zoning Board of Appeals.
- C. The Planning Board shall adopt rules not inconsistent with this Bylaw for the conduct of its business, including procedures for filing applications and petitions; holding public hearings; obtaining review by other Town boards, agencies, and outside consultants; and making decisions.
- D. All notices of public hearings by the Planning Board shall be in accordance with the Board's rules and G.L., c. 40A, § 11.

### **4.7 Site Plan Approval**

- A. Purpose. This section of the Bylaw encourages well-planned site developments that are harmonious with established land uses, circulation systems, and the natural environment in the Town, in addition to being efficient in function and maintaining or improving public health and safety.
- B. Objectives. The objectives of include:
  - 1. Protection of adjoining premises against detrimental or offensive uses on the site;
  - 2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property, or improvements;
  - 3. Adequacy of the methods for disposal of sewage, refuse, and other waste resulting from the uses permitted or permissible on the site;

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4. Adequacy of surface water drainage including protection of groundwater;
  5. Adequacy of ingress and egress;
  6. Adequacy of off-street loading and unloading of vehicles, goods, products, and materials incidental to the uses permitted or permissible on the site;
  7. Adequacy of lighting such that all lighting and other sources of illumination, whether interior or exterior, and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from adjacent properties;
  8. Adequacy of landscaping and open space to screen, buffer, and separate adjoining uses;
  9. Compatibility with the surrounding neighborhood including size and character of the proposed buildings and site improvements; well-designed site planning which acts to enhance and highlight site features and the surrounding neighborhood; and buildings which not only relate functionally and aesthetically to each other but also which are sensitive to the context of the surrounding area.
  10. Preservation of historic buildings and sites including their renovation, conversion and alteration.
- C. Site Plan Review Special Permit Granting Authority. The SPGA for Section 4.7 shall be the Board designated in Table 1, the Table of Use Regulations.
- D. Applicability. Site Plan Review approval is required for all uses listed as subject to site plan approval as set forth in the Table of Use Regulations.
- E. Application Requirements. The applicant shall file the following information together with an Application and the required filing fee as set forth in the rules of the SPGA:
1. Form: A Civil Engineer, registered in Massachusetts, shall prepare and certify the site plan, which shall be clearly and legibly drawn on mylar to a maximum scale of 1" = 40'.
  2. Size of Plan: All sheets that make up the original plan shall be 24" x 36".
  3. Number of Copies: The applicant shall provide copies of each plan for purposes of review by other boards, agencies, officers, and outside consultants, as designated in the SPGA Rules. The number of copies to be provided shall be set forth in the SPGA Rules.
  4. Contents: A site plan and supporting documents shall at a minimum show the following information:
    - a. Metes and bounds of the property, area of the property, north point, scale, and date;
    - b. Name, address, and signature of the person preparing the site plan stamped with that person's Massachusetts Registration number and seal;
    - c. Name and address of the record owner or owners of the property and street address of the property with street number, if one exists at the time of application;
    - d. Names of all abutters to the property as they appear in the most recent certified tax list;

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- e. The existing topography of the land at two (2) foot contour intervals, Mean Sea Level Datum;
- f. Location, width, and names of all existing and proposed streets that affect the property and are within 100 feet of the property;
- g. Location and width of all existing and proposed easements that affect the property;
- h. Existing and proposed carrying capacity and level of service of the streets that serve the property;
- i. Location and outline of all existing and proposed buildings and structures on the property;
- j. The basement and first-floor elevations, the height, and use of all existing and proposed buildings on the property;
- k. Location and outline of cesspools, septic tanks, leaching areas, and wells on the property;
- l. Location and outline of existing public sewers available to serve the site;
- m. Location and outline of proposed access to trunk lines, capacity of the trunk lines, and available increases in flow;
- n. The location of all present and proposed utility systems, including sewage disposal; water supply lines; and telephone, cable, and electrical lines;
- o. Location, size, and type of all existing and proposed storm drains, culverts, catch basins, headwalls, invert elevations and depths, endwalls, hydrants, manholes, drainage swales, percolation tests, storm drainage, and drainage facilities, including adjacent existing waterways and drainage ditches to serve the site and with all calculations for the proposed drainage system;
- p. Profiles of the proposed drainage system together with details of all proposed structures.
- q. An illumination plan showing the location, height, intensity, and bulb type (e.g., fluorescent, sodium, incandescent) of all external lighting fixtures, and including the direction and illumination and methods proposed to eliminate glare onto adjoining properties;
- r. The location, height, size, and design of all proposed signage;
- s. The location, type of surface, and type of screening of rubbish collection areas and type of container(s);
- t. The location of existing major site features, such as rock ridges, ledge outcroppings, wetlands, water retention or detention areas, brooks, bodies of water, waterways or canals, tree lines, and isolated trees to be cleared that are of a 12-inch diameter or greater;
- u. A landscape plan showing all buffer areas and the size and type of plant materials to be provided and indicating all proposed changes to existing major site features.
- v. The proposed finished topography of the site at two (2) foot contour intervals, Mean

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Sea Level Datum;

- w. The location and description of a permanent type bench mark on or adjacent to the property;
  - x. The location and description of the bench mark used in establishing the topography;
  - y. Zoning classification for the property and zoning district lines if the property lies in one or more zoning districts or abuts a zoning district;
  - z. Where applicable, the location of wetlands and flood plain protection district boundaries;
  - aa. Description of plans to prevent erosion of soil during and after construction, excessive run-off, and flooding of other properties, if applicable;
  - bb. The location and type of surface of all existing and proposed parking areas, loading areas, maneuvering areas, driveways, fire lanes, accesses, and walkways, which shall include wheelchair ramps and crosswalks;
  - cc. The delineation of each parking space, showing the size of a typical parking space for domestic and imported cars, block totals for number of spaces, with the final number of parking spaces noted on the plan in an obvious place;
  - dd. Traffic flow patterns within site entrances and exits and existing and proposed daily and peak traffic and street capacity levels of ingress and egress streets and drives; site distances of ingress and egress streets and drives onto adjacent streets; loading and unloading areas on the site; and curb cuts on the site and within 100 feet of the site;
  - ee. For new construction or alterations to any existing building or structure, the area of the building or structure to be used for the proposed use or uses; maximum number of employees; and where applicable, maximum seating capacity; and identification of any federal or state permits required for the project.
  - ff. A description of the hours of operation of the proposed use.
5. Deed: A copy of the owner's deed giving a legal description of the site or other evidence of authority or interest of the applicant, whenever the applicant is not the owner of the subject property, such as an executed purchase and sales agreement or appointment as agent of the owner.
6. Other Permits: Copies of existing variances or special permits applicable to the property, including the book and page reference with the Middlesex North Registry of Deeds.
- F. Approval Process. A site plan special permit shall be subject to the approval process set forth in the rules adopted by the SPGA. This may require a Technical Review performed by an engineer or other applicable consultant and may include an Architectural Review of those issues called out elsewhere in this section.
- G. Review Criteria. In making its decision, the SPGA shall consider the following:
- 1. Buildings, Structures, and Site Character: All buildings, structures, and uses of the

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property shall comply with the use and special permit requirements and dimensional, parking and loading, and signs and lighting regulations of this Bylaw.. Any property subject to a variance shall comply with the provisions of the variance and need not comply with the section of the Zoning Bylaw that was varied. Unless otherwise provided by this Bylaw, any change, substantial extension of a use, reconstruction, extension, or alteration of a pre-existing nonconforming building, structure, or use that requires site plan approval shall comply with this section.

2. **Traffic:** Adequate access shall be provided to serve the proposed use, building, or structure. Adequate access shall include provision for emergency and fire access and convenient and safe vehicular and pedestrian movements within the site and in relationship to adjoining streets and surrounding properties.
  3. **Parking, Loading, and Lighting:** Safe and adequate parking, lighting, internal traffic control, and off-street loading and unloading shall be provided to permit normal operation of the proposed use.
  4. **Storm Water and Site Drainage:** All storm water and site drainage shall comply with the requirements of any Town Bylaws or rules and regulations pertaining to storm water and site drainage, other than Subdivision Rules and Regulations.
  5. **Utilities:** All utilities shall comply with the requirements of any Town Bylaws or rules and regulations pertaining to utilities. Moreover, all utilities shall be designed in accordance with the requirements of the utility company to which they are associated.
  6. **Town Services:** Unreasonable demands shall not be placed on Town services and infrastructure.
  7. **Vegetation and Landscaping:** Whenever possible, existing vegetation and landscaping amenities shall be preserved to lessen the impact of the proposed use, building, or structure on surrounding properties, and the proposed use, building, and structure shall be integrated into the existing landscape through use of vegetative buffers, introduction of plant materials, slope protection, and retention of open space.
  8. **Wetlands:** The issuance of a site plan approval special permit shall be conditioned on obtaining and complying with any Order of Conditions issued by the Billerica Conservation Commission under the Wetlands Protection Act, G.L., c. 131 and on the Rules and Regulations of the Billerica Board of Health.
- H. **Security for Site Plan Approval Special Permits.** The SPGA, as a condition of granting a site plan approval special permit may require that the performance of the conditions and observance of the safeguards and limitations imposed on the special permit be secured by a proper bond or a deposit of money or negotiable security sufficient in the opinion of the SPGA to secure performance of the conditions and observance of the safeguards and limitations of such special permit.
- I. **Effective Date.** No site plan approval special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex North Registry of Deeds. The decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and that no appeal has been filed, or if an appeal has been filed, it has been

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dismissed or denied.

- J. Time Limitation and Required Report on Site Plan Approval Special Permit. A site plan approval special permit shall lapse if a substantial use thereof has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause within a period to be specified by the SPGA, not to exceed two years from the date of grant thereof.
- K. Appeal. An appeal from a decision of the SPGA may be taken in accordance with G.L. c. 40A, § 17.

## **Section 5. Districts**

### **5.1 Establishment of Districts**

For the purpose of this Bylaw and to provide for the most efficient use of land, the Town is divided into the following districts as shown on the Zoning Map approved by the Town Meeting on May 15, 2003, including all subsequent amendments, which is hereby incorporated into and made a part of this Bylaw:

- A. Use Districts:
  - 1. Residential Districts
    - a. Village Residence (VR)
    - b. Neighborhood Residence (NR)
    - c. Rural Residence (RR)
    - d. Multi-Family Residence (MF)
  - 2. Business Districts
    - a. Neighborhood Business (NB)
    - b. General Business (GB)
    - c. Commercial (C)
  - 3. Industrial Districts
    - a. Industrial (I)
- B. Special Districts:
  - 1. Adult Entertainment
- C. Overlay Districts:
  - 1. Flood Plain
  - 2. Historic
  - 3. Residential Cluster
  - 4. Townhouse
  - 5. Elderly Housing
  - 6. Self-Service Storage Facility
  - 7. Mill Conversion and Reuse District
  - 8. Medical Marijuana Overlay District
  - 9. Adult Use Marijuana Overlay District
  - 10. Mixed Use Overlay District

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### 5.2 Zoning District Boundaries

- A. Where the zoning boundary lines are shown upon the Zoning Map as the street lines of public or private streets or ways, the center lines of those streets or ways shall be the boundary lines.
- B. Where zoning boundary lines are shown approximately on the location of existing property or lot lines and the exact location of the zoning boundaries is not indicated by means of figures, distance or otherwise, the property or lot lines shall be the zoning boundary lines.
- C. Where the zoning boundary lines are shown upon the Zoning Map outside of and approximately parallel to street lines, they shall be considered to be parallel to the street lines. Figures placed upon the Zoning Map between the zoning boundary lines and the street lines indicate measurements at right angles to the street unless otherwise specified.
- D. In cases not covered by the provisions of paragraphs A, B, and C above, the location of zoning boundary lines shall be determined by the distances in feet when given upon the Zoning Map, based on the scale of the Zoning Map.
- E. Town officials, Town boards, and the public shall determine the boundaries of the Flood Plain District based solely on the locations described below on the listed reference maps, in the custody of the Town Engineer and Board of Health:
  - 1. Green Maps. Any land showing flood plain limits on the 1973 Town of Billerica, Massachusetts, Flood Plain Index Maps and the 147 contour maps at 100 scale prepared by Green Engineering Affiliates, Inc. [hereinafter "Green Maps"];
  - 2. Concord River Adjustment. Any land shown on the Green Maps along the Concord River, after an adjustment of three feet below the flood contour as delineated, shall be considered within the 100-year flood level.
  - 3. Shawsheen River Adjustment. Any land shown on the Green Maps along the Shawsheen River, after an adjustment of one foot below the flood contour as delineated, shall be considered within the 100-year flood level.
  - 4. Federal Maps: Any land shown on the Flood Insurance Rate Map (FIRM), community panel number 250183, with an effective date of July 8, 2025, prepared by the U.S. Department of Housing and Urban Development Federal Insurance Administration. issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 8, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission, and Board of Health . Nothing in this section shall prohibit the Conservation Commission, the Board of Health, or both, from making non-zoning determinations of the flood plain in order to perform its required duties.
- F. When a lot in one ownership is situated partly in the Town and partly in an adjacent town or city, the provisions, regulations, and restrictions of this Bylaw shall be applied to that portion of the lot that lies in the Town in the same manner as if the entire lot were

## Billerica Zoning Bylaw

situated therein.

- G. When a lot in one ownership is situated partly in one Zoning District and partly in another Zoning District, the provisions, regulations, and restrictions for the most restrictive Zoning District shall apply to the entire lot unless all construction and use of the lot takes place within the least restrictive Zoning District, in which case the least restrictive provisions, regulations, and restrictions shall apply.
- H. Whenever the exact location of a zoning boundary line cannot be precisely determined under the provisions stated above, the identification and location of the boundary line shall be determined by the Planning Board and submitted for Town Meeting approval, subject to any amendments Town Meeting may desire. Until Town Meeting votes, the provisions of the most restrictive Zoning District located on the lot in question shall apply. The zoning districts listed under each of the three categories within the list of Districts under Section 5 of this Zoning Bylaw shall start with (1) as the most restrictive zoning district and ascend in numbered order to the least restrictive.

## Section 6. Use Regulations

### 6.1 Purposes

Section 6 regulates the use of land, buildings, and structures in each district.

### 6.2 General

- A. No land shall be used and no structure shall be erected or used except as set forth in the Table of Use Regulations under Section 6.3, including the notes to the Table, or as otherwise set forth in this Bylaw, or as exempted by the General Laws, or by variance from the Zoning Board of Appeals, as provided in G.L. c. 40A, § 10 and Section 4.4 of this Bylaw. Any building or use of premises not specifically permitted is prohibited.
- B. The following uses are expressly prohibited:
  - 1. Fertilizer plants;
  - 2. Junk yards;
  - 3. Open-air storage of junk, salvage, unregistered vehicles, and wastes;
  - 4. Race tracks;
  - 5. Rendering plants;
  - 6. Salvage yards;
  - 7. Slaughterhouses;
  - 8. Manufactured housing;
  - 9. Hazardous waste facility; or
  - 10. Trailer or trailer camps.
- C. In all districts, surface runoff rates existing at predevelopment shall not be increased at post-development.
- D. In all districts, except Residential Districts, screening shall be provided, erected, and maintained to shield business and industrial uses of land and buildings from adjoining residential and municipal lots and shall consist of a solid fence, wall, landscaped earthen barrier, evergreen planting or combination of these elements not less than six feet in height running along the property line. Screening may be reduced to three and one-half feet where it acts to shield an adjacent public way.
- E. Any non-residential building with an aggregate sum of 5,000 square feet gross floor area or greater per site shall require site plan approval special permit by the Planning Board. This includes any additions to an existing, non-residential building that increases the aggregate sum of the gross floor area to more than 5,000 square feet per lot.
- F. Any mixed use shall be subject to the most restrictive provisions of all the uses included within the mixed use as determined by the Inspector of Buildings.

**6.3 Table of Use Regulations**

A. See Appendix A, Table 1.

B. Symbols in the Table of Use Regulations shall mean the following:

Y	—	A permitted use
N	—	A prohibited use
SZ	—	A use requiring a special permit from the Zoning Board of Appeals
SP	—	A use requiring a special permit from the Planning Board
SA	—	A use requiring a special permit and site plan approval from the Planning Board

**6.4 Special Regulations for Multifamily Dwellings**

A. Dimensional Requirements.

1. Area and frontage

- a. The minimum site size shall be 1.5 acres.
- b. The minimum frontage shall be 150 feet.
- c. Density

- (i) Buildings shall not cover more than 30 percent of the site.
- (ii) At least 40 percent of the site shall be maintained as green space.
- (iii) There shall be a minimum distance of 40 feet between residential buildings.
- (iv) No open parking or driveway shall be closer than 15 feet to a wall containing habitable space.
- (v) A minimum of 6,800 square feet of land shall be required for each dwelling unit.
- (vi) The required minimum area used in the calculation shall not include any bordering vegetative wetlands as defined by G.L. c. 131, § 40 and by 310 CMR 10.00 nor any flood plain as described in this Bylaw.

2. Density Incentive. In addition to the density allowed under this subsection, the maximum density may be increased by 20 percent if at least half of all additional units created are affordable housing as defined by Section 2. For example, if a site can be developed with 10 dwelling units by right or special permit, the density could be increased to a maximum of 12 units if one of the additional two units is affordable housing. In cases where 10 percent affordable housing is required, a project that is increased from 10 to 12 units would include two units of affordable housing and 10 market-rate units.

3. Yards.

- a. On each site, the minimum front setback shall be 35 feet, and the minimum side and rear setbacks shall be 30 feet.
- b. Where a multi-family dwelling abuts a single-family district, the side and rear

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setbacks shall be a minimum of 50 feet, which shall be retained in its natural wooded state or landscaped along the perimeter abutting the single-family district. In all cases, a landscaped buffer strip shall be provided to protect adjoining properties from the effects of noise, light, air, or visual impact.

### 4. Green Strips

- a. A 25-foot-wide green strip shall be provided around the perimeter of the tract, except where curb cuts are located.
- b. Green strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover, and flowers.
- c. The green strip shall not be built on, paved, or parked on.

### 5. Height. Multi-family dwellings shall not exceed two and one-half stories nor be more than 35 feet in height, provided that no habitable space shall be located below the mean finished grade of the ground adjoining the building or above the second story.

### 6. Parking. There shall be a minimum of two parking spaces per dwelling unit.

### 7. Infrastructure

- a. All sites must be served by sewer and water as approved by the appropriate Town board, department, commission, or agent.
- b. All sites shall have fire lanes as designated by the Billerica Fire Department for the purposes of fire protection.
- c. The requirement for a fire lane surrounding the structure shall not be construed to mean that paved access surrounding the structure is required. The area may be planted with low plantings of a size that would not impede fire vehicles.

### 8. Access Drive. All access roads shall be designed and constructed in accordance with the criteria specified by the Billerica Department of Public Works.

### 9. Affordable Housing Component

- a. Fifteen percent of the units created under these provisions shall be affordable housing as defined in Section 2 of this Bylaw. The Billerica Housing Authority is exempt from this requirement because the units under its control are categorically affordable.
- b. As an alternative to the above requirement, and as allowed by law, an applicant may contribute a fee per unit to the Town of Billerica to be used for the development of affordable housing in lieu of or in conjunction with constructing and offering affordable units within the locus of the proposed development. The fee per unit shall be based upon the calculation of the fair market price of the unit minus the construction cost of the unit or the construction cost, whichever is greater.
- c. The fee may be paid in one-third installments over the projected development's build-out, with the final payment to be made before the last unit is sold. The Select Board shall accept the fee to be used for Affordable Housing and expended in accordance with the provisions of G.L. c. 44, § 53a.

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10. Dwelling Units. Multi-family dwellings may be maintained as rental units or sold as condominiums. This shall not restrict the allocation of outdoor space adjacent to individual dwelling units for the exclusive use of the occupants.
11. Accessory Buildings and Structures
  - a. Swimming pools, garages, and all accessory uses, buildings, and structures that are part of a multi-family development shall comply with the green strip and setback requirements of this Bylaw.
  - b. A community building for meetings and social activities of the residents shall be permitted but shall not exceed 2,000 square feet of gross floor area and shall comply with all green strip and setback requirements of this Bylaw.
  - c. All accessory uses, buildings, and structures shall provide adequate parking.
12. Required Findings:
  - a. The use complies with the site plan approval requirements of this Bylaw;
  - b. The requested use is desirable to the public convenience or welfare;
  - c. The requested use will not create or add to undue traffic congestion, or unduly impair pedestrian safety;
  - d. The requested use provides for the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property, and improvements;
  - e. The requested use will not create or add to undue traffic congestion, or unduly impair pedestrian safety;
  - f. The requested use will not overload any public water, drainage, sewer, or municipal system or any other municipal system to 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.
  - g. 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
  - h. 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
  - i. The design and architectural treatment of the use are not incongruous with or inappropriate for the character of the neighborhood in which it is proposed to be constructed.
  - j. There is an adequate landscape buffer strip provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
  - k. No building or access facilities shall be placed on any portion of the land determined by the Board of Health to be unsuitable for such construction.

### **6.5 Special Regulations For Solar Energy Conversion Systems (SECS)**

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- A. Purpose: The purpose of these regulations is to provide standards for the placement, design, installation, monitoring, maintenance and operation of solar energy conversion systems to:
1. Address public safety, minimize impacts on scenic, natural and historic resources. and
  2. Allow individual homeowners and/or businesses to reduce energy costs and increase the availability of clean, renewable energy.
- B. General Provisions:
1. Where allowed, all freestanding SECS shall require special permit approval from the Planning Board prior to installation. Non-freestanding SECS, allowed by right, shall require a building permit from the Inspector of Buildings.
  2. Nothing in this section is intended to supersede any non-zoning requirement in any other local, state or federal regulation. If not specifically exempted, all zoning regulations of the zoning district in which the SECS are proposed are applicable.
  3. Maintenance: SECS shall be operated and maintained in good condition. Should any part of the system suffer damage or deterioration to become a threat to public health or safety, as determined by the Inspector of Buildings, the system shall be immediately removed or repaired by the property owner. Operation of the SECS shall not be allowed to resume until the Inspector of Buildings has determined that the SECS has been repaired and complies with all applicable regulations.
  4. Setbacks: Unless otherwise indicated, freestanding SECS shall conform to the current setback and height requirements for the zoning district in which it is to be located.
  5. On public property, no new plantings shall be allowed, and existing plantings shall be trimmed, to allow continuous solar access to SECS.
  6. Connections to the power grid:
    - a. For freestanding SECS, all utility connections, except transformers, shall be placed underground.
    - b. All applicants for SECS must notify the local electrical utility provider of the permit and submit documentation to that effect to the permitting authority, as outlined in Section B10 below, as part of the application.
    - c. A SECS shall be designed to prevent unauthorized access to the power grid.
  7. SECS are not allowed in Historic Districts without written approval from the appropriate Historic Districts Commission.
  8. No advertising unrelated to the production of electrical energy, of any type shall be allowed on any SECS except for the following:
    - a. Educational signs providing information about the facility and the benefits of renewable energy;
    - b. Reasonable identification of the manufacturer or operator of the SECS, not to include advertising displays;
    - c. There shall be a sign placed on all freestanding SECS that identify the

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owner/operator, provide a 24-hour emergency contact number and warn of any danger.

9. No additional off-street parking shall be required for any freestanding SECS, unless deemed necessary in the opinion of the Planning Board.

### 10. Height:

- a. A non-freestanding SECS shall not exceed 15 feet in height as measured from the base of the energy conversion system(s), at the point of attachment(s) to the highest possible point of the SECS.
  - b. The total height of the non-freestanding SECS, and the structure to which it is attached, shall not exceed the building height allowed in the zoning district in which the structure is located.
  - c. The total height of a freestanding SECS shall not exceed that which is permitted in the subject zoning district.
11. The Special Permit Granting Authority for freestanding SECS shall be the Planning Board. The Planning Board may impose reasonable stipulations, conditions, safeguards and limitations, and may require the applicant to implement reasonable measures to mitigate unforeseen adverse impacts of the SECS. In addition to other special permit criteria, to grant a special permit under this section, the Planning Board must find that:
    - a. The specific site is an appropriate location for the use;
    - b. The use is not expected to adversely affect the neighborhood and surrounding properties;
    - c. The use is not expected to create a nuisance; and
    - d. Adequate and appropriate facilities will be provided for the proper operation of the SECS.

### C. Permitting Procedures and Requirements:

1. Residential zones: In addition to the General Provisions in Section B above, the following procedures and requirements shall apply in all residential zones:
  - a. All non-freestanding SECS shall be allowed as an “as-of-right-siting”.
  - b. All freestanding SECS shall be allowed only after special permit approval from the Planning Board.
  - c. Only one freestanding SECS shall be allowed per property of one acre, or more. Freestanding SECS shall be considered accessory uses to the primary use of the property.
  - d. A permit application for freestanding SECS shall be submitted to the Planning Board for special permit approval. Unless specifically exempted by Section 6.5 or Section 4.3 of this Bylaw, the following requirements shall apply to an application for freestanding SECS:
    - (i) Section 4.7 A, B, E (except subsection 1), G, I, J, and K; and

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- (ii) The plan for special permit approval shall be prepared by a licensed professional engineer (PE) or registered land surveyor (RLS), as appropriate. If prepared by a RLS, the Planning Board may require certification by a licensed engineer as to the structural integrity of the SECS itself.
- e. Multiple, non-freestanding SECS may be permitted if attached to existing primary or accessory structures on the site.
- 2. Non-residential zones: In addition to the General Provisions in Section B above, the following procedures and requirements shall apply in all non-residential zones:
  - a. Freestanding SECS are subject to special permit approval from the Planning Board and may be subject to the conditions and requirements of previously granted special permit/site plan and special permit approvals for the subject property and/or uses.
  - b. SECS may be the primary use or an accessory use on a property and more than one structure may be placed on a property and/or building.
  - c. A permit application for freestanding SECS shall be submitted to the Planning Board for special permit approval. Unless specifically exempted by this Section 6.5, the following requirements shall apply to special permit applications for freestanding SECS:
    - (i) Section 4.7 A, B, E (except subsection 1), G, I, J, and K; and
    - (ii) The plan for special permit approval shall be prepared by a professional engineer (PE) and/or registered land surveyor (RLS), as appropriate. If prepared by a RLS, the Planning Board may require certification by a licensed engineer as to the structural integrity of the SECS itself.
  - d. All non-freestanding SECS shall be allowed as an as-of-right use.
- 3. In addition to sections C1 and C2 above, the following requirements shall apply to all SECS permit applications submitted for Planning Board or building permit approval:
  - a. An operation and maintenance plan (OMP) for the structure(s);
  - b. Documentation of the SECS manufacturer, outlining specifications of the system(s);
  - c. Requirements of Section 4.7 that apply to this section must be addressed in the permit application. If certain requirements of Section 4.7 are not appropriate or applicable, this must be indicated in the permit application and the reason for the inapplicability explained; and
  - d. If deemed appropriate, the Planning Board may require the filing of a surety instrument for a SECS sufficient to secure performance of the conditions and observance of the safeguards and limitations of the special permit approval. However, in no case shall the Planning Board place such conditions on the approval to make the installation of a SECS impractical or unusable. This requirement may not apply to the DPU or DTC per the provisions of G.L. c. 81R.

