TOWN of ACTON

ZONING BYLAW

Amended through June 2013

THE FOLLOWING TOWN OF ACTON ZONING BYLAW IS REVISED UP TO AND INCLUDING THE ANNUAL TOWN MEETING OF June 3, 2013.

Note: The Table of Contents, "Information Relative to the Laws and Regulations Governing Land Use", and notes contained within boxes are included for convenience of reference only and are not part of the Bylaw.

TABLE OF CONTENTS

Page

TABLE OF CONTENTS i

INFORMATION RELATIVE TO LAWS AND REGULATIONS GOVERNING LAND USE iv

SECTION 1. AUTHORITY, PURPOSE, DEFINITIONS AND APPLICABILITY

1.1 Authority 1
1.2 Purpose 1
1.3 Definitions 1
1.4 Applicability 3

SECTION 2. ZONING DISTRICTS

2.1 Classification of Districts 5
2.2 Zoning Map 5
2.3 Zoning Map Interpretation 6

SECTION 3. PRINCIPAL USE TABLE, PRINCIPAL USE DEFINITIONS AND ACCESSORY USE REGULATIONS

3.1 Provisions for Table of Principal Uses and Principal Use Definitions 7
TABLE OF PRINCIPAL USES 8
3.2 General Uses 11
3.3 Residential Uses 11
3.4 Governmental, Institutional and Public Service Uses 12
3.5 Business Uses 14
3.6 Industrial Uses 18
3.7 Prohibited Uses 20
3.8 Accessory Use Regulations 20
3.9 Special Provisions 28
3.10 Special Requirements for Personal Wireless Facilities 28
3.11 Special Requirements for Ground-Mounted Solar Photovoltaic Installations 35
3.12 Temporary Moratorium on Medical Marijuana Uses 37

SECTION 4. OVERLAY DISTRICTS

4.1 Flood Plain District 38
4.2 Open Space Development 41
4.3 Groundwater Protection District 46
TABLE OF USE REGULATIONS WITHIN THE GROUNDWATER PROTECTION DISTRICT 53
4.4 Affordable Housing Incentives and Overlay District 55

SECTION 5. DIMENSIONAL REGULATIONS

5.1 Standard Dimensional Provisions 67
5.2 Methods for Calculating Dimensional Requirements 67
TABLE OF STANDARD DIMENSIONAL REGULATIONS 68
5.3 Special Provisions and Exceptions to Dimensional Regulations 70
5.4 Transfer of Development Rights 74

5.5 Special Provisions for Village Districts 79
5.6 Special Provisions for the Kelley's Corner District 89
5.7 Special Provisions for the Office Park 2 District 92

SECTION 6. PARKING STANDARDS
6.1 Definitions 93
6.2 General Provisions 94
6.3 Schedule of Uses - General Requirements 95
6.4 Loading Areas 96
6.5 Standard Parking Dimensional Regulations 97
6.6 Small Car Stalls 97
6.7 Parking Lot Design Requirements 97
6.8 Structured Parking 100
6.9 Special Provisions for the Village, Kelley's Corner and Powder Mill Districts 101
6.10 Parking Lot Bonds and Securities 106

SECTION 7. SIGNS AND ADVERTISING DEVICES
7.1 Purpose 107
7.2 Definitions 107
7.3 Signs Prohibited in all Districts 109
7.4 General Regulations 110
7.5 Signs Which Do Not Require a Sign Permit 111
7.6 Sign Permits 114
7.7 Exterior Signs 115
7.8 Freestanding Signs 116
7.9 Off Premises Directional Signs 118
7.10 Temporary or Special Event Signs(s) 119
7.11 Signs for Golf Courses and Cross-Country Skiing in Res. Districts 119
7.12 Non-Conforming Signs 120
7.13 Signs Requiring a Special Permit from the Planning Board 120

SECTION 8. NONCONFORMING LOTS, USES, STRUCTURES AND PARKING; EXEMPTIONS
8.1 Nonconforming Lots 123
8.2 Nonconforming Uses 124
8.3 Nonconforming Structures 125
8.4 Nonconforming Parking 126
8.5 Building and Special Permit Exemption 126
8.6 Special Provisions to Enhance Access for Handicapped Persons 126
8.7 Special Permit to Reconstruct Nonconforming Multifamily Dwelling 126
8.8 Public Acquisition 127
8.9 Planned Unit Development (PUD) 127

SECTION 9. PLANNED CONSERVATION RESIDENTIAL COMMUNITY DISTRICT
9.1 Purpose 129
9.2 Special Permit 129
9.3 Contents of Application for a PCRC Special Permit 129
9.4 Procedural Requirements 129
9.5 Planning Board Action 129
9.6 Standards for PCRCs 130

9.7 Streets, Utilities and Lighting 133
9.8 Revisions and Amendments of "PCRC Site Plans" 133
9.9 Previously Approved PCRC Developments 133

SECTION 9A. PLANNED UNIT DEVELOPMENT 135
Intentionally Deleted (See Appendix)

SECTION 9B. SENIOR RESIDENCE
9B.1 Purpose 137
9B.2 Special Permit 137
9B.3 Planning Board Action 137
9B.4 Allowed Uses 138
9B.5 Dimensional Regulations 138
9B.6 Parking Requirements 139
9B.7 Storm Water Runoff 139
9B.8 Environmental Protection 139
9B.9 Common Land Standards 139
9B.10 Accessibility 141
9B.11 Age Restriction 141
9B.12 Affordability 141
9B.13 Streets, Utilities, and Lighting 143
9B.14 Performance Guarantee 143
9B.15 Revisions and Amendments 143

SECTION 10. ADMINISTRATION
10.1 Board of Appeals 145
10.2 Building Permit 145
10.3 Special Permit 145
10.4 Site Plan Special Permit 147
10.5 Variance 154
10.6 Outdoor Lighting Regulations for Site Plan Special Permits 155

SECTION 11. ENFORCEMENT
11.1 Enforcement 165
11.2 Other Laws or Regulations 165
11.3 Validity and Separability 165

APPENDIX
SECTION 9A. PLANNED UNIT DEVELOPMENT A-1

SUPPLEMENTAL MAPS (available at Planning Office)
Zoning Districts of the Town of Acton - Zoning Maps
Flood Insurance Rate Map and Flood Boundary and Floodway Map
Groundwater Protection District Map of the Town of Acton
Affordable Housing Overlay District Map of the Town of Acton

INFORMATION RELATING TO LAWS AND REGULATIONS GOVERNING LAND USE

Land uses in the Town of Acton are subject to various Town rules and bylaws, and statutes of the Commonwealth of Massachusetts. In addition to the Acton Zoning Bylaw, adopted pursuant to Chapter 40A - “The Zoning Act” of the Commonwealth of Massachusetts, the following rules, bylaws, and statutes regulate land uses in Acton. This list is intended to serve as a reminder. It is not necessarily a complete list. Other rules, bylaws, and statutes may apply. Special permits and variances issued under the Acton Zoning Bylaw do not void the applicability of other rules, bylaws, and statutes:

TOWN OF ACTON GENERAL BYLAWS set forth the Town's general regulations including pro-visions pertaining to: street numbering; discharges of firearms; abandoned wells; excavations; registration of ownership of a building for occupancy by two or more families; historic districts; fire lanes and traffic regulations.

CONDOMINIUM CONVERSION ACT - CHAPTER 548 OF THE ACTS OF 1987 sets forth the Board of Selectmen's authority to establish procedures and regulations relative to the protection of tenants and purchasers of condominiums or cooperative units in the Town of Acton. See also Rules and Regulations by the Board of Selectmen.

EARTH REMOVAL BYLAW sets forth the Board of Appeals authority to establish regulations and procedures concerning the removal of earth products (sand, gravel, loam, etc.) from a property.

SUBDIVISION RULES AND REGULATIONS set forth the Planning Board's procedures and standards to be followed in the subdivision of land and the construction of ways in accordance with the Subdivision Control Law, M.G.L. Ch. 41,S. 81-A to 81GG.

PLANNED CONSERVATION RESIDENTIAL COMMUNITY RULES & REGULATIONS (PCRC) set forth the development standards of the Planning Board for a PCRC Special Permit. This permit provides for varied housing types in Acton and increases in the amount of permanent open space.

OPEN SPACE DEVELOPMENT RULES & REGULATIONS set forth the development standards of the Planning Board for Open Space Development Subdivisions. The purpose of this type of subdivision is to encourage the preservation of open space while better utilizing the land in harmony with natural features.

PLANNED UNIT DEVELOPMENT RULES & REGULATIONS (PUD) set forth the development standards of the Planning Board for a PUD Special Permit. See Appendix.

RULES AND REGULATIONS FOR SPECIAL PERMITS FOR SIGNS set forth the procedures and standards to be followed when seeking a special permit for a sign.

RULES AND REGULATIONS FOR SPECIAL PERMITS FOR MAJOR AFFORDABLE HOUSING DEVELOPMENTS (MAHD) set forth the development standards of the Planning Board for a MAHD Special Permit. This permit provides density bonuses in certain districts when affordable housing units are included within the development.

RULES AND REGULATIONS FOR SPECIAL PERMITS in the GROUNDWATER PROTECTION DISTRICT set forth the rules and regulations, administered by the Planning Board, to be followed for the development of land within the Groundwater Protection Districts.

COMMON DRIVE SPECIAL PERMIT RULES AND REGULATIONS set forth standards for development of land utilizing common drives.

INFORMATION RELATING TO LAWS AND REGULATIONS GOVERNING LAND USE (cont.)

SCENIC ROAD BYLAW sets forth the Planning Board's authority to establish procedures and regulations to be followed if the repair, maintenance, reconstruction or paving of any designated scenic road involves cutting or removing trees or tearing down or destruction of any part of a stone wall.

STATE ENVIRONMENTAL CODE - Title 5 sets forth the minimum standards for the protection of public health and the environment when circumstances require the use of individual systems for the disposal of sanitary sewage in areas where municipal sewage systems are not available.

STATE BUILDING CODE sets forth the rules and regulations, administered by the Building Commissioner, relative to the construction, reconstruction, alteration, repair, demolition, removal, inspection, issuance and revocation of permits or licenses, installation of equipment, classification and definition of buildings and structures and use or occupancy thereof.

RULES AND REGULATIONS OF THE ACTON BOARD OF HEALTH set forth the Board of Health's authority to establish procedures and regulations for human habitation, farm labor camps, recreational camps for children, septage disposal areas, swimming pools, bathing beaches, camp grounds, private and semi-public water supply, sanitation for food service establishments and retail food stores, disposal of sanitary sewage in unsewered areas, keeping farm animals and domestic pets and practice of massage or conducting vapor bath establishments.

ACTON WETLANDS BYLAW sets forth the Conservation Commission's authority to establish procedures and regulations relative to the Town's local bylaw controlling activities deemed to have a significant impact upon wetland values. See also Rules and Regulations by Conservation Commission.

STATE WETLANDS PROTECTION ACT is administered by the Conservation Commission and provides for public review of proposed projects which involve construction or other alterations of land in or near wetlands or land deemed subject to periodic flooding.

HISTORIC BUILDING DEMOLITION BYLAW sets forth standards for the purpose of preserving and protecting historically or architecturally significant buildings within Acton.

LOCAL HISTORIC DISTRICT RULES AND REGULATIONS set forth the rules and regulations, administered by the Acton Historic District Commission, to be followed for development of or alteration to property in the Local Historic Districts.

HAZARDOUS MATERIALS CONTROL BYLAW protects, preserves and maintains the town's existing and potential groundwater supplies, surface water and air quality from Contamination by hazardous materials.

SALE OF TOBACCO BYLAW AND USE OF TOBACCO BYLAW sets forth the Board of Health's authority to establish procedures and regulations for the sale and use of tobacco in Acton.

SITE PLAN RULES AND REGULATIONS set forth the rules and regulations, administered by the Board of Selectmen, to be followed for site development where a Site Plan Special Permit is required.

SECTION 1.

AUTHORITY, PURPOSE, DEFINITIONS AND APPLICABILITY

1.1 **Authority** - The Town of Acton Zoning Bylaw is adopted under Chapter 40A of the General Laws (the Zoning Act) and Article 89 of the Amendments to the Constitution (the Home Rule Amendment).

1.2 **Purpose** - The purpose of this Bylaw is to implement the zoning powers granted to the Town of Acton under the Constitution and Statutes of the Commonwealth and includes, but is not limited to, the following objectives: to lessen congestion in the STREETS; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, drainage, sewage disposal, schools, parks, OPEN SPACE and other public requirements; to protect and enhance the quality and quantity of Acton's surface and groundwater resources; to conserve the value of land and BUILDINGS, including conservation of natural resources and the prevention of blight and pollution of the environment; to preserve and increase amenities; and to preserve and enhance the development of the natural, scenic and aesthetic qualities of the community.

1.3 **Definitions** - The words defined in this section shall be capitalized throughout the Bylaw. Where a defined word has not been capitalized, it is intended that the meaning of the word be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. In this Bylaw the following terms shall have the following meanings:

1.3.1 ACCESS: ACCESS shall mean that (1) there is sufficient right of vehicular passage onto the LOT from the STREET on which it has FRONTAGE and (2) vehicular passage is or may be provided between the FRONTAGE and the STRUCTURE on the LOT. Such ACCESS shall be consistent with the USE or potential USE of the LOT. Nothing in this definition shall be construed to require:

1. Actual entry through the LOT'S FRONTAGE if, in the opinion of the license or permit granting authority, alternate means of entry will better fulfill the purposes of this Bylaw;
2. Actual or potential ACCESS through the minimum required FRONTAGE set forth elsewhere in this zoning bylaw; or
3. Actual or potential ACCESS through any portion of the LOT that meets minimum LOT width requirements set forth elsewhere in this zoning bylaw.

1.3.2 AFFORDABLE: The term AFFORDABLE shall refer to housing which is restricted for sale, lease or rental (1) to households within specific income ranges and (2) at specific prices in accordance with the provisions of Section 4.4 of this Bylaw.

1.3.3 BUILDING: A STRUCTURE enclosed within exterior walls, built or erected with any combination of materials, whether portable or fixed, having a roof, to form a STRUCTURE for the shelter of persons, animals, or property.

1.3.4 DEVELOPABLE SITE AREA: That part of the LOT which remains after subtracting land that is not available and suitable for the construction of a structure or other man-made improvements, in accordance with Section 10.4.3.7.

1.3.5 DWELLING UNIT:	A portion of a BUILDING designed as the residence of one FAMILY.
1.3.6 FAMILY:	A person or number of persons occupying a DWELLING UNIT and living as a single housekeeping unit, provided that a group of six or more persons shall not be deemed a FAMILY unless at least half of them are related by blood, marriage or adoption, including wards of the state.
1.3.7 FLOOR AREA, GROSS:	The sum of the gross horizontal areas of the several floors of a BUILDING measured from the exterior face of exterior walls, or from the centerline of a wall separating two BUILDINGS, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.
1.3.8 FLOOR AREA, NET:	The total of all floor areas of a BUILDING including basement and other storage areas, but not including stairways, elevator wells, rest rooms, common hallways and BUILDING service areas, and not including areas used for a Child Care Facility as defined in Section 3.4.6 of this Bylaw provided that such Child Care Facility is accessory to a PRINCIPAL USE located in the same BUILDING or on the same LOT.
1.3.9 FLOOR AREA RATIO:	The ratio of the sum of the NET FLOOR AREA of all BUILDINGS on a LOT to the DEVELOPABLE SITE AREA of the LOT.
1.3.10 FRONTAGE	A continuous LOT line along the sideline of a STREET. The sideline of a STREET is defined by the front boundary lines of LOTS along a STREET and not necessarily the pavement edge of a STREET or sidewalk.
1.3.11 OPEN SPACE:	Those areas of a LOT on which no BUILDING or STRUCTURE is permitted, except as otherwise provided by this Bylaw, and which is not to be used or devoted to STREETS, driveways, sidewalks, off-STREET parking, storage or display.
1.3.12 LOT:	An area of land, undivided by any STREET, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is 1) a deed recorded in Middlesex County South District Registry of Deeds, or 2) a Certificate of Title issued by the Land Court and registered in the Land Court section of such Registry, or 3) title of record disclosed by any and all pertinent public documents.
1.3.13 LOW-INCOME:	The term LOW-INCOME shall refer to households having a total household or FAMILY income less than or equal to eighty (80) percent of the median income for the Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.
1.3.14 MODERATE-INCOME:	The term MODERATE-INCOME shall refer to households having a total household or FAMILY income less than or equal to one hundred twenty (120) per cent, but more than eighty (80) per cent of the median income for the Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.
1.3.15 SENIOR:	An individual who is 55 years of age or older.

1.3.16 STREET: A STREET shall be 1) an improved public way laid out by the Town of Acton, or the Middlesex County Commissioners, or the Commonwealth of Massachusetts; or 2) a way which the Acton Town Clerk certifies is maintained by public authority and used as a public way; or 3) a public or private way, improved in accordance with a plan approved and endorsed by the Planning Board under the Acton subdivision rules and regulations and the subdivision control law; or 4) a way in existence as of March 9, 1953 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicular traffic anticipated by reason of 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. A public or private way shall not be deemed to be a STREET as to any LOT of land that does not have rights of ACCESS to and passage over said way.

1.3.17 STRUCTURE: A combination of materials assembled to give support or shelter, such as BUILDINGS, towers, masts, sheds, roofed storage areas, mechanical equipment, swimming pools, tennis courts, signs, fences; but not including driveways, walkways and other paved areas, underground storage tanks, septic tanks and septic systems, and accessory facilities associated with the provision of utilities such as drains, wells, transformers and telephone poles.

1.3.18 TRACT OF LAND: An area of land consisting of a single LOT or of several contiguous LOTS.

1.3.19 USE, ACCESSORY: Any use which is incidental and subordinate to a PRINCIPAL USE.

1.3.20 USE, PRINCIPAL: The main or primary use of any land or LOT.

1.4 **Applicability** - All LOTS and parcels of land in the Town of Acton and all BUILDINGS, STRUCTURES and other improvements thereon shall be subject to the regulations, restrictions and requirements established in this Bylaw. Except when specifically referred to or stated otherwise, this Bylaw shall not apply to STREETS and appurtenances and easements thereto; to railroad rights of way; to public bicycle, pedestrian, and multi-use paths, and appurtenances and easements thereto, funded, laid out, or constructed by the Town of Acton, the Commonwealth of Massachusetts, or the Federal Government; or to any BUILDING, STRUCTURE or USE of land, including grading, filling, and excavating, which is associated with a public sewer collection system owned or operated by the Town of Acton.

1.4.1 STREETS and railroad rights of way in existence as of January 1, 2000 shall be reserved for transportation purposes and shall not be built upon, used, or otherwise obstructed to hinder or prevent their present or future use and service as transportation facilities, except that STREETS may be discontinued, abandoned or relocated in accordance with the applicable laws of the Commonwealth of Massachusetts.

SECTION 2.

ZONING DISTRICTS

2.1 **Classification of Districts** – The Town of Acton is hereby divided into the following zoning districts:

RESIDENTIAL DISTRICTS

RESIDENCE 2	R-2
RESIDENCE 4	R-4
RESIDENCE 8	R-8
RESIDENCE 8/4	R-8/4
RESIDENCE 10	R-10
RESIDENCE 10/8	R-10/8
RESIDENCE A	R-A
RESIDENCE AA	R-AA
VILLAGE RESIDENTIAL	VR

VILLAGE DISTRICTS

EAST ACTON VILLAGE	EAV
EAST ACTON VILLAGE 2	EAV-2
NORTH ACTON VILLAGE	NAV
SOUTH ACTON VILLAGE	SAV
WEST ACTON VILLAGE	WAV

OFFICE DISTRICTS

OFFICE PARK 1	OP-1
OFFICE PARK 2	OP-2

BUSINESS DISTRICTS

KELLEY'S CORNER	KC
LIMITED BUSINESS	LB
POWDER MILL DISTRICT	PM

INDUSTRIAL DISTRICTS

GENERAL INDUSTRIAL	GI
LIGHT INDUSTRIAL	LI
LIGHT INDUSTRIAL 1	LI-1
SMALL MANUFACTURING	SM
TECHNOLOGY DISTRICT	TD

SPECIAL DISTRICTS

AGRICULTURAL RECREATION CONSERVATION	ARC
PLANNED CONSERVATION RESIDENTIAL COMMUNITY	PCRC

OVERLAY DISTRICTS

AFFORDABLE HOUSING OVERLAY DISTRICT	
FLOOD PLAIN	FP
GROUNDWATER PROTECTION DISTRICT	GPD
OPEN SPACE DEVELOPMENT	OSD

2.2 **Zoning Map** – The zoning maps listed below are part of this Bylaw, and are collectively referred to as “The Zoning Map”. The location and boundaries of the zoning districts are shown on the Zoning Maps. The Zoning Maps are amended from time to time by action of Town Meeting. The last amendment dates are noted on the Zoning Maps.

- “Zoning Map of the Town of Acton” as last amended, consisting of a single sheet designated Map Number 1, and showing the Residential, Village, Office, Business, Industrial, and Special Districts.

- “Flood Insurance Rate Map” (FIRM) for Middlesex County issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP), dated and effective beginning on June 4, 2010, Scale l" = 500', consisting of the 14 map panels that are wholly or partially within the Town of Acton, designated herein as Map Number 2, and enumerated by FEMA as panels: 25017C0238E, 25017C0239E, 25017C0241E, 25017C0242E, 25017C0243E, 25017C0244E, 25017C0351E, 25017C0352E, 25017C0353E, 25017C0354E, 25017C0356E, 25017C0357E, 25017C0358E and 25017C0366E; and including the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010.
- “Groundwater Protection District Map of the Town of Acton” as last amended and most recently adopted by Town Meeting, consisting of a single sheet designated Map Number 3. See Section 4.3.2 of this Bylaw for a more detailed description of the Groundwater Protection District and the use of this map.
- “Affordable Housing Overlay District Map of the Town of Acton” as last amended, consisting of Map Number 4 and shown on the same sheet as Map Number 1.

Note: The Zoning Maps are on file at the Office of the Town Clerk and the Planning Department.

2.3 **Zoning Map Interpretation** – For purposes of interpretation of the Zoning Map, the following shall apply:

2.3.1 Zoning district boundaries which follow STREETS and railroad right of ways shall be deemed to coincide with the sidelines thereof. Zoning district boundaries which follow water courses shall be deemed to follow the mean center line thereof.

2.3.2 Zoning district boundaries, whose exact location are not indicated by means of dimensions, but which appear to follow a property or LOT line, shall be the property or LOT line that existed at the time the zoning district boundary was established.

2.3.3 Zoning district boundaries which appear to run parallel to the sideline of STREETS shall be parallel to such sidelines. Dimensions between the zoning district boundary lines and STREETS shall be measured perpendicular to the sideline of such STREET.

2.3.4 Where a zoning district boundary, other than an overlay district boundary, divides a LOT which was in single ownership on February 9, 1954, or upon the effective date of any amendment changing the boundaries of one of the zoning districts in which the LOT or a portion of the LOT lies, the regulations applicable to either zoning district may be extended to as much of the LOT as lies within 30 feet of the adjacent zoning district boundary.

Note: Criteria for determining the boundaries of the Flood Plain District may be found in Section 4.1.3.

SECTION 3.

TABLE OF PRINCIPAL USES, PRINCIPAL USE DEFINITIONS AND ACCESSORY USE REGULATIONS

Note:	This Section of the Bylaw has three major parts; the "Table of PRINCIPAL USES", "PRINCIPAL USE Definitions", and the "ACCESSORY USE Regulations" which should be consulted to determine the PRINCIPAL and ACCESSORY USES or activities which are allowed on any parcel of land in Acton. The Flood Plain District and Groundwater Protection District are overlay districts, which are superimposed on all other zoning districts. The reader is advised to consult the Flood Plain District regulations (see Section 4.1) or the Groundwater Resource Protection District regulations (see Section 4.3) in all cases because they may also apply to the land in question. Table of PRINCIPAL USES - The Table of PRINCIPAL USES designates which PRINCIPAL land USES are allowed in each zoning district. Each PRINCIPAL USE category listed on the left hand column of the table corresponds to one of the PRINCIPAL USE definitions found in Sections 3.2 through 3.7. PRINCIPAL USE Definitions - Sections 3.2 through 3.7 contain the definitions of the PRINCIPAL land USES classified by the Bylaw. ACCESSORY USE Regulations - Section 3.8 contains the regulations applicable to USES which are ACCESSORY to PRINCIPAL land USES permitted in the various districts.

3.1 **Provisions for Table of PRINCIPAL USES and PRINCIPAL USE Definitions** – No land, STRUCTURE, or BUILDING shall be used except for the purposes permitted in the district as set forth in this section, except where other regulations apply due to overlay districts or special permit provisions as set forth in this Bylaw. The words used to describe each PRINCIPAL USE contained in Sections 3.2 through 3.7, inclusive, are intended to be definitions of such USES.

A USE is permitted by right in any district under which it is denoted by the letter "Y".

A USE is prohibited in any district under which it is denoted by the letter "N".

A USE denoted by the letters "SPA" may be permitted by special permit from the Board of Appeals.

A USE denoted by the letters "SPP" may be permitted by special permit from the Planning Board.

A USE denoted by the letters "SPS" may be permitted by special permit from the Board of Selectmen.

Where any USES permitted by right or by special permit are followed by the letter "R" in the Site Plan Special Permit column, a Site Plan Special Permit is required from the Board of Selectmen in accordance with Section 10.4 and where the letters "NR" appear in the Site Plan Special Permit column, a Site Plan Special Permit is not required.

Note:	See Section 10.3 for requirements applicable to special permits, and Section 10.4 for requirements applicable to a site plan special permit.

3.1.1 If an activity might be classified under more than one of the PRINCIPAL USE definitions, the more specific definition shall determine whether the USE is permitted. If the activity might be classified under equally specific definitions, it shall not be permitted unless both PRINCIPAL USES are permitted in the district.

TABLE OF PRINCIPAL USES

PRINCIPAL USES listed in this Table are subject to provisions in corresponding Section 3.

		RESIDENTIAL DISTRICTS				VILLAGE DISTRICTS					OFFICE DISTRICTS		BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SP. DIST.	
	PRINCIPAL USES	R-2 R-4 R-8 R-8/4 R-10 R-10/8	R-A	R-AA	VR	EAV	EAV-2	NAV	SAV	WAV	OP-1	OP-2	KC	LB	PM	GI	LI	LI-1	SM(1)	TD	ARC	SITE PLAN
3.2	**GENERAL USES**																					
3.2.1	Agriculture	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.2.2	Conservation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.2.3	Recreation	SPP	SPP	SPP	SPP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	NR
3.3	**RESIDENTIAL USES**																					
3.3.1	Single FAMILY Dwelling	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N	N	N	NR
3.3.2	Single FAMILY Dwelling with one Apartment	Y(2)	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N	N	N	NR
3.3.3	Two-FAMILY Dwelling	N	Y	Y	SPA	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N	NR
3.3.4	Dwelling Conversions	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	SPA	N	N	SPA	SPA	N	N	N	N	N	N	N	NR
3.3.5	Multifamily Dwelling	N	SPS	Y	SPA(3)	Y(3)	Y(3)	N(4)	Y(3)	Y	N	N	N	N	N	N	N	N	N	N	N	R
3.4	**GOVERNMENTAL INSTITUTIONAL & PUBLIC SERVICE USES**																					
3.4.1	Municipal	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.4.2	Educational	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.4.3	Religious	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.4.4	Nursing Home	SPS	SPS	SPS	SPS	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	R
3.4.5	Public or Private Utility Facilities	N	N	N	N	SPS	SPS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	R
3.4.6	Child Care Facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	NR
3.4.7	Other Public Use (5)	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	R
3.4.8	Full Service Retirement Community	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	R
3.4.9	Assisted Living Residence (6)	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	N	SPS	SPS	SPS	N	N	N	N	N	N	R
3.4.10	Wireless Communication Facility (7)	SPP	SPP	N	N	N	SPP	N	N	N	SPP	SPP	N	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP	NR
3.4.11	Commercial Education or Instruction	N	N	N	N	Y	Y	SPS	SPS	SPS	Y	Y	SPS	Y	Y	Y	Y	Y	Y	Y	N	R
3.4.12	Community Service Organization	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	R
3.5	**BUSINESS USES**																					
3.5.1	Retail Store	N	N	N	Y(8)	SPS(11)	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N	N	N	R
3.5.2	Office	N	N	N	Y(8)	SPS(11)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	R
3.5.3	Health Care Facility	N	N	N	N	Y	SPS(11)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	R
3.5.4	Hospital, Medical Center	N	N	N	N	N	N	N	N	N	SPS	SPS	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	R
3.5.5	Restaurant (9)	N	N	N	SPS(8)	SPS	SPS	SPS	SPS	SPS	N	SPS	SPS	SPS	SPS	N	N	N	N	SPS	N	R
3.5.6	Combined Business & Dwelling	N	N	N	Y(8)	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N	N	N	R
3.5.7	Hotel, Motel, Inn, Conference Center	N	N	N	N	SPS	SPS	SPS	SPS	SPS	N	SPS	SPS	SPS	SPS	N	N	N	N	SPS	N	R

TABLE OF PRINCIPAL USES

PRINCIPAL USES listed in this Table are subject to provisions in corresponding Section 3.

		RESIDENTIAL DISTRICTS				VILLAGE DISTRICTS					OFFICE DISTRICTS		BUSINESS DISTRICTS			INDUSTRIAL DISTRICTS					SP. DIST.	
	PRINCIPAL USES	R-2 R-4 R-8 R-8/4 R-10 R-10/8	R-A	R-AA	VR	EAV	EAV-2	NAV	SAV	WAV	OP-1	OP-2	KC	LB	PM	GI	LI	LI-1	SM(1)	TD	ARC	SITE PLAN
3.5	**BUSINESS USES (continued)**																					
3.5.8	Bed & Breakfast	SPS	SPS	SPS	SPS	Y	SPS	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N	N	N	R
3.5.9	Lodge or Club	N	N	N	N	SPS	SPS	SPS	SPS	SPS	N	N	SPS	SPS	SPS	N	N	N	N	N	N	R
3.5.10	Veterinary Care	N	N	N	SPS(8)	SPS	SPS	N	SPS	SPS	N	N	Y	Y	Y	Y	Y	Y	SPS	N	N	R
3.5.11	Animal Boarding	N	N	N	N	N	N	N	N	N	N	N	N	SPS	SPS	SPS	SPS	SPS	SPS	N	N	R
3.5.12	Services	N	N	N	Y(8)	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N	N	N	R
3.5.13	Repair Shop, Technical Shop, Studio	N	N	N	Y(8)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	R
3.5.14	Building Trade Shop	N	N	N	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	R
3.5.15	Commercial Recreation (10)	N	N	N	N	SPS(11)	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	R
3.5.16	Commercial Entertainment	N	N	N	N	Y	Y	N	SPS	SPS	N	N	SPS	SPS	SPS	N	N	N	N	N	N	R
3.5.17	Golf Course in Residential Districts	SPP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	NR
3.5.18	Cross-Country Skiing in Residential Districts	SPP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	NR
3.5.19	Vehicle Service Station	N	N	N	N	N	N	N	N	N	N	N	SPS	Y	Y	N	N	N	N	N	N	R
3.5.20	Vehicle Repair	N	N	N	N	N	N	N	N	SPS	N	N	SPS	Y	Y	N	Y	N	Y	N	N	R
3.5.21	Vehicle Body Shop	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	N	Y	N	N	R
3.5.22	Vehicle Sale, Rental	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	N	N	N	R
3.5.23	Parking Facility	N	N	N	N	N	N	Y	N	Y	N	N	Y	Y	Y	N	N	N	N	Y	N	R
3.5.24	Transportation Services	N	N	N	N	N	N	N	N	N	N	SPS	N	N	Y	SPS	N	N	N	Y	N	R
3.5.25	Adult Uses	N	N	N	N	N	N	N	N	N	SPS	N	N	N	N	N	N	N	N	SPS	N	R
3.6	**INDUSTRIAL USES**																					
3.6.1	Warehouse	N	N	N	N	N	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	N	R
3.6.2	Distribution Plant	N	N	N	N	N	N	N	N	N	N	SPS	N	N	SPS	N	N	N	N	SPS	N	R
3.6.3	Manufacturing	N	N	N	N	N	N	N	SPS	SPS	Y	Y	SPS	N	Y	Y	Y	Y	Y	Y	N	R
3.6.4	Scientific	N	N	N	N	N	N	N	N	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	R
3.6.5	Ground-Mounted Neighborhood Solar Photovoltaic Installation (12)	Y	Y	Y	N	N	N	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	NR
3.6.6	Ground-Mounted Industrial Solar Photovoltaic Installation (12)	SPP	SPP	SPP	N	N	N	N	N	N	Y	Y	N	SPP	SPP	Y	Y	Y	Y	Y	Y	NR

NOTES FOR TABLE OF PRINCIPAL USES

(1) See also Section 10.4.3.12 - Special Provisions Applicable in the SM District, for special USE restrictions in oversized BUILDINGS.

(2) A Single FAMILY Dwelling with one Apartment shall require a Special Permit from the Board of Appeals, if located on a LOT with less than 15,000 square feet in LOT area, or if the Apartment is located in a detached BUILDING. See Sections 3.3.2.9 and 3.3.2.10 of USE Definitions.

(3) Not more than four DWELLING UNITS shall be permitted per multifamily dwelling. In the VR District a Site Plan Special Permit shall not be required. In the SAV district, the Board of Selectmen may by Special Permit allow more than four DWELLING UNITS per Multifamily Dwelling.

(4) Multifamily dwellings created under the provisions of Section 5.4 and Section 5.5 shall be permitted.

(5) If the proposed USE will be located in the Floodway Fringe, as defined in Section 4.1, or Zones 1, 2 or 3 of the Groundwater Protection District, as defined in Section 4.3, before granting a special permit under this Section the applicant shall submit the information required under Sections 4.1 or 4.3 and the Board of Selectmen shall find that the proposed USE complies with the requirements of Sections 4.1.8.1 and 4.1.9, and 4.3.8 through 4.3.10 respectively.

(6) Assisted Living Residences with 10 or fewer residents shall not require a Special Permit or Site Plan Special Permit.

(7) Refer to Section 3.10 for specific standards for Wireless Communication Facilities and for certain categorical exemptions from the requirements set forth in the Table of PRINCIPAL USES.

(8) Provided that the owner of the property resides on the property, the business USE is limited to 500 square feet of NET FLOOR AREA, and all parking spaces are provided to the rear or side of the BUILDING. For purposes of this footnote, the owner shall be defined as one or more individuals residing in a DWELLING UNIT who hold legal or beneficial title and for whom the DWELLING UNIT is the primary residence for voting and tax purposes. The business USE hereunder shall not be deemed a home occupation. Home occupations are authorized separately under Section 3.8.1.2. Site Plan Special Permit shall not be required. Hours of business operation shall be limited to 7 AM to 9 PM Monday through Saturday, except hours of retail sale shall be limited to 7 AM to 7 PM Monday through Saturday. Exterior lighting fixtures for the business USE shall not be illuminated except during hours of business operation.

(9) No Special Permit shall be required for a Restaurant with 10 seats or less.

(10) No Special Permit shall be required for Commercial Recreation facilities with a NET FLOOR AREA of less than 2,000 square feet.

(11) No Special Permit shall be required for this USE if its NET FLOOR AREA is 5000 square feet or less.

(12) Refer to Section 3.11 for specific standards, requirements, exemptions and special permit criteria for Ground-Mounted Solar Photovoltaic Installations.

3.2 General USES

3.2.1 Agriculture – Agriculture or farming as defined in M.G.L Ch. 128, s. 1A; the boarding, keeping or raising of livestock, including horses, as a commercial enterprise; aquaculture; silviculture; horticulture; floriculture; or viticulture; the use of BUILDINGS and STRUCTURES for the primary purpose of these activities; and the sale of farm products. The aforesaid uses and activities shall be limited to parcels of 2 acres or more, whereby land divided by a public or private way or a waterway shall be construed as one parcel, and they shall be subject to and in conformance with the definitions, criteria, thresholds, and requirements as they pertain to these activities conducted on not less than 2 acres or not less than 5 acres, respectively, all as set forth in MGL Ch. 40A, s. 3.

3.2.2 Conservation – The USE of land in its natural state or improved with trails or resource management programs that do not significantly alter its natural state.

3.2.3 Recreation – A pool, tennis or other recreation facility owned and operated by a neighborhood association or a condominium for the use by the members of the association or condominium and their guests. The facility may also be used for commercial instruction, education and training in skills of all kinds for the members of the association or condominium or the public at large.

3.3 Residential USES – Not more than one BUILDING for dwelling purposes shall be located upon a LOT, except

a) in the following Districts: Village Districts (EAV, NAV, SAV, WAV); Residence A District (R-A); Residence AA District (R-AA);

b) for the following USES: Nursing Home; Full Service Retirement Community; Assisted Living Residence as defined in this Bylaw or in MGL Ch. 19D; and

c) where a special permit has been granted for the following: a Planned Conservation Residential Community (PCRC) under Section 9 of this Bylaw; an Independent SENIOR Residence under Section 9B of this Bylaw; an AFFORDABLE Housing Development under Section 4.4 of this Bylaw; a single FAMILY dwelling with one Apartment in a detached BUILDING under Section 3.3.2.10 of this Bylaw; a golf course under Section 3.5.17 of this bylaw.

3.3.1 Single FAMILY Dwelling – A detached DWELLING UNIT designed as the residence of one FAMILY.

3.3.2 Single FAMILY Dwelling with One Apartment – A single FAMILY Dwelling, the BUILDING of which was in existence on or before January 1, 1990, to be altered and used for not more than two DWELLING UNITS, the Principal Unit plus one Apartment, provided that:

3.3.2.1 The GROSS FLOOR AREA of the Apartment shall not exceed the lesser of fifty percent of the GROSS FLOOR AREA of the Principal Unit or 800 square feet.

3.3.2.2 There shall be no more than two bedrooms in the Apartment.

3.3.2.3 The Apartment shall be clearly and distinctly separated from the Principal Unit by separate entrances either from the exterior of the BUILDING or from a common hallway located within the BUILDING.

3.3.2.4 Any stairways to an Apartment located above the ground floor of a BUILDING shall be enclosed within the exterior walls of the BUILDING.

3.3.2.5 There shall be not more than one driveway or curb cut providing ACCESS to the DWELLING UNITS, except for half circular or horseshoe driveways located in the front of the BUILDING.

3.3.2.6 A minimum of one additional parking space shall be provided for the Apartment.

3.3.2.7 The owner of the property shall occupy either the principal DWELLING UNIT or the Apartment. For the purposes of this section, the “owner” shall be one or more individuals residing in a dwelling who hold legal or beneficial title and for whom the dwelling is the primary residence for voting and tax purposes.

3.3.2.8 The Apartment shall not be held in, or transferred into separate ownership from the Principal Unit under a condominium form of ownership, or otherwise.

3.3.2.9 The minimum LOT area for a Single FAMILY Dwelling with One Apartment shall be the minimum LOT area required in the zoning district or, if the LOT is nonconforming, it shall comply with the standards for nonconforming LOTS under Section 8, provided, however, that:

a) In the R-2, R-4, R-8, R8/4, R-10, and R-10/8 Districts a Special Permit from the Board of Appeals shall be required for a Single FAMILY Dwelling with One Apartment on a nonconforming LOT with less than 15,000 square feet in LOT area.

3.3.2.10 The apartment may be located within a detached BUILDING that is located on the same LOT as the BUILDING with the Principal DWELLING UNIT, if the detached BUILDING has been continuously in existence since before 1950 and has not been expanded or enlarged after July 1st,1991. An apartment in such a detached BUILDING may have a GROSS FLOOR AREA of up to 2000 square feet, not including attic or basement areas, and up to three bedrooms. A LOT containing a BUILDING with a Principal Unit and an Apartment within a detached BUILDING shall not be further divided resulting in the separation of the Principal Unit and the Apartment, unless both resulting LOTS and the BUILDINGS thereon meet all minimum area, FRONTAGE, width and yard requirements of the applicable zoning district.

a) However, in the R-2, R-4, R-8, R8/4, R-10, and R-10/8 Districts an apartment in such a detached BUILDING shall only be allowed with a Special Permit from the Board of Appeals.

3.3.2.11 No Apartment permitted under this Section shall be constructed and occupied without Building and Occupancy Permits issued by the Building Commissioner.

3.3.3 Two-FAMILY Dwelling - A BUILDING for residential use containing two DWELLING UNITS or, as permitted under this Bylaw, two Single FAMILY Dwellings on one LOT; but not a Dwelling Conversion or a Single FAMILY Dwelling with One Apartment.

3.3.4 Dwelling Conversions – A single FAMILY dwelling or other residential BUILDING in existence prior to April 1, 1971 with less than four DWELLING UNITS may be altered and used for not more than four DWELLING UNITS if the LOT on which the BUILDING is located contains not less than 10,000 square feet per DWELLING UNIT and if one of the units is occupied by the owner of the property. In the R-A, R-AA, VR, SAV, WAV, NAV, EAV and KC Districts the preceding requirement that the LOT on which the BUILDING is located shall contain not less than 10,000 square feet per DWELLING UNIT shall not apply.

3.3.5 Multifamily Dwelling – A BUILDING for residential USE, other than a dwelling conversion, containing more than two DWELLING UNITS. A BUILDING or STRUCTURE, housing an ACCESSORY USE to a multifamily dwelling USE, owned and operated by the owner or the residents of a multifamily dwelling USE located on the same LOT or on an adjacent LOT, such as building and grounds maintenance facilities, wastewater disposal facilities, recreation facilities, or club houses.

3.4 Governmental, Institutional and Public Service USES

3.4.1 Municipal – USE of land, BUILDINGS, and STRUCTURES by the Town of Acton and the Water Supply District of Acton.

3.4.2 Educational – USE of land, BUILDINGS and STRUCTURES for providing instruction or education in a general range of subjects, on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational entity. Such USE may include museums, libraries, auditoria, athletic facilities, dormitories, administrative offices, or similar facilities and activities whose purpose is substantially related to the educational purposes of the owner.

3.4.3 Religious – USE of land, BUILDINGS, and STRUCTURES for religious purposes by a religious sect or denomination, which may include religious instruction, maintenance of a convent, parish house and similar facilities and activities whose purpose is substantially related to the religious purposes of such sect or denomination.

3.4.4 Nursing Home – An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care.

3.4.5 Public or Private Utility Facilities – Facilities, equipment, and STRUCTURES necessary for conducting a service by a public service corporation.

3.4.6 Child Care Facility – A day care or school age child care center or program as defined in MGL, Chapter 40A.

3.4.7 Other Public USE – USE of land, BUILDINGS and STRUCTURES for a public purpose, other than educational USE, by any town or local agency, except the Town of Acton and the Water Supply District of Acton.

3.4.8 Full Service Retirement Community – A facility that is designed and operated to provide its elderly or impaired residents with a broad range of accommodations and services to meet their needs, including at least two of the following: independent living in single or multi-unit dwellings; assisted living in single or multi-unit dwellings; a Nursing Home. A Full Service Retirement Community shall provide a continuum of care by providing its residents varied levels of care and assistance in daily living on an as needed basis within the facility. A Full Service Retirement Community may include support services that are necessary to meet the needs of its residents such as but not limited to skilled nursing, medical and other health services, recreation and leisure facilities, a community center, a place of worship, or food services. In addition, a Full Service Retirement Community may include convenience services for its residents, such as a Retail Store, a Restaurant, and Services. A Nursing Home by itself, or an Assisted Living Facility by itself as defined in this Bylaw or in MGL Ch. 19D, or independent living accommodations by themselves such as single FAMILY residences or apartments shall not be considered a Full Service Retirement Community.

3.4.9 Assisted Living Residence – Any entity, however organized, which meets all of the following three criteria: Provides room and board to residents who do not require 24-hour skilled nursing care; provides assistance with activities of daily living; and collects payments for the provision of these services; all as further defined in MGL Ch. 19D, s. 1, as amended from time to time. A unit as defined in MGL Ch. 19D, s. 1 shall be a DWELLING UNIT under this Bylaw.

3.4.10 Personal Wireless Facility – A facility for the reception and transmission of personal wireless communication signals operated by a public utility or commercial entity licensed by the Federal Communications Commission. A Personal Wireless Facility shall include reception and transmission equipment and fixtures, such as antennae and satellite dishes, and associated electronic and mechanical equipment, any tower or other STRUCTURE designed or used primarily to support or elevate such fixtures, and any accessory STRUCTURE or BUILDING necessary to shelter the equipment.

3.4.11 Commercial Education or Instruction – A private, for-profit business engaged in providing instruction or training in skills of any kind, including business, data processing, programming, arts and crafts.

3.4.12 Community Service Organization – An organization, other than religious or educational, incorporated as a 501(c)(3) non-profit corporation under the Federal tax code and dedicated to assist individuals or families in need by providing or distributing free goods, services or other assistance to cover basic needs, such as but not limited to a food pantry, a provider of free clothing, furniture, appliances and home goods, or a provider of financial assistance for home heating fuel.

3.5 Business USES

3.5.1 Retail Store – An establishment with not more than 60,000 square feet in NET FLOOR AREA selling merchandise within a BUILDING to the general public. Said merchandise is not intended for resale. A Retail Store may have one or more vendors within it and may occupy one whole BUILDING or a portion of a BUILDING. If a Retail Store occupies a portion of a BUILDING, its retail space shall be separated from other Retail Stores by complete walls or partitions, and customers must pay for purchases and exit the Retail Store before entering another Retail Store. A garden center, florist, or commercial greenhouse may have open-air display of horticultural products.

3.5.2 Office – A business or professional office such as corporate offices or the offices of an attorney, doctor, dentist, architect, engineer, real estate agency, loan agency, or similar professional.

3.5.3 Health Care Facility – A walk-in clinic, rehabilitation center, medical lab, dental lab, weight loss clinic, or similar facility.

3.5.4 Hospital, Medical Center – A facility providing medical or surgical services to persons, including ambulatory and emergency services, and accessory facilities and functions that are an integral part of the facility such as laboratories, out-patient departments, training, staff offices, and similar adjunct facilities and functions.

3.5.5 Restaurant – Establishment where food and beverages are sold within a BUILDING to customers for consumption 1) at a table or counter, or 2) in an adjacent outdoor space that does not obstruct a public way, sidewalk, walkway, vehicular parking, or a driveway, or 3) off the premises as carry-out orders, except that drive-up service shall not be allowed, or 4) any combination of the above. In the OP-2 and the TD District, the minimum square footage for an individual restaurant shall be 5,000 square feet measured in NET FLOOR AREA.

3.5.6 Combined Business and Dwelling – A LOT used for business USES and for not more than four DWELLING UNITS. Business USES and DWELLING UNITS may be in the same BUILDING or in separate BUILDINGS. In the EAV District, the limit of four DWELLING UNITS shall not apply provided that the DWELLING UNITS are in the same BUILDING as business USES, or that not more than four DWELLING UNITS are within a multifamily dwelling. In the NAV District the limit of four DWELLING UNITS shall not apply where dwelling units are created through the application of Sections 5.4 and 5.5.

3.5.7 Hotel, Motel, Inn, Conference Center – A facility providing transient lodging accommodations to the general public or a facility for corporate meetings and conferences, which may include restaurants, swimming pool, exercise rooms, and banquet halls. Such a facility may also include small retail stores, and financial and other services that shall serve primarily the guests of the facility, and that shall not exceed a combined total of 1000 square feet in NET FLOOR AREA. In the NAV, EAV, and WAV Districts, the number of guestrooms shall not exceed five, and in the SAV District, the number of guestrooms shall not exceed eight.

3.5.8 Bed and Breakfast – A private owner-occupied dwelling where not more than eight rooms are let and a breakfast is included in the rent.

3.5.9 Lodge or Club – A private organization such as a fraternal, civic, alumni, or sports club, to which membership is limited or controlled.

3.5.10 Veterinary Care – A facility where animals are given medical or surgical treatment, and short term boarding of animals within a fully enclosed BUILDING when incidental to the medical or surgical treatment.

3.5.11 Animal Boarding – Indoor or outdoor establishment where dogs, cats, or other pets are kept for the purpose of sale, training, breeding, or boarding care, including an animal shelter, and other activities related thereto.

3.5.12 Services – Establishments providing services directly to the consumer such as a bank, credit union, barber shop, beauty salon, laundry, dry-cleaning, diaper service, building cleaning service, funeral home, shoe repair, tailor, clothing rental shop, equipment rental or leasing, food catering, photocopying, secretarial service, or similar USES or establishments.

3.5.13 Repair Shop, Technical Shop, Studio – Repair and service of appliances, computers, office equipment, bicycles, lawn mowers, or similar small equipment; photography or film studio; art studio; artisan's studio; music instruction or practice room; or similar USES or establishments.

3.5.14 Building Trade Shop – An establishment for use by the practitioner of a building trade such as a carpenter, welder, plumber, electrician, builder, mason, landscaping contractor, lawn care service, building cleaning service, or similar occupation.

3.5.15 Commercial Recreation – A facility operated as a business, open to the public for a per-visit or membership fee, and designed and equipped for the conduct and instruction of sports and recreation such as ice skating, roller skating, racquet ball, tennis, swimming, body building, fitness training, steam baths, sauna, aerobics, yoga, dancing, martial arts, bowling, horseback riding, skiing, ball games, golf course, country club, miniature golf, golf driving range, or similar customary and usual sports and recreational activities.

3.5.16 Commercial Entertainment – An indoor facility such as a theatre, cinema, performing arts center, or video arcade. In the SAV District, only cinemas, theaters, or performing arts center shall be allowed.

3.5.17 Golf Course in Residential Districts - In the R-2, R-4, R-8/4, R-8, R-10/8, and R-10 Districts the Planning Board may approve by special permit a golf course with at least 18-holes that is designed and managed consistent with "Environmental Principles for Golf Courses in the United States" published by The Center for Resource Management; Salt Lake City, Utah; amended through 1996:

3.5.17.1 The Planning Board may approve ACCESSORY USES and BUILDINGS that are customarily incidental to a golf course, such as but not limited to:

a) Clubhouse, pro-shop, locker rooms, administrative offices, restaurant, bar, snack bar, or on-course shelters.
b) Function rooms and banquet facilities for members and guests.
c) A practice area, tees, or greens.
d) Accessory recreational facilities such as tennis courts or a pool.
e) Maintenance and storage BUILDING.
f) Up to 10 guestrooms.
g) Up to two DWELLING UNITS solely for occupancy by the golf course staff.

3.5.17.2 The combined NET FLOOR AREA of all BUILDINGS shall not exceed 60,000 square feet.

3.5.17.3 The following setback standards shall apply to BUILDINGS, STRUCTURES, parking lots, and accessory recreation facilities:

a) Minimum front yard: • 45 feet;

b) Minimum side and rear yard:
- 30 feet where the abutting land is in a Business, Office, or Industrial District;
- 100 feet where the abutting land is in a Residential District;
- The Planning Board may exempt fences and other screening and protection devices from the minimum side and rear yard requirement.

3.5.17.4 The Planning Board may require larger setbacks, and may require suitable buffers and screening to protect abutting residences and businesses.

3.5.17.5 Except as otherwise set forth in Section 3.5.17.3, LOTS, BUILDINGS and STRUCTURES of a golf course shall comply with the applicable dimensional standards in the Table of Dimensional Regulations for the zoning district in which the portion of the golf course is located.

3.5.17.6 Parking spaces shall be provided in the quantity required under Section 6.3. Parking lot design and landscaping shall at a minimum comply with the standards of Section 6.7 of this bylaw. The Planning Board may allow a set-aside of a portion of the required number of parking spaces as reserve parking to be built if and when needed at a later time. In addition, it may require on-site overflow parking areas not in compliance with this bylaw to be used solely during special events or tournaments.

3.5.17.7 The Planning Board may require suitable setbacks, buffers, and screening for tees, greens, and fairways to protect abutting residences and businesses, including to block flying balls.

3.5.17.8 The Planning Board may require monitoring and subsequent retrofit of additional landscaping and buffers to address repeated hazards from off-track golf balls.

3.5.17.9 Illumination of tees, greens, and fairways for night golfing shall not be allowed. The Planning Board may approve non-glare, low intensity, low level outdoor lights used to illuminate ways and paths within the course, BUILDINGS, parking lots, and accessory recreation facilities.

3.5.17.10 The primary ACCESS to the golf course shall be over its own FRONTAGE. The primary ACCESS shall be from an ARTERIAL STREET as defined in the Acton Subdivision Rules and Regulations, unless the Planning Board finds that:

a) residential neighborhoods are not materially affected; or

b) overall and peak hour traffic volumes resulting from the golf course are not substantially different from volumes generated by potential residential development on the same land.

3.5.17.11 The Planning Board may require public access to or over the golf course land for pedestrian and bicycle trails, and access to and connection with adjoining or nearby public lands.

3.5.17.12 An application for a golf course special permit shall contain a site development plan, prepared and certified by a professional practicing member of the American Society of Golf Course Architects. It shall show the details and information as further specified in rules and regulations adopted by the Planning Board. The information submitted with the application shall include, but not be limited to: A staking or routing plan; plans for drainage, erosion control, and storm water management; planting and landscaping plan; a turf management and irrigation plan; a business plan including special events and services to the community at large; an environmental impact report detailing project

related impacts on wetlands and other natural resource areas, water supply, surface water and groundwater resources, historic resources, transportation and access, adjacent land, neighborhoods, and businesses; and assessment of impacts on Town finances and services.

3.5.17.13 The Planning Board may impose reasonable conditions on the proposed golf course layout and design; regulate turf management practices; limit irrigation and water consumption; limit the hours of operation; restrict the size of BUILDINGS and other facilities; limit the number and size of special events; and impose any other limitations and requirements it deems necessary to protect the natural, water, historic and other resources of the Town, minimize adverse impacts on abutting properties, provide general benefits to the Town and its residents, and prevent traffic congestion.

3.5.17.14 The Planning Board may require ongoing monitoring of turf management practices, groundwater resources, surface and groundwater quality, and general business development, and may impose additional conditions in the special permit to prevent unanticipated environmental damage resulting from the operation of the golf course.

3.5.17.15 A golf course located in part within the R-2, R-4, R-8/4, R-8, R-10/8, or R-10 Districts and in part in other zoning districts where Commercial Recreation is allowed as defined in Section 3.5.15 shall comply with the requirements for golf courses in residential districts. However, the dimensional requirements of the other zoning districts may be applied to the portion of the golf course located there. In such cases, the Special Permit Granting Authority shall be the Planning Board and no special permit for Commercial Recreation and no Site Plan Special Permit shall be required.

3.5.17.16 If a special permit is sought for a golf course partially located in a residential district in Acton and partially in an adjacent town, the requirements for a golf course in residential districts shall apply to the portion in Acton including the requirement for a special permit. In such cases, the Planning Board may waive the requirement that the golf course shall have at least 18 holes.

3.5.17.17 Where the requirements of this Section 3.5.17 are in direct conflict with the standard requirements of the underlying zoning district, Section 3.5.17 shall prevail for any golf course approved under this section.

3.5.18 Cross-Country Skiing in Residential Districts – In the R-2, R-4, R-8, R-8/4, R-10/8, and R-10 Districts, commercial cross-country ski courses on at least 25 acres of land with customary and incidental ACCESSORY USES including vehicular parking, a clubhouse, a store for the rental and sale of ski related items only, an administrative office, and a restaurant. The total NET FLOOR AREA for such ACCESSORY USES shall not exceed 2,500 square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw, but in no case shall the total NET FLOOR AREA devoted to such ACCESSORY USES exceed 5,000 square feet. In addition, one DWELLING UNIT may be located on the premises of the cross-country ski courses. Such USE shall comply with the following requirements:

3.5.18.1 The operation of the cross-country skiing facility, including ACCESSORY USES, trail grooming and maintenance equipment, shall be limited to the hours between one-half hour before sunrise and one-half hour after sunset.

3.5.18.2 New BUILDINGS, including improvements to existing BUILDINGS for ski-related activities and new parking areas shall be screened year round from the adjacent property by evergreens and other vegetative growth of mixed variety.

3.5.18.3 No trail or new BUILDING including improvements to existing BUILDINGS for ski related activities and new parking area shall be located within fifty feet of any property line.

