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ZONING BYLAWS

SECTION 1. GENERAL PROVISIONS

A. Title

This Bylaw is and shall be known as "the Zoning Bylaw of the Town of Wellesley, Massachusetts," and may be referred to or cited as, including throughout this document, "this Zoning Bylaw" or "the Zoning Bylaw."

B. Scope of Authority

The Zoning Bylaw of the Town of Wellesley, Massachusetts, is enacted in accordance with the provisions of the Zoning Act, Massachusetts General Laws (M.G.L.), c. 40A, and any and all amendments thereto.

C. Purpose

This Zoning Bylaw is enacted for the following intended purposes, as authorized by, but not limited to, the provisions of the Zoning Act, M.G.L., c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts:

1. To lessen congestion in the streets;
2. To conserve health;
3. To secure safety from fire, flood, panic, and other dangers;
4. To provide adequate light and air;
5. To prevent overcrowding of land;
6. To avoid undue concentration of population;
7. To encourage housing for persons of all income levels;
8. To facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements;
9. To conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment;
10. To encourage the most appropriate use of land throughout the Town, consistent with the goals and policies of the Town of Wellesley Comprehensive Plan; and
11. To preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

D. Applicability

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, the use of all premises in the Town, and any applicable permitting, shall be in conformity with the provisions of this Zoning Bylaw. No building, structure or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure or land is located. Where the application of this Zoning Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Zoning Bylaw shall control.

E. Other Laws and Regulations

Nothing contained in this Zoning Bylaw shall be construed as repealing or modifying any existing bylaw or regulation of the Town, but it shall be in addition thereto. Furthermore, this Zoning 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 of Wellesley; nor shall compliance with any such provision authorize the use of any land or structure in any manner inconsistent with this Zoning Bylaw, except as required by the Massachusetts General Laws.

F. Amendment

This Zoning Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided for in M.G.L., c. 40A, § 5, and as required by M.G.L., c. 40, § 32, and any amendment(s) thereto.

G. Severability

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

SECTION 1A. ESTABLISHMENT OF DISTRICTS

A. For the purpose of this Zoning Bylaw, the Town of Wellesley is hereby divided into classes of districts as shown on the "Zoning Map of the Town of Wellesley, Massachusetts", prepared under the direction of the Planning Board, Scale 1"=500', dated December 20, 2002 as amended, on file with the Town Clerk, which map together with all boundary lines and designations thereon, is hereby declared to be part of the Bylaw.

The classes of districts are respectively:

1. Single Residence Districts (Section 2)
2. Single Residence Districts A (Section 3)
3. Town House Districts (Section 3A)
4. General Residence Districts (Section 4)
5. General Residence Districts A (Section 5)
6. Multi-Family Residence Districts (Section 5A)
7. Limited Residence Districts (Section 6)
8. Limited Apartment Districts (Section 6A)
9. Educational Districts (Section 7)
10. Educational Districts A (Section 8)
11. Educational Districts B (Section 8A)
12. Administrative & Professional Districts (Section 9)
13. Planned Development Districts (Section 9A)
14. Lower Falls Village Commercial District (Section 9B)
15. Wellesley Square Commercial District (Section 9C)
16. Limited Business Districts (Section 10)
17. Business Districts (Section 11)
18. Business Districts A (Section 12)
19. Industrial Districts (Section 13)
20. Industrial Districts A (Section 14)

21. Transportation Districts (Section 14A)

22. Flood Plain or Watershed Protection Districts (overlay district - zoning map reference) (Section 14B)

23. Parks, Recreation, and Conservation Districts (Section 14C)

24. Historic Districts (overlay district) (Section 14D)

25. Water Supply Protection Districts (overlay district) (Section 14E)

26. Residential Incentive Overlay (RIO) District (Section 14F)

27. Linden Street Corridor Overlay District (Section 14G)

28. Commercial Recreation Overlay District (Section 14I)

29. Smart Growth Overlay Districts (Section 14J)

30. Wellesley Park Smart Growth Overlay District (Section 14J.1)

B. District Boundaries

The location on the land of the boundary lines shown upon the Zoning Map shall be determined as follows:

1. Where the boundary lines are shown upon the map within the street lines of public or private streets or ways, the center lines of such streets or ways shall be the boundary lines.

2. Where the boundary lines are shown upon the map outside of street lines and apparently parallel thereto, they shall be considered to be parallel to such street lines; and figures placed upon the map between such boundary lines and the street lines shall be the distances in feet of such boundary lines from the street lines, said distances being measured at right angles to the street lines unless otherwise indicated.

3. Where the boundary lines are shown apparently on the location of existing property or lot lines, and the exact location of the boundary lines is not indicated by means of figures, distances, or otherwise, then the property or lot lines shall be the boundary lines.

4. In all cases which are not covered by the provisions of paragraphs 1, 2 or 3, the locations of boundary lines shall be determined by the distances in feet, if given, from the other lines upon the map, or, if distances are not given, then by the scale of the map.

5. Wherever any uncertainty exists as to the exact location of a boundary line, the location of such a line shall be determined by the Inspector of Buildings.

SECTION 1B. DEFINITIONS

As used in the Zoning Bylaws, the following words and terms shall have and include the following respective meanings:

Accessory Use – A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

Adult Bookstore - An establishment having as a substantial or significant portion of its stock in trade, books, magazines and/or other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

Adult Dance Club - An establishment which, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in G.L. Chapter 272, Section 31.

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

Adult Paraphernalia Store - An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

Adult Use - Adult Bookstore, Adult Dance Club, Adult Motion Picture Theater, Adult Paraphernalia Store, and/or Adult Video Store as herein defined.

Adult Video Store - An establishment having as substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

Assisted Elderly Housing - A building or group of buildings that have on site medical, convalescent and nursing facilities for the residents but in all other manners is consistent with the definition and uses permitted for independent elderly housing projects.

Assisted Units - Dwelling Units which qualify for enumeration under Chapter 40B, Sections 20-23 M.G.L. (Chapter 774 of the Acts of 1969). In the case of units to be sold there shall be deed restrictions to enforce the funding agencies' requirements for the long term eligibility of the unit for enumeration, and which require that the seller give a 90-day right of first refusal to the Wellesley Housing Authority. The deed restrictions shall be reviewed and approved by the Wellesley Housing Authority and Town Counsel prior to sale.

Commercial Trailer - A vehicular, portable unit without independent motive power designed and/or used for any commercial purpose whether used with or without a permanent foundation, including but not necessarily limited to the following:

1. hauling and storing of products or materials, or

2. retail sales, or

3. business or office use

whether or not there is affixed thereto any advertisement or indication of a business or professional use or affiliation.

Community Group Residence - A boarding house, halfway house, home for adjustment or rehabilitation center for persons with physical or social disabilities which make functioning in society difficult and who require the protection of a group setting.

Conventional Units - Dwelling Units available to the general public on the open market without price restrictions or consumer income limitations.

Days - This term shall refer to calendar days unless otherwise noted.

Detached Dwelling - A building containing only dwelling units and private garage having open space on all sides.

Development Area - A parcel or contiguous parcels which are under one ownership.

Drainage and Storm Water Drainage – surface water runoff and the removal of surface water runoff by a system which may include catch basins, leaching basins, manholes, pipes, retention and/or detention basins, swales, drainage ditches, headwalls and other components which meet best management practices and are consistent with the Clean Water Act, Massachusetts Water Quality Standards, the Phase II Regulations of National Pollutant Discharge Elimination System of U.S. EPA, the Massachusetts Wetlands Protection Act and the Wellesley Wetlands Protection Bylaw (Article 44 of the Town Bylaws); the Erosion and Sedimentation Control Regulations and the Municipal Stormwater Drainage System Rules and Regulations adopted by the Board of Public Works.

Dwelling - A building which is designed for or redesigned and/or used for human habitation.

Dwelling Unit - A room, group of rooms, or dwelling forming a habitable unit for one family with facilities for living, sleeping, food storage and/or preparation and eating, and which is directly accessible from the outside or through a common hall without passing through any other dwelling unit.

Family - (A) One (1) or more persons related by blood, adoption or marriage and not more than two (2) additional persons all residing together as a single housekeeping unit; (B) A number of persons but not exceeding three (3) residing together as a single housekeeping unit where such persons are not related to one another by blood, adoption or marriage.

Floor Area Ratio - The floor area of building divided by the commercially zoned lot area. Floor area shall be the sum of the horizontal areas of the several floors of a building as measured from the exterior surface of the exterior walls. Parking garages, interior portions of building devoted to off-street parking, and deck or rooftop parking shall not be considered as floor area. The floor area devoted to a child care facility (defined to mean a "day care center" or a "school age child care program," as those terms are defined in Section 9 of Chapter 28A M.G.L.) as an accessory use to an allowed use, shall not be considered as floor area for the purposes of the calculation of Floor Area Ratio except that the building floor area shall not exceed 110% of the building floor area otherwise allowed without a child care facility. The floor area devoted to dwelling units developed in accordance with and under the provisions of Section 16B shall not be considered as floor area for the purposes of the calculation of Floor Area Ratio provided that Assisted Units sufficient to satisfy Section 16B are provided on the same Development Area.

Home Occupation - A non-residential use of a dwelling unit, by the resident or residents, for gainful employment, that is subordinate but compatible to residential use.

The term Home Occupation shall include a "family day care home" as defined in Chapter 28A of the General Laws, for not more than six children, including participating children living in the residence, where the provider is licensed by the Office for Children under said Chapter 28A.

Independent Elderly Housing - A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 62 years of age or older or couples where either the husband or wife is 62 years of age or older. Independent elderly housing may include support services such as central dining, cleaning, linen, laundry and other personal support services. Further they may provide convenience retail services if said facilities do not have any exterior signs and comprise not more than 2% of the total floor area of the development. Independent Elderly Housing may include a medical service station for a house physician but not on site convalescent or nursing facilities. However, this definition shall not prevent independent elderly housing units from being developed as a distinct element in a larger development that includes assisted elderly housing units are on separate floors or separate buildings.

Large-Scale Ground-Mounted Solar Photovoltaic Installation - A solar photovoltaic system that is structurally mounted on the ground (i.e. not roof-mounted) and has a minimum output of electric power production in Direct Current (i.e. Rated Nameplate Capacity) of 250 kW DC.

Marijuana Establishment - A marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, craft marijuana cultivator cooperative, or any other type of marijuana-related business, subject to regulation under Chapter 94G of the Massachusetts General Laws; provided, however, that a Registered Marijuana Dispensary shall not be deemed to be a Marijuana Establishment.

Mobile Home or House Trailer - A dwelling designated as year-round living quarters, and built on a chassis to be moved from site to site, whether used with or without a permanent foundation.

Nursing Homes and Skilled Nursing Facility - A building housing a facility licensed to provide full time long term accommodation and a combination of personal and health care services in a supervised environment. Said facilities shall provide long term intensive, skilled and supportive nursing care, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. The facilities may contain common areas for therapy, recreation and dining; further the facilities may also include on-premise medical offices and treatment facilities related to the care of the tenants. For the purposes of this Bylaw, it includes: extended care facility, intermediate care facility, convalescent home and rest home.

One-Family Dwelling - A detached dwelling containing not more than one dwelling unit.

Open Space - The portion of a lot not covered by buildings, garages or other accessory buildings or structures, canopies, off-street parking areas, maneuvering aisles, loading areas or driveways. The portions of a lot devoted to lawn; landscaping; swimming pools constructed at or below grade; at grade terraces, patios, walks, tennis or other play courts; and woodland or wetland shall be considered as open space. Open space shall be free of automotive traffic, or parking.

Original Grade - The grade of the lot before development begins. If an existing structure is to be demolished, the original grade shall be the grade determined prior to demolition of the structure. If there is no existing structure on the property, the natural grade of the property, prior to any modification, shall be considered the original grade; except in new subdivisions where the original grade shall mean the approved and recorded grade.

Permit Granting Authority - The Zoning Board of Appeals.

Recreational Trailer or Vehicle - A vehicular, portable unit designed for travel, camping or recreational use, including but not limited to the following:

1. Travel Trailer - A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed forty-five hundred (4500) pounds, or being of any weight provided its overall length does not exceed twenty eight (28) feet.

2. Pick-Up Camper - A portable dwelling unit designed to be mounted on a pick-up truck or chassis, whether or not so mounted.

3. Motorized Camper - A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

4. Tent Trailer - A folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.

5 Boat Trailer - A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle.

Registered Marijuana Dispensary - A not-for-profit entity and use registered under 105 CMR 725.100, and previously known as a Medical Marijuana Treatment Center, which may acquire, cultivate, possess, process (including development of related products such as edible Marijuana-Infused Products ("MIPs"), tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, and/or administer marijuana, products containing marijuana, related supplies, and/or educational materials to registered qualifying patients or their personal caregivers. Also referred to herein as "RMD" or "RMDs". Not to include non-medical dispensaries.

Retaining Wall - A wall or terraced combination of walls used at a grade change to hold soil and other earth material at a higher position. Retaining walls may be attached to or independent from other structures. The exposed side of a retaining wall shall be known as a "face". The area between a lower wall and a successive higher wall shall be known as a "terrace".

Special Permit Granting Authority - Zoning Board of Appeals except as otherwise designated by this Zoning Bylaw for the granting of special permits. For the review and issuance of special permits for Registered Marijuana Dispensaries, as allowed by this Bylaw and established in Section 25.B.5.b., the Board of Selectmen shall act as the Special Permit Granting Authority. For the purposes of Section 14B, Section 14E, and Section 16A, the Planning Board shall act as the Special Permit Granting Authority for subdivision applications processed under the provisions of the Subdivision Control Law (Chapter 41, Sections 81K - GG M.G.L.) and for approval of projects of significant impact. When the Planning Board is acting as Special Permit Granting Authority, the chairman may call upon the associate member to sit on the Board for the purposes of acting on an application, in the case of absence, inability to act, or conflict of interest on the part of any member, or in the event of a vacancy on the Board. The provisions for filling the position of associate member shall be governed by Article 45 of the Town Bylaws.

Town House - A dwelling containing two or more dwelling units, each sharing one or more party walls with another dwelling unit, and each having at least one floor at ground level with direct access to open space on two or more sides.

Two Family Dwelling - A detached dwelling other than a Town House containing two dwelling units.

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SECTION 2. SINGLE RESIDENCE DISTRICTS

(Editor's Note: Amended 7/9/2014 to reflect amendments approved under Article 34 at 2014 ATM)

A. In Single Residence Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following specified uses:

1. One-Family Dwelling

2. Religious Purposes;

3. Educational purposes 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 non-profit educational corporation, provided, however, that all lots, structures or uses shall be subject to the following dimensional criteria:

   a. Maximum height as defined in Section 20 shall be three stories or 40 feet;

   b. Minimum frontage as defined in Section 19 shall be 100 feet;

   c. Minimum lot area as defined in Section 18 shall be as indicated on the Zoning Map as referenced in this Zoning Bylaw;

   d. Minimum side yard as defined in Section 19 shall be 50 feet;

   e. Minimum front yard as defined in Section 19 shall have a width of 100 feet and a depth of 50 feet, or such greater distances as may be required by Section 19;

   f. Minimum open space as defined in Section 1B shall be 75% of the lot area;

   g. Sufficient off-street parking shall be provided so that no vehicle will be required to park on any street, the provisions of Section 21.D.3. shall apply to any parking lot constructed;

   Other provisions of the Zoning Bylaw notwithstanding the above regulations apply to uses permitted under this Clause 3.

3A. Child Care Facility (defined to mean a "day care center" or a "school age child care program," as those terms are defined in Section 9 of Chapter 28A M.G.L.) provided that:

   a. The structure containing such facility and the lot containing such facility shall meet the dimensional zoning requirements for the district in which the structure is located unless the structure is a legally pre-existing, non-conforming building or structure;

   b. The structure containing such facility and the facility itself shall meet all applicable local, state and federal requirements;

c. The fire alarm system shall be installed and tested by a qualified electrician or alarm company pursuant to National Fire Protection Association standards; test certification shall be submitted to the Inspector of Buildings and the Fire Chief with periodic testing done at intervals specified by the Fire Chief;

d. Fenced outdoor play area, set back a minimum of 10 feet from any abutting land in single residence use, shall be provided at a ratio of not less than 75 square feet for every child at play, exclusive of the area occupied by play equipment;

e. One off-street parking space shall be provided for every paid and unpaid employee, not resident on the premises, so that there is no on-street parking by employees;

f. Off-street drop off and pick up area shall be provided at a ratio of one space for every 3 children, unless drop off and pick up area can lawfully be provided on a street abutting the lot;

g. Off-street parking areas devoted to the parking of 5 or more vehicles shall comply with the Screening requirements contained in Section 21.D.3. and;

h. A child care facility located within a Single Residence District shall not exceed a floor area of 2,500 square feet.

4. Club, except a club the chief activity of which is a service customarily carried on as a business;

5. Agriculture, horticulture, floriculture, including the use of the premises for the sale of natural products raised thereon except as follows:

   a. A farm devoted principally to the raising of poultry, horses, domestic animals or other livestock for sale is prohibited unless it meets the minimum acreage requirement as provided in Chapter 40A Massachusetts General Laws, as amended;

   b. The use of any premises for the sale of loam is prohibited.

6. Home Occupations being lawfully conducted prior to October 24, 1977, subject to any and all restrictions or conditions in effect on said date; and other home occupations provided, however, that as the result of the home occupation:

   a. There shall be no activity, and no equipment or process shall be used, in the conduct or as the result of the conduct of a home occupation, which disrupts or disturbs the customary character of a residential neighborhood;

   b. There shall be no employees not resident on the premises;

   c. There shall be no pickup or delivery of products and/or articles at the premises that is not customary in a residential area;

d. No sign advertising, or incidental to the home occupation shall be displayed on the property;

e. There shall be no outdoor storage of products or materials;

f. There shall be no change in the outside appearance of the premises, including building and grounds;

g. There shall be no additional parking permitted;

Upon receipt by the Inspector of Buildings of Notification, in form acceptable to the Inspector of Buildings, from the person or persons wishing to conduct a home occupation, of the intention to conduct said home occupation, home occupations complying with the above standards are permitted as a matter of right.

7. Such accessory uses as are customary in connection with the uses enumerated in clauses 1, 2, 3, 4, 5, or 6, and are incidental thereto, including a private garage and a private stable.

8. Any of the following additional uses upon the granting of a special permit as provided in Section 25:

a. Residence for not more than two families, or boarding or lodging house, but not a restaurant; provided, however, that the building so used was in existence when this Bylaw took effect; and provided further that the Board of Appeals make a written finding that the original building can no longer be used or adapted at a reasonable expense and with a fair financial return for a use regularly permitted in the district.

b. Educational purposes in addition to those permitted under clause 3. hereof, and any non-profit purpose, not to include Registered Marijuana Dispensaries, provided that:

i. Sufficient off-street parking shall be provided so that no vehicle will be required to park on any street, the provisions of Section 21.D.3. shall apply to any parking lot constructed;

ii. No sign identifying the premises shall be displayed on the property except in accordance with Section 22A.C.1.a.4. of this Zoning Bylaw;

iii. There shall be no disturbance or disruption to any residential neighborhood caused by or as the result of any use permitted under this subclause.

c. Public, semi-public institution of a Philanthropic, Charitable or Religious character.

d. Community Group Residence in an existing building having a single kitchen facility subject to the following conditions, limitations and dimensional criteria:

i. There shall be no disturbance or disruption to any residential neighborhood caused by the Community Group Residence or as a result of the operation of the Community Group Residence;

ii. The Special Permit Granting Authority shall not grant a special permit for a Community Group Residence where there is another similar facility located within a one half mile radius;

iii. The number of persons residing on the premises shall not exceed the limits contained in Section 424 of the State Building Code;

iv. Minimum lot area as defined in Section 18 shall be as referenced in this Zoning Bylaw;

v. Minimum side yard as defined in Section 19 shall be 30 feet;

vi. Minimum front yard as defined in Section 19 shall be 30 feet or such greater distance as may be required by Section 19;

vii. Minimum open space as defined in Section 6A shall be 50% of the lot area;

viii. Sufficient off-street parking shall be provided so that no vehicle will be required to park on any street; the provisions of Section 21.D.3. shall apply to any parking lot constructed;

ix. There shall be provided a minimum of one bedroom for every two persons residing on the premises;

x. No permit shall be issued or renewed for periods of more than 2 years.

e. Telephone exchange provided there is no service yard or garage; unless otherwise provided for under Section 15 of this Zoning Bylaw.

f. Removal of sand, gravel, rock, clay, loam or sod there from; except that no such permission shall be required for the removal of such materials incidental to excavation necessary for the construction of a building in accordance with a permit which has been issued by the Building Inspector or for the construction of a private way in accordance with a subdivision plan which has been approved by the Planning Board and recorded with Norfolk Deeds or filed in the Land Court if the land is registered.

g. Residence where more than three (3) persons reside together as a single housekeeping unit and where such persons are not related to one another by blood, adoption or marriage.

h. Home occupations in addition to those permitted under clause 6 hereof, provided, however, that as the result of the home occupation:

i. There shall be no activity, and no equipment or process shall be used, in the conduct or as the result of the conduct of a home occupation, which disrupts or disturbs the customary character of a residential neighborhood;

ii. There shall be no pickup or delivery of products and/or articles that is not customary in a residential area;

iii. No sign advertising, or incidental to the home occupation shall be displayed on the property except in accordance with Section 22A of this Zoning Bylaw;

iv. There shall be no outdoor storage of products or materials;

v. There shall be no change in the outside appearance of the premises, including buildings and grounds, that is not in keeping with the residential character and appearance;

vi. There shall be provision for parking on the premises so that no vehicle will be required to park on any street. The required parking area shall retain the character of the residential neighborhood. No substantial enlargement of the width of the residential driveway or other alteration of the driveway within the front yard setback shall be allowed in order to meet this requirement.

vii. There shall not be more than the equivalent of two full-time non-resident employees;

and provided, further, that no permit shall be issued for more than three years or renewed for periods of more than three years;

i. Municipally owned or operated public parking lot or other public use.

j. Off-street parking as a non-accessory use subject to the following criteria:

i. The non-accessory use parking shall not cause a significant disturbance or disruption of any residential neighborhood, in terms of safety, noise, traffic, appearance, or noxious odors;

ii. The non-accessory use parking shall not cause there to be fewer than the number of parking spaces available for accessory use parking as are required under Section 21.D.2.;

iii. There shall be no reduction in area devoted to landscaping and screening as required by Section 21.D.3.;

iv. The non-accessory use parking will not detract from the use of the parking lot for the accessory use; and

v. Special Permits issued under this paragraph shall be subject to annual renewal.

k. Such accessory uses as are customary in connection with any of the above subclauses and are incidental thereto.

9. Air Navigation Facility as defined in Massachusetts General Laws; if permission is, in each case, obtained by a two-thirds vote at a Town Meeting duly called for the purpose and if the Special Permit Granting Authority subsequently issues a special permit in accordance with Section 16A and Section 25, subject to the following:

   a. All requirements, rules and regulations of the Federal Aviation Administration (FAA) and the Massachusetts Aeronautics Commission (MAC) shall be satisfied, and certification and approval by the FAA and the MAC shall be maintained;

   b. Special permit submissions shall be accompanied by a report which contains:

      a noise assessment indicating the anticipated noise levels at the nearest residences, streets and roads and any noise mitigation measures;

      nature and frequency of use;

      a report on lighting and prevailing wind direction including approach and departure patterns showing any existing structures within the glide paths; and

      a report on proposed air navigation facility maintenance programs.

   c. Air Navigation Facilities shall not be located less than 500 feet of any Wellesley residential street, residence, public school or playground;

   d. Air Navigation Facilities shall not create noise levels greater 65 db at any property line of a Wellesley residence;

   e. Air Navigation Facilities shall be subject to other requirements and conditions as may be determined by the Special Permit Granting Authority on a case by case basis; and

   f. A special permit for an Air Navigation Facility shall be subject to annual renewal.

      The Special Permit Granting Authority may establish a standard format and content for the submission of applications for approval for an Air Navigation Facility.

      The requirements of this paragraph 9. do not override, supersede or replace any FAA or MAC requirements which may be more restrictive. FAA and MAC requirements shall govern in such instances in the event of a conflict.

9A. Any of the following additional uses, if the location of the lands intended for such use has been approved in writing by the Board of Health and if permission in each case is obtained by a majority vote at a Town Meeting:

a. Cemetery (burial use), provided, however, that where a cemetery is hereafter approved and permitted under this Section and is contiguous to land used or zoned for residential use, the use of the land for a distance of not less than twenty (20) feet into such cemetery land from the border line with such contiguous residential property shall be subject to the following conditions:

i. Structures or buildings or portions thereof shall not be erected within said twenty (20) foot area;

ii. Burials shall not be made therein;

iii. Natural growth of trees and shrubs shall be maintained within said twenty (20) feet.

10. Use by the Town of a building, structure or land for its Municipal Light Plant or its Water Works Plant if, upon application by the Board of Public Works, the Special Permit Granting Authority shall grant a special permit in accordance with Section 25 of this Zoning Bylaw.

11. Conversion of a building and site previously used for a municipal purpose to a use permitted in residential districts provided, such use shall have been recommended to the Town Meeting by the Board of Selectmen as being in the Town's best interest; and provided, further, such use shall be approved by a two-thirds vote of a Town Meeting and be subject to a special permit as hereinafter provided.

    In addition to said recommendation of the Board of Selectmen, the Planning Board shall hold a public hearing and make a report to the Town Meeting as to whether there is a need for the use in the Town and whether the use is consistent with the Town's Comprehensive Plan and compatible with surrounding uses. Failure of the Planning Board to make such a report shall not invalidate Town Meeting approval. Plans of the proposed use shall be made available for public review in the offices of the Board of Selectmen and the Planning Board for at least two weeks prior to the public hearing. Said plans shall conform to the specifications for preliminary plans contained in the adopted Design Review Procedures and any additional procedures that may be adopted by the Board of Selectmen.

    Following the dissolution of the Town Meeting, the Zoning Board of Appeals may grant a special permit in accordance with Section 25 which shall include the plans and conditions approved by said Town Meeting vote and any further conditions which the Planning Board shall deem consistent with said Town Meeting approval and the public safety and convenience.

B. Project Approval

The provisions of Section 16A shall apply.

C. Inclusionary Zoning

The provisions of Section 16B shall apply.

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SECTION 3. SINGLE RESIDENCE DISTRICTS A

A. In Single Residence Districts A, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except:

1. Any purpose authorized in a Single Residence District in accordance with and subject to the provisions of Section 2; or for

2. The temporary open surface parking of passenger cars of persons residing within four hundred (400) feet of such land, and the guests of such persons; or for

3. The temporary open surface parking of passenger cars of employees, customers or guests of establishments which constitute a use permitted by this Bylaw in the district (a) in which such land is situated or, (b) on which it abuts or from which it is separated by a way, provided said cars are not serviced or held for sale or lease on such land.

4. Any of the following additional uses upon the granting of a special permit as provided in Section 25:

   a) Temporary or seasonal outdoor sales of farm produce or natural products.

B. Off-street parking

Off-street parking shall be provided in accordance with Section 21.

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SECTION 3A. TOWN HOUSE DISTRICTS

A. In Town House Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following specified uses:

1. One-family dwelling and with respect thereto any of the purposes authorized in accordance with and subject to the provisions of Section 2; in addition, with regard to the multi-family uses hereinafter provided, the Special Permit Granting Authority may grant a special permit in this district for any other purpose authorized by right or by special permit in Single Residence Districts.

2. Town houses and, in connection therewith, the parking of motor vehicles and other accessory uses as are customary, all subject to conformity with the following requirements:

   a. Minimum Lot or Building Site Area: No such building or group of buildings or other structures shall be erected or placed on a lot containing less than twenty thousand (20,000) square feet in area.

   b. Minimum Open Space: There shall be provided for each lot a minimum open space of not less than 55%, 65% or 75% of the lot area in accordance with c. below.

   c. Minimum Lot Area per Dwelling Unit: There shall be provided for each dwelling unit contained in the building or buildings a lot area of not less than 6,000 square feet, 5,000 square feet or 4,000 square feet as follows:

      A development having not less than 6,000 square feet per dwelling unit shall have not less than 55% open space in accordance with b. above,

      A development having not less than 5,000 square feet per unit shall have not less than 65% open space in accordance with b. above,

      A development having not less than 4,000 square feet per unit shall have not less than 75% open space in accordance with b. above.

   d. Maximum Lot Coverage: No building or addition to any building, including accessory buildings, shall be erected or placed on a lot which will result in the covering by buildings or more than twenty five percent (25%) of the lot area.

   e. Height of Building or Structure: No building shall exceed a maximum of three stories or forty (40) feet in height.

   f. Yards: No building or structure shall be located within thirty (30) feet of any property boundary line abutting a Single Residence District or within twenty (20) feet of any other property boundary line.

g. Separation Between Buildings: No building or structure shall be located within thirty (30) feet of any other building or structure on the same lot.

h. Length of Row: No building or structure shall contain less than four (4) or more than eight (8) dwelling units.

i. Frontage: No such building or structure shall be erected on a lot with less than one hundred (l00) feet of frontage on a public way or a way shown on a plan approved in accordance with the Subdivision Control Law or otherwise qualifying a lot for frontage under the Subdivision Control Law.

j. Parking: Off-street parking shall be provided in accordance with Section 21.

k. Project Approval: The provisions of Section 16A shall apply.