### **6.6 Special Regulations for Wireless Communication Facilities**

- A. Purpose.

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1. Section 6.6 provides for a special permit process for the siting of Wireless Communication Facilities while minimizing adverse impacts from the provision of wireless communication services, especially to properties in or abutting residential zoned neighborhoods.
  2. These regulations seek to minimize the number and height of associated facilities, provide standards and criteria regulating siting, promote the sharing of facilities, and help to promote, preserve and protect the quality of life for the residents of Billerica while seeking to remain in compliance with the Federal Telecommunications Act of 1996.
- B. Siting Criteria.
1. The Special Permit Granting Authority for this Section 6.6 shall be the Planning Board. Every application submitted under this section of the Bylaw shall meet the criteria set forth herein and under Section 4.3 of this Bylaw.
  2. WCFs shall be allowed in all zoning districts by Special Permit only. Whenever possible, WCFs shall be located in non-residential zoned districts. A WCF that must exceed any height restrictions within its zoning district may still seek a special permit provided the proposed facility complies with the remaining required regulations within the applicable zoning district.
  3. Preferred siting of WCFs is provided in the following order:
    - a. Existing WCF sites;
    - b. Town property, exclusive of school locations;
    - c. Industrial Districts;
    - d. Commercial Business Districts;
    - e. General Business Districts;
    - f. Neighborhood Business Districts; and Village, Neighborhood, and Rural Residential Districts.
    - g. WCFs shall not be placed within 250 feet of all municipal buildings which house employees for their scheduled working hours.
  4. Any new freestanding tower shall be of monopole construction. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are prohibited.
  5. Wireless Communication Facilities and Services are dependent upon multiple sitings to complete a network. Therefore, the application process requires the identification of all projected network sites so the Town can evaluate the application within the contents of the entire network.
    - a. Each carrier shall provide a geographic coverage map and narrative showing existing WCFs in the town and those outside the town within one mile of its corporate limits, whether it has a legal or equitable interest, whether by ownership, leasehold or otherwise. The map shall contain the following:

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- (i) A legend and scale;
    - (ii) Exact addresses of existing antenna locations and any identification numbers;
    - (iii) Labeled town borders;
    - (iv) Street names; and
    - (v) Landmarks, both natural and man-made.
  - b. The map shall show by color-coded overlay both current and proposed coverage, differentiating by both in-building and in-vehicle coverage. Said documentation shall demonstrate that these facility sites do not already provide, nor have the potential to provide by site adjustment, adequate coverage. The carrier shall present a description of the site's capacity, the number and type of panels, antenna, and/or transmitter, receivers it can accommodate and estimates of the cumulative emissions that will be generated on the site including but not limited to RFR.
  6. The applicant shall provide written documentation that the proposed facility uses the least disruptive technology available, at the time of application, by which it can provide adequate coverage in conjunction with all facility sites proposed and existing.
  7. No WCF shall be considered exempt from this Section 6.6 by sharing a tower or other structure.
  8. Antennas and directly related facilities used exclusively for communication by federally licensed amateur radio operators are exempt from this Section 6.6.
  9. Equipment Shelters/Base Facilities ("shelter") shall be designed to match other accessory buildings on the site, shall be compatible with the surrounding area, or constructed underground where possible, or camouflaged by the planting of an evergreen hedge not less than 75 percent of the height of the structure at the time of planting and shall be used only for the housing of equipment related to the particular site but may be used by more than one carrier. Only one such shelter shall be allowed per WCF.
  10. Clustering of several wireless communications facilities on an individual lot may be allowed if the Planning Board finds that the visual and aesthetic impact on surrounding residential neighborhoods or dwellings would not be significantly more detrimental than having only a single wireless communications facility.
- C. Setbacks.
1. For new construction regardless of the yard setbacks required under this Bylaw, in the applicable zoning district, monopoles and accessory structures shall be set back from all property lines at least the vertical height of the monopole structure, including other antennas and appurtenances, as measured from the base of said structure, plus 10 feet. There shall be no exception to this provision.
  2. To preserve the character of residential neighborhoods and to minimize the associated negative visual images and auditory impacts on adjacent property and its value, and to minimize accessibility of the equipment storage facilities to children, WCFs regardless of sited zoning district shall not be placed within 250 feet of adjacent

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residential dwellings, and 800 feet of adjacent public schools and 250 feet of all municipal buildings which house employees for their scheduled working hours. This measurement is taken from the base of the structure and the equipment storage facility to the nearest point of such residential dwellings.

### D. Fall Zone.

1. All free-standing towers shall maintain a fall zone of at least the height of the tower plus 10 feet from any adjacent building or structures not associated with the telecommunications facility. Antennas, panels, whip antennas, satellite dishes, which are attached to existing structures or erected on building tops will comply with a direct fall zone area as described in the second and third bullets directly below.
2. All side/surface antenna and satellite dishes which are attached to existing structures/building mount shall have a fall zone directly below the antenna, as measured from the base of the structure/building to which it is attached, equal to one-half ( $\frac{1}{2}$ ) the height of the antenna above ground level (AGL) to protect against falling debris such as ice.
3. All rooftop antenna mounts and satellite dishes erected on building tops shall have a fall zone surrounding the antenna equal to the height of the antenna as measured from its base to the highest point in a radius. Facilities mounted on rooftops shall be stepped back the height of the antenna from the facade to limit the impact on the building silhouette.
4. Antenna mounts and satellite dishes attached to structures shall comply with the individual applicable fall zone requirements for the structure identified within this Bylaw or the height of the structure plus 10 feet including antenna extensions, whichever is greater.

### E. Height Criteria.

1. All freestanding towers shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future users. The maximum allowed height of towers in their respective zoning districts shall be as follows unless the applicant demonstrates that a greater height is required to allow for provision of the wireless communications services or unless the Planning Board finds that co-location on said tower is both practical and preferable.
  - a. Town owned property, excluding school locations and all municipal buildings which house employees for their scheduled working hours – the maximum height allowed for structures in the underlying zoning district plus 10 feet.
  - b. Industrial District – 180 feet.
  - c. Commercial Business and General Business Districts 80 feet.
  - d. Neighborhood Business Districts – 60 feet
  - e. Village, Neighborhood and Rural Residential Districts – 45 feet
2. A Wireless Communication Facility may be attached to an existing structure/building,

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if the structure/building meets the height requirements of this Bylaw in the applicable zoning district or met the height requirements of the Bylaw when built (nonconforming building/structure) or received a separate special permit pursuant to Section 9 of this Bylaw.

3. No tower, including the antenna attached thereto, shall significantly exceed the height requirements set forth under this Bylaw in the applicable zoning district. Significantly for this purpose is defined as “no higher than 10’ above the height limitation contained herein. If there are no structures/buildings within 250 feet of the proposed facility, such facility shall be no higher than 10 feet above the average tree canopy height, measured from ground level (AGL).
  4. Antennas or panels, which are located on non-residential buildings/structures, shall be mounted to be less than 12 feet in height above the roofline of the building/structure. Dish antennas shall be dimensionally proportional to mount area. Panels shall be no more than 7 feet in height.
- F. Camouflage.
1. All towers, associated equipment, antennas, buildings, structures, and appurtenances shall be painted, treated, shielded, or camouflaged to blend in with the landscape or resemble an architectural feature of the building or structure on which they are placed.
  2. To the extent that any WCF extends above the height of the vegetation immediately surrounding it, it shall be painted light gray or light blue which blends with the sky/ clouds /skyline and horizon.
  3. All WCFs shall be sited to minimize visibility from abutting streets and nearby buildings and to limit the need to remove existing vegetation. If deemed applicable by the SPGA, WCFs shall provide a year-round vegetated buffer of sufficient height and depth to effectively screen the WCF.
- G. Security. Accessory structures and equipment required for the operation of WCFs, including but not limited to, batteries, generators, electric, and electronic equipment shall be secured from unauthorized entry or trespass by means of a locked enclosure. Said enclosure shall be consistent and compatible with the provisions of the zoning district in which the facility is located.
- H. Lighting. WCFs shall be lighted only if required by the Federal Aviation Administration. No exterior night lighting of WCFs is permitted except for manually operated emergency lights for use when operating personnel are on site and shall be shielded from abutting properties. There shall be total cutoff of all light at the lot lines of the site of the WCF.
- I. Signage. Signs shall be limited to those needed to identify property owner/operator, a 24-hour emergency number, and to warn of any danger. All signs shall be consistent with the sign requirements of Section 10.2 of this Bylaw. Advertisement on any antenna, tower, fencing, accessory building or equipment is prohibited.
- J. Parking. The SPGA shall determine the maximum and minimum parking space ratio and access road requirements based on the character of the proposed use.

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K. Interference. No interference to existing television, cable television, on-line phone components, hearing or health assisting devices, electronic or electrical equipment or radio signals, including police, fire, public safety and ambulance systems shall be permitted from the tower or related components. If interference occurs, it shall be the responsibility of the facility owner/operators to correct the problem within 30 days.

L. Emissions.

1. All equipment proposed for the WCF shall comply with the most current Federal Communications Commission (FCC) guidelines (Guidelines of Evaluating the Environmental Effects of Radiofrequency Radiation).
2. An independent engineer hired by the Planning Board at the owner’s expense shall conduct annual random testing of all emissions for all sites. Timely test results will be submitted to the Town. The WCF emissions must comply with FCC RF standards, or services shall be immediately terminated.
3. The applicant shall provide a certification from an RF engineer listing the existing and maximum future projected measurements of all emissions, including RFR, from the proposed WCF, for the following situations and that those emissions meet FCC Guidelines:
  - a. Existing, or ambient: the measurements of existing emissions.
  - b. Existing plus proposed WCF: maximum estimate of emissions from the proposed personal WCF plus the existing emissions environment.
4. Within 90 days upon the WCF becoming operational, and annually from the date of issuance of the special permits thereafter, the applicant shall submit, measurements of emissions from the wireless facility. Such measurements shall be signed by a RF engineer, stating the RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Standards section of the Guideline.

M. Noise.

1. WCFs shall not generate noise from equipment and/or wind more than the following Noise Standards:

<i>RECEIVING PROPERTY CATEGORY</i>	<i>Residential property, or residential portion of a multi-use property</i>	<i>Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility</i>
<i>TIME</i>	<i>7am-9pm 9 pm-7am</i>	<i>24 hours</i>
<i>Maximum A-Weighted sound level standard, dB</i>	<i>50 40</i>	<i>65</i>

Notes to Table:

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- Acoustical terminology referred to in this bylaw relative to these Noise Standards are as defined in ANSI S1.1- 1994(R1999) American National Standard Acoustical Terminology.
  - Sound level meter specifications referred to in this bylaw relative to these Noise Standards are as defined in “ANSI S1.4A-1983 (R1997) Amendment 1 – American National Standard Specification for Sound Level Meters”
  - American National Standards Institute (ANSI) standards referred to relative to these Noise Standards shall be superseded by the latest available versions.
2. The Noise Standards apply at the nearest property line for both ground-mounted and roof and side/surface mounted WCFs.
  3. Sound shall be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum, and fluctuating rates.
  4. Measurements shall be collected with a Sound Level Meter, integrating sound level meter or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI Standard S1.4-1983.
  5. The measuring instrument must be calibrated using a calibrator recommended by the measuring instrument manufacturer before and after each series of readings. The measuring instrument must be re-certified and the calibrator must be re-calibrated at least once each year by the manufacturer or by a person that has been approved by the manufacturer. A copy of written documentation of such re-certification and re-calibration shall be kept with the equipment to which it refers.
  6. No outdoor measurements shall be taken:
    - a. During periods when wind speeds (including gusts) exceed 15 miles per hour;
    - b. Without a windscreen, recommended by the measuring instrument manufacturer, properly attached to the measuring instrument;
    - c. Under any condition that allows the measuring instrument to become wet (e.g., rain, snow or condensation); or
    - d. When the ambient temperature is out of the range of the tolerance of the measuring instrument.
  7. The report for each measurement session shall include:
    - a. The date, day of the week, and times at which measurements are take;
    - b. The times of calibration;
    - c. The weather conditions;
    - d. The identification of all monitoring equipment by manufacturer, model number and serial number;
    - e. The normal operating cycle of the sources in question with a description of the sources;

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- f. The ambient sound level, in dB (A), with the sources in question operating;
  - g. The background sound level, in dB (A), without the sources in question operating;  
and
  - h. A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.
8. When measuring continuous sound, or sound that is sustained for more than 1 second at a time, the measuring instrument shall be set for A-weighting, slow response, and the range (if the measuring instrument is designed to read levels over different ranges) shall be set to that range in which the meter reads closest to the middle of the scale. The minimum and maximum readings shall be recorded to indicate the range of monitored values along with the central tendency average most often displayed. The measuring instrument shall be placed at a minimum height of 3 feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the measuring instruments' manufacturer. The monitoring session should last for a period sufficient to ensure that the sound levels measured are typical of the source in question.
  9. The applicant shall provide, as part of its Special Permit Application, a statement listing the existing (pre-development) and maximum future projected measurements of noise from the proposed wireless service facilities, measured in decibels, for the following:
    - a. Existing, or ambient: the measurements of existing noise.
    - b. Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
    - c. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards listed above.
  10. Within 90 days upon the WCF becoming operational, and annually (semi-annually if the WCF is Located within 250 feet of a residential dwelling or within 800 feet of a public school or 250 feet from a municipal building which houses employees for their scheduled working hours) from the date of issuance of the special permit, the applicant shall submit noise measurements from WCF. An acoustical engineer, engaged by the SPGA at the applicant's expense, shall certify that noise measurements are accurate and meet the standards established in this bylaw.
  11. If noise levels exceed the limits specified herein, the source of the noise emission shall be immediately terminated. Operations shall not continue until the entity responsible for the operation of the WCF corrects any such noise violation.
  12. For the Construction period the applicant shall describe, as part of the Special Permit application, how noise will be controlled during construction. Noise limits at any residential boundary shall not exceed 65 dB(A) during the construction period, which will be limited to 8:00 AM to 6:00 PM Monday through Friday.

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### N. Environmental.

1. The National Environmental Policy Act (NEPA) applies to all applications for wireless services facilities. The FCC via procedures adopted as Subpart I, Section 1.1301 et seq, administers NEPA. (47 CRF, Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any WCF proposed in or involving any of the following: Wilderness areas, wildlife preserves, endangered species habitat, historical site, Indian religious site, flood plain, wetlands, high-intensity white lights in residential neighborhoods and excessive Radiofrequency radiation exposure.
2. At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each WCF site that requires such an EA to be submitted to the FCC.
3. The applicant shall list the location, type, and amount (including trace elements) of any materials considered hazardous by the federal, state, and local governments and proposed for use with the wireless service facility.
4. The Planning Board may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed WCF.

### O. Co-Location.

1. Licensed carriers shall share WCF sites where feasible and appropriate, thereby reducing the number of WCFs that are stand-alone facilities.
2. All applicants for a special permit for a WCF shall demonstrate a good faith effort to co-locate with other carriers if applicable and appropriate. Such good faith effort includes:
  - a. A survey of all existing structures that may be feasible sites for co-locating WCFs.
  - b. Contact with all licensed carriers for WCFs operating in the county; and
  - c. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
3. The SPGA may retain a technical expert in the field of RF engineering, at the applicant's expense, to verify if co- location at the site is feasible and the design configuration most accommodating to co-location.
4. Carriers proposing co-locating shall provide certification by an RF engineer demonstrating the appropriateness of co-location.

### P. Aesthetics.

1. The applicant shall submit existing condition photos and superimposed proposed photos showing what will be seen from the nearest abutter lot line.
2. The applicant shall arrange, at its own expense, for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the

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Town at least 14 days, but not more than 21 days prior to the test.

- Q. Cessation.
1. A special permit issued for any WCF shall be valid for a fixed or conditioned period as determined by the SPGA or a maximum 20 years. At the expiration of the permit, the WCF shall be removed by the owner or a new special permit shall be required.
  2. No less than 30 days prior to abandonment or discontinuation of operations of a WCF, the owner shall notify the Town by certified mail of the proposed date of abandonment or discontinuation.
  3. All structures and/or equipment erected for providing WCS shall be removed within 6 months of cessation of use at the owner's expense. Removal shall include, but not be limited to the removal of all equipment necessary for the operation of wireless communication services by a WCF; disposal of waste materials and the restoration of the location to its natural condition, grading and landscaping.
  4. If a carrier fails to remove a WCF in accordance with this section, the Town shall have the authority to enter the site and physically remove the WCF. A bond or other form of financial security posted at the issuance of a building permit may be required to cover the costs of removal and restoration.
- R. Maintenance. The applicant and co-applicant shall maintain the WCF in good condition. Such maintenance shall include, but shall not be limited to painting, structural integrity of the mount and security barrier, and maintenance of the buffer area and landscaping.
- S. Modifications. Any proposed change in technology for an existing WCS, adjusted power input or output change, extension in height, the addition of cells, antennas, panels, or carriers, or construction or modification of a new or replacement WCF shall require a new application for a special permit in accordance with Section 4.3 of this Bylaw.
- T. Specifications. The applicant shall follow the application process set forth under Section 4.3 of this Bylaw and the rules and regulations of the Planning Board and shall submit complete, dated and revised documentation to demonstrate compliance with this section. The applicant shall submit the following:
1. Evidence that the applicant has filed a notice of proposed construction with the Federal Aviation Administration if the proposed facility exceeds 200 feet in height or in the event such notice is otherwise required.
  2. The special permit holder shall file annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance with the Inspector of Buildings.
  3. Copies of all applicable permits, including but not limited to all State and Federal permits required for this project and a certification of compliance with the terms and provisions of the license issued for this purpose by the Federal Communications Commission (FCC).
  4. All WCF carriers shall periodically file information with the Town, upon request of the SPGA, information of the operational aspects of the facility including but not

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limited to:

- a. Power consumption,
  - b. Power radiation,
  - c. Noise compliance,
  - d. Frequency transmission;
  - e. The number, location, and orientation of antenna; and
  - f. Types of services provided.
5. Two photographic super-impositions of the WCF within the subject property. Photographic superimpositions shall be provided for the antennas, mounts, equipment shelters and related equipment, cables as well as cable runs, access roads, parking, and security barrier, if any.
6. In addition, the applicant shall submit the following:
- a. The number, type, and functional description of antenna proposed. The frequency modulation and class of service;
  - b. The direction of the maximum lobes;
  - c. Equipment brochures for the proposed WCF such as manufacturer's specifications or trade journal reprints for the antennas, mounts, equipment shelter, cables as well as cable runs, and security barrier, if any;
  - d. A description of all WCF related fixtures, including but not limited to electronic and electric equipment generators, battery packs, power cabinets, transceivers, etc. , appurtenances and apparatus, structures including height, materials, color and lighting;
  - e. Materials of the proposed WCF specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters and related equipment, cables as well as cable runs, and security barrier, if any;
  - f. Colors of the proposed WCF represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters and related equipment, cables as well as cable runs, and security barrier, if any; and
  - g. Dimensions of the WCF specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters including but not limited to electronic and electric equipment, generators, battery packs, power cabinets, transceivers, etc., and security barrier if any.
7. A construction bond or other form of financial security posted at the issuance of a building permit may be required to ensure that the WCF is built as documented before the SPGA and meets all SPGA requirements.
- U. Application Specifications.
1. A report shall be submitted by the applicant, including, but not limited to, the

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following:

- a. A locus-context map of all land within 500 feet of any part of the tract.
  - b. Property lot lines for subject property and all adjacent properties within 500 feet.
  - c. All dwellings and principal buildings located on the site and all within 250 feet of the proposed WCF. Gross floor area of all non-residential buildings and elevations.
  - d. The land use of each lot and total land area including developable site area, common or usable open space, if any.
  - e. Location of rights-of way, roads; public and private, on said property and adjacent properties within 500 feet. Area ratio of all impervious surfaces.
  - f. Proposed changes for temporary or permanent roads and driveways.
  - g. Existing contours at two-foot intervals for subject property and adjacent property within 500 feet.
  - h. Principal natural features in general such as: significant rock outcroppings, tree cover, dominant species, average heights of vegetation, water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the 100-year flood elevation.). Significant vegetation (including mature trees, unique specimens of vegetation, and vegetation that indicates wetness.
  - i. Zoning district boundaries.
  - j. Recorded easements on the site and within the 500' locus.
  - k. Public facilities, such as conservation or recreation land, footpaths, bicycle paths, or streets within 500' of the site.
  - l. Significant noise/visual impact (including views from the site and sources of noise affecting the site.)
  - m. Historically or architecturally significant structures and sites on the site.
  - n. Proposed location of antenna mount and equipment shelter.
  - o. Proposed security barrier indicating type and extent as well as point of controlled entry.
  - p. Grading and landscape plan including existing trees and shrubs and those to be removed or added, identified by size of specimen at installation and species. Grade changes, cuts and fills, to be shown as original grade and new grade line, with 2-foot contours above mean sea level.
  - q. The proposed drainage system.
2. The application for a Special Permit shall be prepared in bylaw order.
  3. The Planning Board shall provide a check list of what is required in an application for a WCF Special Permit. A potential WCF vendor shall obtain this checklist before applying for a Special Permit and shall by signature of an authorized agent affirm its reception to the Planning Board.

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4. A WCF vendor, at the time of submittal of their application, shall verify with an authorized agent of the Planning Board that all information identified in the checklist is contained in the application. The checklist shall be used to verify all information required is provided.

### V. Approval Criteria.

1. A special permit may be granted under this section only if the Planning Board finds the project complies with the purpose, intent, and criteria contained in this Section 6.6 and Section 4.3 of this Bylaw. In addition, the Planning Board shall make the applicable findings before granting the special permit as follows:
  - a. That the applicant is not already providing adequate coverage or is unable to provide adequate coverage as defined within the contents of this Bylaw;
  - b. That the applicant is using the most preferred site available, see Section 6.6B;
  - c. That the proposed wireless communications services and facility minimizes and does not substantially adversely impact any historic resources, scenic views, residential property values, and natural or man-made resources. The Planning Board shall consider the cumulative impact of all related applications in the same geographic area;
  - d. That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities, including but not limited to, the aesthetic and auditory concerns of the residential neighborhoods;
  - e. That the applicant has agreed to rent or lease available space on any tower it controls within Billerica or its contiguous towns, when appropriate and applicable, as determined by the Planning Board or supportive documentation submitted by the applicant, under the terms of a fair-market lease, without discrimination to other providers to the extent it is technically feasible.;
  - f. That the facility shall comply with the appropriate FCC regulations regarding emissions and arrangements for monitoring said emissions; and
  - g. That there is a substantial gap in telecommunications service and the proposal is the least intrusive means to fill the gap.
2. If a special permit is granted, in addition to such terms and conditions as may be authorized by this Bylaw, the Planning Board may impose such additional conditions and safeguards as public safety, welfare and convenience may require.

### W. Denial Criteria.

1. Should the applicant substantially fail to meet any of the requirements set forth in this Section 6.6, then the Special Permit shall be denied.
2. The Planning Board shall deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location if applicable and appropriate.
3. A special permit shall not be denied if the denial of the special permit would unreasonably discriminate among providers of functionally equivalent services. Note

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that only “unreasonable” discrimination among providers is prohibited, and that the Federal Telecommunications Act of 1996 allows facilities that create different visual, aesthetic or safety concerns to be treated differently.

4. A special permit shall not be denied if the denial of the special permit would prohibit, or have the effect of prohibiting, the provision of personal wireless services within the town of Billerica. Note that applications to construct a WCF in an under-served area, if the service gap can be filled by less intrusive means, may still be denied. The Planning Board shall not use this clause for granting of the special permit unless an independent assessment of the applicant’s proposal is certified by an independent RF engineer, hired by the Town at the applicant’s expense, stating that the applicant cannot build a town-wide network without this site.

## **Section 7. Required Findings for Special Permit Uses**

Where designated in the Table of Uses, the following uses may be approved by special permit from the Board of Appeals or Planning Board, or by special permit with site plan approval by the Planning Board, subject to the findings and requirements provided in this Section 7.

### **7.1 Conservation, Agricultural, and Outdoor Recreation Uses**

#### **A. Outdoor Recreation. Required findings:**

1. The use will not be detrimental to the neighborhood in which it is located;
2. The use will not create adverse traffic conditions in the area in which it is located;
3. The hours of operation of the use are compatible with the uses in the neighborhood;
4. Parking and access for the use are adequate; and
5. The use will not result in objectionable noise, lighting, or fumes.

### **7.2 Public, Institutional Uses**

#### **A. Cemetery. Required findings:**

1. The use will not be detrimental to the character of the neighborhood
2. The use will not create traffic or parking congestion that will adversely affect the neighborhood

#### **B. Nursing Home. Required findings:**

1. The minimum lot size is five acres in the residential districts and three acres in the business and industrial districts;
2. Buildings are set back a minimum of 50 feet from all property line
3. The minimum lot frontage is 150 feet;
4. The maximum lot coverage is 25 percent;
5. There is one parking space for each employee on the maximum shift and one parking space for every three beds;
6. Adequate site circulation is provided to and from the site, taking into consideration the adjacent sidewalks and streets and the accessibility of the site and buildings thereon for emergency vehicles;
7. The facility meets the green strips and green space requirements of this Bylaw;
8. The facility is serviced by public water and sewer of sufficient capacity to serve the facility;
9. The nursing home will not constitute a hazard or a nuisance;
10. The nursing home will conserve the public health, safety, convenience, morals and welfare; and
11. The nursing home will not have a detrimental or injurious effect on the neighborhood.