3.5.18.4 No so-called snowmobiles shall be permitted except for emergency or maintenance purposes.

3.5.19 Vehicle Service Station – Sale of motor vehicle fuel and related products and services, including a convenience store if an integral part of the motor vehicle service station; or a car wash. All maintenance and service, other than minor service and emergency repairs, shall be conducted entirely within a building. No vehicle service station or car wash shall be located within 1,300 feet of another vehicle service station or car wash.

3.5.20 Vehicle Repair – Establishment where the principal service is the mechanical repair, excluding body work, of automobiles, trucks, boats, motorcycles, trailers, recreational vehicles, farm equipment or similar motor vehicles, having a maximum gross vehicle weight of 14,000 pounds, provided that all but minor repairs shall be conducted entirely within a BUILDING.

3.5.21 Vehicle Body Shop – Establishment where the principal service is the repair and painting of automobiles, trucks, boats, motorcycles, trailers, recreational vehicles, farm equipment or similar motor vehicles having a maximum gross vehicle weight of 14,000 pounds, provided that all but minor repairs shall be conducted entirely within a BUILDING.

3.5.22 Vehicle Sale, Rental – Facility for the rental, leasing or sale of automobiles, trucks, boats, motorcycles, trailers, recreational vehicles, farm equipment or similar motor vehicles having a maximum gross vehicle weight of 14,000 pounds; including open-air display. The open-air display area shall comply with the standards of Section 6.7 of this Bylaw.

3.5.23 Parking Facility – Commercial parking open to the public for automobiles and similar light motor vehicles.

3.5.24 Transportation Services – The parking or storage of ground transportation vehicles including buses, ambulances, limousines, taxies, liveries, wagons, or carriages. The primary purpose of the business shall be to provide transportation services to passengers. All vehicles stored or parked upon the premises shall be registered or licensed.

3.5.25 Adult USES – An establishment having a substantial or significant portion of its stock in trade or other materials for sale, rental or display, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct as defined in MGL Ch. 272, s. 31, such as but not limited to an adult bookstore, adult paraphernalia store, adult video store, or adult motion picture theater. Also, adult entertainment, which shall be an establishment in which workers or performers appear in a state of nudity or in a manner intended to arouse sexual excitement, as defined in MGL Ch. 272, s.31, for a substantial or significant portion of the time the establishment is open for business, or which derives a substantial or significant portion of its revenues from such occasions. The terms “substantial or significant portion” as used herein shall mean either ten percent or more of the business inventory or stock of merchandise for sale or rental at any point in time; or ten percent or more of the annual number of sales, rentals or other business transactions; or ten percent or more of the annual business revenue; or ten percent or more of the hours during which the establishment is open to the public. No Special Permit for an Adult USE shall be issued to any person convicted of violating the provisions of MGL, Ch. 119, s. 63 or Ch. 272, s. 28.

3.6 Industrial USES

3.6.1 Warehouse – A BUILDING used primarily for the enclosed storage of goods, and materials for any length of time; including receiving, repackaging, and/or reshipping; and including office, administrative, and support facilities related to the foregoing, but

not a Distribution Center as defined in Section 3.6.2; a personal self-storage facility or mini-warehouse.

3.6.2 Distribution Center – An establishment with a BUILDING NET FLOOR AREA larger than 50,000 square feet used primarily for the receiving, short-term enclosed storage, repackaging, and/or reshipping or distribution of goods and materials to retail stores and other market outlets, or directly to the consumer via telephone or internet remote sales; including office, administrative, and support facilities related to the foregoing.

3.6.3 Manufacturing –

- An establishment engaged in the creation, fabrication or assembly of products;
- The physical, mechanical or chemical transformation, processing, blending or assembly of materials, substances or components into products;
- The development and manufacturing of renewable energy or alternative energy (RE/AE) equipment and systems;
- The research or testing of new and emerging technologies and technological devices; or
- Similar USES and activities; but, excluding Scientific USE as defined in Section 3.6.4.

The foregoing may include related support facilities and operations including but not limited to office, administration, laboratory, warehouse, and wholesale distribution of the manufactured products. All operations shall confine harmful, noxious or unpermitted smoke, fumes, dust, noise, pollution, contamination and other emissions and nuisances within the premises. No manufacturing, research or testing shall be conducted outside of a BUILDING, except where a special permit for such outdoor manufacturing, research or testing has been issued by the Board of Selectmen. In the KC District, the maximum NET FLOOR AREA of an establishment that is classified as a Manufacturing USE shall not exceed 10,000 square feet.

3.6.4 Scientific – Research and development in the fields of biotechnology, medical, pharmaceutical, physical, environmental, biological, or behavioral sciences and technology; wildlife medicine; genetic engineering; comparative medicine; bioengineering; cell biology; human and animal nutrition; and veterinary medicine; including the production of equipment, apparatus, machines or other devices for research, development, manufacturing advance, and practical application in any such field or area, and including offices, administrative, laboratory, and support facilities related to any of the foregoing activities. In the KC District, the maximum NET FLOOR AREA of an establishment that is classified as a Scientific USE shall not exceed 10,000 square feet.

3.6.5 Ground-Mounted Neighborhood Solar Photovoltaic Installation - A solar photovoltaic installation with a layout that is not more than one (1) acre in size and that is primarily designed to benefit the energy needs of USES in the immediately surrounding area or neighborhood. Layout shall mean the total area of the vertical projection on the ground of all panels in the installation's most horizontal tilt position and shall include all spaces between the panels. Ground-Mounted shall mean that installations are structurally mounted to the ground in any manner, including but not limited to ground anchored pole, rack, or rail installations, or non-ground penetrating ballasted installations; not roof-mounted installations or canopy installations above parking lots or driveways.

3.6.6 Ground-Mounted Industrial Solar Photovoltaic Installation - A solar photovoltaic installation with a layout that is of any size and that is primarily designed to benefit all energy users regardless of location or vicinity to the installation. The words 'layout' and 'ground-mounted' shall have the same meaning as in Section 3.6.5 above.

3.7 **Prohibited USES** – All USES that pose a present or potential hazard to human health, safety, welfare, or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare are expressly prohibited in all zoning districts. In addition, the following USES are prohibited in all zoning districts, unless otherwise specifically permitted in this Bylaw.

Aircraft assembly; landing or takeoff of motorized aircraft	Amusement park
Asphalt, block, or concrete plant	Billboard
Bottling plant	Chemical storage and production facility
Commercial extraction of earth products such as sand, gravel, soil, loam, rock, ore, or minerals, except when connected with the construction of BUILDINGS, STREETS, ways or other improvements to land in accordance with applicable laws and regulations.	Commercial or private dump, landfill, refuse incinerator, or other commercial or private solid waste disposal or processing facility
Commercial or private sludge storage or disposal facility	Drive-in or outdoor cinema
Fertilizer plant	Commercial storage of heating oils; commercial storage of natural gas in LNG tanks, gas holders or pressure vessels; except that the storage of liquefied petroleum (LP) gas shall be allowed for retail purposes as follows: (a) up to 20 pound capacity cylinders in quantities that are customary for retail businesses, and (b) in a tank with up to 1,000-gallon capacity for customer refills not exceeding one tank per retail location
Manufacture, use, storage, transport or treatment, disposal and/or processing of explosive, toxic or hazardous materials as a principal activity	Lumber Yard
Mobile home; mobile home park; mobile home sales	Meat packing and pet food plants, slaughterhouses
Nuclear power generation	Motor vehicle assembly
Paper or pulp mill	Privately owned cemetery
Radioactive waste disposal or reprocessing of radioactive materials	Refinery
Repair facility for trucks, buses, construction and industrial equipment	Reclamation and Reprocessing of asphalt and/or concrete
Retail Store larger than 60,000 sq. ft.	Sale of heavy vehicles, equipment or buses
Salvage yard and all open air storage of salvage materials and debris	Stadium, coliseum, sports arena, race track
Storage or reprocessing of waste products and salvage materials such as non-operable vehicles or appliances	Storage yard, contractor's yard or other open air establishment for storage, distribution, or sale of materials, merchandise, products or equipment
Tanneries, smelting or rendering plants, gelatin factory	Trailer camp
Truck or trailer cleaning, washing facility or terminal	Water resources development for private commercial sale

3.8 **ACCESSORY USE Regulations** – ACCESSORY USES shall be permitted in all districts on the same LOT with the PRINCIPAL USE. The ACCESSORY USES listed below are subject to the conditions and requirements stated in the respective Sections.

3.8.1 ACCESSORY USES Permitted in the Residential Districts and dwellings in the Non-Residential Districts:

3.8.1.1 Private garages or carports; greenhouses; tool sheds; barns; swimming pools or tennis courts provided that such recreational facilities are used only by the residents and their guests.

3.8.1.2 A home occupation, other than retail sales, conducted entirely within the DWELLING UNIT or an accessory BUILDING by a resident and employing no persons other than the residents. In the Village Residential District, the portion of the DWELLING UNIT or accessory BUILDING used for a home occupation shall be limited to 500 square feet of NET FLOOR AREA. The Board of Appeals may authorize by special permit a home occupation which 1) conducts retail sales, or 2) employs non-residents provided that no more than two such non-resident employees shall be present on the premises at any one time.

3.8.1.3 The renting of rooms or boarding for not more than three persons; except that by Special Permit from the Board of Appeals the renting of rooms or boarding to more than three persons may be allowed. In either case, the service shall be operated by a resident owner of the premises.

3.8.1.4 Breeding for sale of dogs, cats or other pets, provided that not more than four such animals more than one year old shall be permitted.

3.8.1.5 Common Drives for vehicular and non-vehicular ACCESS by way of rights-of-way or easements serving more than one LOT. Common Drives are not STREETS and do not provide FRONTAGE for LOTS. Common Drives shall not serve more than 12 LOTS. Common Drives serving 6 or more LOTS shall require a special permit by the Planning Board. Common Drives serving more than two LOTS but less than six LOTS shall also require a special permit by the Planning Board unless they are in compliance with the requirements a) through q) below. All Common Drives shall be completed prior to the occupancy of any DWELLING UNIT served by the Common Drive.

a) All curb radii and radii of pavement edges shall be designed to accommodate SU-30 design vehicles (fire engine). In determining the adequacy of the radii at the Common Drive intersection with a STREET, it shall be assumed that on local STREETS the entire pavement width is available for turns, whereas on collector and arterial STREETS a turn shall be possible without obstructing oncoming traffic (local, collector and arterial STREETS as defined in the Acton Subdivision Rules and Regulations).

b) There shall be a turn around for fire and other emergency vehicles (SU-30 design vehicle) at the end of the Common Drive.

c) The maximum grade within 50 feet of the intersection with a STREET shall be 5%.

d) The intersection angle between the Common Drive centerline and the STREET centerline shall be not less than 60 degrees.

e) The maximum grade shall be 10%. The minimum grade shall be 1%.

f) The Common Drive shall be laid out entirely within an ACCESS and utility easement that is at least 20 feet wide.

g) The minimum centerline radius shall be 80 feet.

h) The stopping sight distance along the Common Drive shall be not less than 125 feet.

i) The design shall be for a maximum design speed of 25 miles per hour.

j) The minimum sight distance at the intersection of the Common Drive with a STREET shall be 275 feet, and 450 feet where the STREET is an arterial STREET (arterial STREET as defined in the Acton Subdivision Rules and Regulations).

k) Adequate drainage shall be provided. The drainage design and appurtenances shall prevent washout and excessive erosion and it shall prevent drainage onto a

STREET. Subsurface discharge to a public drain system shall be allowed only if there is sufficient capacity in the public drain system based on a 10-year design storm.

l) The paved wear surface shall be at least 12 feet wide and consist of a minimum of 3 inches of Type I bituminous concrete, applied in two courses over a minimum base of 12 inches of properly prepared and compacted gravel, graded to drain from the crown.

m) There shall be a minimum 3 foot wide shoulder on each side free of obstructions such as trees or utility poles. The shoulder shall be prepared with 3-4 inches of topsoil over the same gravel base as the wear surface, and seeded.

n) There shall be a sign posted at the Common Drive intersection with the STREET displaying the name of the Common Drive and indicating "private way".

o) A sidewalk shall be constructed along the arterial and collector STREET (arterial and collector STREET as defined in the Acton Subdivision Rules and Regulations) FRONTAGE of all LOTS served by the Common Drive, except where a sidewalk already exists. The sidewalk shall be constructed with a paved surface consisting of a minimum of 2.5 inches of Type 1 bituminous concrete over 3 inches processed gravel and 6 inches of bank run gravel (or equivalent). It shall be at least five feet wide and shall follow in general the grade of the STREET. Where the sidewalk crosses driveways it shall have wheelchair ramps. Where the sidewalk does not connect with another sidewalk it shall be connected to the STREET pavement with wheelchair ramps. Easements or additional width in the STREET layout shall be provided as necessary to accommodate the sidewalk.

p) An agreement providing ACCESS over the Common Drive to all the LOTS and making all the LOTS served by the Common Drive jointly and severally responsible for its maintenance and repair, including snow plowing, shall be recorded. Evidence of recording shall be given to the Zoning Enforcement Officer prior to the issuance of a building permit on any LOT served by the Common Drive.

q) Compliance with the Common Drive construction and design requirements shall be demonstrated to the Zoning Enforcement Officer by means of proposed plans and as-built plans for the Common Drive and sidewalk, prepared by a registered professional engineer. Zoning Enforcement Officer shall have the power to establish requirements as to the form and contents of such plans.

3.8.2 ACCESSORY USES permitted in the Office, Business, and Industrial Districts.

3.8.2.1 Truck or trailer cleaning and washing provided that the trucks or trailers are necessary for the conduct of the PRINCIPAL USE.

3.8.2.2 Drive-up facilities in a bank.

3.8.2.3 An employee food service area established exclusively to serve employees of the PRINCIPAL USE.

3.8.2.4 Facilities for training employees of the PRINCIPAL USE.

3.8.2.5 The following ACCESSORY USES, provided that their combined NET FLOOR AREA does not exceed 5% of the total NET FLOOR AREA that is occupied by the PRINCIPAL USE, and that they are conducted primarily as a service for employees, customers and clients of the PRINCIPAL USE:

a) The retail sale of goods and merchandise.

b) Services as listed in Section 3.5.12.

c) The sale of food and beverages, other than an employee food service area under Section 3.8.2.3.

3.8.2.6 In the Industrial Districts only, outdoor storage of materials, goods, and equipment provided that all outdoor storage areas are surrounded by landscaping or architectural

screening that reduces, to the extent feasible and reasonable, their visual impact when viewed from adjacent and nearby STREETS and dwellings in existence as of January 1, 2013.

3.8.2.7 In the Light Industrial District and on contiguous adjacent land for which the Board of Appeals has previously granted a USE variance permitting a USE allowed in the Light Industrial District, the purchase of new vehicles; the wholesale, but not retail sale, of used vehicles; and the temporary outdoor storage of such new and used vehicles provided that:

3.8.2.7.1 The LOT, or the property consisting of two or more contiguous LOTS in single ownership, contains at least 15 acres.

3.8.2.7.2 Such USE is accessory to an operations center and offices of a vehicle rental or leasing company.

3.8.2.7.3 Such vehicles are at all times registered with the Commonwealth of Massachusetts Registry of Motor Vehicles while on the premises.

3.8.2.7.4 No such vehicle exceeds a gross vehicle weight of 10,000 pounds and a wheel base of 135 inches.

3.8.2.7.5 All such vehicles are stored in the rear yard out of sight and fully screened from view from any STREET.

3.8.2.7.6 All such vehicles are stored at least 200 feet away and fully screened from view from any pre-existing dwelling that is not on the same LOT or property.

3.8.2.7.7 The transport and loading/unloading of such vehicles to and from the LOT or property occurs only on weekdays between the hours of 6:00 AM and 9:00 PM.

3.8.2.7.8 The storage of such vehicles may use vacant or excess parking capacity that, regardless of the requirements of Section 6 of this bylaw, is not needed for employees and customers of the businesses on the LOT or property.

3.8.2.8 In the Light Industrial District, the rental of trucks with a gross vehicle weight not greater than 26,000 pounds, provided that not more than five trucks for rental use shall be parked on site at any one time and that no such truck shall be parked on site for more than 72 consecutive hours.

3.8.3 ACCESSORY USES permitted in the Business and Village Districts.

3.8.3.1 The on-premises outdoor display and sale of merchandise by Retail PRINCIPAL USES on private property, subject to the following requirements:

a) The outdoor display and sale of merchandise shall be conducted only by a PRINCIPAL Retail USE located on the same LOT, and shall only include merchandise that is regularly offered for sale inside that business establishment. The outdoor display of seasonal merchandise that is not typically offered for sale indoors, such as but not limited to winter tools, flowers, and beach or pool accessories shall be allowed.

b) The outdoor display and sale shall be confined to an area that is directly contiguous to the BUILDING space that the PRINCIPAL Retail USE occupies.

c) Each outdoor display and sale area shall meet the minimum side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.

d) Outdoor display and sale areas shall not be placed on lawns and other landscaped areas.

e) Outdoor display and sale areas shall not be placed or located so as to block or obstruct the following: pedestrian or building access or egress; the minimum number of vehicle parking and handicap parking spaces required under this Bylaw and under the Massachusetts Architectural Access Board (AAB); ACCESS driveways;

interior driveways; maneuvering aisles; loading areas; public or private utilities, services, or drainage systems; fire lanes, alarms, hydrants, or other fire protection equipment; or emergency access or egress.

f) Outdoor display and sale areas shall be operated and maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.

3.8.3.2 The Zoning Enforcement Officer may issue up to two permits per calendar year for each private property where Retail is a PRINCIPAL USE allowing temporary outdoor sale events, such as a bazaar, festival, fair or similar event, that includes the outdoor display and sale of merchandise, subject to the following requirements:

a) The property owner shall submit a permit application to the Zoning Enforcement Officer sixty (60) days prior to the start of the event.

b) Prior to issuance of the permit, the property owner shall have obtained all other applicable permits and licenses for the event that may be required under other local, State or Federal law.

c) Prior to issuance of the permit, the property owner shall have obtained written notice from the Acton Police Department to proceed with the event.

d) Only the retailers that are permanent tenants on the property may participate in the outdoor sales event. The owner shall not allow off-site or traveling retailers or vendors to participate.

e) Each outdoor display and sale area shall meet the minimum side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.

f) Outdoor display and sale areas shall not be placed or located so as to block or obstruct the following: pedestrian or building access or egress; the minimum number of handicap parking spaces under the Massachusetts Architectural Access Board (AAB); ACCESS driveways; fire lanes, alarms, hydrants, or other fire protection equipment; and emergency access or egress.

g) Outdoor display and sale areas shall be operated and maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.

h) The event shall last a maximum of three days.

i) The event's hours of operation shall be limited to 7 AM to 8 PM on Monday through Friday and to 9 AM to 8 PM on Saturday and Sunday, unless otherwise specified by the Zoning Enforcement Officer.

j) Signs displayed during the event shall not be subject to the zoning regulations for signs set forth in section 7 of this bylaw.

k) All signs, trash and debris shall be removed from the event site immediately upon the termination of the activity.

l) The Zoning Enforcement Officer when issuing the zoning permit shall require documents and information sufficient to determine compliance with this section.

3.8.3.3 On-premises outdoor self-service conveniences such as rental movie kiosks, vending machines, propane tank dispensers or similar conveniences on private property where Retail is a PRINCIPAL USE, subject to the following requirements:

a) Outdoor self service conveniences shall be confined to an area immediately contiguous to the BUILDING space that the PRINCIPAL Retail USE occupies.

b) Outdoor self service conveniences shall not be placed on lawns and other landscaped areas.

c) Outdoor self service conveniences shall meet the minimum front, side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.

d) Outdoor self service conveniences shall not be placed or located so as to interfere with the following: pedestrian or building access or egress; the minimum number of vehicle parking and handicap parking spaces required under this Bylaw and under the Massachusetts Architectural Access Board (AAB); ACCESS driveways; interior driveways; maneuvering aisles; loading areas; public or private utilities, services, or drainage systems; fire lanes, alarms, hydrants, or other fire protection equipment; or emergency access or egress.

e) The outdoor self service conveniences shall be maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.

3.8.4 ACCESSORY USES permitted in any Zoning District.

3.8.4.1 Wind machines designed to serve a PRINCIPAL USE on a LOT may be authorized by special permit from the Board of Appeals provided the Board of Appeals finds that the wind machine is set back from all LOT lines at least the distance equal to the height of the tower from its base on the ground to the highest extension of any part of the wind machine. The Board of Appeals may allow the wind machine to exceed the maximum height limitations established by this Bylaw provided that the setback requirement stated above is met.

3.8.4.2 A mobile home may be placed on the site of a residence which has been rendered uninhabitable by accident provided it is used for a period not to exceed 12 months as the primary residence of the owners of the residence which has been rendered uninhabitable.

3.8.4.3 Farm products grown on the premises may be sold on the premises.

3.8.4.4 Where not otherwise permitted, a greenhouse where the PRINCIPAL USE of the property is agriculture.

3.8.4.5 A Family Day Care Home as defined in the Massachusetts General Law, Chapter 40A, if such Family Day Care Home is accessory to a residential USE.

3.8.4.6 Not more than one Amateur Radio Tower, or in the case of a licensed amateur radio operator utilizing a long wire horizontal antenna system not more than two Amateur Radio Towers, on a LOT, inclusive of all antennas, appurtenances, support STRUCTURES, anchors, and guys, subject to the following requirements:

a) The Tower(s) shall be owned and operated by an amateur radio operator who is licensed by the Federal Communications Commission (FCC).

b) The operator of the Tower(s) or the owner of the LOT shall dismantle and remove the Tower(s) within one year after the cessation of the FCC-licensed operator's ownership or tenancy, or the expiration or rescission of the operator's FCC license.

c) Tower height shall not exceed 100 feet from ground level when fully extended, including all antennas and appurtenances.

d) A Tower is prohibited in the front yard of the principal BUILDING or BUILDINGS on the LOT as defined in Section 5.2.4.

e) In Residential Districts, any Tower shall be set back at least 30 feet from all side and rear LOT lines regardless of the otherwise applicable yard requirements, except when:

i. The Tower, even when extended, does not exceed the maximum height limit for STRUCTURES; or

ii. The tower is directly attached to the side or rear of the principal BUILDING or BUILDINGS on the LOT and complies with the minimum side and rear yard requirements for STRUCTURES.

Anchors and guys must in all cases only comply with the minimum side and rear yard requirements that are otherwise applicable to STRUCTURES.

f) The base of any Tower shall be surrounded by a fence with a locked gate or shall be equipped with an effective anti-climb device.

g) No portion of any Tower shall be utilized as a sign or have signage attached to it.

h) No portion of any Tower shall be illuminated or have lights attached to it unless required by the Federal Aviation Administration.

i) The Board of Appeals may, by special permit, on a case-by-case basis, allow more than one Amateur Radio Tower or in the case of a long wire horizontal antenna system more than two Amateur Radio Towers on a LOT (Section 3.8.3.6 – first paragraph), an Amateur Radio Tower height higher than 100' (Section 3.8.3.6.c), an Amateur Radio Tower or Towers in the front yard of the LOT provided that an alternate location on the LOT is not feasible (Section 3.8.3.6.d), and/or a set back of less than 30 feet from side and/or rear LOT lines (Section 3.8.3.6.e) where (1) such relief is demonstrated by the applicant to be necessary to reasonably and effectively accommodate amateur radio communications by the federally licensed amateur radio owner/operator of the Amateur Radio Tower(s) and such relief would not result in a substantial adverse health, safety, or aesthetic impact upon the neighborhood in the vicinity of the Amateur Radio Tower(s), or (2) denial of such relief would otherwise result in a demonstrated violation of applicable Federal Communications Commission (FCC) regulations and/or Massachusetts General Law Ch. 40A, s. 3. In acting on petitions under this section, the Board of Appeals shall apply this bylaw in a manner that reasonably allows for sufficient height of an Amateur Radio Tower or Towers so as to effectively accommodate amateur radio communications by federally licensed amateur radio operators and constitute the minimum practicable regulation necessary to accomplish the legitimate purposes of the bylaw for the protection of health, safety, and aesthetics.

3.8.4.7 In any zoning district where, pursuant to the Table of PRINCIPAL USES, Vehicle Repair is a USE allowed by right (Y) or by special permit (SPS), the sale of used motor vehicles as an ACCESSORY USE to Vehicle Repair, provided that:

a) Any motor vehicle that is for sale does not exceed a maximum gross vehicle weight of 14,000 pounds;

b) Not more than 10 used motor vehicles shall be for sale at any one time;

c) Where Vehicle Repair requires a special permit, such special permit has been issued and the Vehicle Repair USE is in compliance with said special permit; and

d) Where Vehicle Repair requires a special permit, not more than 5 motor vehicles that are for sale shall be placed for open-air display between the STREET and any BUILDING on the LOT. Where such open-air display occurs, the open air display area shall comply with the standards of Section 6.7 or 6.9 of this Bylaw as applicable for the zoning district in which the Vehicle Repair USE is located.

3.8.4.8 In Village, Office, Business and Industrial Districts only, the Zoning Enforcement Officer may issue a permit for the recurring outdoor seasonal sales of New England farm products (farmers' market) on private property, subject to the following requirements:

a) Such permit shall be limited to one calendar year per LOT.

b) The owner of the property upon which the event will be held shall submit a permit application to the Zoning Enforcement Officer sixty (60) days prior to the start of the first farmers' market of the calendar year.

c) Prior to issuance of the permit, the property owner shall have obtained all other applicable permits and licenses for the farmers' market that may be required under other local, State or Federal law.

d) Prior to issuance of the permit, the property owner shall have obtained written notice from the Acton Police Department to proceed with the farmers' market.

e) The farmers' market shall not recur more than one day per week.

f) The event's hours of operation shall be limited to 7 AM to 8 PM on Monday through Friday and to 9 AM to 8 PM on Saturday and Sunday, unless otherwise specified by the Zoning Enforcement Officer.

g) When applying for the permit, the property owner must specify the proposed hours, and the dates and/or regularity of the farmers' market.

h) Each outdoor display and sale area shall meet the minimum side, and rear yard setback requirements for BUILDINGS and STRUCTURES of the zoning district in which it is located.

i) Outdoor display and sale areas shall not be placed or located so as to block or obstruct the following: the minimum required number of handicap parking spaces and their associated interior driveways and maneuvering aisles as required under this Bylaw for PRINCIPAL USES on the property, and under the Massachusetts Architectural Access Board (AAB); Parking spaces for PRINCIPAL USES on the property remaining open during the event; ACCESS driveways; loading areas; fire lanes, alarms, hydrants, or other fire protection equipment; and emergency access or egress.

j) Outdoor display and sale areas shall be operated and maintained so that all sidewalks and walkways continuously meet minimum Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) standards.

k) At all times adequate ingress and egress and sufficient parking shall be maintained as determined by the Zoning Enforcement Officer.

l) Products sold at the farmers' markets must be produced or made on farms in the New England region, with the exception of seasonal Christmas tree sales.

m) Signs displayed during the hours of operation of the farmer's market shall not be subject to the zoning regulations for signs set forth in section 7 of this bylaw.

n) All signs, trash and debris shall be removed from the event site immediately upon the termination of the activity.

o) The Zoning Enforcement Officer when issuing the zoning permit for a farmers' market shall require documents and information sufficient to determine compliance with this section.

3.8.4.9 Temporary yard or garage sales limited to a total of not more than 3 days for each calendar year on a LOT with Residential USE on it.

3.8.4.10 Solar photovoltaic and thermal energy systems and devices that primarily benefit and support the PRINCIPAL USE(S) on the same LOT, including but not limited to roof -, wall -, ground -, and pole-mounted installations, and canopy installations above parking lots or driveways.

3.8.4.11 Solar photovoltaic and thermal energy systems and devices that, without limitation, may benefit all energy users provided such systems are roof mounted or wall mounted installations, or canopy installations above parking lots or driveways.

3.9 Special Provisions Applicable to Nonresidential USES

3.9.1 High Traffic Generators – No PRINCIPAL USE which would have an anticipated average peak hour generation in excess of 1,000 vehicle trip ends or an average weekday or Saturday generation in excess of 7,500 vehicle trip ends shall be allowed. Any PRINCIPAL USE which would have an anticipated average peak hour generation in excess of 500 vehicle trip ends or an average weekday or Saturday generation in excess of 4,000 vehicle trip ends shall be required to receive a special permit from the Board of Selectmen. In predicting traffic generation under this regulation, reference shall be made to the most recent edition of the Institute of Transportation Engineers' publication “Trip Generation”. If a proposed PRINCIPAL USE or relevant data thereto are not listed in said publication, the Building Commissioner may, after consultation with the Town Planner, approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed PRINCIPAL USE. If no such listed use is sufficiently similar, a detailed traffic generation estimate (along with the methodology used), prepared by a Registered Professional Engineer experienced and qualified in traffic engineering, shall be submitted. In granting such special permit, the Board of Selectmen shall require suitable mitigation measures such as trip reduction measures and off-site improvements to roadways and STREETS.

3.9.2 Nonresidential USES in the KC District – On LOTS in the KC District where the FLOOR AREA RATIO exceeds 0.20, only the following USES may be located on the ground floor side of the BUILDING that is facing a STREET: Retail Store; Restaurant; Hotel, Motel Inn, Conference Center; Bed & Breakfast; Lodge or Club; Services; Commercial Entertainment; real estate agency; insurance agency; travel agency; law office; medical and dental offices; walk-in clinic; small equipment repair service; tailor; and photography studio. All other USES shall be located on BUILDING floors other than the ground level floor, on the ground level floor in a rear portion of a BUILDING, or in a BUILDING situated in the rear of other BUILDINGS that face one or more STREETS, and be hidden or screened so as to be unobtrusive when viewed from a STREET.

3.9.3 Nonresidential USES in the EAV District – In the EAV District, only the following USES shall be allowed on the ground floor of commercial or mixed use BUILDINGS: Retail Stores; Restaurants; Hotel, Motel, Inn, Conference Center; Bed & Breakfast; Lodge or Club; Veterinary Care; Services; Commercial Entertainment; Commercial Recreation; real estate agency; insurance agency; travel agency; law office; medical and dental offices; walk-in clinic; and Repair Shop, Technical Shop, Studio.

3.10 Special Requirements for Personal Wireless Facilities

3.10.1 Purposes

3.10.1.1 To allow Personal Wireless Facilities in accordance with and as required by the Federal Telecommunications Act of 1996 and in acknowledgment of M.G.L. Chapter 40A, Section 3.

3.10.1.2 To minimize their adverse impacts on adjacent properties, local historic districts, residential neighborhoods, and scenic vistas.

3.10.1.3 To establish requirements for their approval, and standards for their design, placement, safety, monitoring, modification, and removal.

3.10.1.4 To limit the overall number and height of Personal Wireless Towers to what is essential to serve the public convenience and necessity.

3.10.1.5 To promote shared USE of Facilities to reduce the need for new Facilities.

3.10.2 Applicability

3.10.2.1 This Section 3.10 shall apply to all reception and transmission Facilities that aid, facilitate, and assist with the provision of Personal Wireless Services.

3.10.2.2 No such Facility shall be erected or installed except in compliance with the provisions of this Section 3.10.

3.10.2.3 Nothing in this Bylaw shall be construed to regulate or prohibit customary installations for the reception of radio communication signals at home or business locations.

3.10.2.4 Nothing in this Bylaw shall be construed to regulate or prohibit a tower or antenna installed solely for use by a federally licensed amateur radio operator. For regulations on amateur radio towers see Section 3.8.3.6 of this Bylaw.

3.10.3 Definitions

3.10.3.1 Antenna – A transducer device designed to transmit and/or receive radio frequency signals.

3.10.3.2 Co-locator – One of two or more Carriers who occupy space on a common Facility to locate Antennas and other equipment for the provision of Personal Wireless Services.

3.10.3.3 Concealed-Antenna Monopole (CAM) – A Monopole with internally mounted Antennas that are not visible from the outside of the Monopole.

3.10.3.4 Coverage Gap or Service Gap – a “Coverage Gap” or “Service Gap” is considered to exist within a specific geographic area if a remote user of a Compatible User Service Device, while located within such geographic area, is highly likely to be unable to reliably connect to and communicate with the compatible Carrier’s Personal Wireless Services network, which gap is defined as less than -90 dBm received signal power, unless the Carrier in question demonstrates a different received signal power level or an alternative QoS metric reasonably applies.

3.10.3.5 Equipment Compound – A BUILDING, room, or fenced compound at the base of a Tower or elsewhere that encloses necessary equipment and installations to support Personal Wireless Services.

3.10.3.6 FCC – The Federal Communications Commission.

3.10.3.7 Flush Mounted Antennas – Antennas whose mounting brackets are attached directly on the outside surface of a Monopole that extend typically no more than 18 inches from the Monopole surface.

3.10.3.8 Monopole – A single self-supporting Tower, tubular in design, enclosing cables invisibly within the tubular structure and designed so it does not require braces or guy wires for support and stability.

3.10.3.9 Personal Wireless Services – Commercial Mobile Radio Services (CMRS), common Carrier wireless exchange access services, and unlicensed wireless services as identified and defined in the Federal Telecommunications Act of 1996 and pertinent FCC regulations.

3.10.3.10 Personal Wireless Service Device – A portable, fixed, or mobile Personal Wireless Service communications device, such as, without limitation, a car phone, cell phone, personal digital assistant, or smart phone used by a subscriber or remote user to connect to a Carrier’s Personal Wireless Service network.

3.10.3.11 Personal Wireless Service Provider or Personal Wireless Service Carrier (Provider or Carrier) – An entity, licensed by the FCC to provide Personal Wireless Services or an entity offering unlicensed Personal Wireless Services as a common carrier.

3.10.3.12 Personal Wireless Facility (Facility) – An installation that contains the equipment and support STRUCTURES necessary to provide Personal Wireless Services, including but not limited to an Equipment Compound, Tower and Antennas. In context, Facility may refer individually to one Provider’s installation supporting one Personal Wireless Service at a Site, or collectively to the aggregate of all installations of all Personal Wireless Service Providers providing all Personal Wireless Services at a common Site.

3.10.3.13 Personal Wireless Facility Site (Site) – A LOT as defined in this Bylaw; or one or more contiguous LOTS in single ownership; or one or more contiguous LOTS whose individual owners have entered into a partnership, corporation, trust, or other legal entity with the purpose of jointly hosting a Facility.

3.10.3.14 Personal Wireless Tower (Tower) – A STRUCTURE greater than 12 feet in height mounted on the ground or on another STRUCTURE erected with the primary purpose of supporting one or more Personal Wireless Service Antennas.

3.10.3.15 Service Coverage – Service Coverage refers to a geographic area where a remote user of a properly installed and operated Personal Wireless Service Device compatible with a Carrier's Personal Wireless Services network (a "Compatible User Service Device") has a high probability of being able to connect to and communicate with such network with a reasonable quality of service ("QoS"). There are various measures of QoS, including without limitation, received signal strength, various signal to noise and signal to interference ratio metrics, call reliability (as indicated by dropped call ratios, blocked calls and the like), and bit error rates.

For purposes of this Section 3.10, there shall be the presumption that Service Coverage shall be deemed to exist within a specific geographic area if the predicted or measured received signal power on a standards-compliant Personal Wireless Services Device placed outdoors within such geographic area is highly likely to be -90 dBm or greater, unless the Carrier in question demonstrates, by clear and convincing evidence prepared by qualified radio frequency engineer or other qualified professional, that higher signal strengths or alternative QoS metrics are required to enable such Carrier to provide Service Coverage within the specific geographic area in question.

3.10.3.16 Significant Gap – A Coverage Gap in a Carrier's Personal Wireless Service network within a specific geographic area shall be considered to be a "Significant Gap" if such specific identified geographic area is so large in physical size and/or affects or is predicted to affect such a large number of remote users of Compatible User Service Devices as to fairly and reasonably be considered "significant" as opposed to merely being a small "dead spot". In determining whether or not a particular Carrier's Coverage Gap is significant, a relatively small or modest geographic area may be considered a "Significant Gap" if such geographic area is densely populated or is frequently used by a large number of persons for active recreational or similar purposes who are, or are predicted to be, remote users of Compatible User Service Devices, and/or such geographic area straddles one or more public highways or commuter rail lines regularly traveled, or predicted to be traveled, by remote users of Compatible User Service Devices, while a larger geographic area may be considered not to be a "Significant Gap" if such geographic area does not straddle any public highways or rail lines and/or is sparsely populated. Whether or not a Significant Gap exists is to be determined separately for each Carrier's Personal Wireless Services network, regardless of whether or not any other Carrier(s) have Service Coverage in such geographic area.

3.10.4 General Prohibitions and Requirements

3.10.4.1 Lattice style Towers and similar facilities requiring more than one leg or guy wires for support are prohibited. However, additional equipment may be mounted on an existing lattice Tower.

3.10.4.2 A Personal Wireless Tower shall not be erected in a Local Historic District or within one thousand feet (1000') of the boundary of a Local Historic District measured from the center point of a Tower at its base.

3.10.4.3 All STRUCTURES, equipment, utilities and other improvements associated with Personal Wireless Facilities shall be removed within one year after cessation of USE.

3.10.4.4 Night lighting of Personal Wireless Facilities is prohibited except for low intensity lights installed at or near ground level in or on the Equipment Compound and in compliance with the Outdoor Lighting Regulations of this Bylaw, Section 10.6.

3.10.4.5 At least one sign shall be installed in a visible location at the Equipment Compound that provides the telephone number where the operator in charge can be reached at all times.

3.10.4.6 Section 6 (Parking Standards) of the Acton Zoning Bylaw shall not apply to Wireless Communication Facilities.

3.10.4.7 Nothing in this Bylaw shall be construed to regulate or prohibit a Personal Wireless Facility on the basis of the environmental effects of radio frequency emissions, provided the Facility complies with regulations of the Federal Communications Commission concerning such emissions.

3.10.5 Personal Wireless Facilities Allowed by Right

3.10.5.1 In all zoning districts, a Personal Wireless Facility shall be allowed and no special permit shall be required,

a) if the Antenna(s) and Antenna mounting apparatus or STRUCTURE does not exceed 3 feet in diameter and 12 feet in height and is otherwise in compliance with applicable dimensional requirements of this Bylaw as they relate to the Personal Wireless Facility Site, or

b) if the Facility is located entirely within, or mounted on, a BUILDING or STRUCTURE that is occupied or used primarily for other purposes, provided that the BUILDING or STRUCTURE, including the Facility, meets all dimensional requirements of this Bylaw for the zoning district in which the Site is located. A cupola or other appurtenance, that is consistent with the general characteristics of the zoning district within which the Facility is located, that is otherwise allowed by right, and that fully conceals all Antennas, cables, and other related hardware may be added to a BUILDING when the supporting equipment belonging to the Facility is installed within the BUILDING.

3.10.5.2 In the Office Districts (OP-1, OP-2), the Industrial Districts (LI, GI, LI-1, IP, SM), the Powder Mill District (PM), and the Limited Business District (LB), a Monopole Tower shall be allowed and no special permit shall be required, if its height does not exceed applicable height limitations for STRUCTURES and BUILDINGS in the zoning district in which it is located, and if its setback, measured from its center point at its base to all Site boundary lines, is at least the distance equal to its height, but not less than the otherwise applicable minimum yard requirement for BUILDINGS and STRUCTURES in the zoning district.

3.10.5.3 Any new Antennas or other equipment owned by a Personal Wireless Service Provider may be mounted on a previously approved Tower without a special permit, if there is no increase in height above the maximum height specified in the special permit for the Tower and if the installation does not deviate from the approved appearance of the Tower. For example, an approved CAM may not be converted to a Flush Mount Monopole by any subsequent Antenna installations.

3.10.6 Special Permit for Facilities

3.10.6.1 Any Personal Wireless Facility, and any increase in height or size, or reconstruction or replacement of an existing Facility that does not meet the criteria under Section 3.10.5 above, may only be allowed by special permit from the Planning Board in accordance with M.G.L. Ch. 40A, S. 9, subject to the following statements, regulations, requirements, conditions and limitations.

3.10.6.2 For the purpose of this Section 3.10, public hearing notices shall be sent to parties in interest and to all LOT owners within one thousand feet of the property line of the Site where the Facility is proposed.

3.10.6.3 A Personal Wireless Tower shall not exceed a height of 175 feet from ground level, or a height that is allowed without illumination at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less. For purposes of determining the height of a Tower, the height shall be the higher of the two vertical distances measured as follows:

a) The elevation of the top of the Tower STRUCTURE including any Antennas or other appurtenances above the pre-construction mean ground elevation directly at the base of the pole; or

b) The elevation of the Tower STRUCTURE including any Antennas or other appurtenances above the mean ground elevation within 500 feet of the base of the pole.

3.10.6.4 Personal Wireless Towers shall be CAMs. On a case by case basis, generally when aesthetic considerations are less important, the Planning Board may allow Monopoles with external Flush Mounted Antennas, or external standard Antenna mounting frames that extend laterally from the Monopole.

3.10.6.5 Personal Wireless Towers shall be located, designed, and constructed as Monopoles that are extended to or structurally extendable to the maximum height allowed under Section 3.10.6.3 above, capable of accommodating the maximum number of technically feasible Co-locator Antennas on the portion of the Monopole above the trees as well as an Equipment Compound physically able to, or capable of being enlarged to, fully accommodate the maximum number of Personal Wireless Service Carriers and other equipment necessary for the maximum number of technically feasible Co-locators at the Site.

3.10.6.6 In all Residential Districts, the setback of a Tower, measured from the center point of the Tower at its base to the boundary lines of the Site, shall be at least one hundred and seventy five feet (175').

3.10.6.7 The center point of any Personal Wireless Tower at its base shall be separated from any existing residential BUILDING by a horizontal distance that is at least three hundred and fifty feet (350'), unless the residential BUILDING and the Facility are located on the same LOT.

3.10.6.8 An Equipment Compound, if employed, shall be located in the immediate vicinity of the base of a Tower. The Equipment Compound, including fencing, shall not extend more than 100 feet from the center point of the Tower in the direction of any residential BUILDING on a neighboring LOT.

3.10.6.9 Any Tower shall be designed to accommodate the maximum feasible number of Carriers.

a) The Planning Board may require the employment of all available technologies and Antenna arrangements to minimize vertical space consumption, and require sufficient room and structural capacity for all necessary cables and Antennas.

b) The Planning Board may require the owner of such Tower to permit other Providers to Co-locate at such Facility upon payment of a reasonable charge, which shall be determined by the Planning Board if the parties cannot agree.

c) The Planning Board may require that the equipment of all users of a Tower shall be subject to rearrangement on the Tower or in the Equipment Compound if so directed by the Planning Board at a later time in its effort to maximize Co-location of Carriers. This may result in different vertical Antenna locations, reduced vertical separation of Antennas, and changes of Antenna arrangements, to the extent feasible without causing technically unacceptable radio frequency signal interference between the Antennas of the Co-locators and without creating new Significant Gap in the existing coverage of incumbent Providers on the Tower.

d) The Planning Board may require that the equipment of all Carriers on a Tower shall be subject to relocation to another nearby Facility if such relocation, when

considered individually or in concert with existing or potential new Facilities, does not create a Significant Gap in the Carrier's-coverage when so directed by the Planning Board at a later time in its effort to maximize Co-location of Carriers. It may then order the removal of a Tower after the relocation is completed.

e) The Planning Board may require long-term easements, leases, licenses, or other enforceable legal instruments that fully support a Facility at its maximum potential technical capacity, including sufficient space on the Tower and for Facility base equipment to accommodate the maximum number of technically feasible Co-locators at the Site, adequate ACCESS and utility easements to the Facility from a public STREET, and the right for the maximum number of technically feasible Co-locators to Co-locate on the Tower and to upgrade the utilities and equipment as needed for maintaining and improving service and capacity.

3.10.6.10 Unauthorized entry into an Equipment Compound shall be prevented by the installation of security measures such as fencing (for outdoor Equipment Compounds) or locked rooms or buildings. Towers shall be secured against unauthorized climbing. The Planning Board shall require suitable fencing and landscape screening or other mitigation means to shield the installation from the view of nearby residences or ways.

3.10.6.11 The Planning Board may require that all ground equipment must be placed inside a BUILDING where the Planning Board finds that a fenced-in compound does not adequately address reasonable and legitimate aesthetic concerns. In such cases, the Planning Board shall have the power under the special permit to regulate the size, shape, and exterior appearance of the BUILDING.

3.10.6.12 A Tower approved hereunder shall be used only for the transmission of signals for Personal Wireless Services, except with the specific authorization of the Planning Board.

a) The Planning Board may approve or require the installation of transmission devices owned, operated, or used by the Town of Acton or any of its agencies, and may allow such devices to extend above the otherwise applicable maximum Tower height. The Planning Board may waive or modify the approved appearance provision of Subsection 3.10.5.3 for such devices.

b) The Planning Board may also approve the installation of communication devices by entities other than Personal Wireless Service Carriers as secondary occupants of a Facility that are subject to Planning Board termination upon six months notice of the Planning Board, provided that they do not interfere with the Personal Wireless Services and that the intent of this Bylaw to maximize Co-location of Personal Wireless Service Providers is not compromised.

3.10.6.13 The Planning Board shall in its special permit make adequate provisions for the removal of the Tower and Equipment Compound after its USE for Personal Wireless Services has ended. It shall require that the Facility location shall be restored to pre-existing conditions as much as is reasonably possible so that no traces of the Facility, including foundation, gravel pads, and driveways, remain visible above ground, and that the location be otherwise stabilized and naturalized as appropriate for the particular Site.

3.10.6.14 The Planning Board may, as a condition of any special permit, require all Carriers at a Facility, upon the written request of the Planning Board from time to time, to file with the Planning Board and Town Clerk a report, prepared and stamped by a Massachusetts Registered Professional Engineer, that certifies that such Carrier's Facility is, and such Co-locator's Facilities are, in compliance with the terms and conditions of the special permit and the Acton Zoning Bylaw. The Planning Board may also require the Carriers to file with the Planning Board certifications from other independent, qualified engineers or other appropriate professionals that the Facility is in compliance with applicable state and federal laws, such as those regarding radio frequency emissions, noise, or aeronautical navigation safety. The Planning Board may make such requests not more frequently than once every two years, unless the Planning Board has reasonable

grounds to believe that the Facility is not in compliance in any substantial or material respect with the terms and conditions of the special permit or any applicable FCC or other State or Federal laws.

3.10.6.15 The Planning Board may limit the number of Towers on a Site to one, or to any other number it deems necessary and appropriate for the Site. Multiple Towers on a single Site shall be separated by such reasonable distance that prevents excessive interference (mechanical or electromagnetic) between Carriers' services and that creates the most harmonious appearance to the general public, but by not less than 40 feet measured between the center points at the Towers' respective bases.

3.10.6.16 The Special Permit application for a Personal Wireless Facility shall be accompanied by a plan showing the Facility location in relation to the boundary lines of the Facility Site and all BUILDINGS within 500 feet, and plans for the installation or construction of the Facility adequate to show compliance with the provisions of this Bylaw, and such supplemental information as may be required by the Planning Board in the Rules and Regulations for a Special Permit for Personal Wireless Facilities. The application shall also include maps showing areas where the proposed Facility will be visible when there is foliage and when there is not.

3.10.6.17 Mandatory Findings – The Planning Board shall not issue a special permit for a Personal Wireless Facility unless it finds that the Facility:

a) is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. Ch. 40A, S. 11;

b) is designed to provide, in the most community-compatible method practicable, Service Coverage to a Significant Gap within the Town. The applicant shall bear the burden of demonstrating, by clear and convincing evidence, the existence of such Significant Gap;

c) is designed in the most community-compatible method practicable and is necessary to satisfy a Significant Gap in service. The applicant shall bear the burden of demonstrating that other methods preferred by the Town are not feasible for providing Service Coverage to satisfy such Significant Gap;

d) cannot for technical or physical reasons be located on an existing Personal Wireless Facility or Tower that would be expected to provide comparable Service Coverage. Such alternative existing location or locations need not provide full service to the entire Significant Gap if, in the determination of the Planning Board, the remaining Gap to have been served by the proposed Facility is not Significant and/or if remaining portions of the Significant Gap can be served by new Facilities preferred by the Planning Board;

e) cannot be located at any other practicably available site that is less objectionable to the general public due to technical requirements, topography, or other unique circumstances. The applicant shall have the burden of showing what alternative sites and technologies it considered and why such sites and technologies are not practicably available;

f) is sited in such a manner that it is suitably screened;

g) is colored so that it will as much as possible blend with or be compatible with its surroundings;

h) is designed to accommodate the maximum number of users technologically feasible;

i) is necessary because there is no other existing Facility or Facilities with available space or capacity available to satisfy the Significant Gap;

j) is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations; and

k) complies with all applicable requirements of this Bylaw, including Section 10.3.

3.10.6.18 The Planning Board under its special permit authority may waive one or more requirements of this Section 3.10.6 and its subsections, including dimensional requirements, and it may grant a waiver from the use restrictions contained in Section 3.4.10 of the Table of Principal Uses, where the Board finds that the relief is necessary to avoid an effective prohibition of Personal Wireless Services in the Town or avoid unreasonable discrimination among Providers of functionally equivalent services.

a) Any request for such waivers shall be supported by a study prepared by a qualified radio frequency engineer or other qualified professional consultant demonstrating to the Planning Board's satisfaction that there exists a Significant Gap in coverage within the specific geographic area proposed, and clear and convincing evidence that no alternative locations, technologies, and/or configurations are available that meet the otherwise applicable requirements.

b) In granting such a waiver or waivers, the Planning Board must find that the extent of the granted relief is mitigated by showing that any alternative for serving the Significant Gap that is feasible is no less objectionable in its impact on the community, that all practicable mitigation of the proposed Facility's impact is incorporated in the design and conditions, and that the desired relief may be granted without substantial detriment to the neighborhood and without denigrating from the intent and purpose of this Bylaw.

c) However, the Board shall not grant relief from the maximum height limitation in Subsection 3.10.6.3.

d) The Board shall be empowered hereunder to grant relief from any setback requirements in Subsections 3.10.6.6 or 3.10.6.7 provided that the Facility as proposed with such non-conforming setbacks is demonstrated to be necessary to serve the Significant Gap or that such relief will produce a better result for the community than without such relief, consistent with Section 3.10.1 – Purposes, and its subsections.

e) The applicant shall provide the Board with a written statement describing how the requested relief meets the objectives of the preceding paragraph (d) and is in the best interest of the Town with reference to Section 3.10.1 – Purposes, and its subsections.

3.10.6.19 At the applicant's expense a full transcription or recording of the oral hearings shall be made.

3.10.7 Nothing contained in this Section 3.10 shall, or is intended to, waive, restrict, modify, or limit any other of the Bylaws of the Town of Acton, or any rule or regulation made there under.

3.11 Special Requirements for Ground-Mounted Solar Photovoltaic Installations

3.11.1 Purposes – To provide reasonable regulations pertaining to public health, safety and welfare for Ground-Mounted Solar Photovoltaic Installations in accordance with Massachusetts General Law Chapter 40A, Section 3.

3.11.2 Applicability – This Section 3.11 shall apply to all Ground-Mounted Neighborhood and Industrial Solar Photovoltaic Installations, including related BUILDINGS, STRUCTURES, and equipment, and to physical modifications of such installations that materially alter their type, configuration, or size. For regulations on solar energy systems as ACCESSORY USES, see Section 3.8.3 of this bylaw.

3.11.3 Standards and Requirements – Except where specifically stated otherwise, the following provisions shall apply to all Ground-Mounted Neighborhood and Industrial Solar Photovoltaic Installations in all zoning districts. They shall not apply to solar energy systems as ACCESSORY USES under Section 3.8.3.

3.11.3.1 Setbacks – The layout of an installation and all related STRUCTURES, BUILDINGS and equipment shall comply with the front, side and rear yard requirements of the zoning district in which they are located, except for power feed and distribution lines and equipment where underground installation is not possible.

3.11.3.2 Landscaping, Screening, and Panel Orientation and Tilt – Landscaping or architectural screening shall be provided to reduce the visual impact of installations and specifically to protect nearby receptors from danger, harm, or nuisance that may result from reflective solar glare of photovoltaic panels. Where necessary, panels shall be oriented or tilted in a manner to prevent such glare upon receptors.

3.11.3.3 Lighting – Night Lighting is prohibited except for security lighting controlled by motion detectors or infrared sensors with an on-time of no more than ten (10) minutes per activation.

3.11.3.4 Utility Connections - All utility connections, conduits, cables, power lines transformers and inverters shall be placed underground, except (a) where otherwise required by the Massachusetts State Building Code or the utility provider; (b) in adverse ground conditions such as ledge or excess water; or (c) for connection to existing above ground utility lines. Wiring within the installation's layout shall follow industry standards.

3.11.3.5 SIGNS – SIGNS shall comply with the requirements of Section 7 of this Bylaw. However, in Residential Districts not more than one (1) sign up to six (6) square feet in display area may be installed with the names, current telephone numbers, websites and trademarks of the installer, manufacturer, owner, and operator of the installation. In addition, pedestrian scale educational displays are permitted, which may include the names and contact information of the display sponsors, and directions and contacts for additional information.

3.11.3.6 Water Management and Conservation – To the largest extent possible, the ground shall remain pervious to rain water. Where necessary, adequate provision shall be made for groundwater recharge and to prevent site run-off and erosion.

3.11.3.7 Protection of Forest Land – Not more than 1 acre of land shall be deforested for any one Ground-Mounted Industrial Solar Photovoltaic Installation, and no such installation shall be placed on such land that was deforested within the prior 5 years.

3.11.3.8 Exemptions from Zoning Requirements – Ground-Mounted Solar Photovoltaic Installations shall be exempt from requirements of this Bylaw pertaining to LOT area, FLOOR AREA RATIO, Impervious Cover, OPEN SPACE, and vehicular parking.

3.11.3.9 Solar Access - The owners and operators of Ground-Mounted Solar Photovoltaic Installations are advised to acquire solar access easements from abutters where access to sunlight could be impacted from an allowed use on an abutting parcel.

3.11.4 Special Permit for Certain Ground-Mounted Industrial Solar Photovoltaic Installations where required in the Table of Principal USES – The Planning Board may grant Special Permits for Ground-Mounted Industrial Solar Photovoltaic Installations in certain zoning districts as indicated in the Table of Principal USES. When granting such special permit, the Planning Board shall vote in the affirmative the Mandatory Findings for special permits required in Section 10.3 of this Bylaw, and, in addition, find that:

3.11.4.1 In the case of a Residential District location, the visual impact of the installation on its immediate abutters and on the nearby neighborhood has been effectively neutralized through appropriate designs, landscaping, or structural screening; or

3.11.4.2 In the case of a Business District location, the specific site of the installation does not detract from or interrupt the vitality of the business district, or impede its further business development; and that the visual impact of the installation has been sufficiently mitigated through appropriate designs, landscaping, or structural screening.

3.11.5 Special Permit for Certain Other Ground-Mounted Solar Photovoltaic Installations – The Planning Board may grant Special Permits for Ground-Mounted Solar Photovoltaic Installations that do not meet the standards set forth in Section 3.11.3 above, or any of its subsections. When granting such special permit, the Planning Board shall vote in the affirmative the Mandatory Findings for special permits required in Section 10.3 of this Bylaw, and, in addition, find that:

3.11.5.1 The benefit of installing solar photovoltaic power at the installation site as proposed by the application substantially outweighs the public health, safety, and welfare concerns that Section 3.11.3 requirements are intended to protect; or

3.11.5.2 That the particular design, mitigation measures, offsets, agreements, or other provisions for the proposed installation address such concerns in an alternative and satisfactory manner.

3.12 Temporary Moratorium on Medical Marijuana Uses

3.12.1 Background – On November 6, 2012 Massachusetts voters approved Ballot Question 3, also known as the Massachusetts Medical Marijuana Initiative or “Law for the Humanitarian Medical Use of Marijuana" (hereinafter the “Medical Marijuana Law”). The Medical Marijuana Law took effect on January 1, 2013. Under the Medical Marijuana Law a “Medical Marijuana Treatment Center shall mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers." The Medical Marijuana Law enables the Massachusetts Department of Public Health (DPH) to register up to 35 such centers within the first year of enactment, with a minimum of one and a maximum of five located within each county. DPH must issue regulations for the implementation of the Medical Marijuana Law by May 1, 2013.

3.12.2 Purpose and Justification – The purpose of the temporary moratorium is to give the Town of Acton sufficient time after the promulgation of DPH regulations to evaluate the potential land use impacts of Medical Marijuana Treatment Centers as such term is defined under the Medical Marijuana Law, and, if necessary and appropriate, to prepare and adopt zoning standards for Medical Marijuana Treatment Centers.