SECTION 4. GENERAL RESIDENCE DISTRICTS

A. In General Residence Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following specified uses:

1. Any purpose authorized in Single Residence Districts;

2. Two-family dwelling;

3. Town house of three or more units subject to the following:

	CATEGORY A CONVENTIONAL UNITS (with or without assisted units not qualifying as Category B)	**CATEGORY B CONVENTIONAL & 25% ASSISTED UNITS***	**CATEGORY C 100% ASSISTED UNITS***
MAXIMUM RESIDENTIAL DENSITY (sq. ft. unit)	7,000	6,000	5,000
MINIMUM LOT OR BLDG. SITE (sq. ft.)	21,000	18,000	15,000
MINIMUM OPEN SPACE	65%	65%	65%
MAXIMUM LOT COVERAGE BY BUILDING	20%	20%	20%
MAXIMUM BLDG. HEIGHT (feet)	40	40	40
MINIMUM LOT FRONTAGE (feet)	120	100	100
MINIMUM BLDG. SETBACKS (ft. from property boundary lines)			
FRONT (STREET SETBACK)	35	30	30
SIDES AND REAR			
ABUTTING SINGLE RESIDENCE ZONING	35	30	30
ABUTTING OTHER ZONING	25	20	20

	CATEGORY A CONVENTIONAL UNITS (with or without assisted units not qualifying as Category B)	CATEGORY B CONVENTIONAL & 25% ASSISTED UNITS*	CATEGORY C 100% ASSISTED UNITS*
MINIMUM BLDG. SEPARATION (feet)	30	30	30
MINIMUM & MAXIMUM LENGTH OF ROW (units)	3-6	3-8	3-8
**To qualify for Category B a minimum of 25% of the dwelling units or 1 unit, whichever is greater, shall be assisted units. To qualify for Category C 100% of the units shall be assisted.*			

Off-street Parking shall be provided in accordance with Section 21.

4. Boarding or lodging house, but not a restaurant;

5. Such accessory uses as are customary in connection with any of the above subclauses and are incidental thereto, including a private garage and a private stable.

B. Project Approval

The provisions of Section 16A shall apply.

SECTION 5. GENERAL RESIDENCE DISTRICTS A

A. In General Residence Districts A, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except:

1. Any purpose authorized in a General Residence District in accordance with and subject to the provisions of Section 4;

2. The temporary parking of motor vehicles.

B. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

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SECTION 5A. MULTI-FAMILY RESIDENCE DISTRICTS

A. In Multi-Family Residence Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following:

1. One-family dwelling and with respect thereto any of the purposes authorized in accordance with and subject to the provisions of Section 2; in addition, with regard to the multi-family uses hereinafter provided, the Special Permit Granting Authority may grant a special permit in this district for any other purpose authorized by right or by special permit in Single Residence Districts.

2. Any purpose authorized in a Limited Residence District in accordance with and subject to the provisions of Section 6 and all other sections applicable to buildings in Limited Residence Districts.

3. A building or group of buildings containing four or more independent dwelling units each having a room or suite of rooms with bathroom and kitchen facilities for such dwelling units, and, in connection therewith, the parking of automobiles and such other accessory uses as are customary; all subject to conformity with the following requirements:

   a. Minimum Lot or Building Site Area: No such building or group of buildings or other structures shall be erected on a lot containing less than twenty thousand (20,000) square feet.

   b. Minimum Open Space: There shall be provided for each lot or building site area a minimum open space of not less than 40 percent of the lot area.

   c. Minimum Lot Area per Dwelling Unit: There shall be provided for each dwelling unit contained in the building or buildings a lot area of not less than three thousand (3,000) square feet.

   d. Maximum Lot Coverage: No building or addition to any building, including accessory buildings, shall be erected or placed on a lot which will result in the covering by buildings of more than thirty per cent (30%) of the lot or building site area.

   e. Maximum Height of Building or Structure: No building shall exceed a maximum of three (3) stories or forty-five (45) feet in height.

   f. Yards: No building or structure shall be placed within thirty (30) feet of any property line abutting a public or private way or within twenty (20) feet of any other property boundary line.

   g. Frontage: No such building or structure shall be erected on a lot with less than eighty (80) feet of frontage on a public way or a way approved in accordance with

the Subdivision Control Law or otherwise qualifying a lot for frontage under the Subdivision Control Law.

h. Off-Street Parking:

   i. There shall be provided a permanent off-street parking area or areas, surface and/or underground, of sufficient size to provide not less than one and 5/10 (l.5) automobile spaces for each dwelling unit providing two bedrooms or less and two (2) automobile spaces for each dwelling unit providing three (3) bedrooms or more to be accommodated on the lot.

   ii. All off-street parking facilities shall be designed and constructed in accordance with the provisions of Section 21.

i. Project Approval: The provisions of Section 16A shall apply.

SECTION 6. LIMITED RESIDENCE DISTRICTS

A. In Limited Residence Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following:

1. One-family dwelling and with respect thereto any of the purposes authorized in accordance with and subject to the provisions of Section 2; in addition, with regard to the multi-family uses hereinafter provided, the Special Permit Granting Authority may grant a special permit in this district for any other purpose authorized by right or by special permit in Single Residence Districts.

2. A building or group of buildings operated by a non-profit organization and having three or more independent dwelling units each having a room or suite of rooms with its own bathroom and toilet facilities for occupancy by a family unit consisting of one or more persons at least one-half of whom are 62 years of age or older, such building or group of buildings having separate kitchen facilities for such dwelling units and/or central kitchen and dining facilities for the preparation and serving of meals to residents thereof (but not to the public), and at the option of the owner, lounge rooms for the common use of the residents thereof, also in connection therewith, the parking of automobiles and such other accessory uses as are customary; all subject to conformity with the requirements of the following sub-paragraphs (a) through (h) of this paragraph. For the purposes of this Section the term "non-profit organization" shall mean a corporation foundation or other organization not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which shall pay real estate taxes on its property, or make equivalent payment in lieu thereof to the Town.

   a. Minimum Lot or Building Site Area: No such building or group of buildings or other structures shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area.

   b. Minimum Lot Area per Dwelling Unit: There shall be provided a lot area of not less than twenty-five hundred (2,500) square feet for each dwelling unit.

   c. Maximum Building Area (Lot Coverage): No building or addition to any building, including accessory buildings, shall be erected or placed on a lot which will result in the covering by buildings of more than twenty percent (20%) of the lot area.

   d. Height of Building or Structure: No building shall exceed a maximum of two and one-half (2 1/2) stories of thirty (30) feet in height.

   e. Front Yard, Side Yard, and Rear Yard: No building or structure shall be located within thirty (30) feet of any property boundary line abutting a public or private way or within twenty (20) feet of any other property boundary line.

   f. Parking: Off-street parking shall be provided in accordance with Section 21.

g. Conversion: No conversion of an existing building shall be made without a special permit as provided in Section 25.

h. Project Approval: The provisions of Section 16A shall apply.

3. A building or group of buildings operated as public housing for the elderly, and in connection therewith, the parking of automobiles and such other accessory uses as are customary; all subject to conformity with the following:

   a. Front Yard, Side Yard, and Rear Yard: No building or structure shall be located within thirty (30) feet of any property boundary line abutting a public or private way or within twenty (20) feet of any other property boundary line.

   b. Parking: Off-street parking shall be provided in accordance with Section 21.

   c. Conversion: No conversion of an existing building shall be made without a special permit as provided in Section 25.

   d. Project Approval: The provisions of Section 16A shall apply.

SECTION 6A. LIMITED APARTMENT DISTRICTS

A. In Limited Apartment Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following:

1. One-family dwelling and with respect thereto any of the purposes authorized in accordance with and subject to the provisions of Section 2, in addition, with regard to the multi-family uses hereinafter provided, the Special Permit Granting Authority may grant a special permit in this district for any other purpose authorized by right or by special permit in Single Residence Districts.

2. Any purpose authorized in an Educational District in accordance with and subject to the provisions of Section 7 and all other sections applicable to buildings in Educational Districts;

3. A building or group of buildings containing twenty or more independent dwelling units each having a room or suite of rooms with bathroom and kitchen facilities for such dwelling units, and, in connection therewith, the parking of automobiles and such other accessory uses as are customary; all subject to conformity with the requirements of the following subparagraphs (a) through (i) of this paragraph.

   a. Minimum Lot or Building Site Area: No such building or group of buildings or other structures shall be erected or placed on a lot containing less than eighty thousand (80,000) square feet in area.

   b. Minimum Open Space: There shall be provided for each lot or building site area a minimum open space of not less than 75 percent of the lot area.

   c. Minimum Lot Area per Dwelling Unit: There shall be provided for each independent dwelling unit contained in the building or buildings a lot area of not less than eighteen hundred (1,800) square feet.

   d. Elevation of Building or Structure:

      i. No exterior wall of any building shall exceed a height of forty-five (45) feet measured from the finished grade elevation of the land adjoining said wall, exclusive of parapets or cornices.

      ii. Vertical projections not designed or used for human occupancy constructed above the main roof elevation shall be permitted but shall not occupy a total number of square feet of the roof which shall exceed in aggregate of fifteen percent (15%) of the total ground coverage of the building and shall not extend more than fifteen (15) feet above the main roof elevation of the building.

iii. For the purpose of this Bylaw, the finished grade shall mean the elevation of the completed surface of the land, such as lawns, walks, or paving, as determined by field survey or as shown on official plans.

iv. No building shall contain more than four (4) stories. As used herein, the term story shall mean a building level designed or used for human occupancy, but shall not include a level designed or used for occupancy only by custodial personnel.

e. Yards and Setbacks: No buildings or structures shall be erected or placed above ground level nearer than sixty (60) feet to any street line, or forty (40) feet to any public land held or in use for a park, playground or recreational purpose, or fifty (50) feet to any area in the Single residence or General Residence District, or twenty-five (25) feet to any area in any other District.

f. Screening: Shall be provided in accordance with Section 21.

g. Parking: There shall be provided a permanent off-street parking area or areas, surface and/or underground, of sufficient size to provide not less than one and 5/10 (1.5) car spaces for each dwelling unit providing two bedrooms or less and two (2) car spaces for each dwelling unit providing three (3) bedrooms or more to be accommodated on the lot. All off-street parking facilities shall be designed with appropriate maneuvering area and with appropriate vehicular access to a street or way. Access to and from such facilities shall be through a single driveway (or not more than two (2) driveways where the lot concerned exceeds ten (10) acres in size) not over twenty-four (24) feet in width, and having an opening or curb cut at the street line suitable and appropriate to the driveway width. The area devoted to parking and the area devoted to roadways, drives, and maneuverability of vehicles thereto shall be suitably graded, provided and maintained with a permanent dust free surface, shall be provided with adequate drainage and shall have bumper guards where needed for safety. If lighting is provided, the source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street, private way, or onto adjacent property. Surface parking areas shall be adequately screened from view, as provided under subparagraph (f) above.

In any surface parking area, where there is a continuous row of more than fifteen (15) parking spaces, a landscaped open space, not less than five (5) feet in width shall be provided, so that there are no more than fifteen (15) spaces in a continuous row which are not interrupted by such landscaped open space. Where abutting the perimeter of the surface parking area, such space shall extend from the maneuvering aisle to the perimeter of the area; where in the interior portion, such space shall extend from the aisle serving one row of parking spaces in an open space parallel to such spaces to the aisle serving the row of spaces facing the first row. At least one tree shall be maintained in such space within ten (10) feet of the aisle. Any surface parking area which abuts or faces a lot in a Residential District shall be screened in accordance with Subparagraph (f) hereabove in a manner to protect abutting lots from the glare of headlights, noise and other nuisance factors. The location and design of entrances, exits, surfacing,

landscaping, parking, drainage, maneuverability of vehicles, and lighting shall be subject to the approval of the Board of Appeals to insure adequate relation to traffic safety and protection of adjacent properties.

h. Project Approval: The provisions of Section 16A shall apply.

i. Conflict With Any Other Provisions: In case of any conflict between explicit provisions of this Section 6A. and other sections of this Bylaw, the provisions of this Section shall control.

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SECTION 7. EDUCATIONAL DISTRICTS

Editor's Note: Updated March 27, 2018 to reflect amendments under Article 32 at 2017 ATM)

A. In Educational Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereto, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following specified uses:

1. Permitted Uses

   a. Educational purposes 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 non-profit educational corporation, including, but not limited to, classrooms, libraries, auditoriums, educational buildings, dormitories and/or residence halls (not limited to occupancy by related or unrelated persons, as defined in Section 1B under the term "Family"), recreational and competitive sports fields and facilities, dining facilities, performing arts centers and theatres, campus centers, conference centers, chapels, floriculture, horticulture and agriculture related to an educational use, and other such accessory uses as are customary;

   b. One-Family Dwellings, Two-Family Dwellings, Town Houses, and Multi-Family Dwellings for the housing of faculty, staff and/or employees of the educational institution and such accessory uses as are customary, not limited to occupancy by related or unrelated persons, as defined in Section 1B under the term "Family"; provided, however, that Town Houses shall conform in all respects, with the exception of off-street parking, to the provisions of Section 3A.A.2., and Multi-Family Dwellings shall conform in all respects, with the exception of off-street parking, to the provisions of Section 6A.A.3.;

   c. One-Family Dwellings, the use of which is not associated with an educational institution, so long as such dwelling existed prior to January 1, 2017;

   d. Religious purposes;

   e. Child Care Facility (defined to mean a "day care center" or a "school age child care program," as those terms are defined in Section 9 of Chapter 28A M.G.L.) as stipulated in Section 2.A.3A.a.-h.; and

   f. Club, except a club the chief activity of which is a service customarily carried on as a business.

2. Uses Requiring a Special Permit

   The following additional uses may be allowed if a special permit is obtained as hereinafter provided in Section 25:

   a. Public or semi-public institution of a philanthropic, charitable, or religious character;

b. Municipally owned or operated public parking lot or other public use;

c. Off-street parking as a non-accessory use, as stipulated in Section 2.A.8.j.i.-v.;

d. Use by the Town of a building, structure or land for its Municipal Light Plant or its Water Works Plant; and

e. Such accessory uses as are customary in connection with any of the above uses and which are incidental to such uses.

B. Project Approval

The provisions of Section 16A shall apply.

SECTION 8. EDUCATIONAL DISTRICTS A

A. In Educational Districts A, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following:

1. Any purpose authorized in an Educational District in accordance with and subject to the provisions of Section 7; or for

2. The temporary parking of motor vehicles.

B. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

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SECTION 8A. EDUCATIONAL DISTRICTS B

A. In Educational Districts B, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following:

1. Any purpose authorized in an Educational District in accordance with and subject to the provisions of Section 7.

2. Buildings, equipment and other facilities for ice skating, curling, tennis, squash, handball and swimming, for participants and spectators, whether public or private, and whether or not operated for profit, also in connection therewith, the parking of motor vehicles; and also such other accessory uses as are customary when contained within or attached to the physical education or physical recreation buildings; all subject to conformity with the following requirements:

   a. No building or other structure shall be erected or placed on a lot containing less than eighty thousand (80,000) square feet in area.

   b. Minimum Open Space: There shall be provided for each lot a minimum open space of not less than 60 percent of the lot area.

   c. No building or structure, or addition to any building, shall be erected or placed on a lot which will result in the covering by buildings or structures of more than twenty percent (20%) of the lot area.

   d. No building or structure other than accessory buildings shall be located within one hundred (100) feet of any property boundary line abutting a public or private way or within one hundred (100) feet of any other property boundary line. No accessory buildings may be erected within fifty (50) feet of such property boundary lines.

   e. Off-street parking shall be provided in accordance with Section 21 but no such off-street parking shall be within one hundred (100) feet of any lot line of any land in residential districts or used for residential purposes.

   f. Project Approval: The provisions of Section 16A shall apply.

   g. For the purposes of this Section 8A.A.2., the terms "structure" shall include an uncovered tennis court or an uncovered swimming pool.

   h. No more than one thousand six hundred (1600) permanent spectator seats shall be provided.

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SECTION 9. ADMINISTRATIVE AND PROFESSIONAL DISTRICTS

(Editor's Note: Amended 7/9/2014 to reflect amendments approved under Article 34 at 2014 ATM)

A. In Administrative and Professional Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following:

1. Any purpose authorized in the Single Residence Districts;

2. Administrative offices, clerical offices, statistical offices, professional offices, establishments for research and development, including light manufacturing incidental to such research and development, and any additional use for which a special permit may be obtained in accordance with Section 25 after the determination by the Special Permit Granting Authority that the proposed use is similar to one or more of the uses specifically authorized by this Section 9. Also, in connection therewith, the parking of motor vehicles and such other accessory uses as are customary. Registered Marijuana Dispensaries shall be allowed with the issuance of a special permit in accordance with Section 25 and subject to additional provisions included therein.

B. As to any project proposed to be built on land within the Administrative and Professional District containing at least fourteen (14) contiguous acres within such District and having its principal driveway within 1,000 feet of an access ramp to or from a road which is part of the interstate highway system, the Planning Board shall, upon a finding that the following requirements have been satisfied, grant a special permit allowing (i) an increase in the maximum Floor Area Ratio above 0.3 (but not in excess of 0.4) as provided below, and (ii) an increase in the maximum number of stories to four:

1. Setbacks:

   From residential land:
   The minimum setback of buildings from property boundary lines of land used for residential purposes shall be 100 feet.

   From non-residential land:
   The minimum setback of buildings from property boundary lines of land used for purposes other than residential purposes shall be 50 feet.

2. Screening: The setback areas abutting land used for residential purposes shall be landscaped and screened by way of berms and plantings sufficient to substantially shield abutting land from parking areas and buildings, all in accordance with a plan drawn by a registered landscape architect. This plan shall be reviewed and approved by the Design Review Board. The approved screening plan shall be incorporated into the required Project Approval under Section 16A.

3. Lighting: An exterior lighting plan showing the location and design of light posts and luminaries for all exterior lighting shall be reviewed and approved by the Design Review Board. Unless specifically otherwise approved, no light posts shall exceed 18

feet in height from the applicable surface grade, and luminaries shall be of a type having a total cutoff of less than 90 degrees, and shall direct the light onto the site. The approved lighting plan shall be incorporated into the required Project Approval under Section 16A.

4. Minimum Open Space: Open space, as defined in Section 1B, shall be at least thirty percent (30%) of the lot area, and open space equal to at least fifteen percent (15%) of the lot area shall be contiguous.

5. Site Security: The petitioner shall present to the Planning Board a certification by the Chief of Police to the effect that the petitioner has proposed a written plan for site security, which plan has been approved by the Chief of Police.

6. Traffic Management: The Board of Selectmen shall have approved a Traffic Demand Management ("TDM") program. The goal of the TDM program shall be to promote the efficient management and reduction of vehicle trips to and from the site, through the use of practices that may include (but shall not be limited to) car pooling, van pooling, ride sharing, flexible/staggered work hours, four day work weeks, membership and participation in programs of a transportation management agency, shuttle services to and from public transportation, and the use of on-site services, such as food service, banking and fitness facilities for occupants of the project and their guests.

Upon a finding by the Planning Board that the proposed plan and project description (i) satisfies the foregoing requirements, and (ii) shows that the total open space exceeds thirty percent (30%) of the lot area, and (iii) shows that at least ten percent (10%) of the lot area is Enhanced Open Space (as defined below), the Planning Board shall grant a special permit allowing an increase in floor area ratio (as defined in Section 1B) above 0.30 (but in no event in excess of 0.40), as follows: there shall be allowed an increase in FAR of 0.01 for each percent of open space over thirty percent (30%). If the Planning Board is unable to make the findings described in clauses (i)-(iii) above, the Planning Board shall not issue any such special permit.

The term "Enhanced Open Space" shall mean open space that enhances the quality of the community, such as (i) so-called "fitness trails" or walking/jogging paths, that may be made available to the public for passive recreational uses, or (ii) open space that enriches the local environmental and aesthetic and visual quality of the town, such as large (in excess of one acre) wooded or other open areas that are visible from public ways, or (iii) significant areas of contiguous open space that enhance the efficient absorption and drainage of storm water. With respect to open space that is made available for use by the public, the availability of such areas to the public may be limited or otherwise regulated (such as with respect to hours of availability) in a manner that is consistent with the operation, security and management of corporate office facilities.

C. All uses shall be subject to conformity with the following requirements:

1. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area.

2. No building or addition to any building shall be erected or placed on a lot which will result in the covering by buildings of more than 20% of the lot area.

3. No building or structure other than accessory buildings shall be located within fifty (50) feet of any property boundary line abutting a public or private way or within fifty (50) feet of any other property boundary line. No accessory buildings may be erected within thirty (30) feet of any such property boundary lines.

4. Off-street parking shall be provided in accordance with Section 21.

5. Project Approval. The provisions of Section 16A shall apply.

6. Floor Area Ratio: The maximum floor area ratio as defined in Section 1B shall be 0.30.

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SECTION 9A. PLANNED DEVELOPMENT DISTRICTS

A. In Planned Development Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except as follows:

1. Uses Permitted

   a. Residential

      i. Town houses;
      ii. Apartment houses.

   b. Commercial Entertainment

      i. Hotel, motel or inn;
      ii. Restaurant, tea room or other eating place;
      iii. Theater, hall, club, or other indoor places of amusement or assembly.

   c. Commercial Retail/Office

      i. Store, sales room, or showroom for the conduct of retail business, excluding facilities for the sales of motor vehicles, mobile homes, house trailers, or recreational trailers or vehicles;
      ii. Personal services;
      iii. Bank or other financial institution;
      iv. Business or professional offices.

   d. Parking

      i. Public or private parking lots, garages or structures for the temporary parking of motor vehicles.

   e. Such accessory uses as are customary in connection with the uses enumerated in subparagraphs a., b., and c. above.

   f. Any of the following uses upon the granting of a special permit in accordance with Section 25 provided, however, that the use requested was in existence within the Planned Development District when this Zoning Bylaw took effect, and provided that parking is provided in accordance with the provisions of Section 25:

      i. Gasoline filling station;
      ii. Printing Plant.

2. Minimum Lot or Development Site Area

   No building or group of buildings shall be erected on a lot or development site area containing less than ten (10) acres.

3. Density and Design Standards

a. Mix of land uses

i. A maximum of fifty percent (50%) of the total lot or development site area shall be devoted to residential use.
ii. A maximum of twenty-five percent (25%) of the total lot or development site area shall be devoted to commercial entertainment use.
iii. A maximum of fifty percent (50%) of the total lot or development site area shall be devoted to commercial retail and/or office use.
iv. A maximum of ten percent (10%) of the total lot or development site area shall be devoted to uses permitted in accordance with Paragraph 1., Subparagraph f. above.

Parking required to serve each of the uses specified above shall be considered within that portion of the lot or development site devoted to that particular use.

Uses permitted in accordance with Section 9A.1.c.i.-iii. shall be restricted to ground floor locations provided that the Special Permit Granting Authority may, subject to a determination that adequate provisions are made for pedestrian circulation, grant a special permit for other locations of such use.

b. Residential Density

The density of residential development within that portion of the site devoted to residential use shall not exceed the following:

i. Town Houses 1/4,000 square feet
ii. Apartments 1/1,800 square feet

c. Minimum Open Space: There shall be provided for each lot or development site area a minimum open space of not less than the following:

i. 60 percent of the area devoted to residential use.

ii. 30 percent of the area devoted to commercial entertainment, commercial retail or office use.

Should residential and non-residential uses be contained within a single structure, the percentage of gross floor area associated with each use shall be used for the purpose of determining said minimum open space.

d. Elevation of Buildings or Structures

i. No exterior wall of any building shall exceed a height of forty-five (45) feet measured from the finished grade elevation of the land adjoining said wall, exclusive of parapets or cornices, provided, however, that where the Planned Development District abuts land zoned for residential purposes or a street,

the area opposite which is zoned for residential purposes, the maximum height of any building shall not exceed that of any structure within one hundred (100) feet of the boundary of the Planned Development District for a depth of eighty (80) feet within the Planned Development District.

ii. Vertical projections not designed or used for human occupancy constructed above the main roof elevation shall be permitted but shall not occupy a total number of square feet of the roof which shall exceed an aggregate of fifteen percent (15%) of the total ground coverage of the building and shall not extend more than fifteen (15) feet above the main roof elevation of the building.

iii. For the purpose of this Bylaw, the finished grade shall mean the elevation of the completed surface of the land, such as lawns, walks, or paving, as determined by field survey or as shown on official plans.

iv. No building shall contain more than four (4) stories. As used herein, the term story shall mean a building level designed or used for human occupancy, but shall not include a level designed or used for occupancy only by custodial personnel.

e. Yards and Setbacks

No buildings or structures shall be erected or placed above ground level nearer to any street or Zoning District boundary line than the following:

<table>
<tr><th>Use:</th><th>Zoning Boundary (1)
Single Residence or General Residence</th><th>Zoning Boundary (1)
Other Than S.R. or G.R.</th></tr>
<tr><td colspan="3">Residential:</td></tr>
<tr><td>Town Houses</td><td>30’</td><td rowspan="2">60’</td></tr>
<tr><td>Apartments</td><td>40’</td></tr>
<tr><td colspan="3">Commercial Entertainment:</td></tr>
<tr><td>Hotel, etc.</td><td rowspan="3">50’</td><td>30’</td></tr>
<tr><td>Restaurant, etc.</td><td>0’</td></tr>
<tr><td>Theater, etc.</td><td>0’</td></tr>
<tr><td colspan="3">Commercial Retail/Office:</td></tr>
<tr><td>Store, etc.</td><td rowspan="4">50’</td><td rowspan="4">0’</td></tr>
<tr><td>Bank, etc.</td></tr>
<tr><td>Business/Professional Office</td></tr>
<tr><td>Personal Service</td></tr>
</table>

i. Measurement shall be made from the zoning district boundary or from the street line where the land opposite the Planned Development District but having frontage on the same street as the Planned Development is not within a Planned Development District.

f. Parking

i. Off-street parking shall be provided in accordance with the following:

Use	Number of Spaces
Residential	1.5 per one or two bedroom unit; 2.0 per three bedroom unit
Commercial Entertainment	
Hotel, etc.	1 per 1 guest room
Restaurant, etc.	1 per 100 square feet of area in which food is served
Theater, etc.	1 per each 4 seats
Commercial Retail	
Store, etc.	1 per 150 square feet of floor area
Personal Services	1 per 300 square feet of floor area
Bank, etc.	1 per 300 square feet of floor area
Offices	1 per 300 square feet of floor area

ii. The design, construction and screening of off-street parking, except that provided within underground garages or elevated parking structures, shall be in accordance with the provisions of SECTION XXI.

iii. All parking required to serve a building or use shall be located within a walking distance of six hundred (600) feet of that building or use.

iv. In any Planned Development District the required number of parking spaces shall be reduced by ten percent (10%) when at least some portion of the lot or development site area is devoted to each of the following uses:

- Residential
- Theater, or other use which, in the opinion of the Board of Appeals, would require off-street parking at times different from the other uses included within the lot or development site area.
- Commercial Retail or Office.

g. Lighting

All artificial lighting used to illuminate a parking or storage area, maneuvering space, driveway, walkway, or pedestrian plaza or mall shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property.

h. Location of Activities

All commercial entertainment, commercial retail and/or office activities, with the exception of those accessory to uses permitted by Section 9A.1.b.i. and ii., shall be carried on within a building or structure.

4. Project Approval: The provisions of Section 16A shall apply.

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SECTION 9B. LOWER FALLS VILLAGE COMMERCIAL DISTRICT

(Editor's Note: Amended 7/9/2014 to reflect amendments approved under Article 34 at 2014 ATM)

A. Purpose

To establish a commercial zoning district for Lower Falls that allows for commercial reinvestment and improvements, while protecting the quality of the immediately surrounding residential neighborhoods.

B. In Lower Falls Village Commercial Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following specified uses:

1. Residence for more than two families, apartment house, apartment hotel, hotel or inn;

2. Restaurant, cafe, outside dining area, or other eating place for the sale of any food or beverage; drive through windows where food or beverage is purchased by customers in vehicles are not allowed;

3. Retail store having less than 10,000 square feet of floor area where all items for sale or rent are kept inside a building; including artisan shops for the creation of pottery, jewelry, clothing, sculpture, and similar artistic and craft activities;

4. Theater, hall, club, or other place of assembly;

5. Office, bank or other monetary institution; drive through windows where transactions are made by customers in vehicles are not allowed;

6. Public or semi-public building;

7. Such accessory uses as are customary in connection with any of the uses enumerated in clauses 1,2,3,4,5 and 6 are incidental thereto; such as the temporary parking of motor vehicles of customers and clients patronizing a use allowed in the district; drive through windows where business is conducted from vehicles shall not be considered as customary accessory use;

8. Any additional use for which a special permit may be obtained in a specific case, as hereinafter provided in Section 25 after the determination by the Special Permit Granting Authority that the proposed uses is similar to one or more of the uses specifically authorized by this section.

9. Any of the following uses upon granting of a special permit as provided in Section 25:

    a. Sale or rental of tools and/or equipment involving outdoor storage.

    b. Retail store having 10,000 or more square feet of floor area.

    c. Registered Marijuana Dispensaries

C. Project Approval

The provisions of Section 16A shall apply.

D. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

E. Floor Area Ratio

The maximum floor area ratio as defined in Section 1B shall be 0.30 except that the floor area ratio may be increased above 0.30 (but not in excess of 1.0) subject to the terms of a special permit granted by the Planning Board in accordance with the following:

1. A report shall have been received from the Design Review Board finding that:

    a. the proposed project is consistent with the Wellesley Lower Falls Plan, Zoning, Urban Design and Landscape Guidelines ("Lower Falls Guidelines") adopted by the Planning Board which guidelines encourage retail activities at the street edge, pedestrian-oriented uses, improvement of building facades to enhance the pedestrian experience, improving the landscape and facilitating pedestrian access to and use of the river-front;

    b. the proposed project is consistent with the design criteria listed in Section 22;

2. The proposed project shall provide and/or contribute toward pedestrian and bicycle amenities and shall, as applicable, accommodate pedestrian and bicycle circulation and safety in accordance with the Lower Falls Guidelines and nationally recognized and accepted standards;

3. The proposed project shall provide and/or contribute toward the improvement of pedestrian access to the river; and

4. The proposed project shall provide and/or contribute toward the creation of a village center, town green or mini-park to further enhance the pedestrian experience in Lower Falls.

SECTION 9C. WELLESLEY SQUARE COMMERCIAL DISTRICT.

(Editor's Note: Updated 7/9/2014 to reflect amendments approved under Article 34 at 2014 ATM; updated 9/10/2015 to reflect amendments approved under Article 31 at 2015 ATM))

A. In Wellesley Square Commercial Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following specified uses:

1. Any purpose authorized in Single Residence, General Residence or Educational Districts;

2. Residence for more than two families, apartment house, apartment hotel, hotel, or inn;

3. Restaurant, tea room, or other eating place;

4. Retail store having less than 50,000 square feet of floor area where all items for sale or rent are kept inside a building.