**7.3 Non-Profit, Philanthropic Uses**

A. Club, Lodge, Other Philanthropic Use; Required Findings:

1. The use is compatible with the surrounding area
2. Traffic increase will not be detrimental to the surrounding area
3. Adequate delivery and loading is provided
4. The use is not obnoxious, hazardous, or injurious to the neighborhood or property in the vicinity of the use
5. Any use of the club for fairs, bazaars, antique shows, or similar events are with the owner's permission and are conducted on the same lot as the principal use or on an adjacent lot in the same ownership and in the same zoning district

**7.4 Residential Uses**

A. Affordable Housing on Undersized Lots; Required Findings:

1. The purpose of Section 7.4A is to allow the construction of single-family dwelling units by special permit from the Board of Appeals on lots that do not meet the current lot dimensional requirements of this Bylaw. Dwellings approved under this Section 7.4A shall be affordable to families and shall be compatible with prevailing residential densities in the neighborhood where they are to be built.
2. The Board of Appeals may grant a special permit subject to the following findings:
  - a. The minimum lot area shall be 15,000 square feet in the Village Residence District; 20,000 square feet in the Neighborhood Residence District; and 25,000 in the Rural Residence District.
  - b. The lot area in all districts shall be at least 50 percent of the minimum area required under this Bylaw.
  - c. The minimum lot frontage shall be 75 feet.
  - d. The applicant shall demonstrate that the majority of lots developed with single-family dwellings within 300 feet of the subject property lines have less area than the minimum required under current zoning. The applicant shall submit a map of all lots within the 300-foot perimeter of the lot and the existing lot areas. Undeveloped parcels and non-single-family dwellings shall not be counted.
  - e. All single-family dwellings built under this provision shall be affordable as defined elsewhere in this Section 7.4A. In those cases where more than one lot is created under the provisions of the subdivision control law, all lots created shall be utilized as affordable unless a particular lot conforms to all current lot dimensional requirements. In that case, the conforming lot does not have to be affordable. Variances shall not be considered in satisfying compliance under this provision.
  - f. Applicants seeking approval shall agree to sign a recordable deed restriction that will guarantee that the subject dwelling(s) will remain affordable in perpetuity. Such restriction shall be approved by the town and reviewed by town counsel.
  - g. The Billerica Housing Authority (BHA) or other agency qualified by the Select

## Billerica Zoning Bylaw

Board shall perform the income verification of the qualified affordable housing unit purchaser or tenant.

- h. The BHA or other agency qualified by the Select Board shall be responsible for the long-term monitoring of these dwellings.
  - i. Dwellings built under this Section 7.4A shall be adequate to accommodate a family of three or more. Interior features of affordable units shall comply in all respects with the minimum design and construction standards set forth in the Executive Office of Housing and Livable Communities (EOHLC) Local Action Units (LAU) Guidelines in effect on the date of the special permit application.
  - j. There shall be no further exception to the dimensional relief provided by this Section 7.4A. Failure to meet any provision shall result in the outright invalidation of these exceptions. Lots that require variances in addition to the relief outlined here shall not qualify under this provision.
  - k. The BHA or other agency qualified by the Select Board shall administer purchaser or tenant selection. The town reserves the right to apply a local preference in the selection process.
3. Unless described herein all other district restrictions shall apply to the applicable lot(s).
  4. The Board of Appeals may condition the granting of this special permit to address any potential impacts on the surrounding neighborhood.

### B. Assisted Living Residence. Required findings:

1. The minimum lot size is five acres in the residential districts and three acres in the business and industrial districts'
2. The maximum density is 12 units/acre;
3. Buildings are set back a minimum of 50 feet from all property lines and no building is closer than 200 feet to an existing residential dwelling'
4. The minimum lot frontage is 150 feet;
5. The maximum lot coverage is 25 percent;
6. There is one parking space for each employee on the maximum shift and one parking space for every three assisted living units;
7. Adequate site circulation is provided to and from the site, taking into consideration the adjacent sidewalks and streets and the accessibility of the site and buildings thereon for emergency vehicles;
8. The facility meets the green strips and green space requirements of this Bylaw; and
9. The facility is serviced by public water and sewer of sufficient capacity to serve the facility.

### C. Two-Family Dwelling. Required findings:

1. The proposed use meets all dimensional and parking requirements of this Bylaw; and

## Billerica Zoning Bylaw

2. The proposed use is not detrimental to the character of the neighborhood where it is located.

### **7.5 Business and Commercial Uses; Retail**

- A. Garden Shop. Required findings:
  1. All dust, noise, or other objectionable effects of the use are confined to the premises.
- B. Greenhouse, non-agricultural. Required findings:
  1. The use is compatible with the surrounding area;
  2. Traffic increase will not be detrimental to the surrounding area; and
  3. Adequate delivery and loading is provided.
- C. Open Air Sales. Required findings:
  1. The use does not include salvage materials;
  2. All dust, noise, or other objectionable effects of the use are confined to the premises containing the use; and
  3. The use is not hazardous by reason of the potential for fire, explosion, radiation release, or other casualty.
- D. Retail Store. Required findings:
  1. The use is compatible with the area where located;
  2. The use does not adversely impact traffic;
  3. There are sufficient loading and unloading facilities;
  4. There is adequate landscaping and buffer to screen the use from surrounding uses;
  5. Adequate garbage and rubbish disposal facilities are located on the property and are adequately screened; and
  6. The use is not detrimental to the existing business climate or to future business development in the area.
- E. Supermarket. Required findings:
  1. The use complies with the site plan approval requirements of this Bylaw;
  2. The use is not detrimental to the area in which it is located;
  3. All dust, noise, or other objectionable effects of the use are confined to the premises containing the use;
  4. The use is not hazardous by reason of the potential for fire, explosion, radiation release, or other casualty;
  5. There are sufficient loading and unloading facilities;
  6. The use does not adversely impact traffic;
  7. There is adequate landscaping and buffer to screen the use from surrounding uses; and

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8. Adequate garbage and rubbish disposal facilities are located on the property and are adequately screened.

### **7.6 Business and Commercial Uses; Services**

#### **A. Dog Kennel. Required Findings:**

1. The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects;
2. No Dog Kennel shall be located within 400 feet of a residential dwelling;
3. There is a maximum of 15 dogs (or a maximum of 20 in the Industrial District) at any one time on the premises;
4. There shall be a minimum of 40 square feet of recreational space per dog. The recreational space may be inside or outside the facility or a combination thereof;
5. There is a minimum of 1,000 square feet (or a minimum of 1,500 square feet in the Industrial District) of interior gross floor area;
6. There is a minimum of 1000 square feet (or a minimum of 1,500 square feet in the Industrial District) of exterior space enclosed by an eight-foot non-chain link fence with the finished surface facing in and a similar gate for the dogs to exercise;
7. There shall always be an attendant on the premises when there are dogs at the site;
8. The owner of the Commercial Kennel shall comply with all applicable laws related to the kenneling of animals;
9. The Commercial Kennel shall be operated as a secondary and subsidiary use of the premises by a permanent resident of the premises; and
10. All kenneled dogs shall be kept indoors between the hours of 9:00 PM and 7:30 AM.

#### **B. Dog Daycare or Dog Training. Required Findings:**

1. The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects
2. There is a maximum of 15 dogs at any one time on the premises in the General Business District, nor more than 20 dogs at a time on the premises in the Industrial District.
3. There is a minimum of 1,000 square feet of interior gross floor area in the General Business District and a minimum of 1,500 square feet in the Industrial District.
4. There is a minimum of 1,000 square feet of exterior space in the General Business District and a minimum of 1,500 square feet of exterior space in the Industrial District, enclosed by an eight-foot non-chain link fence with the finished surface facing in and a similar gate for the dogs to exercise.
5. An attendant is on the premises at all times when there are dogs at the site
6. There are no dogs on the site before 7:00 a.m. or after 9:00 p.m. in the General Business District or before 6:00 a.m. or after 10:00 p.m. in the Industrial District.

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7. For Dog Training, there shall be no outside on-premises training.

C. Funeral Home. Required findings:

1. The use will not be detrimental to the character of the neighborhood;
2. The building or structure is in character with the buildings and structures in the neighborhood; and
3. The use will not create traffic or parking that adversely impacts the neighborhood.

D. Repair Shop. Required findings:

1. The use is not detrimental to the area in which it is located;
2. The use will not result in any odors, fumes, noise, vibrations, chemical spills, or hazardous wastes; and
3. The use will be conducted entirely within a building.

### **7.7 Business & Commercial Uses; Accommodations and Food Services**

A. Drive-Up/Drive-Through Restaurant. Required findings:

1. The customers are served inside the perimeter of a building, enclosure, or canopy;
2. The green strips and green space as set forth in this Bylaw are complied with;
3. Adequate safeguards are employed to control the disposal of disposable containers, including requirements for the use of biodegradable materials;
4. The use does not adversely impact traffic or traffic circulation; and
5. The use is not detrimental to the area in which it is located.

B. Fast-Order Food Establishment. Required findings:

1. Adequate safeguards are employed to control the disposal of disposable containers including requirements for use of biodegradable materials; and
2. The use does not adversely impact traffic or traffic circulation.
3. In addition to B(1) and B(2) above, the following findings are required in the Industrial District:
  - a. The use is compatible with the area where located;
  - b. There are sufficient loading and unloading facilities;
  - c. There is adequate landscaping and buffer to screen the use from surrounding uses;
  - d. Adequate garbage and rubbish disposal facilities are located on the property and are adequately screened; and
  - e. The use is not detrimental to the existing business climate or future business development in the area.

C. Motel or Hotel. Required findings:

1. The use is located on at least three acres of land;

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2. The use has a minimum of 100 guest rooms or suites;
3. Open space is provided on the lot in addition to any area required for parking and associated driveways, equal to twice the gross ground floor area of the hotel or motel;
4. Rooms or suites of rooms shall not contain cooking facilities unless specifically permitted by the Board;
5. In addition to C(1) through C(4) above, the following findings shall be required: in the Industrial District:
  - a. The use is not detrimental to the area in which it is located
  - b. The use will not result in any odors, fumes, noise, vibrations, chemical spills, or hazardous wastes
  - c. The use will be conducted entirely within a building.

### D. Restaurant. Required findings:

1. The use is compatible with the surrounding area;
2. The food is consumed by persons at tables within the building;
3. The food is served on chinaware and beverages are served in glasses or china cups;
4. The incidental sale of food is restricted to “take out,” and adequate safeguards are employed to control the disposal of disposable containers;
5. Traffic increase will not be detrimental to the surrounding area;
6. Adequate delivery and loading is provided.
7. In addition to D(1) through D(6) above, in the Industrial District, the Board shall find that:
  - a. Adequate garbage and rubbish disposal facilities are located on the property and are adequately screened;
  - b. There are sufficient loading and unloading facilities;
  - c. There is adequate landscaping and buffer to screen the use from surrounding uses; and
  - d. The use is not detrimental to the existing business climate.

### **7.8 Business & Commercial Uses; Financial, Offices**

#### A. Bank. Required findings:

1. The use is compatible with other uses in the area where located; and
2. There is adequate landscaping and buffer to screen the use from surrounding uses.

### **7.9 Business & Commercial Uses; Amusement, Recreation Businesses**

#### A. Golf Course. Required findings:

1. The proposed golf course shall be located on a minimum of 10 acres; and
2. All accessory uses, if any, shall meet the special permit requirements for those uses as

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set forth in this Bylaw.

- B. Riding Stable. Required findings:
  - 1. The use will not be detrimental to the neighborhood in which it is located;
  - 2. The hours of operation of the use are compatible with the uses in the neighborhood; and
  - 3. Parking and access for the use are adequate.
- C. Swimming Pool (non-accessory). Required findings:
  - 1. The use will not be detrimental to the neighborhood in which it is located;
  - 2. The hours of operation of the use are compatible with the uses in the neighborhood; and
  - 3. Parking and access for the use are adequate.

### **7.10 Business & Commercial Uses; Unclassified**

- A. Fully Automated Business. Required findings:
  - 1. The use is not detrimental to the area in which it is located;
  - 2. The use does not adversely impact on traffic or traffic circulation; and
  - 3. The use is compatible with other uses in the area.
- B. Research Facility. Required findings for a special permit in the Neighborhood Business District:
  - 1. The use complies with the site plan approval requirements of this Bylaw;
  - 2. The use will not be detrimental to the character of the neighborhood;
  - 3. The building or structure is in character with the buildings and structures in the neighborhood;
  - 4. The use will not create traffic or parking that adversely impacts the neighborhood;
  - 5. The use is compatible with other uses in the area;
  - 6. The use is not detrimental due to the storage or disposal of hazardous wastes and materials, flammable liquids, or highly combustible or explosive materials;
  - 7. Adequate disposal for all types of wastes is provided;
  - 8. The use will not subject other uses in the area to hazards affecting health, safety, or the general welfare; and
  - 9. The use will neither impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience, or welfare.

### **7.11 Business & Commercial Uses; Vehicle-Related Businesses**

- A. Auto Repair, Auto Service, or Auto Washing. Required findings:
  - 1. No proposed facility shall be located closer than 1,300 feet from another similar

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business.

2. Auto Repair, additional finding: all repairs, except minor repairs, shall be conducted entirely within a building housing the use.
3. Auto Service, additional finding, all maintenance and service, other than minor service at the island and emergency repairs, shall be conducted entirely within a building.

### B. Auto Sales. Required findings:

1. The use is not detrimental to the area in which it is located; and
2. The use is not located within 1,300 feet of another similar use.
3. In addition, for Auto Services in the Industrial Zone, the Board shall find the following:
  - a. Except for minor services which take place outside, all services shall be conducted inside a building;
  - b. The use will not result in any odors, fumes, noise, vibrations, chemical spills, or hazardous wastes;
  - c. There are adequate facilities for disposal of rubbish, waste, and hazardous waste and materials.

### C. Truck-Related Businesses.

1. Required findings for Truck Body Work, Truck Leasing, Truck Repair, Truck Sales, or Truck Services establishment:
  - a. The facility is not within 1,300 feet of another similar business.
2. For a Truck Body Work establishment:
  - a. The facility is not within 1,300 feet of another similar business; and
  - b. All body work shall be conducted entirely within a building housing the use.
3. For a Truck Service establishment:
  - a. The facility is not within 1,300 feet of another similar business; and
  - b. All maintenance and service, other than minor service at the island and emergency repairs, shall be conducted entirely within a building.

## 7.12 Industrial Uses; Manufacturing and Related Uses.

### A. Light Manufacturing. Required findings:

1. All disturbing smoke, fumes, dust, odors, and noise are confined to the premises;
2. No operations constitute a hazard by reason of the potential for fire, explosion, radiation release, or other casualty;
3. In the General Business and Commercial Districts, manufacturing shall consist only of products primarily for sale at retail on the premises where manufactured and there shall be no more than five full-time employees or their equivalent;

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4. The use will not be noxious, offensive, or detrimental to the neighborhood or to the Town by reason of special danger of fire or explosion; pollution of waterways; or emission of corrosive, toxic, or noxious fumes, gas, smoke, soot, obnoxious dust, disagreeable odors, offensive noises, vibrations, or other objectionable characteristics; and
  5. Warehouse and storage are accessory to the principal use.
- B. Wholesale. Required findings:
1. The use will not be noxious, offensive or detrimental to the surrounding neighborhood or to the Town due to vehicular traffic, noise or operation during early morning or late-night hours;
  2. Accessory storage use allowed only of products available for wholesale sale from the premises;
  3. The use is not detrimental to the area in which it is located; and
  4. The hours of operation are tailored to safeguard against early morning and late-night disturbance of residents in nearby neighborhood.
  5. Subsections B1 and B2 above shall not apply in the Industrial District.

### **7.13 Industrial Uses; Utilities**

- A. Above-Ground, Non-Municipal Utilities. Required finding: the proposed use is not detrimental to the neighborhood.
- B. Earth Migration.
1. Permitted as of Right. Earth migration less than 500 cubic yards shall be certified by a registered professional civil engineer or certified professional land surveyor for:
    - a. Construction or repair of roads, utilities, public works, and infrastructure
    - b. Installation or repair of underground sewage disposal systems
    - c. Excavation for foundations
  2. Special permit required findings:
    - a. The use is undertaken only during Monday through Friday, 7:00 AM to 6:00 PM, excluding holidays;
    - b. Adequate plans are in place for cleaning of spillage, including provision of the responsible person for remedying spillage together with an address and telephone number;
    - c. The site treatment plan is adequate to control dust and mud;
    - d. The site plan calls for use of six inches of packed loam and vegetation to be planted on the surfaces of all disturbed areas; and
    - e. All slopes are created or constructed in the public interest to preserve the health, safety and welfare of the abutters, abutters to abutters, and the public.

### **7.14 Industrial Uses; Other**

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- A. Contractor's Yard. Required findings:
1. The use is not detrimental to the area in which it is located;
  2. The use will not result in any odors, fumes, noise, vibrations, chemical spills, or hazardous wastes; and
  3. In the Commercial District, these additional findings are required:
    - a. The facility is not within 1,300 feet of another similar business, and
    - b. All body work shall be conducted entirely within a building housing the use.

### **7.15 Accessory Uses; Residential**

- A. Home Occupation. In any district where a home occupation is allowed as of right or by special permit, the following regulations shall apply.
1. The activity shall be administered or operated as a secondary and subsidiary use of the premises by a permanent resident of the premises.
  2. There are no non-residents employed unless authorized by the Special Permit Granting Authority.
  3. The activity is not injurious, noxious, or offensive to the senses of the neighborhood residents, not limited to client traffic and parking effects.
  4. There shall be no externally visible alterations or additions that alter the residential character of the premises.
- B. In-law Apartment. Required findings:
1. The living quarters are separate but located in the principal building;
  2. The living quarters do not exceed 800 square feet;
  3. There are no more than two related persons as occupants;
  4. There is sufficient off-street parking for the use;
  5. The principal building in which the use is located retains its single-family dwelling appearance; and
  6. The use shall not continue upon vacation of the premises by the occupants.
- C. Room Rentals (more than 5). Required Findings:
1. Whether permitted by right or allowed by special permit, room rentals shall be restricted to owner-occupied dwellings.
- D. Storage of More Than One Vehicle or Trailer. Required Findings:
1. Storage shall take place in the rear yard only.

### **7.16 Accessory Uses; Nonresidential**

- A. Accessory Retail and Automotive Services. Required findings:
1. The use is incidental and accessory to the principal use;
  2. The accessory use does not comprise more than 10 percent of the total gross floor

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area of the principal use or 1,000 square feet, whichever is less.

- B. Accessory Uses to Scientific Research or Development. Required Findings:
  - 1. Granting of a special permit shall be subject to a finding that the proposed accessory use does not substantially derogate from the public good.
- C. Accessory Service and Repair. See Section 7.11 for Required findings.

### **7.17 Accessory Uses; Miscellaneous**

- A. Auto Parking. Required findings:
  - 1. No proposed facility shall be located closer than 1,300 feet from another similar business.
- B. Garaging or Parking of Commercial Vehicles. Required findings:
  - 1. Garaging or parking of one heavy commercial vehicle:
    - a. The use shall be on the same lot as the principal use or on an adjacent lot in the same ownership and in the same district; and
    - b. The use is not obnoxious, hazardous, or injurious to the neighborhood or property in the vicinity of the use.
  - 2. Garaging or parking of two light commercial vehicles on a lot. Required findings:
    - a. The use shall be on the same lot as the principal use or on an adjacent lot in the same ownership and in the same district;
    - b. The use is not obnoxious, hazardous, or injurious to the neighborhood or property in the vicinity of the use;
  - 3. Garaging or parking of two or more heavy commercial vehicles on a lot. Required findings:
    - a. The use shall be on the same lot as the principal use or on an adjacent lot in the same ownership and in the same district;
    - b. The use is not obnoxious, hazardous, or injurious to the neighborhood or property in the vicinity of the use; and
    - c. The facility is not within 1,300 feet of another similar business.

## Section 8. Dimensional Regulations

### 8.1 Purposes

- A. The purpose of Section 8 is to control the density of development in the Town in order to carry out the overall purposes of this Bylaw.
- B. No building or structure shall be erected, altered, enlarged, extended, or moved on any lot, nor shall any lot containing any building or structure be altered in size or dimension except in conformance with Section 8 unless otherwise provided for in this Bylaw or G.L. c. 40A. This prohibition shall not apply when a portion of a lot is taken by eminent domain or conveyed for a public purpose.

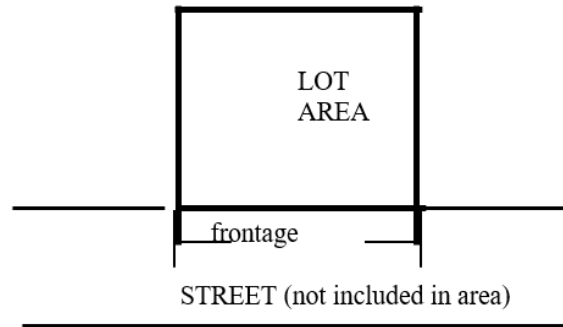
### 8.2 Table of Dimensional Requirements

All buildings and structures shall conform to the Table of Dimensional Requirements as shown in Appendix B, Table 2.

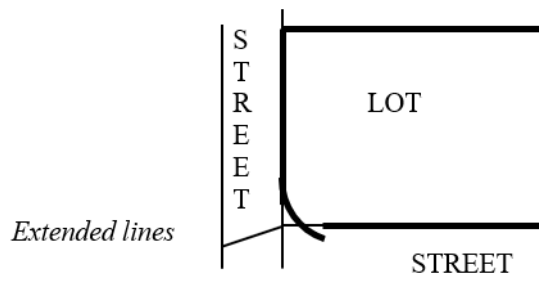
### 8.3 General Regulations

#### A. Basic Lot Regulations

- 1. In determining the area and frontage of a lot, no land within the limits of a street that abuts the lot shall be included, even if the lot owner also has title to such street.



- 2. If the corner of a corner lot is bounded by a curved line connecting other bounding lines that would intersect if extended, the area and frontage shall be computed as if the bounding lines were so extended.

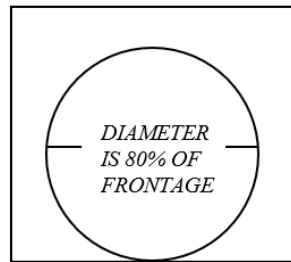


- 3. When a lot in one ownership is situated in part in the Town and in part in an adjacent town or city, the provisions, regulations, and restrictions of this Bylaw shall be

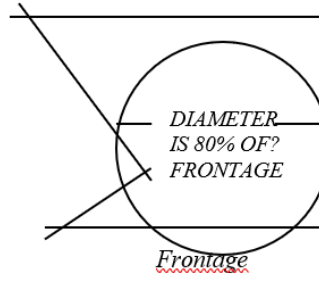
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applied to that portion of the lot that lies in the Town in the same manner as if the entire lot were situated in the Town.

4. In the case of an easement for high-tension power lines or gas transmission lines, the area within the easement shall be added to the minimum lot size for a lot as specified in this Bylaw.
5. All lots shall be so far as possible regular and symmetrical.
6. All buildable lots shall be able to encompass a circle that touches the frontage and has a diameter equal to 80% of the lot's frontage requirement within the interior of the lot.

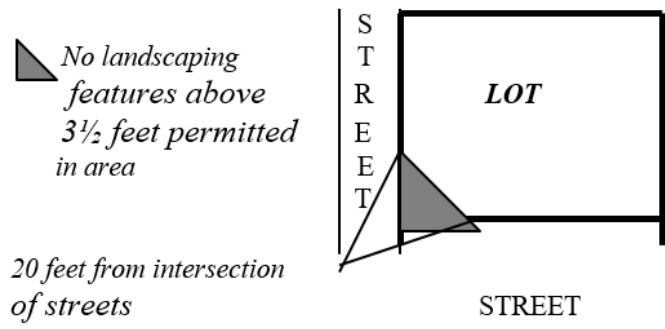


**A BUILDABLE LOT**



**NOT A BUILDABLE LOT**  
(Circle will not fit within lot lines)

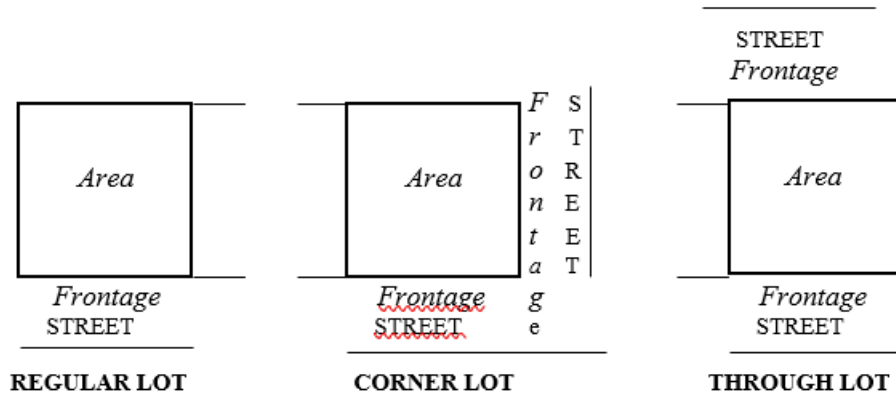
7. A corner lot or through lot shall have access through one frontage only.
8. If a lot has more than four lot lines, the additional lot lines shall be deemed to be side lot lines unless the Inspector of Buildings determines otherwise.
9. Except in a Multi-Family District, Townhouse Overlay, or Elderly Housing Overlay District, only one residential building shall be erected on a lot regardless of the size or dimension of the lot.
10. On a corner lot in a residential district, no fence, wall, structure, planting or shrubbery, or foliage more than three and one-half feet in height above the plane of the established grade of the street shall be erected in any part of the area that is included within the street lines and a line drawn diagonally across the lot connecting the street lines at points 20 feet from the point of intersection measured along the street, which would obstruct the view of a driver of a vehicle approaching the intersection.



Billerica Zoning Bylaw

11. Access to a lot must be over the legal frontage.

12. Lot area and frontage for a regular, corner, and through lot are as shown below:

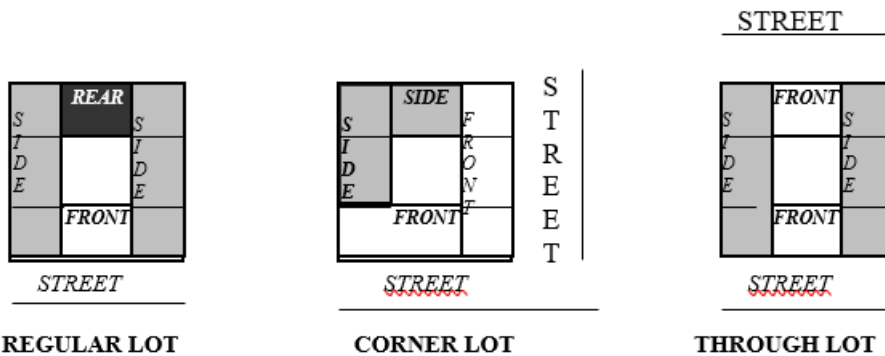


13. In the Industrial District, the floor area ratio (FAR) cannot exceed 1.0.

B. Any parcel of land purchased under the provision of Article III, § 6 of the General Bylaws shall not be used to satisfy the lot area, coverage, and frontage requirements of this Bylaw. If the subject parcel is held in common ownership with any other abutting property, it shall be treated as if it were under separate ownership for purposes of meeting the dimensional requirements of this Bylaw.

C. Yards

1. Front yards, side yards, and rear yards for a regular, corner, and through lots are as shown below:



2. All nonresidential and nonagricultural uses within residential districts shall meet the yard requirements for the Neighborhood Business District.

3. The following shall apply in the residential districts:

- Any lot in existence when this Bylaw allowed a side yard of not less than 7 ½ feet and which has less than 125 feet of frontage shall be required to maintain side yards of 7 ½ feet.
- Any lot in existence when this Bylaw allowed a front yard of not less than 20 feet shall be required to maintain a front yard of 20 feet.