3.12.3 Temporary Moratorium Provision – For the duration of this Temporary Moratorium a Medical Marijuana Treatment Center as defined in the Medical Marijuana Law shall be prohibited as a PRINCIPAL and ACCESSORY USE in all zoning districts, and no use variance shall be granted to allow a Medical Marijuana Treatment Center.

3.12.4 Temporary Moratorium Expiration - Unless extended, continued or modified by a subsequent action of Town Meeting, the provisions of this Temporary Moratorium shall expire upon either of the first to occur of: (a) the adoption by Town Meeting of an amendment to this Bylaw that explicitly rescinds or replaces this moratorium, and the approval of any such amendment by the Massachusetts Attorney General, or (b) July 1, 2014.

SECTION 4.

OVERLAY DISTRICTS

4.1 **Flood Plain District** – The Flood Plain District is an overlay district whose boundaries and regulations are superimposed on all districts established by this Bylaw. The Flood Plain District includes all special flood hazard areas in Acton designated as Zones A and AE shown on Zoning Map Number 2, which are the Acton Panels of the Middlesex County Flood Insurance Rate Map (FIRM), dated June 4, 2010.

4.1.1 Definitions – For the purposes of this Section, the following terms shall have the following meaning:

4.1.1.1 Base Flood or 100-Year Flood – The flood having a 1 percent chance of being equaled or exceeded in any given year.

4.1.1.2 Flood Plain – Any land susceptible to being inundated by the Base Flood. The Flood Plain includes the Floodway and Floodway Fringe.

4.1.1.3 Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than one foot above the Base Flood elevation.

4.1.1.4 Floodway Fringe – The area between the Floodway and the boundary of the Base Flood.

4.1.1.5 Lowest Floor – The Lowest Floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, BUILDING access, or storage, in an area other than a basement area, is not considered a BUILDING'S Lowest Floor, provided that such enclosure is not built so as to render the STRUCTURE in violation of the applicable non-elevation design requirements of this ordinance.

4.1.1.6 Natural Flood Storage Volume – The volume of water which could be stored between the elevation(s) of the property as it existed on June 14, 1978 and the elevation(s) of the Base Flood.

4.1.1.7 Substantial Improvement – Any repair, reconstruction or improvement of a STRUCTURE, the cost of which equals or exceeds 50% of the fair market value of the STRUCTURE either, 1) before the improvement or repair is started, or 2) if the STRUCTURE has been damaged, and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the STRUCTURE commences, whether or not that alteration affects the external dimensions of the STRUCTURE. However, Substantial Improvement shall not include either 1) any project for improvement of a STRUCTURE to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe occupancy conditions, or 2) any alteration of a STRUCTURE listed on the National Register of Historic Places or the State Inventory of Historic Places.

4.1.2 Purpose – The purpose of the Flood Plain District is to protect persons and property against the hazards of the Base Flood, to maintain the flood storage capacity and flow pattern of the Flood Plain for the Base Flood and to provide long-term control over the

extent of land subject to inundation by the Base Flood. Further, the purpose of the Flood Plain District is to maintain the Town's eligibility in the National Flood Insurance Program (NFIP) by adopting floodplain management regulations that meet the applicable standards of the NFIP regulations set forth in 44 CFR 60.3. In the event of a conflict between the NFIP regulations at 44 CFR 60.3 and the Flood Plain District regulations set forth in the Bylaw, the more stringent requirement shall control.

4.1.3 Methods for Determining Flood Plain District Boundaries – The exact boundaries of the Flood Plain District shall be as shown by the 100-year Base Flood elevation(s) shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010, as determined by an actual field survey of the Base Flood elevation(s).

4.1.3.1 The Base Flood elevations for AE-Zones shall be the regulatory elevations from Table 8 and the cross section locations from the Flood Profiles contained in the "Middlesex County, Massachusetts, Flood Insurance Study, June 4, 2010" published by the Federal Emergency Management Agency (FEMA).

4.1.3.2 The Base Flood elevations and Floodway data for A-Zones shall be determined based on hydrologic and hydraulic analyses of the development area by a Registered Professional Engineer. However, Base Flood elevations and Floodway data for A-Zones may also be based, when available, upon information from a federal or state source, or from the Office of the Town Engineer.

4.1.4 Prohibited USES Within the Limits of the Floodway – Except as provided in Section 4.1.5, all new construction and encroachments including, grading, filling, excavating, Substantial Improvements and other development is prohibited unless:

a) a technical evaluation by a Registered Professional Engineer demonstrates that the new construction or encroachment will not result in any increase in flood levels during the occurrence of the Base Flood discharge;

b) and it is otherwise allowed by a special permit from the Board of Appeals under Section 4.1.8;

4.1.5 Permitted USES Within the Limits of the Floodway – The following USES are permitted within the limits of the Floodway:

4.1.5.1 Maintenance and repair of existing STRUCTURES and improvement of existing STRUCTURES provided that any such improvement is either within the existing STRUCTURE or above the Base Flood elevation;

4.1.5.2 Maintenance, repair and replacement of existing STRUCTURES in a driveway or private way or in an associated easement. Structures referred to herein are banks, walls, culverts, bridges or similar structures;

4.1.5.3 Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection.

4.1.6 Prohibited USES within the Limits of the Floodway Fringe – Except as provided in Section 4.1.7 and Section 4.1.8, all new construction including grading, filling or excavating is prohibited within the limits of the Floodway Fringe.

4.1.7 Permitted USES Within the Limits of the Floodway Fringe – The following USES are permitted within the limits of the Floodway Fringe in accordance with the underlying district:

4.1.7.1 Any USE otherwise permitted by this Bylaw subject to the provisions of this Section;

4.1.7.2 Any USE permitted in the underlying district in which the land is located subject to the same USE and development restrictions as may otherwise apply provided that, based upon properly documented engineering data, the land is found by the Zoning Enforcement Officer not to be subject to flooding during the Base Flood;

4.1.7.3 Construction, maintenance and repair of municipal and private water supply STRUCTURES;

4.1.7.4 Maintenance and repair of existing STRUCTURES and improvement of existing STRUCTURES provided that any such improvement is either within the existing STRUCTURE or above the Base Flood elevation;

4.1.7.5 Maintenance, repair and replacement of existing STRUCTURES in a driveway or private way or in an associated easement. Structures referred to herein are banks, walls, culverts, bridges or similar structures;

4.1.7.6 Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection.

4.1.8 USES Permitted by Special Permit Within the Limits of the Floodway Fringe – The following USES may be permitted within the limits of the Floodway Fringe upon the issuance of a special permit by the Board of Appeals:

4.1.8.1 Any USE permitted in the underlying district in which the land is located, including grading, filling or excavating, subject to the same USE and development regulations as may otherwise apply thereto provided the Board of Appeals finds that:

a) the proposed USE does not significantly conflict with the purposes of this Section;

b) at least 98 percent of the Natural Flood Storage Volume of the Flood Plain on the site is preserved without the use of compensatory storage techniques and disturbance of the natural characteristics of the Flood Plain on the site is kept to a minimum;

c) the elevation of the Lowest Floor level including basement of any new or substantially improved residential STRUCTURE is at or above the Base Flood;

d) the elevation of the Lowest Floor including basement of any new or substantially improved non-residential STRUCTURE is at or above the Base Flood or floodproofed to above the Base Flood;

e) the elevation of the lowest point of any new vehicular or pedestrian ACCESS from a STREET to any BUILDING, including garages, used for human occupancy is at or above the Base Flood;

f) any new construction or Substantial Improvements are constructed with flood resistant materials and methods and anchored to prevent flotation and lateral movement;

g) any new or reconstructed utilities, such as water or sewer mains, septic and drainage systems, fuel storage facilities, gas electric or other utilities, are anchored to prevent flotation and designed to avoid impairment during the Base Flood.

4.1.9 Procedures for Review by the Board of Appeals – Any person who desires to erect any STRUCTURE or excavate, fill, grade or otherwise develop land in accordance with Section 4.1.4 or Section 4.1.8 shall submit a written application to the Board of Appeals. Each such application shall be accompanied by the following;

a) A written statement indicating any special permits previously granted under this Section for the subject LOT, for any portion of the subject LOT or for any larger LOT which formerly included the subject LOT;

b) Proposed site plan for the entire area to be developed showing existing and proposed BUILDINGS, STRUCTURES, signs, parking spaces, driveway openings and driveways; the Flood Plain District boundary; existing and proposed topography at one foot intervals within the Flood Plain District and two foot intervals outside the District; the Floodway boundary; all facilities for surface and subsurface water drainage and sewage disposal; and all existing and proposed landscape features;

c) Detailed calculations and supporting materials prepared by a Registered Professional Engineer showing the existing and proposed flood storage volume of the site between the elevation(s) of the property as it existed on June 14, 1978 and the elevation(s) of the Base Flood. In A-Zones, the supporting materials shall include the methods and all data used in determining the location of the Floodway and the elevation of the Base Flood;

d) Where floodproofing is used, certification by a Registered Professional Engineer or a Registered Professional Architect that the new construction is adequate to withstand the forces associated with the Base Flood and that the methods used are adequate to withstand flood depths, pressures and velocities, impact and uplift forces and other factors associated with the Base Flood.

4.1.9.1 If a special permit is granted, the Board of Appeals shall impose such conditions and safeguards as public safety, welfare and convenience, and the NFIP regulations at 44 CFR 60.3 may require. Upon completion of any authorized work an "as-built" plan, prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, of all improvements in the Flood Plain District shall be submitted to the Zoning Enforcement Officer and shall specify the elevation of the Lowest Floor including basement, the elevation to and method by which any STRUCTURE has been floodproofed and the finished grades of all disturbed areas.

4.1.9.2 All structural and non-structural activities and development in the Flood Plain District, whether allowed under this Bylaw by right or by special permit must be in compliance with applicable State laws and regulations as amended from time to time, including, but not limited to M.G.L. Ch. 131, s. 40 (Wetlands Protection Act); 780 CMR 120.G (Massachusetts State Building Code applicable to Flood Resistant Construction); 310 CMR 10.00 & 13.00 (Wetlands Protection and Inland Wetlands Regulations); and 310 CMR 15.00 (Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage).

4.2 **Open Space Development** – Open Space Development shall be the preferred method of land development in the Residential Districts. Open Space Development as set forth in this Section is authorized by The Zoning Act, M.G.L. Ch. 40A, Section 9, and is based on the general concept of "Cluster Development" described therein.

4.2.1 Purpose – The purpose of Open Space Development is to enhance the preservation of common land for conservation, OPEN SPACE, recreation, agriculture and forestry; to preserve unique and significant natural, historical and archeological resources, and to promote development in harmony with those resources; to protect scenic vistas from

Acton's roadways and other places; to preserve and foster the rural character of the Town of Acton; to promote development of land that creates clusters and villages and, thereby, is in greater harmony with the historic and traditional landscape of the Town of Acton and New England as a whole; to protect existing and potential municipal water supplies; to promote better overall site planning and optimal siting of BUILDINGS, accessory STRUCTURES and wastewater disposal systems in relation to the resources of the development site; to reduce roadway maintenance cost and the cost of providing municipal services; and to enhance the general purpose of this Bylaw.

4.2.2 Special Permit from the Planning Board – The Planning Board shall grant a Special Permit for an Open Space Development in the R-2, R-4, R-8, R-8/4, R-10 and R-10/8 Districts, for single FAMILY detached dwellings and accessory STRUCTURES, subject to the following:

4.2.2.1 Contents of Applications for an Open Space Development Special Permit – The application for an Open Space Development Special Permit shall be accompanied by an "Open Space Development Site Plan", showing the information required by the Rules and Regulations for Open Space Development. The information shall include but not be limited to: the topography; soil characteristics as shown on the Soil Conservation Service Maps; wetlands as defined by M.G.L. Chapter 131, Section 40; Flood Plain boundary lines; existing types of vegetation; any other unique natural, historical, archeological, and aesthetic resources; the approximate layout of the LOTS without the benefit of Open Space Development standards and under given site limitations; the proposed layout of the LOTS and the Common Land in the Open Space Development; the proposed location of the dwellings, setback lines, garages, driveways, wells, septic systems; the proposed finished grades of the land; the proposed vegetation and landscaping including where existing vegetation is retained; the Land Use Plan for the Common Land; the proposed form of ownership of the Common Land including any improvements proposed thereon.

4.2.2.2 Procedural Requirements – If the Open Space Development requires approval under the Subdivision Control Law, M.G.L., Ch. 41, the "Open Space Development Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision Plan by the Acton Subdivision Rules and Regulations. The applications for an Open Space Development Special Permit and for approval of a Definitive Subdivision Plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time. If the Open Space Development contains a Common Driveway subject to Section 3.8.1.5 of the Bylaw, the applications for an Open Space Development Special Permit and a Common Driveway Special Permit shall be filed concurrently and the Planning Board shall, to the extent permitted by law, consider both applications at the same time.

4.2.2.3 Planning Board Action – In evaluating the proposed Open Space Development the Planning Board shall consider the general objectives of this Bylaw and of Open Space Development in particular; the existing and probable future development of surrounding areas; the appropriateness of the proposed layout of the LOTS and the proposed layout and USE of the Common Land in relation to the topography, soils and other characteristics and resources of the TRACT OF LAND in question. The Planning Board shall grant a Special Permit for Open Space Development if it finds that the Open Space Development and the proposed USES:

a) comply in all respects to the requirements of the Bylaw and enhance the purpose and intent of Open Space Development,

b) are in harmony with the existing and probable future USES of the area and with the character of the surrounding area and neighborhood, and

c) comply with the requirements of Section 10.3.5.

The Planning Board may require changes to the "Open Space Development Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw, including without limitation, any conditions, safeguards or limitations listed in Section 10.3.6.

4.2.2.4 Revisions and Amendments of "Open Space Development Site Plans" – Any change in the layout of STREETS; in the configuration of the Common Land; in the ownership or USE of the Common Land; or any other change which, in the opinion of the Zoning Enforcement Officer, would significantly alter the character of the Open Space Development, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new special permit and hold a public hearing pursuant to Section 10.3 of this Bylaw, if it finds that the proposed changes are substantial in nature and of public concern.

4.2.3 Open Space Development Standards – The following standards shall apply to all Open Space Developments:

4.2.3.1 Minimum Tract Size – Open Space Developments shall be located upon a TRACT OF LAND which has an area within the Town of Acton of at least 6 acres in the R-2 District, or 8 acres in the R-4, R-8, R-8/4, R-10, and R-10/8 Districts.

a) The Planning Board may permit LOTS on directly opposite sides of a STREET to qualify as a single TRACT OF LAND. To permit such division of a TRACT OF LAND by a STREET, the Planning Board must find that this would enhance the purposes of Open Space Development and not result in any more DWELLING UNITS than would be possible in accordance with the provisions of this Bylaw if the LOTS on either side of the STREET were developed separately. If the Board approves a TRACT OF LAND divided by a STREET, it may permit the total number of permitted DWELLING UNITS to be constructed on either side of the STREET. AFFORDABLE DWELLING UNITS generated on the TRACT OF LAND under the provisions of Section 4.4.3 may be sited along with the other DWELLING UNITS whether or not the location of the AFFORDABLE DWELLINGS UNITS is within the AFFORDABLE Housing Overlay District. The DWELLING UNITS shall be constructed in accordance with the applicable dimensional requirements in Open Space Developments, and the required Common Land may consist of land located on either side of the STREET.

b) Where a TRACT OF LAND is divided by a zoning district boundary between any of the R-2, R-4, R-8/4, R-10 or R-10/8 districts and the TRACT OF LAND meets the largest of the size requirements for any of the involved districts, the total number of DWELLING UNITS permitted shall not exceed the number permitted in each district considered separately. AFFORDABLE DWELLING UNITS generated on the TRACT OF LAND under the provisions of Section 4.4.3 may be sited along with the other DWELLING UNITS whether or not the location of the AFFORDABLE DWELLING UNITS is within the AFFORDABLE Housing Overlay District. The DWELLING UNITS may be located in either district but shall be constructed in accordance with the dimensional requirements for LOTS and BUILDINGS in Open Space Developments for the district in which the DWELLINGS UNITS are located. The required Common Land shall be large enough to meet the largest of the requirements of the involved zoning districts.

4.2.3.2 Maximum Number of BUILDING LOTS Permitted – The total number of BUILDING LOTS in an Open Space Development shall not exceed the number of BUILDING LOTS that could be developed without the benefit of Open Space Development standards in the District in which the TRACT OF LAND is located. Provided however, that the

number of allowable BUILDING LOTS in the R-8/4 District shall be based on the dimensional requirements applicable in the R-4 District, and the number of allowable BUILDING LOTS in the R-10/8 District shall be based on the dimensional requirements applicable in the R-8 District. In making the determination of the number of allowable BUILDING LOTS, the Planning Board shall require that the applicant provide a plan demonstrating evidence that, if such TRACT OF LAND were to be developed under the standard requirements applicable for the underlying or otherwise applicable zoning district,

a) the development would comply with all requirements of Bylaw;

b) the development would comply with the Massachusetts Wetlands Protection Act and the Acton Wetlands Bylaw.

The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission and the Engineering Department of the Town of Acton in making said determination.

4.2.3.3 Dimensional Requirements for LOTS and BUILDINGS – Where the requirements of the Open Space Development differ from or conflict with the requirement of Section 5 of this Bylaw, the requirements established for Open Space Developments shall prevail. The following requirements shall be observed in all Open Space Developments. Where appropriate, the Planning Board may impose additional requirements upon the TRACT OF LAND or on any parts thereof as a condition to the granting of a special permit:

a) Average LOT Area: The minimum average LOT area for all BUILDING LOTS in an Open Space Development in the R-2 District shall not be less than 10,000 square feet; in the R-4 and R-8/4 Districts not less than 20,000 square feet; and in the R-8, R-10, and R-10/8 Districts not less than 30,000 square feet.

b) Minimum LOT Area: In the R-2 District not less than 8,000 square feet; in the R-4 and R-8/4 Districts not less than 10,000 square feet; and in the R-8, R-10 and R-10/8 Districts not less than 20,000 square feet.

c) Minimum FRONTAGE: Not less than 50 feet.

d) Minimum LOT Width: Not less than 50 feet.

e) Minimum Front Yard: 45 feet from a pre-existing STREET. The minimum front yard measured from a new STREET within the Open Space Development shall be 15 feet in the R-2 District and 20 feet in the R-4, R-8, R-8/4, R-10 and R-10/8 Districts.

f) Minimum Side and Rear Yard: In the R-2 District not less than 10 feet. In the R-4, R-8, R-8/4, R-10, and R-10/8 Districts not less than 20 feet.

g) Minimum Yard Area: Not less than 70% of the LOT.

4.2.3.4 Dimensional Requirements for the Common Land - Not less than 30% in the R-2 District, 40% in the R-4 and R-8/4 Districts, and 50% in the R-8, R-10, and R-10/8 Districts of the total area of the TRACT OF LAND within Acton to be developed as an Open Space Development shall be dedicated as Common Land within Acton. The following additional requirements shall apply:

a) The minimum required area of the Common Land shall not contain a greater percentage of wetlands, as defined in M.G.L. Ch. 131, Section 40, than the percentage of wetlands found in the overall TRACT OF LAND.

b) The minimum Common Land shall be laid out as one or more large, contiguous parcels that are distinct from parcels dedicated for other purposes and USES. Each Common Land parcel shall contain at least one access corridor to a STREET or way that shall be not less than 40 feet wide.

c) If the TRACT OF LAND of the Open Space Development abuts adjacent Common Land or undeveloped LOTS, the Common Land shall be laid out to abut the adjacent Common Land or undeveloped LOTS.

4.2.3.5 USE of the Common Land –- The Common Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of those USES. No other USES shall be allowed in the Common Land, except as provided for herein:

a) The proposed USE of the Common Land shall be specified on a Land Use Plan and appropriate dedications and restrictions shall be part of the deed to the Common Land. The Planning Board shall have the authority to approve or disapprove particular USES proposed for the Common Land in order to enhance the specific purposes of Open Space Development.

b) The Common Land shall remain unbuilt upon, provided that an overall maximum of five (5) percent of such land may be subject to pavement and STRUCTURES accessory to the dedicated USE or USES of the Common Land, and provided that the Common Land may be subject to temporary easements for the construction, maintenance, and repair of roads, utilities, and sewer or drainage facilities serving the Open Space Development or adjacent land.

c) In addition, a portion of the Common Land may also be used the construction of leaching areas, if associated with septic disposal systems serving the Open Space Development, and if such USE, in the opinion of the Planning Board, enhances the specific purpose of Open Space Development to promote better overall site planning.

   Septic disposal easements shall be no larger than reasonably necessary. If any portion of the Common Land is used for the purpose of such leaching areas, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the LOT owners within the Open Space Development.

d) In addition, a portion of the Common Land may also be used for ways serving as pedestrian walks, bicycle paths, and ACCESS or egress to the Open Space Development or adjacent land, if such a USE, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Common Land.

e) Portions of the Common Land that are in excess of the minimum Common Land total area and upland area as calculated in accordance with Section 4.2.3.4, including its subsection a), may be used for storm water detention and retention facilities serving the LOTS, STREETS and ways in the Open Space Development, including infrastructure such as pipes, swales, catch basins, and manholes, and parcels and easements associated with such facilities.

4.2.3.6 Ownership of the Common Land – The Common Land shall be conveyed in whole or in part to the Town of Acton and accepted by it, or to a non-profit organization, the principal purpose of which is the conservation of OPEN SPACE and/or any of the purposes and USES to which the Common Land may be dedicated. The Common Land may also be conveyed to a corporation or trust owned or to be owned by the owners of LOTS within the Open Space Development. If the Common Land or any portion thereof is not conveyed to the Town of Acton, a perpetual restriction, approved by the Planning Board and enforceable by the Town of Acton, shall be imposed on the USE such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with

the provisions of Open Space Development as set forth herein and, if applicable, further specified in the decision of the Planning Board governing the individual Open Space Development. The proposed ownership of all Common Land shall be shown on the Land Use Plan for the Open Space Development. At the time of its conveyance, the Common Land shall be free of all encumbrances, mortgages or other claims, except as to easements, restrictions and encumbrances required permitted by this Bylaw.

4.3 GROUNDWATER Protection District

4.3.1 Purpose – GROUNDWATER is the sole source of drinking water available to the residents, businesses and industries of the Town of Acton. The purpose of the GROUNDWATER Protection District is to protect the public health, safety, and welfare by protecting the Town's limited present and future drinking water supply, to ensure a sufficient quantity of potable pure drinking water for the present and future residents of Acton, and to limit the adverse effects of the USE and development of land on the quality of the GROUNDWATER and SURFACE WATER resources of the Town of Acton.

The GROUNDWATER Protection District is an overlay district whose boundaries are superimposed on all districts established by this Bylaw and whose regulations are in addition to any other regulations established by this Bylaw. The regulations in this district are not intended to supersede or limit the protections contained in state or federal GROUNDWATER protection programs, but to supplement protections contained in other statutes and regulations. The GROUNDWATER Protection District encompasses the entire Town, but it is divided into four separate protection zones, the regulations for which vary depending on their proximity to the Town's present and future drinking WATER SUPPLY wells.

4.3.2 District Boundaries – The GROUNDWATER Protection District is divided into four protection zones, as follows:

4.3.2.1 ZONE 1 - The area from which GROUNDWATER will travel to a pumping municipal well within a one year time period, based on average recharge conditions and anticipated pumping, as established in the "Groundwater Protection District Map of the Town of Acton, January 1989", prepared by Goldberg, Zoino and Associates (GZA) in the "Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989".

4.3.2.2 ZONE 2 - The Recharge Protection Area – The area within which GROUNDWATER will move toward a pumping municipal well at the end of a 180 day period of no surficial recharge and full design capacity pumping of the well (as more fully defined by the Massachusetts Department of Environmental Protection in 310 CMR 22.02), established in the "Groundwater Protection District Map of the Town of Acton, January 1989", as last amended and most recently adopted by Town Meeting. For the Clapp/Whitcomb and the School Street well fields, the Zone 2 delineation was prepared by Goldberg, Zoino and Associates (GZA) in the “Final Report - Aquifer Protection Zones, Town of Acton, Massachusetts, January 1989”. For the Conant I and II well fields, the ZONE 2 delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the “Report on Conant II Pumping Test”, dated January 1993. For the Kennedy/Marshall well fields, the ZONE 2 delineation was prepared by Dufresne-Henry, Inc. for the Acton Water District in the “Report on Kennedy No.1 and Marshall Wellfields Zone II Delineation”, dated October 1996. For the Assabet well fields, the ZONE 2 delineation was prepared by Stantec Consulting for the Acton Water District in the report “Prolonged Pumping Test Assabet Well No. 3”, dated May 2008 and revised by Stantec Consulting in a letter report dated January 2009. All Zones 2 have been

approved by the Massachusetts Department of Environmental Protection (DEP) as the State approved Zones 2.

4.3.2.3 ZONE 3 - The AQUIFER Protection Area – The Area of the TOWN underlain with the geologic formation of STRATIFIED DRIFT, based on the U.S. Soil Conservation Service's (SCS) soil map field sheets 1988 and Interim Soil Survey Report, 1986; and based on the United States Geologic Survey's (USGS) Surficial Geology Maps for the Hudson Maynard Quadrangle, 1956, and the Assabet River Basin, Hydrologic Investigations Atlas, 1969.

4.3.2.4 ZONE 4 - The Watershed Protection Area – Consists of the entire TOWN including ZONES 1-3 and separates the TOWN into watershed areas along the existing GROUNDWATER divides. The areas of ZONE 4 outside from the boundaries of ZONES 1, 2 and 3 consist primarily of bedrock, glacial till and small isolated sand and gravel deposits. Water from these areas will eventually recharge into the lower lying areas of ZONES 1,2 and 3, although at a rather slow rate. Recharge from these areas into ZONES 1,2 and 3 occurs through movement of GROUNDWATER and SURFACE WATER. The purpose of ZONE 4 is to promote public awareness that all GROUNDWATER areas in the Town are interconnected and to prevent possible contamination of the GROUNDWATER from any source.

4.3.2.5 Boundary Determination – The locations of the various ZONES are shown on the "Groundwater Protection District Map of the Town of Acton, January 1989", as amended, consisting of Map Number 3A showing all ZONES at a scale of 1"=1200', and of Map Number 3B. Map Number 3B consists of sheets 3B-1 through 3B-18 showing ZONE 1 and ZONE 2 at a scale of 1"=200'. The sheets 3B-1 through 3B-18 correspond to the matching town atlas pages, which are also indicated on these sheets, and the ZONE delineations are either traced on these corresponding town atlas pages or on matching overlays to these pages. The "Groundwater Protection District Map of the Town of Acton, January 1989", as amended, is available at the office of the Town Clerk and the Engineering and Planning Departments. Actual site locations of the ZONE 1 and ZONE 2 boundary lines shall be determined by scaling from the Map Number 3B. Actual site location of the boundary line between ZONE 3 and ZONE 4 shall be located by the Zoning Enforcement Officer, or in the case of a Special Permit under Section 4.3.8, by the Planning Board, based on information from Map Number 3A. Locating the boundary between ZONE 3 and ZONE 4 may be assisted through field investigations conducted by a soil scientist who is certified under qualification class A (advanced qualifications) by the Society of Soil Scientist of Southern New England or by a Professional Engineer versed in soil identification and classification.

4.3.2.6 Split ZONE LOTS – Notwithstanding any other provisions of this Bylaw, whenever a GROUNDWATER Protection District ZONE boundary line divides a LOT, each portion of the LOT shall comply with the requirements of this Bylaw applicable to its respective ZONE.

4.3.3 Definitions – For the purpose of the GROUNDWATER Protection the following terms shall have the following meaning. The terms defined below are capitalized in this Section 4.3 in addition to the terms defined in Section 1.

4.3.3.1 AQUIFER – An area of permeable deposits of rock or soil, containing significant amounts of potentially recoverable water.

4.3.3.2 DIVERSION BOX – A precast concrete box or similar STRUCTURE, designed and positioned to direct a defined initial portion of runoff from a storm event in one direction and to direct remainder of the runoff water in another direction.

4.3.3.3 PRIMARY, SECONDARY, TERTIARY TREATED EFFLUENT – As defined from time to time in the applicable regulations of the Massachusetts Department of Environmental Protection.

4.3.3.4 FILL – Any material taken from on-site or off-site used for the purpose of augmenting or altering existing on-site topography, including but not limited to, landscaping, grading, or leveling of naturally occurring depressions in the land or of man-made excavations.

4.3.3.5 GENERATOR OF HAZARDOUS MATERIALS OR WASTE – Any individual or business that produces, uses or stores (stores: within the meaning of STORAGE pursuant to Section 4.3.3.14) on site HAZARDOUS MATERIAL OR WASTE as defined in Section 4.3.3.7, as a PRINCIPAL or ACCESSORY USE and in quantities exceeding normal household or BUILDING maintenance needs.

4.3.3.6 GROUNDWATER – Water beneath the ground surface in the zone of saturation where every pore space between rock and soil particles is saturated with water.

4.3.3.7 HAZARDOUS MATERIAL OR WASTE – Any substance, including petroleum or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive, or toxic characteristics, may cause or significantly contribute to a present or potential risk to human health, safety or welfare; to the GROUNDWATER resources; or to the natural environment. Any substance, including but not limited to those regulated under the applicable Acton Board of Health regulations and under any of the following State and Federal laws and regulations, or any amendments thereof, shall be considered HAZARDOUS MATERIAL OR WASTE:

M.G.L., Chapter 21C, 315 C.M.R. 2.04;
M.G.L., Chapter 21E, 310 C.M.R. 40.00;
M.G.L., Chapter 111F, 105 C.M.R. 670.00;
M.G.L., Chapter 148, Section 13;
Toxic Substances Control Act - 15 U.S.C s.2601 et seq.;
Federal Insecticide, Fungicide and Rodenticide Act -7 U.S.C s.136 et seq.;
Resource Conservation and Recovery Act - 42 U.S.C s.6901 et seq.;
Comprehensive Environmental Response, Compensation and Liability Act of 1980 - 42 U.S.C s. 9601 et seq.;
Federal Clean Water Act - 33 U.S.C s.1251 et seq..

For the purposes of this Section, sanitary domestic wastes from residential sources shall not be considered a HAZARDOUS MATERIAL OR WASTE.

4.3.3.8 IMPERVIOUS COVER – Refers to material covering the ground, with a coefficient of runoff greater than 0.7 (as defined in Data Book for Civil Engineers by Seelye; C = runoff/rainfall) including, but not limited to, macadam, concrete, pavement and BUILDINGS.

4.3.3.9 MAXIMUM GROUNDWATER ELEVATION – The height of the GROUNDWATER table when it is at its maximum level or elevation. This level is usually reached during the months of December through April. Determination of the MAXIMUM GROUNDWATER ELEVATION shall be made based upon the historical high GROUNDWATER table as determined by the United States Geological Survey (USGS), Acton Board of Health records, data from monitoring wells or other adequate field testing, whichever indicates the highest elevation. Where applicable, the determination of the MAXIMUM

GROUNDWATER ELEVATION shall be made with the additional assumption that any well, which during pumping would draw down the GROUNDWATER table at the site, is not operating and that the GROUNDWATER table is leveled off to its natural state.

4.3.3.10 UNDISTURBED OPEN SPACE – An area within the OPEN SPACE that lies outside of any disturbances due to clearing, grading, paving, building, landscaping or other site development activities. It may be subject to limited and selected cutting of trees, removal of dead wood, or yearly mowing of grass and brush.

4.3.3.11 SOLID WASTE – For the purpose of this Section, SOLID WASTE shall mean any unwanted or discarded solid material, as defined in 310 C.M.R. 18, with the exception of brush, yard trimmings and grass clippings.

4.3.3.12 SPECIAL WASTE – SPECIAL WASTE means any solid waste that is determined not to be a hazardous waste pursuant to 310 CMR 30.000 and that exists in such quantity or in such chemical or physical state, or any combination thereof, so that particular management controls are required to prevent an adverse impact from the collection, transport, transfer, storage, processing, treatment or disposal of the solid waste. Without limitation, SPECIAL WASTE includes waste that will require special management to ensure protection of public health, safety, or the environment based upon the physical, biological, or chemical properties of the waste. SPECIAL WASTES include but are not limited to: asbestos waste, infectious wastes except as specified in 310 CMR 19.061(6)(c)4, sludges including wastewater treatment sludges and industrial process wastewater treatment sludges. For purposes of this Bylaw, SPECIAL WASTE does not include drinking water treatment sludges. (Ref: 310 CMR 19.006 and 19.061(2) and (3))

4.3.3.13 STRATIFIED DRIFT – Permeable, porous deposits of glacial outwash, consisting primarily of sand and gravel. The particular deposits referred to herein are those occurring in glacial river valleys in which the town's drinking WATER SUPPLIES are located. These deposits are defined in the United States Geologic Survey's (USGS) Surficial Geology Maps for the Hudson Maynard Quadrangle, 1956, and the Assabet River Basin, Hydrologic Investigations Atlas, 1969, and in the U.S. Soil Conservation Service's (SCS) soil map field sheets, 1988, and Interim Soil Survey Report, 1986; soil types associated with STRATIFIED DRIFT listed in the Interim Soil Survey Report are: Agawam series, Amostown series, Birdsall series, Carver series, Deerfield series, Freetown series, Freetown-ponded, Hadley series, Haven series, Hinkley series, Hinkley series-bouldery, Limerick series, Merrimac series, Merrimac-urban land complex, Ninigret series, Occum series, Pipestone series, Pootatuck series, Quonset series, Raynham series, Rippowam series, Saco series, Scarboro series, Scio series, Sudbury series, Suncook series, Swansea series, Tisbury series, Walpole series, Windsor series, Winooski series; also Udorthents, Gravel Pits, Landfills, and Urban Land Complexes when surrounded by or primarily associated with soil types listed above. The above referenced soil types are associated with STRATIFIED DRIFT in general, however, not necessarily every listed soil type does occur within the boundaries of the Town of Acton.

4.3.3.14 STORAGE – On-site containment or retention of materials (liquid, gas, solid) for PRINCIPAL or ACCESSORY USE for a period of more than 24 hours and occurring with a frequency of more than once a month.

4.3.3.15 SURFACE WATER – All surface water bodies and wetlands protected under Massachusetts General Laws, Chapter 131, Section 40.

4.3.3.16 WATER SUPPLY –- A GROUNDWATER AQUIFER and SURFACE WATER recharge to a GROUNDWATER AQUIFER, which is a present or potential future drinking WATER SUPPLY source for the Town of Acton.

4.3.4 OPEN SPACE and LOT cover – The following requirements shall apply for OPEN SPACE, UNDISTURBED OPEN SPACE and IMPERVIOUS COVER:

4.3.4.1 ZONE 1 – In the Well Protection Area (ZONE 1) a minimum of 90% of every LOT shall remain OPEN SPACE, 50% of every LOT shall remain as UNDISTURBED OPEN SPACE. No more than 10% of every LOT shall be covered with IMPERVIOUS COVER.

4.3.4.2 ZONE 2 – In the Recharge Protection Area (ZONE 2) a minimum of 70% of every LOT shall remain OPEN SPACE, 40% of every LOT shall remain as UNDISTURBED OPEN SPACE. No more than 30% of a LOT shall be covered with IMPERVIOUS COVER.

4.3.4.3 ZONE 3, ZONE 4 – In the Aquifer Protection Area (ZONE 3) and in the Watershed Protection Area (ZONE 4) the OPEN SPACE requirements of the underlying Zoning District shall apply.

4.3.4.4 Outdoor STORAGE – Outdoor STORAGE areas shall not be considered a part of the OPEN SPACE of any LOT.

4.3.5 Depth to GROUNDWATER – Except for single FAMILY residential USES or BUILDINGS, no land within ZONES 1, 2 and 3 of the GROUNDWATER Protection District shall be developed or used except in accordance with the following requirements:

4.3.5.1 Minimum Distance to GROUNDWATER – The vertical distance between the existing or pre-development land surface and the MAXIMUM GROUNDWATER ELEVATION shall generally not be reduced, except when necessary to properly grade and construct STREETS, driveways, parking facilities and BUILDING sites, in order to comply with applicable regulations and to meet generally accepted ACCESS and safety standards.

1) The minimum distance between the finished or post-development grade from the MAXIMUM GROUNDWATER ELEVATION shall be not less than ten (10) feet, except as provided in Section 4.3.5.2.
2) If the distance between the existing or pre-development land surface and the MAXIMUM GROUNDWATER ELEVATION is less than ten (10) feet, the distance may be reduced in accordance with Section 4.3.5.2.

4.3.5.2 Maximum Allowed Reduction within 10 ft. of GROUNDWATER – Where the existing or pre-development land surface is less than 10 feet above the MAXIMUM GROUNDWATER ELEVATION, the vertical distance between the finished or post-development grade to the MAXIMUM GROUNDWATER ELEVATION may be not less than ninety (90) percent of the pre-development distance.

4.3.5.3 GROUNDWATER Recharge Facilities – The bottom elevation of a leaching pond, or the bottom elevation of the stone layer in a leaching galley or trench shall be not less than two (2) feet above the MAXIMUM GROUNDWATER ELEVATION. This Section shall apply to STRUCTURES associated with surface drainage only.

4.3.6 Other Design and Operation Requirements – Except for single FAMILY residential USES or BUILDINGS, no land within ZONES 1, 2 and 3 of the GROUNDWATER Protection District, and with respect to Sections 4.3.6.1 and 4.3.6.2 no land within the

entire GROUNDWATER Protection District, shall be developed or used except in accordance with the following requirements:

4.3.6.1 FILL – FILL material shall not contain HAZARDOUS MATERIAL OR WASTE, SPECIAL WASTE, or SOLID WASTE. This Section shall also apply in ZONE 4.

4.3.6.2 Watershed Recharge – The amount of annual precipitation being captured and recharged to the GROUNDWATER on site shall not be reduced due to development related surface runoff from the site when compared to pre-development conditions. Where a Special Permit or Subdivision Approval is required the Special Permit Granting Authority or the Planning Board shall require a hydrologic budget or water balance calculation for the site, showing pre- and post-development conditions, prepared by a Massachusetts Registered Professional Engineer experienced in hydrogeology. This Section shall also apply in ZONE 4.

4.3.6.3 Treatment and Renovation of Runoff – All water runoff from IMPERVIOUS COVERS shall be funneled into gas trap catch basins. In addition, the first (1st) inch of every storm event shall be directed into a retention pond(s), where it shall be retained for an average of at least 3 days prior to recharge into the ground or discharge from the site. The retention pond(s) shall be exposed to sunlight, vegetated, and lined with soil featuring a permeability of 0.0001 cm/sec (0.1417 in/hr) or less. A DIVERSION BOX shall direct all water, which falls onto the site in excess of one (1) inch during a single storm event, toward additional storage, direct infiltration, or discharge from the site. Alternate methods of runoff treatment and renovation may be approved by the Special Permit Granting Authority if the Special Permit Granting Authority determines the intent of this Section is met.

4.3.6.4 Pollution Safeguards – (1) Drainage facilities shall be designed to prevent leaks and shall be equipped with emergency slide gates or similar provisions to be closed in the event of an emergency. (2) Loading and unloading areas for HAZARDOUS MATERIALS OR WASTE, including fuel and heating oils, shall be equipped with a containment dike. (3) Compliance with the Acton Hazardous Materials Control Bylaw shall be required.

4.3.6.5 Location – Where a LOT is divided into two or more protection ZONES, potential pollution sources, such as HAZARDOUS MATERIALS OR WASTE processing, storage and disposal systems, septic systems, or wastewater treatment plants, shall be located on that portion of the LOT which is in the ZONE farthest away from the public wells. Where the ZONE boundary in question is one between ZONE 3 and ZONE 4, septic systems and waste-water treatment plants may be located in either ZONE, subject to certain restrictions contained in Section 4.3.7 of this Bylaw.

Where a LOT is partly in ZONE 4 and partly in another ZONE of the GROUNDWATER Protection District, IMPERVIOUS COVER runoff, generated in the ZONE 4 portion of the LOT but infiltrated, or discharged from the LOT, in a ZONE 1, 2 or 3 portion of the LOT, shall meet the same quality standard at the point of infiltration or discharge as if the runoff had been generated in ZONES 1, 2 and 3.

4.3.7 GROUNDWATER Protection District Use Regulations - No land which lies in ZONE 1, 2, and 3 of the GROUNDWATER Protection District shall be used and no activity shall be conducted on any land within these ZONES of the GROUNDWATER Protection District except in conformance with the following regulations:

4.3.7.1 Permitted USES all ZONES – All USES allowed in the underlying zoning district except those which are prohibited or regulated in Section 4.3.7.2 are permitted.

4.3.7.2 Prohibited USES – In the following table of USE regulations "N" indicates that the USE is prohibited. "Y" indicates that a USE is permitted.

TABLE 4.3.7.2 USE Regulations within the GROUNDWATER Protection District			
	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
1. Sanitary landfill/solid waste disposal site, refuse treatment and disposal facility, landfilling of sludge and septage, storage of sludge and septage except for municipal USES as defined in Section 3.4.1 of this Bylaw associated with the provision of public sewer services	N	N	N
2. GENERATOR OF HAZARDOUS MATERIALS OR WASTE, except for municipal USES as defined in Section 3.4.1 of this Bylaw associated with the provision of public water and sewer services	N	N	Y
3. Vehicle Repair or Vehicle Body Shop	N	N	Y
4. Vehicle STORAGE for the purposes of leasing, rental, sale, resale, parts recovery, or similar USES	N	N	Y
5. Car, truck and equipment washing facility	N	N	Y
6. STORAGE of petroleum products for purposes other than heating the premises on which it is located	N	N	Y
7. Underground STORAGE of fuel oil, gasoline, or other HAZARDOUS MATERIALS	N	N	N
8. Underground STORAGE of fuel oil, gasoline, or other HAZARDOUS MATERIALS associated with residential USE	N	N	N
9. Commercial Laundries	N	N	Y
10. Dry cleaners with on-site cleaning facilities	N	N	Y
11. Furniture/wood stripping, painting & refinishing	N	N	Y
12. Disposal of snow contaminated with deicing chemicals and originating from a protection ZONE further distant from a public well than the location of disposal	N	N	N
13. Outdoor STORAGE of fertilizer, animal manure, soil conditioner, pesticide, herbicide and deicing chemicals	N	N	Y
14. Chemical, bacteriological, biological or radiological laboratory or production facility	N	N	N
15. Subsurface disposal of wastewater effluent at a rate of less than 3.5gpd/1000sf of land area	Y	Y	Y
16. Subsurface disposal of wastewater effluent at a rate of 3.5gpd or more per 1000sf of land area but at a rate of less than 6gpd/1000sf of land area	N	Y	Y
17. Subsurface disposal of wastewater effluent at a rate of 6gpd or more per 1000sf of land area	N	N	Y
18. Subsurface disposal of wastewater effluent on a parcel of land which is not a buildable LOT as defined in footnote (**)	N	N	N

TABLE 4.3.7.2 USE Regulations within the GROUNDWATER Protection District (continued)			
	ZONE 1 Well Protection Area	ZONE 2 Recharge Protection Area	ZONE 3 Aquifer Protection Area
19. Subsurface disposal of wastewater effluent at a rate of less than 750gpd per buildable LOT(**)	Y	Y	Y
20. Subsurface disposal of wastewater effluent at a rate of 750gpd or more per buildable LOT(**) but at a rate of less than 2,000gpd per buildable LOT(**)	N	Y	Y
21. Subsurface disposal of wastewater effluent at a rate of 2,000gpd or more per buildable LOT(**) but at a rate of less than 6,000gpd per buildable LOT(**)	N	N	Y
22. Subsurface disposal of wastewater effluent at a rate of 6,000gpd or more per buildable LOT(**)	N	N	N
23. Subsurface disposal of TERTIARY TREATED wastewater EFFLUENT	Y	Y	Y
24. Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection	Y	Y	Y
25. Treatment or disposal works for non-sanitary wastewater that are subject to 310 CMR 22.21 (2)(a)6 as amended, except the treatment and discharge of surface water runoff in compliance with section 4.3.6.3 of this bylaw	N	N	Y

NOTES:

(*) A USE may fall under one or more categories listed in this Table. Except as indicated in NOTE(***), any USE must be able to qualify for a Y or a SP in every applicable category , in order to be considered allowed (Y) or in order to be considered eligible for consideration of a special permit (SP), as the case may be.

(**) For the purpose of this table, buildable LOT shall mean: a) A LOT that is shown on a plan recorded in the Middlesex County Registry of Deeds or the Land Court, and that complies with all requirements of this bylaw pertaining to the LOT and the STRUCTURES thereon; and b) Common Land as provided for in sections 4.2, 4.4, 9, and 9B of this bylaw.

gpd - Gallons per day

4.3.8 Special Permit for the change or extension of nonconforming USES in the Groundwater Protection District.

4.3.8.1 The Planning Board may grant a Special Permit for any change or substantial extension of any PRINCIPAL or ACCESSORY USE designated with “N” in Table 4.3.7.2 that is in existence as of April 7, 1997. Change or substantial extension as referred to herein shall include but not be limited to: Any change or increase in HAZARDOUS MATERIALS OR WASTE produced, used or stored; any change or increase in the outdoor STORAGE of fertilizers, animal manure, soil conditioners, pesticides, herbicides or deicing chemicals; any increase in wastewater effluent flow other than TERTIARY TREATED EFFLUENT; any change in the grade of the land or the drainage system for the LOT, which affects the flow of GROUNDWATER or SURFACE WATER; any expansion in ground area by 500 square feet or more of impervious material or any area devoted to the conduct of the PRINCIPAL or ACCESSORY USE.

4.3.8.2 Action by the Planning Board, Criteria for Special Permit – After notice and public hearing, and after due consideration of all reports and recommendations submitted to the Planning Board regarding the Special Permit application, the Planning Board may grant such a Special Permit provided that it shall make the following findings:

a) Maintain GROUNDWATER Quality – That the change or extension of the USE will not cause the GROUNDWATER quality at the down-gradient property boundary to fall below the drinking water standards established by the Acton Water District, or where no such standards exist, below standards established in 314 C.M.R. 6.00, Massachusetts Drinking Water Standards, or by the Acton Board of Health. Where existing GROUNDWATER quality is already below those standards, the Planning Board may grant such Special Permit upon determination that the change or expansion of the USE will not result in further degradation of the GROUNDWATER quality, and will not impede its improvement over time.

b) Protection of Overall WATER SUPPLY – That the change or extension of the USE will not, during construction or thereafter, have an adverse effect on the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton and the resulting USE after the change or extension will be in harmony with the specific purpose and intent of this Section to protect the GROUNDWATER, SURFACE WATER and overall WATER SUPPLY of the Town of Acton.

c) Compliance – That the changed or extended USE is in harmony with the purpose and intent of this Section and complies with the standards of Section 10.3.5 of this Bylaw. In making such determinations, the Planning Board shall give consideration to the proposed USE, the demonstrated reliability and feasibility of the proposed pollution control measures associated with the USE, and the degree of pollution threat to the GROUNDWATER which would result if the control measures perform at less than design specifications. The Planning Board may impose such conditions, safeguards, and limitations as it deems appropriate to protect the GROUNDWATER and SURFACE WATER resources of the Town of Acton.

4.3.8.3 Filing Requirements – The Planning Board shall promulgate and adopt rules and regulations governing this Special Permit pursuant to Section 10.3.1 of this Bylaw. Such rules and regulations shall set forth the application filing requirements to ensure that the application, including any plans and accompanying text, provides sufficient information for a full evaluation of resulting impacts on the GROUNDWATER resources, and to allow the Planning Board an evaluation of the application under the criteria set forth in section 4.3.8.2 above.

4.3.8.4 Submittal of "As Built" Plan – Upon completion of any work authorized through a Special Permit under this Section, an "as built" plan prepared by a Registered Professional Engineer, showing all improvements authorized or required, shall be submitted to the Zoning Enforcement Officer for approval prior to the issuance of an Occupancy Permit.

4.4 AFFORDABLE Housing Incentives and Overlay District

4.4.1 Purpose – The purpose of this Section is to enhance the public welfare by increasing the production of DWELLING UNITS AFFORDABLE to persons and households of LOW-INCOME and MODERATE-INCOME. In order to encourage utilization of the Town's remaining developable land in a manner consistent with local housing policies and needs, the Town encourages new housing developments to contain a proportion of the DWELLING UNITS AFFORDABLE to persons or households of LOW-INCOME and

MODERATE-INCOME. Accordingly, the provisions of this Section are designed: (1) to increase the supply of housing in the Town of Acton that is available to and AFFORDABLE by LOW-INCOME and MODERATE-INCOME households; (2) to encourage a greater diversity of housing accommodations to meet the diverse needs of FAMILIES and other Town residents; and (3) to promote a reasonable mix and distribution of housing opportunities in residential neighborhoods throughout the Town.

4.4.2 Applicability

4.4.2.1 The provisions of this Section 4.4 may be utilized by any new development located within the AFFORDABLE Housing Overlay District, subject to the requirements and standards set forth in this Section 4.4.

4.4.2.2 The AFFORDABLE Housing Overlay District is defined and bounded as shown on the "Affordable Housing Overlay District Map of the Town of Acton". The AFFORDABLE Housing Overlay District shall consist of two Sub-Districts:

a) Sub-District A – In the Sub-District A, the Planning Board, when issuing a Special Permit for an Open Space Development pursuant to Section 4.2, may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3.

b) Sub-District B – In the Sub-District B, the Planning Board may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3, or alternatively, the Planning Board may allow by Special Permit a Major AFFORDABLE Housing Development as provided in Section 4.4.4.

4.4.2.3 Said AFFORDABLE Housing Overlay District is superimposed over all Districts established by this Bylaw and the regulations related to the AFFORDABLE Housing Overlay District are in addition to all other regulations set forth in this Bylaw. Where the requirements and standards within the AFFORDABLE Housing Overlay District, as set forth in this Section 4.4, differ from or conflict with the requirements and standards of the remainder of the Bylaw, the requirements and standards established for the AFFORDABLE Housing Overlay District shall prevail, except for standards established in the Groundwater Protection and Flood Plain Districts.

4.4.2.4 The AFFORDABLE Housing Overlay District includes parcels of land which are not located in a Residential District and where residential USES are not otherwise allowed. For the purpose of utilizing the provisions of this Section 4.4 to generate AFFORDABLE housing, but under no other circumstances, residential USES shall be permitted on such parcels. In order to establish a reference point as a base line for any dimensional provisions set forth in this Section 4.4, the dimensional standards of the Residence 4 (R-4) District shall be assumed for such parcels.

4.4.3 Minor AFFORDABLE Housing Developments – A Minor AFFORDABLE Housing Development shall be regarded as an additional development option for land located in either Sub-District of the AFFORDABLE Housing Overlay District. Any Minor AFFORDABLE Housing Development shall be an Open Space Development following the provisions of Section 4.2 of this Bylaw, except as modified hereunder. The Planning Board, in issuing an Open Space Development Special Permit under Section 4.2, may authorize a Minor AFFORDABLE Housing Development, subject to the following provisions and requirements:

4.4.3.1 Number of DWELLING UNITS to be provided – The Planning Board may allow any new Open Space Development to have a greater number of DWELLING UNITS than would otherwise be allowed under the provisions of Section 4.2 and other provisions of this Bylaw, up to a maximum of twenty five percent (25%) more. In order to receive such an

increase or density bonus, a portion of the DWELLING UNITS provided within an Open Space Development shall be AFFORDABLE, in accordance with one of the following methods or a combination thereof:

Method of Providing AFFORDABLE DWELLING UNITS		Percentage increase in DWELLING UNITS allowed for each one percent (1%) of the total number of DWELLING UNITS which is AFFORDABLE*
Option 1:	Donation to the Acton Housing Authority, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 5.0% in the total number of DWELLING UNITS.*	5.0%
Option 2:	Sale to the Acton Housing Authority, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 2.5% in the total number of DWELLING UNITS.*	2.5%
Option 3:	Sale, lease or rental to MODERATE-INCOME households, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 1.75% in the total number of DWELLING UNITS.*	1.75%
Option 4:	Cash payment to the Town of Acton or its designee in lieu of providing AFFORDABLE DWELLING UNITS. Such cash payment shall be of an amount equal to the cost of developing such DWELLING UNITS as evidenced by a Development Pro Forma, prepared by the developer and acceptable to the Planning Board. Such cash payment shall be reserved solely for the purpose of the purchase, rehabilitation and/or construction of LOW-INCOME and MODERATE-INCOME housing. For each monetary amount paid under this option which is equal to the cost of developing 1.0% of the total number of DWELLING UNITS a developer shall receive a density bonus of 5.0% in the total number of DWELLING UNITS.*	5.0%
Option 5:	An arrangement with the Town of Acton or its designee, whereby title to the property underlying the prospective AFFORDABLE DWELLING UNITS is donated to the Town of Acton or its designee and, in exchange, the Town of Acton or its designee will grant qualified purchasers a 99-year ground lease to such underlying property. Such ground lease shall contain provisions which limit the sale and occupancy of the affected AFFORDABLE DWELLING UNITS to LOW-INCOME or MODERATE-INCOME households as defined in this Bylaw. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 2.5% in the total number of DWELLING UNITS.*	2.5%

* Results of percentage increases in DWELLING UNITS shall be rounded up to the next whole number to determine the total number of DWELLING UNITS. Percentages for AFFORDABLE DWELLING UNITS (or for DWELLING UNITS for which cash payment is made under Option 4) shall be calculated from this total number of DWELLING UNITS and results shall then be rounded up to the next whole number to determine the number of AFFORDABLE DWELLING UNITS to be provided (or the number of DWELLING UNITS for which cash payment is to be made).

Example:

Development	without density bonus	with 10% density bonus	with 25% density bonus
Total number of DWELLING UNITS	25	27.5 - rounded up to next whole number = 28	31.25 - rounded up to next whole number = 32
Number of AFFORDABLE DWELLING UNITS provided under			
Option 1	0	0.56 rounded up to 1	1.60 rounded up to 2
Option 2	0	1.12 rounded up to 2	3.20 rounded up to 4
Option 3	0	1.60 rounded up to 2	4.57 rounded up to 5
Option 4	0	None / Cash payment for constructing 0.56, rounded up to 1, DWELLING UNIT	None / Cash payment for constructing 1.60, rounded up to 2, DWELLING UNITS
Option 5	0	1.12 rounded up to 2	3.20 rounded up to 4

Nothing herein shall be construed to prevent the voluntary inclusion of additional AFFORDABLE DWELLING UNITS at the developer's choice without exceeding the maximum density increase of 25%.

4.4.3.2 Adjustments of dimensional requirements – The Planning Board may allow a reduction in the Dimensional Requirements found in Section 4.2.3.3 for LOTS and STRUCTURES. The percentage reduction shall not exceed the percentage increase in the number of DWELLING UNITS permitted under Section 4.4.3.1 above.

4.4.3.3 Two-FAMILY STRUCTURES – The Planning Board may allow the construction of two-FAMILY STRUCTURES which are designed to be consistent in character with the single FAMILY STRUCTURES in the same development. Such two-FAMILY STRUCTURES may be allowed at a rate of one two-FAMILY STRUCTURE in place of two single FAMILY STRUCTURES where the following conditions are met:

a) at least fifteen percent (15%) of the total number of DWELLING UNITS are AFFORDABLE under Options 1,2,3 or 5 of Section 4.4.3.1 above;

b) the two-FAMILY STRUCTURES have no more than one (1) doorway facing the front yard area and shall, in terms of exterior appearance be compatible in design, and to the extent practicable, be indistinguishable from the single FAMILY STRUCTURES in the same development;

c) not more than fifty percent (50%) of the total number of STRUCTURES are two-FAMILY STRUCTURES, and

d) the number of AFFORDABLE DWELLING UNITS located in two-FAMILY STRUCTURES does not exceed two (2), or fifty percent (50%) of the total number of AFFORDABLE DWELLING UNITS, whichever results in the greater number of AFFORDABLE DWELLING UNITS to be located in two-FAMILY STRUCTURES.