   Drive through windows where items or services are provided to customers in vehicles and retail stores having 50,000 or more square feet of floor area are not allowed except by special permit under clause 13. hereof;

5. Theater, hall, club or other place of assembly;

6. Office, bank or other monetary institution; drive through windows where transactions are made by customers in vehicles are not allowed except by special permit under clause 13. hereof;

7. Public or semi-public building;

8. Storage or parking of motor vehicles, gasoline filling station, motor vehicle repair shop, printing plant or telephone exchange; but not including auto body repair and painting shop or automated or mechanical car wash;

9. Veterinary hospital or other medical institution for the care of animals and in connection therewith a boarding kennel and pound, provided that all activities shall be within a building except for exercise runs which may be maintained outside a building as an accessory use thereto, provided that such runs shall not occupy a total area in excess of four hundred (400) square feet or be located within one hundred (100) feet of any business or residential use; and that approval has been received from the Director of Public Health of the Town, and a license has been secured in accordance with Section 137A, Chapter 140, of the Massachusetts General Laws as amended;

10. Light manufacturing of products, the major portion of which is to be sold at retail on the premises by the manufacturer to the consumer; provided that no light manufacturing shall be carried on in a Business District which is prohibited or not authorized in the Industrial Districts or which is prohibited in Section 16 and

provided further, that the total floor space used for such light manufacturing on any one lot or on adjoining lots, if part of the same establishment, does not exceed an area of fifteen hundred square feet, unless a special permit is obtained as hereinafter provided in Section 25 for the use of an additional specified amount of floor space if the Special Permit Granting Authority finds that such additional floor space is reasonably necessary in the conduct of the business, and that the use of such additional floor space would not violate this Section or Section 16 hereof;

11. Such accessory uses as are customary in connection with any of the uses enumerated in clauses 1, 2, 3, 4, 5, 6, 7, 8, and 9, and are incidental thereto; such as the temporary parking of motor vehicles of customers and clients patronizing a use allowed in the district; drive through windows where business is conducted from vehicles shall not be considered as a customary accessory use;

12. Any additional use for which a special permit may be obtained in a specific case, as hereinafter provided in Section 25 after the determination by the Special Permit Granting Authority that the proposed use is similar to one or more of the uses specifically authorized by this Section.

13. Any of the following uses upon the granting of a special permit as provided in Section 25:

    a. Automated or mechanical car wash;

    b. Dry cleaning establishment where chemical solvents are used on the premises;

    c. Motor vehicle sales;

    d. Motor vehicle body repair and/or painting shop;

    e. Sale or rental of trailers, boats or recreational vehicles;

    f. Sale or rental of tools and/or equipment involving outdoor storage;

    g. Retail sales where one or more items for sale or rent are kept outside a building;

    h. Sale of products or items from trailers and vehicles

    i. Drive through windows where business is transacted from the vehicles of customers or patrons;

    j. Retail store having 50,000 or more square feet of floor area.

    k. Registered Marijuana Dispensaries

    l. Outside dining accessory to a restaurant use, whether with or without service from waitstaff

B. Project Approval

The provisions of Section 16A shall apply.

C. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

D. Floor Area Ratio

The maximum floor area ratio as defined in Section 1B shall be the greater of 0.30 or the floor area of the building or buildings on a lot on March 22, 2004 said floor area to be certified by the applicant in conjunction with a project submission.

E. Inclusionary Zoning

The provisions of Section 16B shall apply.

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SECTION 10. LIMITED BUSINESS DISTRICTS

A. In Limited Business Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following:

1. Any purpose authorized in Single Residence Districts;

2. Any purpose authorized in Administrative and Professional Districts in accordance with and subject to the provisions of Section 9;

3. Hotel, motel, inn and a restaurant operated in conjunction with such hotel, motel or inn and any additional use for which a special permit may be obtained in accordance with Section 25, after the determination by the Special Permit Granting Authority that the proposed use is similar to one or more of the uses specifically authorized by this Section 10; also, in connection therewith, the parking of automobiles and such other accessory uses as are customary, all subject to conformity with the following requirements:

   a. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area.

   b. No building or addition to any building shall be erected or placed on a lot which will result in the covering by buildings of more than twenty per cent (20%) of the lot area.

   c. No building or structure other than accessory buildings shall be located within fifty (50) feet of any property boundary line abutting a public or private way or within thirty (30) feet of any other property boundary line. No accessory buildings shall be located within thirty (30) feet of any such property boundary lines.

   d. Off-street parking shall be provided in accordance with Section 21.

   e. No facilities for the preparation of food shall be permitted in individual guest rooms or suites.

   f. Project Approval: The provisions of Section 16A shall apply.

   g. Floor Area Ratio: The maximum floor area ratio as defined in Section 1B shall be 0.30.

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SECTION 11. BUSINESS DISTRICTS

(Editor's Note: Updated 7/9/2014 to reflect amendments approved under Article 34 at 2014 ATM; updated 9/10/2015 to reflect amendments approved under Article 31 at 2015 ATM)

A. In Business Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the following specified uses:

1. Any purpose authorized in Single Residence, General Residence or Educational Districts;

2. Residence for more than two families, apartment house, apartment hotel, hotel, or inn;

3. Restaurant, tea room, or other eating place;

4. Retail store having less than 50,000 square feet of floor area where all items for sale or rent are kept inside a building.

   Drive through windows where items or services are provided to customers in vehicles and retail stores having 50,000 or more square feet of floor area are not allowed except by special permit under clause 13. hereof;

5. Theater, hall, club or other place of assembly;

6. Office, bank or other monetary institution; drive through windows where transactions are made by customers in vehicles are not allowed except by special permit under clause 13. hereof;

7. Public or semi-public building;

8. Storage or parking of motor vehicles, gasoline filling station, motor vehicle repair shop, printing plant or telephone exchange; but not including auto body repair and painting shop or automated or mechanical car wash;

9. Veterinary hospital or other medical institution for the care of animals and in connection therewith a boarding kennel and pound, provided that all activities shall be within a building except for exercise runs which may be maintained outside a building as an accessory use thereto, provided that such runs shall not occupy a total area in excess of four hundred (400) square feet or be located within one hundred (100) feet of any business or residential use; and that approval has been received from the Director of Public Health of the Town, and a license has been secured in accordance with Section 137A, Chapter 140, of the Massachusetts General Laws as amended;

10. Light manufacturing of products, the major portion of which is to be sold at retail on the premises by the manufacturer to the consumer; provided that no light manufacturing shall be carried on in a Business District which is prohibited or not authorized in the Industrial Districts or which is prohibited in Section 16 and

provided further, that the total floor space used for such light manufacturing on any one lot or on adjoining lots, if part of the same establishment, does not exceed an area of fifteen hundred square feet, unless a special permit is obtained as hereinafter provided in Section 25 for the use of an additional specified amount of floor space if the Special Permit Granting Authority finds that such additional floor space is reasonably necessary in the conduct of the business, and that the use of such additional floor space would not violate this Section or Section 16 hereof;

11. Such accessory uses as are customary in connection with any of the uses enumerated in clauses 1, 2, 3, 4, 5, 6, 7, 8, and 9, and are incidental thereto; such as the temporary parking of motor vehicles of customers and clients patronizing a use allowed in the district; drive through windows where business is conducted from vehicles shall not be considered as a customary accessory use;

12. Any additional use for which a special permit may be obtained in a specific case, as hereinafter provided in Section 25 after the determination by the Special Permit Granting Authority that the proposed use is similar to one or more of the uses specifically authorized by this Section.

13. Any of the following uses upon the granting of a special permit as provided in Section 25:

    a. Automated or mechanical car wash;

    b. Dry cleaning establishment where chemical solvents are used on the premises;

    c. Motor vehicle sales;

    d. Motor vehicle body repair and/or painting shop;

    e. Sale or rental of trailers, boats or recreational vehicles;

    f. Sale or rental of tools and/or equipment involving outdoor storage;

    g. Retail sales where one or more items for sale or rent are kept outside a building;

    h. Sale of products or items from trailers and vehicles;

    i. Drive through windows where business is transacted from the vehicles of customers or patrons;

    j. Retail store having 50,000 or more square feet of floor area.

    k. Registered Marijuana Dispensaries

    l. Outside dining accessory to a restaurant use, whether with or without service from waitstaff

B. Project Approval

The provisions of Section 16A shall apply.

C. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

D. Floor Area Ratio

The maximum floor area ratio as defined in Section 1B shall be 0.30.

E. Inclusionary Zoning

The provisions of Section 16B shall apply.

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SECTION 12. BUSINESS DISTRICTS A

A. In Business Districts A, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the purposes authorized in a Business District.

B. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

C. Project Approval

The provisions of Section 16A shall apply.

D. Floor Area Ratio

The maximum floor area ratio as defined in Section 1B shall be 0.30.

E. Inclusionary Zoning

The provisions of Section 16B shall apply.

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SECTION 13. INDUSTRIAL DISTRICTS

(Editor's Note: Amended 7/9/2014 to reflect amendments approved under Article 34 at 2014 ATM)

A. In Industrial Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except:

1. Any purpose or accessory use which is authorized in Single Residence, General Residence, Educational or Business Districts;

2. Light manufacturing and assembly;

3. Dry cleaning establishment where chemical solvents are used on the premises;

4. Motor vehicle sales and service;

5. Motor vehicle body repair and/or painting shop;

6. Sale or rental of trailers, boats or recreational vehicles;

7. Sale or rental of tools and/or equipment involving outdoor storage;

8. Retail sales where one or more items for sale or rent are kept outside a building;

9. Sale of products or items from trailers and vehicles subject to the provisions of Section 16.D.

10. Such accessory uses as are customary in connection with any of the uses enumerated in clauses 2, 3, 4, 5, 6, 7, 8, and 9 are incidental thereto; such as the temporary parking of motor vehicles of customers and clients patronizing a use allowed in the district; drive through windows where business is conducted from vehicles shall not be considered as a customary accessory use;

11. Any of the following uses upon the granting of a special permit as provided in Section 25:

    a. Automated or mechanical car wash;

    b. Drive through windows where business is transacted from the vehicles of customers or patrons.

    c. Registered Marijuana Dispensaries

12. Any additional use for which a special permit may be obtained in a specific case, as hereinafter provided in Section 25 after the determination by the Special Permit Granting Authority that the proposed use is similar to one or more of the uses specifically authorized by this Section.

B. Project Approval

The provisions of Section 16A shall apply.

C. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

D. Floor Area Ratio

The maximum floor area ratio as defined in Section 1B shall be 0.30.

E. Inclusionary Zoning

The provisions of Section 16B shall apply.

SECTION 14. INDUSTRIAL DISTRICTS A

A. In Industrial Districts A, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except one or more of the purposes authorized in an Industrial District.

B. Off-street Parking

Off-street parking shall be provided in accordance with Section 21.

C. Project Approval

The provisions of Section 16A shall apply.

D. Floor Area Ratio

The maximum floor area ratio as defined in Section 1B shall be 0.30.

E. Inclusionary Zoning

The provisions of Section 16B shall apply.

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SECTION 14A. TRANSPORTATION DISTRICTS

A. In Transportation Districts, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, for any purpose except:

1. Facilities and ways for the transportation of persons and property to and/or from points within and/or without the Town; and

2. Such accessory uses as are customary in connection with the use permitted in clause 1 and are incidental thereto.

B. Project Approval

The provisions of Section 16A shall apply.

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SECTION 14B. FLOOD PLAIN OR WATERSHED PROTECTION DISTRICTS

A. Purposes

The purposes of Flood Plain Districts or Watershed Protection Districts are to:

1. Ensure public safety through reducing the threats to life and personal injury;

2. Eliminate new hazards to emergency response officials;

3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;

4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;

5. Reduce damage to public and private property resulting from flooding waters by providing that land subject to seasonal or periodic flooding shall not be used for residence or for other purposes when such use will endanger the health or safety of occupants;

6. Assure the continuation of the natural flow pattern of water courses necessary to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation; and

7. Protect, preserve, and maintain the water table and water recharge areas so as to preserve present and potential water supplies.

B. Definitions

For the purposes of this Section the following terms shall be defined as follows:

Development - Any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Federal Emergency Management Agency (FEMA) - An agency of the United States Federal Government that administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood – A temporary rise in river, stream or brook flow that results in its water overtopping its banks and inundating Floodway areas adjacent to the channel.

Flood Insurance Rate Map (FIRM) – An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study Report (FIS Report) - A report which examines, evaluates, and determines flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Flood Plain District - An area subject to danger of periodic flooding, the limits of which are determined by the Special Flood Hazard Area.

Floodwater Storage Capacity – The quantity of water which can be held within the flood plain of a wetland.

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.

Natural River Channel - A water course with a definite bed and banks to confine and conduct the average flow.

Special Flood Hazard Area - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year as identified on the FIRM Map as Zone A and AE.

Watershed Protection District - An area bordering a brook, stream or other water body, the limits of which are determined by a horizontal distance.

C. Flood Plain District

1. District Boundaries and Base Flood Elevation Data

a. The Flood Plain District is herein established as an overlay district. The District includes all Special Flood Hazard Areas within the Town of Wellesley as shown on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Wellesley are panel numbers 25021C0004E, 25021C0008E, 25021C0009E, 25021C0012E, 25021C0014E, 25021C0016E, 25021C0017E, 25021C0018E, 25021C0028E, and 25021C0036E. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM dated July 17, 2012 and further defined by Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012 are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Inspector of Buildings, and Wetlands Protection Committee.

b. Base Flood Elevation Data. In Zones A and AE, along watercourses that have not had a regulatory Floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. Notification of Watercourse Alteration

   a. In a riverine situation, the Planning Director shall notify the following of any alteration or relocation of a watercourse:

      i. Abutting communities
      ii. The National Flood Insurance Program State Coordinator
      iii. The National Flood Insurance Program, Regional Program Specialist

D. Watershed Protection District

1. District Boundaries
2. The Watershed Protection District is herein established as an overlay district.

E. Exemption

To further protect persons and property now subject to flooding, all residential, commercial, industrial, and business buildings existing in Flood Plain or Watershed Protection Districts may be repaired, rebuilt, modified or flood-proofed in a manner which would not increase ground coverage, and any building or structure for which either a building permit was issued, or a notice of intent under Chapter 131, Section 40 of the Massachusetts General laws, was filed, prior to March 20, 1974, may be constructed and built in accordance with plans as lawfully approved and thereafter may be repaired, rebuilt, modified or flood-proofed in a manner which would not increase ground coverage.

F. Regulations and Restrictions

1. General Restrictions:

   a. In Flood Plain or Watershed Protection Districts, except as provided in Section 14B.E. above, and except as provided in Section 14B.F.2. below, no new building or structure shall be constructed or used in whole or in part, and no existing building or structure lying wholly within a designated Flood Plain or Watershed Protection District shall be altered, enlarged, reconstructed or used in a manner which would increase ground coverage within the Flood Plain or Watershed Protection District; no dumping of trash, rubbish garbage, junk or other waste materials shall be permitted; no filling, dumping, excavating, removal or transfer of gravel, sand, loam, or other material which will restrict flood water flow or reduce the flood water storage capacity shall be permitted, except the surfacing or resurfacing of any existing parking area.

   b. All development in the Flood Plain or Watershed Protection District, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and the following:

i. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
ii. Wetlands Protection Regulations, Department of Environmental Protection (310 CMR 10.00);
iii. Inland Wetlands Restriction, Department of Environmental Protection (310 CMR 13.00); and
iv. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Protection (310 CMR 15, Title 5).

c. The portion of any lot delineated as being within a Flood Plain or Watershed Protection District may be used to meet the area and yard requirements for the district in which the remainder of the lot is situated.

2. Permitted Uses

a. Use of any woodland, grassland, wetland, or agricultural use of land or water, not requiring filling or excavating shall be permitted such as:

i. Farming, grazing, and horticulture;
ii. Forestry and nursery uses;
iii. Conservation of water, plants, wildlife; and
iv. Wildlife management areas, foot, bicycle, and/or horse paths.

b. The Special Permit Granting Authority may give permission, as hereinafter provided in Section 25 and subject to the provisions of Section 14B.F.3. below, for the following uses within Flood Plain or Watershed Protection Districts:

i. Any use, otherwise permitted by the underlying zoning district within which the land is situated, subject to the provisions of Section 14B.F.3. below;
ii. Construction, operation and maintenance of dams and other water control devices including temporary alteration of the water level for emergency purposes;
iii. Bridges and like structures permitting passages between lands of the same owner, provided that such bridges and structures shall be constructed, maintained and used at the expense and risk of such owner;
iv. Driveways and walkways ancillary to uses otherwise permitted by this Section;
v. Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing or any non-commercial open air recreation use;
vi. Structures ancillary to farms, truck gardens, nurseries, orchards, tree farms and golf courses.

3. Project Approval

The provisions of Section 16A shall apply.

Plans submitted in accordance with Section 16A shall make adequate provision for:

a. The protection, preservation and maintenance of the water table and water recharge areas;

b. The preservation of the natural river channel plus sufficient width of overbank areas for the passage of flood flows;

c. The retention of existing floodwater storage capacity;

d. The design of proposed construction in a manner which ensures anchoring to prevent flotation, collapse and/or excessive movement of structures; and

e. The design of public utilities including sewer, water, gas and electrical systems in a manner which will minimize or eliminate flood damage.

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SECTION 14C. PARKS, RECREATION, AND CONSERVATION DISTRICTS

(Editor's Note: Updated March 27, 2018 to reflect amendments under Article 35 at 2017 ATM)

A. Purpose and Intent

The Parks, Recreation, and Conservation district is intended to encompass land devoted to parks, recreation, and conservation uses, and closely related uses.

B. Use Regulations

Within the Parks, Recreation, and Conservation district, no land and/or structure shall be used for any purpose except as follows. Any use not specifically designated as a permitted use or as a use allowed by a special permit or with Town Meeting approval, shall be prohibited:

1. Permitted Uses

   a. Conservation of soil, water, plants and wildlife, including wildlife management shelters;

   b. Outdoor passive and active recreation, including play and sporting areas, nature study, boating, fishing, foot bridges, plank walks, foot paths and bicycle paths. Play areas may include playgrounds and play structures; sporting areas may include goals, fences, dugouts, and other similar structures commonly associated with outdoor sports;

   c. Dams and other water control devices, including temporary alteration of the water level for agricultural, emergency or maintenance purposes, or for the propagation of fish;

   d. Forestry, grazing, farming, nurseries, truck gardening and harvesting of crops, and non-residential buildings or structures used only in conjunction with harvesting or storage of crops raised on the premises; and

   e. Lawns, flower or vegetable gardens.

2. Uses Requiring a Special Permit

   The following additional uses may be allowed if a special permit is obtained as hereinafter provided in Section 25:

   a. Driveways and parking areas, as defined by Section 21;

   b. Dams, excavations, or changes in watercourses to create ponds, pools for swimming, fishing, wildlife or other recreational or agricultural uses, scenic features, or for drainage improvements; and

   c. Municipal and public uses other than permitted park, recreation, and conservation uses.

C. Project Approval

The provisions of Section XVIA, Project Approval, shall apply to properties and uses in the Parks, Recreation, and Conservation Districts.

SECTION 14D. HISTORIC DISTRICTS

A. Purpose

The purpose of the Historic District is to promote the education, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Wellesley and the Commonwealth, or their architecture, and through the maintenance and improvement of settings of such buildings and places and the encouragement of design compatible therewith.

This Bylaw is not intended to conflict with any other Section of this Zoning Bylaw or other Bylaws of the Town of Wellesley. The requirements established herein do not relieve any person from also satisfying any and all applicable Zoning Bylaws or other applicable rules, regulations and laws.

B. Authority

Historic Districts in the Town of Wellesley shall be created and maintained in every respect under and according to the provisions of General Laws of the Commonwealth, Chapter 40C and all amendments thereto, and this Section shall be in every respect controlled by and subject to the provisions of said Chapter 40C of the General Laws and all amendments thereto.

C. Definitions

For the purposes of this Section, the following terms shall be defined as follows:

Altered - includes the words "rebuilt", "reconstructed", "restored", "removed" and "demolished" and the phrase "changed in exterior color".

Building - means a combination of materials forming a shelter for persons, animals or property.

Commission - means the commission acting as the Historic District Commission.

Constructed - includes the words "built", "erected", "installed", "enlarged", and "moved".

Exterior Architectural Feature - means such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

Structure - means a combination of materials other than a building, including a sign, fence, wall, terrace, walk, or driveway.

D. Applicability

1. The boundaries of the Historic District are shown on a map of the Historic District which is filed with the Town Clerk of the Town of Wellesley and recorded in the Registry of Deeds. The Historic District is indicated on the Zoning Map of the Town of Wellesley.

2. Historic Districts shall be considered as overlapping other zoning districts.

E. Certification

1. Except as this Section may otherwise provide under Section 14D.G., no building or structure within an Historic District shall be constructed or altered in any way that effects exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, with respect to such construction or alteration.

2. Any person who desires to obtain a certificate from the Commission shall file with the Commission an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

3. No building permit for construction of a building or structure or for alteration of an exterior architectural feature within an Historic District and no demolition permit for demolition or removal of a building or structure within an Historic District shall be issued by the Zoning Board of Appeals or by the Building Inspector until the certificate required by this Section has been issued by the Commission.

4. If the Commission determines that the construction or alteration for which an application for a certificate of appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the Historic District, the Commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of a disapproval of an application for a certificate of appropriateness, the Commission shall place upon its record the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefor as set forth in the records of the Commission, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features. Prior to the issuance of any disapproval, the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission. If within fourteen days of the receipt of such notice the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a certificate of appropriateness to be issued to the applicant.

5. In case of a determination by the Commission that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature, or involves an exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Section 14D.G., the Commission shall cause a certificate of non-applicability to be issued to the applicant.

6. If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate, or in the event of an application for a certificate of hardship, the Commission shall determine whether owing to conditions especially affecting the building or structure involved, but not affecting the Historic District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Bylaw. If the Commission determines in either such instance that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, or if the Commission fails to make a determination on an application within the time specified in Section 11 of Chapter 40C of the General Laws, the Commission shall cause a certificate of hardship to be issued to the applicant.

7. Each certificate issued by the Commission shall be dated and signed by its chairman, vice-chairman, secretary of such other person designated by the Commission to sign such certificates on its behalf.

8. The Commission shall file with the Town Clerk and with the Building Inspector, Zoning Board of Appeals, and the Planning Board a copy of all certificates and determination of disapproval issued by it.

9. The Commission shall determine promptly, and in all events within fourteen days after the filing of an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves any such features which are subject to approval by the Commission, the Commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided. The Commission shall fix a reasonable time for the hearing on any application and shall give public notice of the time, place and purposes thereof at least fourteen days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list, to the Building Inspector, to the Planning Board of the Town, and to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.*

   *See also Section 26.

10. As soon as convenient after such public hearing but in any event within sixty days after the filing of the application, or within such further time as the applicant may allow in writing, the Commission shall make a determination of the application. If the Commission shall fail to make a determination within such period of time the Commission shall thereupon issue a certificate of hardship.

11. A public hearing on an application need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application may be waived by the Commission if the Commission determines that the exterior architectural feature involved is so insubstantial in its effect on the Historic District that it may be reviewed by the Commission without public hearing on the application, provided, however, that if the Commission dispenses with a public hearing on an application a notice of the application shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as above provided, and ten days shall elapse after the mailing of such notice before the Commission may act upon such application.

F. Guidelines.

1. In passing upon matters before it the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design arrangement, texture, and material of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size and shape of the building or structure, both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the Commission may in appropriate cases impose dimensional and set-back requirements in addition to those required by other applicable Bylaws. The Commission shall not consider interior arrangements or architectural features not subject to public view.

2. The Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the Historic District.

3. The Commission may after public hearing set forth in such manner as it may determine the various designs of certain appurtenances, such as light fixtures, which will meet the requirements of an Historic District and a roster of certain colors of paint and roofing materials which will meet the requirements of an Historic District, but no such determination shall limit the right of an applicant to present other designs or colors to the Commission for its approval.

G. Exceptions.

1. The authority of the Commission shall not extend to the review of the following categories of buildings or structures or exterior architectural features in the Historic District, and the buildings or structures or exterior architectural features so excluded

may be constructed or altered within the Historic District without review by the Commission:

a. Temporary structures or signs, subject however, to the other applicable sections of this Zoning Bylaw.

b. Terraces, walks, sidewalks and similar structures, or and one or more of them, provided that any such structure is substantially at grade level.

c. One antenna per building, storm doors and windows, screens, window air conditioners, lighting fixtures and similar appurtenances.

d. The color of paint, provided that the paint color does not cause substantial derogation from the intent and purpose of the Bylaw and is in keeping with accepted aesthetic standards.

e. The color or materials used on roofs.

f. Signs of not more than one square foot in area in connection with use of a residence for a customary home occupation, or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly.

g. The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided that the exterior design is substantially similar to the original and that such reconstruction is begun within one year thereafter and carried forward with due diligence.

2. The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures or signs, including without limitation, any of those enumerated under paragraph 1., may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of this Bylaw.

3. Upon request the Commission shall issue a certificate of non-applicability with respect to construction or alteration in any category then not subject to review by the Commission in accordance with the provisions of paragraphs 1. and 2.

H. Ordinary Maintenance, Repairs or Replacement.

Nothing in this Section shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within an Historic District which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent the landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the adoption of this Section.

I. Further Review and Rights of Appeal.

Any applicant aggrieved by a determination of the Historic District Commission may within twenty days after the filing of the notice of such determination with the Town Clerk, file a written request with the Commission for a review by a person or person of competence and experience in such matters, designated by the Metropolitan Area Planning Council.

The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five days after the request, and shall be binding on the applicant and the Commission, unless a further appeal is sought in the Superior Court as provided in Section 12A of Chapter 40C of the General Laws.

SECTION 14E. WATER SUPPLY PROTECTION DISTRICTS

A. Purpose

The Water Supply Protection Districts are intended to protect the public health, safety, and welfare by preventing contamination of and preserving the quantity of ground and surface water which provides existing or potential water supply for the town's residents, institutions, and businesses.

B. Definitions

For the purposes of this Section, the following terms shall be defined as follows:

Hazardous Waste - Materials as defined and regulated by 310 CMR 30.00 (Massachusetts Hazardous Waste Management regulations).

Impervious Surface - Material covering the ground, including but not limited to macadam, cement, concrete, pavement, and buildings, that does not allow surface water to penetrate into the soil.

Maximum Groundwater Elevation - The seasonal high level of the groundwater table. This level shall be the same as the maximum groundwater elevation defined and determined in 310 CMR 15.00 (Title 5, State Environmental Code).

Mining of Land - The removal of geologic materials such as topsoil, sand and gravel, metallic ores or bedrock.

Solid Waste - Unwanted or discarded solid material within sufficient liquid content to be free flowing, including without limitation rubbish, garbage, junk, refuse. The term does not include vegetative compost, tree stumps, and brush.

Toxic or Hazardous Materials - Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies and to human health, if such substance or mixture were discharged to land or waters of this town. Toxic or hazardous materials include, without limitation, petroleum products, heavy metals, radioactive materials, virulent infectious wastes, pesticides, herbicides, solvents, thinners and other materials which are listed as U.S. EPA Priority Pollutants.

C. Applicability

1. Water Supply Protection Districts shall be considered as overlying other zoning districts.

2. The applicability of this Section to existing uses or structures and to projects legally begun at the time of adoption, shall be governed by Section 17.

3. The provisions of Section 14E.D.1. and Section 14E.D.2. shall not apply to the installation, operation, or maintenance of necessary public water, public waste water, public stormwater, and public electric facilities and devices.

D. Use Regulations

Within Water Supply Protection Districts the requirements of the underlying districts continue to apply, except that uses are prohibited as indicated in Section 14E.D.1. and require a Special Permit where indicated in Section 14E.D.2., even where underlying district requirements are more permissive. Within Water Supply Protection Districts, these regulations shall apply:

1. The following uses are prohibited:

   a. Solid waste disposal facilities, including without limitation landfills and junk and salvage yards, that require a site assignment from the Board of Health under M.G.L., Ch.111, s.150A (the landfill site assignment law) and regulations adopted by the Department of Environmental Quality Engineering, 310 CMR 19.00;

   b. Storage of petroleum and other refined petroleum products, including without limitation gasoline, waste oil, and diesel fuel, except within buildings which it will heat or where it currently exists or for in-kind replacement or in quantities for normal household use, provided there is compliance with all local, state, and federal laws;

   c. Storage of road salt or other de-icing chemicals in quantities greater than for normal household use;

   d. Storage of hazardous wastes, including without limitation chemical wastes, radioactive wastes, and waste oil in quantities greater than resulting from normal household activities;

   e. Manufacture, use, storage, or disposal of toxic or hazardous materials as an integral part of a principal activity, but excluding domestic activities and pesticide applications;

   f. Motor vehicle service stations, repair garages, car washes, truck or bus terminals, heliports, airports, electronic manufacturing, metal plating, commercial chemical and bacteriological laboratories, and dry cleaning establishments using toxic or hazardous materials on site;

   g. Disposal of hazardous wastes.

2. If, in the judgment of the Special Permit Granting Authority, the Design and Operation Standards in Section 14E.F. are adequately satisfied and not otherwise prohibited in Section 14E.D.1., the following uses may be allowed upon issuance of a Special Permit and subject to such conditions as the SPGA may impose. Failure to comply with the terms and conditions of a Special Permit shall be grounds for revocation of said permit.

a. Commercial mining of land;

b. Major construction projects which are defined in Section 16A, and which are subject to site plan review.

c. Parking lots, vehicle rental agencies, photographic processing establishments, or printing establishments;

d. Any uses where more than 10,000 square feet of any lot would be rendered impervious.

E. Project Approval

The provisions of Section 16A shall apply.

F. Design and Operation Standards

1. Safeguards. Provision shall be made to adequately protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials, and indoor storage provisions for corrodible or dissolvable materials.

2. Disposal. No disposal of hazardous wastes within Water Supply Protection Districts shall occur. All provisions of M.G.L., Ch.111, s.150A (the landfill site assignment law), and M.G.L., Ch. 21C (the Massachusetts Hazardous Waste Management Act) shall be adequately satisfied.