## Billerica Zoning Bylaw

- c. Uncovered steps in the front and rear yards, bulkheads in the rear yards, and eaves in the front yard are not subject to the yard requirements, except that all side yards shall be a minimum of 7 ½ feet, all rear yards shall be a minimum of 20 feet, and all front yards shall be a minimum of 20 feet. Unless a building, structure, or use of a lot is covered by the pre-existing, nonconforming provisions of this Bylaw, in which case the minimum yard requirements apply, any other principal building, structure, or use of the lot, whether covered or uncovered shall maintain a front yard of 35 feet, a side yard of 15 feet, and a rear yard of 20 feet.
  4. In all nonresidential districts, except Industrial district:
    - a. Uncovered steps in the front and rear yards, bulkheads in the rear yards, and eaves in the front yard are not subject to the yard requirements, except that all side yards shall be a minimum of 7 ½ feet, all rear yards shall be a minimum of 20 feet, and all front yards shall be a minimum of 20 feet.
    - b. Unless a building, structure, or use of a lot is covered by the pre-existing, nonconforming provisions of this Bylaw, in which case the minimum yard requirements apply, any other principal building, structure, or use of the lot, whether covered or uncovered, including loading platforms, shall maintain a front yard of 50 feet, a side yard of 25 feet, and a rear yard of 35 feet.
  5. An accessory building, structure, or use with a gross floor area of 100 or less may be placed in the side or rear yard of a lot with a 7 ½ foot side yard and a 10-foot rear yard. All other accessory buildings, structures, or uses shall comply with the minimum yard requirements for principal buildings, structures, or uses.
  6. Except for an access drive, no accessory building, structure, or use shall be located in the front yard of a lot.
  7. Notwithstanding the other provisions of this section, municipal utility pump stations with gross floor areas less than 900 square feet shall not be subject to a front yard requirement but shall maintain a 7 ½ foot side and rear yard in all zoning districts, measured from the property or easement line.
- D. Height
1. The foregoing limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other accessory structural features usually carried above roofs, nor to domes, towers or spires of churches or other buildings, provided such features are in no way used for living purposes, and further provided that no such structural feature of any non-manufacturing building shall exceed a height of 65 feet from the ground, and no such structural feature of any manufacturing building shall exceed a height of 85 feet from the ground.
  2. To offset any gains in the maximum allowable building heights offered by building retaining walls adjacent to other buildings or structures constructed on the same lot together with walls, barriers, retaining structures, and the like, the calculation of all building and structure heights will additionally include the height of any walls, barriers, retaining structures, and the like.
- E. Green Strips and Screening

## Billerica Zoning Bylaw

1. In all nonresidential districts, screening shall be provided, erected, and maintained to shield business and industrial uses of buildings, structures, and land from adjoining residential and municipal lots and shall consist of a solid fence, wall, landscaped earthen barrier, evergreen planting or combination of these elements not less than six feet in height along the property line. Screening may be reduced to 3 ½ feet where it acts to shield an adjacent public way. Where planting is used, the minimum height, distance from the lot line, and type of materials used shall provide an effective barrier in the opinion of the Inspector of Buildings.
  2. Green Strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover, and flowers. At least one native tree with a minimum diameter of three inches at chest level and eight shrubs per 50 feet of green strip are required. If there is a 10-foot green strip around a building, up to 50 percent of the trees may be replaced with two shrubs for each tree. Ground cover should also be specified and if non-vegetative (bark dust, mulch, stones larger than one foot in diameter, etc.), the depth must be adequate to assure proper cover. The green strip shall not be built on, paved, or parked on, except as otherwise provided in this Bylaw.
  3. Green Strips may be interrupted by sidewalks or walkways parallel to the adjacent building up to six feet in width for the purpose of accessing a building. If a green strip contains a sidewalk or walkway, the green strip shall be widened by the width of the sidewalk or walkway parallel to the adjacent building to compensate for the resulting green strip reduction.
  4. Green Strips shall be provided around the perimeter of all lots, except in the location of curb cuts. Lot perimeter green strips may not be built on, paved, or parked on.
  5. Green Strips shall be maintained on each lot around the perimeter of all buildings. Building perimeter green strips may not be used for off-street parking and outdoor storage if permitted
  6. Green Strip requirements or each district shall be as shown in Appendix B, Table 2, Table of Dimensional Regulations.
  7. The provisions of this section may be reduced or waived as part of and in conjunction with the Site Plan Special Permit under Section 4.7. In the event of a reduction or waiver, the SPGA shall make a finding that doing so does not effectively detract from the enhancement of the natural, scenic, and aesthetic qualities of the development.
- F. Green Space. In all districts except residential districts, each lot, or that portion of the lot within the district, shall set aside 25 percent of its area as a green space which cannot be used for driveways, roadways, parking areas, paved areas or for vehicular travel of any sort.
- G. Slopes. The creation or construction of slopes or a series of slopes exceeding one foot rise per three feet of run, otherwise known as a 3:1 slope, and over five feet in height is prohibited. The Planning Board may grant a special permit for exceptions to this provision if they find that a proposed change is safe and not detrimental to the surrounding area.
- H. Walls, Fences, and Retaining Walls. Walls, fences, barriers, retaining walls and the like

## Billerica Zoning Bylaw

over six feet in height shall be considered structures and shall be subject to all applicable dimensional controls in this section of this Bylaw.

### **8.4 Special Dimensional Requirements for Certain Uses**

- A. Agriculture, floriculture, forestry, horticulture, viticulture, or a facility for the sale of products primarily grown on the premises shall be located on a lot with a minimum area of five acres. No other dimensional requirements shall apply.
- B. Regardless of the district they are located in, religious and education uses shall comply with the dimensional requirements for the Neighborhood Business District as long as doing so does not effectively prohibit these uses.
- C. The dimensional requirements for Child Daycare Centers in the Village Residential, Neighborhood Residential, and Rural Residential Districts shall be as follows:
  - 1. To control bulk daycare structures, no childcare structure shall have a footprint exceeding 5,000 square feet.
  - 2. No parking spaces shall be located within yard setbacks.
  - 3. The minimum lot size shall be the current minimum lot size required in the applicable district.
  - 4. Yard requirements shall be the same as those in the Neighborhood Business District, except that side yards shall be increased to 50 feet.
  - 5. Maximum height shall be 35 feet.
  - 6. Impervious surfaces shall not cover more than 50 percent of the site.

## **Section 9. Nonconforming Uses and Structures**

### **9.1 Purpose of Nonconformity Regulations**

Lawfully pre-existing, nonconforming uses and structures may be continued and are not subject to this Bylaw, except that no change, extension, alteration, or reconstruction of a nonconforming use or structure shall be permitted except in conformance with this Section 9.

### **9.2 General**

- A. Lawfully pre-existing, nonconforming uses and structures include those which:
  - 1. Existed before the Town adopted zoning or where the structure was constructed, or the use commenced under a legally issued permit; or
  - 2. Had lawfully begun or commenced before the first notice of a public hearing to change this Bylaw.
- B. Any structure constructed or use commenced without proper permits, without complying with all issued permits and the provisions of the Bylaw in effect at the time of permit issuance, or both, shall not be considered a pre-existing, nonconforming use or structure.
- C. Any structure, building, or use authorized under a variance from the Board of Appeals shall not be considered a pre-existing, nonconforming use or structure and shall require another variance if any subsequent change, extension, alteration, or reconstruction does not comply with this Bylaw at the time of permit application.

### **9.3 Alteration, Reconstruction, Extension, or Structural Change to a Single- or Two-Family Dwelling**

- A. Any alteration, reconstruction, extension, or structural change to a pre-existing, nonconforming single- or two-family dwelling shall be permitted by right without increasing the nonconforming nature of the dwelling, provided that:
  - 1. The dwelling is located on a lot of 5,000 square feet or greater;
  - 2. The proposed alteration, extension, or structural change complies with the yard setback requirements in effect at the time the dwelling was constructed, but in no case shall the width of a side or rear yard be less than 7 ½ feet and in no case shall the width of a front yard be less than 20 feet, notwithstanding the non-compliance of the lot with area and frontage requirements; and
  - 3. The proposed reconstruction complies with the requirements of paragraphs 1 and 2 above.
- B. Reconstruction that does not meet the requirements of Section 9.3A is permitted if it is within the same footprint as the pre-existing, nonconforming dwelling and does not increase the height or bulk of the pre-existing, nonconforming dwelling.
- C. Any alteration, reconstruction, extension, or structural change of a pre-existing, nonconforming single- or two-family dwelling that does not satisfy the conditions under Section 9.3A or B shall not be permitted unless the Permit Granting Authority determines that it does not increase the nonconforming nature of the dwelling.

**9.4 Change, Substantial Extension of a Use, Reconstruction, Extension, or Alteration of a Pre-Existing, Nonconforming Structure or Use Other than a Single- or Two-Family Dwelling**

- A. No change or substantial extension of a preexisting, nonconforming use or structure for a purpose that is not permitted by this Bylaw or for the same purpose but to a substantially greater extent or in a substantially different manner, as determined by the Inspector of Buildings, is permitted by right.
- B. For any pre-existing, non-conforming structure that is destroyed or damaged by fire, flood, lightening, wind, or otherwise, the following shall apply:
  - 1. If the cost of reconstruction equals or exceeds 65 percent of the value of the structure at the time of the damage, it shall not be rebuilt, repaired, reconstructed, or altered unless it complies with all use, dimensional, and other applicable provisions of this Bylaw.
  - 2. If the cost of reconstruction is less than 65 percent of the value of the structure at the time of the damage, it may be reconstructed within two years to its size and use immediately prior to damage or destruction, provided that the reconstruction:
    - a. Is within the same footprint as the pre-existing, nonconforming structure, and
    - b. Does not increase the height or bulk of the pre-existing, nonconforming building or structure.
- C. Extension or alteration of a pre-existing, nonconforming use or structure shall be permitted only after a public hearing, notice to parties in interest, and a finding by the Permit Granting Authority that the extension or alteration is not substantially more detrimental to the neighborhood than the pre-existing nonconforming structure or use.
- D. The provisions of this Section 9.4 shall not apply to non-conforming single-family or two-family dwellings. Alteration, reconstruction, extension, or structural change to a single- or two-family dwelling shall comply with Section 9.3.

**9.5 Abandonment, Discontinuance, or Non-Use**

- A. A nonconforming use or structure that has been abandoned or not used for a period of two consecutive years shall be subject to all the provisions of this Bylaw. However, this shall not apply to a single- or two-family dwelling on a lot of 5,000 square feet or greater in area having at least 50 feet of frontage. Any abandoned, discontinued, or not used single- or two-family dwelling shall comply with the provisions of Section 9.3.
- B. Once a preexisting, nonconforming structure or use is changed to a conforming building, structure, or use, it may not be changed back to the preexisting, nonconforming building, structure, or use

## Section 10. General Regulations

### 10.1 Off-Street Parking

The purpose of Section 10.1 is to ensure that the minimum necessary parking is provided for each use, building, or structure in the Town.

#### A. General

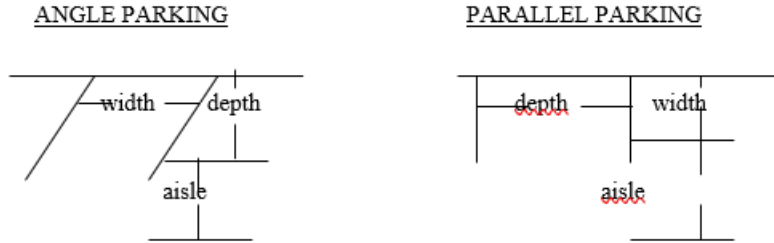
1. Parking or loading for a use that is not permitted in a zoning district shall also not be permitted in the district.
2. Not less than the required parking and loading space requirements set forth in this Section 10.1 shall be provided to serve all uses, buildings, structures, and lots.
3. Loading areas shall not be considered part of parking areas.
4. Required parking and loading shall be located on the same lot as the activity they serve and shall have free and unimpeded access to a street over unobstructed passageways or driveways.
5. Driveway openings may be located every 50 feet along a street. A driveway opening shall be a minimum width of 24 feet measured at the throat of the opening, not at the radius.
6. All parking and loading areas shall have adequate provisions for access, turning, and exiting without endangering or inconveniencing users or traffic in the adjacent streets. Egress shall not require backing into the street in any district other than a residential district.
7. All parking and loading areas shall be suitably landscaped. The landscaping shall be designed to minimize the impact of parking on adjacent property and within the lot by using existing vegetation to the extent practicable and new trees, shrubs, walls, fences, or other landscaping elements.
8. For a parking area with more than 40 spaces, at least five percent of the area shall be set aside for landscaped areas at least 10 feet wide using curbing and shade trees or other types of landscaping. Areas provided to satisfy the green strip requirements under Section 8.3E shall not be used to satisfy this requirement.
9. All parking and loading areas, along with associated access, shall be paved with a two-inch binder and a one-inch top mix or at least a four-inch-thick concrete pad and shall be striped and marked to clearly satisfy all applicable requirements. This requirement shall not apply to parking for single-family homes.
10. All parking and loading areas shall be adequately drained to eliminate surface water.
11. All parking and loading areas shall comply with the signage and lighting requirements set forth in this Bylaw.
12. Parking spaces shall not be stacked except for single-family residential and duplex properties. All other parking spaces shall have unimpeded and free access to a street, road, or way over unobstructed passageways, aisles, or driveways.

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### B. Parking Requirements

1. All parking spaces shall comply with the following minimum dimensions:

<u>Angle of Parking</u>	<u>Width of Parking</u>	<u>Depth of Space</u>	<u>Width of Aisle</u>
61 - 90 Degrees	9 Feet	19 Feet	24 Feet
45 - 60 Degrees	9 Feet	19 Feet	18 Feet
Parallel Degrees	8 Feet	22 Feet	14 Feet



2. Additional parking requirements:

- a. In parking areas with more than 40 parking spaces, 15 percent may be set aside for small cars. If provided, small car spaces shall have a depth of at least 15 feet. The width of the parking space and the maneuvering aisle shall not vary from the requirements under B.1 above. Small car stalls shall be in contiguous areas and shall be conspicuously designated.
  - b. In addition to the parking requirements in Section 10.1, all parking areas shall comply with Massachusetts Architectural Access Board and State Building Code requirements.
3. All uses shall comply with the minimum off-street parking requirements shown in Table 3.

Billerica Zoning Bylaw

<b>Table 3. Minimum Off-Street Parking Requirements</b>	
<b>Uses</b>	<b>Number of Parking Spaces</b>
<b>Agricultural</b>	
Agricultural uses not specifically listed	None, unless the Inspector of Buildings determines that the use requires parking, in which case the use shall comply with the requirements for facility for sale of products
Facility for sale of products	Ten spaces, plus one space per 50 square feet of floor area
<b>Business</b>	
Business uses not specifically listed	One space per 300 square feet of floor area
Bank	One space per 300 square feet of floor area
Barber or beauty shop	Two spaces per chair
Funeral home	One space per fifty square feet of floor area in parlors and individual funeral service rooms, plus one space per four seats in chapels and auditoriums
Offices	One space per 300 square feet of floor area
<b>Commercial</b>	
Commercial uses not specifically listed	One space per 250 square feet of floor area
Greenhouse	Ten spaces, plus one space per 100 square feet of floor area
Mixed use	One space per 250 square feet of floor area
Motel or hotel	One space per sleeping room or suite, plus one space per 15 guest rooms for employee parking, plus one space per 250 square feet of commercial floor area contained therein
Motor vehicle salesroom and used car lots	One space per 800 square feet of sales floor or lot area, whichever is greater
Repair shop	One space per 300 square feet of floor area
Retail store	One space per 250 square feet of floor area
Restaurant	One space per four seats, including all outdoor sitting areas and deck areas used for seating, plus one space per employee
Supermarket	One space per 100 square feet of floor area for the first 5,000 square feet, plus one space per 200 square feet of floor area above 5,000 square feet of floor area
<b>Educational</b>	
College or higher education facility	One space per one and one-half seats
Educational uses not specifically listed	One space per four seats in the auditorium or main assembly room or four spaces per classroom, whichever is greater
Elementary school, middle school, kindergarten, nursery, or day care	One space per four seats in the auditorium or main assembly room or two spaces per classroom, whichever is greater
High school	One space per four seats in the auditorium or main assembly room or six spaces per classroom, whichever is greater
<b>Governmental</b>	
All governmental uses	One space per 300 square feet of floor area, plus one space per three employees

Billerica Zoning Bylaw

<b>Table 3. Minimum Off-Street Parking Requirements</b>	
<b>Uses</b>	<b>Number of Parking Spaces</b>
<b>Industrial</b>	
All industrial uses	One space per two employees of the maximum working shift, plus one space per 800 square feet of floor area
<b>Philanthropic</b>	
Philanthropic uses not specifically listed	Ten spaces, plus one additional space per 300 square feet of floor area over 2,000 square feet
Clubs and lodges	One space per 200 square feet of floor area
<b>Recreational</b>	
Recreational uses not specifically listed	One space per three patrons, based on the design capacity of the use or facility
Bowling alley	Five spaces per alley
Driving range	One space per two tees and one space per employee
Golf course	Three spaces per hole for the principal golf course use. All accessory uses to the golf course shall meet the parking requirements in Table 3 for those uses.
Indoor amusement	One space per three patrons, based on the design capacity of the facility
Outdoor recreational facility	One space per three patrons, based on the design capacity of the use
Theater or cinema	One space per four seats or bench seating spaces
<b>Religious</b>	
All religious uses	One space per five seats or pew space
<b>Residential</b>	
Residential uses not specifically listed	One and one-half spaces for the first bedroom, plus one-half space per additional bedroom
Multi-family residence	Two spaces
Elderly	Two spaces
Room rental	One space per sleeping room
Single family	Two spaces
Townhouse	Two spaces
Two family	Two spaces per unit
<b>Services</b>	
Service uses not specifically listed	One space per 250 square feet of floor area
Alcohol and drug rehabilitation hospital	Ten spaces, plus one additional space per four beds, plus one space per two employees, plus adequate space for parking emergency vehicles
Nursing home	One space per six beds, plus one space per two employees, plus adequate space for parking emergency vehicles
<b>Utilities</b>	

Billerica Zoning Bylaw

<b>Table 3. Minimum Off-Street Parking Requirements</b>	
<b>Uses</b>	<b>Number of Parking Spaces</b>
All utility uses	None, unless the Inspector of Buildings determines that the use requires parking, in which case the use shall comply with the requirements for offices

4. Interpretation of Table 3

- a. Floor area shall mean the gross floor area of the specific use, unless otherwise specified, excluding areas used strictly for storage. In the absence of information as to what portion of a building will be used for storage and services, 80% of the aggregate floor area shall be deemed to be the floor area for the purposes of computing the required off-street parking.
- b. Fractional parking spaces shall be rounded to the next higher whole space.
- c. Buildings or structures containing mixed uses shall provide off-street parking spaces equal to the sum of the various uses computed separately.

C. Special Permit for Reduced Parking

1. If a use is permitted by right, the Board of Appeals may grant a special permit for an exception to not less than one-half of the parking requirements set forth in Section 10.1.
2. If a use is permitted by special permit or by site plan approval special permit, the special permit granting authority responsible for permitting the use may also grant a special permit for an exception to not less than one-half the parking requirements set forth in Section 10.1.
3. No special permit shall be granted unless the Board of Appeals or special permit granting authority, as applicable, finds that sufficient open space exists for the required parking should it be necessary to increase parking in the future, and that constructing all the required parking is currently unnecessary. Should additional parking become necessary, the special permit may be modified after hearing and notice.

D. Loading Requirements

1. All uses that generate truck traffic into or out of a site shall provide adequate loading space for any delivery and collection vehicles.
2. A loading space shall be at least 420 square feet in area and approximately 12 feet wide. It shall be sufficiently deep to accommodate the largest delivery truck expected to serve the use but no less than 35 feet deep. A minimum of 14.5 feet of height shall be available for clearance.
3. There shall be no more than one loading space, consisting of one dock and one door, per 10,000 square feet of floor area.

**10.2 Signs and Lighting**

- A. The purpose of this Section 10.2 is to:
  - 1. Permit signs that will, by reason of their location, shape, size, or color, protect the public health, safety, and welfare;
  - 2. Complement land uses to which a sign is related;
  - 3. Promote economic development and growth;
  - 4. Preserve and enhance the aesthetic environment;
  - 5. Provide uniform standards and processes for governing the erection, change, alteration, and removal of signs; and
  - 6. Ensure consistent enforcement.
- B. **Applicability:** All signs and lighting are subject to this Bylaw and shall be considered structures for which a variance may be sought. All signs and lighting shall comply with other provisions of this Bylaw determined by the Inspector of Buildings.
- C. **Application for a Sign Permit:**
  - 1. All persons desiring to erect, change, or alter a sign shall apply to the Inspector of Buildings for a sign permit unless a permit is not required by this Bylaw.
  - 2. All signs associated with uses permitted by special permits or site plan approval special permits shall be permitted by special permits.
  - 3. No sign shall be changed or altered in size, shape, construction, location, or illumination, except in compliance with this Bylaw.
  - 4. Changing background colors, re-lettering and using the same color, or maintaining a sign shall not be considered a change or alteration of a sign.
  - 5. All applications for sign permits shall include a drawing to scale showing the following:
    - a. The proposed sign including the proposed size, shape, location, coloring and lettering;
    - b. All existing signs maintained on the premises;
    - c. A plot plan and a sketch of the building facade indicating the location of the proposed and any existing signs; and
    - d. Site distances from adjacent streets to proposed signs.
  - 6. If a proposed sign complies with this Bylaw, the Inspector of Buildings shall assign it a unique serialized sign number, the first two digits of which represent the year the sign permit was issued.
- D. **Signs not Requiring a Permit.** The following types of signs may be erected, changed, or altered without a sign permit:
  - 1. One non-commercial sign per residential lot.

## Billerica Zoning Bylaw

2. One real estate sign; maximum six square feet. The sign shall be removed from the property within three calendar days after the transfer of real estate takes place.
  3. One construction sign, maximum 12 square feet, in a Multi-family, Townhouse, or Elderly Housing District or for an assisted living residence.
  4. Signs not exceeding 24" x 30" within a street right-of-way, erected for the purpose of identifying a sponsor that participates in the Adopt-A-Street Program, subject to approval by the program administrator.
  5. Signs on public property or property of a similar nature, maximum 24" x 30", erected for the purpose of identifying a sponsor that is maintaining the property.
  6. Flags or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
  7. A governmental sign.
  8. Signs carried by hand.
  9. Traffic flow signs, which shall not exceed 3 square feet in area and 4 feet in height, except that standard traffic control signs consistent with state and federal transportation regulations and recommended by the Chief of Police, such as stop, one-way, yield, merge, and the like, shall not be subject to the dimensional limitations, but shall be the standard size permitted by state and federal regulations.
  10. Handicapped parking space signs, as required by G.L. c. 40, § 21(23)(b), as amended, shall be identified using above-grade signs with white lettering against a blue background and shall bear the words "HANDICAPPED PARKING: Special Plate Required. Unauthorized Vehicle May Be Removed at Owner's Expense."
  11. An official sign of a non-commercial nature erected by a public utility.
  12. One square foot "circa" sign indicating the year of construction and located on historic buildings.
  13. Well water signs pursuant to the Water Conservation Bylaw.
- E. Prohibited Signs. The following types of signs are prohibited in all zoning districts:
1. Signs which incorporate in any manner flashing, moving or intermittent lighting, excluding public service signs showing time and temperature.
  2. Neon signs.
  3. Wind signs, including pennants, spinners, streamers, and other wind-actuated components.
  4. String lights are used in conjunction with commercial signs.
  5. Signs that obstruct any door, window that opens, or fire escape.
  6. A billboard or off-premises sign.
  7. Banners, unless declared by the Select Board to provide a public service, in which case the sign shall be permitted without a permit.

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8. Portable signs.
  9. Moveable letter or message board signs.
- F. Additional Requirements.
1. All signs and lighting shall have a minimum setback of 10 feet from all property lines. The Inspector of Buildings may require a greater setback from a street based on necessary site distance for the class of a street and speed on the street as set forth in the current edition of the Massachusetts Highway Department Manual.
  2. No signs or lighting shall, by reason of its location, shape, size, or color interfere with traffic or be confused with or obstruct the site distance or the effectiveness of any official traffic sign, traffic signal, or traffic marking. Red, green, and yellow signs that interfere with or cause confusion with respect to any official traffic sign, signal, or marking are prohibited.
  3. The sign area shall be the smallest, regularly shaped ellipse or rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop, building, or structure against which it is placed. Sign supports shall be excluded in determining the area of a sign. A double-faced sign having an identical message on both sides shall be considered to have the area of a single face.
- G. Signs Permitted in Each Zoning District. The following types of signs are permitted in the various zoning districts as set forth below:
1. Residential Districts (Village Residence, Neighborhood Residence, Rural Residence, Multi-Family Residence):
    - a. Artisan's
    - b. Construction
    - c. Directory for multi-family uses
    - d. Home occupation
    - e. Identification
    - f. Institutional
    - g. Real Estate
    - h. Real Estate Subdivision
  2. Business Districts (Neighborhood Business, General Business, Commercial) By Right:
    - a. Architectural
    - b. Artisan's
    - c. Awning

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- d. Construction
  - e. Directory
  - f. Filling Station
  - g. Institutional
  - h. Monument
  - i. Projecting
  - j. Real Estate
  - k. Real Estate Subdivision
  - l. Wall
  - m. Window
3. In the Business Districts (Neighborhood Business, General Business, Commercial), Freestanding Signs and Roof Signs are allowed by Special Permit subject to the following required findings:
    - a. The sign does not derogate from the character of the area.
    - b. The sign is needed due to site constraints.
    - c. The sign maintains vehicle site distance and provides for traffic safety.
    - d. The sign shall be located a minimum of ten feet from all property lines.
  4. Industrial District
    - a. Artisan's
    - b. Construction
    - c. Industrial Directory
    - d. Institutional
    - e. Monument
    - f. Real Estate
    - g. Real Estate Subdivision
    - h. Wall
  5. All signs permitted in the Industrial District shall be permitted in the Specialty Districts (Refuse Transfer Station, Private & Public Dumping Ground, Alcohol & Drug Rehabilitation Hospital, Composting, Adult Entertainment).
  6. All signs in Overlay Districts (Flood Plain, Historic, Residential Cluster, Townhouse, Elderly Housing, and Self-Service Storage Facility) shall comply with the sign regulations for the underlying district.
- H. Sign Requirements. Prior to issuance of a sign permit, each sign type shall comply with the following requirements:

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1. Architectural. The maximum area of the sign shall not exceed two square feet per linear foot of the building wall on which the sign appears.
2. Artisan's. The maximum area of the sign shall not exceed 16 square feet. The sign shall be removed promptly upon completion of the work.
3. Awning
  - a. The awning shall fully fill the width of a window or door opening.
  - b. A continuous awning shall be supported at points on the piers and at the bottom of the frieze.
  - c. There shall be a minimum clearance of 7 ½ feet above the sidewalk or driveway to the bottom of the awning frieze.
  - d. No more than 30 percent of the awning area shall be occupied with graphics and lettering.
  - e. Graphics and lettering shall be a maximum height of three feet.
4. Construction
  - a. The maximum area of the sign shall not exceed 20 square feet.
  - b. No dimension shall exceed 10 feet.
  - c. All construction signs shall be removed 10 days after issuance of the final use and occupancy permit.
5. Directory
  - a. The maximum area of the sign shall not exceed 54 square feet.
  - b. No dimension of the sign shall exceed nine feet.
  - c. A directory wall sign for a multiple-tenant establishment shall be affixed to a first-story, exterior wall of the building in which the multiple tenants are located; and the sign shall be comprised of only those establishments that choose to be represented and only those establishments that are situated with their main building entrance lying approximately perpendicular to the frontage street.
    - (i) A multiple-tenant establishment is a building composed of three or more independent and physically separate business establishments where all access and egress is exclusively from the outdoors and not from any other establishment.
    - (ii) A directory wall sign is comprised of a group of individual signs or changeable plates relating to each individual establishment within the multiple-tenant establishment.
    - (iii) Each individual sign shall not exceed one foot in height and three feet in width.
    - (iv) The aggregate sign area shall not exceed six feet in height and nine feet in width.