Where two-FAMILY STRUCTURES are part of the development plan, the Planning Board may permit the side yard requirement to be eliminated so as to allow the separate sale of individual DWELLING UNITS within a two-FAMILY STRUCTURE along with their respective accompanying yard area. Where two-FAMILY STRUCTURES are allowed, the combined LOT area upon which the DWELLING UNITS of the two-FAMILY STRUCTURE are located only needs to comply with the LOT area requirement as applicable to a LOT with a single FAMILY STRUCTURE located

within the same Open Space Development. The Planning Board may establish design guidelines for two-FAMILY STRUCTURES, require submission of architectural floor plans and side elevation plans for all proposed two-FAMILY STRUCTURES, and impose additional conditions affecting the design and location of two-FAMILY STRUCTURES. All privileges and exemptions provided to single FAMILY residential USES or BUILDINGS under this Bylaw shall also apply to two-FAMILY STRUCTURES permitted hereunder. The inclusion of two-FAMILY STRUCTURES shall not result in an increase in the number of DWELLING UNITS above the 25% density bonus permitted under Section 4.4.3.1.

4.4.3.4 A Minor AFFORDABLE Housing Development shall be subject to the provisions and requirements of Sections 4.4.5 through 4.4.9.

4.4.4 Major AFFORDABLE Housing Development – A Major AFFORDABLE Housing Development shall be regarded as an additional development option for land located in Sub-District B of the AFFORDABLE Housing Overlay District. A Major AFFORDABLE Housing Development may be allowed by Special Permit from the Planning Board. Such Major AFFORDABLE Housing Development shall be governed by the following provisions:

4.4.4.1 Affordability Provisions – A Major AFFORDABLE Housing Development must meet one of the following conditions:

a) a minimum of 40% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be sold, leased or rented to MODERATE-INCOME households in accordance with Sections 4.4.6;

b) a minimum of 30% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be sold to the Acton Housing Authority in accordance with Section 4.4.6, and/or be built on land under an arrangement, whereby title to the property underlying the prospective AFFORDABLE DWELLING UNITS is donated to the Town of Acton or its designee and, in exchange, the Town of Acton or its designee will grant qualified purchasers a 99-year ground lease to such underlying property. Such ground lease shall contain provisions which limit the sale and occupancy of the affected AFFORDABLE DWELLING UNITS to LOW-INCOME or MODERATE-INCOME households as defined in this Bylaw, or

d) a minimum of 20% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be donated to the Acton Housing Authority in accordance with Section 4.4.6.

The Planning Board may approve a proportionate combination of the above conditions. For instance, if 20% of the DWELLING UNITS are AFFORDABLE under condition a., then half of the affordability requirement is satisfied. Consequently, to meet the full affordability requirement, an additional 15% of the DWELLING UNITS would have to be AFFORDABLE under condition b. (half of 30%), or an additional 10% under condition c. (half of 20%), or additional DWELLING UNITS would have to be AFFORDABLE under a proportionate combination of conditions b. and c.. Results of all percentages shall be rounded up to the next whole number to determine the number of AFFORDABLE DWELLING UNITS.

4.4.4.2 Dimensional Provisions – A Major AFFORDABLE Housing Development, shall be subject to the following dimensional standards:

a) Minimum TRACT OF LAND area: 80,000 square feet.

b) Minimum TRACT OF LAND FRONTAGE: Fifty (50) feet.

c) Maximum density: Five (5) DWELLING UNITS per acre, based on the total development site including Common Land.

d) Minimum TRACT OF LAND width: Fifty (50) feet.

e) Maximum BUILDING height: Thirty six (36) feet.

f) Maximum number of DWELLING UNITS per BUILDING: Fifteen (15), however within an entire Major AFFORDABLE Housing Development the average number of DWELLING UNITS per BUILDING shall not exceed eight (8).

g) Minimum separation of BUILDINGS: Twenty (20) feet;

h) Minimum area to be set aside as Common Land pursuant to the provisions for Common Land in Section 4.2: Thirty percent (30%) of the total development site.

i) Minimum perimeter buffer: Fifty (50) feet between any LOT line to abutting properties and any BUILDING within the development. Such buffer shall be landscaped or remain in its natural vegetation.

4.4.4.3 Design Provision – Each DWELLING UNIT in a Major AFFORDABLE Housing Development shall have at least one separate ground floor entrance/exit, unless the Planning Board permits otherwise as part of its Special Permit. In addition, each STRUCTURE shall be compatible with the architectural style and scale of the neighborhood within which it is proposed. The Planning Board may establish design guidelines for Major AFFORDABLE Housing Developments. In granting a Special Permit, the Planning Board may impose conditions regarding dimensional controls and bulk of BUILDINGS to enhance the architectural compatibility with the surrounding neighborhood.

4.4.4.4 Other Provisions – The Planning Board, in granting a Special Permit for a Major AFFORDABLE Housing Development, may impose reasonable conditions to protect the environment, and the health, safety and welfare of the neighborhood, of residents in the proposed development, and of the general public. Such conditions may include, but shall not necessarily be limited to, requirements for the tertiary treatment of wastewater effluent, the location of wastewater effluent disposal, and necessary limitations on the total number of DWELLING UNITS to prevent negative impacts on the groundwater and other existing or potential public water resources.

4.4.4.5 A Major AFFORDABLE Housing Development shall be subject to the provisions and requirements of Sections 4.4.5 through 4.4.9.

4.4.5 Development Standards for Major and Minor AFFORDABLE Housing Developments.

4.4.5.1 Location of AFFORDABLE DWELLING UNITS – AFFORDABLE DWELLING UNITS shall be dispersed throughout the development to insure a true mix of market-rate and AFFORDABLE housing.

4.4.5.2 Comparability – AFFORDABLE DWELLING UNITS shall in terms of exterior appearance be compatible in design with, and to the extent possible indistinguishable from, market-rate DWELLING UNITS in the same development. All internal design features shall be substantially the same as for market-rate DWELLING UNITS.

4.4.5.3 DWELLING UNIT size – Except as otherwise provided by the Planning Board, AFFORDABLE DWELLING UNITS shall contain two or more bedrooms and shall be suitable in type and design for FAMILY occupancy.

4.4.5.4 Rights and privileges – The owners or renters of AFFORDABLE DWELLING UNITS shall have all rights, privileges and responsibilities given to owners or renters of market rate DWELLING UNITS, including access to all amenities within the development.

4.4.5.5 DWELLING UNITS for Handicapped Persons – The Planning Board may require that some of the AFFORDABLE DWELLING UNITS be constructed so as to be suited for access and occupancy by a handicapped person or persons.

4.4.6 Affordability Requirements for Major and Minor AFFORDABLE Housing Developments.

4.4.6.1 Long term affordability – AFFORDABLE DWELLING UNITS shall be restricted to LOW-INCOME or MODERATE-INCOME use for the maximum period permitted by law, in one of the following ways:

a) Donation of DWELLING UNITS to the Acton Housing Authority – DWELLING UNITS are donated to the Acton Housing Authority (A.H.A.), subject to the acceptance of the A.H.A.

b) Sale of DWELLING UNITS to the Acton Housing Authority – DWELLING UNITS set aside for sale to the Acton Housing Authority (A.H.A.) shall be offered at prices which do not exceed the lesser of (i) the general development costs of the particular DWELLING UNITS, or (ii) the current acquisition cost limits for the particular DWELLING UNITS under applicable state or federal financing programs. If the A.H.A. is unable to purchase the set-aside DWELLING UNIT(S) at the time of completion, the developer shall grant to the A.H.A. an exclusive right to purchase such DWELLING UNIT(S) within said cost limits, and shall lease or rent the DWELLING UNIT(S) to LOW-INCOME persons or households from a list prepared by the A.H.A., until such time as the A.H.A. can purchase the DWELLING UNIT(S). If, after two (2) years, the A.H.A. has not purchased the DWELLING UNIT(S), the developer may sell the DWELLING UNIT(S) as set forth under Option 5 of Section 4.4.3.1 or condition b. of Section 4.4.4.1, after making proper arrangements pursuant to such sections with the Town of Acton or its designee.

c) Sale, Lease or Rental of DWELLING UNITS to LOW-INCOME or MODERATE-INCOME Households – DWELLING UNITS set aside for sale, lease or rental to LOW-INCOME or MODERATE-INCOME households shall be restricted for occupancy by qualified households which meet the definition of "LOW-INCOME" or "MODERATE-INCOME" respectively, as set forth in this Bylaw.

4.4.6.2 Resale Controls – Each AFFORDABLE DWELLING UNIT created in accordance with this Section 4.4 shall have limitations governing its resale which must be satisfied before the property can be sold by its owners. The purpose of these limitations is to preserve the long-term affordability of the DWELLING UNIT and to ensure its continued availability to LOW-INCOME or MODERATE-INCOME households. The resale controls shall be established through deed or lease restrictions or otherwise, subject to the approval of the Planning Board, and shall be in force for such maximum period of time from the date of initial sale as may be permitted under applicable state law governing such restrictions. The resale controls shall be established in such a manner so as to be enforceable by the Town of Acton, and renewable by the Town of Acton through standard procedures provided by applicable state law.

4.4.6.3 Maximum Sales Price for AFFORDABLE DWELLING UNITS.

a) Initial Sale – The maximum initial sales price shall be set at the most recently published median FAMILY income for the Boston Primary Metropolitan Statistical Area times a maximum multiplier of two and one-quarter (2.25), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below.

b) Resales – Maximum sales prices at subsequent resales shall be limited to the median FAMILY income for the Boston Primary Metropolitan Statistical Area as last published prior to the resale, times the same multiplier used at the initial sale, adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below, plus the cost of documented capital improvements, other than bedroom additions, garages, and improvements detached from the DWELLING UNIT, at a maximum rate of one percent (1.0%) of the DWELLING UNIT purchase price per year. However, the resale price after inclusion of such capital improvement costs shall in no case exceed one hundred and twenty percent (120%) of the median FAMILY income for the Boston Primary Metropolitan Statistical Area as last published prior to the resale, times a multiplier of two and one-quarter (2.25), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below. These resale limitations shall be recorded as part of the deed restriction.

4.4.6.4 Maximum rental price for AFFORDABLE DWELLING UNITS – The maximum gross monthly rent, including the estimated cost of utilities to be paid by the tenant, shall be twenty percent (20%) of the most recently published median household income for the Boston Primary Metropolitan Statistical Area, divided by twelve (12), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below. The schedule of utilities most recently published for the Acton area by the U.S. Department of Housing and Urban Development for use in federal rent subsidy programs shall be used to estimate the cost of utilities to be paid by the tenant.

4.4.6.5 DWELLING UNIT size adjustments – Maximum sales and resales prices and gross rents of AFFORDABLE DWELLING UNITS shall be further adjusted for DWELLING UNIT size by multiplying the amounts computed under Sections 4.4.6.3 and 4.4.6.4 above by the applicable adjustment factor as follows:

DWELLING UNIT Size	Adjustment Factor
1 or 2 Bedroom	0.90
3 Bedroom	1.00
4 or more Bedroom	1.10

4.4.6.6 Right of first refusal – All deed restrictions and/or restrictive covenants for AFFORDABLE DWELLING UNITS shall require that the owner grants a Right of First Refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such Right of First Refusal to the Town of Acton or its designee prior to selling his/her DWELLING UNIT. If the Town of Acton or its designee fails to exercise its Right of First Refusal by signing a Purchase and Sales Agreement within thirty (30) days of receipt of the owner's notice, the owner may thereafter proceed to sell the AFFORDABLE DWELLING UNIT at the restricted resale value to any person or household who meets the applicable income guidelines. The owner, in consultation with the Town of Acton or its designee, shall make a diligent effort to locate eligible purchasers. If no eligible purchaser is found after the expiration of ninety (90) days, the owner may proceed to sell the AFFORDABLE DWELLING UNIT to any purchaser of his or her choice, provided however that any deed restrictions, covenants, agreements and/or other mechanisms restricting rent levels and resale prices shall remain in effect.

4.4.6.7 Relationship to Public Funding Programs – Applicants may elect to utilize public subsidies in connection with the AFFORDABLE DWELLING UNITS required by this Section 4.4. Such election is subject to the DWELLING UNIT price limitations of the funding program and the approval by the funding agency.

4.4.6.8 Ratio of DWELLING UNITS to be Set-aside for LOW-INCOME or MODERATE-INCOME Households – The ratio of the number of DWELLING UNITS to be set-aside

for LOW-INCOME households to the number of DWELLING UNITS to be set-aside for MODERATE-INCOME households, and the Option or combination of Options provided under Section 4.4.3.1, and the conditions or combination of conditions provided under Section 4.4.4.1, shall be subject to the approval of the Planning Board as a part of the Special Permit.

4.4.7 Application Requirements – Applicants for a Major or Minor AFFORDABLE Housing Development shall submit a plan and application that meet the requirements of this Section 4.4, including an indication of the number, type and location of all AFFORDABLE DWELLING UNITS; a complete Development Pro Forma including an indication of all costs to the buyers or renters of AFFORDABLE DWELLING UNITS; identification of proposed governmental subsidy arrangements; and all other information which may be required by the Acton Planning Board under the Rules and Regulations for Open Space Developments (Minor AFFORDABLE Housing Developments) or under the Rules and Regulations for Major AFFORDABLE Housing Developments, as applicable.

4.4.8 Additional Requirements

4.4.8.1 Local Preference – To the maximum extent practical and subject to applicable Federal or State financing or subsidy programs, the AFFORDABLE DWELLING UNITS shall be initially offered to qualified LOW- and MODERATE-INCOME households that meet local preference criteria established from time to time by the Town of Acton or the Acton Community Housing Corporation. Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee. The local preference restriction shall be in force for 120 days from the date of the first offering of sale or rental of a particular AFFORDABLE DWELLING UNIT. The applicant shall make a diligent effort to locate eligible purchasers or renters for the AFFORDABLE DWELLING UNIT who meet the local preference criteria and the applicable income requirements.

4.4.8.2 Where an AFFORDABLE Housing Development does not generate a sufficient number of AFFORDABLE DWELLING UNITS to satisfy, in terms of whole DWELLING UNITS, all of the local preference requirements as set forth herein, the AFFORDABLE DWELLING UNITS in such a development shall be offered to eligible purchasers based on the following priorities: first - current residents pursuant to 4.4.8.1.a. (up to 30%); second - persons employed within Acton pursuant to 4.4.8.1.b. (up to 10%); third - persons who previously resided in Acton pursuant to 4.4.8.1.c.

4.4.8.3 Persons who both reside and work in the Town of Acton shall be counted as residents only.

4.4.8.4 Residency in the Town of Acton shall be established through certification by the Town Clerk based on the Town Census, voter registration, or other acceptable evidence.

4.4.8.5 These restrictions shall be in force for a period of four (4) months from the date of the first offering of sale or rental of a particular DWELLING UNIT to the public. The Town of Acton or its designee, or the developer, as applicable, shall make a diligent effort to locate eligible purchasers and/or renters who meet the above qualifications as well as the applicable income requirements.

4.4.8.6 Results of all percentages herein shall be rounded to the next whole number to determine the actual number of AFFORDABLE DWELLING UNITS to be offered to each of the preference groups.

4.4.8.7 Purchaser/tenant selection - Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee.

4.4.9 Enforcement

4.4.9.1 Restrictive documents – AFFORDABLE DWELLING UNITS shall be rented or sold subject to applicable deed covenants, contractual agreements and/or other mechanisms restricting such features as the USE and occupancy, rent levels, and sales prices of such DWELLING UNITS to assure their affordability.

4.4.9.2 Enforcement upon Transfer of DWELLING UNIT - Nothing in this Section 4.4 shall be construed to cause eviction of a home owner or tenant of an AFFORDABLE DWELLING UNIT due to loss of his/her eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an AFFORDABLE DWELLING UNIT shall be enforced upon resale, re-rental or re-lease of the AFFORDABLE DWELLING UNIT, or, in the case of a rental DWELLING UNITS, by such other appropriate mechanism as the Planning Board may specify in its Special Permit. Any mechanism and remedy to enforce the restrictions governing an AFFORDABLE DWELLING UNIT shall be set forth in a deed covenant or other appropriate recordable document.

4.4.9.3 All Restrictions Remain in Effect – Nothing in this Section shall be construed to allow any deed restrictions, covenants, agreements and/or other mechanisms restricting such items as the use and occupancy, rent levels, and resale prices of AFFORDABLE DWELLING UNITS, and the enforcement thereof to expire prior to any maximum limitations set forth by applicable state law.

4.4.9.4 Timing of commitments – All contractual agreements with the Town of Acton and other documents necessary to insure compliance with this Section shall be executed prior to and as a condition of the issuance of any special permit required to commence construction.

4.4.9.5 Timing of construction – As a condition of the issuance of a special permit under this Section, the Planning Board may set a time schedule for the construction of both AFFORDABLE and market-rate DWELLING UNITS. No Certificate of Occupancy shall be issued for any market-rate DWELLING UNITS in a development subject to the requirements of this Section until there have been issued Certificates of Occupancy for AFFORDABLE DWELLING UNITS in an amount equal to the percentage of AFFORDABLE DWELLING UNITS which are to be constructed in the development. For instance, if twenty percent (20%) of the development is to consist of AFFORDABLE DWELLING UNITS, and ten (10) market-rate DWELLING UNITS are seeking Certificates of Occupancy, at least two (2) AFFORDABLE DWELLING UNITS shall have received Certificates of Occupancy.

SECTION 5.

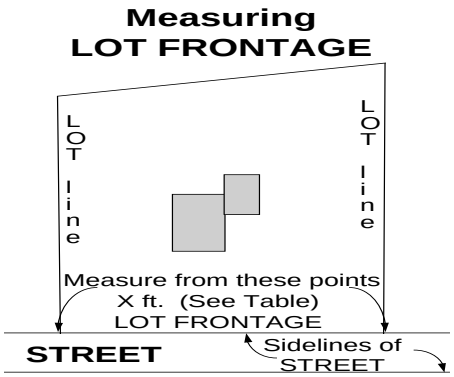
DIMENSIONAL REGULATIONS

5.1 **Standard Dimensional Provisions** – No land shall be used, and no STRUCTURE or BUILDING shall be used or construction begun except in accordance with Section 5 Dimensional Regulations and the Table of Standard Dimensional Regulations unless otherwise specifically permitted in this Bylaw.

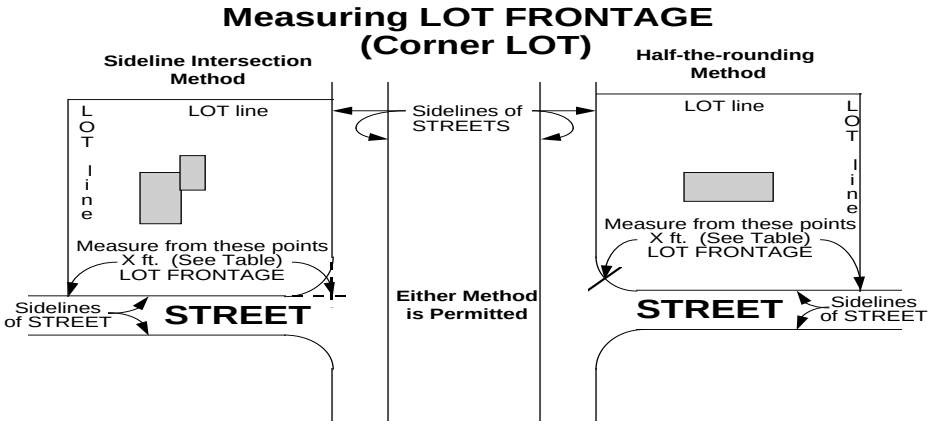
5.2 **Methods for Calculating Dimensional Requirements** – The following shall apply:

5.2.1 LOT area – LOT area shall be determined by calculating the area within a LOT including any area within the LOT over which easements have been granted, provided that no area within a STREET shall be included in determining minimum LOT area.

5.2.2 FRONTAGE – FRONTAGE shall be measured in a continuous line along the sideline of a STREET between the points of intersection of the side LOT lines with the STREET.



5.2.2.1 FRONTAGE for a corner LOT may be measured either to the point of intersection of the extension of the sideline of the rights-of-way or to the middle of the curve connecting the sideline of the intersecting STREETS.



5.2.2.2 If a LOT has FRONTAGE on more than one STREET, the FRONTAGE on one STREET only may be used to satisfy the minimum required LOT FRONTAGE.

TABLE OF STANDARD DIMENSIONAL REGULATIONS

See also Special Provisions and Exceptions to Dimensional Regulations (Section 5.3), Transfer of Development Rights for special dimensional regulations affecting the LB, NAV and EAV Districts and certain land in the R-2, R-8 and R-10/8 Districts along and near Great Road (Section 5.4), Special Provisions for Village Districts (Section 5.5), Special Dimensional Requirements in the Groundwater Protection District (Section 4.3), Special Dimensional Regulations for Open Space Developments (OSD - Section 4.2), Planned Conservation Residential Communities (PCRC - Section 9), and Senior Residences (Section 9B).

The symbol "NR" on this Table indicates no specific minimum or maximum regulation.

DISTRICT	ZONING DISTRICTS	MINIMUM LOT AREA in sq. ft.	MINIMUM LOT FRONTAGE in feet	MINIMUM LOT WIDTH In feet	MINIMUM FRONT YARD in feet	MINIMUM SIDE & REAR YARD in feet	MINIMUM OPEN SPACE in percent	MAXIMUM FLOOR AREA RATIO	MAXIMUM HEIGHT in feet
RESIDENTIAL DISTRICTS	R-2	20,000	150	50	30	10	NR	NR	36
	R-4	40,000	175	50	45	20	NR	NR	36
	R-8	80,000	200	50	45	20	NR	NR	36
	R-8/4	80,000	200	50	45	20	NR	NR	36
	R-10	100,000	250	50	45	20	NR	NR	36
	R-10/8	100,000	250	50	45	20	NR	NR	36
	R-A	100,000	200	50	30	10 (3)	35%	NR	36
	R-AA	10,000	100	50	30	10	35%	NR	36
	VR	15,000	50	NR	10	10	20%	NR	36
VILLAGE DISTRICTS	EAV	NR	NR	NR	10 (10)	NR (1)	25%	0.20 (4)	36
	EAV-2	15,000	50	NR	10	10 (1)	35%	0.20 (4)	36
	NAV	10,000	100	50	10 (9)	10 (1)	35%	0.20 (4)	36
	SAV	NR	NR	NR	10 (10)	10	NR	0.20 (13)	36 (12)
	WAV	NR	NR	NR	5 (10)	NR (1)	NR	0.40 (11)	36 (12)
OFFICE DISTRICTS	OP-1	80,000	200	50	50	30 (7)	50%	0.20 (14)	36
	OP-2	80,000	200	50	50	30 (7)	50%	0.20 (16)	40
BUSINESS DISTRICTS	KC	10,000	100	50	30	NR (6)	NR	0.40 (15)	36
	LB	20,000	200	50	75 (5)	30 (6)	50%	0.20 (4)	36
	PM	10,000	100	50	30	20	35%	0.20	40
INDUSTRIAL DISTRICTS	GI	40,000	100	50	45	20 (2)	35%	0.20	40
	LI	80,000	200	50	50	30 (2)	35%	0.20	40
	LI-1	80,000	200	50	50	30 (2)	50%	0.20	40
	SM	40,000	100 (8)	50	50	30 (2)	35%	0.20 (18)	36 (18)
	TD	40,000	100	50	45	50 (2,17)	35%	0.20	40
SP. DISTRICT	ARC	NR	20	50	20	10	NR	NR	36

NOTES for TABLE OF STANDARD DIMENSIONAL REGULATIONS

(1) Where a nonresidential USE abuts a residential district the yard or yards abutting the residential district shall be 20 feet in WAV, 30 feet in NAV and 30 feet in EAV and EAV-2.

(2) If the LOT abuts a Residential District, whether directly or separated by a public or railroad right of way, the side and rear yards abutting the Residential District shall be increased as follows:

Industrial District	Minimum Side or Rear Yard
TD	200 feet
GI	100 feet
LI or LI-1	60 feet
SM	50 feet

(3) Where a Multifamily Dwelling USE abuts a residential zoning district other than R-A the minimum side and rear yard shall be increased to 30 feet.

(4) In the EAV District, subject to the provisions in Sections 5.4 and 5.5B. In the EAV-2 District, subject to the provisions in Section 5.5B.2. In the NAV District, subject to the provision in Section 5.4 and 5.5C. In the LB District, subject to the provisions in Section 5.4.

(5) The minimum front yard to the sideline of STREETS other than Great Road shall be 30 feet. On LOTS with FRONTAGE on Great Road and in existence on or before February 15, 1990, where the 75-foot minimum front yard to the sideline of Great Road would exceed 30% of the LOT depth, the front yard may be reduced to 30% of that LOT depth, but not to less than 30 feet. Lot depth shall be measured in a line that is perpendicular to the Great Road sideline.

(6) If the LOT abuts a residential zoning district the minimum side and rear yard shall be 50 feet. On LOTS in existence on or before February 15, 1990 where the minimum side or rear yard exceeds 20% of the LOT depth, the side or rear yard may be reduced to 20% of that LOT depth, but not to less than 30 feet. Lot depth shall be measured in a line that is perpendicular to the applicable side or rear LOT line.

(7) If the LOT abuts a Residential District the minimum side and rear yard shall be 60 feet.

(8) Minimum LOT FRONTAGE on Rt. 27 (Main Street) shall be 200 feet.

(9) Where a LOT is facing Great Road or Main Street the minimum front yard shall be 30 feet.

(10) The maximum front yard shall be ten (10) feet in the WAV District and twenty feet (20') in the SAV and EAV Districts, or the lesser of the front yards of the two BUILDINGS or STRUCTURES on either side, whichever is the least. Exceptions: a) The maximum front yard requirement shall not apply to a BUILDING or STRUCTURE in the rear of an existing BUILDING or to an addition to the rear of an existing BUILDING or STRUCTURE, if all are located on one LOT with FRONTAGE on only one STREET. b) The maximum front yard requirement shall not apply to a BUILDING or STRUCTURE on a LOT without FRONTAGE and located entirely in the rear of existing BUILDINGS or STRUCTURES so that it does not face a STREET.

(11) The FLOOR AREA RATIO may be increased to .70 provided that for every 1000 square feet of non-residential NET FLOOR AREA built above a FLOOR AREA RATIO of .40 an at-least-equal amount of residential NET FLOOR AREA is provided simultaneously.

(12) The minimum height of a BUILDING shall be twenty (20) feet. Accessory BUILDINGS, such as garages or sheds, may be less than 20 feet in height.

(13) The maximum Floor Area Ratio (FAR) may be increased to .40, provided that for every square foot of non-residential NET FLOOR AREA built above FAR of .20 an equal amount or more of habitable residential NET FLOOR AREA is provided simultaneously, and set aside for exclusive residential USE.

(14) On LOTS within the OP-1 District, which on April 3, 1995 were held in common ownership the FLOOR AREA RATIO may be calculated by dividing the sum of the NET FLOOR AREA of all BUILDINGS on such LOTS by the DEVELOPABLE SITE AREA of such LOTS, whether or not such LOTS are contiguous or divided by a STREET.

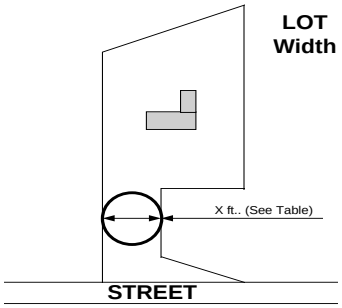
(15) Subject to certain provisions in Section 5.6, Special Provisions for the Kelley's Corner District.

(16) Subject to certain provisions in Section 5.7, Special Provisions for the Office Park 2 District.

(17) Landscaped screening shall be required to separate a nonresidential USE from a Residential District. The screen shall be 100 feet in width and shall be nontransparent in all seasons of the year from the ground to a height of at least six (6) feet, with intermittent visual obstruction to a height of at least 20 feet. The screen is intended to exclude visual contact between uses and to create a strong impression of spatial separation. It may be composed of a wall, fence, landscaped earth berm, or densely planted vegetation or a combination of these items.

(18) The maximum FLOOR AREA RATIO and height may be increased further subject to procedures and conditions set forth in Section 10.4.3.12.

5.2.3 LOT Width – The minimum required LOT width shall be determined by measuring the diameter of a circle, which can be located along a continuous but not necessarily straight line from any LOT FRONTAGE to the principal STRUCTURE on the LOT without the circumference of the circle intersecting the side LOT lines.



5.2.4 Front Yards – Front yards shall be the distance measured in a straight line between any LOT FRONTAGE and the nearest point of any BUILDING or STRUCTURE, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required front yard. A LOT having FRONTAGE on two or more STREETS shall have two or more front yards, each of which shall comply with the minimum required front yard. In no case shall any BUILDING or STRUCTURE be located closer to the sideline of a STREET than the minimum required front yard. The sideline of a STREET is defined by the front boundary lines of LOTS along a STREET and not necessarily the pavement edge of a STREET or sidewalk.

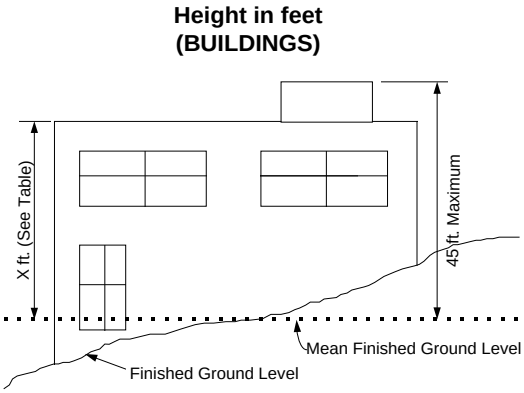
5.2.5 Side and Rear Yards – Side and rear yards shall be the distance measured in a straight line from the nearest point of any BUILDING or STRUCTURE to each side or rear LOT line, excluding roof overhangs. Roof overhangs shall not extend further than two feet into the minimum required side or rear yard.

5.2.6 BUILDING Coverage – The BUILDING coverage shall be determined by dividing the total ground area of all BUILDINGS on a LOT, including roof overhangs greater than two feet, carports and canopies, whether or not such carports or canopies are part of a BUILDING, by the total LOT area.

5.2.7 Height in Feet

5.2.7.1 Height in Feet, STRUCTURES – Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire STRUCTURE to the highest extension of any part of the STRUCTURE.

5.2.7.2 Height in Feet, BUILDINGS – Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire BUILDING at each exterior wall to the top of the highest roof beams of a flat roof or to the mean level of the highest gable or slope of a hip roof.



5.3 Special Provisions and Exceptions to Dimensional Regulations

5.3.1 Location of STRUCTURES – Unless otherwise specified in this Bylaw, no STRUCTURE shall be located within the required yard area of any LOT except: walls or fences no

more than eight feet in height; uncovered steps, ramps or terraces; sign posts; pedestrian lighting facilities; flagpoles; or similar STRUCTURES.

5.3.2 Residence A District, Residence AA District and Multifamily Dwellings:

5.3.2.1 In the R-A District, residential USES may be established at a density of up to five DWELLING UNITS per acre, subject to the standards set forth in the Table of Standard Dimensional Regulations. If such USES are established as single FAMILY DWELLING UNITS, the standards set forth in the Table of Standard Dimensional Regulations may be reduced provided that the following alternative standards are met:

a) Minimum LOT area: 8,000 square feet;
b) Minimum LOT FRONTAGE: 50 feet;
c) Minimum Front Yard: 15 feet;
d) All other dimensional regulations: as set forth for the R-2 District.

5.3.2.2 In the R-AA District, residential USES may be established at a density of up to fifteen DWELLING UNITS per acre, subject to the standards set forth in the Table of Standard Dimensional Regulations.

5.3.2.3 In all other districts, the following dimensional regulations must be met or maintained for any LOT used for five or more multifamily dwellings which were in existence prior to June 1, 1983:

a) Minimum LOT area: the greater of either 80,000 square feet; or 4,500 square feet per one bedroom DWELLING UNIT plus 3,000 square feet for each additional bedroom per DWELLING UNIT;
b) Minimum FRONTAGE: 200 feet;
c) Minimum LOT width: 200 feet;
d) Minimum front yard: 30 feet;
e) Minimum side and rear yards: 30 feet.

No changes may be made to the boundaries of any such LOT, or to the boundaries of any land adjoining such LOT which is held in common ownership, until the above requirements have been met for each multifamily dwelling, unless such changes bring the multifamily dwelling more nearly into compliance with these standards.

5.3.3 FRONTAGE Exceptions

5.3.3.1 FRONTAGE Exception LOTS – In the R-2, R-4, R-8/4, R-8, R-10/8, and R-10 Districts, the minimum LOT FRONTAGE may be reduced by 50 feet per LOT provided that the minimum LOT area required for each such LOT is doubled.

5.3.3.2 Curved STREET Exception LOTS – Excluding a cul-de-sac, any LOT whose entire FRONTAGE is on the outside sideline of a curved STREET having the radius of 300 feet or less shall be permitted to reduce its minimum FRONTAGE to 125 feet for a LOT located in the R-2 District and 150 feet for a LOT located in the R-4, R-8/4, R-8, R-10/8, and R-10 Districts.

5.3.3.3 Cul-de-sac LOTS – In all districts the minimum LOT FRONTAGE for a LOT may be reduced to 100 feet per LOT provided that each such LOT fronts entirely on a cul-de-sac with a sideline radius of 62.5 feet or greater and provided further that no more than three such reduced FRONTAGE LOTS shall have FRONTAGE on the cul-de-sac.

5.3.4 Hammerhead LOTS – In the R-2, R-4, R-8/4, R-8, R-10/8, and R-10 Districts, Hammerhead LOTS may be created subject to the following requirements:

5.3.4.1 The minimum FRONTAGE and LOT width shall be 50 feet; and

5.3.4.2 The minimum LOT area shall be 80,000 square feet in the R-2 District, 120,000 square feet in the R-4 District, and 200,000 square feet in the R-8/4, R-8, R-10/8 and R-10 Districts; and

5.3.4.3 The LOT shall contain a dwelling location square with a minimum side of 150 feet in the R-2 District, 175 feet in the R-4 District, and 200 feet in the R-8/4, R-8, R-10/8 and R-10 Districts. The dwelling shall be located within the dwelling location square; and

5.3.4.4 No dwelling shall be located within 50 feet of any LOT line; and

5.3.4.5 No more than two Hammerhead LOTS shall have contiguous FRONTAGE; and

5.3.4.6 A plan showing a Hammerhead LOT submitted to the Planning Board for endorsement under M.G.L. Ch. 41 S. 81P or 81U shall clearly identify the LOT as a Hammerhead LOT and bear a statement to the effect that such Hammerhead LOT shall not be further divided to reduce its area or to create additional BUILDING LOTS. Further, such plan shall show the proposed dwelling location square.

5.3.5 Height of BUILDINGS

5.3.5.1 In all districts appurtenant STRUCTURES located upon the roof of a BUILDING may extend above the height limit but in no case shall they exceed 45 feet in height when combined with the height of the BUILDING nor in the aggregate occupy more than 20% of the roof plan area unless in compliance with Section 5.3.5.2 of this Bylaw.

5.3.5.2 In the General Industrial and Industrial Park Districts the height of BUILDINGS may be increased by right above 40 feet provided that 1) the minimum OPEN SPACE provided on the LOT is 45% or more in the General Industrial District and 60% or more in the Industrial Park District, 2) the maximum BUILDING coverage on the LOT is 25% or less, and 3) the maximum height of the BUILDING is 50 feet or less.

5.3.5.3 In all Districts, the Planning Board may by special permit increase the height limits in the Table of Standard Dimensional Regulations for light poles that illuminate outdoor recreation facilities such as, but not limited to, playing fields, pools, rinks, tennis courts, driving ranges, ski areas, or skateboard parks that are operated as a Recreation, Municipal, or Commercial Recreation USE. In considering a special permit, the Planning Board shall take into account the trade-offs between the height of light poles and the improved illumination of the facility, and it shall weigh any mitigating effects on light trespass and glare. The luminaires on such light poles shall comply with section 10.6.2.4.c) of this Bylaw. No such light poles shall exceed a height of 85 feet.

5.3.6 No more than 50% (fifty percent) of the MINIMUM OPEN SPACE for any LOT as required by the Table of Standard Dimensional Requirements shall be freshwater wetlands, as defined in the M.G.L. 131, Section 40.

5.3.7 Town Boundary LOTS – In the event that a LOT is located partially outside of the Town of Acton, FRONTAGE and LOT area located outside of the Town of Acton may be used to satisfy the minimum FRONTAGE and LOT area requirements of this Bylaw, provided however that this Section shall only apply:

a) if the USE on such LOT is one of the following: residential, agricultural, conservation, recreation, governmental, institutional, or public service, all as defined in Section 3, or

b) if the USE is a permitted USE on the entirety of the LOT whether in the Town of Acton or another town.

5.3.8 Nursing Homes in the Residential Districts

5.3.8.1 Nursing Homes in the R-2, R-4, R-8, R-8/4, R-10, R-10/8 and VR Districts shall be built according to the following dimensional standards:

minimum LOT area	-	100,000 sq. ft
minimum LOT FRONTAGE	-	200 feet;
minimum LOT width	-	200 feet;
minimum front, side and rear yards	-	60 feet;
minimum setback of pavement areas other than ACCESS driveways from the front LOT line	-	45 feet;
minimum setback of pavement areas from the side and rear LOT lines	-	60 feet;
minimum OPEN SPACE	-	35 percent;
maximum FLOOR AREA RATIO	-	0.20;
maximum height of STRUCTURES	-	36 feet;
maximum number of stories above finished ground level	-	2.

5.3.8.2 Nursing Homes on LOTS in the R-A and R-AA Districts shall be built according to the standards set forth in the Table of Standard Dimensional Regulations and the maximum FLOOR AREA RATIO on such LOTS shall not exceed 0.20.

5.3.9 Child Care Facilities in Residential Zoning Districts - In addition to the standards set forth in the Table of Standard Dimensional Regulations, the following standards shall apply to Child Care Facilities located in Residential Zoning Districts:

	R-2	**R-4**	**R-8 & R-8/4**	**R-10 & R-10/8**	**R-A & R-AA**	**VR**
Minimum OPEN SPACE not including outdoor play areas	35%	35%	35%	35%	35%	35%
Maximum FLOOR AREA RATIO	0.10	0.07	0.04	0.03	0.20	0.17
Maximum NET FLOOR AREA	2,500 sq. ft.	3,500 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	2,500 sq. ft.

5.3.10 Adult USES – No Special Permit for an Adult USE shall be granted unless the USE complies with the following standards:

5.3.10.1 No LOT containing an Adult USE shall be located within 750 feet of a Residential District, a Village District, the KC District, or the ARC District.

5.3.10.2 No LOT containing an Adult USE shall be located within 750 feet of the Acton town boundary.

5.3.10.3 No LOT containing an Adult USE shall be located within 1,500 feet of any BUILDING or LOT owned or operated by the Acton Public Schools or the Acton-Boxborough Regional School District, or any public school operated by any abutting Town or abutting Regional School District.

5.3.10.4 No LOT containing an Adult USE shall be located within 2,000 feet of any other LOT containing an Adult USE, and no Adult USE establishment shall be located within 2,000 feet of any other Adult USE establishment.

5.3.10.5 The hours in which Adult USES are open to the public shall be limited as follows: adult bookstore, adult paraphernalia store, adult video store or similar Adult USE between the hours of 9:00 AM and 9:00 PM; adult motion picture theater, adult entertainment or similar Adult USE between the hours of 3:00 PM and 12:00 midnight.

5.3.11 Full Service Retirement Communities:

5.3.11.1 Full Service Retirement Communities in the R-2, R-4, R-8, R-8/4, R-10, R-10/8 and VR Districts shall be built according to the following dimensional standards:

minimum LOT area	-	100,000 sq.ft.;
minimum LOT FRONTAGE	-	200 feet;
minimum LOT width	-	200 feet;
minimum front yard	-	45 feet;
minimum side and rear yard for BUILDINGS containing one or two DWELLING UNITS	-	20 feet;
minimum side and rear yard for all other BUILDINGS	-	60 feet;
minimum setback of pavement areas other than ACCESS driveways and walk ways from the front LOT line	-	45 feet;
minimum setback of pavement areas, other than walkways, from the side and rear LOT lines	-	60 feet;
minimum separation of BUILDINGS within the LOT	-	20 feet;
minimum OPEN SPACE	-	35 percent;
maximum FLOOR AREA RATIO	-	0.30;
maximum height of STRUCTURES	-	36 feet.
Maximum total NET FLOOR AREA occupied by allowed Business USES such as Retail Store, Restaurant, and Services	-	the smaller of 10,000 sq. ft. or 10% of the total NET FLOOR AREA in the full service retirement community

5.3.11.2 Full Service Retirement Communities in all other Zoning Districts shall be built according to the dimensional standards set forth in Section 5 and the Table of Standard Dimensional Regulations except that the Minimum Side and Rear Yard for BUILDINGS containing one or two DWELLING UNITS shall be the lesser of 20 feet or the dimension required in the Table of Standard Dimensional Regulations; the Minimum OPEN SPACE shall be the lesser of 35% or the percentage set forth in the Table of Standard Dimensional Regulations; the Maximum FLOOR AREA RATIO shall be the greater of 0.30 or the FLOOR AREA RATIO set forth in the Table of Standard Dimensional Regulations; and the limit on the number of DWELLING UNITS in the R-A and R-AA Districts shall not apply.

5.3.12 Assisted Living Residences in Residential Districts – In Residential Districts Assisted Living Residences with more than 10 residents shall be subject to the same dimensional standards as Nursing Homes in Residential Districts.

5.4 Transfer of Development Rights

5.4.1 Purpose – The purpose of this Section is to provide a mechanism for transferring development rights between designated districts, in order to achieve the following objectives:

a) To encourage compact development within defined village centers, reinforcing Acton's traditional pattern of development and providing convenient and attractive commercial and personal service centers for residents of Acton's neighborhoods;

b) To discourage excessive development in the Great Road corridor, so as to reduce traffic congestion and minimize the need for public spending on infrastructure expansion;

c) To conserve public funds by concentrating development in areas where public infrastructure and services may be most efficiently provided;

d) To balance long-term tax revenue reductions in areas planned for limited development with long-term revenue increases in areas planned for concentrated development; and

e) To accomplish the above objectives in a manner in which landowners are compensated for reductions in long-term development potential, through transfers with other landowners who benefit from increases in development potential.

Thus the provisions of this Section are intended primarily to change the pattern and location of future development within the Town, rather than to change the overall amount or type of such development; and to accomplish such intended changes in a way that is equitable to affected property owners.

5.4.2 Sending Districts and Receiving Districts

5.4.2.1 Development rights may be transferred from Sending Districts to Receiving Districts.

5.4.2.2 The Sending Districts shall include: (a) the Limited Business (LB) District, and (b) all residentially zoned parcels with FRONTAGE on Great Road (excluding those in the Residence A District) for a depth of 500 feet from the layout line of Great Road which were zoned General Business in the year 1989.

5.4.2.3 The Receiving Districts shall include the North Acton Village (NAV) and East Acton Village (EAV) Districts.

5.4.2.4 The objective of the Transfer of Development Rights mechanism is to achieve different development densities than the maximum FLOOR AREA RATIOS set forth in the Table of Standard Dimensional Regulations (Section 5). The preferred target densities are FAR of 0.10 in the Limited Business District, the permitted residential density in the residentially zoned Sending District areas, and FAR of 0.30 in the Receiving Districts.

5.4.3 Special Permit for Transfer of Development Rights – The Transfer of Development Rights shall be authorized by special permit from the Board of Selectmen subject to the requirements of this Section 5.4.

5.4.3.1 Standards for Review – In deciding on the merits of a proposal for Transfer of Development Rights from the Sending District to a Receiving District, the Board of Selectmen shall consider the following criteria and objectives:

a) Increased density on a LOT in the Receiving District should support a sense of community, through a concentration of a variety of USES;

b) therefore, density increases in the Receiving Districts should be granted only where such concentrations are compatible with surrounding USES;

c) The implementation of this provision should tend to facilitate the development of a viable village center, that provides convenient and attractive commercial and personal services for its residents and for the residents of Acton's neighborhoods;

d) and should generally support the objectives of Section 5.4.1.

The Board of Selectmen shall grant a Special Permit for Transfer of Development Rights from the Sending District to a Receiving District only if it can make appropriate findings that the criteria and objectives of a) through d) are promoted by granting the transfer, and if it finds that all the requirements of Section 5.4 have been met.

5.4.3.2 Procedure for Obtaining a Special Permit for the Transfer of Development Rights

a) An application for a Special Permit for the Transfer of Development Rights from a LOT in the Sending District to a Receiving District shall be made jointly by the owner of said LOT, willing to sell development rights, and by the prospective purchaser of the development rights. Said prospective buyer shall demonstrate ownership of a LOT in the Receiving District onto which the development rights are to be transferred. The application shall contain sufficient information to permit the Board of Selectmen's determination of the total development rights and of the transferable development rights on a LOT in the Sending District, expressed in number of DWELLING UNITS for residential development rights and in NET FLOOR AREA for nonresidential development rights. The application shall specify the amount of development rights that is requested to be transferred. The Board of Selectmen may forward the application and accompanying plans to other municipal boards and officials for review and comment prior to making its determination.

b) The special permit issued pursuant to this Section 5.4 shall specify the amount of development rights that may be transferred to the LOT in the Receiving District and the amount of transferable development rights that remain on the LOT in the Sending District after the transfer, if any, expressed in number of DWELLING UNITS for residential development rights and in NET FLOOR AREA for nonresidential development rights. The development rights specified on the special permit shall be equal to the total development rights determined in accordance with Section 5.4.6.1, less any NET FLOOR AREA or built residential LOTS in existence at the time the determination is made. The transferable development rights shall be sold only to the applicant who has signed the application as the owner of the LOT in the Receiving District, and the development rights shall be transferred only to said LOT.

c) A special permit hereunder shall not authorize the transfer of USES. USES in the Receiving Districts must comply with the USE regulations of Section 3 of this Bylaw.

5.4.3.3 Records of Development Rights with the Board of Selectmen – The Board of Selectmen shall keep an official register of the development rights issued hereunder, and said register shall be made available for public inspection in the Town Hall.

5.4.3.4 The Board of Selectmen shall require that upon Transfer of the Development Rights authorized in its special permit, the owner of the LOT in the Sending District shall file with the Middlesex South Registry of Deeds or the Land Court (as applicable) an irrevocable restrictive covenant approved by the Board of Selectmen, running with the land permanently restricting the development of the LOT. The covenant shall restrict the LOT in the Sending District by the amount of development rights transferred to a LOT in the Receiving District, permitting only the amount of development rights that remain on the LOT, if any, all as specified in the special permit authorizing the transfer.

5.4.4 Transferring Development Rights

5.4.4.1 Development rights shall be considered as interests in real property. A landowner in a Receiving District may purchase some or all of the transferable development rights of a LOT in a Sending District, as authorized in the special permit, at whatever price may be mutually agreed upon by the two parties.

5.4.4.2 The Transfer of Development Rights shall have the effect of permitting an increase in the intensity of development of a LOT in a Receiving District; provided that a Transfer of Development Rights from a Sending District shall not result in a FLOOR AREA RATIO for any LOT in a Receiving District greater than the sum of:

a) the nonresidential NET FLOOR AREA divided by the total NET FLOOR AREA (This is equal to the proposed percent share of nonresidential NET FLOOR AREA divided by 100) multiplied by a FAR factor of 0.25, plus

b) the residential NET FLOOR AREA divided by the total NET FLOOR AREA (This is equal to the proposed percent share of residential NET FLOOR AREA divided by 100) multiplied by a FAR factor of 0.40.

5.4.4.3 An application for a building permit, indicating a FLOOR AREA RATIO greater than the maximum FLOOR AREA RATIO permitted in the Table of Standard Dimensional Regulations for a LOT in a Receiving District, shall include the approved special permit authorizing the Transfer of Development Rights. An application for a Site Plan Special Permit for such LOT shall include documentation of the proposed Transfer of Development Rights, including the property from which the development rights are derived and the amount of development rights proposed to be utilized in the Receiving District.

5.4.5 Recording of the Transfer – Prior to the issuance of any building permit for a LOT in a Receiving District, where the proposed development would result in a FLOOR AREA RATIO in excess of the maximum FLOOR AREA RATIO permitted in the Table of Standard Dimensional Regulations, the following documents must be submitted to the Zoning Enforcement Officer:

5.4.5.1 Deed of Transfer – The owner of land in the Receiving District, who has acquired the transferable development rights specified in the special permit authorizing a transfer shall submit to the Zoning Enforcement Officer three copies of an executed and recorded deed of transfer of said development rights derived from a LOT in the sending district, along with three copies of the Special Permit authorizing the transfer. The Zoning Enforcement Officer shall forward one copy of each to the Board of Selectmen and to the Town Clerk.

5.4.5.2 Restrictive Covenant – Also, three copies of the recorded covenant shall be submitted to the Zoning Enforcement Officer who shall forward one copy each to the Board of Selectmen and the Town Clerk. Upon issuance of the Building Permit, the Zoning Enforcement Officer shall notify the Board of Selectmen that the transferable development rights as specified in the special permit authorizing such transfer have been exercised. The Board of Selectmen shall forthwith make an entry in the official register canceling these transferable development. The Building Commissioner shall keep a record in his files, identifying the LOT in the Sending District as being restricted with regard to future development.

5.4.6 Calculation of Development Rights in Sending Districts – Landowners in Sending Districts are allowed to build to the full intensity permitted by the provisions of the underlying district, subject to certain regulations set forth herein. However, as an incentive to limit the total amount of floor area along Great Road and to encourage the Transfer of Development Rights to the Village Districts, a ceiling is established on the number of parking spaces that may be provided on a LOT in the Sending Districts. Landowners may choose to limit the amount of BUILDING area erected on the site and sell the unused development rights to buyers who may apply these rights to a LOT in a

Receiving District in accordance with procedures set forth in Sections 5.4.3, 5.4.4, and 5.4.5.

5.4.6.1 Determination of the Total Development Rights – The total amount of development rights pertaining to the LOT shall be computed as follows:

a) Nonresidential Districts – The maximum permitted nonresidential NET FLOOR AREA as computed in Section 10.4.3.8 of this Bylaw, less any development rights previously transferred to any LOT in a Receiving District,

b) Residential Districts – The maximum permitted number of BUILDING LOTS determined in accordance with the procedures for determining the maximum number of BUILDING LOTS set forth in Section 4.2.3.2 less any development rights previously transferred to any LOT in Receiving District; provided however that the owner of any land which was zoned for nonresidential USES in 1989 shall be permitted to also transfer such nonresidential development rights in accordance with this Bylaw. In calculating the development rights on such LOT, the maximum permitted nonresidential NET FLOOR AREA shall be determined as computed in Section 10.4.3.8 based on a maximum FLOOR AREA RATIO of 0.20, less the maximum permitted number of residential BUILDING LOTS determined in accordance with the procedures set forth in Section 4.2.3.2 (whereby one BUILDING LOT shall be equal to 1000 square feet of non-residential NET FLOOR AREA), less any development rights previously transferred to any LOT in a Receiving District.

5.4.6.2 Maximum Number of Parking Spaces Permitted – In addition to the requirements of this Bylaw that a minimum number of parking spaces must be provided for various uses, in Sending Districts the parking spaces required to be provided may not exceed a maximum number. In the Sending District, the number of parking spaces that may be constructed on a LOT shall not exceed one parking space per 3,000 square feet of DEVELOPABLE SITE AREA.

5.4.6.3 Calculating Development Rights That May Be Transferred – In lieu of constructing the total permitted NET FLOOR AREA or number of DWELLING UNITS calculated in Section 5.4.6.1, with the maximum number of parking spaces determined in Section 5.4.6.2, an applicant may choose to build at a lower intensity, and the difference in NET FLOOR AREA or DWELLING UNITS between what is permitted and what is actually proposed shall constitute the remaining transferable development rights. The number of parking spaces to be provided shall be determined by the minimum parking space standards of this Bylaw but shall not exceed the maximum number of parking spaces permitted under Section 5.4.6.2.

5.4.6.4 Conversion to Other Uses – Development rights may be transferred to a property in a Receiving District as authorized in the special permit issued under Section 5.4. In a Receiving District, nonresidential development rights may be used for nonresidential development in a direct one-for-one relationship, or they may be converted to residential development rights by dividing the nonresidential NET FLOOR AREA in square feet by a conversion factor of 1,000 square feet to yield the number of DWELLING UNITS which may be used in a Receiving District. Residential development rights may not be converted to nonresidential development rights.

5.4.7 Mandatory Mix of USES with Increased Floor Area – The Transfer of Development Rights option may not be used solely to increase the allowable NET FLOOR AREA of a single USE permitted in the underlying district. Any LOT which is permitted an increase in NET FLOOR AREA above the maximum NET FLOOR AREA set forth in the Table of

Standard Dimensional Regulations must include a mix of residential and nonresidential USES such that:

a) residential USES shall comprise at least 25% of the NET FLOOR AREA on the LOT;

b) nonresidential USES shall comprise at least 25% of the NET FLOOR AREA on the LOT.

Different USES may be apportioned between two or more BUILDINGS provided all the BUILDINGS are functionally integrated through the use of attractive OPEN SPACE design and pedestrian walkways. Combined residential and nonresidential BUILDINGS are permitted provided that the residential portions of such BUILDINGS are located above the nonresidential portions.

5.5 Special Provisions for Village Districts

5.5.1 Purposes – The purposes of this section are to set forth specific provisions regarding development scale and intensity in the Village Districts in order to promote compact development patterns, a mixture of housing and businesses, the preservation and vitality of small businesses, pedestrian amenities and pedestrian-scale environments, and environmentally sustainable design and construction.

5.5A Business Size Limits in Village Districts

5.5A.1 Maximum Floor Area of Businesses and Industries – The maximum NET FLOOR AREA of an individual business or industrial establishment shall not exceed the following (all limits expressed in square feet):

PRINCIPAL USES	**VILLAGE DISTRICTS**			
	EAV	**NAV**	**SAV**	**WAV**
3.4.11 Commercial Education or Instruction	5,000	NR	NR	NR
3.5.1 Retail Store	7,500	5,000	3,000	5,000
3.5.2 Office	7,500	5,000	3,000	5,000
3.5.3 Health Care Facility	5,000	5,000	3,000	5,000
3.5.5 Restaurant	5,000	5,000	5,000	5,000
3.5.9 Lodge or Club	5,000	NR	5,000	5,000
3.5.10 Veterinary Care	5,000	NR	3,000	3,000
3.5.12 Services	5,000	5,000	3,000	3,000
3.5.13 Repair Shop, Technical Shop, Studio	5,000	5,000	3,000	3,000
3.5.14 Building Trade Shop	NR	5,000 (1)	5,000 (1)	5,000 (1)
3.5.15 Commercial Recreation	7,500	NR	NR	5,000
3.5.16 Commercial Entertainment	5,000	NR	NR	5,000
3.6.3 Manufacturing	NR	NR	5,000	5,000

(1) The maximum NET FLOOR AREA for building cleaning services shall be 3,000 square feet.

NR = No Regulation

5.5B Special Provisions for the East Acton Village District

5.5B.1 Design Provisions for the East Acton Village District

5.5B.1.1 Purpose – In the East Acton Village District, the principal goal guiding the regulations set forth herein is to sustain and encourage a vital business center that provides needed goods, services, and jobs in a manner that is compatible with Acton's historic development pattern and establishes pedestrian accessibility and circulation throughout the East Acton Village area in order to limit vehicular congestion. These regulations will provide clear guidance to those who would like to expand or locate businesses in the East Acton Village District. They will also ensure that future development will help create the form, cohesion, order, and supporting infrastructure that will identify the East Acton Village District as an attractive, pleasant, and desirable center for business, shopping, and other commercial and community activities.

The layout and design of the sites and BUILDINGS shall be conducive to pedestrian use. The purpose of the design principles herein is to provide convenient and efficient pedestrian access within the East Acton Village District; to connect the East Acton Village District via pedestrian ways to surrounding neighborhoods and facilities which are otherwise separated with landscape buffers; to provide a safe and comfortable pedestrian environment with walkways, pedestrian conveniences and amenities; and to encourage BUILDINGS with a pedestrian oriented scale and design. For more guidance related to the layout and design of sites and buildings in the East Acton Village (EAV) District, please refer to the East Acton Village Plan as amended.