3. Fill. Fill material used in a Water Supply Protection District shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to ensure proper condition of the fill. The SPGA may require soils testing by a certified laboratory at the applicant's expense.

4. Spill Containment. For industrial and commercial uses, an emergency response plan to prevent contamination of soil or water in the event of accidental spills or the release of toxic or hazardous materials shall be submitted to the SPGA, if deemed necessary, for approval prior to granting of a Special Permit. Recommendations of the Fire Department on said plan shall be sought.

5. Monitoring. Periodic monitoring shall be required when the site location and land use activities indicate a significant risk of contamination to the water supply as determined by the SPGA based upon recommendations of the Department of Public Works, Board of Health, and Wetlands Protection Committee. Such monitoring may include analyses of water for appropriate substances and the installation of groundwater monitoring wells constructed and located as specified by the Department of Public Works. All costs shall be borne by the owner of the premises.

6. On-site Recharge. All storm water runoff from impervious surfaces shall be recharged on-site unless in conducting site plan review it is determined that either recharge is not feasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Such recharge shall be by surface infiltration through vegetated surfaces unless otherwise approved by the SPGA during site plan review. If dry wells or leaching basins are approved for use, they shall be preceded by oil, grease, and sediment traps. Drainage from loading areas for toxic or hazardous materials shall be separately collected for safe disposal.

7. Grade Reduction. Soil overburden shall not be lowered to finished exterior grades less than five (5) feet above maximum groundwater elevation, unless technical evidence can be provided showing to the SPGA's satisfaction that groundwater quantity or quality will not be detrimentally affected. Technical evidence may include without limitation a determination of soil and geologic conditions where low permeability will mitigate leachate penetration and evaporation transpiration.

SECTION 14F. RESIDENTIAL INCENTIVE OVERLAY (RIO)

A. Purpose

To provide a residential reuse incentive for a parcel or parcels greater than one acre located in close proximity to the Town's commercial districts and public transportation.

B. Applicability

The RIO shall be considered as overlaying other zoning districts.

C. Underlying Zoning Districts

The RIO confers additional development options to be employed at the discretion of the property owner. The RIO does not in any manner remove or alter the zoning rights permitted by the underlying zoning district. However, use of one or more of the RIO development options requires consistency with all RIO requirements.

D. Permitted Uses

Conventional multi-family dwelling units, assisted elderly living, independent elderly housing, nursing homes and skilled nursing facilities.

E. Minimum Lot or Building Site Area

No building or group of buildings shall be constructed on a lot or development site containing less than 45,000 square feet. No building conversion shall be approved on a lot or development site containing less than 25,000 square feet.

F. Minimum Open Space

There shall be provided a minimum open space as defined in Section 1B of 30 percent of the lot or development site area, one half of which shall be Enhanced Open Space as defined in Section 9, provided, however, that the amount of open space required for conversion projects shall be determined by the Planning Board under O. Project Approval/Special Permit paragraph below.

G. Floor Area Ratio

Building floor area devoted to residential uses including conventional market-rate housing, assisted elderly living, independent elderly housing, nursing home and/or skilled nursing facilities shall not be subject to floor area ratio requirements notwithstanding other provisions of this Zoning Bylaw to the contrary.

H. Maximum Development Density

There shall be provided for each dwelling unit of assisted elderly living or independent elderly living a lot area of not less than fourteen hundred (1,400) square feet and the number of dwelling units on a lot or development site shall not exceed 150 units. There

shall be provided for each dwelling unit of conventional multifamily housing a lot area of not less than eighteen hundred (1,800) square feet. A nursing home or skilled nursing facility on a lot or development site shall not exceed 250 beds.

I. Building Setbacks

Yard definitions shall be as specified in Section 19. RIO projects involving new construction shall provide the following:

Minimum Front Yard Depth: 25 feet
Minimum Side Yard Depth: 10 feet
Minimum Rear Yard Depth: 10feet

However, where the housing is not located in a residential zoning district but abuts a residential zoning district, the setback shall be 60 feet and a buffer of natural material and/or an earthen berm shall be installed to provide screening on a year-round basis.

J. Building Height

Maximum building height as defined in Section 20 for new construction shall be 4 stories and 45 feet for buildings used for assisted elderly living, independent elderly housing, and conventional multi-family housing located in Business, Business A, Industrial, Industrial A, or Lower Falls Village Commercial Districts; new construction shall be 36 feet for buildings located in Single Residence Districts and General Residence Districts. The maximum building height for nursing homes and skilled nursing facilities shall be three stories and 36 feet. See Building Conversion paragraph below for height restrictions for conversion of existing buildings to these uses.

K. Signs

Signs shall comply with the sign requirements of Section 22A. For the purposes of Table 22A.1 of Section 22A, RIO projects shall comply with the signage allowances of Commercial Districts Fronting Streets Other Than Worcester Street, except that RIO projects located in underlying Single Residence or General Residence zoning districts shall comply with the following:

Number of Signs of Total Permanent Signage: 2 permanent signs per lot, consisting of no more than 1 wall sign or 1 standing sign
Maximum Total Area of Total Permanent Signage: 25 sq.ft.
Maximum Area of Standing Signs: 16 sq.ft.
Maximum Area of Wall Signs: 9 sq.ft.
Window Signs shall not be permitted
Awning Signs shall not be permitted

L. Off-Street Parking

Off-street parking shall be provided in accordance with Section 21.

M. Building Conversion

An existing building may be converted to uses allowed in the RIO subject to the terms of a special permit granted by the Planning Board. In no instance shall the building be expanded to exceed the height limitations specified below or the current height of the building if said height is greater than 45 feet. There shall be no maximum residential density. However, if the building proposed for conversion presently does not conform to the requirements of the underlying zoning district the provisions of Section 17 shall apply to the conversion project. In this instance application shall not be made to the Zoning Board of Appeals under Section 17 prior to the issuance of a special permit by the Planning Board under this Section.

N. Mixed Use Projects

Any combination of conventional housing types is permitted up to a maximum density of 24 units per acre. Further, up to 75 conventional units of any type of housing shall be permitted in conjunction with development of a facility providing at least 100 nursing home beds, 100 beds associated with a skilled nursing facility, or at least 80 assisted living or independent elderly housing units. A mix of residential units comprising independent elderly housing, assisted elderly living, skilled nursing, nursing homes, and any type of conventional housing shall also be allowed, consistent with the dimensional regulations of the RIO.

In RIO projects that provide at least 100 elderly dwelling units of any type, including skilled nursing facilities, or at least 50 conventional housing units of any type, up to 10,000 sq. ft. of retail space in a structure or structures separate from the residential units or nursing facility shall be permitted. All such developments shall be consistent with the dimensional and parking requirements of the underlying district as applicable.

O. Project Approval/Special Permits

The provisions of Section 16A shall apply in all respects to projects in the RIO. Application shall not be made under Section 16A prior to the issuance of a special use permit by the Planning Board under this section. A special use permit shall be required from the Planning Board in conjunction with all projects employing RIO development options for building conversion or new construction and the Planning Board may waive specific dimensional requirements in accordance with the following:

1. The Planning Board shall receive a report from the Design Review Board finding that the proposed project is consistent with the Design Criteria listed in Section 22 and, for projects located in the Lower Falls RIO District, that the proposed project is consistent with the Wellesley Lower Falls Plan, Zoning, Urban Design and Landscape Guidelines (“Lower Falls Guidelines”) adopted, and from time to time amended, by the Planning Board.

2. The proposed project shall provide and/or contribute toward pedestrian and bicycle amenities and shall, as applicable, accommodate pedestrian and bicycle circulation and safety in accordance with nationally recognized and accepted standards.

3. The proposed project shall provide and/or contribute toward the improvement of pedestrian or public transit, and access to a river, open space, public trails or other public amenities.

4. The proposed project shall provide and/or contribute toward the creation of a village center, town green, or mini-park within or adjacent to the RIO.

SECTION 14G. LINDEN STREET CORRIDOR OVERLAY DISTRICT("LSCOD")

A. Purpose

In recognition of the unique location, function, and character of land uses along the Linden Street commercial corridor, the Linden Street Corridor Overlay District (LSCOD) is intended to encourage the redevelopment of unsightly and inefficient properties in a coordinated and well-planned manner in order to promote:

- More efficient and organized layout of buildings, parking areas, vehicular circulation aisles, and pedestrian walkways.
- Orderly master planning of the Linden Street corridor.
- Improved facilities and circulation for the safety, comfort, ease of movement, and convenience of pedestrians.
- Enhanced aesthetic quality and architectural compatibility of new and existing buildings.
- Enhanced quality of landscape, including features such as trees, shrubs, lawns, and other plantings, as well as features such as walkways, plazas, street furnishings, lighting, and perimeter fencing.
- Consolidation, improved organization, and safe design of site access points.
- Improved overall traffic safety and operations along Linden Street.
- Enhanced property values along the corridor, including adjacent residential and commercial neighborhoods.
- Improved watershed conditions and drainage and improvement of existing flooding conditions on private property.
- Decreased peak stormwater drainage rates into downstream receiving bodies by increasing open space.

B. Applicability

The LSCOD is shown on the Zoning Map and shall be considered as overlaying other existing zoning districts.

C. Underlying Zoning Districts

The LSCOD confers additional development options to be employed at the discretion of the property owner. The LSCOD does not in any manner remove or alter the zoning rights permitted by the underlying zoning district. However, use of one or more of the LSCOD development options requires consistency with all LSCOD requirements. If two or more lots are (i) contiguous to each other, and (ii) owned by the same person or entity, such lots may be combined as a single "Development Site." The limits of any Development Site shall be identified by the Applicant and endorsed by the land owner or owners at the time of project submission. Lots that would be contiguous to each other but for a street or right of way shall be considered to be contiguous for the purposes of

assembling a Development Site. One or more lots may be added to an existing Development Site, but only if such addition would not cause the Development Site, as so enlarged, to be out of conformance with the provisions hereof.

D. Permitted Uses

Any use or uses that are permitted in the underlying zoning district are permitted, provided that if, in the underlying zoning district, a special permit would be required for any particular use, the same special permit shall be required for such use in the LSCOD. Any non-conforming uses or structures will continue to be governed by General Laws Chapter 40A Section 6, and by Section 17 of this Bylaw.

Notwithstanding the foregoing, the following uses shall not be permitted on any Development Site:

1. any use that would not be permitted in a Business District (provided that any use that would be permitted in a Business District with a special permit or other appropriate relief shall similarly be permitted in the LSCOD with a special permit or such other relief);
2. sale or rentals of trailers, boats or recreational vehicles;
3. sale of items or products out of trailers;
4. hotel or motel;
5. automobile dealership (new or used);
6. storage of oil or petroleum products (other than as accessory to another permitted use and then only in accordance with applicable state and federal laws), provided that this clause shall not prohibit use for a gasoline service station with associated repair facilities;
7. laundry establishments with on-premises dry cleaning facilities, provided that the foregoing will not restrict laundry establishments with dry cleaning pick-up and drop-off service;
8. drive-through windows where food or beverage is purchased by customers in vehicles
9. light manufacturing; and
10. "adult uses," as defined in Section 1B of this Bylaw.

E. Minimum Open Space

There shall be provided for each Development Site minimum open space (as defined in Section 1B) equal to at least eighteen percent (18%) of the area of the Development Site. In computing the total open space for the Development Site, open space provided pursuant to Section 21.D.3. shall be included.

F. Maximum Floor Area Ratio

The maximum floor area ratio, as defined in Section 1B, for a Development Site shall be 0.3. Notwithstanding the foregoing, the maximum floor area ratio for a Development

Site may be increased above 0.3 (but not in excess of 0.35), upon and subject to the issuance of a special permit granted by the Planning Board in accordance with the following:

1. A report shall have been received from the Design Review Board finding that the proposed project is consistent with the design criteria listed in Section 22 of this Bylaw;

2. The Planning Board shall find that the proposed project provides and/or contributes to and enhances pedestrian access and safety and will accommodate pedestrian and bicycle circulation (including reasonable bicycle parking areas, suitably separated from motor vehicle traffic lanes) in accordance with nationally recognized and accepted standards;

3. The Design Review Board shall find that the proposed project contains architectural features that enhance the appearance of the Development Site;

4. Newly constructed buildings in the proposed project shall be designed so as to minimize excessive noise from loading or refuse removal activities and from the operation of HVAC or mechanical equipment;

5. The Proposed Project includes affordable housing units in excess of those required under Section 16B of this Bylaw; and

6. The proposed project shall include open space that enhances the local commercial environment, including (i) at least one park-type area of not less than 6,000 square feet with amenities such as benches and shade trees; (ii) at least three areas of green space of at least 1,000 contiguous square feet each, which will enhance the absorption and drainage of storm water; and (iii) open space that enhances pedestrian safety, including readily identifiable pathways with appropriate signage or markings. Open space referred to in clauses (i) and (ii) will be planted and maintained substantially in accordance with a landscape plan, which will be reviewed and approved by the Design Review Board and the Town Horticulturalist.

Upon the satisfaction of the foregoing conditions, the Planning Board shall issue a special permit allowing an increase in the maximum floor area ratio above 0.3, but in no event shall the maximum Floor Area Ratio for any Development Site exceed 0.35.

G. Inclusionary Zoning

The provisions of Section 16B shall apply.

H. Project Approval

The provisions of Section 16A shall apply.

(a) In connection with an application for any special permit or Project Approval under Section 16A, a proposed development in the LSCOD shall not degrade the level of service designation at an impacted intersection or roadway segment to a level below

the level of "C" and, if an impacted intersection or roadway segment is projected to operate at an level of service lower than "C" in a design year no-build alternative, then the proposed development shall not degrade the level of service designation below the projected design year no-build levels. An exception shall be for unsignalized intersections where, for the specific hour in question, fifty (50) trips per hour or less during the design year no-build peak hour are projected for a minor street approach. For these locations, the Applicant shall undertake an evaluation to identify any specific circumstances requiring further action or mitigation, which may be the subject of negotiated improvements at the discretion of the Planning Board.

(b) In connection with evaluation under Section 16A of the storm drainage system, if the Planning Board determines that the minimum service standards cannot reasonably be achieved, but that the proposed project will effect an improvement in the no-build alternative, the Planning Board may, in its reasonable discretion, modify the minimum service standard and requirements, which modification may be conditioned on reasonable and acceptable mitigation measures. Any such mitigation measures shall be incorporated into the conditions of such special permit or Project Approval.

I. Yards and Setbacks

The provisions of Section 19 are inapplicable to proposed projects under this Section. No building or structures shall hereafter be erected or placed nearer to any street or property line of a property abutting the Development Site than the following:

Rear	10 feet
Side	10 feet
Front	15 feet

J. Buffers

A buffer area shall be provided along the property line where the property line of the Development Site is contiguous to the property line of another lot within an existing residential district. This buffer shall be landscaped and screened by way of fences, walls and/or plantings sufficient to reasonably and substantially shield abutting land from parking and loading areas and buildings. Any such fences or walls may provide openings to allow safe pedestrian access and egress between the Development Site and the adjacent neighborhood. A Landscape Plan identifying the location and treatment of said buffer shall be prepared by a Landscape Architect licensed in the Commonwealth of Massachusetts, and approved by the Design Review Board. The foregoing requirement may be satisfied by (a) a landscaped and planted strip between the Development Site and the abutting residential district at least ten feet (10') in width, and/or (b) where existing conditions do not permit a 10-foot buffer, then a buffer strip between the Development Site and the abutting residential district, with fencing, walls or plantings at least seven feet (7') in average height. The approved buffer plan shall be incorporated into the required Project Approval under Section 16A. No parking spaces, commercial loading facilities and maneuvering areas shall hereafter be placed within any buffer area.

K. Lighting

An exterior lighting plan showing the location and design of light posts and luminaries for all exterior lighting shall be reviewed and approved by the Design Review Board. Unless specifically otherwise approved by the Design Review Board, luminaires shall be of a type having a total cutoff of less than ninety (90) degrees, and shall direct light onto the site. The approved lighting plan shall be incorporated into the required Project Approval under Section 16A.

L. Off-Street Parking

Parking shall be provided in accordance with Section 21. The landscaping and screening requirements set forth in Section 21 shall apply to any proposed project.

M. No more than two stores having a ground floor area of more than twenty-five thousand (25,000) square feet each shall be on a Development Site, unless the Planning Board shall first have granted a special permit.

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SECTION 14H. LARGE-SCALE SOLAR OVERLAY DISTRICT

(Editor's Note: Section XIVH added March 27, 2018 to reflect new provisions adopted under Article 31 at 2017 ATM)

A. Purpose

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

B. Applicability

The district shall be shown on the Zoning Map of the Town of Wellesley, Massachusetts and shall be considered as overlaying other existing zoning districts. This overlay zoning district shall not prohibit the development of uses or property consistent with the applicable underlying/base zoning district.

C. Use Regulations

In the Large-Scale Solar Overlay District, the following specified uses may be allowed, as prescribed; such uses may be allowed in conjunction with other uses of the property:

1. <u>Permitted Uses</u>

a. Large-Scale Ground-Mounted Solar Photovoltaic Installation; such use shall be subject to the following requirements:

i. Setback/Yard Requirements:

Front yard: The front yard depth shall be at least 25 feet; provided, however, that where the lot abuts a lot located in the Parks, Recreation, and Conservation District or Single Residence District zoning district, the front yard shall not be less than 50 feet.

Side yard: Each side yard shall have a depth at least 25 feet; provided, however, that where the lot abuts a lot located in the Parks, Recreation, and Conservation District or Single Residence District zoning district, the side yard shall not be less than 50 feet.

Rear yard: The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a lot located in the Parks, Recreation, and Conservation District or Single Residence District zoning district, the rear yard shall not be less than 50 feet.

ii. Accessory Structures:

All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

iii. Lighting:

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

iv. Signage:

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section 22A, as required. At a minimum, signage shall be required identifying the owner of the facility and providing a 24-hour emergency contact phone number.

v. Utility Connections:

All utility connections from the solar photovoltaic installation must be placed underground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

vi. Emergency Services:

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

vii. Land Clearing, Soil Erosion and Habitat Impacts:

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

viii. Monitoring and Maintenance:

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

ix. Abandonment or Decommissioning

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Zoning Board of Appeals by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

1. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

D. Project Approval

For the purposes of Section 16A, Project Approval, the construction of a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be considered to be a Major Construction Project, and therefore subject to Site Plan Review as specified in Section 16A. Further, all material modifications to a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall require approval by the Zoning Board of Appeals.

In addition to other requirements, applications for Site Plan Review for a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall meet the following requirements; the Zoning Board of Appeals may waive any of these requirements as it deems appropriate:

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

2. Required Documents: Pursuant to the site plan review process, the project proponent shall provide the following documents:

   a. A site plan showing:

      i. Property lines and physical features, including roads, for the project site;

      ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

      iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures

      iv. One or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

      v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;

      vi. Name, address, and contact information for proposed system installer;

      vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any; and

      viii. The name, contact information and signature of any agents representing the project proponent.

   b. Documentation of actual or prospective access and control of the project sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

   c. An operation and maintenance plan, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.

   d. Proof of liability insurance.

   e A public outreach plan, including a project development timeline, which indicates how the project proponent will inform abutters and the community.

   f. For interconnected customer-owned generators, evidence that the Wellesley Municipal Light Plant has been informed of the owner or operator's intent to install the facility; off-grid systems are exempt from this requirement.

SECTION 14I. COMMERCIAL RECREATION OVERLAY DISTRICT

(Editor's Note: Section XIVI added 3/27/18 to reflect new provisions adopted under Article 2 at 2017 STM)

A. Purpose

The purpose of this bylaw is to establish an overlay zoning district which allows for the grouping of commercial recreational uses into a planned, integrated facility, including related services and commercial uses, by establishing standards for the placement, design, and construction of high quality, planned recreational facilities to enhance the diversity of recreationally based commercial attractions and the overall quality of life within the Town of Wellesley.

B. Applicability

The District shall be shown on the Zoning Map of the Town of Wellesley, Massachusetts and shall be considered as overlaying other existing zoning districts. This overlay zoning district shall not prohibit the development of uses or property consistent with the applicable underlying/base zoning district.

C. Use Regulations

In the Commercial Recreation Overlay District, the following specified uses shall be allowed, as prescribed; such uses shall be allowed in conjunction with other uses of the property:

1. <u>Permitted Uses</u>

   a. Commercial Recreation Facility, a use where recreation activities are conducted entirely indoors, in one or more buildings, for commercial purposes, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised activities and/or sports, including, but not limited to, ice skating and hockey, swimming and diving, and field sports. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, snack and concession facilities, retail sales of related sports, health or fitness items, and other support facilities. Ancillary office and conference facilities may be provided, the total floor area of which shall not exceed 10% of the total gross floor area of the building in which such facilities are located. A Commercial Recreation Facility shall be subject to the following requirements, which shall control in the event of conflict between the requirements set forth below and those set forth in the underlying zoning district in which the facility(ies) is located and/or in other applicable sections of the Zoning Bylaw:

      i. Minimum Lot or Development Area:

         No Commercial Recreation Facility shall be developed or conducted on a lot or Development Area, as defined in Section 1B, containing less than five (5) acres.

ii. Setback/Yard Requirements:

Front Yard: The front yard depth shall be at least 30 feet;

Side Yard: Each side yard shall have a depth of at least 20 feet; provided, however, that where the lot abuts a lot located in the Parks, Recreation, and Conservation District or Single Residence District zoning district, the side yard depth shall not be less than 50 feet.

Rear Yard: The rear yard depth shall be at least 40 feet; provided, however, that where the lot abuts a lot located in the Parks, Recreation, and Conservation District or Single Residence District zoning district, the rear yard depth shall not be less than 50 feet.

iii. Building Height:

Building height, as regulated in Section 20, shall not exceed a maximum of 50 feet.

iv. Floor Area Ratio:

Floor Area Ratio shall not exceed a maximum of 0.39.

v. Open Space/Lot Coverage:

The minimum required Open Space shall be 40%.

vi. Signage:

Signs shall comply with the requirements of Section 22A, Signs, and, for the purposes of regulation under such section, this District shall be considered to be a Commercial District Fronting Worcester Street as defined therein.

vii. Off-Street Parking; Required Parking:

Off-street parking shall comply with the requirements of Section 21 except that within such section there is no required parking established for this District or use, therefore, the required parking for this use shall be one space for every 3 permanent spectator seats, which shall include folding bleachers that are attached to buildings, but not less than one space per 1,000 square feet of floor area of buildings.

b. Any similar indoor recreational use not listed above may be allowed with the issuance of a special permit, as hereinafter provided in Section 25 after the determination by the Special Permit Granting Authority that the proposed use is similar to one or more of the uses specifically authorized in this Section.

D. Project Approval

The provisions of Section 16A shall apply.

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SECTION 14J. SMART GROWTH OVERLAY DISTRICTS

A. Purpose

The purposes of this Section are:

1. To allow for the establishment of Smart Growth Overlay Districts to promote the redevelopment of certain areas and properties in a form that meets the objectives of "smart growth" in accordance with and within the purposes of Mass. Gen. Laws Ch. 40R;

2. To provide for a more diversified housing stock within the Town of Wellesley, including affordable housing and housing types that meet the needs of the Town's population, all as currently identified in the Wellesley Housing Production Plan;

3. To promote advanced site planning, sustainable design, improved transportation management, and environmental enhancements in the development of projects; and

4. To the extent not in conflict with the purposes of Mass. Gen. Laws Ch. 40S and the provisions for As-of-Right development under the Governing Laws, generate positive tax revenue, and to benefit from the financial incentives provided by Mass. Gen. Laws Ch. 40R, while providing the opportunity for new business growth and additional local jobs.

B. Definitions

As used in this Section and in sections associated with any district created under this Section, the following terms shall have the meanings set forth below. Additional terms and definitions contained in Section 1B that are applicable to the administration of this Section and any sections associated with any district created under this Section shall have the meanings ascribed to them by the definitions established as of the date of adoption of this Section, unless amendments to these definitions are subsequently approved by the Massachusetts Department of Housing and Community Development. To the extent that there is any conflict between the definitions set forth below or in Section 1B and the Governing Laws, the terms of the Governing Laws shall govern.

<u>Administering Agency or Monitoring Agent</u> - The Wellesley Housing Development Corporation or its designee, subject to the approval of the Department, which shall have the power to monitor and to enforce compliance with the provisions of this Bylaw related to Assisted Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Assisted Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Assisted Unit in the District.

<u>Affordable Housing</u> - Housing that is affordable to and occupied by Eligible Households.

<u>Affordable Housing Restriction</u> - A deed restriction of Affordable Housing meeting statutory requirements in Mass. Gen. Laws Ch. 184 Section 31 and the requirements of subsection K., Housing and Housing Affordability, of this Section.

Affordable Rental Unit - An Affordable Housing Dwelling Unit required to be rented to an Eligible Household in accordance with the requirements of Section 14J.K.

Affordable Homeownership Unit - An Affordable Housing Dwelling Unit required to be sold to an Eligible Household in accordance with the requirements of Section 14J.K.

Applicant - A landowner or other petitioner who files a site plan for a Development Project subject to the provisions of this Section.

Application - A petition for Site Plan Approval filed with the Approving Authority by an Applicant and inclusive of all required documentation as specified in administrative rules adopted pursuant to Section 14J.E.

Approving Authority or Plan Approval Authority - The Zoning Board of Appeals of the Town of Wellesley acting as the authority designated to review projects and issue approvals under this Section.

As-of-Right Development - To the extent consistent with and subject to the same meaning as the term As-of-Right in the Governing Laws, a Development Project allowable under this Section without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject only to this Section, including the Site Plan Review requirements, shall be considered an As-of-Right Development.

Assisted Units - shall have the same meaning as defined in Section 1B to the extent that such definition means housing that is affordable to and occupied by Eligible Households and that such definition is not materially inconsistent with, and is nonetheless subject to, the definitions of Affordable Housing in the 40R Guidelines and Affordable under the Governing Laws.

Child Care Use - shall have the same meaning as “day care center” or “school age child care program,” as those terms are defined in Mass. Gen. Laws Ch. 28A Section 9.

Conservation Use - Any woodland, grassland, wetland, agricultural, or horticultural use of land, and/or any use of land for the construction and use of ponds or stormwater management facilities.

Department - The Massachusetts Department of Housing and Community Development (“DHCD”), or any successor agency.

Design Guidelines - To the extent approved by DHCD and consistent with and subject to the same meaning as the term Design Standards in the Governing Laws, the document entitled Design Guidelines Handbook, as approved by DHCD pursuant to Mass. Gen. Laws Ch. 40R, Section 10. The Design Guidelines are applicable to all Development Projects within the District that are subject to Site Plan Review by the Approving Authority.

Development Lot - One or more tracts of land defined by metes, bounds or lot lines in a deed or conveyance on a duly recorded plan which are designated as a Development Lot on a site plan for a development proposed within the District and for which Site Plan Approval is required under the provisions of this Section. Where a Development Lot consists of more than a single lot, such lots (i) in combination, shall be treated as the Development Lot, (ii) may be contiguous or non-contiguous, (iii) need not be in the same ownership, and (iv) shall be considered as one lot for all calculation purposes, including parking requirements and Dwelling Units per acre. Any development undertaken on a Development Lot is subject to the Design Guidelines established under Section 14J.I. The owner of any such Development Lot shall be entitled to lawfully divide such lot without modifying the approved Site Plan and without the need for other approvals.

Development Project - To the extent consistent with and subject to the same meaning as the term Project as defined in the Governing Laws, a development comprising any permitted uses provided for hereunder undertaken under this Section. A Development Project shall be identified on a Site Plan which is submitted to the Approving Authority for Site Plan Review.

District - An overlay zoning district adopted pursuant to Mass. Gen. Laws Ch. 40R, in accordance with the procedures for zoning adoption and amendment as set forth in Mass. Gen. Laws Ch. 40A and approved by the Department of Housing and Community Development pursuant to Mass. Gen. Laws Ch. 40R and 760 CMR 59.00.

Eligible Household - An individual or household whose annual income is at or below eighty percent (80%) of the area-wide median income as determined by the United States Department of Housing and Urban Development ("HUD"), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Governing Laws - Mass. Gen. Laws Ch. 40R, 760 CMR 59.00, and DHCD administrative guidance relating to Mass. Gen. Laws Ch. 40R.

Gross Floor Area - The floor area of space on all floors inclusive of heated basements, hallways, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, balconies, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.

Gross Leasable Floor Area - The Gross Floor Area of a building exclusive of hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant.

Multi-Family Dwelling - A residential building containing four or more Dwelling Units.

Office or Office Use - A place for the regular performance of business transactions and services, generally intended for administrative, professional and clerical activities, including a medical or dental office or health clinic.

Office High-Tech or Office High-Tech Use - A place for the regular performance of research and development, high tech, biotechnology, life sciences and/or other related

uses, provided that such use does not involve disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features.

Principal Use - The main or primary purpose for which a structure, building, or Development Lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section. More than one Principal Use is permitted as-of-right on a Development Lot or within a Development Project.

Recreational Accessory Use - A use subordinate to a Principal Residential Use on the same Development Lot or in the same structure and serving a purpose customarily incidental to the Principal Residential Use, and which does not, in effect, constitute conversion of the Principal Use of the Development Lot, site or structure to a use not otherwise permitted in the District. Recreational Accessory Uses may include, but are not limited to greenhouse, tool shed, clubhouse, swimming pool, tennis court, basketball court, and playground.

Recreational Use - The principal use or intended principal use of land or structures for relaxation, entertainment, amusement, sports, or the like, whether on a fee or non-fee basis, including fitness clubs, play areas and dog parks.

Restaurant - Any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises.

Small-Scale Retail Establishment - A business establishment, not exceeding 5,000 sq. ft. of Gross Leasable Floor Area, selling goods and/or services to customers on site, generally for end-use personal, business, or household consumption. A reasonable amount of storage of said goods shall also be assumed to be an integral part of small-scale retail use.

Site Plan - A plan depicting a proposed Development Project for all or a portion of the District and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of Section 14J.E of this Bylaw.

Site Plan Approval - To the extent consistent with and subject to the same meaning as the term Plan Approval under the Governing Laws, the Approving Authority's authorization for a proposed Development Project based on a finding of compliance with this Section of the Bylaw and Design Guidelines after the conduct of a Site Plan Review.