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### 6. Filling Station Sign

- a. In the case of a freestanding sign usage, the display surface area shall be located under the freestanding landscaped sign and the price sign shall not be more than 1 foot in height.
- b. The display surface area of a wall sign shall not be more than 12 square feet, or for a free-standing sign, more than seven square feet.
- c. Only one price sign is permitted per site, and no more than four different motor vehicle fuel prices may be comprised of movable letters.
- d. Changes in motor vehicle fuel prices may be made without a sign permit.
- e. The standard unlighted, moveable letter motor vehicle fuel price sign attached to each pump shall have a display surface that complies with state requirements.
- f. The standard type of motor vehicle fuel pump bearing the unlighted name or type of fuel being sold shall not be deemed to be a sign within the meaning of this Bylaw.

### 7. Freestanding:

- a. In the business and industrial districts, the maximum message area of the sign shall not exceed 21 square feet and shall contain the place name and street address in a minimum of six-inch letters.
- b. The maximum height of the sign shall not exceed eight feet to the top of the sign above the nearest pavement grade.
- c. The minimum height of the sign shall be five feet to the bottom of the sign above the mean finished grade where the sign is located. For purposes of site distance, a minimum of three feet shall remain unobstructed from the bottom of the sign to the mean finished grade.
- d. The maximum width of the sign message area shall be seven feet.
- e. The sign and associated landscaping shall be located a minimum of ten feet from all property lines, and where deemed necessary by the Inspector of Buildings, the setback shall be increased so that the sign and associated landscaping do not obstruct views from or onto other properties or site distance of a driver of oncoming, intersecting, or merging traffic.
- f. Where the sign consists of two parallel, flat sign faces, the maximum thickness between the two sign faces is two feet.
- g. All freestanding signs shall have two posts, a maximum of eight inches across, attached to the ground.
- h. All freestanding signs shall be landscaped with well-maintained plantings at a maximum height of two feet that are located within a two-foot perimeter around the signposts.
- i. There shall be only one freestanding sign permitted on the site on which the sign is located.

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### 8. Home Occupation

- a. In all residential districts, one sign shall be permitted to identify a home occupation.
- b. The maximum size of the sign shall not exceed two square feet.
- c. The maximum height of the sign shall not exceed five feet.
- d. The sign shall be externally lit if lighting is provided.
- e. The sign and any associated landscaping shall be located a minimum of 10 feet from all property lines. Where deemed necessary by the Inspector of Buildings, the setback shall be increased so that the sign and associated landscaping do not obstruct views from or onto other properties or site distance of a driver of oncoming, intersecting, or merging traffic.

### 9. Identification

- a. In the Multi-Family Residence, Townhouse Overlay, and Elderly Housing Overlay Districts, a single identification sign shall be permitted for any multi-family residential use not exceeding 12 square feet and located at the entrance to the development.
- b. The maximum height of the sign shall be five feet to the top of the sign above the mean finished grade where the sign is located.
- c. No more than one sign shall be placed upon any property unless the property fronts upon more than one street, in which case one sign may be erected on each frontage.
- d. Identification signs shall contain the street address of the property using six-inch letters.

### 10. Industrial Directory. The Zoning Board of Appeals may issue a special permit for an industrial development sign to identify multiple properties within an industrial subdivision or development after hearing and making the following findings:

- a. The sign is located on private property adjacent to a main thoroughfare at an entrance to an industrial development or subdivision;
- b. The sign identifies occupants of the industrial development or subdivision;
- c. The maximum height of the sign does not exceed 11 feet above the mean finished grade where the sign is located;
- d. The maximum width of the sign does not exceed 12 feet; and
- e. The individual identification placards for each tenant shown on the industrial directory sign are uniform in size and shape.

### 11. Monument

- a. In the business and industrial districts, the maximum message area of the sign shall not exceed 28 square feet and shall include the place name, if applicable, and street address in minimum six-inch letters.
- b. The maximum height of the sign shall not exceed five feet to the top of the sign above the nearest pavement grade.

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- c. The maximum width of the sign shall be seven feet.
- d. The sign structure shall consist of a brick or masonry construction, complete with an adequate footing.
- e. The sign message area shall consist of only one flat face or two parallel flat faces, each with a maximum thickness of two feet from face to face.
- f. The sign shall be located a minimum of 10 feet from all property lines. If deemed necessary by the Inspector of Buildings, the setback shall be increased so that the sign and associated landscaping do not obstruct views from or onto other properties or site distance of a driver of oncoming, intersecting, or merging traffic.
- g. All monument signs shall be landscaped with well-maintained plantings 10 feet around the entire base of the sign.
- h. There shall be only one monument sign permitted on the site on which the sign is located.

### 12. Projecting

- a. The maximum area of the sign shall not exceed six square feet.
- b. Only one sign is permitted for each business.
- c. The sign shall not project more than 3 feet from the building.
- d. The sign shall be hung at a 90-degree angle from the face of the building or structure to which it is attached.
- e. The bottom of the sign shall have a minimum clearance of 10 feet above a pedestrian walkway or sidewalk or 15 feet above a vehicular driveway.
- f. The sign shall not encroach into minimum yard areas.

### 13. Real Estate

- a. The maximum area of the sign shall not exceed six square feet in residential districts.
- b. The maximum area of the sign shall not exceed 32 square feet in non-residential districts.
- c. Only one sign shall be permitted per lot.
- d. The sign shall be removed immediately after completion of the sale or lease of the real estate.

### 14. Real Estate Subdivision

- a. The maximum area of the sign shall not exceed 32 square feet.
- b. No dimension shall be greater than eight feet.
- c. Only one sign shall be permitted to face each street that abuts the subdivision.
- d. The sign shall be solely to advertise the selling of land or buildings in the subdivision.
- e. The sign shall be removed immediately after completion of the sale or lease of the real estate.

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### 15. Wall

- a. The maximum area of the sign shall not exceed three square feet for each linear foot of the building face on which the wall sign is affixed.
- b. The maximum height is three feet.
- c. One principal wall sign is permitted on the front of the establishment to which it relates.
- d. A secondary wall sign may be installed marking a direct entrance on a parking lot or another street in addition to the front wall sign. There shall be no more than two secondary wall signs. Said sign shall have a width no greater than 50 percent of the width of the principal wall sign.
- e. Wall signs shall be affixed to a wall and parallel to it.
- f. No wall sign shall project more than 12 inches from the face of the wall.
- g. In cases where a building has multiple establishments, wall signs must be of a uniform height and lettering. The signs may only be in the space permitted for single-establishment buildings.

### 16. Window

- a. Combined window signage shall not exceed 30 percent of the total glass area of the window and/or door to which the signage is related.
- b. All window signs shall be temporary and removable.
- c. Internal illumination is prohibited unless granted by a special permit.

#### I. Number of Signs Permitted

1. No property shall have more than two signs unless the Board of Appeals grants a special permit. The Board shall not grant the special permit unless it finds that an additional sign will not be detrimental to the neighborhood and that the sign is necessary to properly advertise or identify the use or uses proposed on the property.
2. A multiple-tenant establishment may have one sign identifying it by place name, if applicable, and street address. Each tenant within the multiple-tenant establishment may have two signs advertising its business or establishment. A directory wall sign for a multiple-tenant establishment is also permissible if the sign complies with the requirements in this section for a directory sign for a multiple-tenant establishment.
3. Only one freestanding or monument sign shall be permitted on a site.

#### J. Illumination and Lighting

1. Signs may be externally or internally illuminated unless otherwise provided in this Bylaw.
2. The light from any sign shall be so shaded, shielded, or directed or shall be maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighboring premises, reflect or shine on or into residential lots, or impair the safe vision of operators of vehicles moving on public roads and highways.

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3. No illumination shall be permitted which casts glare beyond the perimeter of the property on which the sign is located.
  4. Light bulbs shall be enclosed in a housing, can, sleeve, or other container.
  5. The illumination of any sign shall not exceed 75 foot-lamberts. A written certification of the foot-lamberts of each illuminated sign shall be obtained from a licensed electrician, the sign manufacturer, or a qualified consultant. The certification shall accompany the sign permit application, and the sign shall be maintained in conformance with this certification.
  6. No internal or external sign illumination is permitted between 12:00 midnight and 6:00 A.M., except for signs on premises open for business.
  7. Internal or external sign illumination shall be steady and stationary.
  8. Exterior sign illumination shall be shielded and directed solely at the sign.
- K. Sign Maintenance. Every sign shall be maintained in good condition. If a sign shows corrosion or deteriorated paint over 25 percent of the area of one side, or if damage to the sign causes a loss of 10 percent of its substance, or if the sign suffers damage or deterioration which creates a risk of harm to the person or property of another; or if the establishment is no longer in business, the sign shall be repaired or removed by the property owner.

## **Section 11. Overlay Districts**

### **11.1 Flood Plain Overlay District (FPOD)**

- A. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Flood Plain Overlay District (FPOD), subject to all requirements of the underlying district and the following additional requirements, the purpose of which is to promote the health and safety of occupants of lands in the FPOD:
1. The installation of underground utilities, services, and related appurtenances within the FPOD shall connect to an existing facility, and the post-development grades and surface permeability shall remain the same as the predevelopment.
  2. The Inspector of Buildings may issue a building permit for a use permitted by right and the Board of Appeals may issue a special permit for a use permitted by special permit in the underlying district upon receipt of plans showing the proposed use, building, or structure, provided that:
    - a. The Board of Health has approved the plans, and
    - b. The building permit or special permit shall include all the Board of Health's conditions of approval.

### **11.2 Historic Overlay District (HOD)**

- A. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Historic Overlay District (HOD).
- B. To foster development that is compatible and appropriate within the Town's historic areas, the following dimensional requirements shall apply and shall override the dimensional requirements set forth in this Bylaw.
1. In the Village Residential, Neighborhood Residential, and Rural Residential Districts, a minimum side yard of 7 ½ feet and a minimum averaged front yard shall be provided. For purposes of this section, averaged front yard shall mean the average of the front yards of abutting properties.
  2. In the General Business, Neighborhood Business, Commercial, and Industrial Districts, a minimum side yard of 7 ½ feet and an average front yard shall be provided. In these districts, the green strip and green space requirements of Section 8.3 shall not apply.
  3. In all districts, any building or structure destroyed by fire or natural disaster may be rebuilt with the minimum yard spaces existing prior to the event, notwithstanding other limitations in this Bylaw.

### **11.3 Residential Cluster Overlay District (RCOD)**

- A. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Residential Cluster Overlay District (RCOD), which is intended to encourage the conservation of open space and the efficient use of land in harmony with its natural features. In addition, the following residential uses are permitted:

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1. Accessory residential uses by right
  2. A special permit may be granted for Residential Cluster Development
- B. Applicability. Residential Cluster Development shall be allowed on parcels of land with a minimum contiguous area of 10 acres in the Village Residence, Neighborhood Residence, or Rural Residence Districts.
- C. Basic Requirements for Residential Cluster Developments
1. Single-family detached residences shall be on separately deeded lots with not more than one residence per lot.
  2. Residential cluster development shall be allowed on parcels of land with a minimum contiguous area of 10 acres in the Village Residence, Neighborhood Residence, or Rural Residence Districts.
  3. The minimum lot area may be reduced to 20,000 square feet in the Neighborhood and Rural Residence Districts and to 15,000 square feet in the Village Residence District. The land designated as open space must equal or surpass the total area by which all lots have been reduced.
  4. The minimum frontage in all residential districts may be reduced to 100 feet, except the frontage on a cul-de-sac turnaround may be reduced to 75 feet provided the entire frontage is located on the cul-de-sac radius and the lot width parallel to the street at the front building line is a minimum of 100 feet.
  5. All yards shall conform to the yard requirements in this Bylaw for the district in which the use is located.
  6. No residence, temporary structure, driveway, accessory structure, swimming pool, parking area, filling, paving or fencing shall be located within 100 feet of the perimeter of the RCOD, except for utility easements or roadways.
  7. All contiguous areas within any one discrete RCOD shall be used in the design of the residential cluster development. No overlay district shall be split to render one portion cluster and the other conventional. Any discrete area in the RCOD shall be developed exclusively as either a conventional subdivision or a residential cluster development.
  8. The total number of building lots in a residential cluster development shall be no greater than the number of building lots that would otherwise be permitted in the district where the land is located
- D. Open Space Requirements
1. The area of open space shall equal at least 40 percent of the total area of the residential cluster development tract.
  2. The minimum required open space area may contain ponds, marshes, or other protected wetlands, but a minimum of 40 percent of the entire site's non-wetland area shall be located within the open space area.
  3. Parking areas, streets, or other areas associated with the residential cluster development shall not be included in the open space area.

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4. For open space areas, the minimum frontage on a public way or subdivision may be reduced to 40 feet.
5. Any area designated as open space must contain at least four acres of contiguous open space land.
6. Open space areas shall remain undeveloped but may be subject to easements for the construction, maintenance, and repair of utility and drainage facilities serving the residential cluster development or adjacent parcels.
7. Open space areas shall have a shape, dimension, character, and location suitable for passive recreation, conservation, or agricultural purposes.
8. Open space areas may not be excavated or filled and must be maintained in their natural state.
9. Provisions shall be made so that the open space areas are readily accessible to the owners or occupants of the lots in the residential cluster development, or, if the open space areas are under Town ownership, to the residents of the Town.

### E. Ownership of Open Space

1. Open space areas shall be owned by a corporation, non-profit organization, or trust whose owners or beneficiaries are all owners and occupants of the lots, or by the Town, or otherwise as directed at the time of special permit issuance.
2. All open space shall be subject to a perpetual restriction of the type described in G.L. c. 184, § 31, as amended, running to or enforceable by the Town. The restriction shall be recorded with the Middlesex North Registry of Deeds. The restriction shall provide that the open space areas shall be retained in perpetuity for one or more of the following uses: conservation, agriculture or passive recreation. The restriction shall be in the form and substance as the SPGA shall prescribe and may contain additional restrictions on development and use of the open space as deemed appropriate.
3. To ensure that the corporation, non-profit organization, or trust will properly maintain the open space area, an instrument(s) shall be recorded with the Middlesex North Registry of Deeds, which shall at a minimum provide:
  - a. A legal description of the open space;
  - b. A statement of the purposes for which the open space is intended to be used and the restrictions on its use and alienation;
  - c. The type and name of the corporation, non-profit organization or trust that will own, manage, and maintain the open space;
  - d. The ownership or beneficial interest in the corporation, non-profit organization, or trust of each owner of a dwelling in the residential cluster development and a provision that ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately from it;
  - e. Provisions for the number, term of office, and the manner of election to office, removal from office, and the filling of vacancies in the office of directors or officers of the corporation or non-profit organization or trustees of the trust;

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- f. Procedure for the conduct of the affairs and business of the corporation, non-profit organization, or trust including provision for the calling and holding of meetings of members and directors and/or officers of the corporation or non-profit organization or beneficiaries and trustees of the trust and provision for quorum and voting requirements for action to be taken. Each owner of a residence shall have voting rights proportional to that owner's ownership or beneficial interest in the corporation, non-profit organization, or trust;
- g. Provision for the management, maintenance, operation, improvement, and repair of the open space and associated facilities, including provisions for obtaining and maintaining adequate insurance and levying and collecting from the dwelling owners common charges to pay for expenses associated with the open space area, including real estate taxes; and
- h. Provision that common ownership or beneficial interests in the corporation, non-profit organization, or trust, and that each dwelling owner's share of the common charge shall be a lien against his real estate in the residential cluster development, which shall have priority over all other liens except for municipal liens and first mortgages of record; and the method by which the instrument or instruments may be amended.

### F. Subdivision Approval Requirements

- 1. SPGA approval of a special permit under this Section 11.3 shall not substitute for compliance with the Subdivision Control Law nor oblige the Planning Board to approve any related definitive subdivision plan, nor reduce any time periods for Board consideration under the law. However, to facilitate processing, the Planning Board shall, insofar as practical under existing law, permit submission of a combined plan and application which shall satisfy this Section 11.3 and the Planning Board's Rules and Regulations under the Subdivision Control Law.
- 2. The special permit application shall not be submitted prior to the approval of a conventional preliminary subdivision plan in accordance with the Subdivision Rules and Regulations. The plan shall provide satisfactory evidence that the number of lots shown on the residential cluster development plan is no greater than the number of lots that could otherwise be developed in a conventional subdivision. Each conventional lot must have enough non-wetland area to site a dwelling. A second preliminary plan showing the proposed cluster plan shall also be submitted along with the conventional preliminary subdivision plan.
- 3. If the residential cluster development does not require approval under the Subdivision Control Law, the applicant shall nevertheless submit a plan or plans in the form and containing the same information required to be shown on a preliminary subdivision plan by the Subdivision Rules and Regulations.
- 4. The application plan for the special permit shall be prepared in accordance with the requirements for a definitive subdivision plan as set forth in the Subdivision Rules and Regulations and shall also include the following:
  - a. The proposed location, bulk and height of all proposed buildings;

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- b. An analysis of the site, including wetlands, slopes, soil conditions, areas within the 100-year flood zone, vegetative areas, and other natural features as the SPGA may request; and
  - c. An evaluation of the open space proposed within the residential cluster development, with respect to the size, shape, location, natural resource value, and accessibility by residents of the development or residents of the town, as applicable.
- G. Required Findings for a Special Permit. No special permit shall be granted unless the SPGA finds that:
- 1. The use complies with the site plan approval requirements of this Bylaw.
  - 2. The plan and application meet all requirements for submission.
  - 3. The proposed use will not have a detrimental impact on the neighborhood.
  - 4. The plan considers health and safety and is superior to a conventional plan in preserving open space, minimizing environmental disruption, and allowing for more efficient provision of services.

### **11.4 Townhouse Overlay District (TOD)**

- A. Use regulations
- 1. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Townhouse Overlay District (TOD).
  - 2. A residential Townhouse use is allowed by special permit from the Zoning Board of Appeals.
- B. Applicability. The TOD may be applied to the Village Residence, Neighborhood Residence, Rural Residence, Neighborhood Business, and General Business Districts.
- C. Site Requirements
- 1. The minimum site size for a Townhouse development shall be 200,000 square feet.
  - 2. The Townhouse site shall have not less than 150 feet of frontage.
  - 3. Buildings shall not cover more than 30 percent of the site.
  - 4. At least 40 percent of the site shall be maintained as green space.
  - 5. Green Strips
    - a. A 25-foot-wide green strip shall be provided around the perimeter of the tract, except where curb cuts are located.
    - b. Green Strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover, and flowers.
    - c. The green strip shall not be built on, paved, or parked on.
  - 6. Sewer and Water
    - a. All sites must be served by the Town water system.
    - b. All sites must be served by an existing Town sewer, an extension of an existing

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Town sewer line approved by the Select Board, or a private septic system approved by the Board of Health.

- c. If approved by the Sewer Commission, the developer is financially responsible for installing any new sewer line extension, which will be installed in accordance with the specifications provided by the Sewer Extension Commission and laid out to serve any residence it passes.

### D. Density and Design Standards

#### 1. Standards for Buildings.

- a. Townhouse buildings shall not exceed two and one-half stories or be more than 35 feet in height, provided that no living quarters shall be located below the mean finished grade of the ground adjoining the building or above the second story.
- b. A minimum of 6,800 square feet of land shall be required for each dwelling unit. The area used in the calculation shall not include any bordering vegetative wetlands defined by G.L. c. 131, § 40 and by 310 CMR 10.00 or any flood plain as described in this Bylaw.
- c. There shall be a minimum of 40 feet between two residential buildings or groups of townhouses on the same site.
- d. Townhouse rows shall consist of a minimum of three units and a maximum of 10 units.
- e. Each townhouse dwelling unit shall be a minimum of 18 feet wide.
- f. No open parking or driveway shall be closer than 15 feet to a wall containing windows or habitable rooms.
- g. Townhouses may be maintained as rental units or sold as condominiums. Townhouse units may not be sold as row houses with their own individual sites. This shall not restrict the allocation of outdoor space adjacent to individual dwelling units for the exclusive use of the occupants of specific dwelling units.
- h. Garages and a community building for meetings and social activities of the residents shall be permitted but shall not exceed 2,000 square feet of gross floor area and shall comply with all green strip and setback requirements of this Bylaw.

2. Swimming pools or any other structure, other than a dwelling, garages, community building, and all accessory structures that are part of a townhouse development shall comply with the green strip, setback, and parking requirements of this Bylaw.

#### 3. Yards

- a. On each site there shall be provided a minimum setback of 35 feet from the front property line.
- b. The side and rear setbacks shall be 50 feet, except the side setback may be reduced to 25 feet if the entire area within the setback is retained in its natural, wooded state or landscaped along the perimeter of the side lot line and may include easements (paved or otherwise) dedicated for public recreational purposes.

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- c. A landscape buffer strip shall be provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
  4. Density Incentive. In addition to the density allowed under this Section 11.4, density may be increased by 20 percent if at least half of all additional units created are Affordable Housing as defined in Section 2 of this Bylaw. (For example: a development of 10 dwelling units by right or special permit may be increased to 12 if one of the additional two units is affordable. In cases where 10 percent affordable is required, the applicant would need to provide two affordable units and 10 market units).
  5. Off-Street Parking
    - a. There shall be a minimum of two parking spaces per dwelling unit.
    - b. A minimum of 25 percent of the dwelling units shall have garages.
    - c. The parking space within garages shall count towards the two parking spaces per dwelling unit requirement.
    - d. Driveways leading to garages shall be at least 24 feet long.
  6. Fire Lanes
    - a. All buildings shall be surrounded by fire lanes.
    - b. The fire lane shall remain an open space and no vehicle may be parked in the lane. No building, structure, fence, stair, covered or uncovered porch, cornice, eaves, or other building projection may be in or erected in the fire lane without permission from the Fire Chief, except that buildings may be interconnected by corridors or walkways, if provision is made for access by fire apparatus to all outside walls.
    - c. The fire lane space shall be vacant between a building and a line parallel to and 15 feet equidistant from a building.
  7. Access Roads. All access roads shall be built according to the Department of Public Works' design specifications.
- E. Affordable Housing Component
  1. A minimum of 15 percent of the units created under these provisions shall be Affordable Housing as defined in Section 2 of this Bylaw. The Billerica Housing Authority is exempt from this requirement because the units under its control are categorically affordable.
  2. Alternatively, the Planning Board may require an applicant to contribute a fee per unit to the Town to be used for the development of affordable housing in lieu of or in conjunction with constructing and offering affordable units within the locus of the proposed development. The fee per unit shall be based upon the calculation of the fair market price of the unit minus the construction cost of the unit or the construction cost, whichever is greater. Payment of the fee-in-lieu may be made in one-third installments over the projected build-out of the development with the final payment to be made before the last unit is sold.

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- F. Required Findings for a Special Permit. No special permit shall be granted unless the SPGA finds that:
1. The use complies with the site plan approval requirements of this Bylaw.
  2. The requested use:
    - a. Is desirable to the public convenience or welfare.
    - b. Provides for the convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, and improvements.
    - c. Will not create or add to the undue traffic congestion or unduly impair pedestrian safety.
    - d. Will not overload any public water, drainage, or sewer system or any other municipal system to 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.
    - e. Will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience, or welfare.
    - f. Will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of the neighborhood in which it is proposed to be constructed.
  3. The design and architectural treatment of the use are not incongruous with or inappropriate for the character of the neighborhood in which it is proposed to be constructed.
  4. There is an adequate landscape buffer strip provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
  5. No building or access facilities shall be placed on any portion of the land determined by the Board of Health to be unsuitable for the proposed construction.

### **11.5 Elderly Housing Overlay District**

- A. Use regulations
1. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Elderly Housing Overlay District.
  2. Accessory residential uses are permitted by right
  3. A special permit may be granted for Elderly Housing, which would provide people over 55 years of age with the opportunity to live in a development designed specifically for their needs, equipped with the appropriate amenities, and located within reasonable proximity to shopping and services.
- B. Applicability. The Elderly Housing Overlay District may be applied to the Village Residence, Neighborhood Residence, Rural Residence, Neighborhood Business, and General Business Districts.

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### C. Site Requirements

1. The site shall have not less than five contiguous acres of land and not less than 150 feet of frontage.
2. Green Strips
  - a. A 25-foot-wide green strip shall be provided around the perimeter of the tract, except where curb cuts are located.
  - b. Green strips shall consist of planted or natural vegetation, including trees, shrubs, grasses, ground cover, and flowers.
  - c. The green strip shall not be built on, paved, or parked on.
3. Minimum Site Setbacks.
  - a. On each site, the minimum setback shall be 35 feet from the front lot line, 30 feet from each of the side lot lines, and 30 feet from the rear lot lines.
  - b. If an Elderly Housing Overlay District development abuts a single-family district, the side and rear setbacks shall be increased to 85 feet, of which at least 25 feet shall be retained in its natural wooded state or landscaped along the perimeter of the site abutting the single-family district. In all cases, a landscaped green strip shall be provided to protect adjoining properties from the effects of noise, lights, air, or visual impact. There shall be no structures, retaining walls, covered or uncovered porches, steps, or paving within the buffer zone.
4. Buildings shall not cover more than 30 percent of the site.
5. At least 40 percent of the site shall be maintained as green space.
6. Sewer and Water
  - a. All sites must be served by the Town water systems.
  - b. All sites must be served by an existing Town sewer, an extension of an existing Town sewer line approved by the Board of Selectmen, or a private septic system approved by the Board of Health.
  - c. If approved by the Sewer Commission, the developer is responsible for the installation of any new sewer line extension, which will be laid out to serve any residence it passes. The extension will be installed in accordance with the specifications provided by the Sewer Extension Commission.