5.5B.1.2 The following standards shall apply to all STRUCTURES and additions to STRUCTURES for which a Site Plan Special Permit is required on LOTS in the EAV District:

a) The Sidewalks – The Site Plan Special Permit Granting Authority shall require sidewalks along the LOT'S FRONTAGE on a STREET or STREETS. The sidewalk shall be at least 10 feet wide but wider where necessary to allow pedestrian shopping and activities to spill out onto the sidewalk. Sidewalks may be located wholly or partially within the STREET layout. If on LOTS, sidewalks shall be considered part of the minimum required OPEN SPACE. The sidewalk shall be separated, where feasible, from the vehicular roadway with a landscaped buffer to provide both safety to pedestrians and to create the sense of village. The landscaped buffer shall consist of shade trees placed at appropriate intervals and other landscaping and STREET design elements such as benches and shrubs, and it may consist in part of on-STREET vehicular parking spaces.

b) Walkways – The Site Plan Special Permit Granting Authority shall require walkways among BUILDING entrances using straight and/or gently curving paths connecting BUILDINGS to BUILDINGS, BUILDINGS to STREETS, and BUILDINGS to sidewalks with minimal interruption by driveways. Parking lot aisles, along with access and interior driveways, do not count as walkways. Walkways should include "bulges" to allow for gathering points that may include special features (e.g., water elements, sculptures, statues, etc.). Special features should be designed for public interaction. Benches and other places for people to wait, bicycle racks, stroller bays, and other pedestrian amenities may be required near building entrances if deemed appropriate by the Site Plan Special Permit Granting Authority. Where feasible, walkways should have some degree of enclosure achieved through the use of BUILDING fronts, trees, low hedges, arcades, trellised walks, or other means in order to positively define its space. Walkways and related pedestrian amenities on LOTS under this Section b) and the following Sections c) and d) shall be considered part of the minimum required OPEN SPACE.

c) Connections between LOTS – The Site Plan Special Permit Granting Authority shall require driveway and walkway connections to abutting LOTS within the EAV District using the standards from Section b) above. Where such connections are not available due to existing conditions on abutting LOTS, provisions shall be required to connect to such abutting LOTS at a future date in locations determined by the Site Plan Special Permit Granting Authority.

d) Connections to EAV Surroundings – The Site Plan Special Permit Granting Authority shall require pedestrian connections to abutting neighborhoods and facilities outside the EAV District using the standards from Section b) above. Where such connections are not available due to existing conditions in the surrounding area, provisions shall be required for such connections at a future date in locations determined by the Site Plan Special Permit Granting Authority.

e) The Pedestrian Plaza – Where a LOT has on it STRUCTURES totaling a NET FLOOR AREA of 30,000 square feet or more, it shall have one or more pedestrian plazas on it.

   i. The combined area of pedestrian plazas shall measure at least 5% of the NET FLOOR AREA on the LOT, but not more than 3,000 square feet in combined area shall be required. At least one of the pedestrian plazas shall measure 1,500 square feet or more with a minimum side dimension of 20 feet. No pedestrian plaza shall measure more than 3,000 square feet.

   ii. The pedestrian plaza shall be a natural gathering spot at the STREET level in front of a BUILDING, on the side of a BUILDING, or in between BUILDINGS, which is to be used exclusively by pedestrians and connects to the sidewalk and walkways. For the purpose of this Section, a pedestrian arcade located within a BUILDING footprint and open to the outdoors may be counted towards the minimum area required for a pedestrian plaza.

   iii. The pedestrian plaza shall be designed open on one side to an adjacent larger space, natural view, or activity area such as an outdoor cafe, coffee cart, food stand, basketball hoop, game tables, or playground. Within the pedestrian plaza, at least one seating area or activity pocket shall be placed along the edge of the plaza looking into the plaza. The pedestrian plaza shall be accented with pedestrian amenities such as benches, kiosks and other partly enclosed outdoor structures to facilitate waiting and/or group activities. Where feasible, add a few steps at the edge where stairs come down or where there is a natural change in grade. Make these raised areas immediately accessible from below so that people may congregate and sit to watch the local activity. To create minor boundaries between outdoor areas and/or BUILDINGS where there is no grade change, add “sitting walls”. Sitting walls should be no higher than 16 inches and wide enough to sit on (at least 12 inches wide).

   iv. Shade trees, ornamental trees and other landscaping shall be included to provide shelter from the sun, to reduce noise, to beautify/enhance the appearance of the EAV District and to mitigate fumes. All landscaping shall use species that are tolerant to the climatic conditions in Acton and shall be designed to facilitate ongoing maintenance and watering.

   v. Notwithstanding any other provisions of this Bylaw to the contrary, the serving of foods and drinks at outdoor tables shall be permitted in a pedestrian plaza.

   vi. A pedestrian plaza shall be considered part of the minimum required OPEN SPACE. The area required for a sidewalk shall not be included in the pedestrian plaza.

f) Driveways and Parking Lots –

i. No driveway or parking lot shall be placed in the portion of a LOT that is directly in front of a BUILDING as seen from a STREET, whether or not the BUILDING is located on the same LOT as the driveway or parking lot, except that a driveway and parking lot may be placed in the front of a BUILDING that is located in the rear of another BUILDING when viewed from a STREET. No driveways or parking lots shall be located between a pedestrian plaza and a STREET, unless the pedestrian plazas are located in the rear of a BUILDING when viewed from a STREET. No driveway or parking lot shall intersect or be mixed with a pedestrian plaza.

ii. Vehicular driveways and parking lots may be located to the side and rear of BUILDINGS, to the rear of a pedestrian plaza or underground. Where parking is located to the rear of BUILDINGS with additional BUILDINGS behind, a quadrangle effect should be created allowing parking, landscaping, and walkways / bikeways within this center area surrounded on all sides by shops and activity centers.

g) BUILDING Design –

i. At least 60 percent of the front side of a LOT facing a STREET, measured in percentage of linear feet of the LOT FRONTAGE, shall be occupied by BUILDINGS or by a pedestrian plaza that are located within 20 feet of the STREET sideline. A reduction of this requirement of the front side of a LOT may be allowed provided the Site Plan Special Permit Granting Authority finds that the alternative design features are consistent with Section 5.5B.1.1 of this Bylaw.

ii. BUILDINGS shall be of a design similar to the architecture in historic commercial centers of New England in terms of scale, massing, roof shape, spacing, and exterior materials. Alternative designs may be allowed provided the Site Plan Special Permit Granting Authority finds the alternative design is consistent with Section 5.5B.1.1 of the Bylaw.

iii. BUILDING facades facing STREETS or pedestrian plazas are also referred to herein as the BUILDING front(s) or BUILDING front facade(s). Such BUILDING fronts shall have setbacks only to accommodate sidewalks and/or pedestrian plazas or amenities and shall have a vertical orientation, meaning either that the BUILDING shall actually have a greater height than width, or that the facades and roof lines of the BUILDING are designed to reduce the massing and bulk so that it appears as a group of smaller masses with a distinct vertical orientation.

iv. The BUILDING front facades shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, uneven angles, detailing and contrasting shapes is required. Not more than 50 feet of a BUILDING front shall be in the same vertical plane.

v. The BUILDING front facade(s) shall be faced with materials that resemble historic New England architecture.

vi. On the BUILDING fronts, the ground floor shall be designed to be occupied by businesses with a higher percentage of walk-in traffic (e.g., Retail Stores, Restaurants, Service related businesses, Commercial Entertainment).

vii. The main business entrance to each ground floor business, identified by the larger doors, signs, canopy, or similar means of highlighting, shall be from the BUILDING front.

viii. Arcades and canopies are encouraged. They shall not be considered part of the BUILDING. These arcades and canopies should be used to connect the BUILDINGS to one another so that a person can walk from place to place under shelter. Arcades and canopies may be located within the 10-foot front yard

setback where the Site Plan Special Permit Granting Authority finds such placement appropriate and consistent with Section 5.5B.1.1 of the Bylaw.

ix. The BUILDING front(s) shall contain windows covering at least 15 percent of the facade surface. Windows shall be highlighted with frames, lintels, and sills, or equivalent trim features.

x. Except for ground level display windows, windows shall have a 2:1 ratio of height to width. Alternative window designs may be allowed provided the Site Plan Special Permit Granting Authority finds them to be consistent with Section 5.5B.1.1 of the Bylaw and that they enhance one or more architectural features.

xi. On the ground level portion of the BUILDING front, the amount of windows in the facade surface shall be at least 20 percent but not larger than 80 percent. Ground floor display windows shall be framed on all sides by the surrounding wall. They shall be highlighted with frames, lintels and sills or equivalent trim features, or may instead be recessed into the wall or projected from the wall.

xii. Mirror windows and highly reflective surfaces shall not be allowed on the BUILDING fronts.

xiii. Roofs shall be gabled with a minimum pitch of 9/12 (9” vertical for every 12” horizontal) and have overhanging eaves of at least one foot. Two or three story BUILDINGS, or two or three story portions of a BUILDING, may have a flat roof provided that the tops of the BUILDING front facades are treated with an articulated cornice, dormers, or other architectural treatment that appears an integral part of the BUILDING from all visible sides of the BUILDING.

xiv. The main features of the architectural treatment of the BUILDING front facades, including the materials used, shall be continued around all sides of the BUILDING that are visible from a STREET or a pedestrian plaza. The Site Plan Special Permit Granting Authority may approve alternate treatment of side and rear BUILDING walls that is consistent with Section 5.5B.1.1 of the Bylaw and preserves the architectural integrity of the BUILDING as a whole.

xv. Garage doors or loading docks shall not be allowed in the BUILDING fronts.

xvi. BUILDING service and loading areas shall incorporate effective techniques for visual and noise buffering from adjacent USES.

xvii. Accessory STRUCTURES, air conditioning equipment, electric utility boxes, satellite dishes, trash receptacles, and other ground level utilities shall be unobtrusive when viewed from the STREET and adjacent LOTS.

xviii. Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials.

5.5B.2 Variable Density Provisions for the East Acton Village Districts

5.5B.2.1 Purpose – The purposes of this section are to better distinguish the East Acton Village District visually and aesthetically from the rest of the development along Great Road (Route 2A); to keep it compact; to maintain its historic structures; to increase business variety; to promote a pedestrian-friendly village environment; to encourage affordable housing; and to promote environmentally sustainable designs and construction methods. The density incentives offered in this section are intended to entice property owners to redevelop their properties in accordance with the design provisions of the previous Section 5.5B.1, and to help overcome redevelopment obstacles, such as cost of redevelopment and loss of income during construction time. Vehicle parking, OPEN SPACE, and waste water management requirements impact the development potential of properties in different ways. Therefore, not all properties may be able to achieve the maximum density level set forth in this section. Density in the East Acton Village District shall not be considered as an end in itself, but as a prerequisite to achieve the critical mass required for a vibrant village.

5.5B.2.2 Variable Density Options – For a LOT in the East Acton Village District, the Board of Selectmen may grant a Special Permit for increases in density by allowing additional NET FLOOR AREA above the FLOOR AREA RATIO of 0.20 set forth in the Table of Standard Dimensional Regulations. To increase the density, the options a) through d) set forth below may be selected and combined in a flexible manner to increase the NET FLOOR AREA up to a maximum FLOOR AREA RATIO of 0.50 on the LOT. To the extent that this Special Permit may coincide or overlap with other special permits from the Board of Selectmen in other sections of this Bylaw, they shall be processed concurrently so far as practical:

a) Transfer of Development Rights – Density on the LOT may be increased through the Transfer of Development Rights according to one or more of the methods, procedures, and requirements set forth in the following subsections. The amount of NET FLOOR AREA that is added under this option shall not exceed the equivalent of a FLOOR AREA RATIO of 0.20 on the LOT:

i. Transfer of Development Rights under Section 5.4 – Transfer of Development Rights from the Sending District as defined in Section 5.4.2.2 to a receiving LOT in the East Acton Village District subject to the provisions for such transfers set forth in Section 5.4 and its subsections of this Bylaw.

ii. Transfer of Development Rights within the East Acton Village Districts - Transfer of Development Rights from a sending LOT within the East Acton Village District or the East Acton Village 2 (EAV-2) District to a receiving LOT in the East Acton Village District. The effect of such a transfer shall be an increase in NET FLOOR AREA on the receiving LOT compensated by an equal reduction in the maximum NET FLOOR AREA, and the concurrent maximum FAR, on the sending LOT, subject to the bonus provision iii. below.

iii. Bonus for Certain Transfers – Where the receiving LOT within the East Acton Village District is located on the east side of Great Road, and the sending LOT is located in the East Acton Village District on the west side of Great Road or within the East Acton Village 2 (EAV-2) District, and the sending LOT contains or has stream frontage on Nashoba Brook, the receiving LOT shall be entitled to a 25% density bonus on the transferred NET FLOOR AREA. However, this bonus shall not result in exceeding the maximum FAR 0.20 factor allowed for receiving LOTS in Section 5.5B.2.2.a). For example, under this bonus, an additional 1,250 square feet of NET FLOOR AREA on the receiving LOT requires the purchase of only 1,000 square feet of NET FLOOR AREA from the sending LOT. 250 square feet constitutes the bonus.

iv. Determination of Development Rights for affected LOTS under Sections ii. and iii. above – Before granting a Special Permit for the Transfer of Development Rights under Section ii. or iii. above, the Board of Selectmen shall determine the total development rights for all LOTS to be affected by the proposed transfer, expressed in NET FLOOR AREA as computed in Section 10.4.3.8 of this Bylaw, counting any development rights previously added or removed from such LOTS. The application for a Special Permit under this Section shall contain sufficient information to permit the Board of Selectmen's determination of the development rights that may be transferred.

v. The Board of Selectmen shall require that, upon transfer of the development rights authorized in its special permits, the owner of the sending LOT shall file with the Middlesex South District Registry of Deeds or the Land Court (as applicable) an irrevocable restrictive covenant, approved by the Board of Selectmen, running with the land, permanently restricting the development of the sending LOT. The covenant shall restrict the sending LOT by the amount of

development rights transferred to another LOT, permitting only the amount of development rights that remain on the LOT, if any, all as specified in the Special Permit authorizing the transfer.

vi. Implementation of Transfer – Following the approval of a Special Permit under this Section, the applicant shall complete the transfer procedures set forth in Sections 5.4.4 and 5.4.5, except that the formulas in Section 5.4.4.2 shall not apply to transfers within the East Acton Village and East Acton Village 2 Districts.

b) Historic Preservation – Density on the LOT may be increased if the proposed development includes the restoration or preservation of a historic STRUCTURE on the LOT, subject to the requirements and penalties set forth in the following subsections. The amount of NET FLOOR AREA that is added under this option shall not exceed the equivalent of a FLOOR AREA RATIO of 0.10 on the LOT.

i. Detailed Proposal – The application for a Special Permit to increase density shall include a detailed proposal for the restoration or preservation of a historic STRUCTURE, including architectural drawings, building materials, cost estimates, and an architect's opinion regarding its feasibility and risks.

ii. Historical Commission Certification – The application for a Special Permit to increase density shall include a written certification from the Acton Historical Commission that the STRUCTURE is included in Acton's Cultural Resources Inventory or that the completion of a survey leading to its inclusion is pending.

iii. Historical Commission Recommendation – The application for a Special Permit to increase density shall include a written recommendation from the Acton Historical Commission stating its support for the restoration or preservation of the STRUCTURE and the methods to achieve it.

iv. Performance Guarantee to Secure Preservation Commitment – In granting a Special Permit to increase density under this Section, the Board of Selectmen may require a performance guarantee to secure the restoration or preservation of the historic STRUCTURE.

v. Penalty – The intentional demolition of a historic STRUCTURE, for which the Acton Historical Commission certifies that it is included in Acton's Cultural Resources Inventory or that the completion of a survey leading to its inclusion is pending, shall result in the prohibition of any and all density increases available under this Bylaw on the subject LOT for a period of 25 years following the demolition. However, this penalty shall not apply, where the Acton Historical Commission has, prior to the demolition, provided its written consent to the demolition in accordance with its authority and jurisdiction under Chapter N of the Bylaws of the Town of Acton.

c) Affordable Housing – Density on the LOT may be increased if the proposed development includes at least 1 affordable DWELLING UNIT or 10% affordable DWELLING UNITS on the LOT, whichever is greater, subject to the standards and requirements set forth in the following subsections. The amount of NET FLOOR AREA that is added under this option shall not exceed the equivalent of a FLOOR AREA RATIO of 0.10 on the LOT.

i. The term "affordable DWELLING UNIT" as used in this Section shall mean a DWELLING UNIT that is restricted to sale, lease or rental to persons or households within specific income and asset limitations, and at specific price limits, both as established in provisions of any State or Federal rental assistance programs, subsidy programs for reducing mortgage payments, or other programs that provide for affordable housing for low and moderate income

persons or households, and that are in effect at the time that the Board of Selectmen receive the Special Permit application.

ii. Affordability Standards – Subject to the Board of Selectmen's approval, an applicant for a density bonus under this option may utilize an available State or Federal assistance program or choose to meet affordability requirements by utilizing income and asset standards, and by establishing rents, leases, sales prices, entry fees, condominium fees, and other costs for affordable DWELLING UNITS that are generally consistent with available affordable housing assistance programs.

iii. Affordability Restrictions – Affordable DWELLING UNITS shall be maintained as such in perpetuity. Each affordable DWELLING UNIT shall be rented or sold to its initial and all subsequent buyers or tenants subject to deed riders, restrictive covenants, contractual agreements, or other mechanisms restricting the USE and occupancy, rent levels, sales prices, resale prices, and other cost factors to assure their long term affordability. These restrictions shall be in force for perpetuity. They shall be enforceable and renewable by the Town of Acton through standard procedures provided by applicable law.

iv. The Board of Selectmen may require that the restrictions for affordable DWELLING UNITS contain a Right of First Refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such Right of First Refusal to the Town of Acton or its designee prior to selling the affordable DWELLING UNITS with adequate time for the Town or its designee to exercise the Right of First Refusal.

v. Nothing in this Section shall be construed to cause eviction of an owner or tenant of an affordable DWELLING UNIT due to loss of his/her income eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an affordable DWELLING UNIT shall be enforced upon resale, re-rental, or re-lease of the affordable DWELLING UNIT. The mechanisms and remedies to enforce the restrictions governing an affordable DWELLING UNIT upon resale, re-rental, or re-lease shall be set forth in its deed restrictions.

vi. All contractual agreements with the Town of Acton and other documents necessary to insure the long term affordability of an affordable DWELLING UNIT shall be executed prior to the issuance of any building permit that will implement the increase in density authorized under the Special Permit.

vii. Locations and compatibility of affordable DWELLING UNITS – Affordable DWELLING UNITS shall be dispersed throughout the development to insure a true mix of market-rate and affordable DWELLING UNITS. The exterior of affordable DWELLING UNITS shall be compatible with, and as much as possible indistinguishable from, market-rate DWELLING UNITS on the same LOT. All internal design features of affordable DWELLING UNITS shall be substantially the same as those of market-rate DWELLING UNITS.

viii. Local Preference – To the maximum extent practical and subject to applicable Federal or State financing or subsidy programs, the AFFORDABLE DWELLING UNITS shall be initially offered to qualified LOW- and MODERATE-INCOME households that meet local preference criteria established from time to time by the Town of Acton or the Acton Community Housing Corporation. Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee. The local preference restriction shall be in force for 120 days from the date of the first offering of sale or rental of a particular AFFORDABLE DWELLING UNIT. The applicant shall make a diligent effort to

locate eligible purchasers or renters for the AFFORDABLE DWELLING UNIT who meet the local preference criteria and the applicable income requirements.

ix. Timing of construction – As a condition of the issuance of a Special Permit under this Section, the Board of Selectmen may set a time or development schedule for the construction of affordable DWELLING UNITS and market-rate DWELLING UNITS on the LOT.

d) LEED certification – Density on the LOT may be increased if the proposed development is certified under the United States Green Building Council's LEED (Leadership in Energy and Environmental Design) program. The amount of NET FLOOR AREA that is added under this option shall not exceed the equivalent of a FLOOR AREA RATIO of 0.05 on the LOT. To qualify for the density bonus for LEED certification in the East Acton Village District, a project would have to meet the LEED standards for New Construction & Major Renovation Projects.

5.5C Special Provisions for the North Acton Village District

5.5C.1 Variable Density Provisions for the North Acton Village District

5.5C.1.1 Purpose – These provisions are intended to permit flexible density levels for individual LOTS in the North Acton Village District, while maintaining an overall ceiling on total NET FLOOR AREA. The purpose of permitting variable density levels is to permit further clustering of USES in a compact village pattern, while limiting total traffic generation and providing for sufficient OPEN SPACE and off-STREET parking areas. The provisions should be interpreted as permitting the Transfer of Development Rights within the North Acton Village District, but not as permitting an increase in the total amount of maximum development in that District.

5.5C.1.2 Transfer of Development Rights Within the North Acton Village District

a) For a LOT in the North Acton Village District, the Board of Selectmen may grant a Special Permit for the Transfer of Development Rights within the District. The effect of such Special Permit shall be to permit an increase in NET FLOOR AREA above the total amount permitted by:

i. the applicable maximum FLOOR AREA RATIO set forth in the Table of Standard Dimensional Regulations, and

ii. if applicable, any Certificate of Development Rights previously transferred to the LOT from within or from outside the District.

b) Any such increase in NET FLOOR AREA shall be compensated by an equal reduction in the maximum NET FLOOR AREA for another LOT in the North Acton Village District.

5.5C.1.3 Standards of Review – In deciding on the merits of a proposal for Transfer of Development Rights within the North Acton Village District, the Board of Selectmen shall consider the following criteria and objectives:

a) Increased density on a LOT should support a sense of community through a concentration of a variety of USES; therefore, density increases should be granted only where such concentrations are compatible with surrounding USES. The implementation of this provision should tend to facilitate the development of a viable village center through the grouping of higher density USES around an identifiable core, such as a plaza, common or other municipal facility.

b) In addition, the Transfer of Development Rights should serve a public purpose on the LOT from which development rights are to be transferred, by providing shared off-STREET parking, usable public or semi-public OPEN SPACE or other public amenities.

c) The Board of Selectmen shall grant a Special Permit for the Transfer of Development Rights within the North Acton Village District only if it can make appropriate findings that the criteria and objectives of a) and b) are promoted by granting the transfer.

5.5C.1.4 Administration

a) Determination of Development Rights for Affected LOTS – Before granting a Special Permit under Section 5.5C.1, the Board of Selectmen shall determine the development rights for all LOTS to be affected by the proposed transfer. The Special Permit shall specify the residential, nonresidential, and total development rights for each LOT, expressed in NET FLOOR AREA as computed in Section 10.4.3.8 of this Bylaw, less any development rights previously removed from such LOTS. The application for a Special Permit under this Section shall contain sufficient information to permit the Board of Selectmen's determination of the development rights that may be transferred.

b) The Board of Selectmen shall require that upon Transfer of the Development Rights authorized in its special permits, the owner of a LOT from which development rights have been removed, shall file with the Middlesex South District Registry of Deeds or the Land Court (as applicable) an irrevocable restrictive covenant, approved by the Board of Selectmen, running with the land, permanently restricting the development of the LOT. The covenant shall restrict the LOT by the amount of development rights transferred to another LOT, permitting only the amount of development rights that remain on the LOT, if any, all as specified in the Special Permit authorizing the transfer.

c) Implementation of Transfer – Following the approval of a Special Permit under this Section, the applicant shall complete the transfer procedures set forth in Sections 5.4.4 and 5.4.5, except that the formulas in Section 5.4.4.2 shall not apply to transfers within the North Acton Village District.

5.5C.2 STREET reservations in the North Acton Village District – In the North Acton Village District, a Special Permit or Site Plan Special Permit Granting Authority may require the reservation of STREET rights of way for all purposes, for which public STREETS and ways are used in the Town of Acton. It may further require that new STREETS be constructed following approval in accordance with MGL Ch. 41, s. 81K - 81GG and the Acton Subdivision Rules and Regulations to connect with existing approved STREETS. Where such STREET rights of way are reserved, the FLOOR AREA RATIO on the remaining land shall be calculated by including the rights of way reserved hereunder, including any necessary easements, in the DEVELOPABLE SITE AREA.

5.6 Special Provisions for the Kelley's Corner District

5.6.1 Purpose – In the Kelley's Corner District, the principal goal guiding the regulations set forth herein is to sustain and encourage a vital business center that provides needed goods, services, jobs and increased tax revenues in a manner that is compatible with Acton's historic development pattern and establishes pedestrian accessibility and circulation throughout the Kelley's Corner area. These regulations will provide clear guidance to those who would like to expand or locate businesses in the Kelley's Corner District. They will ensure that future development will help create the form, cohesion, order, and supporting infrastructure that will identify the Kelley's Corner District as an attractive, pleasant, and desirable center for business, shopping and other commercial and community activities.

Pedestrian access and circulation are favored in order to limit vehicular congestion and air pollution. Adjacent residential neighborhoods will be connected to the Kelley's Corner District via pedestrian ways but are otherwise separated with landscape buffers. In order to support the growth and vitality of the center, higher density developments are required to contribute to a fund for the construction of a centralized wastewater collection and treatment system serving the Kelley's Corner District and surrounding areas. The regulations are intended to implement the Kelley's Corner Plan as amended.

It is widely recognized that the mere provision of sidewalks and crosswalks will not encourage pedestrian use of a commercial area unless the layout and design of the sites and BUILDINGS are also conducive to pedestrian use. The leading design principles are therefore to provide convenient and efficient pedestrian access within the Kelley's Corner District and to surrounding neighborhoods and facilities, to provide a safe and comfortable pedestrian environment with walkways, pedestrian conveniences and amenities, and to encourage BUILDINGS with a pedestrian oriented scale and design.

5.6.2 The following standards shall apply to all LOTS in the KC District:

5.6.2.1 The Site Plan Special Permit Granting Authority shall require sidewalks along the LOT'S FRONTAGE on a STREET or STREETS and walkways between BUILDING entrances and the nearest STREET or STREETS with minimal interruption by driveways. Parking lot aisles, and access and interior driveways do not count as walkways;

5.6.2.2 The Site Plan Special Permit Granting Authority shall require driveway and walkway connections to abutting LOTS within the KC District. Where such connections are not available due to current conditions on abutting LOTS, provisions shall be required to connect to such abutting LOTS at a future date in locations determined by the Site Plan Special Permit Granting Authority;

5.6.2.3 The Site Plan Special Permit Granting Authority shall require pedestrian connections to abutting neighborhoods and facilities outside the KC District. Where such connections are not available due to current conditions in the surrounding area, provisions shall be required for such connections at a future date in locations determined by the Site Plan Special Permit Granting Authority.

5.6.3 The following standards shall apply on all LOTS in the KC District where the FLOOR AREA RATIO exceeds 0.20:

5.6.3.1 The Sidewalk – A sidewalk shall be provided along the LOT'S FRONTAGE on a STREET or STREETS. The sidewalk shall be at least 10 feet wide. Sidewalks may be located wholly or partially within the STREET layout. The sidewalk shall be separated

from the vehicular roadway with a landscaped buffer at least 10 feet wide, which shall consist of shade trees placed at 40-45 foot intervals and other landscaping or STREET design elements, and which may consist in part of on-STREET vehicular parking spaces.

5.6.3.2 The Pedestrian Plaza – A pedestrian plaza shall be provided on any LOT where the NET FLOOR AREA is 30,000 square feet or more and the FLOOR AREA RATIO exceeds 0.35.

a) The pedestrian plaza shall be an area at the STREET level in front of a BUILDING, on the side of a BUILDING, or in between BUILDINGS, which is to be used exclusively by pedestrians and connects to the sidewalk. For the purpose of this section, a pedestrian arcade located within a BUILDING footprint and open to the outdoors may be counted towards the minimum area required for a pedestrian plaza.

b) A pedestrian plaza shall contain a minimum of 1,500 square feet in area and shall measure at least 20 feet in width. If the NET FLOOR AREA of the BUILDINGS on a LOT exceeds 100,000 square feet, the minimum area for a pedestrian plaza shall be 3,000 square feet. The area required for a sidewalk shall not be included in the pedestrian plaza.

c) The pedestrian plaza shall be next to the STREET and sidewalk, and shall be open on one or more sides to the sidewalk.

d) The pedestrian plaza shall be accented with pedestrian amenities such as benches and kiosks. Shade trees, ornamental trees and other landscaping shall be provided to create a separation between pedestrian and vehicular traffic, to highlight BUILDINGS and pedestrian spaces, to provide shelter from the sun, to minimize glare for drivers, to reduce noise, and to mitigate fumes.

e) All landscaping shall use species that are tolerant to the climatic conditions in Acton and shall be designed to facilitate ongoing maintenance and watering.

f) Notwithstanding any other provisions of this Bylaw to the contrary, the serving of foods and drinks at outdoor tables shall be permitted in a pedestrian plaza.

5.6.3.3 Driveways and Parking Lots –

a) No driveway or parking lot shall be placed in the portion of a LOT that is directly in front of a BUILDING as seen from a STREET, whether or not the BUILDING is located on the same LOT as the driveway or parking lot, except that a driveway and parking lot may be placed in the front of a BUILDING that is located in the rear of another BUILDING when viewed from a STREET. No driveways or parking lots shall be located between a pedestrian plaza and a STREET, nor shall any driveway or parking lot intersect or be mixed with a pedestrian plaza.

b) Vehicular driveways and parking lots may be located to the side and rear of BUILDINGS or to the rear of a pedestrian plaza.

5.6.3.4 BUILDING Design –

a) At least 60 percent of the front side of a LOT facing a STREET, measured in percentage of linear feet of the LOT FRONTAGE, shall be occupied by BUILDINGS or by a pedestrian plaza that are located within 40 feet of the STREET sideline. A reduction of this requirement to 50 percent of the front side of a LOT may be allowed provided the Site Plan Special Permit Granting Authority finds that the alternative design features are consistent with Section 5.6.1 of this Bylaw.

b) BUILDINGS shall be of a design similar to the architecture in historic commercial centers of New England in terms of scale, massing, roof shape, spacing and exterior materials. Alternative designs may be allowed provided the Site Plan Special

Permit Granting Authority finds the alternative design is consistent with Section 5.6.1 of the Bylaw.

c) BUILDING facades facing STREETS or pedestrian plazas are also referred to herein as the BUILDING front(s) or BUILDING front facade(s). Such BUILDING fronts shall have a vertical orientation, meaning either that the BUILDING shall actually have a greater height than width, or that the facades and roof lines of the BUILDING are designed to reduce the massing and bulk so that it appears as a group of smaller masses with a distinct vertical orientation.

d) The BUILDING front facades shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. Not more than 50 feet of a BUILDING front shall be in the same vertical plane.

e) The BUILDING front facade(s) shall be faced with materials used in historic New England architecture. Alternative materials may be used on the BUILDING front facade(s) provided that the Site Plan Special Permit Granting Authority finds the materials to be consistent with Section 5.6.1 of the Bylaw.

f) On the BUILDING fronts, the ground floor shall be occupied, or designed to be available for occupancy, by Retail Stores; Restaurants; Hotel, Motel, Inn, Conference Center; Lodges or Clubs; Bed & Breakfast; Services; Commercial Entertainment; real estate agencies; insurance agencies; travel agencies; law offices; medical and dental offices; walk-in clinics; small equipment repair services; tailors; or photography studios.

g) The main business entrance to each ground floor business, identified by the larger doors, signs, canopy or similar means of highlighting, shall be from the BUILDING front.

h) Grocery retailers with a NET FLOOR AREA larger than 20,000 square feet may have a second main entrance in another location, for instance towards a parking lot in the rear or the side of a BUILDING.

i) Arcades and canopies shall not be considered part of the BUILDING. Arcades and canopies may not be located within 10 feet of the sideline of a STREET unless the Site Plan Special Permit Granting Authority finds that the reduction in setback to the sideline of the STREET is consistent with Section 5.6.1 of the Bylaw.

j) The BUILDING front(s) shall contain windows covering at least 15 percent of the facade surface. Windows shall be highlighted with frames, lintels and sills or equivalent trim features. Windows and doors shall be arranged to give the facade a sense of balance and symmetry.

k) Except for ground level display windows, windows shall have a 2:1 ratio of height to width. Alternative window designs may be allowed provided the Site Plan Special Permit Granting Authority finds them to be consistent with Section 5.6.1 of the Bylaw and that they enhance one or more architectural features.

l) On the ground level portion of the BUILDING front, the amount of windows in the facade surface shall be at least 20 percent but not larger than 80 percent. Ground floor display windows shall be framed on all sides by the surrounding wall. They shall be highlighted with frames, lintels and sills or equivalent trim features, or may instead be recessed into the wall or projected from the wall.

m) Mirror windows and highly reflective surfaces shall not be allowed on the BUILDING fronts.

n) Roofs shall be gabled with a minimum pitch of 9/12 (9” vertical for every 12” horizontal) and have overhanging eaves of at least one foot. Two or three story BUILDINGS, or two or three story portions of a BUILDING, may have a flat roof provided that the tops of the BUILDING front facades are treated with an articulated

cornice, dormers, or other architectural treatment that appears an integral part of the BUILDING from all visible sides of the BUILDING.

o) The main features of the architectural treatment of the BUILDING front facades, including the materials used, shall be continued around all sides of the BUILDING that are visible from a STREET or a pedestrian plaza. The Site Plan Special Permit Granting Authority may approve alternate treatment of side and rear BUILDING walls that is consistent with Section 5.6.1 of the Bylaw and preserves the architectural integrity of the BUILDING as a whole.

p) Garage doors or loading docks shall not be allowed in the BUILDING fronts.

q) BUILDING service and loading areas shall incorporate effective techniques for visual and noise buffering from adjacent USES.

r) Accessory STRUCTURES, air conditioning equipment, electric utility boxes, satellite dishes, trash receptacles and other ground level utilities shall be unobtrusive when viewed from the STREET and adjacent LOTS.

s) Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials.

5.7 Special Provisions for the Office Park 2 District

5.7.1 Purpose – The purpose of this Section is to set forth specific standards for the development in the Office Park 2 District to ensure that the prime location of this district on Route 2 is utilized to its optimum while ensuring adequate provisions for wastewater collection and treatment and vehicular access and circulation in the general area.

5.7.2 On any LOT where a FLOOR AREA RATIO in excess of 0.10 is proposed, the Site Plan Special Permit Granting Authority may require, as a condition of a site plan approval, the following contributions to the Town of Acton:

5.7.2.1 An area of land suitable in size and location for the construction of a centralized wastewater collection, treatment and disposal system serving the OP-2 District and other areas within the Town of Acton. Where such a contribution of land is made, the maximum FLOOR AREA RATIO on the remaining land shall be calculated by including in the DEVELOPABLE SITE AREA the land contributed to the Town; and

5.7.2.2 An area of land suitable in size and location to be used for the construction of a Service Road (as defined in the Acton Subdivision Rules and Regulations) on the south side of Route 2 between Route 111 west of Route 2, and Route 2 just east of Hosmer Street. Where such a contribution of land is made, the maximum FLOOR AREA RATIO on the remaining land shall be calculated by including in the DEVELOPABLE SITE AREA the land dedicated to the Town.

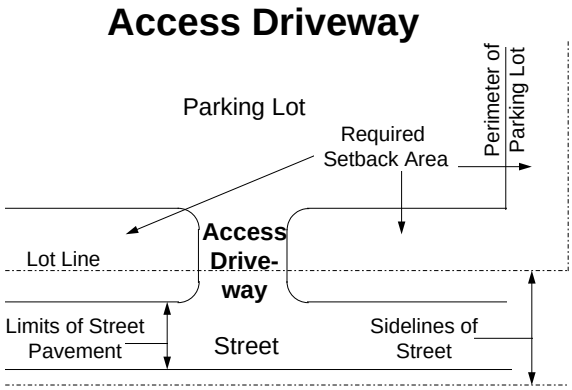
SECTION 6.

PARKING STANDARDS

NOTE:	Under Section 10.4.4 the Board of Selectmen may, under limited circumstances, increase the requirements of this Section or grant relief from the requirements of this Section. The reader is advised to consult Section 10.4.4 to determine whether increased parking requirements may be imposed or to determine the circumstances under which relief may be available.

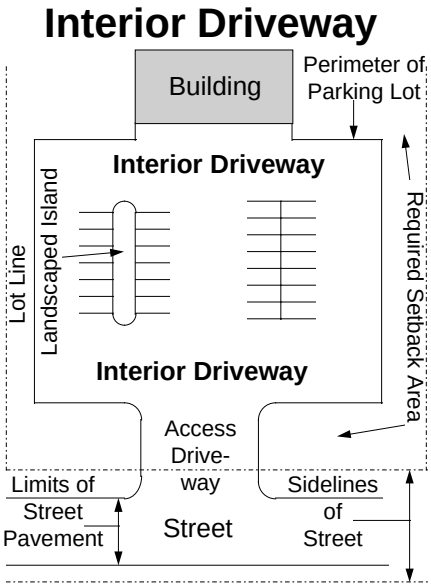
6.1 **Definitions** – For the purposes of this Section, the following terms shall have the following meaning:

6.1.1 ACCESS Driveway – The travel lane that allows motor vehicles ingress from the STREET and egress from the site and includes the area between the edge of STREET pavement to the area within the LOT where the ACCESS driveway is no longer within the minimum parking area setback required under Section 6.7.2.



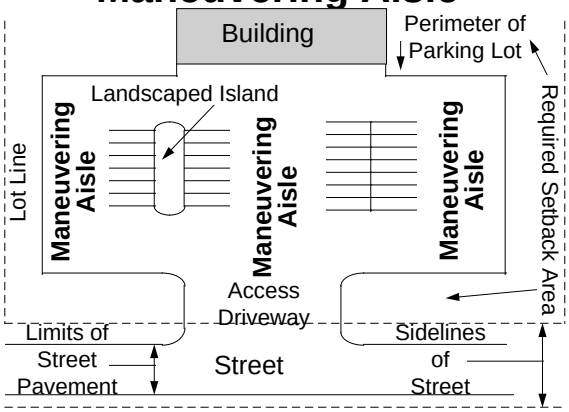
6.1.2 BUILDING Service Area – A room or rooms in a BUILDING used to house electrical or mechanical equipment necessary to provide central utility service to the BUILDING, such as a boiler room.

6.1.3 Interior Driveway – A travel lane located within the LOT which is not used to directly enter or leave parking spaces. An interior driveway shall not include any part of the ACCESS driveway.



6.1.4 Maneuvering Aisle – A travel lane located within the perimeter of a parking lot by which motor vehicles directly enter and leave parking spaces.

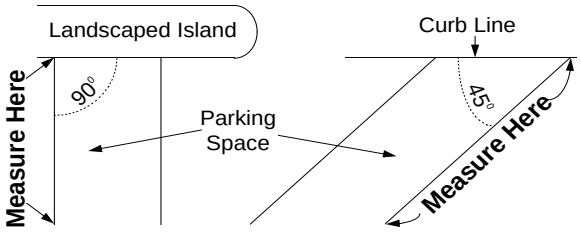
Maneuvering Aisle



6.1.5 NET FLOOR AREA – As defined in Section 1.3.7 FLOOR AREA, NET of the Acton Zoning Bylaw.

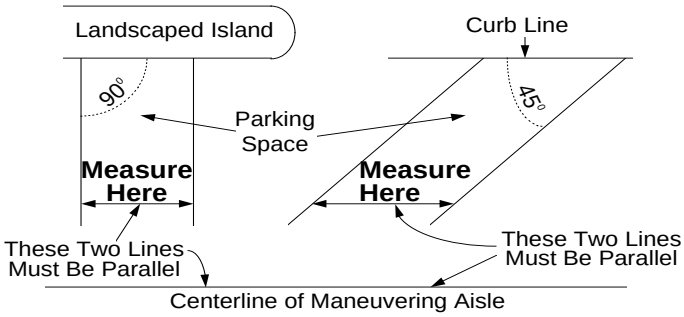
6.1.6 Parking Stall Length of Line – The longitudinal dimension of the stall measured parallel to the angle of parking.

Parking Stall Length of Line



6.1.7 Width of Parking Stall – The linear dimension measured across the stall and parallel to the maneuvering aisle.

Width of Parking Stall



6.2 **General Provisions** – All required parking shall be located on the same LOT as the USE it serves except within a MAJOR AFFORDABLE Housing Development (Section 4.4) and a PCRC (Section 9) where required parking may be provided in a flexible configuration within the TRACT OF LAND comprising the development, and except as provided in Section 6.9. Parking facilities shall also comply with the requirements of the Massachusetts Architectural Access Board.

6.2.1 Change of USE – The USE of any land or STRUCTURE shall not be changed from a USE described in one Section of the Schedule of Parking USES to a USE in another Section of the Schedule nor shall any NET FLOOR AREA of a BUILDING be increased

in any manner unless the number of parking spaces required for the new USE are provided.

6.2.2 Undetermined USES – Where the USE of a BUILDING or BUILDINGS has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive USE allowed in the district where such undetermined USE is to be located shall apply provided, however, that the number of parking spaces actually built need not exceed the number required by the actual USE or USES of the BUILDING.

6.2.3 Relief from Parking Regulations by Special Permit from the Board of Selectmen – Relief from the parking regulations may be granted by special permit from the Board of Selectmen where the Board finds that it is not practicable to provide the number of parking spaces required, and either 1) in the case of a change from a nonconforming USE to a conforming USE, that the benefits of a change to a conforming USE outweigh the lack of parking spaces, or 2) in the case of a change from one conforming USE to another conforming USE, that the lack of parking spaces will not create undue congestion or traffic hazards on or off the site; provided that in either case the Board of Selectmen shall require the maximum practicable number of parking spaces. This Section shall not be construed to provide relief from the requirements of Section 5.4.6.2.

6.3 Minimum Parking Space Requirements by USE

6.3.1 Schedule

6.3.1.1	Dwelling	Two spaces for each DWELLING UNIT, except for an Apartment as defined in Section 3.3.2.
6.3.1.2	Home Occupation	Three spaces and where non-residents are employed or where retail sales are conducted the Board of Appeals shall have the authority under Section 3.8.1.2 to require the number of parking spaces which it deems to be adequate and reasonable.
6.3.1.3	Educational (not including auditorium)	One space for each employee plus one space for each classroom plus one space for each four students above grade ten.
6.3.1.4	Nursing Home, Assisted Living Residence, or Full Service Retirement Community	Two spaces for each DWELLING UNIT that is designed for independent living; plus one space for each additional three beds.
6.3.1.5	Child Care Facility (1)	One space per ten (10) children of rated capacity of the child care facility plus one space for each staff person on the largest shift.
6.3.1.6	Retail Stores and Services not listed below; Repair Shop, Technical Shop, Studio; Restaurants without seating	One space for each 300 square feet of NET FLOOR AREA.
6.3.1.7	Bank; Credit Union; Convenience Store; Shopping Center with two or more Retail Stores	Three spaces per 1000 s.f. of NET FLOOR AREA.
6.3.1.8	Furniture Store	One space per 600 s.f. of NET FLOOR AREA.
6.3.1.9	Office	One space for each 250 square feet of NET FLOOR AREA.

6.3.1 Schedule (continued)

6.3.1.10	Restaurant (not otherwise listed); Funeral Home; Religious; Lodge or Club; Other Place of Assembly	One space for each three seats.
6.3.1.11	Fast Food Restaurants with seating but no table service	One space per 100 s.f. of NET FLOOR AREA.
6.3.1.12	Hotel, Motel, Inn, Conference Center	One space for each bedroom, plus one space per 4 persons of rated capacity of conference rooms, banquet halls, restaurants, and other adjunct facilities.
6.3.1.13	Building Trade Shop	One Space for each 1000 s.f. of NET FLOOR AREA or one space per employee on the largest shift, whichever is greater.
6.3.1.14	Commercial Recreation; Commercial Entertainment; Auditorium	One space per four seats or one space per 200 s.f. of NET FLOOR AREA or one space per 4 persons of rated capacity, whichever is greater.
6.3.1.15	Vehicle Service Station; Vehicle Repair; Vehicle Body Shop	Two spaces plus three spaces for each service bay.
6.3.1.16	Industrial	One space for each 2,000 s.f. of NET FLOOR AREA for the first 20,000. s.f. plus one space for each additional 10,000 s.f. of NET FLOOR AREA, or one space for each employee on the largest shift, whichever is greater.
6.3.1.17	Golf Courses	Ten spaces per hole, plus one space per employee on the largest shift, plus one space per 3 persons of the capacity of all other accessory indoor and outdoor facilities as determined by the Special Permit Granting Authority.

(1) The number of parking spaces for a Child Care Facility in a Residential Zoning District shall not exceed the minimum requirement.

6.3.2 Parking for Persons with Disabilities – Parking spaces for persons with disabilities as required by the Massachusetts Architectural Access Board shall be provided as part of the spaces required under Section 6.3.1.

6.3.3 Comparable USES – Where a USE is not specifically included in Section 6.3.1, it is intended that the requirements for the most nearly comparable USE specified shall apply.

6.3.4 Mixed USES – For mixed USES the total number of required parking spaces shall be the sum of parking spaces required for each individual USE as listed in Section 6.3.1, except where it can be demonstrated that the parking need for the USES occurs at different times.

6.3.5 Car/Van Pools – In conjunction with a Site Plan Special Permit (Section 10.4), the Special Permit Granting Authority may authorize a reduction in the number of required parking spaces provided that an effective employee car pool/van pool program will be implemented and car pool/van pool spaces are designated.

6.3.6 Reserve Parking – In conjunction with a Site Plan Special Permit, the Special Permit Granting Authority may authorize the set-aside of part of the required number of parking spaces as "reserve parking". See Section 10.4.4 for details.

6.4 Loading Areas – Except in the WAV and SAV Districts, one or more off-STREET loading areas shall be provided for any business that may be regularly serviced by

tractor-trailer trucks or other similar delivery vehicles, so that adequate areas shall be provided to accommodate all delivery vehicles expected at the premises at any one time. Loading areas shall be located at either the side or rear of each BUILDING and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

6.5 **Standard Parking Dimensional Regulations** – Off-STREET parking facilities shall be laid out and striped in compliance with the following minimum provisions:

Angle of Parking *(in degrees)	Width of Parking Stall	Parking Stall Length of Line	Width of Maneuvering Aisle
90*(two-way)	9.0'	18.5'	24'
60*(one-way)	10.4'	22'	18'
45*(one-way)	12.7'	25'	14'
Parallel (one-way)	8.0'	22'	14'
Parallel (two-way)	8.0'	22'	18'

6.6 **Small Car Stalls** – In parking facilities containing more than 40 parking stalls, 30 percent of such parking stalls may be for small car use, except for retail store, personal service facility, general services or restaurant USES. Such small car stalls shall be grouped in one or more contiguous areas and shall be identified by a sign(s).

Angle of Parking *(in degrees)	Width of Parking Stall	Parking Stall Length of Line	Width of Maneuvering Aisle
90*(two-way)	8.5'	15'	24'
60*(one-way)	9.8’	18.5'	18'
45*(one-way)	12.0'	21.5'	14'
Parallel (one-way)	8.0'	18'	14'
Parallel (two-way)	8.0'	18'	18'

6.6.1 Small Car Parking Dimensional Regulations – Off-STREET small car parking facilities shall be laid out and striped in compliance with the following minimum provisions:

6.7 **Parking Lot Design Requirements** – All parking lots shall be designed in compliance with the following design standards, except as provided in Section 6.9. In addition, the following standards shall not apply to parking lots serving a single to four-FAMILY residential USE, an Assisted Living Residence with 10 or less residents, a religious USE, a Conservation USE, and a Municipal outdoor recreation USE.

Required parking spaces, loading areas and driveways shall be provided and maintained with suitable grading, paved surfaces and adequate drainage. Any parking lot containing five (5) or more parking spaces shall include landscaping as required below which is, in the opinion of the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas), located and designed to enhance the visual appearance of the parking or loading facility, to ensure traffic safety, and to minimize the adverse effects of the parking or loading facility on the natural environment.

6.7.1 Cells – Parking requirements shall be met by utilization of parking lot cells having a maximum of forty (40) parking spaces per parking lot cell. There shall be a minimum separation distance of thirty (30) feet between parking lot cells.

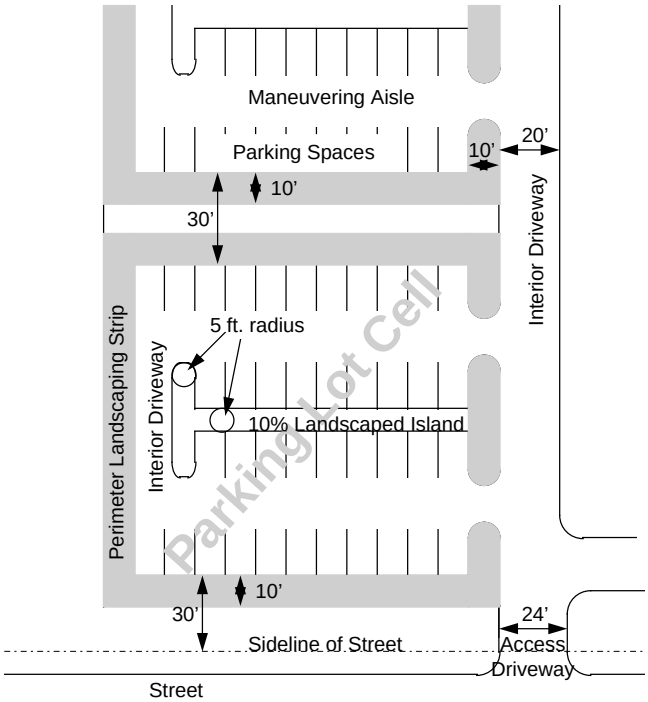
6.7.2 Set-Backs – Except as may be required elsewhere in this Bylaw, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within 30 feet of the front LOT line and within 10 feet of the side and rear LOT lines, and notwithstanding the foregoing, no parking space or other paved surface, other than ACCESS driveways, common driveways or walkways, shall be located within the limits of a landscaped buffer area required under Section 10.4.3.5. and Section 10.4.3.6.

6.7.3 ACCESS Driveways – Each LOT may have one ACCESS driveway through its FRONTAGE which shall be 24 feet wide, unless, in the opinion of the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas), a wider and/or greater number of ACCESS driveways is necessary to provide adequate area for safe vehicular turning movements and circulation. An ACCESS driveway for one-way traffic only may be a minimum of 14 feet wide. There shall be no more than one additional ACCESS driveway for each 200 feet of FRONTAGE and all such additional ACCESS driveway(s) shall be at least 200 feet apart on the LOT measured from the centerline of each ACCESS driveway. No driveway for a nonresidential PRINCIPAL USE shall cross land in a residential zoning district in which the PRINCIPAL USE is not allowed.

6.7.4 Interior Driveways – Interior driveways shall be at least 20 feet wide for two-way traffic and 14 feet for one-way traffic.

6.7.5 Notwithstanding the requirements for ACCESS driveways and interior driveways set forth above, ACCESS and interior driveways in the Village Residential District shall be at least 12 feet wide.

Example for Parking Lot Design Requirements



6.7.6 Perimeter Landscaping Requirements – All parking lots/cells with more than five (5) spaces and all loading areas shall be bordered on all sides with a minimum of a ten (10) foot wide buffer strip on which shall be located and maintained appropriate landscaping of suitable type, density and height to effectively screen the parking area. The perimeter landscaping requirements shall be in addition to any minimum OPEN SPACE or landscaped buffer area required elsewhere in this Bylaw. However, where the minimum required front, side or rear yard is less than forty (40) feet, the landscaped buffer areas required in Section 10.4.3.6 and the areas required for perimeter landscaping may overlap. In such instances, the landscaping requirements of Sections 10.4.3.6 and 6.7.8 shall be applied in a manner that will, in the opinion of the

Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas), provide a landscaped buffer as effective as it would be achieved through the separate implementation of the requirements of Sections 10.4.3.6 and 6.7.8.

6.7.7 Interior Area Landscaping Requirements – A minimum of ten percent (10%) of the interior area, exclusive of perimeter landscaping, of a parking lot cell containing more than twenty-five (25) parking spaces must be planted as landscaped island areas. The landscaped islands shall be so located that some portion of every parking space is not more than forty-five (45) feet from either a landscaped island or the perimeter planting area. Landscaped islands shall be dimensioned so that a circle with a minimum radius of 5 feet can be placed at each location within the island except that within the immediate vicinity of driveway or maneuvering aisle roundings and intersections the radius may be reduced to two feet. Curbing, at least five (5) inches in height, shall surround each landscaped island as protection from vehicles. The interior area landscaping requirements shall be in addition to any minimum OPEN SPACE required elsewhere in this Bylaw.

6.7.8 Plantings for Perimeter and Interior Area Landscaping Requirements Shall Consist of:

6.7.8.1 At least one shrub per thirty (30) square feet and one shade tree per two hundred (200) square feet of landscaped area shall be provided, unless the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas) or their designee, determine that there exists sufficient existing vegetation to allow for a different amount of new landscaping.

6.7.8.2 Shade trees shall be of a species tolerant to the climatic conditions of Acton and of parking area conditions, and be at least one and three-quarter (1 3/4) inch caliper (measured four feet above grade level).

6.7.8.3 Shrubs shall be a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of Acton, and be at least eighteen (18) inches in height at time of planting. Snow storage areas shall be planted with shrubs that are tolerant to weight and extended duration of snow cover.

6.7.8.4 The remainder of the landscaped areas shall be planted with ground surface cover, such as lawn grass or live ground cover, over at least four (4) inches of topsoil, unless the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas) or their designee, determine that another type of ground surface cover is appropriate for a specific purpose or location.

6.7.8.5 Wherever possible, the above requirements shall be met by retention of existing vegetation.

6.7.8.6 Planting shall be done in accordance with proper landscaping practices.

6.7.8.7 Trees, shrubs, grass and ground cover which die or become diseased shall be replaced.

6.7.8.8 Final locations of all plantings shall be inspected and approved by the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking

areas) or their designee, including the viability of existing vegetation retained after development and any necessary replacements thereof.

6.7.9 Flexible Parking Lot Design Requirements – A Special Permit or Site Plan Special Permit Granting Authority having jurisdiction, or the Zoning Enforcement Officer in cases where no special permit or site plan special permit is required, may as an alternative to strict conformance with the requirements of Sections 6.7.1, 6.7.2, 6.7.5 thru 6.7.8, and 10.4.3.6 of this Bylaw, including their subsections, and subject to the following requirements, conditions, and findings, approve a Flexible Parking Plan as follows:

6.7.9.1 The special permit or site plan special permit application shall contain a Parking Proof Plan, prepared and stamped by a Registered Professional Engineer, drawn to sufficient detail to demonstrate compliance with all applicable local, State, and Federal laws and regulations, including this Bylaw without the benefit of this Section 6.7.9. The Parking Proof Plan shall show the number of proposed parking spaces and identify the total area of impervious paved surface, parking lot landscaping, and OPEN SPACE on the LOT.

6.7.9.2 The special permit or site plan special permit application shall contain a Flexible Parking Plan, prepared and stamped by a Registered Professional Engineer, showing the same number of parking spaces as on the Parking Proof Plan and a parking lot layout that differs in whole or in part from the requirements of Sections 6.7.1, 6.7.2, 6.7.5 thru 6.7.8, and 10.4.3.6. The Flexible Parking Plan shall include sufficient detail, including drainage system details, to demonstrate compliance with all other applicable local, State, and Federal laws and regulations, and it shall identify the total area of impervious paved surface, parking lot landscaping, and OPEN SPACE on the LOT. The Flexible Parking Plan shall be submitted with a list of waivers from the stated sections of this Bylaw and supporting materials detailing why the Flexible Parking Plan is more advantageous for the site; better protects the neighbors including abutting residential properties; is more conservative in its use of natural resources; and/or overall would be in the better interest of the Town of Acton as compared to the Parking Proof Plan.

6.7.9.3 In cases where a special permit or site plan special permit is not required, the Parking Proof Plan and Flexible Parking Plan shall be submitted to the Zoning Enforcement Officer.

6.7.9.4 The Flexible Parking Plan shall comply with the following minimum standards:

a) Except for ACCESS driveways, common driveways, or walkways, all parking spaces and paved surfaces shall be set back a minimum of ten feet from any LOT line.

b) The landscaping of the parking lots shall as a minimum comply with Section 6.9.4.7 including subsections a) through e).

6.7.9.5 The Special Permit or Site Plan Special Permit Granting Authority, or the Zoning Enforcement Officer where no special permit or site plan special permit is required, may at their sole discretion approve the Flexible Parking Plan if the Board or the Zoning Enforcement Officer as applicable finds and determines that the Parking Proof Plan conforms to the provisions of this Bylaw; and that the Flexible Parking Plan conforms to Section 6.7 except as waived under this subsection 6.7.9, is more advantageous for the site, is more conservative in its use of natural resources, and overall would be in the better interest of the Town of Acton as compared to the Parking Proof Plan.