Site Plan Review - To the extent consistent with and subject to the same meaning as the term Plan Review as defined in the Governing Laws, the review procedure established by this Section and administered by the Approving Authority. While similar to Site Plan Review as established in Section 16A, Site Plan Review as used and referenced in this Section is a separate and distinct process not subject to the provisions of Section 16A.

Underlying Zoning - The zoning requirements adopted pursuant to Mass. Gen. Laws Ch. 40A that are otherwise applicable to the geographic area in which the District is located, as said requirements may be amended from time to time.

Unrestricted Unit - A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.

C. Establishment and Delineation of Districts

1. Generally

The specific districts established under this Section shall serve as overlay districts, to be superimposed over the underlying zoning districts. The boundaries of the districts are delineated on the Zoning Map of the Town of Wellesley, pursuant to Section 1A.

2. Specific Districts

The following are the specific districts established under this Section:

a. Wellesley Park Smart Growth Overlay District; as contained in Section 14J.1.

D. Authority and Applicability

The districts established under this Section are done so pursuant to the authority of Mass. Gen. Laws Ch. 40R and 760 CMR 59.00. At the option of the Applicant, development of land within the districts established pursuant to this Section may be undertaken subject to the zoning controls set forth in this Section, or by complying with all applicable Underlying Zoning controls set forth in the Zoning Bylaw of the Town of Wellesley. Notwithstanding anything to the contrary in the Zoning Bylaw, Development Projects proceeding under this Section shall be governed solely by the provisions of this Section and the standards and/or procedures of the Underlying Zoning shall not apply. Except as otherwise specifically provided for in this Section, Development Projects proposed pursuant to this Section shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or Dwelling Unit limitations. Where other provisions of the Zoning Bylaw are specifically referenced as applying to Development Projects, generally under this Section or within the districts established under this Section, such provisions shall be administered as established as of the date of adoption of this Section, unless amendments are subsequently approved the Massachusetts Department of Housing and Community Development.

E. Site Plan Review

Development Projects within districts established pursuant to this Section shall be subject to the Site Plan Review process encompassing the following. Development Projects within such districts shall not be subject to the separate and distinct Site Plan Review process established under Section 16A.

1. Pre-Application Review

The Applicant is encouraged to participate in a pre-Application review at a regular meeting of the Approving Authority. The purpose of the pre-Application review is to

minimize the Applicant's cost of engineering and other technical experts, and to obtain the advice and direction of the Approving Authority prior to filing the Application. Should the Applicant choose to participate in the pre-Application review, the Applicant shall outline the proposal and seek preliminary feedback from the Approving Authority, other municipal review entities, and members of the public. The Applicant is also encouraged to request a site visit by the Approving Authority and/or its designee in order to facilitate pre-Application review.

2. Application Procedures

a. The Applicant shall file an original of the Application with the Town Clerk for certification of the date and time of filing. Said filing shall include any required forms established by the Approving Authority, provided such forms have been approved by DHCD and are on file with the Town Clerk. A copy of the Application, including the date and time of filing certified by the Town Clerk, as well as the required number of copies of the Application, shall be filed forthwith by the Applicant with the Approving Authority and Building Inspector. As part of any Application for Site Plan Approval for a Development Project, the Applicant must submit the following documents to the Approving Authority and the Administering Agency:

i. Evidence that the Development Project complies with the cost and eligibility requirements of Section 14J.K.;

ii. Development Project plans and reports that, subject to approval by DHCD, demonstrate compliance with the design and construction standards of Section 14J.K.; and

iii. A form of Affordable Housing Restriction that satisfies the requirements of Section 14J.K.

iv. These documents in combination, to be submitted with an Application for Site Plan Approval shall include details about construction related to the provision, within the development, of units that are accessible to the disabled and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

b. Upon receipt by the Approving Authority, Applications shall be distributed to the Planning Board, Building Inspector, Fire Chief, Police Chief, Health Department, Wetlands Protection Committee, Design Review Board, the Board of Selectmen, and the Department of Public Works. Any reports from these parties shall be submitted to the Approving Authority within thirty (30) days of filing of the Application; and

c. Within thirty (30) days of filing of an Application with the Approving Authority, the Approving Authority or its designee shall evaluate the proposal with regard to its completeness and shall advise the Applicant whether the Application is complete or whether additional materials are required. If the Application is

deemed incomplete, the Approving Authority or its designee will identify with specificity what additional materials are required. The Approving Authority or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.

3. Public Hearing

The Approving Authority shall hold a public hearing and review all Applications according to the procedure specified in Mass. Gen. Laws Ch. 40R Section 11 and 760 CMR 59.04(1)(f).

4. Site Plan Approval Decision

a. The Approving Authority shall make a decision on the Site Plan Application, and shall file said decision with the Town Clerk, within one hundred twenty (120) days of the date the Application was received by the Town Clerk. The time limit for public hearings and taking of action by the Approving Authority may be extended by written agreement between the Applicant and the Approving Authority. A copy of such agreement shall be filed with the Town Clerk;

b. Failure of the Approving Authority to take action within one hundred twenty (120) days or extended time, if applicable, shall be deemed to be an approval of the Application;

c. The Approving Authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the Application for Site Plan Approval. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision. The written decision shall certify that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Approving Authority;

d. The decision of the Approving Authority, together with the detailed reasons therefor, shall be filed with the Town Clerk, the Planning Board, and the Building Inspector. A certified copy of the decision shall be mailed to the owner and to the Applicant, if other than the owner. A notice of the decision shall be sent to the parties in interest and to persons who requested a notice at the public hearing; and

e. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the Application is approved by reason of the failure of the Approving Authority to timely act, the Town Clerk shall make such certification on a copy of the notice of Application. A copy of the decision or notice of Application shall be recorded with the title of the land in question in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The responsibility and the

cost of said recording and transmittal shall be borne by the owner of the land in question or the Applicant.

5. Criteria for Approval

The Approving Authority shall approve the Development Project upon the following findings:

a. The Applicant has submitted the required fees and information as set forth in applicable regulations;

b. The proposed Development Project as described in the Application meets all of the requirements and standards set forth in this Section and applicable Design Guidelines, or a waiver has been granted therefrom; and

c. Any extraordinary adverse potential impacts of the Development Project on nearby properties can be adequately mitigated.

For a Development Project subject to the Affordability requirements of Section 14J.K., compliance with condition (b) above shall include written confirmation by the Approving Authority that all requirements of that Section have been satisfied, subject to approval by DHCD. Prior to the granting of Site Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Wellesley.

6. Criteria for Conditional Approval

The Approving Authority may impose conditions on a Development Project as necessary to ensure compliance with the District requirements of this Section and applicable Design Guidelines, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as such conditions are compliant with the provisions of Mass. Gen. Laws Ch. 40R and applicable regulations and do not unduly restrict (i.e. by adding unreasonable costs or by unreasonably impairing the economic feasibility of a proposed Development Project) opportunities for residential development.

7. Criteria for Denial

The Approving Authority may deny an Application for Site Plan Approval pursuant to this Section of the Bylaw only if the Approving Authority finds one or more of the following:

a. The Development Project does not meet the requirements and standards set forth in this Section and applicable Design Guidelines; or

b. The Applicant failed to submit information and fees required by this Section and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts; or

c. The Development Project would result in extraordinary adverse impacts on nearby properties that cannot be mitigated by means of suitable conditions.

8. Time Limit

A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two (2) years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project.

9. Appeals

Pursuant to Mass. Gen. Laws Ch. 40R Section 11, any person aggrieved by a decision of the Approving Authority may appeal to the Superior Court, the Land Court, or other court of competent jurisdiction within twenty (20) days after the Site Plan decision has been filed in the office of the Town Clerk.

10. Rules and Regulations

The Approving Authority shall adopt administrative rules relative to the Application requirements and contents for Site Plan Review; such rules shall be filed with the Town Clerk. Such administrative rules, and any amendment thereto, must be approved by the Department of Housing and Community Development.

F. Waivers

The Approving Authority may waive the bulk and dimensional, parking, and other provisions required by any district created pursuant to this Section and may waive specific requirements or recommendations of applicable Design Guidelines upon a finding that such waiver will allow the Development Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section or the specific district.

G. Project Phasing

The Approving Authority, as a condition of any Site Plan Approval, may allow a Development Project to be constructed in one or more phases.

H. Change in Plans After Approval by the Approving Authority

1. Minor Change

After Site Plan Approval, an Applicant may apply to make minor changes in a Development Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out or building envelope (i.e., general massing, height and bulk) of the site, or provision of open space, number of housing units, or housing need or affordability features. A change of one percent (1%) or less in the number of housing units in a Development Project shall constitute a minor change. Such minor changes must be submitted to the Approving Authority on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Approving Authority. The Approving Authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Approving Authority shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the Town Clerk.

2. Major Change

Those changes deemed by the Approving Authority to constitute a major change in a Development Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the Approving Authority as a new Application for Site Plan Approval pursuant to this Section.

I. Design Guidelines

To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Wellesley in adopting this Section and any districts established under this Section, the Approving Authority shall adopt the Design Guidelines governing the issuance of Site Plan Approvals for Development Projects within the districts established under this Section and shall file a copy with the Town Clerk. Such Design Guidelines and any subsequent amendments to such Design Guidelines must be approved by DHCD and must be within the scope of Design Standards under the Governing Laws. In addition to the standards set forth in this Bylaw, the physical character of Development Projects within the districts shall comply with such Design Guidelines, unless waived hereunder. In the event of any conflict between this Bylaw and the Design Guidelines, this Bylaw shall govern and prevail.

J. Fair Housing Requirement

All Development Projects within the districts established herein shall comply with applicable federal, state and local fair housing laws.

K. Housing and Housing Affordability

1. Number of Assisted Units

Twenty-five percent (25%) of all Dwelling Units constructed in a Development Project shall be maintained as Assisted Units. When the application of this percentage

results in a fractional number of required Dwelling Units, the fractional number shall be rounded up to the next whole number.

2. General Requirements

Assisted Units shall comply with the following requirements:

a. The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by DHCD shall apply;

b. For an Affordable Homeownership Unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one; and

c. Assisted Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

3. Design and Construction

a. Design. In compliance with a corresponding marketing plan and Affordable Housing Restriction approved by DHCD, Assisted Units must be equitably integrated and dispersed throughout any phase of a Development Project containing Dwelling Units such that the Assisted Units are, as practicable, spread proportionately across the overall unit mix and comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer’s rights to renovate a Dwelling Unit under applicable law. The Assisted Units must have access to all on-site amenities available to Unrestricted Units. Assisted Units shall be finished housing units; and

b. Timing. All Assisted Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units and, for Development Projects that are constructed in phases, Assisted Units must be constructed and occupied during the initial lease-up period, insofar as is practicable, in proportion to the number of Dwelling Units in each residential phase of the Development Project.

4. Unit Mix

The total number of bedrooms in the Assisted Units shall, insofar as practicable and as approved by DHCD, be in the same proportion to the total number of bedrooms in the Unrestricted Units.

5. Affordable Housing Restriction

All Assisted Units shall be subject to an Affordable Housing Restriction which has been approved by DHCD and is recorded with the Norfolk County Registry of Deeds or the Land Court. The Affordable Housing Restriction shall provide for the implementation of the requirements of this Section. All Affordable Housing Restrictions must include, at minimum, the following:

a. Description of the Development Project, including whether the Assisted Unit will be rented or owner-occupied;

b. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Development Project containing Dwelling Units or portion of a Development Project containing Dwelling Units which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Development Project containing Dwelling Units or the rental portion of a Development Project containing Dwelling Units with the initially designated Affordable Rental Units identified in, and able to float subject to specific approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan ("AFHMP") and DHCD's AFHMP guidelines.

c. The term of the Affordable Housing Restriction shall be stated in the Site Plan Approval and shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.

d. The name and address of an Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction;

e. Reference to a housing marketing and resident selection plan, to which the Assisted Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan shall provide for local preferences in resident selection to the maximum extent permitted under applicable law and approved by DHCD. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size;

f. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

g. Reference to the formula pursuant to which maximum rent of a rental unit or the maximum resale price of a homeownership unit will be set;

h. A requirement that only an Eligible Household may reside in an Assisted Unit and that notice of any lease or sublease of any Assisted Unit to another Eligible Household shall be given to the Administering Agency;

i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency;

j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town of Wellesley, in a form approved by town counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

k. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Development Project containing Dwelling Units shall run with the rental Development Project containing Dwelling Units or rental portion of a Development Project containing Dwelling Units and shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

l. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Administering Agency, in a form specified by that agency, certifying compliance with the provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;

m. A requirement that residents in Assisted Units provide such information as the Administering Agency may reasonably request in order to ensure affordability; and

n. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

6. <u>Administration</u>

a. Administering Agency. The Administering Agency shall ensure the following:

i. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

ii. Income eligibility of households applying for Assisted Units is properly and reliably determined;

iii. The housing marketing and resident selection plan conforms to all requirements, has been approved by DHCD, and is properly administered;

iv. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and

v. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Norfolk County Registry of Deeds or the Land Court.

b. Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

c. Age-Restrictions. Nothing in this Section 14J shall permit the imposition of restrictions on age upon Development Projects unless proposed or agreed to voluntarily by the Applicant. However, the Approving Authority may, in its review of a submission under Section 14J.E allow a specific Development Project within the District designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Development Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations

d. Failure of the Administering Agency. In the case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Board of Selectmen or by the Department of Housing and Community Development, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board of Selectmen or, in the absence of such designation, by an entity designated by the Department of Housing and Community Development.

7. <u>No Waiver</u>

Notwithstanding anything to the contrary herein, without the express written approval of DHCD, no provisions of Section 14J.K. shall be waived without the express written approval of DHCD.

L. Annual Update

On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the DHCD in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Wellesley shall maintain a copy of all updates transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

M. Notification of Issuance of Building Permits

Upon issuance of a residential building permit within the districts established herein, the Building Inspector of the Town of Wellesley shall cause to be filed an application to the DHCD, in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each Bonus Unit to receive a building permit pursuant to Mass. Gen. Laws Ch. 40R. The application shall contain all information required in 760 CMR 59.06(2), as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Wellesley shall maintain a copy of all such applications

transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

N. Date of Effect

The effective date of this Bylaw shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of Mass. Gen. Laws Ch. 40A Section 5 and Mass. Gen. Laws Ch. 40R; provided, however, that an Applicant may not proceed with construction pursuant to this Bylaw prior to the receipt of final approval of this Bylaw and accompanying Zoning Map by both the DHCD and the Office of the Massachusetts Attorney General.

O. Severability

If any provision of this Section and/or any provision associated with a specific district created under this Section is found to be invalid by a court of competent jurisdiction, the remaining provisions shall not be affected but shall remain in full force, and such invalidity shall not affect the validity of the remainder of the Zoning Bylaws of the Town of Wellesley.

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SECTION 14J.1. WELLESLEY PARK SMART GROWTH OVERLAY DISTRICT

A. Purpose

The purposes of this Section are:

1. To establish a specific District pursuant to the provisions of Section 14J;

2. To establish the Wellesley Park Smart Growth Overlay District to promote the redevelopment of the Wellesley Office Park into a vibrant, workable, livable community with a rich sense of place in a form that meets the objectives of "smart growth" within the purposes of Mass. Gen. Laws Ch. 40R;

3. To provide for a more diversified housing stock within the Town of Wellesley, including affordable housing and housing types that meet the needs of the Town's population, all as currently identified in the Wellesley Housing Production Plan;

4. To promote advanced site planning, sustainable design, improved transportation management, and environmental enhancements in the mixed-use redevelopment of the Wellesley Park Smart Growth Overlay District; and

5. To the extent not in conflict with the purposes of Mass. Gen. Laws Ch. 40S and the provisions for As-of-Right development under the Governing Laws, generate positive tax revenue, and to benefit from the financial incentives provided by Mass. Gen. Laws Ch. 40R, while providing the opportunity for new business growth and additional local jobs.

B. Establishment and Delineation of District

This District, to be known as the Wellesley Park Smart Growth Overlay District (the "Wellesley Park Overlay District"), is established pursuant to and subject to the provisions of Section 14J. The Wellesley Park Overlay District is an overlay district having a land area of approximately 26 acres in size that is superimposed over the underlying zoning district. The boundaries of the Wellesley Park Overlay District are delineated as the "Wellesley Park Smart Growth Overlay District" on the Zoning Map of the Town of Wellesley.

C. Permitted Uses

1. The following Principal Uses, either alone or in any combination thereof, as well as any Accessory Uses to the following Principal Uses, shall be permitted upon Site Plan Approval pursuant to the provisions of this Section and Section 14J. All uses not expressly allowed are prohibited.

   a. Multi-Family Dwellings;

   b. Small-Scale Retail Establishments

   c. Restaurants, excluding drive-through windows or service;

d. Assisted Elderly Housing;

e. Independent Elderly Housing;

f. Nursing Homes and Skilled Nursing Facility;

g. Child Care;

h. Offices;

i. Office-High Tech;

j. Hotels;

k. Banks;

l. Conservation Uses;

m. Recreational Uses; and

n. Parking accessory to any of the above Principal Uses, including surface parking, parking under buildings, and above- and below-grade structured parking.

2. The following Principal Uses in excess of the area standards established under Section 16A, or as otherwise provided for below, shall require the issuance of a Project of Significant Impact Special Permit pursuant to Section 16A as a prerequisite to Site Plan Approval. If such Principal Use is proposed in combination with another, otherwise permitted use, the otherwise permitted use shall not be subject to issuance of a Project of Significant Impact Special Permit.

   a. Restaurants, which shall not include drive-through windows or service, in excess of 5,000 square feet;

   b. Assisted Elderly Housing;

   c. Independent Elderly Housing;

   d. Nursing Homes and Skilled Nursing Facility;

   e. Child Care;

   f. Offices and Office-High Tech; and

   g. Hotels.

D. Dimensional and Other Requirements

Buildings and Development Lots within the Wellesley Park Overlay District shall be subject to the following requirements:

1. Density

   Development of the following uses within the Wellesley Park Overlay District shall be limited, as follows:

   a. Multi-Family Dwellings: no more than six hundred (600) total Dwelling Units or twenty (20) units per acre based on the entire area of the District, whichever is greater;

   b. Small-Scale Retail Establishments: not to exceed a total of 19,500 gross square feet;

   c. Offices and Office-High Tech: not to exceed a total of 700,000 gross square feet; and

   d. Hotels: not to exceed a total of 175 rooms.

2. Total Allowable New Non-Residential Uses

   The total non-residential Gross Leasable Floor Area within the District, including but not limited to Small-Scale Retail, Restaurant, Assisted Elderly Housing, Independent Elderly Housing, Nursing Homes and Skilled Nursing Facility, Child Care, Office, Hotel, Bank, Office-High Tech, and Recreational Uses, but excluding all existing Gross Leasable Floor Area within the District in existence on the date of adoption of this Section ("Existing Floor Area"), shall not exceed 49% of the residential Gross Leasable Floor Area (constructed and planned). To the extent the Existing Floor Area is reduced for any reason whatsoever, it may be replaced with new non-residential Gross Leasable Floor Area without impacting this calculation.

3. Minimum Area

   There shall be no minimum area of a Development Lot within the Wellesley Park Overlay District.

4. Setbacks/Yards

   There shall be no minimum setback or yard requirements within the Wellesley Park Overlay District, except for the buffer from Adjacent Property requirement described in paragraph 5.

5. Buffer from Adjacent Property

   A minimum buffer of twenty-five (25) feet shall be maintained where such a buffer is present at the time of the adoption of this Section along the perimeter of the Wellesley Park Overlay District boundary. No vertical construction or pavement shall be allowed within this minimum buffer, provided that the following elements shall be

permitted: pedestrian paths and sidewalks; vehicular access points to the District; cart paths to serve adjacent recreational uses; such emergency access and egress as may be required by the Town of Wellesley; drainage facilities; utilities and related easements but not including a wastewater treatment facility; landscaping; plantings; fences and walls; and signage and lighting approved by the Approving Authority pursuant to this Section.

6. Height

The maximum height of buildings and structures in a Development Project in the Wellesley Park Overlay District shall be eighty-five (85) feet, and the aggregate height of all buildings in the Wellesley Park Overlay District shall not exceed five hundred and seventy-five (575) feet based on the maximum height of each individual building. Independent parking structures shall not be included in the calculation of aggregate height.

For the purposes of Development Projects within the Wellesley Park Overlay District, building or structure height shall be the distance between average finished grade adjacent to the building, exclusive of basements, and the ceiling of the upper-most occupied space in the building in the case of flat roofs and, in the case of buildings with pitched roofs, at the point at which such ceiling intersects with the exterior portion of the building. The calculation of building height shall not apply to roof tanks and their supports, roof decks, parapets, ventilating, air conditioning and similar building service equipment, chimneys, railings, skylights, mechanical penthouses, and other similar features of buildings which are in no way designed or used for living purposes nor the portion of the pitched roof above the intersection of the ceiling of the upper-most heated space and the exterior of the building.

7. Non-Frontage Development

In the Wellesley Park Overlay District and on parcels that are contiguous to the Wellesley Park Overlay District, a Development Lot lacking frontage may be developed and used without regard to the lack of frontage, provided that the non-frontage development has permanent access to a private or public way that is located within the Wellesley Park Overlay District through easements recorded with the Norfolk County Registry of Deeds and appropriate provisions are made for parking, drainage and utilities. The development and use of such non-frontage development located entirely within the District shall be consistent with the requirements of this Section. Such non-frontage development may be subdivided and sold or transferred, provided that each Development Lot so subdivided retains or is granted such cross access, drainage and utility easements to serve such non-frontage development. Should such transfer occur after an approval hereunder, in addition to the easements referenced above, the transferee shall demonstrate to the Approving Authority that the non-frontage development shall remain in compliance with any conditions of Site Plan Approval and, for parcels that are contiguous to the Wellesley Park Overlay District, with applicable zoning requirements.

8. Number of Buildings on a Development Lot

In the Wellesley Park Overlay District, more than one principal building may be erected on a Development Lot. Buildings may also be erected in the Wellesley Park Overlay District across Development Lot lines.

E. Parking

Parking provided in the Wellesley Park Development District, including structured parking, shall comply with these provisions and shall not be subject to Section 21 or any other provisions of the Zoning Bylaw. Regardless of these requirements, parking shall be designed and constructed to comply with all applicable disability access requirements including, but not limited to, the Americans with Disabilities Act.

1. Required Parking

Parking shall be provided for uses according to Table 1, Required Parking, below. When application of the requirements set forth below results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.

Table 1 - Required Parking

Use	Minimum Parking Required	Maximum Allowable Parking
Multi-Family Dwelling Unit	1 space per unit	2 spaces per unit
Small-Scale Retail Establishments	None, if individual establishments are less than 10,000 gross square feet; 3 spaces per 1,000 gross square feet in excess of 10,000 gross square feet	4 spaces per 1,000 gross square feet in excess of 10,000 gross square feet
Banks		
Child Care		
Restaurant		
Recreational Uses		
Assisted Elderly Housing or Independent Elderly Housing or Nursing Homes and Skilled Nursing Facility	0.25 spaces per bed	1 space per bed
Office or Office-High Tech	2 spaces per 1,000 gross square feet	4 spaces per 1,000 gross square feet
Hotel	0.5 spaces per room	1 space per room
Conservation Use	5 dedicated spaces	No maximum

2. On-Street Parking Offset

Parking spaces within the public right-of-way may be counted toward the minimum parking required pursuant to paragraph 1., Required Parking.

3. Parking Design and Construction Standards

The design and construction standards for parking shall be approved by the Approving Authority in conjunction with the Site Plan Approval of a Development Project; such design and construction standards shall address the dimensions for parking spaces, maneuvering aisles, driveways, and landscape islands, and materials and specifications for paving, curbing, lighting, and landscaping.

4. Modification in Parking Requirements

Notwithstanding anything to the contrary herein, any minimum required or maximum permitted amount of parking may be modified by the Approving Authority through the Site Plan Approval process, if the Applicant can demonstrate that the modified amount of parking will not cause excessive congestion, endanger public safety, or that a modified amount of parking will provide positive environmental or other benefits, taking into consideration:

a. The availability of public or commercial parking facilities in the vicinity of the use being served;

b. Shared use of parking spaces serving other uses having peak user demands at different times;

c. Age or other occupancy restrictions which are likely to resulting a lower level of auto usage; and

d. Such other factors, including the availability of valet parking, shuttle service, or a transportation management plan as may be considered by the Approving Authority. Where such reduction is authorized, the Approving Authority may impose conditions of use or occupancy appropriate to such reductions.

F. Signage

All new signage in the Wellesley Park Overlay District shall be approved by the Approving Authority in conjunction with the Site Plan Approval of a Development Project. The Applicant shall submit, as part of its Site Plan Review filing, a master signage plan for approval by the Approving Authority establishing allowances, requirements, and limitations for all new signage within the Wellesley Park Overlay District. The master signage plan, as may be updated and revised with the approval of the Approving Authority, shall, with respect to both existing and future signs, specify all applicable sign types, dimensions, materials, quantities and other standards for review by the Approving Authority in the course of Site Plan Approval. Upon approval by the Approving Authority, the master signage plan shall become the sole governing source of standards and requirements for all new signage within the Wellesley Park Overlay District under the Zoning Bylaw. Sign permits for any sign meeting these established standards may be issued by the Inspector of Buildings of the Town of Wellesley upon approval of the master signage plan.

SECTION 15. PUBLIC SERVICE CORPORATIONS

Land or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of this Zoning Bylaw if, upon petition of the corporation, the Department of Public Utilities shall, after notice given pursuant to Section 26 and public hearing in the Town, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public; provided, however, that if lands or structures used or to be used by a public service corporation are located in more than one municipality such lands or structures may be exempted in particular respects from the operation of any zoning ordinance or bylaw if, upon petition of the corporation, the Department of Public Utilities shall, after notice to all affected communities and public hearing in one of said municipalities, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience of welfare of the public.

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SECTION 16. RESTRICTIONS AFFECTING ALL DISTRICTS

(Editor's Note: Amended 10/1/2018 to reflect amendments approved under Article 28 at 2018 ATM)

Any other provision of this Bylaw notwithstanding, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used, in any part of the Town:

A. For any purpose which by the emission or discharge of fumes, vapor, smoke, gas, dust, cinders, offensive odors, chemicals, poisonous fluids or substances, refuse, organic matter, or excrement, the causing of noise or vibrations, or by unduly increasing the risk from fire or explosion, or otherwise, would be obnoxious, offensive, dangerous, or injurious to the public health or safety.

B. For any purpose which would be for any reason injurious to the health, safety, morals or welfare of the community or harmful to property therein.

C. For the parking, keeping or storing of a mobile home or house trailer.

D. For the parking, keeping or storing of one or more commercial trailers for an aggregate total of more than thirty (30) days in any one year unless said trailer is:

1. Enclosed within a building, or

2. Stored or parked pursuant to a permit issued by the Board of Selectmen allowing sale or lease of new or used vehicles, or

3. Stored or parked pursuant to a permit issued by the Board of Selectmen allowing public purposes or non-profit charitable purposes, or

4. Parked pursuant to an office or storage trailer permit issued by the Inspector of Buildings in conjunction with construction and/or demolition on the premises, or

5. Stored or parked pursuant to a special permit issued by the Zoning Board of Appeals.

   In approving a request for a special permit under this paragraph, the Zoning Board of Appeals shall find:

   a. That there is no reasonable alternative to the requested use of one or more commercial trailers, and

   b. That the characteristics of the site and its immediate surrounding area are compatible with the proposed use.

   Commercial trailers stored on a lot pursuant to a special permit issued by the Zoning Board of Appeals under this paragraph 5. for more than thirty (30) days shall be screened from view with appropriate materials, from abutting residential properties and in other instances as may be required by the Zoning Board of Appeals.

E. For any construction, other than single and two family buildings, except in accordance with the requirements of Section 16A and Section 25.

F. There shall be no site preparation work done in connection with development of any use of land and no such work in connection with development of any subdivision until all necessary permits and approvals have been obtained. This section shall not prohibit site work reasonably necessary to the conduct of a land survey or any tests required as a condition precedent to the issuance of any permit or approval. If after obtaining all necessary permits and approvals such work is commenced and later abandoned, as said term is defined in the State Building Code, any areas of the site which have been disturbed during construction shall be re-vegetated in a manner sufficient to prevent erosion. To secure re-vegetation in the case of abandonment of a project, the Building Inspector, or in the case of a subdivision of land, the Planning Board, may require, as a condition of granting the necessary permits and approvals, that the owner post a bond or other satisfactory security in an amount reasonably estimated, by the Building Inspector, or the Planning Board, as the case may be, as sufficient to perform the work.

G. For the sale or distribution of any materials and any and all entertainment which is "obscene" within the meaning of that term as defined in G. L. Chapter 272, Section 31.

G. For games of chance or similar entertainment or amusement, operated either live or through audio or video broadcast or closed circuit transmission, except at an establishment licensed to sell all alcoholic beverages or wine and malt beverages only.

H. For a Marijuana Establishment.

SECTION 16A. PROJECT APPROVAL

A. Scope and Purpose

Minor Construction Projects (as herein defined) and Major Construction Projects (as herein defined) are subject to comprehensive review in accordance with the terms of this section. This section shall not apply to construction, alteration, enlargement or reconstruction of one-family or two-family dwellings or structures accessory thereto, unless such one-family or two-family dwelling is located in a Flood Plain or Watershed Protection District.

This section shall be interpreted so as to:

1. Ensure compliance with the Zoning Bylaws of the Town of Wellesley;

2. Protect the safety, convenience and welfare of the public;

3. Minimize additional congestion in public and private ways;

4. Ensure adequate provision for water, sewerage and drainage;

5. Ensure compliance with the provisions of Section 16;

6. Ensure compliance with the provisions of Section 21; and

7. Ensure compliance with the provisions of Section 22.

B. Definitions

Part 1 - Principal Definitions

Construction Project - shall mean projects subject to review under this Section 16A, and shall include phased or segmented projects where a series of two or more projects on a single parcel, lot or development area, for which application for building permits are filed within a three-year period are, in the opinion of the Inspector of Buildings, components or segments of a single project.