### D. Density and Design Standards

1. Standards for Buildings.
  - a. Buildings and structures shall not exceed two and one-half stories or be more than 35 feet in height, provided that no living quarters shall be located below the mean finished grade of the ground adjoining the building or above the second story.
  - b. A minimum of 6,800 square feet of land shall be required for each dwelling unit. The area used in the calculation shall not include any bordering vegetative wetlands defined by G.L. c. 131, § 40 and by 310 CMR 10.00 or any flood plain as described

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in this Bylaw.

- c. Each dwelling unit shall have no more than two bedrooms and all exterior and interior doorways shall be appropriately wide for wheelchair access, following the applicable codes and guidelines.
  - d. There shall be a minimum distance of 40 feet between two residential buildings or groups of buildings on the same site.
2. Swimming pools or any other structure, other than a dwelling, garages, community building, and all accessory structures that are part of an elderly housing development shall comply with the green strip, setback, and parking requirements this Bylaw.
  3. Yards
    - a. On each site there shall be provided a minimum setback of 35 feet from the front property line.
    - b. The side and rear setbacks shall be 50 feet, except the side setback may be reduced to or 25 feet, if the entire area within the setback is retained in its natural, wooded state or landscaped along the perimeter of the side lot line, and may include easements (paved or otherwise) dedicated for public recreational purposes.
    - c. A landscape green strip shall be provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
  4. Density Incentive. In addition to the density allowed under this Section 11.5, density may be increased by 20 percent if at least half of all additional units created are Affordable Housing as defined in Section 2 of this Bylaw. (For example: a development of 10 dwelling units by right or special permit may be increased to 12 if one of the additional two units is affordable. In cases where 10 percent affordable is required, the applicant would need to provide two affordable units and 10 market units).
  5. Off-Street Parking
    - a. There shall be a minimum of two parking spaces per dwelling unit.
    - b. A minimum of 25 percent of the dwelling units shall have garages.
    - c. The parking space within a garage shall count toward the two parking spaces per dwelling unit requirement.
    - d. No open parking or driveway shall be closer than 15 feet to a wall containing windows or habitable rooms.
  6. Fire Lanes
    - a. All buildings shall be surrounded by fire lanes.
    - b. The fire lane shall remain an open space and no vehicle may be parked in the lane and no building, structure, fence, stair, covered or uncovered porch, cornice, eaves, or other building projection may be located in or erected in the fire lane without permission from the Fire Chief, except that buildings may be interconnected by corridors or walkways, if provision is made for access by fire apparatus to all outside

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walls.

7. All-access roads shall be built in accordance with the design specifications of the Town's Department of Public Works.
- E. Deed Restrictions. Deed restrictions, requiring that all residents, except for spouses or caregivers, have reached the age of 55, shall be placed on the entire site and referenced in all leases as applicable. Town Counsel shall review these restrictions for acceptance. The applicant shall be responsible for the cost of the review.
- F. Affordable Housing Component
1. At least 15 percent of the units created under these provisions shall be Affordable Housing as defined in Section 2 of this Bylaw. The Billerica Housing Authority is exempt from this requirement because the units under its control are categorically affordable.
  2. Alternatively, the Planning Board may require an applicant to contribute a fee per unit to the Town to be used for the development of affordable housing in lieu of or in conjunction with constructing and offering affordable units within the locus of the proposed development. The fee per unit shall be based upon the calculation of the fair market price of the unit minus the construction cost of the unit or the construction cost, whichever is greater. Payment of the fee-in-lieu may be made in one-third installments over the projected build-out of the development with the final payment to be made before the last unit is sold.
- G. Required Findings for a Special Permit. No special permit shall be granted unless the SPGA finds that:
1. The use complies with the site plan approval requirements of this Bylaw.
  2. The requested use:
    - a. Is desirable to the public convenience or welfare.
    - b. Provides for the convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property, and improvements.
    - c. Will not create or add to the undue traffic congestion or unduly impair pedestrian safety.
    - d. Will not overload any public water, drainage, or sewer system or any other municipal system to 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.
    - e. Will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience, or welfare.
    - f. Will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of the neighborhood in which it is proposed to be constructed.
  3. The design and architectural treatment of the use are not incongruous with or

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inappropriate for the character of the neighborhood in which it is proposed to be constructed.

4. There is an adequate landscape buffer strip provided to protect adjoining properties from the effects of noise, lights, air, or visual impact.
5. No building or access facilities shall be placed on any portion of the land determined by the Board of Health to be unsuitable for the proposed construction.

### **11.6 Self-Service Overlay District**

- A. Applicability. The Self-Service Overlay District may be applied to the Industrial District.
- B. Use Regulations
  1. All uses permitted by right or by special permit in the underlying districts are permitted by right or by special permit in the Self-Service Overlay District.
  2. A special permit may be granted for a self-storage service facility.
- C. Dimensional Regulations
  1. Area, Height, and Other Dimensional Requirements
    - a. The minimum lot area for a self-service storage facility shall be 10 acres unless a preexisting building is to be converted to a climate-controlled facility.
    - b. The minimum lot area for a climate-controlled self-storage facility within a pre-existing building shall be 5 acres.
    - c. Unless a pre-existing building is to be converted to a climate-controlled self-storage facility, buildings shall not exceed one story or 13 feet in height.
    - d. Any preexisting building to be converted to a climate-controlled self-storage facility shall meet all other lot dimensional requirements in existence when the building was constructed.
    - e. All other lot dimensional requirements for a self-service storage facility contained within a preexisting building shall be the same as those required in the underlying Industrial District.
  2. Green Strips and Green Space. If a preexisting building is to be converted to a climate-controlled self-storage facility, all green strip and green space requirements in existence when the preexisting building was constructed shall apply. For all other self-storage facilities to be constructed, the following green strip and green space requirements shall apply.
    - a. A minimum 20-foot green strip shall be provided and maintained along a minimum of 70 percent of the perimeter of each lot, excluding curb cuts.
    - b. Green strips shall consist of natural or planted vegetation.
    - c. A green space shall be set aside on each side that is the greater of 25 percent of the site's area or five acres. This area cannot be used for driveways, roadways, parking areas, and paved areas for vehicular travel of any type.
- D. Parking and Loading. A pre-existing building to be converted to a climate-controlled self-

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storage facility shall be subject to the parking and loading requirements in existence when the building was permitted. All other self-storage facilities to be constructed shall be subject to the parking and loading requirements of this Bylaw with the following exceptions:

1. The total number of conventional parking spaces shall be six plus one handicapped space.
2. Additional parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least 26 feet wide when the cubicles open onto one side of the lane only and at least 30 feet wide when cubicles open onto both sides of the lane. No loading docks shall be allowed on the site. No lane shall exceed 30 feet in width at its throat.

### E. Limitations

1. A preexisting building to be converted to a climate-controlled self-storage facility may be utilized for the storage of personal property and for the storage of goods, inventory, and merchandise of local businesses. All other self-storage facilities shall be limited to personal property use only.
2. No activity other than rental of storage units and pick up and deposit of personal property shall be allowed on the lot except for accessory or incidental uses required in administration and security of the site.
3. No outside storage shall be allowed.
4. The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals shall be prohibited.
5. The use of the unit for uses other than dead storage shall be prohibited.
6. Servicing or repairing motor vehicles, boats, trailers, lawnmowers, or similar equipment is prohibited.

### F. Signs. All signs on the premises shall be in conformity with the sign requirements of this Bylaw.

### G. Required Findings

1. A previously permitted building to be converted to a climate-controlled self-storage facility shall comply with the site plan approval and permitting requirements, if any, imposed when the building was constructed.
2. For any self-service storage facilities to be constructed, the use complies with the site plan approval requirements of this Bylaw.
3. The use complies with the requirements set forth in this Section 11.6.
4. The location of the use will not be detrimental to the neighborhood in which it is located.
5. The use will not generate undue traffic or create traffic congestion on the site .

## 11.7 Mill Conversion and Reuse Overlay District (MCROD)

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- A. Purpose and Intent. The purposes of the Mill Conversion and Reuse Overlay District (MCROD) are to:
1. Facilitate and encourage the reuse of the North Billerica historic mill buildings in a fashion that is appropriate for the individual properties and compatible with the surrounding land uses;
  2. Promote diverse housing choices in the Town;
  3. Provide flexibility in meeting the Town's housing and economic development needs;
  4. Prevent disinvestment and deterioration of historic structures; and
  5. Encourage sustainable mixed-use development, including transit-oriented development, in the area of the North Billerica Commuter Rail Station.
- B. Establishment of the Overlay District. The Mill Conversion and Reuse Overlay District (MCROD) is hereby established and shall be considered an overlay zoning district. Within the MCROD, all requirements of the underlying district(s) shall remain in effect except where these regulations supersede or provide an alternative to those requirements. If a property is developed consistent with the Mill Conversion and Reuse Overlay District, the regulations of the MCROD shall apply. Where the provisions of the Mill Conversion and Reuse Overlay District are silent on a zoning regulation, the requirements of the underlying zoning district shall apply.
- C. Applicability. The Mill Conversion and Reuse Overlay District may be applied to the Neighborhood Business, General Business, and Commercial or Industrial Districts. This requires a rezoning of land pursuant to the procedures outlined under Section 1.5 of this Bylaw and to G.L. c.40A, § 5.
- D. Special Permit. Uses other than those allowed within the underlying zone(s) require a special permit by the Planning Board and a Site Plan approval pursuant to Section 4.7 of this Bylaw. No other uses or structures shall be permitted in conjunction with a project except as specifically stated herein.
- E. Special Permit Granting Authority (SPGA). The Planning Board shall serve as the SPGA pursuant to this Section 11.7.
- F. Special Permit Procedures.
1. Application. All applications for a Mill Conversion and Reuse Project shall be submitted to the Planning Board on the form required by the Board in accordance with its regulations. Each application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of G.L. 41, § §81 O and 81 T, and the Regulations of the Planning Board, along with a filing fee determined in accordance with the Board's regulations. Additionally, the applicant shall submit the following:
    - a. Plans
      - (i) A site plan and all supporting documents, as set forth in Section 4.7 of this Bylaw.
      - (ii) A plan at a scale of 1" = 40' showing the topography of the site at a minimum

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of two-foot contour intervals. The plan must use the Massachusetts State Plane (NAD 83) coordinate system and include vegetation and special features including wetlands, perennial streams and ponds, waterways, waterfalls, canals and dams, trees of more than 8 inches caliper, rock outcroppings, slopes in excess of fifteen percent (15%), existing and proposed trails and walkways, vistas, structures of historical importance, biological or wildlife habitats, and proposed and existing conservation or recreation easements.

- (iii) A plan illustrating preliminary landscaping and architectural design, showing types, locations and layout of buildings and elevations as well as the general height, bulk and appearance of structures. Perspectives may be required at Board's discretion.
- (iv) A floor plan to scale for each floor of each building indicating where applicable, the number of units by type, the number of bedrooms per dwelling unit, the proposed use(s) of floor space and the location of affordable dwelling units.
- (v) A plan for the care, custody and control of all dams, canals and water rights located on the site or owned or controlled by the applicant.

### 2. Narrative Reports

- a. A report regarding the proposed development schedule showing the beginning of construction and relevant or significant stages and the estimated date of completion and occupancy.
- b. A development impact statement prepared by a qualified professional detailing the impact of the development at all phases including construction on the Town's capacity to furnish services, including, but not limited to, roads and levels of service, police, fire, emergency service, schools, air quality, noise, light pollution and other environmental concerns.
- c. Information pertaining to any organization or entity the applicant proposes to form where the development is to be a condominium or other ownership organization, including forms and plans used to organize and manage the same.
- d. Copies of all proposed covenants, easements, and other restrictions that the applicant proposes to grant to the Town, Conservation Commission, utility company, the Middlesex Canal Commission, or others, including any condominium or ownership organization and the owners thereof, for review by Town Counsel and approval by the Planning Board.
- e. A table showing the total number of dwelling units and the number of affordable units by type and size on each floor of each building.
- f. If applicable, copies of the proposed regulatory agreement for each affordable housing unit, and where appropriate, the proposed deed rider for each affordable ownership unit.
- g. A narrative analysis prepared by a preservation consultant, including all historical information to be submitted to the Billerica Historic Districts Commission and the



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- G. Site Development Standards. To be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all the following standards:
1. Buffer. A buffer area of 25 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site, however, existing structures and parking areas shall not be made more non-conforming, except for ADA compliance. No vegetation in this buffer area will be disturbed, destroyed, or removed, except for normal maintenance. The Planning Board may waive the buffer requirement where the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
  2. Removal and replacement of vegetation. Within the site, no clear cutting shall be permitted, except as authorized by special permit and incidental to the construction of buildings, roads, trails, and parking areas. The Planning Board may require suitable landscaping or placement of vegetation.
  3. Roadways. The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners, the applicant, or other entity that owns or manages the development.
  4. Number of Parking Spaces. The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of Section 10.1 of this Bylaw or other applicable provisions herein. In the case of a mixed-use project, requirements for each use shall be added, unless the Planning Board determines that a smaller number is adequate. Given the proximity of the MCROD to the North Billerica Commuter Rail Station, the Planning Board may reduce the otherwise required number of parking spaces where the applicant demonstrates that an adequate number of spaces will be provided or can be secured offsite by recordable agreement. Any decrease in the number of parking spaces shall not create undue congestion, a traffic hazard, or a substantial detriment to the neighborhood.
  5. Commercial Vehicles. Commercial vehicles owned or operated by MCROD owners or tenants or their agents, employees, licensees, suppliers, or invitees shall be parked within a suitably screened or designated area, except for delivery or service vehicles in the active service of receiving and delivering goods or services.
  6. Parking Areas. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border of at least 10 feet wide. Parking lots shall be located to the rear or side of all buildings and shall not be in front setbacks or in buffer areas, except that the Planning Board may waive these provisions for existing parking lots or existing buildings. Parking lot layouts shall be planned to include landscaping, buffers, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing, hedges, walls, or landscape berms to define parking areas is encouraged. Parking areas shall be appropriately landscaped, and irrigation shall be provided for all parking lot landscaping.

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7. Pedestrian Accommodations. Pedestrian access is to be taken into consideration in site and parking lot design. Separate pedestrian walkways and crosswalks are required at appropriate locations. Textured paving or grade-separated (elevated) walkways are desired on all pedestrian access ways. The use of stone, brick or cultured stone pavers for entrance walkway borders is encouraged. The Planning Board may require paths that shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle, and pedestrian traffic, adequate connectivity, and completeness of access to the various amenities and facilities on the site and to pathways or sidewalks located adjacent to the site. All sidewalk curbing shall be vertical granite.
  8. Loading. The Planning Board may require loading areas if deemed necessary for the efficient operation of the project. Loading areas must be at least 20 x 9 feet and have a minimum overhead clearance of 10 feet. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.
  9. Stormwater Management. The stormwater management system shall be designed in accordance with the Regulations of the Planning Board and the Town and shall meet all federal and state stormwater regulations.
  10. Utilities. All electric, gas, telecommunications, and water distribution lines shall be placed underground except upon a demonstration of exceptional circumstances. The facility shall be served by the municipal water and wastewater systems. Applicants are encouraged to utilize the principles of Green Building Design as certified by the U.S. Green Building Council.
  11. Emergency Systems. The project shall have an integrated emergency call or telephone or other communications system for its residents and/or other tenants. There shall be sufficient site access for public safety vehicles. The Fire Department shall approve a plan for the emergency evacuation of the residents, with emphasis on ensuring the safety of residents with physical impairments.
  12. Lighting. Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not create so much light overspill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources. All lighting must comply with Section 10.2 of this Bylaw.
- H. Expansion of Existing Buildings. Existing buildings within the MCROD may be expanded, provided that the expansion:
1. Is consistent with existing buildings historic character and scale; and is consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation, as determined by the Billerica Historic Districts Commission; and
  2. Does not cause substantial detriment after considering the factors set forth in Section 11.7.
- I. New Buildings. Within the MCROD, new buildings may be constructed; however, the number, type, scale, architectural style, and uses within the new building shall be subject to Planning Board approval. The new building(s) shall not detract from the historical

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significance or character of the existing buildings, as determined by the Billerica Historic Districts Commission.

### J. Dwelling Units.

1. The maximum number of dwelling units shall be established by the Planning Board after reviewing the following criteria:
  - a. Existing structures;
  - b. Trip generation, traffic safety and internal site traffic;
  - c. Character of the proposed MCROD and its relation to the surrounding neighborhood(s);
  - d. Character of the existing buildings and their potential for reuse;
  - e. Number of affordable units, beyond the minimum required, proposed by the applicant; and
  - f. Report of the technical consultants of the Planning Board and all other reviewing departments and boards.
2. The number of units shall in no case be more than what would be permitted in the Multi-Family District if the site were vacant.
3. Number of Bedrooms. The Planning Board may ensure the diversification of dwelling units within the MCROD by establishing the number of dwelling units with one, two, or three bedrooms.
4. Affordable Dwelling Units. As a condition of granting a special permit for a Project in the MCROD, a minimum of 25 percent of the total number of dwelling units shall be restricted "in perpetuity" and shall contain some form of subsidy. Dwelling units meeting these requirements would be eligible for inclusion on the Chapter 40B Subsidized Housing Inventory maintained by the Massachusetts Executive Office of Housing and Livable Communities (EOHLC) and would move the Town closer to attaining its 10 percent affordable housing goal as outlined in its Housing Production Plan (HPP). The specific requirements of this section are as follows:
  - a. Twenty-five percent of the units shall be affordable to persons or families qualifying as low or moderate-income residents, whose income is at or below 80 percent of the median income, adjusted for size, for the metropolitan area, as determined by the U.S. Department of Housing and Urban Development (HUD).
  - b. An "in perpetuity" affordability restriction shall be established through a regulatory agreement, or Deed Rider, in a form that is acceptable to legal counsel to the Planning Board and EOHLC. The regulatory agreement shall be legally enforceable and recorded at the Registry of Deeds. Failure to record the regulatory agreement shall be deemed a violation of this Bylaw and subject to enforcement. A right of first refusal upon the transfer of the restricted units shall be granted to the Billerica Housing Authority for a period not less than 120 days after notice thereof.
  - c. Affordable units shall be integrated into the overall development of the MCROD to prevent segregation of the units.

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- d. The applicant shall be encouraged to seek EOHLIC approval to add the affordable units to the Chapter 40B Subsidized Housing Inventory. The Planning Board shall require that the applicant affirmatively take steps to utilize a public agency, non-profit agency, limited dividend organization, or other appropriate entity to secure public subsidy to finance the affordable housing portion of the project and to complete all forms and information necessary to promote the designation of those units as eligible for the Subsidized Housing Inventory. The Planning Board shall require submission of the application, forms, and appropriate information to EOHLIC as a condition of approval.
- K. Decision. After considering reports from consultants and other Boards or Commissions, the Planning Board may grant a special permit for a project in the MCROD where it makes the following findings:
1. The proposed project constitutes an appropriate renovation or new construction project, as defined above;
  2. The proposed project does not cause substantial detriment to the neighborhood or the Town, after considering the following potential consequences:
    - a. Noise, during the construction and operational phases;
    - b. Pedestrian and vehicular traffic operations and safety;
    - c. Impact on environmental and historic resources; and
    - d. Visual and aesthetic impact created by the character and scale of the proposed structures(s).

### **11.8 Medical Marijuana Overlay District**

- A. Establishment: The Medical Marijuana Overlay District (“MMOD”) is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk. Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to the requirements. Land within the MMOD may be used either for (1) a Registered Marijuana Dispensary (“RMD”), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.
- B. Purpose: To provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.
- C. Location

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1. RMDs may be permitted in the MMOD pursuant to a Special Permit granted by the Planning Board.
  2. RMDs may not be located within 500 feet of the following:
    - a. School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university
    - b. Child Care Facility
    - c. Library
    - d. Playground
    - e. Public Park
    - f. Youth center
    - g. Public swimming pool
    - h. Video arcade facility or
    - i. Similar facility in which minors commonly congregate in an organized, ongoing, formal basis;
  3. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in subsection C.2 to the nearest point of the property line of the proposed RMD.
  4. The distance requirement may be reduced to no less than 250 feet by waiver, ~~but only~~ if:
    - a. The applicant demonstrates that the RMD would otherwise be effectively prohibited within the municipality.
    - b. The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.
- D. Procedure: The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD special permit.
1. Application: In addition to the materials required under Section 4.3 and Section 4.7 of this Bylaw, the applicant shall submit the following:
    - a. A copy of its registration as an RMD from the Massachusetts Department of Public Health (“DPH”).
    - b. A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs.
    - c. Detailed site plans that include the following information:
      - (i) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards, building heights and coverage, and all other provisions of this Bylaw.

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- (ii) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.
  - (iii) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes.
  - (iv) 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.
  - (v) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping.
  - (vi) Adequacy of water supply, surface and subsurface drainage and light.
  - (vii) Facilities for eliminating odors and other operational effects that may constitute a nuisance.
- d. A description of the security measures, including employee security policies, approved by DPH for the RMD.
  - e. A copy of the emergency procedures approved by DPH for the RMD.
  - f. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by DPH for the RMD.
  - g. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH.
  - h. A copy of proposed waste disposal procedures.
  - i. A description of any waivers from DPH regulations issued for the RMD.
- 2. The Planning Board shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, and the Engineering Division of the Department of Public Works. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
  - 3. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon the special permit.
- E. Special Permit Conditions on RMDs: The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, and public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area, and otherwise serve the purpose of this Section 11.8. In addition to any specific conditions that apply to the applicant's RMD, the Planning Board shall include the following conditions in any special permit granted under this Section 11.8:
- 1. Hours of operation, including dispatch of home deliveries.

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2. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Inspector of Buildings, Police Chief, and the Planning Board within 24 hours of creation by the RMD. The 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 summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Inspector of Buildings, Police Chief, and Planning Board within 48 hours of receipt by the RMD.
  4. The permit holder shall provide to the Inspector of Buildings and Police Chief, the name, telephone number and electronic mail address of a contact person if the person needs to be contacted after regular business hours to address an urgent issue. The contact information shall be kept updated by the permit holder.
  5. The special permit shall lapse within five years of 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 RMD.
  7. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
  8. The permit holder shall notify the Inspector of Buildings, Police Chief, and Planning Board in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
- F. Exemption from RMD Special Permit Requirement. RMDs that demonstrate they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit but shall apply for Site Plan Approval pursuant to Section 4.7 of this Bylaw.
- G. Prohibition Against Nuisances: No use shall be allowed in the MMOD that creates a nuisance to abutters or to the surrounding area, or that 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.
- H. Prohibition Against Consumption: No marijuana shall be burned, smoked, eaten, or otherwise consumed or ingested on the premises, driveway, or parking areas of a RMD
- I. Building. All aspects of a RMD relative to the cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building, products must not be visible from the exterior of the building, and no drive-through service is permitted. A RMD shall not be located in a trailer, storage freight, mobile structure, container, motor vehicle or other similar movable enclosure.

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- J. A RMD may be located in buildings with other uses, including other RMDs, only if the RMD is separated by full walls from the other use. No outside storage of marijuana, marijuana products, or related supplies is permitted.
- K. Emergency Response Plan. All RMD shall meet with the Fire Department and the Police Department to discuss and identify emergency plans or contingency plans for the site prior to the issuance of a certificate of occupancy. The plan shall also include how the Police Department will access the Close Circuit Television. A written Emergency Response Plan shall be filed with the Fire Department and the Police Department.
- L. Odor Control: The RMD shall provide an odor control plan that provides for proper and adequate ventilation at the facilities in a manner 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 to avoid any air pollution. No odor from marijuana establishments may be noxious or cause a public nuisance.

### **11.9 Adult Use Marijuana Overlay District (AUMOD)**

- A. Establishment. The Adult Use Marijuana Overlay District (AUMOD) is established as an overlay district. The boundaries of the AIMOD are shown on the Zoning Map on file with the Town Clerk. Within the AUMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to those requirements. Land within the AUMOD may be used either for (1) a Marijuana Establishment, in which case the requirements set forth in this section shall apply, or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the AUMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the AUMOD conflict with the requirements of the underlying district, the requirements of the AUMOD shall apply.
- B. Purpose. To provide for the placement of Marijuana Establishments, in accordance with Chapter 334 of the Acts of 2016, The Regulation and Taxation of Marijuana Act, as amended by Chapter 55 of the Acts of 2017, and otherwise (the “Act”), and regulations promulgated thereunder, in locations suitable for lawful adult use marijuana facilities and to minimize adverse impacts of Marijuana Establishments on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of Marijuana Establishments.
- C. Definitions: Where not expressly defined in the Zoning By-Laws, terms used in this Section 11.8 shall be interpreted as defined in the Act and the regulations promulgated thereunder, and otherwise by their plain language.
- D. Location:
  - 1. Marijuana Establishments may be permitted in the AUMOD pursuant to a Special Permit.

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### 2. Location.

- a. Marijuana Establishments may not be located within 500 feet of the following:
  - (i) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university
  - (ii) Child Care Facility
  - (iii) Library
  - (iv) Playground
  - (v) Public Park
  - (vi) Youth Center
  - (vii) Public swimming pool
  - (viii) Video arcade facility or similar facility in which minors commonly congregate in an organized, ongoing, formal basis;
- b. The distance under this section if measured in a straight line from the nearest point of the property line of the protected uses identified in subsection D.2 to the nearest point of the property line of the proposed Marijuana Establishment.
- c. The distance requirement may be reduced to no less than 250 feet by a waiver if:
  - (i) The applicant demonstrates that the AUMOD would otherwise be effectively prohibited within the municipality; and
  - (ii) The applicant demonstrates that the Marijuana Establishment will employ adequate security measures to prevent diversion of marijuana to minors.

### E. Procedures. The Planning Board shall be the Special Permit Granting Authority (SPGA) for a Marijuana Establishment special permit.

1. Application: In addition to the materials required under Section 4.3 and Section 4.7 of this Bylaw, the applicant shall submit the following:
  - a. A copy of its license to operate the Marijuana Establishment issued by the Cannabis Control Commission.
  - b. A detailed floor plan of the premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment, including areas for any preparation of edible marijuana-infused products (“MIPs”).
  - c. Detailed site plans that include the following information:
    - (i) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this By-Law.
    - (ii) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.
    - (iii) Convenience and safety of vehicular and pedestrian movement off the site, if

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vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes.