6.8 **Structured Parking** – Except in the KC, WAV and SAV Districts, the accommodation of required off-STREET parking spaces in a garage, deck or other STRUCTURE shall

require, in addition to all other OPEN SPACE requirements of this Bylaw, the set-aside of OPEN SPACE of an area equal to the floor area of the structured parking facility in excess of one story. In all zoning districts structured parking facilities shall not be counted in calculating the NET FLOOR AREA of a BUILDING. In the SAV District, structured parking shall only be allowed if incorporated in a BUILDING occupied with other USES, and a separate detached parking STRUCTURES shall only be permitted if it qualifies as a municipal USE.

6.9 Special Provisions for Parking in the Village, Kelley's Corner, and Powder Mill Districts

6.9.1 In the EAV District, except as otherwise provided herein, no BUILDING or STRUCTURE shall be located on any LOT and no activity shall be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:

6.9.1.1 No off-STREET parking spaces shall be established between the front line of the principal BUILDING and the sideline of a STREET, except as may be provided otherwise in the Design Provisions for the East Acton Village District.

6.9.1.2 Required off-STREET parking for a USE may be provided on any LOT within the same Zoning District as the USE, but not necessarily on the same LOT as the USE.

6.9.1.3 Connection of Parking – A Special Permit Granting Authority shall require that all parking lots be connected by a common driveway to the parking lots of all adjacent USES and to all adjacent land in the EAV and EAV-2 Districts, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking lot shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET, or a driveway to a STREET, or a driveway connecting such LOTS with each other.

6.9.1.4 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking lot in accordance with Section 6.9.1.5 below, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.

6.9.1.5 Collective Use of Parking Lots – Off-STREET parking lots may serve, collectively or jointly, different USES located throughout the EAV District where such a collective use of the parking lot is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; and 3) assures ACCESS to and maintenance of the common parking lot. The parking spaces provided through the collective use of parking lots shall be counted towards the minimum required number of spaces for the participating USES applying the discount as set forth in Section 6.9.1.4 above.

6.9.1.6 Structured parking shall not be allowed except under ground.

6.9.1.7 The parking lot design requirements of Section 6.7 shall apply in the EAV District, except that:

a) The requirements for parking lot cells and separation of cells (Section 6.7.1) shall not apply.

b) The requirements for set-backs (Section 6.7.2) shall not apply. This does not waive the requirements for perimeter landscaping (Section 6.7.6).

c) The interior area landscaping (Section 6.7.7) may be substituted with one or more consolidated bioretention areas with minimum side dimensions measuring at least 38 X 12 feet each. Bioretention areas shall be designed and landscaped to trap and mitigate runoff from paved surfaces consistent with the description and intent of EPA Storm Water Technology Fact Sheet – Bioretention (EPA 832-F-99-012, September 1999), or equivalent. The landscaping requirements of Sections 6.7.8.1 through 6.7.8.5 shall not apply to bioretention areas. Bioretention areas may be sited anywhere in the parking lot that is convenient to manage parking lot traffic and facilitate pedestrian use, including adjacent to and connecting with vegetated areas on the perimeter of a parking lot. Bioretention areas shall be considered part of the minimum required OPEN SPACE.

6.9.2 In the NAV District, the following special provisions for parking shall apply:

6.9.2.1 No off-STREET parking spaces shall be established between the front line of the principal BUILDING and the sideline of a STREET.

6.9.2.2 The Board of Selectmen may authorize by Special Permit an off-STREET parking lot or STRUCTURE not located upon the same LOT with the associated USE, provided said parking lot or STRUCTURE lies also within the NAV District.

6.9.2.3 The number of parking spaces to be provided for a mixed-USE development in the North Acton Village District shall be equal to 85 percent of the sum of the number of parking spaces for each USE on the LOT, determined separately for each USE based upon the standards set forth in Section 6.3.1

6.9.2.4 Except as stated in Sections 6.9.2.1 through 6.9.2.3, the parking lot design requirements of Section 6.7 shall apply in the NAV District.

6.9.3 In the EAV-2 District, the following special provisions for parking shall apply:

a) Connection of Parking – A Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent land in the EAV, EAV-2, and LB zoning districts, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this Section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET, or a driveway to a STREET, or a driveway connecting such LOTS with each other.

b) Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES located throughout the same zoning district where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; and 3) assures ACCESS to and maintenance of the common parking facility. In the case of such collective use of a parking facility, the minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1.

c) Otherwise, the parking lot design requirements of Section 6.7 shall apply in the EAV-2 District.

6.9.4 WAV and SAV Districts – In the WAV and SAV Districts, except as otherwise provided herein, no BUILDING or STRUCTURE shall be located on any LOT and no activity shall

be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:

6.9.4.1 Required off-STREET parking for a USE may be provided on any LOT within the same Zoning District as the USE, but not necessarily on the same LOT as the USE.

6.9.4.2 No off-STREET parking spaces shall be established between the front line of the principal BUILDING and the sideline of a STREET, except on LOTS having frontage on more than one STREET. On LOTS having FRONTAGE on more than one STREET, the main BUILDING entrance shall face a STREET and parking spaces shall be located on the opposite side of the main BUILDING entrance.

6.9.4.3 Connection of Parking – A Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent land in the same Zoning District, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET or a driveway connecting such LOTS with each other.

6.9.4.4 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking facility in accordance with Section 6.9.4.5, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.

6.9.4.5 Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES located throughout the same Zoning District where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; and 3) assures ACCESS to and maintenance of the common parking facility. The parking spaces provided through the collective use of parking facilities shall be counted towards the minimum required number of spaces for the participating USES applying the discount as set forth in Section 6.9.4.4.

6.9.4.6 Design Requirements – The parking lot design requirements of Section 6.7 shall not apply in the WAV and SAV Districts. Off-STREET parking spaces, except parking spaces serving a single to four-FAMILY residential USE or an Assisted Living Residence with 10 or less residents, shall be either contained within a BUILDING or STRUCTURE or subject to the following requirements.

a) Required parking spaces, ACCESS driveways, and interior driveways shall be provided and maintained with suitable grading, paved surfaces, adequate drainage, and landscaping as required in Section 6.9.4.7.

b) ACCESS Driveways – Not more than one ACCESS driveway for two-way traffic from a STREET to a parking facility shall be permitted. An additional ACCESS driveway from a STREET may be permitted provided that the ACCESS driveways are limited to one-way traffic. However, there shall not be more than two (2) ACCESS driveways for one-way traffic for any parking facility. ACCESS, interior and common driveways for two-way traffic shall be twenty feet (20') wide. The ACCESS, interior and common driveways for one-way traffic shall be fourteen (14) feet wide.

c) Set-Backs – Except where parking lots established in accordance with Section 6.9.4.5 cross over common LOT lines, all parking spaces and paved surfaces other than ACCESS driveways or common driveways shall be set back a minimum of five (5) feet from any LOT lines.

6.9.4.7 Landscaping of Parking Lots – Parking lots shall include a landscape area equal to a minimum of five percent (5%) of the area of the parking lot.

a) Shade trees – One shade tree shall be provided for each two thousand (2,000) square feet or less of pavement area. Each shade tree shall be from a deciduous species rated for U.S.D.A. Hardiness Zone 5 that is expected to reach at least 20 feet in height at maturity; be seven (7) feet in height with a trunk caliper size of at least 3/4 inches at the time of planting; and be surrounded by a landscaped area of one hundred square feet (100 sq. ft.) to accommodate the root system of the tree. Additional landscaping may be required by a Special Permit Granting Authority to better screen the parking lot from the STREET and adjacent USES.

b) Perimeter Planting Strip – Parking lots adjacent to STREETS, sidewalks, paths or ACCESS driveways shall include a perimeter planting strip at least seven and one-half (7.5) feet wide. However, if the planting strip is protected from vehicular damage through the use of planting beds that are raised above the surface of the parking lot at least twelve (12) inches or through the use of bollards or balustrades, the width of the planting strip may be reduced to five (5) feet. Said planting strip shall feature a physical separation of the parking lot and adjacent ways of at least two and one-half (2.5) feet in height. This physical separation may be created through the use of plantings, walls, or fencing (other than chain link or smooth concrete) or a combination of plantings and fencing. No more than twenty percent (20%) of this perimeter planting strip shall be impervious.

c) Plantings – Plantings for landscaped areas shall include a mixture of flowering and decorative deciduous and evergreen trees and shrubs and shall be planted with suitable ground cover.

d) Sight Distance – All landscaping along any STREET FRONTAGE shall be placed and maintained so that it will not obstruct sight distance.

e) Protection of Landscaped Areas – Landscaped areas shall be planted and protected in such a manner that the plantings will not be damaged by vehicles.

6.9.5 KC District – In the Kelley's Corner District, no BUILDING or STRUCTURE shall be located on a LOT and no activity shall be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:

6.9.5.1 Required off-STREET parking for a USE may be provided on any LOT within the Kelley's Corner District, but not necessarily on the same LOT as the USE.

6.9.5.2 Connection of Parking – A Site Plan Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent LOTS within the Kelley's Corner District, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET leading to another LOT or a driveway connecting such LOTS with each other. See also Section 10.4.3.3 of this Bylaw regarding common driveways.

6.9.5.3 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking facility in accordance with Section 6.9.5.4, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.

6.9.5.4 Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES located throughout the Kelley's Corner District where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; 3) assures ACCESS to and maintenance of the common parking facility, and 4) is filed with the Zoning Enforcement Officer. Any change to such agreement shall also be filed with the Zoning Enforcement Officer. The number of parking spaces allocated in the agreement to each participating USE shall be counted toward the minimum required number of parking spaces for such USE as determined under Section 6.9.5.3.

6.9.5.5 Design Requirements and Landscaping – Off-STREET parking spaces, except spaces serving a single to four-FAMILY residential USE or an Assisted Living Residence with 10 or less residents, shall either be contained within a BUILDING or STRUCTURE, or be provided in accordance with the design requirements of section 6.7 including all its subsections. In addition, no parking space or other paved surface, other than walkways and bikeways, shall be located within 20 feet of an abutting residential zoning district.

6.9.6 PM District – In the Powder Mill District, no BUILDING or STRUCTURE shall be located on a LOT and no activity shall be conducted upon any LOT unless off-STREET parking is provided in accordance with the following requirements:

6.9.6.1 Required off-STREET parking for a USE may be provided on any LOT within the Powder Mill District, but not necessarily on the same LOT as the USE.

6.9.6.2 Connection of Parking – A Site Plan Special Permit Granting Authority shall require that all parking facilities be connected by a common driveway to the parking facilities of all adjacent USES and to all adjacent LOTS within the Powder Mill District, unless it finds that physical constraints, present site configuration, uncooperative abutters, or land vacancy precludes strict compliance. In such cases, the site and the parking facility shall be designed to provide for the future construction of common driveways. For the purposes of this section, common driveway shall be defined as a driveway that is shared by two or more LOTS and located at least partially within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET leading to another LOT or a driveway connecting such LOTS with each other. See also Section 10.4.3.3 of this Bylaw regarding common driveways.

6.9.6.3 Number of Parking Spaces – The minimum number of required parking spaces shall be 70% of the requirements in Section 6.3.1. In the case of collective use of a parking facility in accordance with Section 6.9.6.4, the minimum number of required parking spaces shall be 50% of the requirements in Section 6.3.1.

6.9.6.4 Collective Use of Parking Facilities – Off-STREET parking facilities may serve, collectively or jointly, different USES on LOTS located throughout the Powder Mill District where such a collective use of the parking facility is based on a written agreement that: 1) assures the continued collective use; 2) states the number of parking spaces allocated to each participating USE; 3) assures ACCESS to and maintenance of the common parking facility, and 4) is filed with the Zoning Enforcement Officer. Any change to such agreement shall also be filed with the Zoning Enforcement Officer. The number of parking spaces allocated in the agreement to each participating USE shall be

counted toward the minimum required number of parking spaces for such USE as determined under Section 6.9.6.3.

6.9.6.5 Design Requirements and Landscaping – Off-STREET parking spaces, except spaces serving a single to four-FAMILY residential USE, shall either be contained within a BUILDING or STRUCTURE, or be provided in accordance with the design requirements of Section 6.7 including all its subsections. In addition, no parking space or other paved surface, other than walkways and bikeways, shall be located within 20 feet of an abutting residential zoning district.

6.10 Parking Lot Bonds and Securities – The Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas) or their designee may require a bond or other form of security to ensure the satisfactory planting of required landscaping and to ensure the survival of such landscaping for up to two (2) years following such planting. All required landscaping and plantings must be maintained in a neat, attractive appearance as a condition of the continued PRINCIPAL USE of the LOT.

SECTION 7.

SIGNS AND ADVERTISING DEVICES

7.1 **Purpose** – Signs are a necessary means of communicating information. Generally, signs are intended to be highly visible. They attract attention and are one of the most visible and apparent aspects of a town's character. They tend to produce a lasting impression on residents and visitors and they provide an indication of the commercial health of a business area and a town as a whole. Simplicity in design and restrained use of signs are necessary to prevent a sign overload which creates clutter and is as confusing as no signs at all. The purposes of this section are:

7.1.1 To promote the safety and welfare of residents, businesses and visitors;

7.1.2 To enhance the safety of all traffic participants by encouraging simple messages and by preventing sign overload, clutter and confusion;

7.1.3 To encourage the effective use of signs as a means of communication, information and advertisement;

7.1.4 To foster free and effective expression and advertising, through creative and distinctive design;

7.1.5 To maintain and enhance the aesthetics of the built environment and the character of the Town;

7.1.6 To encourage signs which by their location, size and design are in harmony and compatible with the surrounding BUILDINGS and environment;

7.1.7 To maintain and promote economic health and stability;

7.1.8 To further the general purposes of this Bylaw.

7.2 **Definitions** – For the purposes of this Section, the following terms shall have the following meaning. The terms defined below are capitalized in the following parts of this Section in addition to the terms defined in Section 1.

7.2.1 AWNING SIGN – A permanent SIGN which is affixed to or consists of a permanent or retractable awning or marquee permanently mounted to the exterior surface of a BUILDING.

7.2.2 BILLBOARD SIGN – A SIGN which advertises a business, service, product, commodity, entertainment or similar object or activity which is conducted, sold or offered on a LOT other than the LOT on which the SIGN is ERECTED.

7.2.3 BUSINESS CENTER – For the purpose of this Section, BUSINESS CENTER shall be defined as a business development occupied by or available for occupancy to at least two distinctly separate businesses on one or more adjacent LOTS sharing common facilities such as driveways and parking areas.

7.2.4 DISPLAY AREA – The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an INDIVIDUAL LETTER SIGN, AWNING SIGN or irregularly shaped SIGN shall be the area of the smallest rectangle

into which the letters, designs or symbols will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.

7.2.5 ERECTING – Any installing, constructing, reconstructing, replacing, relocating or extending of a SIGN, but ERECTING shall not include repairing, maintaining, re-lettering, or repainting of an existing SIGN.

7.2.6 EXTERIOR SIGN – A WALL SIGN, PROJECTING SIGN or AWNING SIGN.

7.2.7 FREESTANDING SIGN – A non-movable SIGN not affixed to any BUILDING but constructed in a permanently fixed location on the ground with its own support structure, including a MONUMENT SIGN, and displaying a SIGN face on not more than two sides.

7.2.8 INDIVIDUAL LETTER SIGN – A WALL SIGN consisting of individual letters mounted to a BUILDING surface without any background or frame.

7.2.9 MONUMENT SIGN – A form of a FREESTANDING SIGN which is attached to and in contact with the ground over the full width of its DISPLAY AREA.

7.2.10 NEON SIGN – A SIGN which features exposed glass tubing filled with fluorescent gas.

7.2.11 LED SIGN – A SIGN that features light emitting diodes arranged in a pattern to create pictures, symbols or letters.

7.2.12 OFFICE PARK or INDUSTRIAL PARK – For the purpose of this Section, OFFICE PARK or INDUSTRIAL PARK shall be defined as a development of two or more BUILDINGS on one or more adjacent LOTS totaling at least 50,000 square feet of NET FLOOR AREA and available for occupancy by users of office or industrial BUILDING space.

7.2.13 MOVABLE SIGN – Any SIGN not permanently attached to the ground or to a BUILDING or permanent STRUCTURE, which is designed to be portable such as an A-frame, H-frame or T-frame SIGN placed on the surface of the ground or temporarily staked into the ground.

7.2.14 PROJECTING SIGN – A SIGN which is permanently affixed to the exterior surface of a BUILDING or STRUCTURE with the DISPLAY AREA positioned perpendicular to the wall to which the SIGN is mounted.

7.2.15 ROOF SIGN – A SIGN which is painted, mounted or in any way projected above the lowest point of the eaves of a BUILDING or STRUCTURE, not including any SIGN defined as a WALL SIGN and not including any WALL SIGN mounted on a vertical BUILDING wall located above the eaves of any lower portion or wing of a BUILDING.

7.2.16 SIGN – Any symbol, design or device used to identify or advertise any place, business, product, activity, service, person, idea or statement.

7.2.17 WALL SIGN – A SIGN which is painted or otherwise permanently affixed to a vertical exterior surface of a BUILDING or STRUCTURE with the DISPLAY AREA positioned parallel with the wall to which the SIGN is mounted, and including such a SIGN affixed to a parapet or to the lower slope of a gambrel or mansard roof.

7.2.18 WINDOW SIGN – A SIGN, picture, symbol or message visible from the window's exterior side, either hung or otherwise attached directly to the inside of a window, or

painted or etched on either side of the window pane or glass, not including any part of a customary window display of merchandise or other product.

7.2.19 TEMPORARY or SPECIAL EVENT SIGN – A temporary SIGN to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business, or similar event; or a temporary SIGN for a business in place of a permanent sign.

7.3 SIGNS Prohibited in All Districts

7.3.1 Any SIGN ERECTED in violation of this Bylaw.

7.3.2 BILLBOARD SIGNS unless specifically authorized herein; and SIGNS on utility poles, communication towers, water towers, fences, trees, shrubs or other natural features, except for directional SIGNS listed in Section 7.5.3.

7.3.3 Any SIGN ERECTED within or above a STREET or affixed to public property, except for permitted EXTERIOR SIGNS above a sidewalk and except for SIGNS within or above a STREET or affixed to public property for which written approval has been issued by the Board of Selectmen or its designee. The Board of Selectmen may adopt and from time to time amend policies and regulations regarding SIGNS within or above a STREET or affixed to public property.

7.3.4 MOVABLE SIGNS except as specifically provided herein. Any SIGN designed to be transported by means of wheels, and SIGNS attached to or painted on vehicles parked and visible from a STREET or a right of way customarily used by the general public, unless said vehicle is registered and used, as a vehicle, in the normal day-to-day operations of the business.

7.3.5 ROOF SIGNS, and any other SIGNS on a LOT which in any way are projected above a BUILDING or STRUCTURE.

7.3.6 Except as specifically provided herein, any SIGN consisting of or containing pennants; ribbons; streamers; spinners; balloons; strings of lights not associated with a specific religious holiday; flags other than those identifying a nation, state, city or town or located on land owned by the Town of Acton; revolving beacons; searchlights; animation.

7.3.7 SIGNS that change or rearrange characters or letters or illustrations, except as specifically provided herein; or flash, rotate, or make noise; or sparkle, twinkle or purposely reflect sunlight; or move, or give the illusion of moving, except for indicators of time and temperature or barber poles.

7.3.8 Where this Bylaw requires minimum side or rear yards for BUILDINGS AND STRUCTURES, any FREESTANDING SIGN ERECTED in such minimum yard, unless such SIGN is a directional SIGN listed in Section 7.5.3.

7.3.9 Any SIGN or advertising device which due to its shape or combination and arrangement of colors and/or words resemble traffic SIGNS and traffic control devices.

7.3.10 Any SIGN which in any way creates a hazard to traffic participants, obscures or confuses traffic controls or blocks safe sight distance.

7.3.11 Any SIGN which in any way obstructs free entrance or egress from a door, window or fire escape.

7.3.12 Any SIGN advertising or identifying a business, service, product, commodity, entertainment or similar object or activity which has been discontinued. Such SIGN shall be removed promptly, in any case within 30 days after notice by the Zoning Enforcement Officer.

7.3.13 Any SIGN that depicts, describes or relates to nudity or sexual conduct as defined in M.G.L., Ch. 272, s. 31, and that is visible from the outside of a BUILDING.

7.4 General Regulations – Except where stated otherwise, the following provisions shall apply to SIGNS in all Zoning Districts.

7.4.1 Design – In the Village Districts no visible portion or exterior surface of any EXTERIOR or FREESTANDING SIGN shall be made of plastic, other petroleum based products, or sheet metal, except that in the EAV District such materials may be used provided that the visible portions and exterior surfaces of a SIGN have a wooden appearance.

7.4.2 Construction and Maintenance – SIGNS shall be constructed of durable and weatherproof materials. They shall be maintained in safe structural condition and good visual appearance at all times and no SIGN shall be left in a dangerous or defective state. All electrical equipment associated with a SIGN shall be installed and maintained in accordance with the National Electrical Code. The Zoning Enforcement Officer shall have the authority to inspect any SIGN and order the owner to paint, repair or remove a SIGN which constitutes a hazard, or a nuisance due to improper or illegal installation, dilapidation, obsolescence or inadequate maintenance.

7.4.3 Illumination

7.4.3.1 No SIGN shall be illuminated longer than 30 minutes before opening or after closing of any store or business.

7.4.3.2 No SIGN shall incorporate or be lighted by flashing or blinking lights, or by lights changing in intensity.

7.4.3.3 Except as otherwise provided herein, illumination for any SIGN shall be provided through a stationary external light source, with the light projected downward from above and in compliance with section 10.6.2.4.a) of this Bylaw. In no case shall the illumination of a SIGN cause blinding or otherwise obstruct the safe vision of any traffic participant anywhere. SIGN illumination through an external source shall always be white or off-white.

7.4.3.4 The following types of SIGNS with internal or quasi-internal illumination shall be permitted, provided that they comply with all applicable standards of the previous section. The word “opaque” as used in the following Sub-Sections shall mean that the opaque object shall appear black when the sign is lit at night.

a) NEON or LED SIGNS, subject to Sections 7.5.17 and 7.13.1.6.
b) Opaque INDIVIDUAL LETTER SIGNS or symbols, back-lit with a white and concealed light source, thereby creating an effect by which the letters or symbols are silhouetted against a wall illuminated by said light source.
c) SIGNS featuring individual letters or symbols which are cut out from an opaque facing and back-lit with a white and concealed light source, thereby creating an

effect by which the facing, from which the letters or symbols are cut out, is silhouetted against a wall illuminated by said light source.

d) Back-lit AWNING SIGNS with the light source internal or concealed from public view. Such SIGNS shall not be permitted in a Village District.

e) INDIVIDUAL LETTER SIGNS with translucent letter faces, internally illuminated with a soft-glow light source; or SIGNS with an opaque SIGN face with cutout translucent letter surfaces which are internally illuminated with a soft-glow light source. Such SIGNS shall not be permitted in a Village District.

7.4.3.5 In the EAV District, PROJECTING SIGNS, AWNING SIGNS, WALL SIGNS and FREESTANDING SIGNS shall not be illuminated except as described in Sections 7.4.3.4 b) or c), or from an external light source with the light projected downward from above.

7.4.3.6 In all other Village Districts:

a) PROJECTING SIGNS and AWNING SIGNS shall not be illuminated.

b) WALL SIGNS shall not be illuminated except as described in Sections 7.4.3.4 b) or c), or from an external light source with the light projected downward from above.

c) FREESTANDING SIGNS shall not be illuminated except as described in Sections 7.4.3.4 b) or c) or from an external light source.

7.4.3.7 The DISPLAY AREA of an illuminated SIGN shall not exceed an average illuminance of 50 foot-candles measured directly on the surface of the SIGN.

7.4.3.8 Where possible, the light fixtures used for SIGN illumination should be classified as "energy efficient", as defined by the power utility company serving the LOT.

7.4.4 Other Regulations

7.4.4.1 Where more than one SIGN is permitted for a PRINCIPAL USE, a combination of not more than two of the following types of SIGNS shall be permitted per PRINCIPAL USE: WALL SIGN, PROJECTING SIGN, AWNING SIGN, and FREESTANDING SIGN. However, in the EAV District, a combination of up to three such SIGN types shall be permitted per PRINCIPAL USE. This section does not apply to any SIGN that does not require a SIGN Permit as listed in Section 7.5, or to an off-premises directional SIGN permitted under Section 7.9, or to a Temporary or Special Event Signs(s) permitted under Section 7.10.

7.4.4.2 The height, width and thickness of a SIGN shall be determined as the maximum vertical and horizontal dimensions of a SIGN including all support structures and bracing.

7.5 SIGNS Which Do Not Require a SIGN Permit – The following SIGNS do not require a SIGN Permit or Special Permit, nevertheless such SIGNS shall comply with Sections 7.3 and 7.4 above unless specifically provided otherwise in this section. No such SIGN shall be ERECTED within 5 feet of the sideline of a STREET or any other right of way customarily used by the general public, unless such SIGN is a traffic SIGN, landmark SIGN, directional SIGN, or an EXTERIOR SIGN.

7.5.1 Agricultural SIGNS – A SIGN associated with an agricultural USE as referenced in Section 3 of M.G.L., Ch. 40A, offering for sale produce and other farm products,

provided that such a SIGN indicates only the name and price of farm products which are for sale at the time the SIGN is displayed. The maximum DISPLAY AREA of such SIGN shall be 10 square feet. Such SIGN may be a MOVABLE SIGN.

7.5.2 Construction SIGNS – One SIGN on the LOT of a new project identifying the proposed BUILDING, the owner or intended occupant and the contractor, architect and engineers. Its DISPLAY AREA shall not to exceed 8 square feet in the Residential and Village Districts, nor 20 square feet in any other District. Such SIGNS shall not be illuminated and shall not be ERECTED prior to the issuance of a building permit, and it shall be removed upon completion of the construction or prior to issuance of the occupancy permit, whichever occurs sooner.

7.5.3 Directional SIGNS – Unless otherwise specified herein, a directional SIGN may be ERECTED on a LOT wherever appropriate and functional to serve its specific purpose and where it is not in violation of Section 7.3. A directional SIGN may be a SIGN necessary for the safety and direction of vehicular and pedestrian traffic; a SIGN identifying handicapped parking and access; a SIGN giving direction to a public service facility or accommodation; an official inspection station SIGN; a SIGN displaying a STREET name or number or a house, block, unit or BUILDING number; a SIGN required for occupational safety and health reasons; a SIGN posted to prohibit trespassing, hunting, or certain other activities on private property; or any other SIGN providing essential direction or guidance. Except as may otherwise be required by local, state or federal regulations, the DISPLAY AREA of a directional SIGN shall not exceed two square feet and no directional SIGN shall be ERECTED more than six feet above the ground level if mounted on a wall of a STRUCTURE or more than four feet above the ground if freestanding. Directional SIGNS shall not be illuminated, nor advertise, identify or promote any business, business service, product, commodity, entertainment or similar object or activity.

7.5.4 Directory SIGNS – One directory SIGN listing the name and location of the occupants of a BUILDING may be ERECTED on the exterior wall of a BUILDING at each entrance or at one other appropriate location on the wall of a BUILDING, provided that: (1) in the Business, Industrial and Office Districts the DISPLAY AREA shall not exceed one square foot for each occupant identified on the directory SIGN, nor more than a total of 12 square feet; and (2) in any other Zoning District the DISPLAY AREA shall not exceed one half square foot for each occupant identified on the directory SIGN, nor more than a total of 6 square feet. Such SIGNS shall not be illuminated.

7.5.5 Fuel Pump SIGNS – Fuel pump SIGNS located on service station fuel pumps identifying the name or type of fuel and price thereof.

7.5.6 Governmental SIGNS – SIGNS, including MOVABLE SIGNS, ERECTED and maintained by the Town of Acton, the Water Supply District of Acton, the Commonwealth of Massachusetts, or the Federal Government on any land, BUILDING or STRUCTURE in use by such governmental entity. Any other signs erected by such governmental entity at any location required for public or environmental health, safety or notification purposes, or announcing the date, time and place of elections or town meeting.

7.5.7 Identification SIGNS – For single and two FAMILY residential USES in any Zoning District, one SIGN on a LOT identifying the occupants of the dwelling, an authorized home occupation and/or any other USE which is conducted on the LOT and is permitted in a Residential District. In a Residential District, one SIGN on a LOT identifying a non-conforming USE. All such SIGNS shall not exceed two square feet of DISPLAY AREA

and shall not be illuminated, except when coincidental to the illumination of a BUILDING, driveway or similar feature.

7.5.8 Landmark SIGNS – Any SIGN determined by the Board of Selectmen to be of particular artistic or historic merit that is unique or extraordinarily significant to the Town and its residents. Such a SIGN may be new or old, it may or may not comply with this Bylaw, it may be a picture, mural, statue, sculpture or other form of artistic expression, it may warrant preservation in its original form or may be in need of restoration, or it may be a marker to identify or commemorate a particular significant location, a historic event or person, or a natural feature.

7.5.9 Menu SIGNS – One menu SIGN per restaurant, affixed to the exterior wall of a restaurant with a maximum DISPLAY AREA of 2 square feet.

7.5.10 Multifamily Dwelling SIGNS – A SIGN identifying the name of a multifamily residential dwelling, not exceeding 6 square feet in DISPLAY AREA. If freestanding its height shall not exceed 4 feet above ground level and if mounted to the exterior wall of a BUILDING no portion thereof shall be higher than 6 feet from the ground.

7.5.11 Residential Development SIGNS – A SIGN identifying the name of a residential development, not exceeding 6 square feet in DISPLAY AREA. If freestanding, its height shall not exceed 4 feet above ground level, and if mounted to the exterior wall of a BUILDING, no portion thereof shall be higher than 6 feet from the ground. Any such SIGN in existence prior to January 1, 1995, which does not meet these standards, shall nevertheless be deemed to comply herewith.

7.5.12 Political SIGNS – In addition to WINDOW SIGNS, SIGNS may be ERECTED on a LOT displaying political messages. Such SIGNS shall be stationary and shall not be illuminated. The height of such SIGNS shall not exceed 4 feet and their DISPLAY AREA shall not exceed 6 square feet. SIGNS associated with a political event such as elections, primaries, balloting, or voter registration shall be removed within 5 days after the event.

7.5.13 Religious SIGNS – SIGNS identifying a religious USE and ERECTED on the same LOT as the religious USE. Such SIGNS shall not be illuminated and shall be limited to one WALL SIGN with a maximum DISPLAY AREA of 12 square feet, and one FREESTANDING SIGN with a maximum DISPLAY AREA of 8 square feet and a maximum height of 5 feet.

7.5.14 Sale, Rent or Lease SIGNS – A For Sale, Rent or Lease SIGNS shall not require a SIGN permit provided that its DISPLAY AREA does not exceed 20 square feet for property located in a Business, Office or Industrial Zoning District and 8 square feet for property located in any other district. In a Residential District, one For Sale, Rent or Lease SIGN shall be allowed per LOT, and one such SIGN shall be permitted for each business or establishment in any other Zoning District. Such a SIGN shall not be illuminated. Such SIGN may be a MOVABLE SIGN and it shall be removed immediately following the closing of a sale, lease or rental agreement.

7.5.15 Traffic SIGNS – Standard traffic SIGNS and control devices.

7.5.16 WINDOW SIGNS – WINDOW SIGNS, other than a NEON or LED SIGN, in the Business, Village, Industrial and Office Districts shall not require a SIGN Permit provided that their aggregate DISPLAY AREA covers no more than 25 percent of the window in which they are ERECTED. Such SIGN shall not be illuminated. WINDOW

SIGNS promoting a public service or charitable event shall not be calculated in the allowable 25 percent.

7.5.17 NEON or LED WINDOW SIGNS – NEON or LED WINDOW SIGNS in the Business, Village, Industrial, and Office Park Districts shall not require a SIGN Permit provided that the DISPLAY AREA shall not exceed ten square feet or cover more than 25% of the window in which they are ERECTED, whichever is less. There shall be not more than one such SIGN allowed per PRINCIPAL USE. In the Village Districts, a NEON or LED WINDOW SIGN may only be placed in a ground floor window. As with any other SIGN, a NEON or LED WINDOW SIGN shall not be illuminated longer than 30 minutes before opening of after closing of the store or business.

7.5.18 Yard sale or garage sale SIGNS – One SIGN, which may be a MOVABLE SIGN, on the LOT where the sale occurs, displaying only the words "Yard Sale" or "Garage Sale" together with the date of the event. Such SIGN shall not exceed 6 square feet in DISPLAY AREA and shall not be illuminated. Such SIGN shall not be ERECTED sooner than 3 days before the sale and it shall be removed not later than 1 day after the sale. In no case shall such a SIGN be ERECTED on a LOT for more than 5 days per calendar year.

7.5.19 “OPEN” SIGNS - One SIGN, other than a WINDOW SIGN, associated with a PRINCIPAL USE indicating that the establishment is open for business. Such a SIGN shall be either affixed to the BUILDING as near as practically possible to the entrance of the establishment or to a FREESTANDING SIGN otherwise permitted under this Bylaw. Such a SIGN shall not exceed 6 square feet in DISPLAY AREA. The DISPLAY AREA of such an “OPEN” SIGN shall not count towards the DISPLAY AREA of any other SIGN on the premises. Notwithstanding Section 7.3.6, an “OPEN” SIGN may be a flag or a banner.

7.6 SIGN Permits – Any SIGN permitted under the following Sections 7.7 through 7.13 shall require a SIGN Permit from the Zoning Enforcement Officer and no such SIGN shall be ERECTED except in conformity with such a SIGN Permit and in the exact location and manner described in the SIGN Permit.

7.6.1 Application – All applications for SIGNS requiring a SIGN Permit shall be made to the Zoning Enforcement Officer in such form as he may require, and such applications shall include at least: 1) the location, by STREET number, of the proposed SIGN; 2) the name and address of the SIGN owner and the owner of the LOT where the SIGN is to be ERECTED, if other than the SIGN owner; 3) a scale drawing showing the proposed construction, method of installation or support, colors, display, dimensions, location of the SIGN on the site, and method of illumination; 4) such other pertinent information as the Zoning Enforcement Officer may require to ensure compliance with the Bylaw and any other applicable law; and 5) the application must be signed by the owner of the SIGN and the owner of the LOT where the SIGN is to be ERECTED; the Lot owner’s signature shall not be required for TEMPORARY and SPECIAL EVENT SIGNS. The Zoning Enforcement Officer shall have the authority to reject any SIGN Permit application which is not complete when submitted.

7.6.2 Time Limitations – The Zoning Enforcement Officer shall approve or disapprove any application for a SIGN Permit within 45 days of receipt of the application. If the Zoning Enforcement Officer should fail to approve or disapprove an application for a SIGN Permit within such 45 day period, the application shall be deemed to be approved.

7.6.3 Fees – The Board of Selectmen shall establish and from time to time review a SIGN Permit fee which shall be published as part of a SIGN Permit application form.

7.7 **EXTERIOR SIGNS** – Any PRINCIPAL USE permitted in a Business, Industrial, Office or Village District may ERECT an EXTERIOR SIGN subject to the following:

7.7.1 Except as may otherwise be provided, one EXTERIOR SIGN shall be permitted for each PRINCIPAL USE. Such EXTERIOR SIGN may be a WALL SIGN, a PROJECTING SIGN or an AWNING SIGN.

7.7.2 Except as specifically provided for certain WALL SIGNS, an EXTERIOR SIGN may only be ERECTED on the exterior wall of the ground floor and up to 1 foot below the level of the bottom sills of the windows of the story above the ground floor of a BUILDING.

7.7.3 An EXTERIOR SIGN shall not be ERECTED within 6 inches of any horizontal edge of a BUILDING or STRUCTURE nor extend beyond such horizontal edge. Except for AWNING SIGNS, an EXTERIOR SIGN shall not obscure or cover architectural features such as but not limited to arches, sills, eaves moldings, cornices, transoms, lintels and windows, and shall not be ERECTED within 6 inches from any such architectural features.

7.7.4 WALL SIGNS – A WALL SIGN may be ERECTED on a BUILDING, or on an arcade STRUCTURE attached to the ground floor of a BUILDING, or on a permanent canopy STRUCTURE associated with a motor vehicle service station or a bank drive-up window.

7.7.4.1 The maximum DISPLAY AREA of a WALL SIGN affixed to the exterior wall of a BUILDING in conformance with Section 7.7.2, or to an arcade, canopy, parapet, or gambrel or mansard roof, shall not exceed 1 square foot for each lineal foot of wall(*). {(*) The wall front or store front occupied by a business, or the width of the canopy side to which the SIGN is attached.}

7.7.4.2 The height of a WALL SIGN shall not exceed 3 feet in the Business, Industrial and Office Districts, and 2 feet in the Village Districts.

7.7.4.3 The maximum width of a WALL SIGN affixed to the exterior wall of a BUILDING in conformance with Section 7.7.2, or to an arcade, canopy, parapet, or gambrel or mansard roof, shall not exceed 1 foot for each 2 lineal feet of wall(*) up to 30 feet in the Business, Industrial and Office Districts, and 1 foot for each 3 lineal feet of wall(*) up to 20 feet in the Village Districts. {(*) The wall front or store front occupied by a business, or the width of the canopy side to which the SIGN is attached.}

7.7.4.4 A business occupying a floor other than the first floor of a BUILDING may ERECT a WALL SIGN at a BUILDING elevation higher than the one permitted in Section 7.7.2, provided that the maximum width shall not exceed 8 feet in the Business, Industrial and Office Districts, and 6 feet in the Village Districts.

7.7.4.5 A WALL SIGN may be affixed to a parapet or to a gambrel or mansard roof of a single story BUILDING. In addition to any other applicable requirements, such a WALL SIGN shall maintain a minimum distance of 1 foot from the top of the parapet or from the top of the lower slope of the gambrel or mansard roof.

7.7.4.6 A WALL SIGN shall not project more than 1 foot from the surface to which it is attached.

7.7.4.7 A WALL SIGN shall not be ERECTED within 2 feet from the vertical edge of the BUILDING, arcade or canopy surface to which it is attached nor extend beyond such vertical edge.

7.7.4.8 A WALL SIGN shall be affixed to a more or less flat exterior surface in a location where the symmetry of the BUILDING, arcade or canopy and their features will be maintained.

7.7.5 PROJECTING SIGNS – A PROJECTING SIGN may be ERECTED on a BUILDING provided that the DISPLAY AREA shall not exceed
12 square feet in the Business, Industrial and Office Districts, and
6 square feet in the Village Districts.
The thickness between the SIGN faces shall not exceed 1 foot. A PROJECTING SIGN shall not project more than 3 feet from the face of the wall and shall maintain a minimum clearance of 8 feet above a walkway or sidewalk.

7.7.6 AWNING SIGNS – An AWNING SIGN may be ERECTED on a BUILDING. Such AWNING SIGN may consist of letters or symbols affixed to an awning in a parallel, perpendicular and/or convex position to the wall onto which the awning is mounted, except that in the Village Districts the convex position of letters to the wall shall not be permitted. Letters and symbols on an AWNING SIGN shall be flush with the surface of the awning. The maximum DISPLAY AREA of an AWNING SIGN shall be 12 square feet for surfaces positioned parallel or convex to the BUILDING wall, and 6 square feet for surfaces positioned perpendicular to the BUILDING wall. Except in the EAV District, if the AWNING SIGN is ERECTED on an awning manufactured with canvas on a frame that is retractable to the wall, one additional EXTERIOR SIGN, which may be a WALL SIGN or a PROJECTING SIGN, shall be permitted on the BUILDING for the same PRINCIPAL USE. An AWNING SIGN shall not project more than 3 feet from the wall and shall maintain a minimum clearance of 8 feet above a walkway or sidewalk. Where an AWNING SIGN is ERECTED on the wall of a BUILDING, all other awnings without a SIGN located on the same BUILDING shall be subject to the same dimensional requirements as the AWNING SIGN.

7.7.7 Secondary EXTERIOR SIGNS – If a business has a direct entrance into the business in a wall other than the front wall, there may be a secondary WALL SIGN, PROJECTING SIGN or AWNING SIGN affixed to such wall at such entrance; and if the business has a wall other than the front wall without a direct entrance to the business that faces upon a STREET or parking area, there may be a secondary WALL SIGN affixed to such wall; provided, however, that no business shall have more than two secondary EXTERIOR SIGNS in any event. In the EAV District, an additional secondary EXTERIOR SIGN shall be permitted on the front wall of the PRINCIPAL USE, provided that it is of a different type (WALL SIGN, PROJECTING SIGN, or AWNING SIGN) than any other SIGN on the front wall. The DISPLAY AREA of any secondary EXTERIOR SIGN shall not exceed 6 square feet.

7.7.8 One EXTERIOR SIGN shall be permitted for a BUSINESS CENTER in addition to any other permitted EXTERIOR SIGNS. Such EXTERIOR SIGN shall conform to the dimensional requirements for EXTERIOR SIGNS and identify only the BUSINESS CENTER. If such EXTERIOR SIGN is ERECTED in a Village Districts, no FREESTANDING SIGN shall be permitted on the same LOT, nor within the same BUSINESS CENTER.

7.8 FREESTANDING SIGNS – Any PRINCIPAL USE permitted in a Business, Industrial, Office or Village District may ERECT a FREESTANDING SIGN identifying a business or a BUSINESS CENTER, subject to the following:

7.8.1 One FREESTANDING SIGN shall be permitted on a LOT identifying a business located on the same LOT; and one FREESTANDING SIGN shall be permitted for a BUSINESS CENTER displaying an identification of the BUSINESS CENTER provided no other

FREESTANDING SIGN shall be permitted within such BUSINESS CENTER, and provided further that in a Village District no other FREESTANDING or EXTERIOR SIGN shall be ERECTED to identify the BUSINESS CENTER.

7.8.2 No FREESTANDING SIGN shall be ERECTED within 5 feet of the sideline of a STREET or any right of way customarily used by the general public, or within such greater distance that is equal to the height of the FREESTANDING SIGN, and no portion of a FREESTANDING SIGN shall be located within the airspace above any such minimum required distance.

7.8.3 A FREESTANDING SIGN shall be integrated into the landscape design of the LOT or parcel. It shall be centered within a landscaped area located on the LOT or parcel with a minimum area in square feet to be equal to the overall height of the SIGN multiplied by two, by the power of two. (Example - SIGN height = 6 feet: 6 ft. x 2 = 12 ft.; 12 ft. x 12 ft. = 144 sq. ft. = minimum landscaped area). Such landscaped area shall be planted and maintained with suitable vegetation including shrubs and flowering perennials surrounding the base of the FREESTANDING SIGN. The landscaped area required under this section may be provided as part of a landscaped area required under any other section of this Bylaw.

7.8.4 If a FREESTANDING SIGN is a MONUMENT SIGN where the exterior surface of the support structure consists of masonry material which remains in its natural color other than plain gray concrete, the area below the lowest portion of any letter, symbol or illustration consisting of such masonry surface shall not be counted as DISPLAY AREA.

7.8.5 The following standards shall apply to FREESTANDING SIGNS in the Business, Industrial and Office Districts:

7.8.5.1 Where a FREESTANDING SIGN identifies a business, such FREESTANDING SIGN shall be permitted in addition to any EXTERIOR SIGN permitted on the same LOT. The DISPLAY AREA of the FREESTANDING SIGN shall not exceed 12 square feet and the height shall not exceed 7 feet. If such a FREESTANDING SIGN is a MONUMENT SIGN, its DISPLAY AREA may be increased to 16 square feet, provided however that the height of a MONUMENT SIGN shall not exceed 4 feet, or 6 feet if its width does not exceed 3 feet. Where the FREESTANDING SIGN identifies a motor vehicle service station the maximum permitted DISPLAY AREA may be increased to 24 square feet if the additionally permitted DISPLAY AREA is used solely for the posting of current prices of fuel and gasoline.

7.8.5.2 Where a FREESTANDING SIGN identifies a BUSINESS CENTER, each business located within such BUSINESS CENTER may display its identification on the FREESTANDING SIGN together with the identification of the BUSINESS CENTER, provided that such FREESTANDING SIGN remains of integrated and coherent design and complies with all applicable standards. The DISPLAY AREA of such a FREESTANDING SIGN shall not exceed 20 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 24 square feet, and its height shall not exceed 10 feet. If a FREESTANDING SIGN under this provision is a MONUMENT SIGN, its DISPLAY AREA may be increased to 24 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 30 square feet. The height of such MONUMENT SIGN shall not exceed 6 feet, or 8 feet if its width does not exceed 4 feet.

7.8.6 The following standards shall apply to FREESTANDING SIGNS in the Village Districts:

7.8.6.1 One FREESTANDING SIGN may be ERECTED on a LOT provided that no BUILDING on the LOT is located within 30 feet of the sideline of the STREET nearest which the FREESTANDING SIGN is ERECTED.

7.8.6.2 Where a FREESTANDING SIGN identifies a business in the NAV, SAV, or WAV Districts, no EXTERIOR SIGN shall be ERECTED on the same LOT. Where a FREESTANDING SIGN identifies a business in the EAV District, one EXTERIOR SIGN shall be permitted. The DISPLAY AREA of such a FREESTANDING SIGN shall not exceed 8 square feet and the height shall not exceed 5 feet. If such a FREESTANDING SIGN is a MONUMENT SIGN, its DISPLAY AREA may be increased to 12 square feet, provided however that the height shall not exceed 4 feet, or 5 feet if its width does not exceed 3 feet. Where the FREESTANDING SIGN identifies a motor vehicle service station, the maximum permitted DISPLAY AREA may be increased to 16 square feet if the additionally permitted DISPLAY AREA is used solely for the posting of current prices of fuel and gasoline.

7.8.6.3 Where a FREESTANDING SIGN identifies a BUSINESS CENTER, each business located within such BUSINESS CENTER may display its identification on the FREESTANDING SIGN together with the identification of the BUSINESS CENTER, provided that such FREESTANDING SIGN remains of integrated and coherent design and complies with all applicable standards. The DISPLAY AREA of such a FREESTANDING SIGN shall not exceed 8 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 12 square feet, and its height shall not exceed 6 feet. If a FREESTANDING SIGN under this provision is a MONUMENT SIGN, its DISPLAY AREA may be increased to 12 square feet plus an additional 2 square feet per business name displayed, up to a maximum DISPLAY AREA of 20 square feet. The height of such MONUMENT SIGN shall not exceed 4 feet, or 6 feet if its width does not exceed 3 feet.

7.8.7 One FREESTANDING SIGN may be ERECTED on a LOT or parcel located in the Business, Industrial or Office District identifying an OFFICE PARK or INDUSTRIAL PARK which may be located on more than one LOT, subject to the following:

7.8.7.1 Only one such SIGN shall be permitted for each OFFICE PARK or INDUSTRIAL PARK.

7.8.7.2 Such FREESTANDING SIGN shall only identify the OFFICE PARK or INDUSTRIAL PARK and shall be subject to the provisions applicable to FREESTANDING SIGNS identifying a BUSINESS CENTER as they apply to the particular location in which the SIGN is ERECTED. However, any DISPLAY AREA specifically provided to accommodate the listing of individual business shall not be included in calculating the maximum DISPLAY AREA hereunder and no display of individual establishments within an OFFICE PARK or INDUSTRIAL PARK shall be permitted on a FREESTANDING SIGN hereunder.

7.8.7.3 Such FREESTANDING SIGN may be permitted in addition to any permitted EXTERIOR SIGNS on the same LOT but no other FREESTANDING SIGN shall be permitted on the same LOT or parcel.

7.8.7.4 Such SIGN shall be ERECTED on a LOT or parcel which is clearly a part of the BUSINESS CENTER, OFFICE PARK or INDUSTRIAL PARK which it identifies.

7.9 Off-premises Directional SIGNS – One off-premises directional SIGN shall be permitted on a LOT assisting motorists in finding businesses, other than home occupations, not located on the same LOT, provided that such SIGN identifies only the name(s) of such businesses which are located on a LOT that does not have

FRONTAGE on any of the major numbered through STREETS: Routes 2, 2A, 27, 111, and 62. Such SIGN shall not display any advertisement nor be illuminated. The maximum DISPLAY AREA shall not exceed 1 square foot per business identified on the SIGN, up to 4 square feet of combined DISPLAY AREA for multiple identifications on such SIGN. The height of such SIGN shall not exceed 5 feet above the ground. There shall be no more than two locations at which any particular business may be identified hereunder. No SIGN permitted hereunder shall be ERECTED within a STREET or within any right of way customarily used by the general public, and no such SIGN shall be ERECTED within the R-2, R-4, R-8/4, R-8, R-10/8 or R-10 Districts.

7.10 TEMPORARY and SPECIAL EVENT SIGNS

7.10.1 One SPECIAL EVENT SIGN may be ERECTED to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business, or similar event. Such SIGN shall be ERECTED on the same LOT where the event is to occur. It may identify the event and the date of the event, and it may display the event's sponsor, organizer and main feature. Such a SIGN shall be removed not later than 1 day after completion of the event. The display time of SPECIAL EVENT SIGNS, taken together, shall be limited to 45 days per PRINCIPAL USE for each calendar year.

7.10.2 In addition to SPECIAL EVENT SIGNS, any PRINCIPAL USE permitted in a Business, Industrial, Office or Village District that does not have a permanent FREESTANDING or EXTERIOR SIGN may ERECT one TEMPORARY SIGN on the same LOT where the PRINCIPAL USE is located for the duration between the application filing date for a permanent SIGN permit or special permit pursuant to section 7.6 and 7.13 and, if approved, up to 45 days after the issuance of a SIGN permit pursuant to section 7.6.

7.10.3 Only one TEMPORARY or SPECIAL EVENT SIGN shall be ERECTED per PRINCIPAL USE at any given time.

7.10.4 TEMPORARY and SPECIAL EVENT SIGNS shall not exceed 10 square feet in DISPLAY AREA.

7.10.5 TEMPORARY and SPECIAL EVENT SIGNS shall neither be ERECTED on a sidewalk, walkway or driveway, nor within 5 feet from the sideline of a STREET or right of way customarily used by the general public.

7.10.6 TEMPORARY and SPECIAL EVENT SIGNS shall comply with the provisions of Sections 7.3 and 7.4, except as set forth in this section, and they shall not be illuminated.

7.10.7 Notwithstanding subsections 7.3.4, 7.3.6, and 7.4.1, TEMPORARY and SPECIAL EVENT SIGNS may be MOVABLE SIGNS, and in Village Districts may be made with materials not otherwise allowed; and SPECIAL EVENT SIGNS may consist of a flag or balloon, or may be decorated with ribbons, flags, streamers or balloons that remain reasonably within the confines of the SIGNS.

7.10.8 No TEMPORARY or SPECIAL EVENT SIGN shall be ERECTED without a SIGN permit issued by the office of the Zoning Enforcement Officer pursuant to section 7.6, which may be a blanket SIGN permit that covers all TEMPORARY and SPECIAL EVENT SIGNS for a PRINCIPAL USE for up to one calendar year. The SIGN permit shall state the specific dates and time periods during which the TEMPORARY and SPECIAL EVENT SIGNS may be ERECTED and the specific location or locations on a LOT.

7.11 SIGNS for Golf Courses and Cross-Country Skiing in Residential Districts – One FREESTANDING SIGN may be ERECTED for a Golf Course or a Cross-Country Skiing course that is located in a residential district. The FREESTANDING SIGN shall have a maximum height of 5 feet and the DISPLAY AREA shall not exceed 8 square feet. In

addition, said USES may erect one WALL SIGN on the main building with a maximum DISPLAY AREA of 20 square feet.

7.12 Non-Conforming SIGNS – Any non-conforming SIGN lawfully ERECTED may continue, subject to the following:

7.12.1 Non-conforming SIGNS accessory to a USE or USES shall be removed or replaced concurrently with any expansion of such USE or USES. Such non-conforming SIGNS shall be replaced with a conforming SIGN or SIGNS prior to the issuance of an occupancy permit for any BUILDING into which the USE or USES are to be expanded.

7.12.2 Nothing herein shall be deemed to prevent orderly, regular, and timely maintenance, repair, and repainting with the same original colors of a non-conforming SIGN, or the re-lettering, re-facing, or changing of message of a non-conforming sign.

7.13 SIGNS Requiring a Special Permit from the Planning Board

7.13.1 The Planning Board, acting as the Special Permit Granting Authority under this Section, may approve, approve with conditions, or disapprove the following SIGNS and the following deviations from the requirements of Sections 7.4, 7.7 and 7.8:

7.13.1.1 A greater number of SIGNS than allowed under Sections 7.7 and 7.8, but not more than one SIGN in addition to the number of SIGNS otherwise permitted per LOT or per PRINCIPAL USE, as the Planning Board finds appropriate to further the purpose of this Section as stated in Section 7.1.

7.13.1.2 SIGNS with dimensions in excess of those permitted under Sections 7.7 and 7.8, subject to the following limitations:

a) no SIGN higher or wider than one and one half times the maximum height or width otherwise permitted, and
b) no SIGN larger than twice the otherwise permitted maximum DISPLAY AREA, and
c) no FREESTANDING SIGN larger than 40 square feet in DISPLAY AREA or higher than 10 feet, and
d) any such other limitation as the Planning Board may find appropriate to further the purpose of this Section as stated in Section 7.1.

7.13.1.3 A SIGN in a location or in a position not otherwise permitted, but not a ROOF SIGN, a BILLBOARD, or a SIGN located within the minimum required distance from the sideline of a STREET or right of way customarily used by the general public.

7.13.1.4 SIGNS made of materials not otherwise permitted.

7.13.1.5 A SIGN attached to a stone wall, retaining wall, fence or other landscaping feature on a LOT, provided that such SIGN and feature are, in the opinion of the Planning Board, an integral component of the landscape design and BUILDING architecture on the LOT.

7.13.1.6 Except in the Village Districts, a NEON or LED SIGN to be ERECTED on a LOT in place of a SIGN otherwise permitted, provided it features an individualized, custom made design showing only a drawing, logo, symbol or illustration, but not letters. A NEON or LED SIGN hereunder shall comply with all applicable dimensional standards. A NEON SIGN shall be composed of primarily single strand glass tubing with a maximum 1 inch diameter.

7.13.1.7 One SIGN for a nonconforming, pre-existing business, industrial or office USE other than a home occupation, ERECTED in a Residential District, conforming to the applicable requirements for a SIGN in a Village District, not illuminated and not exceeding six square feet in DISPLAY AREA.

7.13.1.8 A FREESTANDING SIGN with less than the required landscaped area, provided that, in the opinion of the Planning Board, sufficient landscape treatment is provided to compensate for the reduction in area.

7.13.1.9 A type or method of SIGN illumination not otherwise permitted provided that it meets the general objectives of Section 7.4.3.

7.13.2 A Special Permit under this section shall only be issued if the Planning Board, in addition to the required findings of Section 10.3.5, finds that, in its opinion, the resulting SIGN or the resulting deviation from the otherwise applicable requirements of this Section 7 meet the following criteria:

7.13.2.1 The SIGN will be consistent with the intent and purpose of Section 7.

7.13.2.2 The SIGN will be consistent with the character and use of the area and with the Zoning District in which it is ERECTED.

7.13.2.3 The SIGN will have appropriate scale and proportion in its design and in its visual relationship to BUILDINGS in the area and to its general surroundings. It has been attractively designed and located, and will be a compatible architectural element of the BUILDING to which it principally relates and will be in harmony with other features in the general area.

7.13.2.4 The proposed SIGN will provide continuity with other SIGNS, not including any non-conforming SIGNS, on the same or adjacent BUILDINGS or LOTS with respect to most but not necessarily all of the following criteria: dimension, proportion, mounting height, materials, colors, and other important features as determined by the Planning Board.

7.13.2.5 The colors, materials and illumination of the proposed SIGN are restrained and harmonious with the BUILDING and the site to which it principally relates.

7.13.2.6 The material used for the SIGN is appropriate and does not detract from the aesthetic qualities of its surroundings.

7.13.2.7 The number of graphic elements on the proposed SIGN is held to the minimum needed to convey the SIGN'S primary message and is in good proportion to the area of the SIGN face.