Major Construction Project – shall mean any construction project which involves a change in the outside appearance of a building or buildings or premises, and includes one or more of the following:

1. construction of twenty-five hundred (2,500) or more square feet gross floor area;

2. an increase in gross floor area by fifty (50) percent or more which results in a gross floor area of at least twenty-five hundred (2,500) square feet;

3. grading or regrading of land to planned elevations, and/or removal or disturbance of the existing vegetative cover, over an area of five thousand (5,000) or more square feet;

4. any activities regulated or restricted under Section 14B; or

5. any activities regulated under Section 14E.

Minor Construction Project shall mean any construction project, not included within the definition of a major construction project, which involves either or both of the following:

1. a change in the outside appearance of a building or premises visible from a public or private street or way, requiring a building permit;

2. construction, enlargement or alteration of a parking or storage area requiring a parking plan permit. Alteration, as used in the preceding phrase, includes installation, removal or relocation of any curbing, landscaping or traffic channelization island, driveway, storm drainage, lighting or similar facilities but does not include resurfacing, striping or restriping pavement markings on existing parking or storage areas.

Project of Significant Impact (PSI) means any construction project having an aggregate total of:

1. newly constructed floor area of 10,000 or more square feet; or

2. renovated, altered and/or replacement floor area of 15,000 or more square feet in a building having 15,000 or more square feet of ground coverage to provide for a use which is different from the existing use as determined by the Commonwealth of Massachusetts Property Type Classification Codes (April 1991 edition).

Part 2 - Additional Definitions for Traffic Reviews

Annual Average Daily Traffic (AADT) – The total yearly volume of automobiles and trucks divided by the number of days in the year.

Average Daily Traffic (ADT) - The calculation of averaged traffic volumes in a time period greater than one day and less that one year. Usually ADT is determined based on a representative (no holidays or unusual weather related circumstances) 7 day week.

Design Hourly Volume (DHV) – The one-hour volume in the design year selected for determining the highway design (typically the worst-case weekday morning or evening peak hour or the 30th highest hour of the year).

K-Factor (K) – The percent of Average Daily Traffic (ADT) that occurs during the peak hour (PH).

Level of Service – A quantitative measure of traffic congestion identified by a declining letter scale (A-F) promulgated by the Institute of Transportation Engineers (ITE) and used by the Massachusetts Highway Department (MHD), traffic engineers and traffic planning professionals.

Peak-Hour Traffic (PH) – The highest number of vehicles passing over a section of highway during 60 consecutive minutes. The term T(PH) may be used to designate the PH for truck traffic only.

Peak-Hour Factor (PHF) – a ratio of the total volume occurring during the peak hour to the maximum rate of flow during a given time period within the peak hour (typically 15 minutes duration).

Roadway Impacted by Development Traffic – A roadway segment, including one or more approaches to an intersection, shall be considered as impacted if traversed by 20 or more vehicles related to the project in a single direction during any single hour and it:

a. a signalized intersection and ADT or PH will increase by 5% or more; or

b. is an unsignalized intersection with a minor street approach PH of 50 or more vehicles; or

c. is substandard, as determined by the Town Engineer, in terms of structure, pavement surface, or other deficiencies; or

d. exhibits safety problems as identified by the Town Engineer, Town Traffic Engineer or other qualified professional as determined by the Planning Board.

C. Applicability and Procedure

1. Design Review

Minor Construction Projects, Major Construction Projects, and Projects of Significant Impact are subject to Design Review, as follows:

Plans and other submission materials as specified on the "Application for Design Review" along with the completed application shall be submitted to the Design Review Board for its written advisory design recommendations in accordance with Section 22. Within twenty-one (2l) days of submission, copies of the written design recommendations shall be sent by the Design Review Board to the Building Inspector, Planning Board and the applicant. No building permit or parking plan permit shall be issued by the Building Inspector within this twenty-one (2l) day period unless the required written recommendations are received.

2. Site Plan Review

In addition to Design Review in accordance with the preceding section, Major Construction Projects and Projects of Significant Impact are subject to Site Plan Review, as follows:

a. The applicant shall submit to the Zoning Board of Appeals ("ZBA") plans and other submission materials in accordance with the procedures for Special Permits adopted by the ZBA pursuant to Section 25 of this Zoning Bylaw. Within seven (7) days from the date of its submission to the ZBA, copies of the complete

application as submitted shall be referred by the ZBA to the Board of Health, Planning Board, Design Review Board, Town Engineer, Wetlands Protection Committee, Municipal Light Plant, Fire Chief, Police Chief and any other Town agencies or boards designated by the ZBA, for review and preparation of written recommendations to the ZBA, Building Inspector and the applicant prior to the required public hearing. Said written recommendations shall be attached to and become part of the application.

b. No decision shall be made by the ZBA in connection with any application until the above referenced written recommendations have been received or thirty-five (35) days shall have elapsed after such referral of the application without a recommendation being received. The ZBA may modify such plans to meet the requirements of this Section, and as modified, approve the same, or may disapprove the plans. No building permit or parking plan permit shall be issued by the Building Inspector without the written approval of plans as herein above provided.

3. Special Permit for Projects of Significant Impact

In addition to Design Review and Site Plan Review in accordance with the preceding sections, Projects of Significant Impact (PSI), shall require a Special Permit issued by the Planning Board, as follows:

a. The applicant shall submit to the Planning Board a Municipal Systems Impact Analysis (MSIA), prepared by professional engineers registered in the Commonwealth of Massachusetts, and identifying the impact of the Construction Project on water, sewer, storm drainage, electric, traffic, intersections, sidewalks and footways, building occupant life safety, refuse disposal and recycling. The water, sewer, and storm drainage portions of the MSIA shall be prepared by engineers having expertise in civil engineering; the electric portion shall be prepared by engineers having expertise in electrical engineering; the traffic and pedestrian safety and bicycle safety portions shall be prepared by engineers having expertise in traffic and transportation engineering.

b. The intent of the analysis is to determine the impact on the Town's existing capital infrastructure in order to assess costs of providing or upgrading Town public facilities which will benefit a PSI.

c. The Municipal Systems Impact Analysis shall include:

i. Utility Capacity

including water, sewer, storm drain and electric distribution systems before construction and at expected occupancy date;

ii. Traffic

identification of existing traffic and anticipated traffic at time of full project occupancy at existing and proposed roadway segments and intersections,

existing and proposed site connections to the street system, and streets bordering, supporting, and connecting the development including:

a) vehicle speed;
b) 85th percentile vehicle speed;
c) sight distances;
d) existing safety records including accident data;
e) description of existing traffic controls;
f) Annual Average Daily Traffic;
g) Average Daily Traffic
h) Peak-Hour Traffic (morning, afternoon and other peak(s));
i) Peak-Hour Factor;
j) Design Hourly Volume;
k) K- Factor;
l) Levels of Service (LOS);
m) Project generated traffic and its distribution;
n) Volume to Capacity Ratio;
o) Average Delay;
p) Average and 95th Percentile Queue Lengths;
q) Roadways Impacted by Development Traffic;
r) Delay and Gap Study (when deemed necessary by the Town's traffic engineering consultant); and
s) Data Calibration.

Evaluations shall be made in accordance with the current MHD Design Guide, the elements listed above and standards adopted by the Board of Selectmen.

identification of roadways impacted by development traffic;

estimated traffic impacts of the proposed development in terms of the amount of morning and afternoon peak hour and total daily traffic generated by the development on streets bordering the development area; sight lines from access connections; proposed changes to traffic controls; and projected levels of service of intersections identified in item 3. above and at points of connection of the development area to the street system;

iii. Pedestrian and Bicycle Safety

possible hazardous pedestrian and bicycle crossings; a detailed identification of gaps in the sidewalk network and identification of cracking, deterioration, heaving, sinking, shifting, patching and missing sections and intrusion or encroachment of vegetation and other obstructions into the sidewalk area within a walking distance of 600 feet from the development area and along walking routes to the nearest public transportation station(s) or boarding point(s) if such facilities exists within one mile of the development site; identification of sidewalk links or connections to surrounding neighborhoods. Pedestrian crosswalks, traffic control devices and traffic calming measures will be part of the safety analysis.

iv. Building Occupant Life Safety

identification of proposed use and occupancy and characteristics of the occupants, building contents, equipment and materials on site; identification of possible hazards and hazard scenarios and anticipated impact on municipal fire alarm systems. The Fire Chief may require a comprehensive emergency plan which shall include an evacuation plan.

v. Refuse Disposal and Recycling

anticipated impact on the Town's refuse disposal and recycling system.

d. No decision shall be made by the Planning Board acting as Special Permit Granting Authority (SPGA) in connection with any properly completed application until it has been referred to, reviewed and approved by the four review departments (Department of Public Works for the water, sewer, storm drain, refuse and recycling elements; Municipal Light Plant for the electric element, Fire Department for fire alarm, fire protection and life safety element and the Board of Selectmen for the traffic and pedestrian safety element). The Board of Selectmen shall solicit the recommendations of the Chief of Police. The report of the Board of Selectmen to the Planning Board shall include the recommendations of the Chief of Police or verification that the Chief offered no comment. Review departments are not required to hold a public hearing for this purpose. Review departments may employ outside consultant assistance as deemed necessary.

e. The Planning Board shall grant a special permit provided the following minimum service standards are met:

i. Water -

There shall be sufficient water capacity to meet the flow demands of the proposed use without causing municipal water flow characteristics off site to fall below the standards adopted by the Board of Public Works.

ii. Sewer -

There shall be sufficient sewer capacity to meet the flow demands of the proposed use without causing surcharge in those sewer lines which serve the project and consistent with the standards adopted by the Board of Public Works.

iii. Storm Drainage -

There shall be sufficient storm drainage capacity to meet the flow demands of the proposed development site without causing surcharge in those storm drainage lines which serve the project and consistent with the standards adopted by the Board of Public Works.

iv. Electric -

There shall be sufficient electrical capacity to meet the peak service demands of the proposed use without causing the service in adjacent areas to fall below the standards adopted by the Municipal Light Board.

v. Traffic, Pedestrian and Bicycle Safety

With respect to all signalized impacted intersections, and any unsignalized impacted intersections having 50 or more PH vehicle trips on any minor approach, there shall be no degradation in the overall level of service designation to a level below the level of "C" and, if an impacted intersection is projected to operate at an overall level of service lower than "C" in a design year no-build alternative, then the proposed development shall not degrade the level of service designation below the projected design year no-build levels; and

With respect to unsignalized impacted intersections having fewer than 50 PH vehicle trips on any minor approach, the Applicant shall undertake an evaluation to identify any specific circumstances requiring further action or mitigation, which may be the subject of negotiated improvements at the discretion of the Planning Board. For purposes of clause 1 above, the "overall level of service" for an unsignalized impacted intersection shall be considered to be the worst of the individual levels of service for each of the minor movements.

Pedestrian and bicycle circulation shall be provided in accordance with recognized safety standards; provided in all cases sidewalks within a walking distance of 600 feet of the Project shall be provided and in addition sidewalk connections within such radius to surrounding neighborhoods and to public transportation shall be provided as required by the Special Permit Granting Authority in a safe and convenient condition and consistent with standards of the Massachusetts Highway Project Development and Design Guide.

vi. Fire Protection and Life Safety -

There shall be sufficient municipal fire alarm system capacity to meet the operating requirements of the proposed use under applicable codes, regulations and statutes enforced by the Fire Chief. There shall be off-site fire protection facilities serving the development site in the opinion of the Fire Chief meeting the needs of the project based on the intended use and occupancy including fire flow requirements, location of and access to fire hydrants and access for emergency vehicles. The Fire Chief may require a comprehensive emergency plan which shall include an evacuation plan satisfactory to the Fire Chief and meeting the specifications and standards adopted by the Fire Chief.

vii. Refuse Disposal System -

Refuse recycling and disposal systems, consistent with the standards adopted by the Board of Public Works, shall be provided.

f. Following review of the Municipal Systems Analysis, applicants for PSI approval or the Planning Board may propose specific design alternatives and/or off-site Negotiated Improvements to municipal facilities to meet minimum service standards.

g. The Planning Board is authorized to incorporate these design alternatives and improvements as conditions in special permit PSI approval.

h. The applicant shall bear all of the costs of design work and construction of all Negotiated Improvements and shall be responsible for implementation of the Negotiated Improvements and special permit approval conditions. All work proposed to improve or upgrade Town utilities or facilities shall be done according to the specifications adopted by the Board of Public Works, except that electric work shall be done according to the specifications adopted by the Municipal Light Board. The applicant shall also bear the cost of review of plans and of periodic inspections of such work during construction.

   Post development traffic counts may be required at the discretion of the Planning Board, at reasonable intervals over a period not to exceed twelve (12) months, and commencing no sooner than three months after commencement of Project operation. The purpose of this monitoring is to review the accuracy of PSI traffic projections. If at least two consecutive traffic counts no less than six months apart reflect that site-related daily traffic is more than 10 percent (10%) above the projected volume, then the Applicant shall undertake an evaluation to identify any specific circumstances requiring further action or mitigation. Should post development traffic counts, review of plans, mitigation proposals or any other peer review or related professional services be required, the Applicant shall bear the cost thereof.

i. Upon the granting of a special permit by the Planning Board for a PSI the applicant is authorized to apply for Project Approval under the procedure in Section 16A for Major Construction Project Approval. Planning Board review of PSI application shall not substitute for Major Construction Project approval. No application shall be made for Major Construction Project approval for a PSI prior to the granting of a special permit by the Planning Board.

SECTION 16B. INCLUSIONARY ZONING

A. Purpose

The purpose of Inclusionary Zoning is to recognize the affordable housing need in Wellesley; to require applicants for development projects having a significant impact on the Town to contribute toward this need; to encourage the expansion and upgrade of the Town's affordable housing in order to provide for a full range of housing choices for households of all incomes, ages and sizes; to prevent the displacement of low to moderate income Wellesley residents; to increase the production of affordable housing units; and to encourage affordable housing to be incorporated into new development projects.

B. Applicability

The provisions of this section shall apply to all projects requiring approval as Projects of Significant Impact under Section 16A in Business Districts, Business Districts A, Industrial Districts, Industrial Districts A, and Wellesley Square Commercial Districts and to single family residential subdivisions on sites having a development potential under current zoning of five or more lots.

The provisions of this section shall not apply to any project undertaken by the Town for any municipal purposes.

C. Requirements

An applicant for a project defined in Section 16B.B., above, shall provide in conjunction with that project, a minimum ratio of Assisted Units on the project site in accordance with the following:

1. .02 Assisted Units per each 1,000 square feet of floor area in the project devoted to any allowed use other than Dwelling Units; and

2. .20 Assisted Units per each Dwelling Unit in the project.

Both of the above ratios will apply in any mixed-use project which includes both Dwelling Units and floor area devoted to any allowed use other than Dwelling Units. If the project's required ratio includes any fraction of an Assisted Unit, the project's obligation with respect to such fractional Assisted Unit shall be determined in accordance with Section 16B.D.3. below.

D. Alternatives to Satisfy Assisted Unit Ratio

The following alternatives may be used to satisfy the requirements of Section 16B.C.1. and 2. above, subject to the issuance of a special permit by the Planning Board acting as Special Permit Granting Authority:

1. Assisted Units may be located on land within the Town of Wellesley other than on the project site; and/or

2. A cash contribution may be made to the affordable housing trust fund account established by the Wellesley Housing Development Corporation pursuant to Chapter 311 of the Acts of 1998 as a payment-in-lieu of providing the required ratio of Assisted Units on the project site. Moneys so deposited with in such trust fund account shall only be used to provide Assisted Units within the Town according to the required ratio for that project; and/or

3. If the required ratio calculated under Section 16B.C.1. and 2. above includes any fractional Assisted Unit, the project's obligation with respect to such fractional Assisted Unit may be satisfied either by providing a whole Assisted Unit for such fractional Assisted Unit either on the project site or off the project site or by making a cash contribution under Section 16B.D.2. above in the amount equal to the product of (a) such fraction multiplied by (b) the cash contribution for a whole Assisted Unit determined under Section 16B.E. below. In a mixed use development fractional Assisted Units attributable to commercial and residential must be accounted for separately, and may not be added together.

E. Determination of Cash Contribution

The amount of the cash contribution described in Section 14B.D.2. above shall be determined by the Planning Board and shall be the amount equal to the product of (1) the required number of Assisted Units multiplied by (2) the difference in sale price between an Assisted Unit and a Conventional Unit. For the purposes of determining the amount of the cash contribution, an Assisted Unit shall be deemed to have at least three bedrooms and 1,500 square feet of living space.

The sale price for the Assisted Unit shall be determined in accordance with the Local Initiative Program regulations of the Massachusetts Department of Housing and Community Development (DHCD) at 760 CMR 45.00 or any successor regulations or program of DHCD establishing guidelines for low or moderate income housing programs that qualify under General Laws Chapter 40B. The sale price for the Conventional Unit shall be based on the current median sale price in the Town for Conventional Units similar in size and type to the Assisted Unit.

F. General Provisions

1. The Planning Board shall be charged with administering this by-law and shall promulgate rules and regulations to implement its provisions.

2. To the extent practicable, Assisted Units shall be dispersed throughout the project unless they are to be provided on other land. The Assisted Units shall be indistinguishable in external appearance from any market-rate housing units in the project.

3. Accessible unit(s), not to exceed 15% of the total number of units, may be required in any project.

4. Tenants or purchasers, as the case may be, shall be selected for the Assisted Units by, and in accordance with the procedures of, the Wellesley Housing Development Corporation.

5. The Assisted Units shall remain so in perpetuity in accordance with a deed restriction or other method satisfactory to the Planning Board.

6. Projects shall not be segmented or phased to avoid compliance with these provisions.

G. Construction

1. Occupancy permits for any Conventional Unit or uses other than Dwelling Units in a project shall be issued proportionately in the required ratio as occupancy permits for the required Assisted Units are issued or payment of the cash contribution in lieu of the required Assisted Units is made for the entire project.

2. All documents necessary to ensure compliance with this by-law shall be subject to the review and approval by Town Counsel and shall be executed prior to and as a condition of the issuance of any Certificate of Occupancy.

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SECTION 16C. DRAINAGE REVIEW

A. Purpose

This Section is adopted by the Town to provide a pre-construction, construction and post-construction review of the projects which have the potential for detrimental effect caused by storm water drainage discharge onto streets and ways, into the Town's storm water drainage system and into the Charles River, the Town's lakes, ponds and streams; to reduce discharge of pollutants to the maximum extent practicable; to protect water quality; to satisfy the water quality requirements of the Clean Water Act and Massachusetts Water Quality Standards; to maintain compliance with Wellesley's General Permit under the Phase II Regulations of National Pollutant Discharge Elimination System of U.S. EPA; and to be consistent with the Massachusetts Wetlands Protection Act; the Town of Wellesley Wetlands Protection Bylaw (Article 44 of the Town Bylaws); the Town of Wellesley Erosion and Sedimentation Control Regulations and the Municipal Stormwater Drainage System Rules and Regulations adopted by the Board of Public Works; by minimizing land clearing; by minimizing the amount of exposed soil and duration of exposure, by installing, protecting and maintaining vegetative buffers, silt fencing, and BMP's.

B. Definitions

Best Management Practices (BMP's) - The most effective and practical measures to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site. These measures may be structural, such as particle separators or sand filters, and they may be non-structural, such as but not limited to, buffer areas around developments or proper methods for storage of chemicals.

Construction Mitigation Plan - A plan which details the design, location and type of erosion and sedimentation control measures to be employed on-site.

Grading and Drainage Plan - To be prepared in accordance with specifications to be developed and from time to time amended by the Town Engineer it shall include but not be limited to the following information: post-development peak runoff rates, rates of recharge of stormwater to groundwater and rates of removal of total suspended solids. It shall be stamped and signed by a Massachusetts Registered Professional Engineer.

On-Site Stormwater System - Catch basins, leaching basins, manholes, pipes, retention and/or detention basins, swales, drainage ditches, headwalls, BMP's and other components.

Operation and Maintenance Plan - A plan which includes the details of the regular maintenance of the on-site stormwater system including but not necessarily limited to cleaning of dry wells for roof drains and any catch basins, sweeping of paved areas draining into the catch basins, visual inspection of drainage structures for damage or blockage, keeping the area around catch basins located in lawns or other landscaped areas clear of excess leaves, twigs and other debris, and inspection and maintenance of BMP's.

Review Staff - Town Engineer (or designated representative of the Town Engineer), Inspector of Buildings (or designated representative of the Inspector of Buildings), Wetlands Administrator (or designated representative of the Wetlands Administrator).

C. Applicability

The provisions of this section shall apply to all projects not otherwise subject to Section 16A involving grading or re-grading of land to planned elevations, and/or removal or disturbance of the existing vegetative cover, over an area of one acre or more.

D. Procedure

Prior to the issuance of a building permit, a grading and drainage plan and other materials as may be required consistent with specifications to be developed by the Wellesley Department of Public Works shall be submitted to the Planning Director. A reasonable submission fee may be established and from time to time adjusted by the review staff. The Planning Director shall forthwith send copies of the submission to the review staff.

The review staff shall within 14 days make such comments or recommendations as deemed appropriate and shall send copies to the Planning Director and the applicant. The grading and drainage plan may be approved, approved subject to conditions or plan modifications. An operation and maintenance plan may be required in instances where the on-site stormwater system is deemed by the review staff to warrant same. A construction mitigation plan may be required if in the opinion of the review staff the topography of the land warrants erosion and sedimentation control measures.

Prior to a Certificate of Occupancy being issued or final building inspection being made as the case may be for the construction, reconstruction or addition an inspection shall be made by the Town Engineer or designated representative of the Town Engineer to determine whether there is compliance with the grading and drainage plan and notify the other members of the review staff of the inspection results. If there is compliance the other members of the review staff shall be so notified whereupon a Certificate of Occupancy may be issued, or final building inspection may be made. If found to be not in compliance, the Planning Director shall notify the applicant of the work remaining to be done.

E. Appeals

An applicant may appeal the decision of the review staff. In the event of an appeal it shall be made to the Zoning Board of Appeals in accordance with Section 24.

SECTION 16D. LARGE HOUSE REVIEW

Editor's Note: Updated March 27, 2018 to reflect amendments under Article 32 at 2017 ATM)

A. Purpose

This Section is adopted by the Town to provide pre-construction and post-construction review of single family dwellings which meet the applicability standards set forth below.

B. Definitions

Total Living Area plus Garage Space - This term includes:

(i) The sum of the floor area(s) of the above-grade floors, including portions of attics, in structures used as one-family dwellings and detached accessory structures related to such use on a lot, measured from the exterior face of the exterior walls;

(ii) Floor area(s) of portions of attic(s) with an interior roofline height of 5 ft. or greater;

Figure 1. Attic TLAG Illustration – Gable Roof

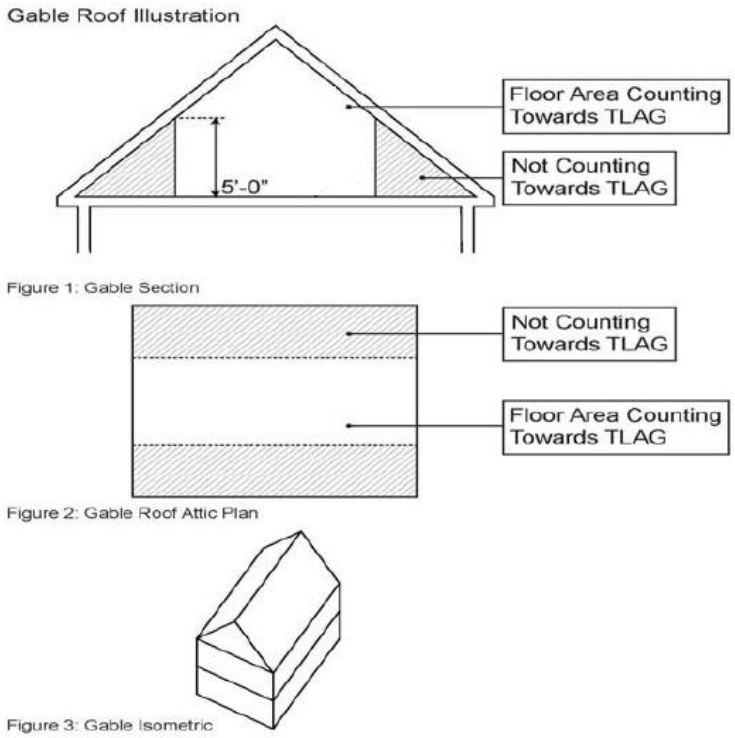
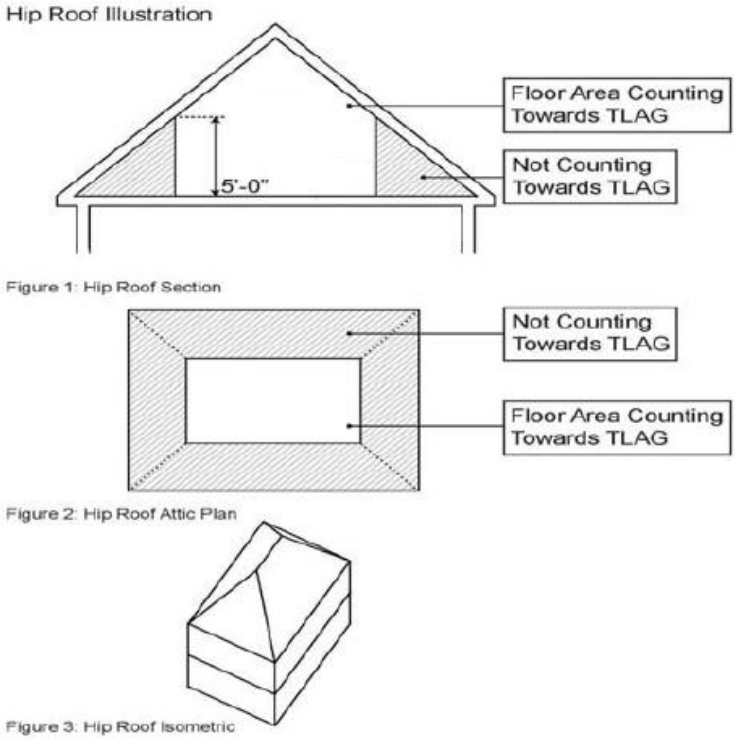


Figure 2. Attic TLAG Illustration – Hip Roof



(iii) Floor area of garage and storage space, whether as part of a one-family dwelling or in detached accessory structures; and

(iv) Basement area multiplied by a fraction, the numerator of which is the external above ground surface of basement walls and the denominator of which is the total surface (both above and below ground) of external basement walls, provided that if such fraction is less than .25, then the basement areas shall not be included.

Calculations shall be determined in accordance with the Rules and Regulations adopted by the Planning Board.

C. Applicability

The provisions of this Section shall apply to all building permits issued after January 1, 2008 for new single family dwellings where the Total Living Area plus Garage Space of the dwelling, after completion, exceeds:

3,600 square feet for dwellings within the Single Residence 10,000 Square Foot Area Regulation District;

4,300 square feet for dwellings within the Single Residence 15,000 Square Foot Area Regulation District;

5,900 square feet for dwellings within the Single Residence 20,000 Square Foot Area Regulation District; and

7,200 square feet for dwellings within the Single Residence 30,000 and 40,000 Square Foot Area Regulation Districts.

The provisions of this section shall also apply to all building permits issued after January 1, 2008 for alteration of single family dwellings where the alteration will increase the Total Living Area Plus Garage Space of the dwelling in question by more than 10%, and the Total Living Area Plus Garage Space of the dwelling, after completion of the project, will exceed the applicable threshold, as listed above.

Notwithstanding the foregoing, the following are exempt from Planning Board review:

1. Changes to non-conforming single-family dwellings which are subject to a Finding in accordance with Section 6 of Chapter 40A M.G.L and Section 17 of this Zoning Bylaw;

2. The reconstruction of pre-existing, non-conforming buildings, damaged or destroyed by accidental cause, including fire, or otherwise damaged or destroyed without the consent of the owner, in accordance with Section 17.C.; and

3. The completion or finishing of attics in existing structures where there are no exterior alterations or changes.

D. Procedure

1. General. Any applicant for a single family residential dwelling which is subject to this Section shall submit the required information, including plans indicating the delineation of the neighborhood, existing and proposed site conditions, photographs, topography, building elevations, proposed grading and landscape design described in the Rules and Regulations to the Planning Board through the Planning Director and shall not be entitled to the issuance of a building permit unless and until the dwelling is approved in accordance with this Section.

2. Waivers. The Planning Board may, in any particular case where it determines such action to be consistent with the purpose and intent of the Zoning Bylaw and otherwise in the public interest, waive strict compliance with certain application and review requirements contained in this Section and with the Rules and Regulations adopted by it under this Section if it finds that the proposed construction, or certain aspects of the construction are de minimus based on the Standards and Criteria contained in Section 16D.E. Waiver requests must be made in writing and shall be addressed in a preliminary meeting between the Planning Board and the prospective applicant, held not later than 21 days after receipt of the waiver request. An applicant who makes a waiver request shall not submit an application until after meeting with the Planning Board on the waiver request.

3. Review and Timing. The Planning Board and Design Review Board shall each meet separately with the applicant to discuss the applicability of the Standards and Criteria set forth in Section 16D.E. of this Section after receipt of the submission to discuss the project. Although a public hearing is not required, notice of the Planning Board meeting shall be sent by mail, postage prepaid, to the abutters and abutters to the

abutters within 300 feet of the property line of the applicant, as they appear on the most recent applicable tax list at least 10 days prior to the public meeting. Owners of land directly opposite the applicant on any public or private street or way shall be considered abutters under this Section. Written comments from abutters will be received and considered, and oral comments will be considered only at the discretion of the Planning Board. The Design Review Board shall prepare comments and recommendations as it deems appropriate and shall submit these to the Planning Board. The Planning Board shall prepare its decision and provide it to the applicant within 90 days of the submission as well as to the Building Inspector and Zoning Board of Appeals as may be appropriate. The Planning Board may seek the recommendations of other Town Departments depending on the nature of the application. If the Planning Board has not issued its decision within 90 days of receipt of the submission from the applicant, the project, as described in the submission, shall be deemed approved. The 90-day time limit may be extended by written agreement between the Planning Board and the applicant, signed by, or on behalf of, the applicant.