- (iv) 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 delivery vehicles(s), as applicable.
  - (v) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping.
  - (vi) Adequacy of water supply, surface and subsurface drainage and light
  - (vii) Facilities for eliminating odors and other operational effects that may constitute a nuisance.
- d. A description of the security measures, including employee security policies, approved by the CCC for the Marijuana Establishment.
  - e. A copy of the emergency procedures approved by the CCC for the Marijuana Establishment.
  - f. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between Marijuana Establishments approved by the CCC.
  - g. A copy of proposed waste disposal procedures.
  - h. A description of any waivers from applicable regulation issued by the CCC for the Marijuana Establishment.
- 2. The Planning Board shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, Conservation Commission, and the Engineering Division of the Department of Public works. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
  - 3. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of both town boards and departments, the Planning Board may act upon the permit.
- F. Special Permit Conditions on Marijuana Establishments: The Planning Board shall impose conditions reasonable appropriate to improve site design, traffic flow, public safety, protect water quality, air quality and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Marijuana Establishment, the Planning Board shall include the following conditions in any special permit granted under this By-Law;
- 1. The permit holder shall file a copy of any Deficiency Statement issued to it pursuant to 935 CMR 500 with the Inspector of Buildings, Police Chief, and the Planning Board within 24 hours of issuance.
  - 2. The Permit holder shall file a copy of any summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or decision

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issued by the CCC or court of competent jurisdiction, as applicable, regarding the Marijuana Establishment with the Inspector of Buildings, Police Chief, and Planning Board within 48 hours of receipt by the Marijuana Establishment.

3. The permit holder shall provide to the Inspector of Buildings and Police Chief, the name, telephone number and electronic mail address of a contact person if the person needs to be contacted after regular business hours to address an urgent issue. The contact information shall be kept updated by the permit holder.
  4. The special permit expires five years after its issuance. If the permit holder wishes to renew it, an application must be submitted at least 120 days before the expiration date.
  5. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the Marijuana Establishment.
  6. The special permit shall lapse upon the expiration or termination of the applicant's license issued by the CCC.
  7. The permit holder shall notify the Inspector of Buildings, Police Chief, and Planning Board in writing within 48 hours of the cessation of operation of the Marijuana Establishment or the expiration or termination of the permit holder's license issued by the CCC.
- G. Prohibition Against Nuisances: No uses shall be allowed in the AUMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property structure or dwelling in the area.
- H. Prohibition against Consumption: No marijuana shall be burned, smoked, eaten, or otherwise consumed or ingested on the premises, driveways, or parking areas of a Marijuana Establishment.
- I. Prohibition against Delivery: No Marijuana Establishment shall deliver marijuana or marijuana products to consumers off-site.
- J. Building: All aspects of a Marijuana Establishment relative to the cultivation, possession, processing, sales, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building, products must not be visible from the exterior of the building, and no drive through service is permitted. A Marijuana Establishment shall not be in a trailer, storage freight, mobile structure, container, motor vehicle or other similar movable enclosure.
- K. Marijuana Establishments may be in buildings with other uses, including other types of Marijuana Establishments, only if the Marijuana Establishment is separated by full walls from the other use. No outside storage of marijuana, marijuana products, or related supplies is permitted.
- L. Emergency Response Plan: All Marijuana Establishments shall meet with the Fire

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Department and the Police Department to discuss and identify emergency plans/contingency plans for the site prior to the issuance of a certificate of occupancy. This plan shall also include how the Police Department will access the Close Circuit Television. A written Emergency Response Plan shall be filed with the Fire Department and the Police Department pursuant to G.L. c. 94G, §12.

- M. Odor Control: The Marijuana Establishment shall provide an odor control plan that provides for proper and adequate ventilation at the facilities in a manner that prevents 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 to avoid any air pollution. No odor from Marijuana Establishments may be noxious or cause a public nuisance.

### 11.10 Mixed Use Overlay District (MUOD)

- A. Purposes and Authority The purpose of this Section is to encourage the construction of Mixed-Use Developments in designated districts within the Town.
1. The major objectives of the MUOD are to:
    - a. Permit a mix of land uses, densities and building types in one development.
    - b. Facilitate high-quality, integrated planning of developments beneficial to the Town and constructed in a manner that is highly responsive to specific sites and their surroundings.
    - c. Require more rigorous development standards than those found in other zoning districts.
    - d. Provide a mechanism to accommodate development reuse and redevelopment in specified locations, which is in the public interest and may not otherwise be permitted within this Bylaw.
    - e. Create mixed use developments that work together to create a unified sense of place and purpose
    - f. Facilitate the development of a mix of uses that contribute to a vibrant business environment and increases street-level activity
    - g. Promote a greater variety of housing choice and create diversity of housing opportunities in the corridor.
    - h. Create connectivity of uses and promote pedestrian activity.
    - i. Develop uses that are compatible with the Town's character and historic or traditional context.
    - j. Create a balanced and vibrant mix of compatible uses.
    - k. Create development nodes in order to plan for a comprehensive corridor.
    - l. Create a retail and restaurant base that residents can utilize.
    - m. Encourage the reuse of existing buildings and the construction of new, innovative

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designs that enhance the corridor.

2. The Mixed-Use Overlay District will contain standards for the entire district and will also create two sub-zones with standards specific to each zone.

### B. Overlay District.

1. The MUOD shall be an overlay district as shown on the Zoning Map. Within the MUOD, an applicant may choose to conform either to the zoning regulations of the underlying zoning district or to the MUOD regulations and procedures set forth in Section 11.10. The provisions of Section 11.10 shall supersede all other provisions in this Bylaw with respect to the underlying district, including and without limitation, use, intensity, dimensions, parking, and site plan approval; however, the provisions of any other overlay district shall continue to apply.
2. The MUOD shall include two sub-zones to preserve, maintain, and promote a diversity of housing stock and commercial establishments within the district. The specific boundaries of the two sub-zones are shown on the Zoning Map. The two sub-zones are as follows:
  - a. Sub-Zone A: Town Center. This subzone aims to preserve the town center's historic character while providing additional opportunities for a diversity of housing options, commercial development, and pedestrian activity.
  - b. Sub-Zone B: Boston Road. The goal of this sub-zone is to provide additional opportunities for commercial growth through the addition of housing. This sub-zone will also act as an anchor to increase commercial growth along Boston Road outside of this Overlay District.
3. The boundaries of Sub-Zone A and Sub-Zone B are shown on the Maps entitled "Mixed Use Overlay District, Sub-Zone A" and "Mixed Use Overlay District, Sub-Zone B".

### C. Special Permit Criteria

1. The Planning Board, as the Special Permit Granting Authority, shall have authority to grant a Special Permit to provide for the Mixed Use of land within the MUOD. The Board shall evaluate proposed projects and require all projects to conform to the requirements, standards, and guidelines as set forth in the MUOD.
2. In addition to any standards and criteria set forth elsewhere in the MUOD, the following standards shall apply for all projects constructed in both sub-zones. These standards must be met to receive special permit approval from the Planning Board:
  - a. All mixed-use developments shall include the use of a building or buildings on one lot for both residential and commercial uses, with one or more commercial uses on the first or ground floor and residential or office uses on the upper floors. A balance of commercial and residential uses is required in each development.
  - b. Residential and office space shall be placed on the upper floors, not on the first floor or street level. Handicap-accessible units required by the Architectural Access Board (521 CMR) may be located on the first floor if granted by the Planning Board.

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- c. Retail, restaurant, and other lively pedestrian friendly uses are encouraged on the ground floor
- d. The review, permitting, and construction of the residential uses and the commercial uses shall be completed simultaneously.
- e. All mixed-use development shall be designed to generate pedestrian traffic
- f. Parking shall be located to the rear or side of the building, whenever physically feasible and should be screened visually from the street and abutters.
- g. Parking lots shall not be separated by use.
- h. Parking areas shall provide pedestrian walkways and connections to the existing sidewalk system.
- i. All parcels located within the Billerica Historic District shall comply with all Historic District requirements.
- j. No lighting shall cast a glare on abutting properties

### D. Use Restrictions

The following uses shall be permitted:

1. Mixed Use
2. Commercial uses as a component of the mixed-use development shall be those uses permitted, as of right or by special permit, within the General Business Zoning District.

### E. Density Regulations

1. The following residential density regulations shall apply:
  - a. The maximum density in sub-zone A shall be six units per acre.
  - b. The maximum density in sub-zone B shall be eight units per acre,
2. Density Bonuses. A density bonus shall be awarded to increase the number of dwelling units beyond the maximum number permitted in the MUOD, under the following circumstances:
  - a. In sub-zone A, a maximum of 10 units per acre shall be permitted when a project provides for increased pedestrian activity and connectivity between properties, including but not limited to walkways, pedestrian areas that increase the amount of sidewalk area available to the public, outdoor seating areas designed to be utilized by dining establishments while complementing the building and allowing for unencumbered pedestrian circulation, or public outdoor spaces
  - b. In sub-zone B, a maximum of 12 units per acre shall be permitted when a project provides for alternate modes of transportation, including increased bicycle access between or off-site and public transit throughout the Boston Road corridor.

Providing for alternate modes of transportation may include, but is not limited to, routes dedicated to pedestrian and bicycle connections separated from vehicular

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routes or cross-access routes through the parcel specifically for pedestrian and bicycle cross-access, which connects adjacent parcels. Cross-access routes shall be specifically designed to be separated from vehicular use through design features such as signage, pavement markings, and landscaping

- c. In both sub-zone A and sub-zone B, one additional market-rate residential unit shall be permitted for each additional affordable housing unit provided above the number required by this Section 11.10, provided that in no case the unit density bonus shall exceed 25 percent of the total residential units of the project.
  - d. Only one density bonus per development project may be utilized.
- F. Affordability Requirement. The applicant for any Mixed-Use development subject to this Section 11.10 shall contribute to the local stock of affordable units in accordance with the following requirements:
1. A development subject to this bylaw shall provide at least 10 percent of the dwelling units as affordable housing as defined in Section 2 of this Bylaw. For purposes of calculating the number of affordable housing units required in a proposed development, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit and any fractional unit of 0.4 or less shall require no contribution to satisfy the fractional share. Affordable housing units shall be offered for sale or rental in the same proportion of the total units as the offer for sale or rental of market-rate units in the development.
  2. All affordable housing units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Planning Board. The regulatory agreement shall be consistent with any applicable guidelines issued by the Executive Office of Housing and Livable Communities (EOHLC) and shall ensure that affordable units can be counted toward the Town's Subsidized Housing Inventory. The affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law. No occupancy permits shall be issued for any residential units until the restriction and the regulatory agreement are recorded with the Middlesex North Registry of Deeds and a copy is provided to the Planning Director and the Inspector of Buildings.
  3. As an alternative to the requirements of this Section, an applicant subject to this Section 11.10 may contribute to a designated housing entity a fee in lieu of constructing and offering affordable units on-site.
    - a. *Eligibility:* A fee-in-lieu of affordable housing units shall be approved only if the Planning Board makes specific findings that there will be an unusual net benefit to achieving the Town's housing objectives as a result of allowing a fee rather than affordable housing units. The findings shall include consideration of the appropriateness of the development site location for income-eligible households, including proximity to and quality of public transportation, schools, and other services. The Planning Board is not required to approve an applicant's request for a fee in lieu and may require the construction of affordable units within the proposed Mixed-Use development.

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- b. *Fee Amount:* For each affordable housing unit provided through a fee in lieu of units, the cash payment shall be equal to 15 percent of the estimated assessed value of each unit as determined by the Town Assessor. The schedule of payments shall be determined by the Planning Board and specified in the Special Permit.
- G. Design Guidelines. These guidelines shall apply to mixed-use development throughout the overlay district. Furthermore, these guidelines are not intended to inhibit design creativity or discourage innovative architectural design solutions. Rather, they provide general standards for building massing, siting, and design solutions. It is understood that buildings and structures may not be able to comply with all the following guidelines, but they should comply if it is physically possible. For projects in the MUOD, the following design guidelines shall apply.
1. Buildings on a corner lot should have a façade that relates to both streets and contains enhanced architectural features at the corner of the building.
  2. Development projects located adjacent to the Concord River shall provide public access to the river whenever feasible.
  3. Site lighting should be considered an integral element of a property's landscape design. It should facilitate safe and convenient circulation for pedestrians, bicyclists, and motorists.
  4. Outdoor seating/dining throughout the two subzones is encouraged.
  5. All development should be designed to facilitate, accommodate and encourage use by pedestrians.
  6. All development should encourage the use of bicycles to and from the site through the installation of bike racks or other feasible means.
  7. Development projects located outside the Billerica Historic District are encouraged to follow the district's design guidelines.
  8. Whenever feasible, all above-ground utilities shall be relocated underground.

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H. Dimensional Regulations. The dimensional regulations for the MUOD are as follows:

1. Sub-zone A:

Maximum building coverage	50%
Minimum green space	20%
Minimum width of side yard	15 feet
Minimum width of front yard	N/A
Minimum width of rear yard	20 feet
Maximum height of buildings	45 feet
Maximum stories	3 stories

2. Sub-zone B:

Maximum building coverage	50%
Minimum green space	20%
Minimum width of side yard	N/A
Minimum width of front yard	N/A
Minimum width of rear yard	20 feet
Maximum height of buildings	45 feet
Maximum stories	3 stories

I. Off-Street Parking Requirements

1. The parking requirements in the MUOD shall follow the regulations as set forth in Section 11.1 of this Bylaw, except that for Multifamily Residential uses, the minimum required parking is 1.5 spaces per unit.
2. For all mixed-use development, the total requirements for off-street parking facilities shall be the sum of the requirements of the various uses computed separately. Off-street parking facilities for one use will not be considered as providing required parking facilities for any other use except as permitted by the Planning Board under Section 11.10.I.3.
3. Shared Parking.
  - a. The parking requirements for two or more uses may be met by sharing a common shared parking area, provided that:
    - (i) The shared spaces are held in common ownership with all uses being served through easements or fee title;
    - (ii) All spaces are located within 400 feet of all uses they serve;
    - (iii) A calculation is provided to the Planning Board showing the expected peak use of all parking spaces and that usage of the parking area would not occur simultaneously; and
    - (iv) The applicant can show that the total proposed number of parking spaces will meet the demands of the uses proposed for the site.

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- b. For the applicant to be granted shared parking approval, the Planning Board shall determine that a lesser number of spaces would be adequate for all parking needs because of special circumstances such as shared parking for uses having peak parking demands at different times or other measures reducing parking demand.
- c. A reciprocal agreement shall be executed by the owners and operators of the different sources or uses in the building or development ensuring the long-term joint use of the shared parking and defining the terms upon which the parking is shared.

### 4. Off-site Parking

- a. An applicant may request to the Planning Board to utilize off-site parking to meet the parking requirement. All municipal or other parking facilities which are used to satisfy the parking requirement must meet the following criteria:
  - (i) The parking facility must be less than 1,000 feet from the proposed development, the distance to be measured in a straight line from the two closest points between the proposed use and the parking facility
  - (ii) The applicant must provide the Planning Board with proof of ownership or lease for those parking spaces to satisfy the parking requirement. The owner shall provide offsite parking in perpetuity of the building use, as required by the needs of the tenants, subject to approval by the Planning Board as part of the Special Permit. Prior to the expiration of any parking lease, the Planning Board shall approve the new mechanism to satisfy the parking requirement.

### J. Application for Special Permit Approval

- 1. The Special Permit process in Section 4.3 of this Bylaw shall be followed for all Mixed-Use Overlay District Special Permits.
- 2. Required Submittals. The applicant shall file the following information together with a Mixed-Use Special Permit Application and the required filing fee:
  - a. Form: A Civil Engineer, registered in Massachusetts, shall prepare and certify the site plan, which shall be clearly and legibly drawn on mylar to a maximum scale of 1" = 40'.
  - b. Size of Plan: All sheets that make up the original plan shall be 24" x 36".
  - c. Number of Copies: The applicant shall provide copies of each plan for purposes of review by other boards, agencies, officers, and outside consultants, as designated in the Planning Board's Rules. The number of copies to be provided shall be set forth in the Planning Board's Rules.
  - d. Contents: A site plan and supporting documents shall at a minimum show the following information:
    - (i) Metes and bounds of the property, area of the property, north point, scale, and date;
    - (ii) Name, address, and signature of the person preparing the site plan stamped with that person's Massachusetts Registration number and seal;

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- (iii) Name and address of the record owner or owners of the property and street address of the property with street number, if one exists at the time of application;
- (iv) Names of all abutters to the property as they appear in the most recent certified tax list;
- (v) The existing topography of the land at two-foot contour intervals, Mean Sea Level Datum;
- (vi) Location, width, and names of all existing and proposed streets that affect the property and are within 100 feet of the property;
- (vii) Location and width of all existing and proposed easements that affect the property;
- (viii) Existing and proposed carrying capacity and level of service of the streets that serve the property;
- (ix) Location and outline of all existing and proposed buildings and structures on the property;
- (x) The basement and first floor elevations, the height, and use of all existing and proposed buildings on the property;
- (xi) Location and outline of cesspools, septic tanks, leaching areas, and wells on the property;
- (xii) Location and outline of existing public sewers available to serve the site;
- (xiii) Location and outline of proposed access to trunk lines, capacity of the trunk lines, and available increases in flow;
- (xiv) The location of all present and proposed utility systems, including sewage disposal; water supply lines; and telephone, cable, and electrical lines;
- (xv) Location, size, and type of all existing and proposed storm drains, culverts, catch basins, headwalls, invert elevations and depths, end walls, hydrants, manholes, drainage swales, percolation tests, storm drainage, and drainage facilities, including adjacent existing waterways and drainage ditches to serve the site and with all calculations for the proposed drainage system;
- (xvi) Profiles of the proposed drainage system together with details of all proposed structures.
- (xvii) An illumination plan showing the location, height, intensity, and bulb type (e.g., fluorescent, sodium, incandescent) of all external lighting fixtures, and including the direction and illumination and methods proposed to eliminate glare onto adjoining properties;
- (xviii) The location, height, size, and design of all proposed signage;
- (xix) The location, type of surface, and type of screening of rubbish collection areas and type of container(s);
- (xx) The location of existing major site features, such as rock ridges, ledge

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outcroppings, wetlands, water retention or detention areas, brooks, bodies of water, waterways or canals, tree lines and isolated trees to be cleared that are of a 12-inch diameter or greater;

- (xxi) A landscape plan showing all buffer areas and the size and type of plant materials to be provided and indicating all proposed changes to existing major site features.
  - (xxii) The proposed finished topography of the site at two-foot contour intervals, Mean Sea Level Datum.
  - (xxiii) The location and description of a permanent type benchmark on or adjacent to the property;
  - (xxiv) The location and description of the benchmark used in establishing the topography;
  - (xxv) Zoning classification for the property and zoning district lines if the property lies in one or more zoning districts or abuts a zoning district;
  - (xxvi) Where applicable, the location of wetlands and flood plain protection district boundaries;
  - (xxvii) Description of plans to prevent erosion of soil during and after construction, excessive run-off, and flooding of other properties, if applicable;
  - (xxviii) The location and type of surface of all existing and proposed parking areas, loading areas, maneuvering areas, driveways, fire lanes, accesses, and walkways, which shall include wheelchair ramps and crosswalks;
  - (xxix) The delineation of each parking space, showing the size of a typical parking space for domestic and imported cars, block totals for number of spaces, with the final number of parking spaces noted on the plan in an obvious place;
  - (xxx) Traffic flow patterns within site entrances and exits and existing and proposed daily and peak traffic and street capacity levels of ingress and egress streets and drives; site distances of ingress and egress streets and drives onto adjacent streets; loading and unloading areas on the site; and curb cuts on the site and within 100 feet of the site. The traffic analysis shall be conducted by a traffic engineer;
  - (xxxi) For new construction or alterations to any existing building or structure, the area of the building or structure to be used for the proposed use or uses; maximum number of employees; and where applicable, maximum seating capacity; and identification of any federal or state permits required for the project.
  - (xxxii) A description of the hours of operation of the proposed use.
- e. Elevations: Elevations of all proposed structures. Elevations for all sides of the building shall be included.
  - f. Site Section: A site section that includes all direct abutters.

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- g. Deed: A copy of the owner's deed giving a legal description of the site or other evidence of authority or interest of the applicant, whenever the applicant is not the owner of the subject property, such as an executed purchase and sales agreement or appointment as agent of the owner.
- h. Other Permits: Copies of existing variances or special permits applicable to the property, including the book and page where recorded with the Middlesex North Registry of Deeds.

### 3. Procedure

- a. An applicant shall file the application, fees, and all required submittals, including notice of the date of filing with the Town Clerk. In addition, the applicant shall also file fifteen (15) copies of the application and the required submittals to the Planning Department on behalf of the Planning Board.
  - b. The Planning Board shall request comments from the Building Department, Engineering Department, Conservation Commission, Fire Department, and Police Department.
4. Decision. An application for Special Permit approval shall be reviewed for consistency with the purpose and intent of this section and shall follow the requirements as set forth in this zoning bylaw for approval of a special permit.

### K. Waivers

Except where expressly prohibited herein, upon the request of the applicant, the Planning Board may waive dimensional and other requirements of Section 11.10 in the interests of design flexibility and overall project quality, and upon a finding of consistency of the variation with the overall purpose and objectives of the Mixed Use Overlay District, or if the Planning Board finds that a waiver will allow the project to better achieve the intent and overall purposes of this Section. The density, height, and affordability requirements are not waivable.

### L. Amendments

- 1. Minor Amendments. Following approval of a Mixed-Use Special Permit, an applicant may apply to make minor amendments to the approved plan. Minor amendments include minor utility or building orientation adjustments, lighting or façade adjustments, or minor adjustments to parking, landscaping, or other site details that do not affect the overall massing, final build-out, or building envelope of the site and do not increase the number of dwelling units in the project in the aggregate form that was provided in the original plan approval. Plans showing minor amendments must be submitted to the Planning Director. The Planning Director shall determine whether the changes constitute a minor amendment and may authorize the changes in writing to the applicant. The Planning Director shall set forth any decision to approve or deny a minor amendment in writing within 30 days after the applicant has filed an amended plan. If the Planning Director fails to respond or refuses in writing to approve the requested changes as a minor amendment, the applicant may apply to the Planning Board for approval of the changes as a minor amendment.

2. Major Amendments. Those amendments deemed by the Planning Director to constitute a major amendment because of the nature of the change in relation to the prior approved plan or because the change cannot be appropriately characterized as a minor change as described above, shall be submitted to the Planning Board as a new special permit application.

### **11.11 MBTA Communities Multi-family Overlay District**

#### **A. Purpose**

The purpose of the MBTA Communities Multi-Family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as of right multi-family housing to accomplish the following purposes:

1. To ensure compliance with MGL c. 40A § 3A.
2. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
3. Support vibrant neighborhoods by encouraging an appropriate mix and intensity of uses to support an active public space that provides equal access to housing, jobs, gathering spaces, recreational opportunities, goods, and services.
4. Locate housing within walking distance of public transit to promote general public health, reduce the number of vehicular miles traveled, support economic development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality.
5. Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.
6. Support public investment in public transit and pedestrian- and bike-friendly infrastructure.
7. Increase the municipal tax base through private investment in new residential developments.

#### **B. Establishment And Applicability**

This MCMOD is an overlay district having a land area of approximately 129 acres in size that is superimposed over the underlying zoning district(s) and is shown on the Zoning Map.

1. Applicability of MCMOD. An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this Section 11.11.
2. Underlying Zoning. The MCMOD is an overlay district superimposed on underlying zoning districts. This Section 11.11 shall apply only to Permitted Uses set forth in Section 11.11.D on lots located within the MCMOD. Land

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within the MCMOD may be put to those uses expressly permitted in this Section 11.11, in which case the requirements of this Section and those of the underlying zoning districts shall apply to such use. If the provisions of the MCMOD conflict with the requirements of the underlying districts for such use, the requirements of the MCMOD shall control. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall otherwise remain in full force and effect and shall continue to apply to those uses that are not identified in Section 11.11.D.

3. Subdistricts. The MCMOD contains the following subdistricts, all of which are shown on the MCMOD Boundary Map:
  - a. Subdistrict A: Outer Mills District
  - b. Subdistrict B: Inner Mills District
  - c. Subdistrict C: Federal District
  - d. Subdistrict D: Kenmar District
4. Location.
  - a. Subdistrict A: Outer Mills District is located and bounded as shown on a map entitled “MCMOD-Subdistrict A Outer Mills” dated 11/18/2024 on file in the Office of the Town Clerk.
  - b. Subdistrict B: Inner Mills District is located and bounded as shown on a map entitled “MCMOD-Subdistrict B Inner Mills” dated 11/18/2024 on file in the Office of the Town Clerk.
  - c. Subdistrict C: Federal District is located and bounded as shown on a map entitled “MCMOD-Subdistrict C Federal St” dated 11/18/2024 on file in the Office of the Town Clerk.
  - d. Subdistrict D: Kenmar District is located and bounded as shown on a map entitled “MCMOD-Subdistrict D Kenmar” dated 11/18/2024 on file in the Office of the Town Clerk.

### C. Definitions

For purposes of this Section 11.11, the following definitions shall apply.

- **Affordable unit.** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
- **Affordable housing.** Housing that contains Affordable Units as defined by this Section 11.11.C.
- **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.
- **Area Median Income (AMI).** The median family income for the metropolitan statistical region that includes the Town of Billerica, as defined by the U.S. Department of Housing and Urban Development (HUD).
- **As of right.** Development that may proceed under the zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

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- **Compliance Guidelines.** Compliance Guidelines for Multi-Family Zoning Districts under Section 3A of the Zoning Act as further revised or amended from time to time.
- **Development standards.** Provisions of Section 11.11.G. General Development Standards made applicable to projects within the MCMOD.
- **EOHLC.** The Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.
- **Gross density.** A units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.
- **MBTA.** Massachusetts Bay Transportation Authority.
- **Mixed-Use Development.** Development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial, or other uses.
- **Multi-family housing.** A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.
- **Multi-family zoning district.** A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.
- **Open space.** Contiguous undeveloped land within a parcel boundary.
- **Parking, surface.** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.
- **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- **Section 3A.** Section 3A of the Zoning Act.
- **Site plan review authority.** The Billerica Planning Board.
- **Special permit granting authority.** The Special Permit Granting Authority shall be the Billerica Planning Board for any special permit required under section 11.11.
- **Subzone/Subdistrict.** An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.
- **Subsidized Housing Inventory (SHI).** A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate- income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

### D. Permitted Uses

1. Uses Permitted As of Right. The following uses are permitted as of right within the MCMOD.
  - a. Multi-family housing.

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- b. Two-family dwelling.
  - c. Mixed-use development. Within subdistricts B Inner Mills and C Federal, the following use(s) under 5,000 sf of floor area per site are allowed as of right on the basement or ground floor. All mixed-use developments shall include a residential use.
    - Philanthropic Uses
    - Personal services
    - Retail
    - Indoor Amusement
    - Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail
    - Restaurant, café, and other eating establishments without a drive-through
    - Office, professional office, medical and dental offices, and co-working space
    - Artists' studios, maker space, and small-scale food production, and retail associated with each use
2. Uses Permitted by Special Permit. The following uses require the approval of a special permit under section 11.11.D.
    - a. Mixed-Use development. Within subdistricts B and C, containing the following use(s) over 5,000 sf of floor area per site or located above the ground floor:
      - Philanthropic Uses
      - Personal services
      - Retail
      - Indoor Amusement
      - Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combinations of education, services, and retail
      - Restaurant, café, and other eating establishments without a drive-through
      - Office, professional office, medical and dental offices, and co-working space
      - Artists' studios, maker space, and small-scale food production, and retail associated with each use
  3. Accessory Uses. The following uses are considered accessory as of right to any of the permitted uses in Section 11.11.D.
    - a. Parking, including surface parking and parking within a structure such as an above ground or underground parking garage or other building on the same lot as the principal use.
    - b. Any building, structure, or use customarily incidental to the principal residential use, included but not limited to a playhouse, private greenhouse, tool shed, tennis court, or swimming pool.