7.13.2.8 The proposed SIGN will not unduly compete for attention with any other SIGN or SIGNS.

7.13.2.9 In the case of a SIGN under Sections 7.13.1.1 through 7.13.1.3, the proposed SIGN is necessary for adequate identification of a business which for site specific reasons would not reasonably be possible under the otherwise applicable standards and available options of this Bylaw.

7.13.3 When granting a special permit hereunder, the Planning Board, in order to mitigate negative impacts of a SIGN and to help support any of its required findings under Section 7.13.2, may impose reasonable conditions taking into consideration all aspects of the SIGN and its impacts on the visual environment in the area, including but not limited to design, construction, color, illumination, landscaping, and coordination with

BUILDINGS and other SIGNS in the area, it may require the removal of any non-conforming SIGN or SIGNS on the LOT or in the same BUSINESS CENTER, and it may impose such other conditions as it deems appropriate to further the purpose of this Section as stated in Section 7.1.

7.13.4 The Planning Board shall promulgate Rules and Regulations governing the business of the Planning Board under this Section, including but not limited to the contents of an application and application fees, and it may adopt and from time to time amend design guidelines for SIGNS as it finds appropriate.

7.13.5 Where a SIGN is located in a Local Historic District, the Planning Board shall have no authority to require or grant a Special Permit under this Section 7.13. Instead, the Historic District Commission shall have the power and discretion to issue a Certificate of Appropriateness for such SIGN under the Acton Historic District Bylaw, Chapter P of the Town Bylaws. However, any SIGN approved hereunder shall also comply with the requirements of this Bylaw, including the requirements of Section 7.13.1.

SECTION 8.

NONCONFORMING LOTS, USES, STRUCTURES AND PARKING; EXEMPTIONS

8.1 Nonconforming Lots

8.1.1 Continuation of Existing LOT – The requirements of Section 6 of "The Zoning Act" Chapter 40A of the General Laws, as amended, shall apply.

8.1.2 Changes to Unimproved LOTS – Any unimproved LOT which complied with the minimum area, FRONTAGE, LOT width, yard and depth requirements, if any, in effect at the time the boundaries of the LOT were defined by recorded deed or plan, may be built upon for single FAMILY, or where permitted two-FAMILY, residential USE, notwithstanding the adoption of new or increased LOT area, FRONTAGE, LOT width, yard or depth requirements, provided that:

8.1.2.1 At the time of the adoption of such new or increased requirements such LOT was held, and has continued to be held, in ownership separate from that of adjoining land; and

8.1.2.2 The LOT had at least 5,000 square feet of area and 50 feet of FRONTAGE at the time the boundaries of the LOT were defined; and

8.1.2.3 Any proposed STRUCTURE is situated on an unimproved LOT so as to conform with the minimum yard requirements, if any, in effect at the time the boundaries of such LOT were defined. In the case where no minimum yard requirements were in effect at the time the boundaries of such LOT were defined, the minimum front yard shall be 20 feet and the minimum side and rear yards shall be 10 feet.

8.1.3 Replacement of Single- and Two-Family Dwellings on Nonconforming Lots – A STRUCTURE in single family residential USE on a nonconforming LOT may be razed and rebuilt for single family residential USE; and a STRUCTURE in two-family residential USE on a nonconforming LOT may be razed and rebuilt for two-family residential USE; in both cases subject to the following conditions and limitations:

8.1.3.1 The replacement STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.

8.1.3.2 The replacement STRUCTURE shall meet all minimum yard and maximum height requirements of this Bylaw.

8.1.3.3 In the absence of architectural and plot plans for the existing structure to be razed, the FLOOR AREA RATIO shall be determined by using the information on record at the Town of Acton Assessor's office.

8.1.3.4 Additions to the replacement STRUCTURE may be made after two years following the date of initial occupancy of the replacement STRUCTURE, if otherwise permissible and subject to any permits and special permits that may be required.

8.1.4 Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that LOT became nonconforming, whichever is later.

8.1.5 In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single or two-family residential STRUCTURE on a nonconforming LOT, where it determines either that the proposed modification does not

increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.

8.2 Nonconforming USES

8.2.1 Continuation of Existing USE - The requirements of Section 6 of "The Zoning Act", Chapter 40A of the General Laws, as amended, shall apply.

8.2.2 Changing a Nonconforming USE - A nonconforming USE may not be changed to another nonconforming USE except in accordance with the following requirements. The Board of Appeals may authorize by special permit a change from a nonconforming USE to another nonconforming USE provided the Board of Appeals finds that the proposed USE is in harmony with the character of the neighborhood and the applicable requirements of the zoning district, and provided further that in the Residential, Village and Office Districts the Board of Appeals may authorize a change only to one of the following other nonconforming USES (all USES as listed in the Table of Principal USES):

a) In Residential Districts: Two-FAMILY Dwelling; Multifamily Dwelling; Commercial Education or Instruction; Retail Store; Office; Veterinary Care; Services; Repair Shop, Technical Shop, Studio; except that neither nonconforming Two-FAMILY Dwellings nor Multifamily Dwellings shall be changed to another nonconforming USE.

b) In Village Districts: Multifamily Dwelling, Veterinary Care, Commercial Entertainment, Manufacturing.

c) In Office Districts: Hotel, Motel, Inn, Conference Center.

8.2.3 Extending a Nonconforming USE -

8.2.3.1 In a Residential District a nonconforming USE may not be extended in area, except that,

a) nonconforming Two-FAMILY Dwellings may be extended by right, and

b) nonconforming Multifamily Dwellings may be extended by special permit from the Board of Appeals.

The extension of a nonconforming Two-FAMILY Dwelling or Multifamily Dwelling USE shall be subject to the applicable dimensional controls of this Bylaw and shall not result in an increase in the number of DWELLING UNITS, unless the dwelling qualifies for a Dwelling Conversion in accordance with Section 3.3.4 of this Bylaw.

8.2.3.2 In all other Districts, a nonconforming USE may be extended in area by special permit from the Board of Appeals.

8.2.4 Abandonment - A nonconforming USE which is abandoned shall not be resumed. A nonconforming USE shall be considered abandoned:

8.2.4.1 When a nonconforming USE has been replaced by a conforming USE; or

8.2.4.2 When a nonconforming USE is discontinued for a period of two years or more; or

8.2.4.3 When a nonconforming USE has been changed to another nonconforming USE by special permit from the Board of Appeals.

8.3 Nonconforming STRUCTURES

8.3.1 Continuation of Existing STRUCTURE - The requirements of Section 6 of "The Zoning Act", Chapter 40A of the General Laws shall apply.

8.3.2 Changing a Nonconforming STRUCTURE - A nonconforming STRUCTURE may be altered, reconstructed, extended or structurally changed provided that such alteration, reconstruction, extension or structural change conforms to all the dimensional requirements of this Bylaw. A vertical extension of a nonconforming BUILDING, which does not expand the BUILDING horizontally so as to violate any applicable yard requirement, shall be deemed not to increase the nonconforming nature of the BUILDING and shall not require a special permit under Section 8.3.3.

8.3.3 A BUILDING, which is nonconforming with regard to any yard requirement may be extended horizontally within the dimension of its existing nonconformity by special permit from the Board of Appeals, provided that the extension otherwise conforms to all the dimensional requirements of this Bylaw, and provided further that the Board of Appeals finds that such an extension is not substantially more detrimental to the neighborhood than the existing nonconforming condition of the BUILDING.

8.3.4 Restoration - If a nonconforming STRUCTURE, or a STRUCTURE on a nonconforming LOT that cannot be built on under the requirements of Section 8.1, is damaged by fire, flood or similar disaster to an extent greater than 50% of its fair market value before it was damaged, it shall not be rebuilt or reconstructed without a special permit from the Board of Appeals. No such special permit shall be granted unless the application for such special permit is filed within two years from the date on which the damage occurred and the Board of Appeals finds that 1) such rebuilding or reconstruction will not be detrimental to the neighborhood, and 2) to the extent possible the STRUCTURE will be rebuilt or reconstructed in conformity with the dimensional requirements of this Bylaw.

8.3.5 Exemptions for certain non-complying BUILDINGS - If a BUILDING, or a part of a BUILDING, does not comply with the dimensional controls of the Bylaw or those that were in effect when it was constructed, it shall be considered to comply with this Bylaw if the following conditions are met:

1) The non-compliance has existed for at least six consecutive years during which time no enforcement action under the provision of Section 11.1 of this Bylaw has been taken, and
2) the non-compliance was not created or increased by changes in LOT lines after the construction of the BUILDING, and
3) there is evidence that the BUILDING was constructed except for said dimensional non-compliance substantially in accordance with a building permit issued by the Town.

If a BUILDING, or a part of a BUILDING, does not comply with the dimensional controls of this Bylaw or those that were in effect when it was constructed, and conditions 1) and 2) above are met but there is no evidence a building permit was issued or the construction in addition to said dimensional non-compliance is not in accordance with a building permit duly issued, the Board of Appeals may grant a special permit for the continued use of the BUILDING under the provisions of Section 10.3 of this Bylaw provided the Board of Appeals finds that the BUILDING is not a substantial detriment to the neighborhood.

8.4 **Nonconforming Parking** – This Bylaw shall not be deemed to prohibit the continued USE of any land or STRUCTURE that is nonconforming with respect to parking requirements.

8.5 **Building and Special Permit Exemption** – An amendment to the Zoning Bylaw shall not apply to a building permit, special permit or site plan special permit, the application for which has been duly filed as required by this Zoning Bylaw or the Massachusetts General Laws before the first publication of notice of the public hearing on such amendment required by Massachusetts General Laws Ch. 40A, s. 5; provided that the applicant proceeds diligently to obtain such permit and provided further that the USE or construction is commenced within six (6) months after the issuance of the permit and the expiration of all applicable appeal periods. In cases involving construction, such construction shall be continued through to completion as continuously and expeditiously as is reasonable, provided however that if such construction has ceased for a period of two or more years it shall be considered abandoned pursuant to Section 8.2.4.

8.6 **Special Provisions to Enhance Access for Handicapped Persons** – The minimum number of required parking spaces, the minimum required OPEN SPACE, and the minimum front, side and rear yard requirements of this bylaw may be reduced, but only to the extent necessary to install handicapped access parking spaces, ramps or other facilities designed in accordance with the requirements of the Massachusetts Architectural Access Board and intended to provide handicapped access to any existing STRUCTURE or USE on any LOT. No site plan special permit or other special permit shall be required for such facilities, but they shall be approved by the Zoning Enforcement Officer prior to installation.

8.7 **Special Permit to Reconstruct Nonconforming Multifamily Dwelling** – The Planning Board may authorize by Special Permit the reconstruction or rebuilding of a Multifamily Dwelling, as defined in Section 3.3.5, which is nonconforming as to USE, LOT size or other applicable dimensional requirements, when such BUILDING was destroyed by fire or natural disaster, or by voluntary demolition, and it may authorize the continuation or resumption of the USE as a Multifamily Dwelling after completion of reconstruction. The following standards shall apply:

8.7.1 To the extent possible, the new BUILDING shall comply with the dimensional requirements applicable in the zoning district in which the BUILDING is located. However, the Planning Board may authorize or require smaller or larger dimensions as it finds appropriate to address public interest considerations, such as but not limited to the preservation or improvement of neighborhood character, historic architectural features or the spatial relationship between buildings, and to address public safety and health concerns.

8.7.2 The Planning Board shall consider an application for a Special Permit under this section only if it is filed before or within 1 year from the date of the issuance of a demolition permit by the Building Commissioner or within one year from the date of the fire or natural disaster which caused the destruction of the BUILDING.

8.7.3 The number of DWELLING UNITS shall not be increased as a result of reconstruction.

8.7.4 The Planning Board may impose conditions and require plan changes for the reconstruction as it deems appropriate and necessary to further the purpose of this Bylaw, including but not limited to conditions and changes affecting the architectural design and layout of the BUILDING, garages, driveways and other improvements.

8.8 **Public Acquisition** – If the area, FRONTAGE, width or other dimensions of a LOT, parcel or TRACT OF LAND is decreased by a taking or acquisition of part of such land by the Town of Acton or the Water Supply District of Acton for public purposes, no existing USE, BUILDING or STRUCTURE located on, or dependent upon the existing area or other dimensions of such LOT, parcel or TRACT OF LAND for compliance with the requirements of this Zoning Bylaw, shall be rendered non-complying solely by reason of such taking or acquisition.

8.9 **Planned Unit Development (PUD)** - Notwithstanding the repeal of Section 9A of this Bylaw, any TRACT OF LAND for which a special permit for a Planned Unit Development (PUD) has been granted shall continue to be governed by such special permit and the provisions of Section 9A which were applicable to such special permit as of the date of issuance of such special permit.

In addition, the following minimum setbacks to the PUD boundary line shall apply to Single FAMILY Dwellings with or without one apartment within a PUD, including accessory STRUCTURES and facilities thereto:

8.9.1 30 feet where the PUD boundary line coincides with a STREET sideline.

8.9.2 20 feet to any other PUD boundary line.

Note: Section 9A - Planned Unit Development (PUD) was repealed on April 1, 2002. Section 9A still governs existing PUDs in conjunction with the above Section 8.9. Section 9A as in effect just before its repeal can be found in the Appendix.

SECTION 9.

PLANNED CONSERVATION RESIDENTIAL COMMUNITY (PCRC)

9.1 **Purpose** – The primary purpose of the Planned Conservation Residential Community (PCRC) is to allow residential development that encourages the preservation of open space, and thus allows within it the preservation of significant land, water, historic, archeological and natural resources, in a manner consistent with the goals of the Master Plan and the Open Space and Recreation Plan, as amended from time to time.

The secondary purpose is to facilitate and encourage the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner than in a standard subdivision.

9.2 **Special Permit** – The Planning Board may grant a special permit for the development and construction of a PCRC on all land and parcels previously incorporated into a PCRC zoning district, as well as in the R-2, R-4, R-8/4, R-8, R-10/8 and R-10 Districts in accordance with this Section and MGL Ch. 40A, s. 9.

9.3 **Contents of Application for a PCRC Special Permit** – The application for a PCRC Special Permit shall be accompanied by a "PCRC Site Plan", showing the information required by the Rules and Regulations for PCRCs. The information shall include but not be limited to: the topography; soil characteristics as shown on the Soil Conservation Service Maps; wetlands as defined by M.G.L. Chapter 131, Section 40; vernal pools, riverfront areas, buffer zones and setbacks as defined in Chapter F of the Bylaws of the Town of Acton - Wetland Protection; Flood Plain boundary lines; existing types of vegetation; any other unique natural, historical, archeological, and aesthetic resources; the proposed layout of the LOTS; proposed locations of DWELLING UNITS and accessory BUILDINGS; the proposed diversity and cost range for the DWELLING UNITS; dimensions, STREETS, garages, driveways, wells, utilities, wastewater disposal systems; the proposed finished grades of the land; the proposed vegetation and landscaping including where existing vegetation is retained; proposed features designed for energy and water conservation and pollution control; the proposed layout and land use plan of the Common Land in the PCRC; the proposed form of ownership of the Common Land and any improvements proposed thereon.

9.4 **Procedural Requirements** – If the PCRC requires approval under the Subdivision Control Law, M.G.L., Chapter 41, the "PCRC Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision Plan by the Acton Subdivision Rules and Regulations. The applications for a PCRC Special Permit and for approval of a Definitive Subdivision Plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time.

9.5 **Planning Board Action** – In evaluating the proposed PCRC, the Planning Board shall consider the general purpose and objectives of this Bylaw; the existing and probable future development of surrounding areas; the appropriateness of the proposed layout of STREETS, ways, LOTS, and STRUCTURES; the proposed layout and USE of the Common Land; the topography; soil; and other characteristics and resources of the TRACT OF LAND in question. The Planning Board may grant a special permit for a PCRC if it finds that the PCRC:

a) complies in all respects with the applicable requirements of this Bylaw;

b) enhances the purpose and intent of PCRC Development;

c) enhances the goals of the Open Space and Recreation Plan;

d) is in harmony with the character of the surrounding area and neighborhood; and

e) complies with the requirements of Section 10.3.5.

9.5.1 The Planning Board shall consider the recommendations, if any, of the Board of Health, the Conservation Commission, and other town boards and staff in making said findings.

9.5.2 The Planning Board may require changes to the "PCRC Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw, including without limitation, any conditions, safeguards or limitations listed in Section 10.3.6.

9.6 Standards for PCRCs

9.6.1 Permitted USES – Permitted USES in a PCRC shall be any use permitted in the underlying Zoning District as well as ACCESSORY USES typically associated with residential USES. Permitted USES in a PCRC shall also include community facilities owned and operated by the owner of the PCRC or the residents within the PCRC, such as building and grounds maintenance facilities, waste water disposal facilities, recreational facilities, or club houses. Community facilities shall be for the use by the residents within the PCRC and their guests. They may also be used for commercial instruction, education and training in skills of all kinds for the residents within the PCRC and the public at large.

9.6.2 Area and Dimensional Regulations:

9.6.2.1 PCRC Site Area – The TRACT OF LAND for a PCRC must contain a minimum area of 8 acres within the Town of Acton.

a) The Planning Board may permit LOTS on directly opposite sides of a STREET to qualify as a single TRACT OF LAND. To permit such division of a TRACT OF LAND by a STREET, the Planning Board must find that this would enhance the purposes of PCRC and not result in any more DWELLING UNITS than would be possible in accordance with the provisions of this Bylaw if the LOTS on either side of the STREET were developed separately. If the Board approves a TRACT OF LAND divided by a STREET, it may permit the total number of permitted DWELLING UNITS to be constructed on either side of the STREET. AFFORDABLE DWELLING UNITS generated on the TRACT OF LAND under the provisions of Section 4.4.3 may be sited along with the other DWELLING UNITS whether or not the location of the AFFORDABLE DWELLINGS UNITS is within the AFFORDABLE Housing Overlay District. The DWELLING UNITS shall be constructed in accordance with the applicable PCRC requirements and the required Common Land may consist of land located on either side of the STREET.

b) Where a TRACT OF LAND is divided by a zoning district boundary between any of the R-2, R-4, R-8/4, R-10 or R-10/8 districts the total number of DWELLING UNITS permitted shall not exceed the number permitted in each district considered separately. AFFORDABLE DWELLING UNITS generated on the TRACT OF LAND under the provisions of Section 4.4.3 may be sited along with the other DWELLING UNITS whether or not the location of the AFFORDABLE DWELLINGS UNITS is within the AFFORDABLE Housing Overlay District. The DWELLING UNITS may be located in either district and shall be constructed in accordance with PCRC requirements.

9.6.2.2 Dimensional Requirements for BUILDINGS – There shall be no minimum LOT area, FRONTAGE, LOT width, or yard requirements within a PCRC, except as follows:

a) No BUILDINGS or STRUCTURES shall be located within 45 feet of a pre-existing STREET, or within 15 feet of a new STREET, way, or common drive within the PCRC.

b) No BUILDINGS or STRUCTURES shall be located within 30 feet of the boundary line of the PCRC or the Common Land.

c) The minimum distance between residential BUILDINGS shall be 20 feet.

d) Where a residential BUILDING measures more than 3,000 square feet of GROSS FLOOR AREA per DWELLING UNIT, including any attached garages, the minimum setback from a street, way, or common drive within the PCRC shall be 30 feet, and the minimum separation to the next residential BUILDING shall be 40 feet.

e) The Planning Board may impose other conditions on the locations of BUILDINGS and STRUCTURES, as it deems appropriate to enhance the purpose and intent of PCRC.

9.6.2.3 Number of DWELLING UNITS – The maximum number of DWELLING UNITS permitted in a PCRC shall be 80% of the following, rounded up to the next integer:

a) In the R-2 District: 1 DWELLING UNIT per 20,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.

b) In the R-4 and R-8/4 Districts: 1 DWELLING UNIT per 40,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.

c) In the R-8 and R-10/8 Districts: 1 DWELLING UNIT per 80,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.

d) In the R-10 District: 1 DWELLING UNIT per 100,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.

e) In the AFFORDABLE Housing Overlay District - Sub-Districts A and B: The number of DWELLING UNITS may be increased pursuant to the formulas provided in Section 4.4.3.1 and subject to the requirements of Sections 4.4.5, 4.4.6, 4.4.7, 4.4.8 and 4.4.9. The inclusion of AFFORDABLE DWELLING UNITS in compliance with the above referenced Sections of this Bylaw shall be authorized under a Special Permit for a PCRC.

9.6.2.4 BUILDING Requirements – There shall be no more than four DWELLING UNITS in any residential BUILDING. Except in the case of detached single family dwellings, there shall be not more than two garage spaces per DWELLING UNIT in any residential BUILDING. The overall length of any residential BUILDING shall not exceed 200 feet. Each DWELLING UNIT shall have two separate exterior entrances at ground level.

9.6.2.5 Parking Requirements – A minimum of 2 parking spaces per DWELLING UNIT including garages shall be provided.

9.6.2.6 Storm Water Runoff – The peak rate of storm water runoff from a PCRC shall not exceed the rate existing prior to the new construction based on a 10-year design storm.

9.6.3 Common Land Standards:

9.6.3.1 Dimensional Requirements for the Common Land – In a PCRC, at least sixty percent (60%) of the TRACT OF LAND within Acton shall be set aside as Common Land within Acton for the use of the PCRC residents or the general public. The following additional requirements shall apply:

a) The minimum required area of the Common Land shall not contain a greater percentage of wetlands, as defined in M.G.L. Chapter 131, Section 40, than the

percentage of wetlands found in the overall TRACT OF LAND on which the PCRC is located.

b) The minimum Common Land shall be laid out as one or more large, contiguous parcels that are distinct from parcels dedicated for other purposes and USES. Each Common Land parcel shall contain at least one access corridor to a STREET or way that shall be not less than 40 feet wide.

c) If the TRACT OF LAND of the PCRC abuts adjacent Common Land or undeveloped LOTS, the Common Land shall be laid out to abut the adjacent Common Land or undeveloped LOTS.

9.6.3.2 USE of the Common Land – The Common Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of those USES. No other USES shall be allowed in the Common Land, except as provided for herein:

a) The proposed USE of the Common Land shall be specified on a Land Use Plan and appropriate dedications and restrictions shall be part of the deed to the Common Land. The Planning Board shall have the authority to approve or disapprove particular USES proposed for the Common Land in accordance with the purposes of this Bylaw.

b) The Common Land shall remain unbuilt upon, except that the Planning Board may approve as part of the special permit the location and area of pavement or STRUCTURES accessory to the approved USE or USES of the Common Land.

c) A portion of the Common Land may also be used for the construction of leaching areas, if associated with septic disposal systems serving the PCRC, and if such USE, in the opinion of the Planning Board, enhances the specific purpose of PCRC Development and promotes better overall site planning. Septic disposal easements shall be no larger than reasonably necessary. If any portion of the Common Land is used for the purpose of such leaching areas, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the LOT owners within the PCRC.

d) A portion of the Common Land may also be used for ways serving as pedestrian walks, bicycle paths, and emergency access or egress to the PCRC or adjacent land, if such a USE, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Common Land.

e) Portions of the Common Land that are in excess of the minimum Common Land total area and upland area as calculated in accordance with Section 9.6.3.1, including its subsection a), may be used for storm water detention and retention facilities serving the LOTS, STREETS and ways in the PCRC, including infrastructure such as pipes, swales, catch basins, and manholes, and parcels and easements associated with such facilities.

f) No portion of the Common Land as shown on the approved PCRC Site Plan, including any portion that exceeds minimum zoning requirements, shall be used to meet area, setback, or any other zoning requirements for any development or improvement that is not shown on the approved PCRC Site Plan. No portion of the Common Land shall be used to meet minimum Common Land requirements in any adjacent or expanded PCRC.

9.6.3.3 Ownership of the Common Land – The Common Land shall be conveyed in whole or in part to the Town of Acton and accepted by it, or to a non-profit organization, the principal purpose of which is the conservation of open space and/or any of the purposes

and USES to which the Common Land may be dedicated. The Common Land may also be conveyed to a corporation or trust owned or to be owned by the owners of DWELLING UNITS within the PCRC. The Planning Board shall approve the form of ownership of the Common Land. If the Common Land or any portion thereof is not conveyed to the Town of Acton, a perpetual restriction, approved by the Planning Board and enforceable by the Town of Acton, shall be imposed on the USE of such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with the provisions of a PCRC as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual PCRC. The proposed ownership of all Common Land shall be shown on the Land Use Plan for the PCRC. At the time of its conveyance, the Common Land shall be free of all encumbrances, mortgages, tax liens or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.

9.7 **STREETS, Utilities and Lighting** – Whether or not the Planned Conservation Residential Community is a subdivision, all STREETS and ways whether public or private, wastewater disposal and drainage facilities and utilities shall be designed and constructed in compliance with the Town of Acton Subdivision Rules and Regulations, as amended. Special exception(s) to the Subdivision Rules and Regulations may be authorized by the Planning Board in granting a special permit hereunder provided the Board determines such exception(s) is in the public interest and is not inconsistent with the purposes of Section 9.1. The Planning Board may impose appropriate standards for all outdoor lighting within a PCRC.

9.8 **Revisions and Amendments of "PCRC Site Plans"** – Any change in the layout of STREETS and ways, in the configuration of the Common Land, in the ownership or USE of the Common Land, or any other change which, in the opinion of the Zoning Enforcement Officer, would significantly alter the character of the PCRC, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new special permit and hold a public hearing pursuant to Section 10.3 of this Bylaw, if it finds that the proposed changes are substantial in nature and of public concern.

9.9 **Previously Approved PCRC Developments** – Nothing herein shall be construed to prevent the orderly completion of any previously approved PCRC development. Any previously approved PCRC development shall be subject to the Zoning Bylaw in effect at the time when it was approved. However, the Planning Board may authorize BUILDING setbacks, BUILDING dimensions, and arrangement of garages in accordance with Sections 9.6.2.2 and 9.6.2.4 of this Bylaw.

SECTION 9A.

Intentionally Deleted

Note: Section 9A - Planned Unit Development (PUD) was repealed on April 1, 2002. Section 9A still governs existing PUDs in conjunction with the Section 8.9 of this Bylaw. Section 9A as in effect just before its repeal can be found in the Appendix.

SECTION 9B.

SENIOR RESIDENCE

9B.1 **Purpose** – The purpose of SENIOR Residence is to enhance the public welfare by:

a) encouraging the development of choices of independent living accommodations for SENIORS in general;
b) encouraging the development of housing that is suitable for SENIORS with disabilities;
c) encouraging the development of affordable housing for SENIORS with low and moderate income;

While:

d) protecting Acton's New England character by development of land in clusters and villages, which is in greater harmony with Acton's historic development patterns and less demanding on its natural resources;
e) preserving land for conservation, open space, recreation, agriculture and forestry;
f) preserving significant land and water resources, natural areas, scenic vistas, and historic or archeological sites;
g) reducing the typical costs of providing municipal services to residential developments.

9B.2 **Special Permit** – The Planning Board may grant special permits for the development and construction of a SENIOR Residence development in the R-2, R-4, R-8, R-8/4, and R-10/8 Districts in accordance with this Section and MGL, Ch. 40A, s. 9.

9B.2.1 Application for a Special Permit – Any person who desires a SENIOR Residence Special Permit shall submit a written application with a site plan that meets the requirements set forth herein and in the Rules and Regulations for SENIOR Residence special permits.

9B.2.2 Subdivision – If a SENIOR Residence development requires approval under the Subdivision Control Law, MGL, Ch. 41, the application shall contain a definitive subdivision plan as required by the Acton Subdivision Rules and Regulations. The applications for a SENIOR Residence special permit and a definitive subdivision approval plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time.

9B.2.3 Underlying Zoning District – Where the Planning Board grants a special permit for a Senior Residence, the USE, dimensional, and parking requirements applicable to the underlying zoning district shall not apply.

9B.3 **Planning Board Action** – In evaluating a proposed SENIOR Residence development, the Planning Board shall consider the general objectives of this Bylaw and of this section 9B in particular; the existing and probable future development of surrounding areas; and the appropriateness of the proposed site plan in relation to the topography, soils and other characteristics and resources of the TRACT OF LAND in question. The Planning Board may grant a special permit for a SENIOR Residence development if it finds that it:

a) protects and enhances Acton's New England character, its environmental and historic resources, and scenic vistas;
b) provides Common Land that benefits the residents of the Town and the SENIOR Residence development;
c) provides quality housing for SENIORS with a range of incomes and physical abilities;

d) provides for the safety of vehicular movement, and for the safety and convenience of pedestrians in a manner that is compatible with Acton's New England character and the needs of SENIORS;
e) is consistent with the Acton Master Plan as amended;
f) is in harmony with the purpose and intent of this Bylaw;
g) will not be detrimental or injurious to the neighborhood in which it is to take place;
h) is appropriate for the site in question;
i) complies with the applicable requirements of the Bylaw; and
j) meets the purpose of this Section 9B.

The Planning Board may require changes to the SENIOR Residence site plan and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw.

9B.4 **Allowed USES** – Only the following USES shall be allowed in a SENIOR Residence development:

9B.4.1 Single FAMILY dwellings.

9B.4.2 Single FAMILY dwellings with one apartment.

9B.4.3 Two-FAMILY dwellings.

9B.4.4 Multifamily dwellings.

9B.4.5 ACCESSORY USES typically associated with residential USES.

9B.4.6 Support services to meet SENIORS' needs, such as skilled nursing service, medical and other health service, food service, recreation and leisure facilities, or a community center; including the use of recreation, leisure, and community center facilities for commercial instruction, education and training in skills of all kinds for SENIORS and the public at large.

9B.4.7 Convenience services intended primarily for its residents, such as Retail Stores, Banks, Restaurants, and Services provided that not more than 10% of the total NET FLOOR AREA of the development is dedicated to such uses.

9B.4.8 Allowed USES on the Common Land as set forth herein.

9B.5 **Dimensional Regulations** – A SENIOR Residence development shall comply with the following dimensional regulations for the area of the TRACT OF LAND, density, BUILDINGS, and STRUCTURES:

9B.5.1 Minimum TRACT OF LAND area: 8 acres within the Town of Acton. For the purpose of this section, the Planning Board may consider LOTS on directly opposite sides of a STREET as a single TRACT OF LAND.

9B.5.2 Maximum density: 4 DWELLING UNITS per acre in the R-2 District, and 3 DWELLING UNITS per acre in the R-4, R-8, R-8/4, and R-10/8 Districts, based on the total development site including the Common Land.

9B.5.3 Minimum setbacks for BUILDINGS and STRUCTURES: 45 feet from any existing STREET; 15 feet from a STREET within the site; 30 feet from any TRACT OF LAND boundary; and 10 feet from the Common Land boundary, except that the Planning Board may require larger setbacks.

9B.5.4 Minimum separation of BUILDINGS: 20 feet for exterior walls with doors, otherwise 10 feet.

9B.5.5 Maximum height of BUILDINGS and STRUCTURES: 36 feet.

9B.5.6 Maximum horizontal dimension of a BUILDING: 200 feet.

9B.5.7 The Planning Board may impose other dimensional requirements as it deems appropriate to enhance the purpose and intent of this Bylaw.

9B.6 Parking Requirements – 2 vehicular parking spaces per principal DWELLING UNIT, plus sufficient parking spaces for visitors, accessory facilities, and services as determined by the Planning Board.

9B.7 Storm Water Runoff – The peak rate of storm water runoff from a SENIOR Residence development shall not exceed the rate existing before the new construction based on a 10-year design storm.

9B.8 Environmental Protection – The Planning Board, in granting a Special Permit for a SENIOR Residence, may impose reasonable conditions to protect the environment, and the health, safety and welfare of the neighborhood, of residents in the proposed development, and of the general public. Such conditions may include, but shall not necessarily be limited to, requirements for the advanced treatment of wastewater effluent, the location of wastewater effluent disposal, and necessary limitations on the total number of DWELLING UNITS to prevent negative impacts on the groundwater and other existing or potential public water resources.

9B.9 Common Land Standards

9B.9.1 Dimensional Requirements for the Common Land – In a SENIOR Residence development, except for the conversion to a Senior Residence development of a project approved under MGL Chapter 40B before January 1, 2006, at least fifty percent (50%) of the TRACT OF LAND in Acton shall be set aside as Common Land in Acton for the use of the SENIOR residents or the general public. The following additional requirements shall apply:

9B.9.1.1 The minimum required area of the Common Land shall not contain a greater percentage of wetlands, as defined in MGL Chapter 131, Section 40, than the percentage of wetlands found in the overall TRACT OF LAND on which the SENIOR Residence development is located.

9B.9.1.2 Eighty percent (80%) of the minimum required Common Land shall be laid out as one or more large, contiguous parcels that are distinct from parcels dedicated for other purposes or USES. Each such Common Land parcel shall contain at least one access corridor to a STREET or way that shall be not less than 40 feet wide. The other twenty percent (20%) of the Common Land may be scattered throughout the development site for buffer, screening, or park purposes.

9B.9.1.3 If the TRACT OF LAND of the SENIOR Residence development abuts adjacent Common Land or undeveloped LOTS, the Common Land shall be laid out to abut the adjacent Common Land or undeveloped LOTS.

9B.9.2 USE of the Common Land – The Common Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park

purposes, agriculture, horticulture, forestry, or for a combination of those USES. No other USES shall be allowed in the Common Land, except as provided for herein:

9B.9.2.1 The proposed USE of the Common Land shall be specified on a Land Use Plan and appropriate dedications and restrictions shall be part of the deed to the Common Land. The Planning Board shall have the authority to approve or disapprove particular USES proposed for the Common Land in order to enhance the specific purposes of this Section 9B.

9B.9.2.2 The Common Land shall remain unbuilt upon, provided that an overall maximum of five (5) percent of such land may be subject to pavement and STRUCTURES accessory to the dedicated USE or USES of the Common Land.

9B.9.2.3 In addition, a portion of the Common Land may also be used for the construction of leaching areas, if associated with septic disposal systems serving the SENIOR Residence development, and if such use, in the opinion of the Planning Board, enhances the specific purpose of this Section 9B and promotes better overall site planning. Septic disposal easements shall be no larger than reasonably necessary. If any portion of the Common Land is used for the purpose of such leaching areas, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the owners of the DWELLING UNITS in the SENIOR Residence development.

9B.9.2.4 In addition, a portion of the Common Land may also be used for ways serving as pedestrian walks, bicycle paths, and emergency access or egress to the SENIOR Residence development or adjacent land, if such a use, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Common Land.

9B.9.2.5 Portions of the Common Land that are in excess of the minimum Common Land total area and upland area as calculated in accordance with Section 9B.9.1, including its subsection 9B.9.1.1, may be used for storm water detention and retention facilities serving the STREETS and ways in the SENIOR Residence development, including infrastructure such as pipes, swales, catch basins, and manholes, and parcels and easements associated with such facilities.

9B.9.3 Ownership of the Common Land - The Common Land shall be conveyed in whole or in part to the Town of Acton and accepted by it, or to a non-profit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and USES to which the Common Land may be dedicated. The Common Land may also be conveyed to a corporation or trust owned or to be owned by the owners of DWELLING UNITS within the SENIOR Residence development. The Planning Board shall approve the form of ownership of the Common Land. If the Common Land or any portion thereof is not conveyed to the Town of Acton, a perpetual restriction, approved by the Planning Board and enforceable by the Town of Acton, shall be imposed on the use of such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with the provisions for a SENIOR Residence development as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual SENIOR Residence development. At the time of its conveyance, the Common Land shall be free of all encumbrances, mortgages, tax liens or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.

9B.10 **Accessibility** – All DWELLING UNITS in a SENIOR Residence development shall be designed and constructed to be adaptable with only minor structural changes to meet the requirements for Group 2B residences as set forth in the Massachusetts Building Code, 521CMR (Architectural Access Board), as amended.

9B.11 **Age Restriction** – All DWELLING UNITS in a SENIOR Residence development shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document that shall be recorded at the Registry of Deeds or the Land Court. The age restriction shall limit the DWELLING UNITS to occupancy by SENIORS, age 55 or older, or their spouses of any age; provide for reasonable, time-limited guest visitation rights; and authorize special exceptions that allow persons of all ages to live in a DWELLING UNIT together with a SENIOR resident as the Planning Board shall further define and specify in its special permit. The age restriction shall run with the land in perpetuity and shall be enforceable by any or all of the owners of DWELLING UNITS in the SENIOR Residence development or by the Town of Acton.

9B.12 **Affordability** – Some of the DWELLING UNITS in a SENIOR Residence development shall be sold, rented, or leased at prices and rates that are affordable to LOW and MODERATE INCOME SENIORS, as more specifically set forth in the following:

9B.12.1 AFFORDABLE SENIOR RESIDENCE defined – The term AFFORDABLE SENIOR RESIDENCE as used in this section 9B shall refer to DWELLING UNITS, which are restricted to sale, lease or rental (1) to SENIORS within specific income and asset limitations, and (2) at specific price limits, both in accordance with provisions set forth in any State or Federal rental assistance programs, subsidy programs for reducing mortgage payments, or other programs that provide for affordable housing for low and moderate income SENIORS, and that are in effect at the time that the project application is made to the Planning Board.

9B.12.2 Basic Affordability Component – At least 5% of the DWELLING UNITS in a SENIOR Residence development, rounded to the next integer, shall be AFFORDABLE SENIOR RESIDENCES. When rounding, fractions of .5 shall be rounded up.

9B.12.3 Density Bonus Option -

9B.12.3.1 The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 6 per acre in the R-2 District, and to 4 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 10% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.

9B.12.3.2 The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 7 per acre in the R-2 District, and to 5 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 15% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.

9B.12.3.3 Rounding to whole unit numbers shall be made to the nearest integer. When rounding, fractions of .5 shall be rounded up.

9B.12.3.4 The Planning Board may further adjust or waive the dimensional requirements of section 9B.5, the parking requirements of section 9B.6, and the Common Land requirements of 9B.9 to the extent reasonable and necessary to facilitate the production of affordable DWELLING UNITS under this density bonus option.

9B.12.4 Affordability Standards – Subject to Planning Board approval, an applicant for a SENIOR Residence special permit may utilize an available State or Federal assistance

program or choose to meet the AFFORDABLE SENIOR RESIDENCE requirements by utilizing income and asset standards, and by establishing rents, leases, sales prices, entry fees, condominium fees, and other costs for AFFORDABLE SENIOR RESIDENCES that are generally consistent with available affordable housing assistance programs.

9B.12.5 Affordability Restrictions – AFFORDABLE SENIOR RESIDENCES shall be maintained as such for the life of the SENIOR Residence development. Each AFFORDABLE SENIOR RESIDENCE shall be rented or sold to its initial and all subsequent buyers or tenants subject to deed riders, restrictive covenants, contractual agreements, or other mechanisms restricting the USE and occupancy, rent levels, sales prices, resale prices, and other cost factors to assure their long term affordability. These restrictions shall be in force for such maximum time as may be permitted under applicable state law governing such restrictions. They shall be enforceable and renewable by the Town of Acton through standard procedures provided by applicable law.

9B.12.5.1 The Planning Board may require that the restrictions for AFFORDABLE SENIOR RESIDENCES contain a right of first refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such right of first refusal to the Town of Acton or its designee prior to selling the AFFORDABLE SENIOR RESIDENCE with adequate time for the Town or its designee to exercise the right of first refusal.

9B.12.5.2 Nothing in this Section shall be construed to cause eviction of an owner or tenant of an AFFORDABLE SENIOR RESIDENCE due to loss of his/her income eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an AFFORDABLE SENIOR RESIDENCE shall be enforced upon resale, re-rental, or re-lease of the AFFORDABLE SENIOR RESIDENCE. The mechanisms and remedies to enforce the restrictions governing an AFFORDABLE SENIOR RESIDENCE upon resale, re-rental, or re-lease shall be set forth in its deed restrictions.

9B.12.5.3 All contractual agreements with the Town of Acton and other documents necessary to insure the long term affordability of an AFFORDABLE SENIOR RESIDENCE shall be executed prior to the issuance of any building permit for it.

9B.12.6 Locations and compatibility of AFFORDABLE SENIOR RESIDENCES – AFFORDABLE SENIOR RESIDENCES shall be dispersed throughout the development to insure a true mix of market-rate and AFFORDABLE SENIOR RESIDENCES. The exterior of AFFORDABLE SENIOR RESIDENCES shall be compatible with, and as much as possible indistinguishable from, market-rate DWELLING UNITS in the SENIOR Residence development. All internal design features of AFFORDABLE SENIOR RESIDENCES shall be substantially the same as those of market-rate DWELLING UNITS.

9B.12.7 Local Preference – Unless otherwise regulated by an applicable Federal or State agency under a financing or other subsidy program, at least sixty-five percent (65%) of the AFFORDABLE SENIOR RESIDENCES shall be initially offered to Acton SENIORS.

9B.12.7.1 Residency in Acton shall be established through Town Clerk certification based on the Town Census, voter registration, or other acceptable evidence.

9B.12.7.2 Purchaser/tenant selection – Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee.

9B.12.7.3 These restrictions shall be in force for 120 days from the date of the first offering of sale or rental of a particular AFFORDABLE SENIOR RESIDENCE. The developer of the SENIOR Residence shall make a diligent effort to locate eligible purchasers or renters for the AFFORDABLE SENIOR RESIDENCE who meet the local preference criteria and the applicable income requirements.

9B.12.8 Timing of construction – As a condition of the issuance of a special permit under this Section, the Planning Board may set a time or development schedule for the construction of AFFORDABLE SENIOR RESIDENCES and market-rate DWELLING UNITS in the SENIOR Residence.

9B.12.9 Affordable Housing Alternatives - The Planning Board in its special permit may authorize or require the substitution of required AFFORDABLE SENIOR RESIDENCES with:

9B.12.9.1 Off-site AFFORDABLE DWELLING UNITS, which shall be in suitable condition for family or individual persons' housing as the Planning Board may determine, and eligible for inclusion in Acton's subsidized housing inventory under M.G.L. Chapter 40B; or

9B.12.9.2 Monetary contributions for affordable housing programs made to the Acton Community Housing Program Fund in an amount sufficient for the Town or its designee to create off-site affordable family or individual persons' housing, as the Planning Board may determine, and eligible for inclusion in Acton's subsidized housing inventory under M.G.L. Chapter 40B.

9B.13 **Streets, Utilities and Lighting** – Generally, all STREETS and ways, drainage facilities, and utilities shall be designed and constructed in compliance with the Acton Subdivision Rules and Regulations whether or not the SENIOR Residence development is a subdivision. The Planning Board may approve exceptions to the Subdivision Rules and Regulations provided the Board determines such exceptions are consistent with the purposes of this Bylaw. The Planning Board may impose appropriate standards for all outdoor lighting within a SENIOR Residence development.

9B.14 **Performance Guarantee** – Before the issuance of any building permits for SENIOR Residences, the applicant shall secure the required improvements for STREETS, ways, drainage, erosion control and other items specified by the Planning Board with a performance guarantee consistent with the Acton Subdivision Rules and Regulations.

9B.15 **Revisions and Amendments** – Following the approval of a SENIOR Residence development, any change in the layout of STREETS and ways; in the configuration, ownership or use of the Common Land; or any other change which, in the opinion of the Zoning Enforcement Officer, would significantly alter the character of the SENIOR Residence development, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new Special Permit and hold a public hearing pursuant to the requirements of this Bylaw if it finds that the proposed changes are substantial in nature and of public concern.

SECTION 10.

ADMINISTRATION

10.1 **Board of Appeals** – The Town of Acton Board of Appeals is hereby designated as the Board of Appeals required by "The Zoning Act" of the Commonwealth of Massachusetts Chapter 40A of The General Laws. The Board of Appeals shall act on all matters over which it has jurisdiction and in the manner prescribed by the following provisions:

10.1.1 To hear and decide appeals from any decisions of the Zoning Enforcement Officer;

10.1.2 To hear and decide applications for special permits except as otherwise provided in this Bylaw;

10.1.3 To hear and decide petitions for variances from this Bylaw.

10.2 **Building Permit** – No building permit shall be issued by the Building Commissioner unless the construction, alteration or relocation for which the permit is sought complies with the provisions of this Bylaw.

10.2.1 Application – Any application for a building permit shall be accompanied by:

1) a description of the existing and the proposed USE of land or STRUCTURES on the development site;
2) a plan drawn to scale and prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, showing the dimensions of the development site, the location and dimensions of all existing and proposed STRUCTURES and the dimensions of all setbacks; and
3) such further information as the Zoning Enforcement Officer may require to ensure enforcement of this Bylaw. The Zoning Enforcement Officer may waive the requirements of the preceding sentence, if the Zoning Enforcement Officer determines that the proposed work is of a minor nature.

10.3 **Special Permit** – Certain USES are designated in this Bylaw as requiring a special permit. The Board of Appeals or the Board of Selectmen or the Planning Board are herein designated as Special Permit Granting Authorities. The Board of Appeals or the Board of Selectmen or the Planning Board where this Bylaw specifically authorizes may grant special permits for such designated USES in accordance with the standards of this Bylaw.

10.3.1 Rules and Regulations and Fees – The Special Permit Granting Authority shall adopt, and from time to time amend, Rules and Regulations, not inconsistent with the provisions of this Bylaw or Chapter 40A of the General Laws or other applicable provision of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Special Permit Granting Authority shall request written reports and the procedure for submission and approval of such permits. The Special Permit Granting Authority may adopt, and from time to time amend, fees sufficient to cover reasonable costs incurred by the town in the review and administration of special permits.

10.3.2 Application – Any person who desires to obtain a special permit shall file a written application with the Office of the Town Clerk. On the same day, the Petitioner shall submit said application, including the date and time of filing, certified by the Town Clerk, to the Office of the Special Permit Granting Authority. Each application shall be

completed on a form and accompanied by the information required by the Special Permit Granting Authority.

10.3.3 Reports from Town Boards or Agencies – The Special Permit Granting Authority shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions are referred for review shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant. Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.

10.3.4 Public Hearing and Decision – The Special Permit Granting Authority shall hold a public hearing no later than 65 days after the filing of an application. The decision of the Special Permit Granting Authority shall be made within 90 days following the date of the public hearing. The Special Permit Granting Authority shall have the power to continue a public hearing if it finds that such continuance is necessary to gather additional information in order to make an informed decision. Such continuance shall not automatically extend the required time limits set forth herein. The required time limits for a public hearing and/or a decision by the Special Permit Granting Authority may be extended by written agreement between the Petitioner and the Special Permit Granting Authority. A copy of such agreement shall be filed in the Office of the Town Clerk. Failure by the Special Permit Granting Authority to take final action within said 90 days or extended time, if applicable, shall be deemed to be a grant of the special permit subject to the applicable provisions of Chapter 40A, Section 9, of the Massachusetts General Laws.

10.3.5 Mandatory Findings by Special Permit Granting Authority – Except for a Site Plan Special Permit, the Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed USE:

10.3.5.1 Is consistent with the Master Plan.

10.3.5.2 Is in harmony with the purpose and intent of this Bylaw.

10.3.5.3 Will not be detrimental or injurious to the neighborhood in which it is to take place.

10.3.5.4 Is appropriate for the site in question.

10.3.5.5 Complies with all applicable requirements of this Bylaw.

10.3.6 Special Permit Conditions – The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

10.3.6.1 Dimensional requirements greater than the minimum required by this Bylaw;

10.3.6.2 Screening of parking areas or other parts of the premises from adjoining premises or from the STREET by specified walls, fences, plantings or other devices;

10.3.6.3 Modification of the exterior features or appearances of the STRUCTURE(S);

10.3.6.4 Limitation of size, number of occupants, method and time of operation, and extent of facilities;

10.3.6.5 Regulation of number, design and location of ACCESS drives, drive-up windows and other traffic features;

10.3.6.6 Requirement of off-STREET parking and other special features;

10.3.6.7 Requirement for performance bonds or other security; and

10.3.6.8 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given USE of land.

10.3.6.9 Installation of sidewalks along the entire FRONTAGE of a LOT and of other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists. Such a sidewalk or other walkways or paths may be located on the LOT or within the layout of the STREET and shall be designed to connect with existing sidewalks on adjacent LOTS, if any. Sidewalks, walkways or paths shall be designed and constructed according to standards established in the Town of Acton Subdivision Rules and Regulations, except when otherwise approved by the Special Permit Granting Authority.

10.3.7 Time Limitation on Special Permit – A 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 of time to be specified by the special permit granting authority, not to exceed two years from the date of grant thereof.

10.3.8 Effective Date of Special Permit – No special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex County South District Registry of Deeds. Such 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 no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

10.3.9 Planning Board Associate Members – When the Planning Board is acting as a Special Permit Granting Authority under this Bylaw, the Chairman of the Planning Board may designate an associate member, duly appointed by the Board of Selectmen, to sit on the Board for the purposes of acting on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any regular member of the Planning Board or in the event of a vacancy on the Planning Board.

10.4 Site Plan Special Permit – The Board of Selectmen may grant a Site Plan Special Permit in accordance with the standards of this Bylaw.

10.4.1 Applicability – A Site Plan Special Permit shall be required as follows:

10.4.1.1 In the EAV, SAV, and WAV Districts, a Site Plan Special Permit shall be required in all instances

1) for the initial development of land specified in Section 3, Table of PRINCIPAL USES as requiring a Site Plan Special Permit and for all ACCESSORY USES thereto, or
2) where the NET FLOOR AREA of an existing BUILDING is increased 500 square feet or more for USES designated as requiring a Site Plan Special Permit on the Table of PRINCIPAL USES, or

3) where a USE designated as requiring a Site Plan Special Permit on the Table of PRINCIPAL USES is expanded in ground area by 500 square feet or more of either impervious material, open storage or any area of the site devoted to the conduct of the PRINCIPAL or ACCESSORY USE.

10.4.1.2 In all other zoning districts, a Site Plan Special Permit shall be required in all instances

1) for the initial development of land specified in Section 3, Table of PRINCIPAL USES as requiring a Site Plan Special Permit and for all ACCESSORY USES thereto, or
2) where the NET FLOOR AREA of an existing BUILDING is increased 1,200 square feet or more for USES designated as requiring a Site Plan Special Permit on the Table of PRINCIPAL USES, or
3) where a USE designated as requiring a Site Plan Special Permit on the Table of PRINCIPAL USES is expanded in ground area by 1,200 square feet or more of either impervious material, open storage or any area of the site devoted to the conduct of the PRINCIPAL or ACCESSORY USE.

10.4.1.3 Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection shall not require a Site Plan Special Permit.

10.4.2 Administration – Except as provided in Section 10.3.5, all of the requirements of Section 10.3 shall apply to a Site Plan Special Permit.

10.4.3 Site Design Standards for Site Plan Special Permits – The purpose of the following site design standards is to ensure that adequate consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, to public convenience and safety and to the suitability of a proposed USE on a site. Before the granting of any Site Plan Special Permit, the Board of Selectmen shall assure that each site plan submitted for its review shall comply in full with the following site design standards:

10.4.3.1 Storm Water Runoff – The peak rate of storm water runoff from the development site shall not exceed the rate existing prior to the new construction based on a 10-year design storm. The storm water drainage facilities on the site shall be designed to prevent any overflow onto a STREET. The Board of Selectmen may authorize the use of storm water drainage facilities located off the development site and designed to serve one or more LOTS provided it finds that:

1) the peak rate of storm water runoff from such off-site facilities does not exceed the rate existing prior to the new construction based on a 25-year design storm; and
2) the applicant has retained the rights and powers necessary to assure that the off-site storm water drainage facilities will be properly maintained in good working order.

10.4.3.2 Outdoor Lighting – Developments and redevelopments requiring a Site Plan Special Permit or an amendment thereof, shall comply with the standards for outdoor lighting set forth in section 10.6.

10.4.3.3 Common Driveway – The Board of Selectmen may permit a common driveway to serve two or more LOTS. Such common driveway shall be defined as a driveway that is shared by two or more LOTS and located wholly within the required setback areas of such LOTS. Such a common driveway can be either a shared ACCESS driveway to a STREET or a driveway to a STREET or a driveway connecting such LOTS with each other. The common driveway shall not be wider than 24 feet except where, in the

opinion of the Board of Selectmen, a greater width is necessary in order to provide adequate room for safe vehicular turning movements and circulation. The Board of Selectmen shall ensure that the common driveway enhances the objectives of improving circulation within and between business and industrial establishments and of reducing the number of curb-cuts onto STREETS. The Board of Selectmen shall also ensure that common driveways will not derogate from the intent of the Bylaw to provide adequate OPEN SPACE on each LOT, except that the Board of Selectmen may authorize that the area of one such common driveway on each LOT be designated as OPEN SPACE. If a common driveway is authorized under a Site Plan Special Permit to lead onto an adjacent LOT which is not subject to such Site Plan Special Permit, no separate Site Plan Special Permit shall be required for the adjacent LOT in order to permit the construction of the common driveway.

10.4.3.4 Sidewalks – A sidewalk shall be required along the entire FRONTAGE of a LOT. The Board of Selectmen may also require other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists.

a) Such a sidewalk or other walkways or paths may be located on the LOT or within the layout of the STREET and shall be designed to connect with existing sidewalks on adjacent LOTS, if any.

b) If a sidewalk or other walkway or path is authorized under a Site Plan Special Permit to lead onto an adjacent LOT, which is not subject to such Site Plan Special Permit, no separate Site Plan Special Permit shall be required for the adjacent LOT in order to permit the construction of such sidewalk or walkway or path.

c) Sidewalks, walkways or paths shall be designed and constructed according to standards established in the Town of Acton Subdivision Rules and Regulations, except when otherwise approved by the Board of Selectmen.

d) The Board of Selectmen may waive the sidewalk requirement provided it finds that such a sidewalk is not necessary for the safe movement of pedestrians and bicyclists.

e) Sidewalks, walkways or paths authorized under a Site Plan Special Permit and located on a LOT shall be OPEN SPACE.

f) The voluntary installation of sidewalks along the FRONTAGE of LOTS in the Business, Village and Industrial Districts shall not require a Site Plan Special Permit, although other permits may be required.

g) In the Kelley's Corner District, the Board of Selectmen shall require on-site and off-site sidewalks, walkways, bikeways and crosswalks consistent with the planning objectives set forth in the 1995 Kelley's Corner Plan, as amended. The Kelley's Corner Plan identifies necessary improvements designed to accommodate future growth in the Kelley's Corner District. Off-site improvements hereunder shall be made as determined by the Board of Selectmen to encourage pedestrian circulation and bicycle use within the Kelley's Corner District and to adjacent areas as a direct measure to help minimize traffic impacts from the proposed development. Off-site improvements shall be located on ways and land owned or controlled by the Town of Acton, or in other locations where their owner allows and agrees to the improvements. The cost of the required off-site improvements shall be kept in reasonable proportion to the anticipated pedestrian and vehicular traffic from the development.

10.4.3.5 OPEN SPACE Landscaping Standards - Any landscaping on OPEN SPACE shall be designed to enhance the visual impact of the USE upon the LOT and adjacent property. Where appropriate, existing vegetation may be retained and used to satisfy the landscaping requirements. OPEN SPACE areas shall be kept free of encroachment by all BUILDINGS, STRUCTURES, storage areas or parking. OPEN SPACE landscaping

shall be maintained as open planted areas and used to (1) ensure buffers between properties, (2) provide landscaped areas between BUILDINGS, (3) minimize the visual effect of the bulk and height of BUILDINGS, STRUCTURES, parking areas, lights or signs and (4) minimize the impact of the USE of the property on land and water resources.

1) In the Industrial Districts where a business or industrial USE abuts a Residential District, a landscape buffer up to a maximum of 30 feet in depth designed to mitigate the impact of the business or industrial USE on abutting Residential Districts may be required by the Board of Selectmen.
2) In the Kelley's Corner District where a business or industrial USE abuts a Residential District, the Board of Selectmen shall require a substantially opaque landscape buffer of at least 20 feet in depth that is designed to reduce noise and other impacts of the business or industrial USE on abutting Residential Districts.
   a) Where deemed appropriate and necessary to protect abutting residential USES, the Board of Selectmen may require an increase in the width of this landscape buffer to 30 feet.
   b) In areas where abutting LOTS in Residential Districts have single family dwellings on them, the Board of Selectmen may require that this buffer shall include a fence, up to eight feet in height, designed to prevent access to abutting LOTS.

10.4.3.6 Special Landscaping Provisions Applicable to the Limited Business District, Office Districts, Small Manufacturing Districts, and the Light Industrial-1 District.