4. Approval. The Planning Board shall determine whether the Standards and Criteria for Review set forth below have been satisfied. In reaching its decision, the Planning Board shall consider the recommendations of the Design Review Board and other applicable Boards and Departments, and all other materials submitted to the Planning Board. If the Planning Board finds that the Standards and Criteria for Review have been satisfied, it shall approve the project as set forth in the submissions, provided that it may approve the project subject to conditions or plan modifications specified by the Planning Board in writing. A construction mitigation plan may be required if the site warrants erosion and sedimentation control measures. If the Planning Board finds that the Standards and Criteria for Review have not been satisfied, it shall disapprove the project, and shall state in writing the basis for its decision.

5. Issuance of Building Permit and Certificate of Occupancy. The Building Inspector shall not issue a building permit unless and until the project is approved by the Planning Board or is deemed approved in accordance with this Section and is filed at the Registry of Deeds. The Building Inspector shall verify compliance with all required conditions or plan modifications prior to the issuance of a Certificate of Occupancy. The Building Inspector shall inform the Planning Director and the applicant of any failure to comply with conditions of plan approval or plan modifications pursuant to this section.

6. Revision and Amendment of Plans. Any revision, amendment or new information relating to an LHR application shall be considered as follows:

   a. Pending LHR Applications. Revision or amendments relating to a pending LHR application that is before the Planning Board for review shall be accepted by the Planning Board as part of the original submission.

   b. Previously Approved LHR Applications. Revisions or amendments to an LHR Application that has previously been approved by the Planning Board must be submitted to the Planning Director who shall make a determination as to whether the revisions are major or minor and shall be processed as follows:

i. Minor. If the Planning Director determines the proposed revisions or amendments to be minor, he or she shall determine the consistency of the revisions with the Planning Board's previous findings and the Standards and Criteria for Review, and either approve or deny the revisions accordingly. If denied, the Planning Director shall notify the applicant and the Planning Board within five (5) business days of the applicant's submittal of such revisions. The applicant may submit denied minor revisions to the Planning Board for their consideration; the Board shall either accept or reject the proposed revisions as part of the approved LHR application.

ii. Major. If the Planning Director determines the proposed revisions or amendments to be major, the Director shall notify the applicant and Planning Board within five (5) business days of the applicant's submittal to such revisions. The applicant may then submit the proposed revisions to the Planning Board, which shall either accept or reject the proposed revisions as part of the approved LHR application.

E. Standards and Criteria for Review

1. Preservation of Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing use of wetlands, flood plains, hilltops, any grade changes and vegetation and soil removal. Unique natural areas, topographic features such as ledge outcrops, significant trees and landscaping, and historic features shall be saved or enhanced insofar as practicable.

2. Scale of Buildings. All new construction shall be sited and implemented in a manner that is consistent with the scale of other structures in its vicinity through the use of appropriate massing, screening, lighting and other architectural techniques such as variation in detail, form and siting. Consideration shall be given to the need for vegetated buffers. To the extent practicable this shall be based on the "Intent, Policy and Recommendations" specified in Part II. Design Criteria. of the "Design Guidelines Handbook" adopted by the Design Review Board and otherwise applying good architectural and aesthetic principles. Structures shall be arranged insofar as practicable to avoid casting shadows onto abutting property.

3. Lighting. Exterior lighting shall be only as needed to accomplish safety and design objectives and shall be arranged so as to minimize the impact on neighboring properties.

4. Open Space. Open space shall be as extensive as is practicable and designed so as to add to the visual amenities of the neighborhood for persons passing the site or overlooking it from nearby properties. To the extent practicable this shall be based on the "Intent, Policy and Recommendations" specified in Part II. Design Criteria. of the "Design Guidelines Handbook" adopted by the Design Review Board

5. Drainage. The development shall incorporate measures that are adequate to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes to groundwater levels, increased rates of runoff, and minimize

potential for flooding. Drainage shall be designed so that groundwater recharge is maximized, and so that the rate of runoff shall not be increased at the project boundaries.

6. Circulation. Walkways, drives and parking shall be safe and convenient and, insofar as practicable, not detract from the use and enjoyment of adjacent properties and Town streets.

F. Fees

Any applicant seeking plan approval under this section shall submit an application and pay such fees as shall be determined by the Planning Board, to cover any expenses connected with public notice and review of plans, including but not limited to the costs of any engineering or planning consulting services necessary for review purposes.

G. Rules and Regulations

The Planning Board may promulgate or amend Rules and Regulations which pertain to the plan approval process under this section, and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and specifications, and the procedure for the submission and approval of such review so long as the Rules and Regulations conform to this Section 16D of the Zoning By-law. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

H. Appeals

An applicant, or any person receiving notice under Section 16D.D.4. above, may appeal the Planning Board's approval, denial, conditions or plan modifications to the Zoning Board of Appeals in accordance with Section 24.

SECTION 16E. TREE PROTECTION & PRESERVATION

A. Title

Section 16E may be cited as the "Town of Wellesley Tree Bylaw" and/or "Tree Bylaw".

B. Intent and Purpose

The intent of Section 16E is to encourage the preservation and protection of sizeable trees on portions of private property during significant demolition and/or development activity.

Trees are recognized for their abilities to improve air quality, protect from glare and heat, reduce noise, aid in the stabilization of soil, provide natural flood and drainage control, create habitats for wildlife, enhance aesthetics and property values, contribute to the distinct character of certain neighborhoods, and provide natural privacy to neighbors. Therefore, the Town deems that the preservation and protection of certain trees on private property, the requirement to replant trees to replace those removed, and the collection of financial contributions to support the Town's tree planting and maintenance efforts are public purposes that protect the public health, welfare, environment and aesthetics.

C. Definitions

For the purposes of Section 16E, the following definitions shall apply.

Caliper - Diameter of a tree trunk (in inches). For trees up to and including four (4) inches in diameter, the caliper is measured six (6) inches above the existing grade at the base of the tree. For trees larger than four (4) inches in diameter, the caliper is measured twelve (12) inches above the existing grade at the base of the tree.

Certified Arborist – A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborist Association (M.A.A.).

Critical Root Zone (CRZ) - The minimum area beneath the canopy of a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a concentric circle centering on the tree's trunk and extending outward towards the tree's drip-line. The minimum area of the CRZ shall be dependent on the required minimum radius of the CRZ; the required minimum radius of the CRZ shall be determined by multiplying a tree's DBH (in inches) by eighteen (18) inches, with the resulting product constituting the minimum radius of the CRZ. *Example*: *A tree with a DBH of twenty (20) inches shall have a CRZ with a minimum radius of 360 inches or 30 feet (20" x 18" = 360" or 30').*

Diameter at Breast Height (DBH) - The standard measure of tree size for those trees existing on a site that are at least four (4) inches in diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.

Drip-Line - The area surrounding the tree from the trunk to the outermost branches. This area is distinguished from, and not to be confused with Critical Root Zone.

Overstory Tree - A tree that will generally reach a mature height of greater than forty (40) feet.

Protected Tree - Any existing tree or tree that was removed within twelve (12) months prior to application for an applicable demolition or building permit, with a DBH of ten (10) inches or greater, located in a Tree Yard of a property zoned Single Residence District or General Residence District, or located anywhere on property zoned other than Single Residence District or General Residence District. Any tree with a DBH of ten (10) inches or greater with portions of the stem of the tree actively growing into a Tree Yard between a height of six (6) inches and four and one-half (4.5) feet above grade shall be considered a Protected Tree.

Tree - Any self-supporting, woody perennial plant usually having a single trunk with a diameter of three (3) inches or more which normally attains a mature height of six (6) feet or greater.

Tree Bank - An account established for the deposit of contributions in lieu of tree replanting as required by Section 16E. Funds deposited in this account shall be used solely for the purpose of buying, planting and maintaining trees in the Town.

Tree Protection & Mitigation Plan - A plan submitted to the Building Department for review prior to the commencement of demolition and/or construction on a property on which a Protected Tree is located. This plan may be either part of a landscape plan and/or a separate plan.

Tree Removal - Any act that causes a tree to die or will cause a tree to die within a three (3) year period as determined by the Department of Public Works - Park & Tree Division based on arboricultural practices recommended by the International Society of Arboriculture (I.S.A.).

Tree Save Area - The area surrounding a tree which includes at a minimum the Critical Root Zone ("CRZ") and Drip-Line of all Protected Trees, unless otherwise authorized herein. The Tree Save Area must be enclosed within a fence and remain undisturbed so as to prevent damage to the tree.

Tree Yard - The area of a parcel zoned Single Residence District or General Residence District located adjacent to all front, side, and rear lines of a lot; Tree Yards shall have a minimum depth as specified in the table entitled "Location of Protected Trees on Property Zoned Single Residence District or General Residence District", contained in Section 16E.F.1. Trees having a DBH of ten (10) inches or greater and located within a Tree Yard shall be considered to be Protected Trees.

D. Applicability

1. Applicability: The requirements of Section 16E shall apply under any of the following circumstances:

a. Proposed demolition of an existing structure with a footprint of 250 square feet or greater;

b. Construction of retaining walls subject to the requirements of Section 22D;

c. Construction of any building or structure on a vacant lot; or

d. Construction of one or more structures or additions to structures on a lot, where the total area of the footprint of the new structures will result in an increase of 50% or more of the total footprint of the pre-existing structure(s).

2. Non-applicability: The requirements of Section 16E shall not apply to:

a. The subdivision of land under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land In Wellesley Massachusetts, wherein the Planning Board regulates the planting, retention and/or replacement of trees, by means of the Board's authority over the subdivision of land;

b. Construction subject to Large House Review, wherein the Planning Board regulates the planting, retention and/or replacement of trees located on private residential land;

c. Those areas of property under the jurisdiction of the Wetlands Protection Act (Chapter 131 and 310 CMR), wherein the Wetlands Protection Committee regulates the retention and/or replacement of trees located on private land. Protected trees located outside areas under the jurisdiction of the Wetlands Protection Committee shall be subject to Section 16E;

d. Town-owned public trees, including trees that are considered to be Public Shade Trees pursuant to M.G.L. Chapter 87, which are protected by the Natural Resources Commission acting as the Town's Tree Warden.

e. Emergency projects necessary for public safety, health and welfare as determined by the Inspector of Buildings;

f. Trees that are hazardous as determined and confirmed in writing by a Certified Arborist; and

g. Trees subject to an immediate and/or probable risk of disease or insect infestation, as determined and confirmed in writing by a Certified Arborist.

3. Existing Encroachments: For the purposes of interpreting, administering, and enforcing Section 16E and Section 17, an existing structure shall not be considered to be a nonconforming structure solely because the structure, or a portion of the structure, is located within the CRZ and/or Drip-Line of an existing Protected Tree. The reconstruction of demolished structures or portions of structures within the previously encroached area of the CRZ and/or Drip-Line shall be prohibited, except when consistent with the requirements of Section 16E.

E. Town of Wellesley Tree Bank

There is hereby established a Town of Wellesley Tree Bank ("Tree Bank") which shall be held by the Town Treasurer in an account administered by the Department of Public Works - Park & Tree Division in accordance with applicable provisions of the General Laws. Any contributions collected per Section 16E.F.2.b.ii. shall be deposited in said Tree Bank, and shall be used solely for the purpose of buying, planting and maintaining trees in the Town.

F. Protected Trees

1. Scope: Existing trees or trees that were removed within twelve (12) months prior to application for an applicable demolition or building permit with a DBH of 10" or greater and located within the minimum Tree Yard of a property zoned Single Residence District or General Residence District as identified in the following table, shall be considered to be Protected Trees.

   Existing trees or trees that were removed within twelve (12) months prior to application for an applicable demolition or building permit with a DBH of 10" or greater and located anywhere on property zoned other than Single Residence District or General Residence District, shall be considered to be Protected Trees.

   Demolition and/or construction activity (as identified under Section16E.D.1.) on a property on which a Protected Tree is located is prohibited unless authorized by the Inspector of Buildings as set forth in this subsection.

Location of Protected Trees on Property Zoned Single Residence District or General Residence District			
Zoning District	Minimum Tree Yard (feet)		
	Front	Side	Rear
SRD 10	20	10	10
SRD 15	20	20	20
SRD 20	20	20	20
SRD 30	40	30	30
SRD 40	40	40	40
General Residence District	20	10	10

2. Tree Protection & Mitigation:

   a. Protection: Each Protected Tree to be retained on property planned for demolition and/or construction activity shall be protected by the establishment of a Tree Save Area. The Tree Save Area shall be delineated within the submitted Tree Protection & Mitigation Plan, shall be installed prior to the issuance of applicable

permits, and shall remain in place until work is completed on the property. The applicant shall submit written documentation, prepared, stamped, dated and signed by a Certified Arborist, to the Building Department confirming that the required Tree Save Area identified in the Tree Protection & Mitigation Plan has been installed.

An applicant may choose to encroach within the CRZ and/or Drip-Line of a Protected Tree; however, such proposed action shall require the applicant to submit a maintenance plan for the tree, to be prepared, stamped, dated and signed by a Certified Arborist as part of the Tree Protection & Mitigation Plan. Under these instances, the Tree Save Area may be reduced to protect only those areas of the CRZ and/or Drip-Line not proposed for encroachment.

b. Mitigation: The removal of a Protected Tree from a property in connection with one or more of the circumstances set forth in Section 16E.D.1. shall require mitigation by satisfying one of the following provisions (i. *Replanting of Trees* or ii. *Contribution to the Town of Wellesley Tree Bank*). Mitigation measures shall be identified in the submitted Tree Protection and Mitigation Plan. The removal or proposed removal of a Protected Tree(s) that has been mitigated for, in conjunction with a previous applicable permit, shall not require additional mitigation under subsequent permits, unless such mitigation has not been completed or otherwise assured.

   i. *Replanting of Trees*: For each inch of DBH of the tree(s) removed no less than one-half (0.5) inch of caliper of new tree(s) shall be replanted in accordance with the following:

      1. Each new tree must have a minimum caliper of two (2) inches;

      2. Such replanting, either on the applicant's land or on land abutting the applicant's land with the express written approval of the owner of such abutting land, shall occur prior to Final Inspection, or be otherwise assured at such time to the satisfaction of the Town in a manner consistent with the Rules and Regulations;

      3. If the Protected Tree to be removed is an Overstory Tree species, the replacement tree(s) to mitigate the removal shall be an Overstory Tree species; and

      4. Invasive tree species, as determined by the Department of Public Works - Park & Tree Division, shall not be replanted to mitigate the removal of a Protected Tree.

   ii. *Contribution to the Town of Wellesley Tree Bank*: The Board of Selectmen shall establish a Tree Bank contribution schedule, such schedule to be based on the DBH of Protected Tree(s) to be removed. The schedule may take into account the aggregate DBH of Protected Trees to be removed. The applicant shall make such contribution to the Tree Bank for the removal of a Protected Tree not already mitigated for per Section16E.F.2.b.i.; contributions shall be

received by the Building Department prior to the issuance of all applicable permits.

3. Plan Review and Permit Issuance:

   a. Tree Protection & Mitigation Plan Submittal: Prior to the issuance of a permit in connection with one or more of the circumstances set forth in Section16E.D.1. on property on which a Protected Tree is located or was located within twelve (12) months prior to application, the owner of the property shall submit a Tree Protection & Mitigation Plan to the Building Department along with the applicable application.

      If a permit requiring the submittal of a Tree Protection & Mitigation Plan was issued for a property within twelve (12) months prior to application for one or more of the circumstances set forth in Section 16E.D.1., the submittal of a Tree Protection & Mitigation Plan shall not be required for subsequent permits unless any information required under Section16E.F.3.b. is changed or altered.

   b. Tree Protection & Mitigation Plan Requirements: The submitted Tree Protection & Mitigation Plan shall be a to-scale survey or site plan, along with any accompanying documentation, containing information prepared, stamped, dated and signed by an individual(s) appropriately licensed and authorized by the State of Massachusetts to attest to and certify such information, unless a specific certification is referenced herein. The plan shall include, but not be limited to, the following information:

      i. Boundaries of the subject property, including all property lines, easements, and right-of-ways of public and private ways;

      ii. The location of all existing buildings, driveways, retaining walls and other improvements, with an indication of those features to be retained or removed/demolished;

      iii. The location of all planned buildings, driveways, retaining walls and other improvements;

      iv. The location, height, DBH, and species of all existing Protected Trees and all Protected Trees that were removed within twelve (12) months prior to application for an applicable demolition or building permit, with an indication of those Protected Trees to be removed and those to be retained, if applicable;

      v. The CRZ, drip-line and location of the Tree Save Area shall be shown for all Protected Trees to be retained;

      vi. The location, caliper, species, and planting schedule of trees to be replanted to mitigate the removal of a Protected Tree(s), if applicable;

vii. A maintenance plan prepared, stamped, dated and signed by a Certified Arborist for all Protected Trees which are proposed to have encroachment within the CRZ and/or drip-line, if applicable;

viii. The amount to be contributed to the Tree Bank to mitigate the removal of a Protected Tree(s), if applicable; and

ix. Such other information as is required by the Inspector of Buildings pursuant to applicable regulations.

c. Tree Bank Contribution: In lieu of replanting, if applicable, the owner of the property shall submit any required contribution to the Tree Bank as mitigation for the removal of a protected tree.

d. Building Department Action: If the Tree Protection & Mitigation Plan is consistent with the protection and mitigation requirements contained herein and any established rules, regulations or manuals, and any applicable Tree Bank contribution has been submitted, the Building Department may issue any applicable permit. If the proposal does not meet or satisfy these requirements, the Building Department shall deny all applicable permit applications and so notify the applicant.

4. Maintenance of Protected and Replanted Trees:

a. Protected Trees: Each Protected Tree retained shall be maintained in good health for a period of no less than twenty-four (24) months from the date of Final Inspection, or issuance of a Certificate of Occupancy if applicable. Should such tree die within this twenty-four (24) month period, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree as contained herein within nine (9) months from the death of the original tree.

b. Replanted Trees: All new trees replanted to mitigate the removal of Protected Tree(s) shall be maintained in good health for a period of no less than twenty-four (24) months from the date of planting. Should such tree die within this twenty-four (24) month period, the owner of the property shall be responsible for replacing the tree with a tree equal to or greater than the size of the original replacement tree at the time of planting; such tree shall be planted within nine (9) months of the death of the original replacement tree.

G. Rules and Regulations

The Planning Board may promulgate or amend Rules and Regulations which pertain to the administration of Section 16E, and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and specifications, the procedure for the submission and approval of such plans, the procedure for determining final compliance with these regulations, and the criteria and procedure regarding the Planning Board's acceptance of sureties (i.e., bonds, letters of credit, etc.) intended to satisfy the requirements of Section 16E.F.2.b.i., so long

as the Rules and Regulations conform to Section 16E of the Zoning Bylaw. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

SECTION 16F. NATURAL RESOURCE PROTECTION (NRP) DEVELOPMENT

(Editor's Note: Section XVIF added 1/9/14 to reflect new provisions adopted under Article 28 at 2013 ATM)

A. Purpose

To allow innovative, context sensitive design of large subdivisions as a matter of right where such design shall achieve the following:

1. To allow for greater flexibility and creativity in the design of residential developments.

2. To minimize the destruction of, and to encourage the permanent preservation of open space, wildlife habitat, recreational uses and other resources including aquifers, water bodies and wetlands, groundwater, historical, cultural and scenic areas.

3. To promote a less sprawling, less intense and more sustainable and efficient form of development that consumes less open land and conforms to existing topography and natural features.

4. To minimize the total amount of disturbance, grade changes and run-off on or from the site.

5. To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.

B. Definitions

Primary Conservation Areas – Areas of a potential development site that are protected or where development is limited by federal, state or local law or private land use restrictions including, without limitation:

1. Easements (including, without limitation, easements or restrictions for conservation, preservations, agricultural use, aquifer protection or similar easements and restrictions) and similar covenants land use restrictions;

2. Wetlands, Isolated Wetlands, Bordering Vegetated Wetlands, and the 25-foot No-Disturbance Zone as defined in the Wellesley Wetlands Bylaw;

3. Vernal Pools as defined in the Wellesley Wetlands Bylaw;

4. 100 Year Flood Plain as defined by Section 14B;

5. Wildlife habitat;

6. Steep slopes having a grade over 10% or as defined by federal or state law or regulation, whichever is the lesser grade; and

7. Lakes, ponds, rivers, streams, and brooks;

Secondary Conservation Areas – Areas of a potential development site that contain valuable natural or cultural resources including, but are not limited to:

1. Specimen trees;

2. Stone walls;

3. Significant geological features, including, without limitation, eskers, exposed ledge and significant boulders;

4. Mature woodlands;

5. Scenic and wet meadows;

6. Historical or archaeological sites; and

7. Portions of a site within a Scenic Road or Scenic Road Layout.

Yield Plan – A conceptual subdivision plan containing all of the elements required by the Subdivision Rules and Regulations that depicts the number of single family house lots that could reasonably be developed according to local, state and federal law.

C. Applicability

1. NRP Development is required as a matter of right for any property that would yield 5 or more residential lots. To determine yield, the Planning Board shall consider the following:

   a. The following formula shall be used for yield determination related to NRP Development:

      Where A = Total Property Area

      PCA = Area of primary conservation areas

      10% = Assumed infrastructure area such as roads, etc. In the formula below, this is expressed as the inverse (i.e., multiplying by 90%)

      L = Minimum Lot Size per Section 18, without regard to Section 16F.F. of this Section.

      Y = Assumed number of residential units

$$\frac{(A-PCA) * 0.9}{L} = Y$$

   b. Separate contiguous properties under common ownership, or contiguous properties that will otherwise be connected through future development activity, shall be considered in the aggregate when determining applicability through the

yield calculation. The intent and requirements of this Section shall not be avoided by segmentation or any incremental approach to development.

c. Where a property owner believes that the property is encumbered by physical, legal or other unforeseen constraints that would reduce the property yield to below 5 lots, the property owner may develop a Yield Plan to demonstrate that the actual expected yield is below 5 lots and therefore NRP Development is not required. The Yield Plan shall contain the information required in the *Rules and Regulations Governing the Subdivision of Land* and shall be submitted to the Planning Board. The Planning Board's determination as to the accuracy of the Yield Plan shall be made at a regularly scheduled Planning Board meeting within 45 days of the submittal of an adequate Yield Plan. The determination of the Planning Board shall be used only to establish whether or not NRP Development is required and shall not be interpreted as approval of a subdivision or the vesting of any development yield on the property.

2. This Section does not apply to the construction of homes or businesses on individual lots that existed prior to the effective date of this Section of the bylaw.

3. A Special Permit application to the Planning Board is required for any subdivision that does not conform to the development requirements herein. In order to approve such Special Permit, the Planning Board must find that the proposed alternative plan advances the purposes of the NRP Development bylaw as well as or better than a plan that conforms to this Section. If the Planning Board determines that the land with the greatest natural resource value (as identified in the required materials) cannot be protected except by the use of a NRP Development plan, the Planning Board shall deny the Special Permit for the deviation and require the applicant to submit a plan that complies with the requirements of the NRP Development process. The Planning Board may impose conditions on the grant of any such Special Permit.

D. Design Standards

The following Design Standards shall apply to all plans for NRP Development and shall govern the development and design process:

1. Overall site design and development shall be performed in a manner that protects the conservation areas identified pursuant to the procedures established in the *Rules and Regulations Governing the Subdivision of Land*. Techniques to ensure adequate protection shall include, but shall not be limited to:

   a. Avoidance and protection of Primary and Secondary Conservation Areas that are to be preserved both during and after construction.

   b. Installation of natural boundaries or demarcation markers to ensure the protection of sensitive resources. Markers such as boulders, wooden fencing, and similar features may be used for this purpose.

   c. Proper selection, installation, and maintenance of erosion and sediment control practices during construction activities.

d. Fencing used to protect trees during construction activities installed minimally to the drip line of the tree(s).

e. The recording of any easements or covenants required for the long term maintenance of any access ways or open space as described in Section 16F.G.

f. To keep storm water run-off from any parcel on such parcel to the fullest extent reasonably practical, employing low impact development techniques when practicable.

2. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill, to handle storm water run-off (if any) through low impact design techniques, and to preserve and enhance views and vistas on or off the subject parcel.

3. Dwellings shall be oriented and placed on lots in such a manner so as to promote visual interest, while preserving the neighborhood streetscape, if applicable.

4. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover.

5. All open space shall be set aside and/or designed to add to the visual amenities of the area through the siting of houses, the creation of "no-cut" buffers, low impact trail design, or other similar methods.

6. Open space parcels with public access shall have physical and legal access from a street of not less than 20 feet in width. Such access shall be demarcated by stone bounds to distinguish between the edge of the public access and amenities from private property.

7. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

8. Exterior lighting shall be only as needed to accomplish safety and design objectives and shall be arranged so as to minimize the impact on neighboring properties.

9. Shared driveways may be constructed to access a maximum of three (3) residences and shall comply with the following standards:

   a. Shared driveways shall have a minimum surface width of sixteen (16**)** feet along that portion that is shared by more than one residence.

   b. No shared driveway shall be connected or attached to any other driveway, nor shall any common driveway be extended without prior approval of the Planning Board.

c. Shared driveways shall be located within an easement which may allow space for installation of water lines and utilities as needed.

d. Shared driveways shall not exceed three hundred (300) feet in length, measured from the street line to the end of the shared portion of the driveway.

e. To provide better traffic safety and reduce the visual impacts of traffic on abutting properties, the Planning Board may require shared driveways to be set back from lot lines and/or screened with a buffer of trees and/or shrubs.

f. Sight distances at the entrance of a shared driveway along the intersecting road shall be at least one hundred (100) feet along the intersected roadway or as far as the next intersection, whichever distance is shorter.

E. Design Process

At the time of the application for NRP Development, applicants shall demonstrate to the Planning Board that the following design process was performed, in the order so prescribed, by a Multidisciplinary team of qualified professionals to determine the layout of proposed streets, house lots, including designation of all common areas and open space.

1. Identifying Conservation Resources. Identify Primary and Secondary Conservation Areas. The Potentially Developable Area of the site shall consist of land outside identified Primary Conservation Areas to the extent required by this Section, and outside the Secondary Conservation Areas to the fullest extent practicable.

2. Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community within the subdivision.

3. Locating Streets and Trails. Layout streets in order to access the house lots. Trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

4. Lot Lines. Draw in the lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

F. Allowable Design Flexibility

Dimensional Requirements. To facilitate the design process provided in Section 16F.E. above, the following housing and dimensional standards shall apply to NRP Development.

1. Housing Types. Only detached single family homes are allowed in NRP Development.

2. Lot Dimension. To facilitate the design process provided in Section 16F.E. above, the following housing and dimensional standards shall apply to NRP Development.

Table 1.

	SINGLE RESIDENCE DISTRICT				
Area Regulation District	**10,000 s.f.**	**15,000 s.f.**	**20,000 s.f**	**30,000 s.f.**	**40,000 s.f.**
Minimum Lot Size	7,500 s.f.	7,500 s.f.	10,000 s.f.	15,000 s.f.	20,000 s.f.
Minimum Frontage	50 ft.	50 ft.	75 ft.	100 ft.	100 ft.
Minimum Front Yard Width	50 ft.	50 ft.	75 ft.	100 ft.	100 ft.
Minimum Front Yard Depth (Setback)	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Minimum Side Yard Width	15 ft.	15 ft.	20 ft.	20 ft.	25 ft.
Minimum Rear Yard Depth	15 ft.	15 ft.	20 ft.	25 ft.	30 ft.

3. Frontage and Setbacks. Lots having reduced area shall not have frontage on a street other than a street within the NRP Development.

4. Accessory Structures. Detached accessory structures over 100 square feet shall have a minimum side yard and rear yard setback of fifteen (15) feet.

G. Open Space

1. Minimum Open Space Requirement. A minimum of fifty percent (50%) of the site shall be protected open space. The percentage of this open space that may include wetland shall not exceed the percentage of wetland of the entire site under existing conditions.

2. Contiguous Open Space. Preserved open space shall be contiguous to the greatest extent practicable. Where noncontiguous pockets of open space are preferable to protect conservation areas, applicants shall attempt to connect these resources area to the greatest extent practicable through the use of trails and/or vegetated corridors. Open space will still be considered contiguous if it is separated by a shared driveway, roadway, or an accessory amenity (such as a barn, paved pathway or trail, or shed for the storage of recreational equipment).

3. Restrictions on Open Space. Any land required to be set aside as open space shall be permanently protected pursuant to Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts or a perpetual restriction under M.G.L. Chapter 184 Section 31-33. Unless conveyed to the Natural Resources Commission, the required open space shall be subject to a permanent Conservation, Watershed, or Agricultural Preservation Restriction conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of

Conservation Services, or Department of Agricultural Resources in accordance with M.G.L. Chapter. 184 Section 31-33, approved by the Planning Board and the Board of Selectmen and held by the Town of Wellesley, the Commonwealth of Massachusetts, or a non-profit conservation organization qualified to hold conservation restrictions under M.G.L. Chapter 184, Section 31-33.

The restriction shall specify the prohibited and permitted uses of the restricted land, which would otherwise constitute impermissible development or use of the open space, consistent with the Allowable Use of the Open Space Subsection of this bylaw and any permits. The restriction may permit, but the Planning Board may not require, public access or access by residents of the development to the protected land.

4. Allowable Use of the Open Space. Open space used to satisfy the minimum open space requirement shall be perpetually kept in an open state, preserved exclusively for the purposes set forth herein and in the deed and/or in the restriction, and maintained in a manner which will ensure its suitability for its intended purposes. Proposed use(s) of the open space consistent with this Section shall be specified in the application. At the applicant's discretion, conservation restrictions may be placed on open space beyond the minimum amount required by this bylaw.

    a. The open space may be used for wildlife habitat, conservation, historic or cultural resource preservation, outdoor education, active or passive recreation, community gardens, or a combination of these uses, and shall be served by suitable access for such purposes.

    b. Open space may include paved and/or developed areas to be paved or built upon (preferably, and to the fullest extent possible, using permeable pavement and other means of retaining natural hydrology) for structures accessory to the dedicated use or uses of such open space (e.g., parking to facilitate public access for passive recreation, informational kiosks, pedestrian walks, ADA access features, and bike paths) so long as the conservation values of the open space are not compromised.

    c. Open space may include vegetated storm water management practices including swales, rain gardens, bio-retention facilities and constructed wetlands.