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E. Density and Dimensional Standards

1. Table of Dimensional Standards. Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable to the uses in the MCMOD are as follows:

<b>Standard</b>	<b>Subdistrict A: Outer Mills</b>	<b>Subdistrict B: Inner Mills</b>	<b>Subdistrict C: Federal</b>	<b>Subdistrict D: Kenmar</b>
<b>Height</b>				
<b>Stories (maximum)</b>	2.5	5	3	3
<b>Feet (maximum)</b>	35	60	40	40
<b>Minimum open space</b>	20%	20%	20%	20%
<b>Gross density</b>	15 units per acre	35 units per acre	25 units per acre	20 units per acre
<b>Setbacks</b>				
<b>Front yard</b>	15	10	15	15
<b>Side yard</b>	15	15	15	15
<b>Rear yard</b>	20	20	45	20

2. Multi-Building Lots. In the MCMOD, lots may have more than one (1) principal building.
3. Exceptions.
  - a. Building height. The limitation on height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.
  - b. Renewable Energy Installations. The Site Plan Review Authority may waive the height and setbacks in Section 11.11.E. Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development
  - c. Waiver of Setback Requirements for Historic Districts. The Site Plan Review Authority may allow for waivers to front, side, and rear-yard setbacks and minimum open space requirements of this section for properties in the North Billerica Mills Historic District.

F. Off-Street Parking

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These parking requirements are applicable to development of uses identified in the MCMOD.

1. Number of parking spaces. The following minimum numbers of off-street parking spaces shall be permitted by use, either in surface parking or within garages or other structures:

Use	Minimum spaces per dwelling unit by Subzone			
	Subdistrict A: Outer Mills	Subdistrict B: Inner Mills	Subdistrict C: Federal	Subdistrict D: Kenmar
Multi-family studio and one (1) bedroom units	1.5/unit	1.5/unit	1.5/unit	1.5/unit
Multi-family two (2) or more bedrooms	2/unit	1.5/unit	2/unit	2/unit
Mixed-Use (Non-residential)/ Commercial Component	n/a	Sum of uses computed separately. (See SECTION 10.1 PARKING AND LOADING REGULATIONS .)	Sum of uses computed separately. (See SECTION 10.1 PARKING AND LOADING REGULATIONS .)	n/a

2. Number of bicycle parking spaces. The following minimum numbers of covered bicycle storage spaces shall be provided by use:

Use	Minimum spaces per dwelling unit by Subzone			
	Subdistrict A: Outer Mills	Subdistrict B: Inner Mills	Subdistrict C: Federal	Subdistrict D: Kenmar
Multi-family	1	1	1	1
Mixed-Use (Non-residential)/ Commercial Component	n/a	1 per every 20 parking spaces	1 per every 20 parking spaces	n/a

3. Bicycle storage. For a multi-family development of six (6) units or more, or a mixed-use development of 25,000 square feet or more, covered parking bicycle parking spaces shall be integrated into the structure of the building(s).
4. Shared Parking within a Mixed-Use Development. Parking requirements for a mix of uses on a single site may be adjusted through the Site Plan Review process, if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies.

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5. Waiver of Parking Requirements for Historic Buildings. The Planning Board may allow for parking requirement waivers of this section for the adaptive reuse of buildings listed on the National or State Registers of Historic Places, or eligible for such listing through the Site Plan Review process. The Planning Board may also approve offsite off-street parking agreements to locate the required parking on an adjacent parcel or parcel located within 300 feet of the development.
6. Number of electric vehicle (EV) charging stations. For all uses within the MCMOD, electric charging stations are required with one EV space required for every 20 parking spaces, rounded up to the next highest number of EV stations.

### G. General Development Standards

1. The Development standards in this section are applicable to all multi-family development and any mixed-use development within the MCMOD. These standards are components of the Site Plan Review process in Section 11.11.I. Site Plan Review.
2. Site Design.
  - a. Connections. Sidewalks shall provide direct connections among building entrances, the public sidewalk, bicycle storage, and parking.
  - b. Vehicular access. Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
  - c. Open Space. Acceptable activities within the minimum required Open Space include natural areas (including wetlands and surface waters), wildlife and native plant habitat, landscape plantings, agricultural activities, low impact design stormwater management, non-motorized trails, and other low-impact activities. Open Space shall not contain habitable structures.
  - d. Location of Parking. Parking, either surface or structured, is not allowed between a building and the front yard lot line. On a corner lot, parking is not allowed between the building and the front and side yard lot lines.
  - e. Screening for Parking. Surface parking adjacent to a public sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than six (6) feet. The buffer may include a fence or wall of no more than three feet in height unless there is a significant grade change between the parking and the sidewalk.
  - f. Parking Materials. The parking surface may be concrete, asphalt, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.
  - g. Plantings. Plantings shall include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
  - h. Lighting. Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing

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glare and overspill onto adjoining properties and reducing the amount of skyglow.

- i. Mechanicals. Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
  - j. Dumpsters. Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
  - k. Stormwater management. Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Billerica MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.
3. Buildings: General.
- a. Position relative to principal street. The primary building shall have its principal façade and entrance facing the principal street. On lots with multiple buildings, the building closest to the principal street is considered the primary building for this section. See also Section G.7. Buildings: Corner Lots.
  - b. Entries. Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.
4. Buildings: Multiple buildings on a lot.
- a. For a mixed-use development, uses may be mixed within the buildings or in separate buildings.
  - b. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
  - c. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
  - d. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
  - e. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street
5. Buildings: Mixed-use development.
- a. In a mixed-use building, access to and egress from the residential component shall be clearly differentiated from access to other uses. Such differentiation may occur by using separate entrances or egresses from the building or within a lobby space shared among different uses.
  - b. Paved pedestrian access from the residential component shall be provided to

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- residential parking and amenities and to the public sidewalk, as applicable.
- c. Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
  - d. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
6. Buildings: Shared Outdoor Space. Multi-family housing and mixed-use development shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. All outdoor space shall count towards the project's minimum Open Space requirement.
  7. Buildings: Corner Lots. A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.
    - a. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.
    - b. All façades visible from a public right-of-way shall be treated with the same care and attention in terms of entries, fenestration, and materials.
    - c. Fire exits serving more than one story shall not be located on either of the street-facing façades.
  8. Buildings: Infill Lots. If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of Section 11.11.E. Density and Dimensional Standards. Otherwise, infill buildings may match the setback line of either adjacent building, or an average of the setback of the two buildings to provide consistency along the street.
  9. Buildings: Principal Façade and Parking. Parking shall be subordinate in design and location to the principal building façade.
    - a. Surface parking. Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
    - b. Integrated garages. The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
    - c. Parking structures. Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.
  10. Waivers. Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive requirements of this Section 11.11.G. General Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCMOD.

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### H. Affordability Requirements

1. Purpose.
  - a. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels;
  - b. Provide for a full range of housing choices for households of all incomes, ages, and sizes;
  - c. Increase the production of affordable housing units to meet existing and anticipated housing needs; and
  - d. Work to overcome economic segregation allowing Billerica to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.
2. Applicability. This requirement is applicable to all multi-family and mixed-use developments with six (6) or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section.
3. Provision of Affordable Housing. In Applicable Projects, not fewer than 10% of housing units constructed shall be Affordable Housing Units as defined by the EOHLIC Subsidized Housing Inventory (SHI). For the purposes of calculating the number of units of Affordable Housing required within a development project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit and any fractional unit of 0.4 or less shall require no contribution to satisfy the fractional share. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI
4. Development Standards. Affordable Units shall be:
  - a. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots;
  - b. Dispersed throughout the development;
  - c. Located such that the units have equal access to shared amenities, including light, air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
  - d. Located such that the units have equal avoidance of any potential nuisances as market-rate units within the development;
  - e. Distributed proportionately among unit sizes; and
  - f. Distributed proportionately across each phase of a phased development.
  - g. Occupancy permits shall only be issued for market-rate units prior to the end of construction of the entire development if occupancy permits for Affordable Units are issued simultaneously on a pro rata basis

## Billerica Zoning Bylaw

5. Administration.
  - a. The Planning Director shall be responsible for administering and enforcing the requirements in this section.

### I. Site Plan Review

1. Administration. The provisions of this Section 11.11.I shall be administered by the Site Plan Review Authority, except as otherwise provided herein
2. Applicability. Site Plan Review is required for a project that proposes six (6) dwelling units or more. An application for Site Plan Review shall be reviewed by the Permitting Authority for consistency with the purpose and intent of Sections 11.11.D through H.
  - a. In cases where the Site Plan Review Authority is also considering a Special Permit, they should determine the Special Permit first and then undertake a final Site Plan Review.
  - b. This section supersedes the Site Plan review process described in Section 4.7 of the Zoning Bylaw.
3. Submission Requirements. As part of any application for Site Plan Review for a project within the MCMOD, the Applicant must submit the following documents to the Municipality:
  - a. Application and fee for Site Plan Review.
  - b. Site plans that show the position of the building on the site, points of vehicular access to and from the site and vehicular circulation on the site, stormwater management, utilities, and landscape treatments, including any screening of adjacent properties, and other information commonly required by Municipality for Site Plan Review.
  - c. Elevations of the building(s) showing the architectural design of the building.
  - d. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Permitting Authority.
  - e. Narrative of compliance with the applicable design standards of this Section 11.11.
4. Timeline. Site Plan Review should be commenced no later than 30 days after the submission of a complete application and should be completed expeditiously. The site plan review authority may, when appropriate, seek the input of other municipal boards or officials. In general, site plan review should be completed no more than six

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(6) months after the submission of the application

5. Site Plan Approval. Site Plan approval for uses listed in Section 11.11.D Permitted Uses shall be granted upon determination by the Site Plan Review Authority that the following findings have been satisfied. The Site Plan Review Authority may impose reasonable conditions, at the expense of the applicant, to ensure that these findings have been satisfied.
  - a. The Applicant has submitted the required fees and information as set forth in Municipality's requirements for a Building Permit and Site Plan Review; and
  - b. The project as described in the application meets the development standards set forth in Section 11.11.G. General Development Standards.]
6. Project Phasing. An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section 11.11.H. Affordability Requirements.

### J. Severability

If any provision of this Section 11.11 is found to be invalid by a court of competent jurisdiction, the remainder of Section 11.11 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 11.11 shall not affect the validity of the remainder of the Town of Billerica's Zoning.

## Section 12. Special Districts

### 12.1 Adult Entertainment District

- A. The following uses shall be permitted in the Adult Entertainment District:
1. Agricultural, educational, or religious uses exempt under G.L. c. 40A, § 3.
  2. State, county, and municipal uses
  3. Business uses:
    - a. Bank
    - b. Loan agency
    - c. Offices
    - d. Pet shop
    - e. Personal services
    - f. Tradesperson's shop
    - g. Veterinarian
    - h. Adult entertainment establishment
    - i. Christmas tree sales
    - j. Garaging or parking of up to two light commercial vehicles
    - k. Garaging or parking of up to two heavy commercial vehicles
    - l. Retail store
  4. Temporary construction trailer
  5. Recreational uses
    - a. Antique shows
    - b. Bowling alley
    - c. Conservation
    - d. Driving range
    - e. Fairs and bazaars
    - f. Non-municipal athletics
    - g. Other recreational events
    - h. Swimming pool
  6. Residential uses:
    - a. Room rental (up to five rooms)
    - b. Single-family dwelling

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- c. Storage of one vehicle or trailer
- d. Temporary use of a manufactured home during reconstruction of a dwelling
- 7. Utility uses
  - a. Above-ground municipal utilities
  - b. Earth migration of less than 500 cubic yards for construction or repair of roads, utilities, public works, and infrastructure; installation or repair of underground sewage disposal systems; or excavation for foundations.
  - c. Underground utilities.
- B. The following uses are allowed only by special permit from the Board of Appeals in the Adult Entertainment District:
  - 1. Business uses:
    - a. Accessory uses to scientific research or development
    - b. Dog kennel for three to 15 dogs
    - c. Funeral home
    - d. Research facility
    - e. Auto parking
    - f. Auto repair
    - g. Auto sales and service
    - h. Auto washing
    - i. Drive-up or drive-through restaurant
    - j. Fully automated business
    - k. Garden shop
    - l. Hotel or motel
    - m. Open air sales
    - n. Restaurant
  - 2. Light manufacturing
  - 3. Philanthropic uses
    - a. Club
    - b. Lodge
    - c. Other philanthropic
  - 4. Recreational uses:
    - a. Golf course
    - b. Outdoor recreation

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- c. Riding stable
- 5. Residential uses:
  - a. Assisted living residence
  - b. Nursing home
  - c. Storage of more than one vehicle or trailer
- 6. Cemetery
- 7. Utility uses:
  - a. Above-ground utilities, non-municipal
  - b. Earth migration more than 500 cubic yards
- C. The following uses are allowed only by special permit from the Planning Board in the Adult Entertainment District:
  - a. Solar Energy Conversion Systems (SECS), non-freestanding
  - b. Solar Energy Conversion Systems (SECS), freestanding
  - c. Wireless communications facility
- D. The following uses are allowed only by special permit with site plan approval from the Planning Board in the Adult Entertainment District:
  - a. Solar Energy Conversion Systems (SECS), non-freestanding
  - b. Solar Energy Conversion Systems (SECS), freestanding
  - c. Wireless communications facility
- E. Dimensional Requirements
  - 1. The minimum lot area shall be 40,000 square feet.
  - 2. The minimum lot frontage shall be 125 feet.
  - 3. Not more than 25 percent of the total area of a lot shall be covered by buildings and structures.
  - 4. Building height and any other provisions that apply in the General Business Districts shall apply to lots in the Adult Entertainment District.

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**APPENDIX A**  
**Table of Use Regulations (Section 6.3)**

	<b>VR</b>	<b>NR</b>	<b>RR</b>	<b>MF</b>	<b>NB</b>	<b>GB</b>	<b>C</b>	<b>I</b>	<b>Ref.</b>
<b>CONSERVATION, RECREATION, AGRICULTURE</b>									
<b>Conservation and Agriculture</b>									
Agriculture	Y	Y	Y	Y	Y	Y	Y	Y	
Conservation	Y	Y	Y	Y	Y	Y	Y	Y	
Facility for Sale of Produce, Wine, and Dairy Products	Y	Y	Y	Y	Y	Y	Y	Y	
<b>Public or Non-Profit Recreation</b>									
Driving Range	Y	Y	Y	Y	Y	Y	Y	Y	
Fairs and Bazaars	Y	Y	Y	Y	Y	Y	Y	Y	
Non-Municipal Athletics	Y	Y	Y	Y	Y	Y	Y	Y	
Other Recreational Events	Y	Y	Y	Y	Y	Y	Y	Y	
Outdoor Recreation	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.1(A)
<b>PUBLIC, INSTITUTIONAL</b>									
Municipal	Y	Y	Y	Y	Y	Y	Y	Y	
Non-Profit Educational Use	Y	Y	Y	Y	Y	Y	Y	Y	
Cemetery	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.2(A)
Nursing Home	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.2(B)
<b>NON-PROFIT PHILANTHROPIC USES</b>									
Club	SZ	SZ	SZ	SZ	SZ	SZ	SZ	N	7.3(A)
Lodge	SZ	SZ	SZ	SZ	SZ	SZ	SZ	N	7.3(A)
Other Philanthropic	SZ	SZ	SZ	SZ	SZ	SZ	SZ	N	7.3(A)
<b>RESIDENTIAL USES</b>									
Affordable Housing on an Undersized Lot	SZ	SZ	SZ	SZ	Y	N	N	N	7.4(A)
Assisted Living Residence	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.4(B)
Dwelling, Multifamily	N	N	N	SA	N	N	N	N	6.4
Dwelling, Single-Family	Y	Y	Y	Y	Y	Y	N	N	

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Billerica Zoning Bylaw

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Dwelling, Two-Family	N	N	N	SZ	N	N	N	N	7.4(B)
<b>BUSINESS &amp; COMMERCIAL USES</b>									
<b>Retail Sales</b>									
Antique Shows	N	N	N	N	Y	Y	Y	Y	
Christmas Tree Sales	N	N	N	N	N	Y	N	N	
Garden Shop	N	N	N	N	N	SZ	N	N	7.5(A)
Greenhouse (Non-Agricultural)	SZ	SZ	SZ	N	N	N	Y	Y	7/5(B)
Open Air Sales	N	N	N	N	N	SZ	Y	N	7.5(C)
Pet Shop	N	N	N	N	N	Y	Y	N	
Retail Store	N	N	N	N	Y	Y	N	SZ	7.5(D)
Supermarket	N	N	N	N	N	SA	N	N	7.5(E)
<b>Services</b>									
Dog Kennel	N	N	N	N	N	SZ	N	SZ	7.6(A)
Dog Daycare	N	N	N	N	N	SZ	N	SZ	7.6(B)
Dog Training	N	N	N	N	N	SZ	N	SZ	7.6(B)
For-Profit Educational Use	Y	Y	Y	Y	Y	Y	Y	Y	
Funeral Home	N	N	N	N	SZ	SZ	N	N	7.6(C)
Personal Services	N	N	N	N	Y	Y	Y	Y	
Repair Shop	N	N	N	N	Y	Y	N	SZ	7.6(D)
Veterinarian	N	N	N	N	N	Y	N	N	
<b>Accommodations and Food Services</b>									
Drive-Up/Through Restaurant	N	N	N	N	N	SZ	SZ	N	7.7(A)
Fast-Order Food Establishment	N	N	N	N	SZ	SZ	SZ	SZ	7.7(B)
Motel or Hotel	N	N	N	N	SZ	SZ	N	SZ	7.7(C)
Restaurant	N	N	N	N	SZ	SZ	N	SZ	7.7(D)
<b>Financial, Offices</b>									
Bank	N	N	N	N	Y	Y	N	SZ	7.8(A)
Loan Agency	N	N	N	N	Y	Y	Y	Y	
Offices	N	N	N	N	Y	Y	Y	Y	
<b>Amusement, Recreation Businesses</b>									

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Bowling Alley	N	N	N	N	Y	Y	Y	Y	
Golf Course	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.9(A)
Indoor Amusement	N	N	N	N	Y	Y	Y	N	
Riding Stable	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.9(B)
Swimming Pool, Non-Accessory	SZ	SZ	SZ	SZ	Y	Y	Y	Y	7.9(C)
<b>Unclassified; Other Business &amp; Commercial</b>									
Fully Automated Business	N	N	N	N	N	SZ	SZ	SZ	7.10(A)
Research Facility	N	N	N	N	SA	SA	SA	Y	7.10(B)
Tradesman’s Shop	N	N	N	N	Y	Y	Y	Y	
<b>Vehicle-Related Uses</b>									
Auto sales	N	N	N	N	N	SZ	SZ	SZ	7.11(B)
Auto services	N	N	N	N	N	N	N	SZ	7.11(A)
Auto repair	N	N	N	N	N	SZ	SZ	N	7.11(A)
Auto service	N	N	N	N	N	SZ	SZ	N	7.11(A)
Auto washing	N	N	N	N	N	SZ	SZ	N	7.11(A)
Truck body shop	N	N	N	N	N	N	SZ	N	7.11(C)
Truck leasing	N	N	N	N	N	N	SZ	N	7.11(C)
Truck repair	N	N	N	N	N	N	SZ	N	7.11(C)
Truck sales	N	N	N	N	N	N	SZ	N	7.11(C)
Truck service	N	N	N	N	N	N	SZ	N	7.11(C)
Truck washing	N	N	N	N	N	N	Y	Y	7.11(C)
<b>INDUSTRIAL USES</b>									
<b>Manufacturing, Distribution</b>									
Light Manufacturing	N	N	N	N	N	SZ	SZ	Y	7.12(A)
Wholesale	N	N	N	N	N	SZ	N	SZ	7.12(B)
<b>Utility Uses</b>									
Above-ground utilities, non- municipal	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.13(A)
Above-ground utilities, Municipal	Y	Y	Y	Y	Y	Y	Y	Y	
Earth migration of less than 500 cubic yards for:	Y	Y	Y	Y	Y	Y	Y	Y	

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Earth migration over 500 cubic yards	SZ	SZ	SZ	SZ	SZ	SZ	SZ	SZ	7.13(B)
(SECS) Non-freestanding	Y	Y	Y	Y	Y	Y	Y	Y	
(SECS) Freestanding	SP	SP	SP	SP	SP	SP	SP	SP	6.5
Underground utilities	Y	Y	Y	Y	Y	Y	Y	Y	
Wireless communications facility	SP	SP	SP	SP	SP	SP	SP	SP	6.6
<b>Waste Disposal</b>									
Recyclable Materials Transfer Center	N	N	N	N	N	N	N	SA	
Temporary Construction Trailer	N	N	N	Y	Y	Y	Y	Y	
<b>Other Industrial</b>									
Contractor's Yard	N	N	N	N	N	N	SP	SP	7.14(A)
<b>ACCESSORY USES</b>									
<b>Residential Accessory Uses</b>									
Accessory Residential Uses	Y	Y	Y	Y	Y	Y	N	N	
Home Occupation <sup>1</sup>	Y	Y	Y	Y	N	N	N	N	7.15(A)
Accessory Dwelling Unit	Y	Y	Y	Y	Y	Y	N	N	
In-Law Apartment	SZ	SZ	SZ	SZ	SZ	SZ	N	N	7.15(B)
Keeping of Horses: <sup>2</sup>	Y	Y	Y	N	N	N	N	N	
Keeping of Hens	Y	Y	Y	N	N	N	N	N	
Room Rental (5 Or Less)	Y	Y	Y	Y	Y	Y	N	N	
Room Rental (More Than 5)	SZ	SZ	SZ	SZ	SZ	SZ	N	N	7.15(C)
Storage of One Vehicle or Trailer	Y	Y	Y	Y	Y	Y	N	N	
Storage of More than One Vehicle or Trailer	SZ	SZ	SZ	SZ	SZ	SZ	N	N	7.15(D)
<b>Nonresidential Accessory Uses</b>									
Accessory Retail and Automotive Services	N	N	N	N	N	N	N	SZ	7.16(A)
Accessory uses to scientific research or development	N	N	N	N	SZ	SZ	SZ	Y	7.16(B)

<sup>1</sup> Except a special permit shall be required for a Home Occupation employing one or more nonresidents of the premises.

<sup>2</sup> Minimum land requirement per horse: <10,000 S.F., no horses; 10,000 – 19,999 S.F., 1 horse; 20,000 – 29,999 S.F., 2 horses; and 30,000 or more S.F., 3 horses.

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Accessory service and repair	N	N	N	N	N	N	N	SZ	7.16(C)
For professional office or R&D Buildings over 50,000 net SF, uses that are wholly within the same building as the principal permitted use and occupy not less than 20% of the net square footage can be allowed by right. These can include retail, restaurant, personal services, and other amenity uses.	N	N	N	N	N	Y	Y	Y	
<b>Miscellaneous Accessory Uses</b>									
Auto parking	N	N	N	N	N	SZ	SZ	N	7.17(A)
Garaging or parking of one heavy commercial vehicle	SZ	SZ	SZ	SZ	SZ	Y	Y	Y	7.17(B)
Garaging or parking of one light commercial vehicle	Y	Y	Y	Y	Y	Y	Y	Y	7.17(B)
Garaging or parking of two light commercial vehicles	SZ	SZ	SZ	SZ	Y	Y	Y	Y	7.17(B)
Garaging or parking of two or more heavy commercial vehicles	N	N	N	N	N	SZ	Y	Y	7.17(B)
Truck parking	N	N	N	N	N	N	SZ	N	7.17(B)

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Billerica Zoning Bylaw

**APPENDIX B**  
**Table of Dimensional Regulations (Section 7.2)**

	Minimum Requirement							Maximum Allowed	
Zoning District	Lot Area (sq. ft.) <sup>a</sup>	Lot Frontage (lin. ft)	Front Yard (lin. ft) (6)	Side Yard (lin. ft)(6)	Rear Yard (lin. ft)	Green Strip	Green Space	Lot Coverage	Building Height
Village Residence	30,000	150	35 ft.	15 ft.	20 ft.	10 ft. lot per. (2) (non-residential) 75% build. per.	25% (2)	25%	2 ½ stories or 35 ft. (7)
Neighborhood Residence	40,000	175	35 ft.	15 ft.	20 ft.	10 ft. lot per. (2) (non-residential) 75% build. per.	25% (2)	25%	2 ½ stories or 35 ft. (7)
Rural Residence	50,000	200	35 ft.	15 ft.	20 ft.	10 ft. lot per. (2) (non-residential) 75% build. per.	25% (2)	25%	2 ½ stories or 35 ft. (7)
Neighborhood Business	25,000	125	50 ft.	25 ft.	35 ft.	10 ft. lot per. (2) 75% build. per.	25%	25%	2 ½ stories or 35 ft. (7)
General Business	25,000	125	50 ft.	25 ft.	35 ft.	10 ft. lot per. (2) 75% build. per.	25%	25%	3 stories or 45 ft (7)
Commercial	25,000	125	50 ft.	25 ft.	35 ft.	10 ft. lot per. (2) 75% build. per.	25%	25%	3 stories or 45 ft.
Industrial	60,000	150	100 ft. (4)	35 ft. (1)	50 ft.	20 ft. lot per. (2), (3) 75% build. per.	25% (3)	50%	45 ft. above grade plane (5)

<sup>a</sup> To determine compliance with the minimum lot area requirements in all zoning districts except the Multi-Family District, Townhouse Overlay District, and Elderly Housing Overlay District, at least 50 percent of the minimum lot area shall be contiguous upland, free of bordering vegetative wetlands as defined by G.L., c. 131, § 40

## Billerica Zoning Bylaw

- (1) Side yard shall be increased to 50 feet on any lot that abuts land in a residential district.
- (2) The Green Strip and Green Space requirements in the residential districts apply to nonresidential and nonagricultural uses only and not to principal and accessory residential uses. See Sections 7.3E-F for specific requirements.
- (3) These requirements also apply in the following special districts: Refuse Transfer Station, Private and Public Dumping Ground, Alcohol and Drug Rehabilitation Hospital, Composting, and Adult Entertainment Districts.
- (4) In Industrial Districts, the required front setback may be reduced to 40 feet along industrial roads. The front yard must be used for landscaping, pedestrian walkways, and curb cut access driveways only.
- (5) The highest roof surface shall not exceed 55 feet above the grade plane.
- (6) These yards are reduced in the Historic Overlay District
- (7) The maximum height shall be twenty-eight for lots with areas of 7,500 square feet or less.