1) No STRUCTURE, pavement, display of goods, materials or vehicles, or other impervious materials, other than allowed ACCESS driveways, landscaping elements and signs, shall be placed within the minimum front yard.
2) Landscaped Buffer Areas – The required front yard of any nonresidential USE, and the required side and rear yards of any nonresidential USE on a LOT abutting a Residential District, whether abutting it directly or separated by a public or railroad right-of-way, shall contain a landscaped buffer strip which shall be no less than thirty (30) feet in width. The landscaped buffer strip shall comply with the following standards and must be approved by the Board of Selectmen as part of the Site Plan Special Permit:
   i) Front yards of nonresidential USES shall include a semi-opaque screen. Said screen shall be opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to block visual contact between uses and to create a strong impression of the separation of spaces. The opaque screen may be composed of a wall, fence, landscaped earth berm or densely planted vegetation. The semi-opaque screen may be composed of planted vegetation or existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. The zone of intermittent visual obstruction may contain deciduous plants. Examples of screens meeting this standard include combinations of the following:
      - small trees planted 30 feet on center, or large shade trees planted 40 feet on center; and
      - a 3-foot high stone wall or landscaped earth berm, or 3-foot high evergreen hedge shrubbery planted 3 feet on center.
   ii) A landscaped buffer strip separating a nonresidential USE from a Residential District shall include an opaque screen. Said screen shall be opaque from the ground to a height of at least six (6) feet, with intermittent visual obstruction to a

height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm or densely planted vegetation. The semi-opaque screen may be composed of planted vegetation or existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. Examples of screens meeting this standard include combinations of the following:

- small trees planted 30 feet on center, or large shade trees planted 40 feet on center; and
- 6-foot high evergreen shrubbery planted 4 feet on center; or
- tall evergreen trees, stagger-planted, with branches touching the ground.

iii) Landscaped buffer areas shall not interfere with adequate sight distance at driveway curb cuts.

3) See also Section 6.7.9 for Flexible Parking Plans and potential waivers from this Section 10.4.3.6.

10.4.3.7 DEVELOPABLE SITE AREA – The DEVELOPABLE SITE AREA shall be calculated by subtracting from the LOT area all land which is located in:

1) a wetland, which shall mean a "freshwater wetland" as defined in M.G.L. Chapter 131, Section 40;
2) a Flood Plain District as defined in Section 4.1 of the Town of Acton Zoning Bylaw;
3) another zoning district in which the PRINCIPAL USE of the LOT is not also permitted, subject to the provision of Section 2.3.4;
4) an ACCESS or right-of-way easement.

10.4.3.8 Maximum NET FLOOR AREA – The maximum NET FLOOR AREA on a LOT shall not exceed the product of the DEVELOPABLE SITE AREA and the maximum FLOOR AREA RATIO set forth in the Table of Standard Dimensional Regulations.

10.4.3.9 Special Provisions Applicable to the WAV and SAV Districts – In the WAV and SAV Districts, the design and placement of BUILDINGS, STRUCTURES and other site improvements shall be carefully considered to ensure the retention and enhancement of the village character and environment. Proposed BUILDINGS and STRUCTURES shall be related harmoniously to the terrain and to the scale and architecture of existing BUILDINGS in the village, which have a functional or visual relationship to the proposed BUILDINGS or STRUCTURES. Proposed BUILDINGS and STRUCTURES shall be compatible with their surroundings with respect to: height; facade facing the STREET; rhythm of solid surfaces and openings; spacing of BUILDINGS or STRUCTURES; roof slopes; and scale. To minimize the impact of mechanical equipment on the village environment and character, window air-conditioning units, condenser elements, and heating units shall not be located on the front facades. A certificate issued by the Acton Historic District Commission for development activity proposed on a LOT that is located within a Local Historic District shall be deemed to satisfy this section.

10.4.3.10 Special Provisions Applicable to the KC District – In the KC District the site and BUILDING design shall be in compliance with Section 5.6 of this Bylaw.

10.4.3.11 Special Provisions Applicable to the EAV District – In the EAV District the site and BUILDING design shall be in compliance with Section 5.5B of this Bylaw.

10.4.3.12 Special Provisions Applicable to the SM District – On LOTS in the Small Manufacturing (SM) District the Board of Selectmen, when granting a new or amended Site Plan Special Permit, may increase the Maximum FLOOR AREA RATIO and the Maximum Height above the limits set forth for BUILDINGS and STRUCTURES in the Table of Standard Dimensional Regulations, subject to the following conditions and limitations:

10.4.3.12.1 To be eligible under this Section 10.4.3.12, a LOT shall have on it IMPERVIOUS COVER as defined in Section 4.3 – GROUNDWATER Protection District of this Bylaw, which by its size or coverage may or may not be conforming to the limitations of this Bylaw, but shall have been installed or constructed legally in accordance with the zoning bylaw standards in effect at the time of installation or construction.

10.4.3.12.2 To be eligible under this Section 10.4.3.12 and to retain ongoing eligibility, the amount and percentage on the LOT of OPEN SPACE, and of UNDISTURBED OPEN SPACE as defined in Section 4.3 – GROUNDWATER Protection District of this Bylaw, shall not be reduced below the amount and percentage existing on the LOT on or before January 1, 2006; and the amount and percentage on the LOT of IMPERVIOUS COVER as defined in Section 4.3 – GROUNDWATER Protection District of this Bylaw shall not be increased above the amount and percentage existing on the LOT on or before January 1, 2006.

10.4.3.12.3 Eligibility under this Section 10.4.3.12 shall be limited to the following USES on the LOT, provided they are otherwise allowed in the SM District, and subject to the applicable regulations of the Groundwater Protection District Zone that overlays the LOT: Municipal; Child Care Facility; Industrial USES; and Business USES except Office, Health Care Facility, Hospital, Medical Center, and Commercial Recreation.

10.4.3.12.4 Any Maximum Height increases under this section shall not result in a height of BUILDINGS and STRUCTURES greater than 45 feet, plus 12 feet for appurtenant roof STRUCTURES that in aggregate may not occupy more than 20% of the roof plan area.

10.4.3.12.5 Any NET FLOOR AREA increases under this section shall not increase the Maximum FLOOR AREA RATIO above 0.50.

10.4.3.12.6 There shall remain adequate space for vehicular parking on the site that meets the applicable requirements of Section 6 of this Bylaw for the USE or USES on the LOT.

10.4.4 Reserve Parking Spaces – Under a Site Plan Special Permit, the Board of Selectmen may authorize a decrease in the number of parking spaces and shall have the authority to require an increase in the number of parking spaces required under Section 6, in accordance with the following:

10.4.4.1 The Board of Selectmen may authorize a decrease in the number of parking spaces required under Section 6 provided that:

1) The decrease in the number of parking spaces is no more than 75% of the total number of spaces required under Section 6. The waived parking shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the site plan.
2) Any such decrease in the number of required parking spaces shall be based upon documentation of the special nature of a USE or BUILDING.
3) The parking facility in question has made optimum use of the small car parking provision as prescribed in Section 6.6, if applicable.

4) The parking spaces labeled "Reserve Parking" on the site plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer, parking setback or OPEN SPACE.
5) The decrease in the number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this Bylaw.
6) Such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this Bylaw.

10.4.4.2 If, at any time after the Certificate of Occupancy is issued for the BUILDING or USE, the Zoning Enforcement Officer determines that additional parking spaces are needed, the Zoning Enforcement Officer shall notify the Board of Selectmen, in writing, of such finding and the Board of Selectmen may require that all or any portion of the spaces shown on the approved site plan as "Reserve Parking" be constructed.

10.4.4.3 The Board of Selectmen may require provisions for an increase in the number of parking spaces required under Section 6 provided that:

1) The increase in the number of parking spaces is no more than 20% of the total number of spaces required under Section 6 for the USE in question.
2) Any such increase in the number of required parking spaces shall be based upon the special nature of a USE or BUILDING.
3) The increased number of parking spaces shall be labeled "Increased Reserve Parking" on the site plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer or parking setback. The applicant shall not be required to construct any of the parking spaces labeled as "Increased Reserve Parking" for at least one year following the issuance of a Certificate of Occupancy. Where the "Increased Reserve Parking" area is required and the applicant has otherwise provided the number of parking spaces required under Section 6, the area of land reserved for the increased number of parking spaces may be deducted from the minimum OPEN SPACE required under Section 5.

10.4.4.4 If after one year after the issuance of a Certificate of Occupancy the Zoning Enforcement Officer finds that all or any of the "Increased Reserve Spaces" are needed, the Zoning Enforcement Officer shall notify the Board of Selectmen, in writing, of such finding and the Board of Selectmen may require that all or any portion of the spaces identified as "Increased Reserve Spaces" on the site plan be constructed within a reasonable time period as specified by the Board of Selectmen.

10.4.5 Action by the Board of Selectmen – The Board of Selectmen, in considering a site plan, shall ensure a USE of the site consistent with the USES permitted in the district in which the site is located and shall give due consideration to the reports received under Section 10.3.3. Prior to the granting of any special permit, the Board of Selectmen shall find that, to the degree reasonable, the site plan:

10.4.5.1 Is consistent with the Master Plan.

10.4.5.2 Protects the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.

10.4.5.3 Provides for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site.

10.4.5.4 Provides an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.

10.4.5.5 Provides adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.

10.4.5.6 Will not derogate from the intent of this Bylaw to limit the adverse effects of the USE and development of land on the surface and groundwater resources of the Town of Acton. If a proposed USE has obtained a special permit from the Planning Board under Section 4.3 of this Bylaw, the requirement of this Section shall be deemed to have been met.

10.4.5.7 Complies with all applicable requirements of this Bylaw.

10.4.6 When granting a Site Plan Special Permit or when approving an amendment thereto, the Board of Selectmen shall require, and in reviewing an application for a building permit, the Zoning Enforcement Officer shall require that any repair, replacement, or reconstruction of improvements to the site, including but not limited to, drainage, exterior lighting, landscaping, pedestrian and vehicular circulation or parking facilities, required or approved by the Site Plan Special Permit, shall, to the extent practicable, comply with the currently applicable standards of this Bylaw, whether or not such repair, replacement or reconstruction requires a new Site Plan Special Permit. When evaluating an application for such repair, replacement, or reconstruction of existing facilities, the Board of Selectmen or the Zoning Enforcement Officer shall consider the practicability of compliance with currently applicable standards in light of the existing site configuration, and the cost of compliance compared to the increase in public safety or convenience achieved thereby.

10.5 **Variance** – Variances from the specific requirements of this Bylaw may be authorized by the Board of Appeals, except that variances authorizing a USE not otherwise permitted in a particular zoning district shall not be granted.

10.5.1 Rules and Regulations and Fees – The Board of Appeals shall adopt, and from time to time amend, Rules and Regulations, not inconsistent with the provisions of this Bylaw or Chapter 40A of the General Laws or other applicable provision of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town boards or agencies from which the Board of Appeals shall request written reports and the procedure for submission and approval of such permits. The Board of Appeals may adopt, and from time to time amend, fees sufficient to cover reasonable costs incurred by the Town in the review and administration of variances.

10.5.2 Application – Any person who desires to obtain a variance from the requirements of this Bylaw shall file a written application with the Office of the Town Clerk on a form prescribed by the Board of Appeals. One the same day, the Petitioner shall submit said application, including the date and time of filing, certified by the Town Clerk, to the Board of Appeals. Each application shall be completed on a form and accompanied by the information required by the Board of Appeals.

10.5.3 Reports from Town Boards or Agencies – The Board of Appeals shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it may deem necessary or appropriate for their written reports.

10.5.4 Public Hearing and Decision – The Board of Appeals shall hold a public hearing no later than 65 days after the filing of an application. The decision of the Board of Appeals shall be made within 100 days following the date of the filing of such application. The Board of Appeals shall have the power to continue a public hearing if it finds that such continuance is necessary to gather additional information in order to make an informed decision. Such continuance shall not automatically extend the required time limits set forth herein. The required time limits for a public hearing and/or a decision by the Board of Appeals may be extended by written agreement between the Petitioner and the Board of Appeals. A copy of such agreement shall be filed in the Office of the Town Clerk. Failure by the Board of Appeals to take final action within said 100 days or extended time, if applicable, shall be deemed to be a grant of the variance subject to the applicable provisions of Chapter 40A, Section 15, of the Massachusetts General Law.

10.5.5 Mandatory Findings – Before granting any variance from the requirements of this Bylaw, the Board of Appeals must specifically find:

10.5.5.1 That owing to circumstances relating to the soil conditions, shape, or topography of the LOT or STRUCTURES in question and especially affecting such LOT 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; and

10.5.5.2 That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. In deciding whether the requested variance nullifies or substantially derogates from the intent or purpose of this Bylaw, the Board of Appeals shall consider whether the granting of such variance is consistent with the Master Plan.

10.5.6 Conditions and Safeguards – The Board of Appeals may impose such conditions, safeguards and limitations as it deems appropriate upon the grant of any variance.

10.5.7 Time Limitation on Variance – Any rights authorized by a variance which are not exercised within one year from the date of grant of such variance shall lapse and may be reestablished only after notice and a new hearing pursuant to this Section.

10.5.8 Effective Date of a Variance – No variance or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex County South District Registry of Deeds. Such 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 no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

10.6 Outdoor Lighting Regulations for Site Plan Special Permit – This section uses defined terms that apply specifically in this section. These terms are defined in section 10.6.6 below and are capitalized in addition to the terms defined in section 1.3 of this bylaw. Figures and Tables referred to in this section are located in section 10.6.7 below.

10.6.1 Applicability –

10.6.1.1 The following regulations shall apply to all LUMINAIRES, including existing LUMINAIRES, whose LAMP wattage exceeds the values contained in Table 1, Column A, on any LOT undergoing new development, or a major modification or expansion under a Site Plan Special Permit. A major modification, as used here, shall mean that more than 25% of the LUMINAIRES on the LOT are modified, moved or replaced. A

major expansion, as used here, shall mean that the number of LUMINAIRES on a LOT increases by more than 25% of the original number.

10.6.1.2 LUMINAIRES installed before the effective date of this bylaw shall be maintained or, if necessary, modified, to meet the zoning bylaw applicable at the time of their installation.

10.6.2 Standards

10.6.2.1 LUMINAIRE design and shielding – Any LUMINAIRE whose LAMP wattage exceeds the values in Table 1, Column A, shall be SHIELDED. Any LUMINAIRE whose LAMP wattage exceeds the values in Table 1, Column B shall be FULLY SHIELDED (Figure 1).

10.6.2.2 Control of LIGHT TRESPASS and GLARE –

a) Any LUMINAIRE whose distance from a LOT line is less than three times its height (3xH) shall be additionally SHIELDED so that all DIRECT LIGHT cast in the direction of STREETS, or abutting LOTS that are in Residential or Conservation USE, is cut off at an angle no more than 70 degrees measured from a vertical line directly below the LUMINAIRE (Figure 2). This requirement shall apply to all sides of the LUMINAIRE that emit light toward a LOT line that is less than 3xH away from the LUMINAIRE. The cut-off may be accomplished either by the LUMINAIRE photometric properties, or by a supplementary external shield.

b) Additional shields that are installed to control LIGHT TRESPASS and GLARE as required herein shall be designed so that the parts of the shields that are exposed to the DIRECT LIGHT of the LUMINAIRE and visible from STREETS, or abutting LOTS that are in Residential or Conservation USE, shall have a flat-black, low-reflectivity finish.

c) LUMINAIRES shall be SHIELDED so that LIGHT TRESPASS onto STREETS is less than 0.8 fc, and onto abutting LOTS that are in Residential or Conservation USE, including such LOTS abutting on the opposite side of a STREET, is less than 0.3 fc. This measurement shall be made with a photometer placed horizontally on the ground at points at the LOT lines. The Lighting Plan (Section 10.6.4) shall include calculations demonstrating that this LIGHT TRESPASS criterion will be met.

d) LUMINAIRES installed on one LOT to illuminate another LOT, or installed in a STREET, railroad, utility, or other right-of-way to illuminate an adjacent LOT, are prohibited. As used in this subsection, LOT shall always mean LOT as defined in section 1.3 of this Bylaw.

e) No single LUMINAIRE shall employ LAMP(S) exceeding a total of 400 watts, not including power for ballast or transformer.

f) Strobe and flashing lights, and laser illumination, are prohibited except as allowed under Section 10.6.5 (Exemptions).

10.6.2.3 Hours of operation –

a) All non-residential OUTDOOR LIGHTING, with the exception of STREETLIGHTS and safety or security lighting as defined herein, may be turned on no earlier than one hour before business hours and shall be turned off no later than 11 PM or one half an hour after close of business, whichever is later.

i. Business hours, as used here, is defined as the period of time during which at least one person is present for the purpose of conducting or concluding business on the LOT or in a STRUCTURE on the LOT.

ii. Safety lighting, as used here, is defined as lighting to safeguard the movement of persons by foot or by non-motorized vehicles or by vehicles for disabled persons over hazardous footing or in areas that conflict with vehicle traffic, or

lighting for the purpose of aiding the visible detection and recognition of other persons. Safety lighting includes lighting for stairs, pedestrian ramps and tunnels, and pedestrian routes that are reasonably expected to be used after business hours.

iii. Security lighting, as used here, is defined as lighting to protect BUILDINGS, and property stored outdoors.

b) Lighting controlled by motion detectors or infrared sensors with an on-time of no more than 10 minutes per activation is exempt from the hours-of-operation restriction. The motion detector shall be adjusted so that normal movement of vehicles and traffic along a STREET or public right of way shall not cause its activation.

c) Lighting of recreational facilities must be turned off no later than one half-hour after the end of use.

d) Lighting of the United States Flag and public monuments is exempt from these hours of operation provisions.

10.6.2.4 Special Provisions –

a) Externally Illuminated Signs – Lighting for externally illuminated signs shall be projected downward from above. The LUMINAIRE shall be SHIELDED and shall comply with Section 10.6.2.2 (Control of LIGHT TRESPASS and GLARE). It shall be focused directly at the SIGN DISPLAY AREA and SHIELDED so that the LAMP is not visible from STREETS, or abutting LOTS that are in Residential or Conservation USE (Figure 3).

b) UP-LIGHTING – UP-LIGHTING is prohibited, except for illumination of the United States Flag, a BUILDING façade, or a public monument. For any UP-LIGHTING, the LUMINAIRE shall be equipped with shields as necessary and shall comply with Section 10.6.2.2 including subsections b) through f). It shall be focused directly at the area of the target and SHIELDED so that the LAMP is not visible from a STREET, or a LOT that is in Residential or Conservation USE. Building facade illumination shall not exceed 0.25 watts of LAMP power per square foot of facade surface. The Lighting Plan shall specifically demonstrate compliance for any facade or monument UP-LIGHTING.

c) Illuminated Outdoor Recreation Facilities – Notwithstanding the requirement of Section 10.6.2.1 (LUMINAIRE design and shielding), the illumination of outdoor recreational facilities such as, but not limited to playing fields, pools, rinks, tennis courts, driving ranges, ski areas, or skateboard parks, shall be by either SHIELDED or FULLY SHIELDED LUMINAIRES. Such lighting shall be exempt from Sections 10.6.2.2.a) (seventy degree cut-off), 10.6.2.2.c) (LIGHT TRESPASS), and 10.6.2.2.e) (LAMPS not to exceed 400 watts per LUMINAIRE). The following requirements shall apply to illuminated outdoor recreation facilities:

i. Such SHIELDED LUMINAIRES shall be mounted at sufficient height and aimed so that the brightest part of the beam is elevated no more than 60 degrees above a point directly vertically below the LUMINAIRE (Figure 4). Light poles for recreation facilities may be as high as necessary to adequately illuminate the facility in compliance with the maximum 60-degree elevation angle, but shall not exceed a height of 85 feet. See section 5.3.5.3 of this Bylaw for a special permit to increase pole height.

ii. The LUMINAIRES shall be SHIELDED so that LIGHT TRESPASS onto STREETS, or abutting LOTS in Residential or Conservation USE, is less than 0.8 fc. This measurement shall be made with a photometer positioned at the boundary and aimed directly at the LUMINAIRE. The Lighting Plan shall include calculations demonstrating that the LIGHT TRESPASS requirement will be satisfied.

iii. The LAMP shall not be visible from a STREET, or an abutting LOT that is in Residential or Conservation USE. Alternatively, the installer may retain a qualified independent lighting consultant to measure the maximum luminance visible from STREETS, or abutting LOTS that are in Residential or Conservation USE. The measurement report shall be delivered to the Zoning Enforcement Officer and shall demonstrate that the maximum luminance apparent from a STREET, or an abutting LOT that is in Residential or Conservation USE, is not more than 2500 cd/sq.m.

d) LUMINAIRES in a Local Historic Districts – In Local Historic Districts, LUMINAIRES may be exempted from Section 10.6.2.1 (LUMINAIRE design and shielding) if the Historic District Commission specifically requires LUMINAIRES of a type that is not available in a version that meets the FULLY SHIELDED criterion. In such cases, such LUMINAIRES shall comply with IESNA CUTOFF light distribution standards.

Illumination for externally illuminated signs in a Local Historic District may be from below using UP-LIGHTING from SHIELDED LUMINAIRES. In this case, the LAMP shall not be visible from a STREET, or from an abutting LOT that is in Residential or Conservation USE, and shields shall comply with Section 10.6.2.2 b) (Visible part of shield has flat-black finish).

10.6.3 Total Site Power Limits

10.6.3.1 This section regulates the total amount of lighting that may be used on a LOT. For simplicity, this is accomplished through regulation of the total amount of outdoor LAMP watts installed on the LOT, instead of the total lumen output. An OUTDOOR LIGHTING installation complies with this section if the actual Total Installed Watt Ratings of all LAMPS is no greater than the Allowed Lighting Power. Ballast and transformer power is not counted in this total.

10.6.3.2 The Allowed Lighting Power shall be the sum of contributions calculated according to the Activity Areas listed in sections 10.6.3.2 a) through f) below. Only those spaces on a LOT, which are covered with impervious materials, shall be counted towards Activity Areas. Activity Areas on a LOT shall be clearly marked and labeled on the Site Plan. There shall be no overlapping Activity Areas. For a space to be included in the total of an Activity Area, a LUMINAIRE must be within 100 feet of any such space.

a) Parking lots, driveways, walkways, bikeways – 0.1 watts per square foot of the area of parking lots, driveways, walkways, bikeways, and any other outdoor impervious surfaces on the LOT. These Activity Areas include a 5-foot wide margin of grade or landscaping around the impervious surfaces.

b) BUILDING entrance areas – 13 watts per linear foot of the width of all doors, plus six feet per door.

c) BUILDING CANOPIES – 0.4 watts per square foot of the ceiling area of walkway CANOPIES. For portions of BUILDING walkway CANOPIES extending over an entrance area, the Allowed Lighting Power may be regulated by section 10.6.3.2.b) above.

d) Retail sales CANOPIES - 0.9 watts per square foot of the ceiling area of service station and retail sales CANOPIES. Retail sales CANOPIES are covered spaces that are used for display or dispensing of products for sale.

e) Retail sales frontage – 20 watts per linear foot of sales frontage. Sales frontage is measured along the edge, as viewed from a STREET, of a paved or otherwise improved area used exclusively for the display of vehicles or other large objects for sale. For this purpose, sales frontage shall be assumed to be 20 feet deep.

f) OUTDOOR SALES AREA – 0.8 watts per square foot times the area of the OUTDOOR SALES AREA. This area shall be specifically for the display and

storage of vehicles, structures, or other large objects offered for sale, and shall not include driveways, walkways, service areas, storage, or other uses.

10.6.3.3 Unlit areas of the LOT may not be used to calculate Allowed Lighting Power. An illuminated area of the LOT is defined as within 100 feet of a LUMINAIRE on the LOT, or, if under a CANOPY, within 25 feet of a LUMINAIRE mounted under the CANOPY.

10.6.4 Lighting Plan

10.6.4.1 A Lighting Plan shall be included in all applications for a Site Plan Special Permit that proposes new or replacement lighting installations. For initial developments of land, a major modification (more than 25% of LUMINAIRES being modified or replaced), or a major addition (more than 25% increase in the number of LUMINAIRES), this lighting plan shall be certified to be valid and correct by its designer. The Lighting Plan shall contain:

a) On the site plan – the location, height, shielding type of all existing and proposed outdoor LUMINAIRES, and the wattage rating of all LAMPS in each LUMINAIRE, including BUILDING or CANOPY mounted LUMINAIRES. Any existing off-site LUMINAIRES used to illuminate the LOT shall be included in the Lighting Plan. Activity areas (Section 10.6.3) shall be clearly marked on the Site Plan.

b) Manufacturer's data – For all LUMINAIRES, whose LAMP wattage is greater than Table 1, Column B, the manufacturer's specification data and technical drawings, including the LUMINAIRE LAMP wattage; photometric data showing that the LUMINAIRE is FULLY SHIELDED, including an electronic copy of the IES photometric file, or a reference to the file location on the manufacturer's web site. Manufacturer's photometric specification that the LUMINAIRE is rated IESNA Full Cutoff (FCO) is sufficient to show that it is FULLY SHIELDED. For all LUMINAIRES whose LAMP wattage is less than values shown in Table 1, Column B but greater than values shown in Table 1, Column A, the manufacturer's specification data and technical drawings showing that it meets the definition of SHIELDED LUMINAIRE.

c) The data of previous sections a) and b) shall be organized into a table, with one line per LUMINAIRE.

d) Calculations showing that the maximum LIGHT TRESPASS allowed, Sections 10.6.2.2.c) (Light Trespass) and 10.6.2.4.c) (Outdoor Recreational Facilities), will be satisfied by the design.

e) Calculation of the Allowed Lighting Power for the LOT according to Section 10.6.3 (Total Site Energy [Power] Limits). Activity areas (Section 10.6.3) shall be clearly marked on the Site Plan.

f) Calculation of the Total Installed Lighting Power from the LUMINAIRES proposed for installation on the Lighting Plan plus any existing LUMINAIRES intended to remain in use, and demonstration that Total Installed Lighting Power does not exceed the Allowed Lighting Power.

10.6.4.2 Submission and subsequent approval of a plan does not relieve the applicant of responsibility to demonstrate conformity to all sections of this bylaw, both in the individual LUMINAIRES as built, and for the entire LOT as built. The designer shall submit an as-built plan that correctly reflects the as-built installation, and shall certify that the as-built installation conforms to the requirements of this Bylaw.

10.6.5 Exemptions – The following lights shall be exempt from the standards of this Bylaw:

10.6.5.1 Internally illuminated signs.

10.6.5.2 Temporary holiday lighting.

10.6.5.3 Emergency lighting such as used by the Police, Fire Department, or other official or utility emergency personnel. Placement of longer-term emergency lighting shall, to the largest extent possible, take into consideration the detrimental effects of GLARE on passing motorists and pedestrians, and on residential LOTS.

10.6.5.4 Temporary lighting used on construction sites. All such lighting shall be placed and directed to minimize the detrimental effects of GLARE on passing motorists and pedestrians, and on residential LOTS.

10.6.5.5 Lighting during special events such as fairs, celebrations, or concerts sponsored by the Town of Acton or authorized by the Acton Board of Selectmen. Lighting for festivals and carnivals is exempt but should be in keeping with the intent of this Bylaw.

10.6.5.6 Warning and alarm lights that alert to a malfunction or emergency situation.

10.6.6 Definitions

- CANOPY - an opaque ceiling over installed lighting.
- CUTOFF (CO) – A LUMINAIRE light distribution, specified by the IESNA, where the intensity in candela per 1000 LAMP lumens does not numerically exceed 25 (2.5%) at a vertical angle of 90 degrees above nadir, and 100 (10%) at a vertical angle of 80 degrees above nadir. Nadir is the point directly vertically below the LUMINAIRE. A FULL CUTOFF (FCO) LUMINAIRE is also a CUTOFF LUMINAIRE.
- DIRECT LIGHT – Light emitted directly from the LAMP, from the reflector or reflector diffuser, or through the refractor or diffuser lens of a LUMINAIRE.
- FOOT CANDLE (fc) – Unit of ILLUMINANCE; One lumen per square foot.
- FULL CUTOFF (FCO) – A LUMINAIRE light distribution, specified by the IESNA, where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1000 LAMP lumens does not numerically exceed 100 (10%) at a vertical angle of 80 degrees above nadir. Nadir is the point directly vertically below the LUMINAIRE. A FCO LUMINAIRE is FULLY SHIELDED.
- FULLY SHIELDED – Constructed in such a manner that no light emitted by the fixture, either directly from the LAMP or a diffusing element, or indirectly by reflection or refraction from any part of the LUMINAIRE, is projected above a horizontal plane passing through the lowest direct-light-emitting part of the LUMINAIRE (Figure 1). BUILDING CANOPIES, overhangs, roof eaves and similar types of construction shall not be considered as the means for providing the FULLY SHIELDED light cut-off characteristic. This shall be achieved by the LUMINAIRE itself (Figure 5).
- GLARE – The sensation of visual discomfort or loss in visual performance and visibility produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted.
- INDIRECT LIGHT – DIRECT LIGHT that has been reflected off the surface of any permanently constructed object other than the source LUMINAIRE.
- IESNA or IES – Illuminating Engineering Society of North America. A professional association of lighting engineers and lighting manufacturers generally recognized as the definitive source for illumination recommendations in the United States. An IES photometric file is defined by IESNA standards.
- ILLUMINANCE – The luminous flux incident per unit area, expressed in FOOT CANDLE (one LUMEN per square foot). Horizontal or vertical ILLUMINANCE is that measured with a photometer cell mounted horizontally or vertically.

- LAMP – The light source component of a LUMINAIRE that produces the actual light.
- LIGHT TRESPASS – DIRECT or INDIRECT LIGHT produced by an artificial light source and which shines outside the boundaries of the LOT containing the LUMINAIRE.
- LUMINAIRE – A complete OUTDOOR LIGHTING unit or fixture including a LAMP or LAMPS, together with the parts designed to distribute the light, to position and protect the LAMPS, and to connect the LAMPS to the power supply, but not including a pole on which the LUMINAIRE may be mounted.
- OUTDOOR LIGHTING – The night-time illumination of an outside area or object by a LUMINAIRE located outdoors. LUMINAIRES under a CANOPY are considered outdoor lights and are regulated by this Bylaw.
- OUTDOOR SALES AREA – A static display of goods for sale at night, such as automobile sales lots, landscaping and nursery businesses, outdoor construction materials sales lots, and outdoor activity areas such as miniature golf, family fun centers, and permanent swap meets. An OUTDOOR SALES AREA location is not covered by CANOPIES or other STRUCTURES.
- SHIELDED – A LUMINAIRE employing a shield to prevent GLARE. The LUMINAIRE shall have a generally downward distribution of light and must have a top shield to minimize upward light.
- STREETLIGHTS – LUMINAIRES installed within a STREET and intended primarily for the illumination of the STREET.
- UP-LIGHTING – DIRECT LIGHT illumination distributed above a 90 degree horizontal plane through the lowest DIRECT LIGHT emitting part of the LUMINAIRE.

10.6.7 Figures and Tables

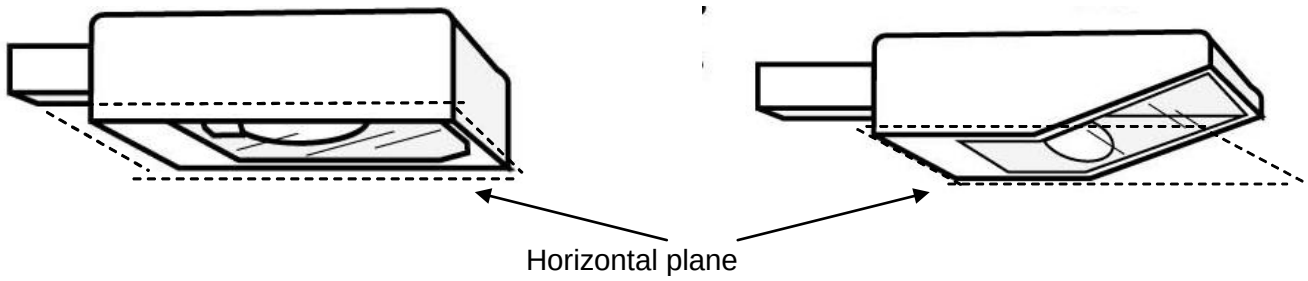
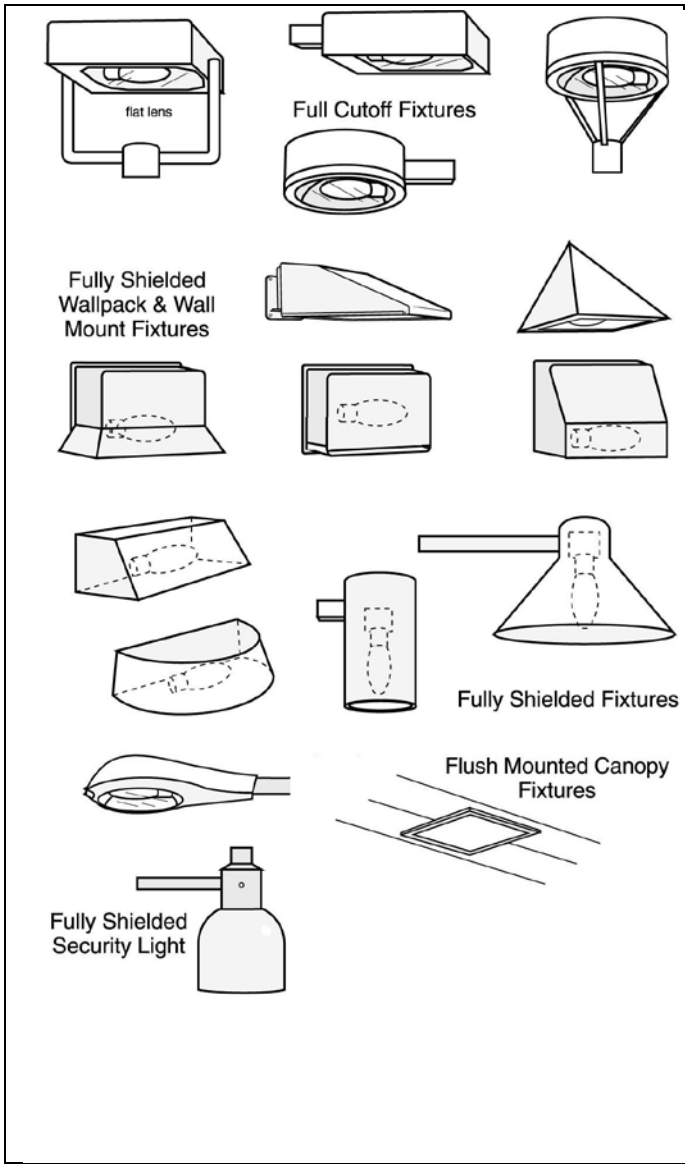


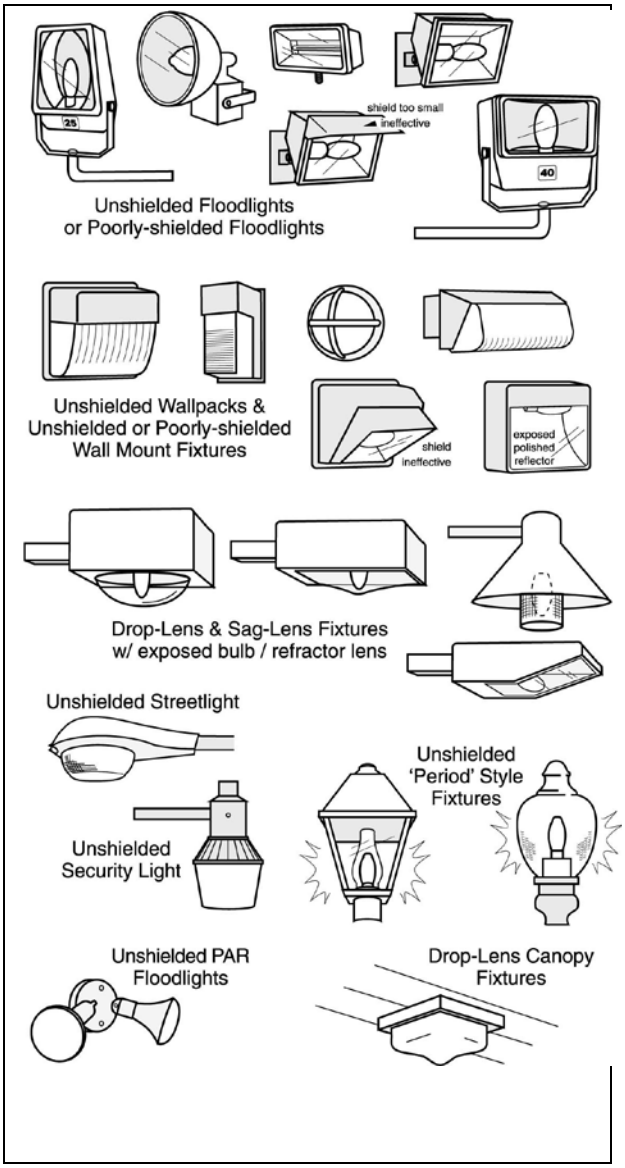
Figure 1A. FULLY SHIELDED. No light emitted above a horizontal plane through the lowest DIRECT-LIGHT-EMITTING part of LUMINAIRE.

Figure 1B. Not FULLY SHIELDED. Light is emitted above a horizontal plane through the lowest DIRECT-LIGHT-EMITTING part of LUMINAIRE.

Examples of FULLY SHIELDED LUMINAIRES



Examples of LUMINAIRES that are NOT FULLY SHIELDED



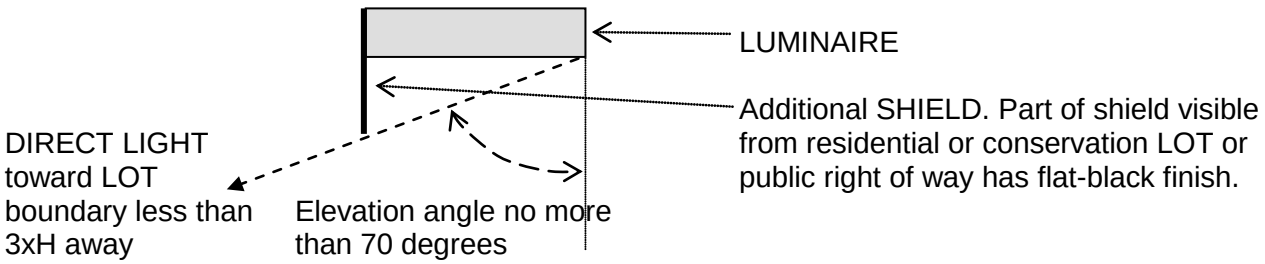


Figure 2. Any outdoor LUMINAIRE whose distance from the LOT boundary is less than three times its height shall be shielded so that all DIRECT LIGHT cast in the direction of residential or conservation LOTS and public rights-of-way is cut-off at an angle no more than 70 degrees measured from a vertical line directly below the LUMINAIRE.

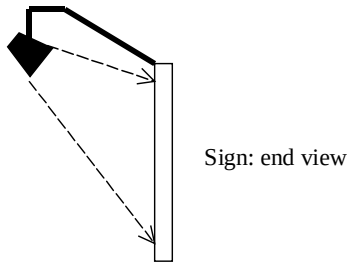


Figure 3. Lighting for externally illuminated signs shall be projected downward from above. The LUMINAIRE shall be SHIELDED and shall comply with Section 3.2 (Control of LIGHT TRESPASS and GLARE).

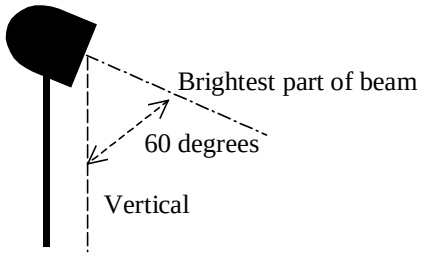


Figure 4. Illumination for outdoor recreational facilities shall be SHIELDED LUMINAIRES and shall be mounted at sufficient height and aimed so that the brightest part of the beam is elevated no more than 60 degrees above a point directly vertically below the LUMINAIRE

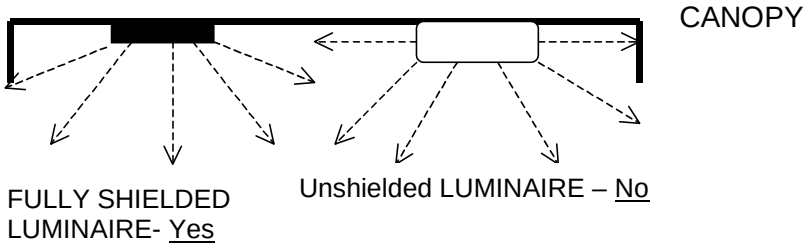


Figure 5. Building canopies, overhangs, roof eaves and similar types of construction shall not be considered as the means for providing the light cutoff. The cutoff characteristics shall be achieved by the LUIMINAIRE itself.

Table 1. LUMINAIRES whose LAMP wattage exceeds the values in Column A of this table shall be SHIELDED. LUMINAIRES whose LAMP wattage exceeds the values in Column B of this table shall be FULLY SHIELDED.

Lamp type	A – SHIELDED	B – FULLY SHIELDED
Incandescent, Halogen	60 w	120 w
High Pressure Sodium, Metal Halide, Mercury Vapor, other HID	35 w	35 w
Fluorescent, Low Pressure Sodium	13 w	20 w

SECTION 11.

ENFORCEMENT

11.1 **Enforcement** – The Zoning Enforcement Officer of the Town of Acton, as appointed by the Town Manager, is hereby designated as the officer charged with the enforcement of this Bylaw. During any period of temporary absence or disability of the Zoning Enforcement Officer, the Town Manager may appoint an inspector of buildings, building commissioner, local inspector, planning director or assistant town planner as the officer charged with the enforcement of this Bylaw. All zoning enforcement actions initiated and decisions made by the officer charged with the enforcement of this Bylaw prior to the appointment of the Zoning Enforcement Officer or during any temporary absence or disability of the Zoning Enforcement Officer shall continue unabated in the name of the Zoning Enforcement Officer.

11.1.1 Enforcement Action – The Zoning Enforcement Officer, upon a written complaint of any citizen of Acton, or owner of property within Acton or upon such Zoning Enforcement Officer's own initiative, shall institute any appropriate action or proceedings in the name of the Town of Acton to prevent, correct, restrain or abate violation of this Bylaw. In the case where the Zoning Enforcement Officer is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the Zoning Enforcement Officer declines to act, the Zoning Enforcement Officer shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within 14 days of receipt of such request.

11.1.2 Fine – Each day that a violation of this Bylaw continues shall constitute a separate offense. Violation of this Bylaw shall be punishable by a fine of $300.00 for each offense, except that violation of Section 7 of this Bylaw shall be punishable by a fine of $50.00 for each offense for the first 7 days, and $300.00 for each offense thereafter.

11.2 **Other Laws or Regulations** – This Bylaw shall not be construed to authorize the USE of any land or STRUCTURE for any purpose that is prohibited by any other provision of the General Laws or by any other Bylaw, rule or regulation of the Town; nor shall compliance with any such provision authorize the USE of any land or STRUCTURE in any manner inconsistent with this Bylaw, except as required by the General Laws.

11.3 **Validity and Separability** – The invalidity of one or more Sections, subsections, sentences, clauses or provisions of this Bylaw shall not invalidate or impair the Bylaw as a whole or any other part thereof.

Appendix

SECTION 9A.

PLANNED UNIT DEVELOPMENT (PUD)

Note: Section 9A - Planned Unit Development (PUD) was repealed on April 1, 2002. Section 9A still governs existing PUDs in conjunction with the Section 8.9 of the Zoning Bylaw. This Appendix shows Section 9A as in effect just before its repeal.

9A.1 **Purpose** – The purpose of the Planned Unit Development provisions is to provide for a mixture of land USES at designated locations at greater density and intensity than would normally be allowed provided that said LAND uses:

a) do not detract from the livability and aesthetic qualities of the environment;

b) are consistent with the objectives of the Zoning Bylaw;

c) promote more efficient use of land while protecting natural resources, such as water resources, wetlands, flood plains and wildlife;

d) promote diverse, energy-efficient housing at a variety of costs.

9A.2 **Definitions** – For the purpose of this Section, the following terms shall have the following meaning. The terms defined below are capitalized in this Section 9A in addition to the terms defined in Section 1.

9A.2.1 PLANNED UNIT DEVELOPMENT (PUD) - A TRACT OF LAND, designed and developed as a single entity, in a way that departs from the zoning regulations conventionally required in the district concerning USE of land or BUILDINGS, LOT size, density, bulk or type of STRUCTURES, LOT coverage, or other requirements. A PUD may include a range of compatible land USES, including various types of single FAMILY and multifamily dwellings, commercial, industrial and office USES, and common OPEN SPACE.

9A.2.2 USABLE OPEN SPACE - A parcel of land or an area of open water, or a combination of land and water within the TRACT OF LAND designated for a PUD, maintained and preserved for OPEN SPACE USES, and designed and intended for the use and enjoyment of residents or users of the PUD or of the general public. USABLE OPEN SPACE shall be dedicated and used for conservation, historic preservation, and education, recreation, park purposes, agriculture, horticulture, forestry or for a combination of these USES. USABLE OPEN SPACE shall be planned as contiguous parcels. USABLE OPEN SPACE may contain such complementary STRUCTURES and improvements as are necessary and appropriate for the benefit and enjoyment of the USABLE OPEN SPACE, but shall not include STREETS or parking areas except those incidental to OPEN SPACE USES.

9A.3 **Special Permit** – The Planning Board may grant a special permit for the development and construction of a PUD in the Village and Business Districts, and the OP-1, LI, GI, LI-1 and SM Districts in accordance with this Section and M.G.L., Ch. 40A, s. 9.

9A.4 **Contents of Application for a PUD Special Permit** – The application for a PUD Special Permit shall be accompanied by a "PUD Site Plan", showing the information required by the Rules and Regulations for PUD. The information shall include but not be limited to: the topography; soil characteristics as shown on the Soil Conservation Service Maps; wetlands as defined by M.G.L. Chapter 131, Section 40; Flood Plain boundary lines; existing types of vegetation; any other unique natural, historical, archeological, and

aesthetic resources; the proposed layout of the LOTS; the proposed distribution of the various land USES; proposed locations of DWELLING UNITS and nonresidential BUILDINGS; the proposed diversity and cost range for the DWELLING UNITS; dimensions, STREETS, garages, driveways, wells, utilities, wastewater disposal systems; the proposed finished grades of the land; the proposed vegetation and landscaping including where existing vegetation is retained; proposed features designed for energy and water conservation and pollution control; the proposed layout and land use plan of the USABLE OPEN SPACE in the PUD; the proposed form of ownership of the USABLE OPEN SPACE and any improvements proposed thereon.

9A.5 **Procedural Requirements** – If the PUD requires approval under the Subdivision Control Law, M.G.L., Chapter 41, the "PUD Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision Plan by the Acton Subdivision Rules and Regulations. The applications for a PUD Special Permit and for approval of a Definitive Subdivision Plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time.

9A.6 **Planning Board Action** – In evaluating the proposed PUD, the Planning Board shall consider the general purpose and objectives of this Bylaw and of Planned Unit Development in particular; the existing and probable future development of surrounding areas; the appropriateness of the proposed layout of the LOTS and the distribution of the proposed land USES; the proposed layout and USE of the USABLE OPEN SPACE in relation to the proposed USES in the PUD, the topography, soils and other characteristics and resources of the TRACT OF LAND in question. The Planning Board may grant a special permit for a PUD if it finds that the PUD and the proposed USES:

a) comply in all respects to the requirements of the Bylaw and enhance the purpose and intent of Planned Unit Development;

b) are in harmony with the existing and probable future USES of the area and with the character of the surrounding area and neighborhood; and

c) comply with the requirements of Section 10.3.5.

The Planning Board may require changes to the "PUD Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw, including without limitation, any conditions, safeguards or limitations listed in Section 10.3.6.

9A.7 **Standards for PUDs** – Where the requirements and standards of a PUD differ from or conflict with other requirements and standards of this Bylaw, the requirements and standards established for PUDs shall prevail except that a PUD shall comply with the requirements set forth in the Groundwater Protection and Flood Plain Districts. No Site Plan Special Permit shall be required for a PUD or any uses within a PUD.

9A.7.1 Permitted USES – The following USES are permitted in a PUD. As listed hereinafter, the permitted USES correspond to the listing in the Table of PRINCIPAL USES in Section 3, and except as provided otherwise in this Section, the definitions of PRINCIPAL USES as set forth in Section 3 shall apply.

3.2 GENERAL USES

3.2.1 Agriculture
3.2.2 Conservation
3.2.3 Recreation

3.3 RESIDENTIAL USES

3.3.1 Single Family Dwelling
3.3.2 Single Family Dwelling with Apartment

3.3.3 Dwelling Conversions
3.3.4 Multifamily Dwelling

3.4 GOVERNMENTAL, INSTITUTIONAL AND PUBLIC SERVICE USES

3.4.1 Municipal
3.4.2 Educational
3.4.3 Religious
3.4.4 Nursing Home
3.4.5 Public or Private Utility Facilities
3.4.6 Child Care Facility
3.4.7 Other Public Use
3.4.8 Full Service Retirement Community
3.4.9 Assisted Living Residence
3.4.10 Wireless Communication Facility in accordance with the criteria and standards set forth in section 3.4.10 of this bylaw.
3.4.11 Commercial Education or Instruction

3.5 BUSINESS USES

3.5.1 Retail Store
3.5.2 Office
3.5.3 Health Care Facility
3.5.4 Hospital, Medical Center
3.5.5 Restaurant
3.5.6 Combined Business and Dwelling
3.5.7 Hotel, Motel, Inn, Conference Center
3.5.8 Bed & Breakfast
3.5.10 Veterinary Care
3.5.12 Services
3.5.13 Repair Shop, Technical Shop, Studio
3.5.14 Building Trade Shop
3.5.15 Commercial Recreation
3.5.23 Parking Facility

3.6 INDUSTRIAL USES

3.6.1 Warehouse
3.6.2 Distribution Plant
3.6.3 Manufacturing
3.6.4 Scientific

9A.7.2 Area and Dimensional Regulations – There shall be no minimum LOT area, FRONTAGE, OPEN SPACE, FLOOR AREA RATIO, LOT width or yard requirements within a PUD or for any LOT or BUILDING within a PUD except as provided in this section. However a PUD shall comply with the applicable requirements of the Groundwater Protection and Flood Plain Districts. The Planning Board may impose appropriate conditions on the location, layout and size of BUILDINGS, STRUCTURES and OPEN SPACE.

9A.7.2.1 PUD Site Area – The TRACT OF LAND proposed for a PUD must contain a minimum area of 15 acres.

9A.7.2.2 USABLE OPEN SPACE – In all PUDs, at least 25 % of the land shall be set aside as permanent USABLE OPEN SPACE for the use of the PUD residents, or for all PUD users, or for the community. The required USABLE OPEN SPACE shall, at the option of the Planning Board, be conveyed to the Conservation Commission or to a non-profit conservation organization, or to a corporation or trust representing persons responsible for the PUD, and shall be protected by a conservation restriction as required by M.G.L. Ch. 40A, s. 9 for common open land in cluster developments. A covenant shall be placed on the land such that no part of the PUD can be built, sold or occupied until such time as a satisfactory written agreement has been executed and recorded for protection of the USABLE OPEN SPACE.

9A.7.2.3 Setback Requirements:

a) All BUILDINGS, STRUCTURES, and facilities within a PUD shall maintain a minimum setback of 20 feet from the PUD boundary, and 30 feet where the PUD boundary coincides with a STREET sideline. Except for single family dwellings with or without one apartment, including accessory STRUCTURES and facilities thereto, all BUILDINGS, STRUCTURES and facilities shall be set back at least 50 feet from the PUD boundary where the adjacent land or the land on the opposite STREET side is within a Residential District. All BUILDINGS, STRUCTURES, and facilities within a PUD shall be separated or shielded from adjacent property lines by means of a buffer, adequate in the opinion of the Planning Board, which shall include landscaping elements.

b) The minimum separation of BUILDINGS within a PUD shall be 20 feet. The Planning Board may require larger separation of BUILDINGS in order to diffuse the bulk of large BUILDINGS, or may permit a smaller separation, if it finds that a separation of less than 20 feet will not detract from the purpose and intent of Planned Unit Development.

c) The minimum front yard set back to a STREET or way within the PUD shall be 20 feet. The Planning Board may require a larger front yard setback in order to allow better screening of large BUILDINGS.

d) BUILDINGS dedicated to business USES only and larger than 20,000 sq. ft., and industrial USES shall be located on separate LOTS within a PUD and shall be screened from other USES within a PUD. The minimum front, side and rear yard requirements set forth in the Light Industrial District shall apply to industrial USES in a PUD; the front, rear and side yards of such BUILDINGS and USES shall be landscaped in accordance with the standards set forth in Section 10.4.3.

9A.7.2.4 FLOOR AREA RATIO – The FLOOR AREA RATIO of all BUILDINGS in a PUD shall not exceed 0.30.

9A.7.2.5 Mix of USES – Residential USES shall comprise at least 40% but not more than 60% of the NET FLOOR AREA of all BUILDINGS in a PUD. If the PUD contains warehouses, the NET FLOOR AREA of residential USES may be reduced to 25%. Industrial USES shall not exceed 30% of the NET FLOOR AREA of all BUILDINGS in the PUD.

9A.7.2.6 BUILDING Height – The maximum height of any BUILDING in a PUD shall be 40 feet.

9A.7.2.7 Special Standards for Combined Business and Dwelling – A BUILDING in a PUD used for combined business and dwelling, shall not contain more than 50% business USES, measured in NET FLOOR AREA, and no business USE shall be located above a DWELLING UNIT.

9A.7.2.8 BUILDING Requirements for Multifamily Dwellings – There shall be no more than four DWELLING UNITS, plus two garage spaces per DWELLING UNIT in any residential BUILDING. The overall length of any residential BUILDING shall not exceed 200 feet.

9A.7.3 STREETS, Utilities and Lighting – Whether or not the PUD is a subdivision, all STREETS and ways whether public or private, wastewater disposal and drainage facilities and utilities shall be designed and constructed in compliance with the Town of Acton Subdivision Rules and Regulations, as amended. Special exceptions to the Subdivision Rules and Regulations may be authorized by the Planning Board in granting a special permit hereunder provided the Board determines that such exceptions are in the public interest and are not inconsistent with the purposes and intent of Planned Unit

Development. The Planning Board may impose appropriate standards for all outdoor lighting within a PUD.

9A.7.4 Traffic Generation – The total amount of traffic to be generated by the PUD at full development shall not exceed 1.8 trip-ends per 1,000 square feet of DEVELOPABLE SITE AREA per day. The determination of projected traffic generation shall be based on the most recent trip generation rates published by the Institute of Transportation Engineers in the publication "Trip Generation". If a PRINCIPAL USE is not listed in said publication, the Planning Board may approve the use of trip generation rates for another listed USE that is similar, in terms of traffic generation, to the proposed PRINCIPAL USE. If no such listed USE is sufficiently similar, a detailed traffic generation estimate, along with the methodology used, prepared by a Registered Professional Engineer experienced and qualified in traffic engineering, shall be submitted.

9A.7.5 Parking Standards – The number of parking spaces to be provided for a PUD shall be equal to 85 percent of the sum of the number of parking spaces for each USE in the PUD, determined separately for each USE based upon the standards set forth in Section 6. The parking lot design standards of Section 6.7 shall apply. The Planning Board may authorize a decrease in the number of parking spaces required herein provided that such decrease in the number of required parking spaces shall be based upon documentation of the special nature of a use or mix of uses within a PUD and further provided that the waived parking shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the "PUD Site Plan".

9A.7.6 Storm Water Runoff – The peak rate of storm water runoff from a PUD shall not exceed the rate existing prior to the new construction based on a 10 year design storm.

9A.8 Revisions and Amendments of "PUD Site Plans" – Any change in the layout of STREETS; in the configuration of the USABLE OPEN SPACE; in the ownership or USE of the USABLE OPEN SPACE; or any other change which, in the opinion of the Building Commissioner, would significantly alter the character of the PUD, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new special permit and hold a public hearing pursuant to Section 10.3 of this Bylaw, if it finds that the proposed changes are substantial in nature and of public concern.

9A.9 Building Permits – No building permit for any STRUCTURE shall be issued without the written approval of the Planning Board or its designee.