5. Ownership of the Open Space. At the Planning Board's determination, the open space may be owned by:

    a. A private owner for agricultural, horticultural, forestry or any other purpose not inconsistent with the conservation restriction;

    b. A non-profit organization or agency of the Commonwealth, with their consent, whose principal purpose is the conservation of open space for any of the purposes set forth herein;

    c. The Natural Resources Commission; or

d. A homeowners association (HOA) as defined herein owned jointly or in common by the owners of lots or units within the project. If a HOA is selected as the means of ownership, the following shall apply:

i. The documents organizing the HOA shall be drafted and approved by the Planning Board before final approval of the NRP Development, recorded prior to the issuance of building permits, comply with all applicable provisions of state law, and pass with conveyance of the lots or units in perpetuity. Each individual deed, and the deed, trust, or articles of incorporation, shall include language designed to effect these provisions.

ii. Membership must be mandatory for each property owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.

iii. The HOA must be responsible in perpetuity for liability insurance, property taxes, the maintenance of recreational and other facilities, private roads, and any shared driveways.

iv. The assessment levied by the HOA must be able to become a lien upon individual properties within the development.

v. The HOA must be able to adjust the assessment to meet changed needs.

vi. The applicant shall make a conditional grant to the Town, binding upon the HOA, of the fee interest to all open space to be conveyed to the HOA. Such offer may be accepted by the Town at the discretion of the Board of Selectmen, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

vii. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual property owners in the HOA and the dwelling units they each own.

viii. The Town of Wellesley legal counsel must find that the HOA documents presented satisfy the conditions above, and such other conditions as the Planning Board shall deem necessary.

e. Selection of an ownership option other than the Natural Resources Commission shall require the following:

i. The conveyance of a conservation restriction as outlined herein; and

ii. The granting of an access easement over such land sufficient to ensure its perpetual maintenance as specified in the conservation easement. Such

easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town of Wellesley may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. Pursuant to G.L. Chapter 40 Section 58, the Town may file a lien against the lot or lots to ensure payment for such maintenance. Pursuant to G.L. Chapter 40 Section 57, the Town may also deny any application for, or revoke or suspend a building permit or any local license or permit, due to neglect or refusal by any property owner to pay any maintenance assessments levied.

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SECTION 16G. OUTDOOR LIGHTING

A. Title

The Section shall hereafter be known and cited as the "Town of Wellesley Outdoor Lighting Bylaw" or "Outdoor Lighting Bylaw."

B. Purpose and Intent

The purpose of this Section is to enhance public safety by providing for adequate and appropriate outdoor lighting, protect community character, promote energy conservation, protect against light trespass and glare, protect the privacy of residents, and minimize sky glow.

C. Definitions

Cutoff Angle - The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted. (*See Figure 1 for examples of Cutoff Angle)*

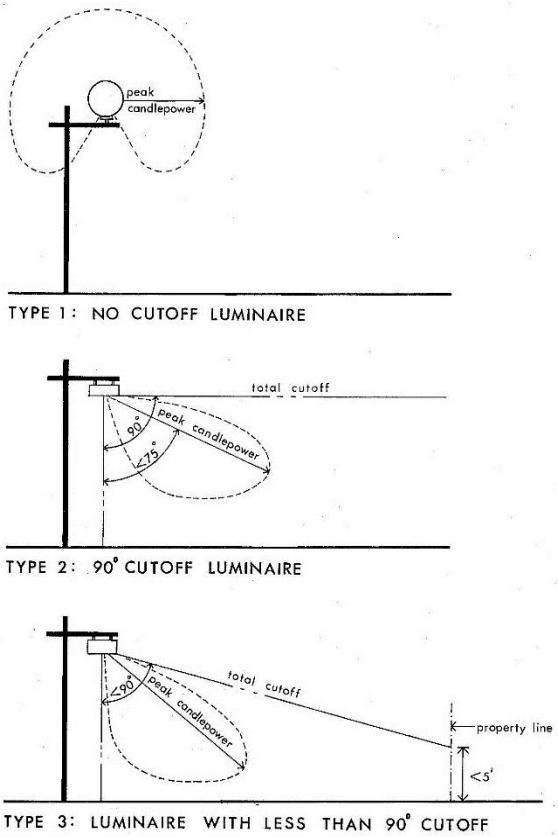

Figure 1 - Examples of Cutoff Angle

Direct Light - Light emitted from the lamp, off the reflector or reflector diffuser or through the refractor or diffuser lens, of a luminaire.

Fixture - The assembly that houses a lamp or lamps and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

Foot-candle - A unit that measures light illumination on a surface or area that is one foot from a uniform point source.

Fully Shielded Luminaire - A lamp and fixture assembly designed with a cutoff angle of 90 degrees or less so that no direct light is emitted above a horizontal plane. *(See Figure 2 for examples for Fully Shielded Luminaires that would be acceptable and permitted under this Section, or would be unacceptable/discouraged and therefore prohibited under this Section)*

Glare - Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

Height of Luminaire - The vertical distance from the finished grade of the ground directly below to the lowest direct-light-emitting part of the luminaire.

Illuminance - The luminous flux per unit area at any point on a surface exposed to incident light. Measured in foot-candles or lux.

Lamp - The component of a luminaire that produces the actual light.

Light Trespass - The shining or spillage of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which the luminaire it is located, or beyond the boundaries of multiple lots or parcels under common ownership.

Lumen - A unit that measures light energy generated by a light source. For the purposes of this Section, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

Luminance - The intensity of light emitted from a surface per unit area in a given direction; measured in candela per meter squared (cd/m^2).

Luminaire - A complete lighting system, including a lamp or lamps and a fixture.

Lux - A unit that measures light illumination on a surface or area that is one meter from a uniform point source. On a photometric plan, the lux measurement is often converted from meters to feet and referred to in terms of foot-candles.

Sky Glow - The diffuse luminance of the night sky derived from artificial lighting, apart from discrete natural light sources such as the Moon and stars. It is the most commonly noticed aspect of light pollution.

D. Applicability

The provisions of this Section shall apply to the following project types which include the proposed installation of one or more outdoor luminaires for exterior lighting:

1. Major Construction Projects and Minor Construction Projects, as defined by Section 16A; and

2. Externally illuminated signs requiring Design Review and/or a Special Permit, as required and defined by Section 22A.

Where these regulations are more specific and/or more restrictive with respect to lighting associated with an applicable project type for which other standards may exist within the Zoning Bylaw, the regulations contained in this Section shall take precedence.

The provisions of this Section shall not apply to one-family or two family dwellings, or structures and uses accessory to such dwellings.

The provisions of this Section shall not apply to the ordinary maintenance, repair, and/or replacement of luminaires not approved as part of and/or associated with one or more of the aforementioned project types; furthermore, the provisions of this Section shall not apply to the installation of new luminaires on properties not subject to one or more of the aforementioned project types following the effective date of this Section.

E. Administration

For the project types subject to the provisions of this Section, the following information shall be submitted, except to the extent as such information may be waived by the Design Review Board or Zoning Board of Appeals, as applicable:

1. Information identifying the location, orientation, height, and type of outdoor luminaires to be installed;

2. The luminaire manufacturer's specification data, including, at a minimum, lamp type (light emitting diode, metal halide, compact fluorescent, high pressure sodium), lumen output, correlated color temperature ("CCT"), and photometric data showing light distribution and polar plots;

3. A photometric plan showing the intensity of illumination expressed in foot-candles and/or lux at ground level within the interior of the property and at the property boundaries, except that such plans shall not be required for externally illuminated signs; and

4. Sufficient evidence to confirm that all proposed outdoor luminaires and lighting conditions comply with Section 16G.F.

F. General Regulations

All exterior luminaires and/or the outdoor lighting conditions associated with the project types subject to the provisions of this Section, shall comply with the following regulations, unless otherwise specified:

1. All luminaires shall be fully shielded. *(See Figure 2 for examples for Fully Shielded Luminaires that would be Acceptable and permitted under this Section, or would be unacceptable and therefore prohibited under this Section)*

2. For residential uses, the correlated color temperature ("CCT") of any lamp shall not exceed 2,700K; for all other uses, the CCT of any lamp shall not exceed 3,000K.

3. Building-Mounted Fixtures: Luminaires attached to the exterior of a building or structure, including those to light signs, shall be mounted no higher than fifteen (15) feet above grade.

4. Ground-Mounted Fixtures: Luminaires mounted on the ground, including on poles or attached to Ground Signs, shall have a height no greater than twenty (20) feet.

5. Illuminance Levels and Light Trespass Limitations: Exterior lighting shall not exceed the illuminance levels (measured horizontally on the ground) or exceed the light trespass limits specified below in Table 16G.1; Table 16G.1 shall not apply to externally illuminated signs; however, luminaires associated with such signs shall not have lamps which produce more than 60 watts and/or 800-900 lumens.

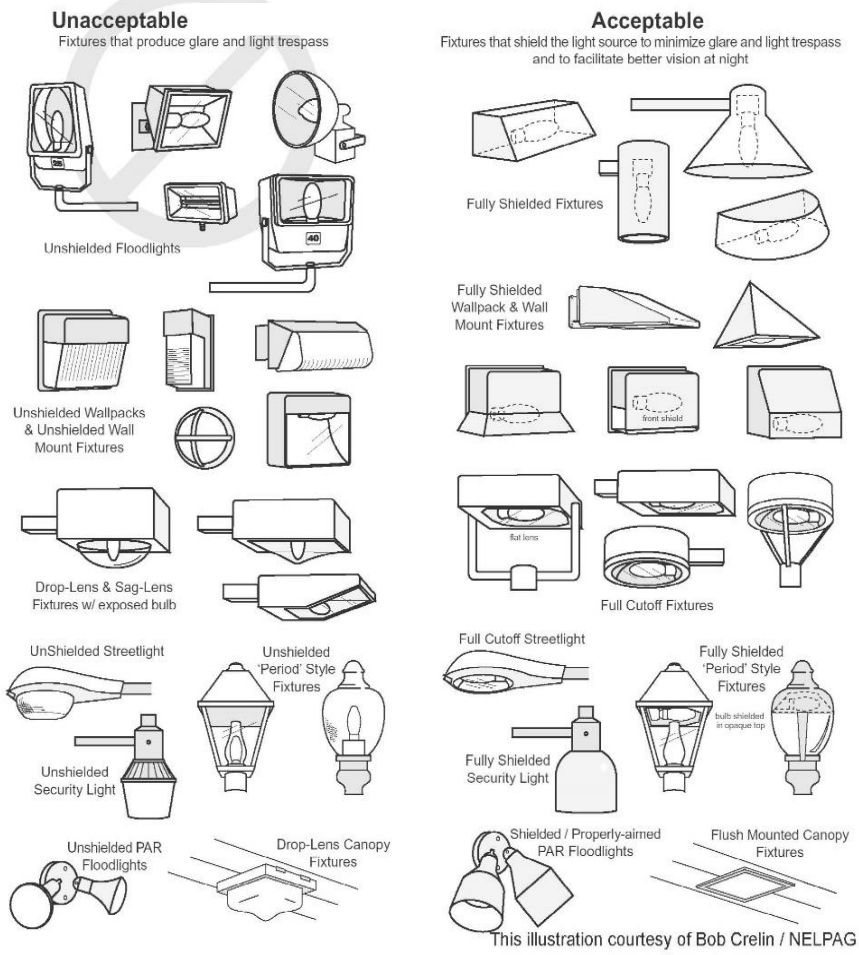

Figure 2 - Examples of Non-Shielded (unacceptable) and Fully Shielded (acceptable) Luminaires

TABLE 16G.1, LIGHTING LEVELS AND LIGHT TRESPASS LIMITATIONS		
Use	**Maximum Illuminance (foot-candles/lux)**	**Maximum Light Trespass* (foot-candles/lux)**
Residential Uses	5/50	0.5/5
Outdoor Recreation and Sports Facilities**	75/800	1.0/10
All Other Uses	10/100	

*The maximum foot-candles/lux allowable at all property lines, including property lines along a public or private street or way, except property lines between lots under common ownership.

**To include fields and venues for sporting events, games, and matches, such as tennis courts, and fields for baseball and soccer; not applicable to passive recreation areas, such as walking paths, or natural areas that may be used for recreation, such as skating ponds.

G. Exempt and Prohibited

1. Exempt: The following luminaires or lighting conditions shall be exempt from regulation under this Section:

   a. Luminaires associated with emergency call boxes;

   b. Luminaires located greater than 1,000 feet from a property line not in common ownership; and

   c. Seasonal lighting of a temporary nature.

2. Prohibited: Unless exempt above, the following luminaires or lighting conditions shall be prohibited in conjunction with the project types identified in subsection D. of this Section:

   a. Luminaires mounted to or otherwise attached to any trees or similar vegetation; and

   b. Searchlights for commercial purposes.

H. Special Permits

1. Special Permits, Generally: In the case of such projects which incorporate one more

outdoor luminaires not meeting the requirements of Section 16G.F. or not otherwise exempt, the Zoning Board of Appeals may grant a Special Permit, per Section 25.

2. Standards: In addition to those standards specified in Section 25, in considering the issuance of a Special Permit from the requirements of this Section, the applicable Special Permit Granting Authority shall make a finding that one or more of the following conditions are met:

    a. The proposed lighting is necessary to enhance public safety;

    b. The proposed lighting enhances, or does not negatively impact, community ambiance and character;

    c. The proposed lighting does not produce unacceptable light trespass, glare, sky glow, or compromise the privacy of abutting property owners; or

    d. The proposed lighting is necessary for recreational or athletic activities conducted on land used for municipal or educational uses.

SECTION 17. PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS

The rights concerning pre-existing non-conforming uses, structures and lots shall be as set forth in Section 6 of Chapter 40A M.G.L. (The Zoning Act) and as otherwise defined in this Section 17.

A. Discontinued Uses

Except for the repair and reconstruction rights of an owner under Section 17.C. below, non-conforming uses and/or structures abandoned or not used for a period of more than two (2) years shall be subject to all provisions of this Zoning Bylaw.

B. Changes to Non-Conforming Structures

1. One and Two-Family Dwellings.

   Application for changes to non-conforming One and Two-Family Dwellings, except changes which themselves comply with this Zoning Bylaw, shall require the Zoning Board of Appeals to identify the particular respect or respects in which the existing structure does not conform to the requirements of the present Zoning Bylaws and then determine whether the proposed alteration or addition would intensify the existing non-conformities or result in additional ones.

   Should the Zoning Board of Appeals conclude that there will be no intensification or addition, the applicant will be entitled to the issuance of a permit.

   If the conclusion is otherwise, the applicant will be required to show that the change will not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood.

   Should the Zoning Board of Appeals find that such change will not be substantially more detrimental than the existing non-conforming structure or use to the neighborhood, the applicant will be entitled to the issuance of a permit.

2. Other than One and Two-Family Dwellings.

   Application for changes to non-conforming structures other than One and Two-Family Dwellings shall be governed by Section 6 of Chapter 40A M.G.L. (The Zoning Act).

Findings referred to in this Section 17 shall be made by the Zoning Board of Appeals acting as Special Permit Granting Authority under the provisions of Section 25.

C. Disaster Rebuild

Pre-existing non-conforming buildings, damaged or destroyed by accidental cause, including fire, or otherwise damaged or destroyed without the consent of the owner, may be repaired or reconstructed, provided that:

1. the non-conforming nature of the repaired or reconstructed building is not increased in any respect;

2. the repaired or reconstructed building shall be used in the same manner as the building being replaced or otherwise used in compliance with the use limitations of the applicable zoning district; and

3. a building permit for the repair or reconstruction shall be issued within two years from the date of the damage or destruction; time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two year limit; the Zoning Board of Appeals may extend the two year period for good cause.

D. Conformance with Subsequent Amendments

Construction or uses under a building or special permit shall conform to any subsequent amendment of this Zoning Bylaw unless the construction or use is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

Except as herein above provided, a pre-existing non-conforming structure shall not be altered, extended, repaired or reconstructed except in conformity with all provisions of the Zoning Bylaws in effect at the time of such alteration, extension, repair or reconstruction.

SECTION 18. AREA REGULATIONS

(Editor's Note: Section XVIII updated 1/9/14 to reflect amendments adopted under Article 28 and Article 30 at 2013 ATM)

For the purposes of this Section, the Town of Wellesley is hereby divided into classes of area regulation districts as shown on the "Zoning Map of the Town of Wellesley, Massachusetts", prepared under the direction of the Planning Board, Scale 1" = 500', dated December 20, 2002, as amended, on file with the Town Clerk, which map together with all the boundary lines and designations thereon relating to such area regulations is hereby incorporated as part of this Section.

The classes of area regulation districts are respectively as indicated on said map:

1. Ten Thousand Foot Districts;
2. Fifteen Thousand Foot Districts;
3. Twenty Thousand Foot Districts;
4. Thirty Thousand Foot Districts;
5. Forty Thousand Foot Districts.

A. Dwelling and Club House Lots.

In Single Residence Districts, Single Residence Districts A, General Residence Districts, General Residence Districts A, Limited Residence Districts, Educational Districts, Educational Districts A, Educational Districts B, Administrative and Professional Districts and Limited Business Districts, there shall be provided for each dwelling or club house, hereafter constructed, a lot containing not less than 10,000 square feet, 15,000 square feet, 20,000 square feet, 30,000 square feet, or 40,000 square feet according to the area requirement of the area regulation district in which such dwelling or club house is situated, and hereafter, no dwelling or club house shall be erected or placed on a lot containing less than such minimum area. In Business or Industrial Districts or in Business Districts A or Industrial Districts A, there shall be provided for each dwelling (including apartment houses and apartment hotels) or club house hereafter constructed or placed, a lot containing not less than 10,000 square feet.

Nothing contained in this Section shall prevent the construction or placing of any such building on any lot (1) in any of said Ten Thousand Foot, Fifteen Thousand Foot and Twenty Thousand Foot Districts containing a smaller area, if such lot on the effective date of the applicable provisions of this Zoning Bylaw originally establishing such districts did not adjoin other land of the same owner available for use in connection with said lot, (2) in any said Thirty Thousand Foot and Forty Thousand Foot Districts containing a smaller area, if such lot on May 1, 1953 did not adjoin other land of the same owner available for use in connection with said lot, or (3) in any Business or Industrial Districts or in Business Districts A or Industrial Districts A containing less than 10,000 square feet, if such lot on May 1, 1941 did not adjoin other land of the same owner available for use in connection with said lot.

This Section shall not apply to the lots shown on the subdivision plans approved by the Planning Board pursuant to the General Laws, Chapter 41, as amended, prior to May 1, 1953.

No lot on which a dwelling or club house is situated, whether heretofore or hereafter placed, shall be reduced in area, if such lot is smaller than is hereby prescribed, or if by such reduction it would be made smaller than is hereby prescribed, except in either case by taking by eminent domain or by a conveyance for a public purpose.

B. Ratio of Building to Lot Area.

In Single Residence and General Residence Districts, Single Residence Districts A, and General Residence Districts A, no building or addition to any building shall hereafter be placed on any lot of land which will result in the covering by buildings of more than the following specified maximum percentages of the area of such lot or maximum building coverage expressed in square feet:

For lots containing less than 10,000 square feet - 25 percent;

For lots containing at least 10,000 square feet but less than 20,000 square feet – the greater of 20 percent or 2,500 square feet;

For lots containing at least 20,000 square feet but less than 40,000 square feet – the greater of 18 percent or 4,000 square feet – but not more than 6,000 square feet; and

For lots containing at least 40,000 square feet - 15 percent;

In Educational Districts B, Limited Residence Districts, Limited Business Districts and Administrative and Professional Districts no building or addition to any building shall be placed on any lot of land which will result in the covering by buildings of more than (20%) of the area of such lot, provided, however, that if the only buildings at any time on a lot in any such district are those permitted by Section 6.1., Section 8A.1., Section 9.1., or Section10.1., then the limitations aforesaid shall be (25%) in lieu of (20%). In Educational, Business or Industrial Districts or in Educational Districts A, Educational Districts B, Business Districts A, or Industrial Districts A, no dwelling (including apartment houses and apartment hotels) or club house shall hereafter be erected or placed on any lot of land which will result in the covering by buildings of more than (25%) of the area of such lot.

C. Ratio of Families to Lot Area.

1. In General Residence Districts and General Residence Districts A there shall be provided for each dwelling hereafter constructed or placed therein a lot containing not less than 5,000 square feet for each family for whose habitation such building is designed or adapted or the minimum area required for lots in the area regulation district in which the building is located, whichever is greater.

   Except that town houses may be constructed at a ratio in accordance with and subject to the provisions of Section 4.A.3.

2. In Educational, Business and Industrial Districts and in Educational Districts A, Educational Districts B, Lower Falls Village Commercial Districts, Wellesley Square Commercial District, Business Districts A and Industrial Districts A there shall be provided for each apartment house, apartment hotel, hotel, inn or town house, hereafter constructed or placed therein a lot containing not less than 2,500 square feet for each family for whose habitation such building is designed or adapted or the minimum area required for lots in the area regulation district in which the building is located, whichever is greater.

3. In the Wellesley Square Commercial District, the 2,500 square foot minimum lot area requirement per family for whose habitation such building is designed, set forth in Section 18.C.2 above, may be reduced to no less than 1,800 square feet for each family for whose habitation such building is designed or adapted subject to the terms of a special permit granted by the Planning Board, acting as the Special Permit Granting Authority, in accordance with the following performance standards:

    a. A report shall have been received from the Design Review Board finding the proposed project is consistent with the design criteria listed in Section 22 and that the project is an improvement of building facades to enhance the pedestrian experience and contribute toward the history and vitality of Wellesley Square; and

    b. All whole Assisted Units required to comply with Section 16B (excepting any fractional Assisted Unit) are to be constructed on the Development Area; and

    c. There shall be provided for each project a minimum open space, as defined under Section 1B, equal to at least twenty percent (20%) of the Development Area; and

    d. There shall be provided for each unit parking for two vehicles.

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SECTION 19. YARD REGULATIONS

A. Definitions

Front Yard - An area, on the same lot with the building, measured from the street line to the building extending across the entire front of the lot, and unoccupied above ground level except by uncovered steps, eaves projecting not more than 2 feet from the wall of the building, bay windows that do not have a foundation and do not extend more than two feet from the wall of the building and a covered or uncovered, enclosed or unenclosed, entrance porch on the first floor which neither exceeds a total area of 50 square feet nor projects more than five feet from the face of the building nor extends nearer than 25 feet to the street line.

Side Yard - An area, on the same lot with the building, measured from the side line of the lot to the building, extending from the front yard to the rear yard, and unoccupied above ground level except by covered basement entrances not over four feet in height and not over 35 square feet in area, bay windows that do not have a foundation and do not extend more than two feet from the wall of the building, uncovered steps, eaves projecting not more than 2 feet from the wall of the building, attached chimneys projecting not more than 2 feet from the wall of the building and unenclosed, covered or uncovered stair landings not over 25 square feet in area.

Rear Yard - An area, on the same lot with the building, measured from the rear line of the lot to the building, extending the full width of the lot, and unoccupied above ground level except by covered basement entrances not over four feet in height and not over 35 square feet in area, bay windows that do not have a foundation and do not extend more than two feet from the wall of the building, uncovered steps, eaves projecting not more than 2 feet from the wall of the building, covered or uncovered, enclosed or unenclosed, entrance porches on the first floor which do not exceed a total area of 50 square feet, attached chimneys projecting not more than 2 feet from the wall of the building and stair landings not over 25 square feet in area.

Frontage - A lot boundary line which abuts a public way; or

a way which the Town Clerk certifies is maintained and used as a public way; or

a way shown on a plan approved and endorsed in accordance with the Subdivision Control Law; or

a way in existence when the Subdivision Control Law became effective in the Town of Wellesley having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby, and for the installation of municipal services to serve the land and the buildings erected or to be erected thereon;

Certification of the adequacy of a way by the Planning Board shall be required prior to the issuance of a building permit for:

Construction of a new one or two-family dwelling;

Reconstruction of a one or two-family dwelling in conjunction with removal of 50% or more of the existing building coverage (footprint); or

Addition to a one or two-family dwelling where total building coverage (footprint) would be increased by 50% or more.

and across which line there is legal access.

Build Factor - A ratio of lot perimeter to lot area which limits the degree to which a lot may have an irregular shape according to the following formula:

$$\frac{\text{Lot Perimeter Squared}}{\text{Actual Lot Area}} \Big/ \frac{\text{Actual Lot Area}}{\text{Required Lot Area}}$$

B. Requirements

There shall be provided for every building or structure hereafter erected or placed upon a lot at least the minimum frontage, minimum front yard width, minimum front yard depth (setback), minimum side yard width and minimum rear yard depth requirements hereinafter set forth; and there shall be not more than one dwelling erected on any lot. Such minimum front yard width shall be provided for the entire depth of the front yard.

Provided, however, in the 10,000 and 15,000 square foot Area Regulation Districts, when a rear yard of a lot abuts the side yard of the next lot the minimum rear yard depth shall be not less than the minimum side yard depth.

Heating, ventilation, air conditioning, swimming pool, electric generating, or other noise emitting equipment shall not be located in required setback areas. Plans and installation of sound reduction and/or visual screening may be required if, in the opinion of the Inspector of Buildings abutters may be affected.

Where the entrance of an attached or detached garage, built in conjunction with a one-family dwelling faces a property boundary line other than the street line there shall be a minimum distance of 30 feet from the garage entrance to that line. The intent of this requirement is to ensure adequate area for vehicles entering and exiting the garage.

Table 1 is applicable to lots recorded or endorsed on or before January 24, 1985 and to lots in the 10,000 square foot Area Regulation District recorded or endorsed after January 24, 1985 and prior to January 19, 1989.

Table 2 is applicable to lots recorded or endorsed after January 24, 1985 and to lots in the 10,000 square foot Area Regulation District, recorded or endorsed on or after January 19, 1989 and prior to April 9, 1997.

Table 3 is applicable to lots recorded or endorsed on or after April 8, 1997.

Lots recorded or endorsed after January 24, 1985 also shall be subject to a maximum Build Factor of 20.

TABLE 1

District	10,000 sq. ft.	15,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum Frontage	60 ft.	60 ft.	60 ft.	60 ft.	60 ft.
Minimum Front Yard Width	60 ft.	60 ft.	60 ft.	60. ft.	60 ft.
Minimum Front Yard Depth (Setback)	30 ft.*	30 ft.*	30 ft.*	30 ft.*	30 ft.*
Minimum Side Yard Width	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Minimum Rear Yard Depth	10 ft.	15 ft.	20 ft.	20 ft.	20 ft.

Provided however, that a lot having its only frontage on a curved street line having a sideline radius of less than 100 feet may have a reduced frontage upon the granting of a special permit in accordance with Section 25, and provided that:

a. The minimum frontage shall be 50 ft.;

b. The minimum front yard width is maintained at the street setback line (house line), and

c. All other dimensional zoning requirements are satisfied.

TABLE 2

Area Regulation District	10,000 sq. ft.	15,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum Frontage	75 ft.	80 ft.	100 ft.	120 ft.	140 ft.
Minimum Front Yard Width	75 ft.	80 ft.	100 ft.	120 ft.	140 ft.
Minimum Front Yard Depth (Street Setback)	30 ft.*	30 ft.*	30 ft.*	40 ft.*	40 ft.*
Minimum Side Yard Width (Side Line Setback)	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Minimum Rear Yard Depth (Rear Line Setback)	10 ft.	15 ft.	20 ft.	20 ft.	20 ft.

TABLE 3

Area Regulation District	10,000 sq. ft.	15,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum Frontage	90 ft.	100 ft.	110 ft.	175 ft.	200 ft.
Minimum Front Yard Width	90 ft.	100 ft.	110 ft.	175 ft.	200 ft.
Minimum Front Yard Depth (Street Setback)	30 ft.*	30 ft.*	35 ft.*	40 ft.*	40 ft.*
Minimum Side Yard Width (Side Line Setback)	20 ft.	20 ft.	20 ft.	30 ft.	40 ft.
Minimum Rear Yard Depth (Rear Line Setback)	18 ft.	20 ft.	20 ft.	30 ft.	40 ft.

Provided however, that a lot having its only frontage on the curved sideline of a cul-de-sac bulb having a sideline radius of less than 100 feet may have a reduced frontage provided that:

a. The minimum frontage shall be 50 feet;

b. The minimum front yard width is maintained at the street setback line (house line);

c. The maximum number of lots with frontage exclusively on the bulb of any cul-de-sac shall be three;

d. All other dimensional zoning requirements are satisfied.

*Where, on a frontage of 500 feet including the lot to be affected, or on a frontage between two intersecting or entering streets if such frontage is less than 500 feet, all existing buildings (if they are not less than three in number) have front yards of a depth greater than 30 feet, the minimum depth thereof shall be the depth required.

This Section shall not apply to lots in districts zoned as Lower Falls Village Commercial, Wellesley Square Commercial District, Business, Business A, Industrial, or Industrial A, except for the requirements for front yards. In the Lower Falls Village Commercial District and Wellesley Square Commercial District there shall be a minimum front yard depth of 5 feet. The frontage requirements of this Section shall not apply to lots located in a Residential Incentive Overlay District, regardless of whether or not the lot is developed under the provisions of Section 14F. There shall be no front yard depth requirement for property included in a Business District on April 1, 1939, and fronting on Washington Street, Church Street, Central Street, Grove Street, Spring Street, Cross Street, or that part of Weston Road between Central Street and Cross Street.

The requirements for side and rear yards shall apply to all accessory buildings over one hundred square feet in area. For purposes of this Section, an accessory building shall mean a detached subordinate building located on the same lot with the main building, the use of which is customarily incidental to that of the main building or to the use of the land. The requirements for front, side and rear yards shall not apply to the construction or enlargement of dormers on pre-existing non-conforming dwellings provided that the highest point of the existing roof is not exceeded and there is no further encroachment on the lot lines.

For exemptions for pre-existing non-conforming lots refer to Section 17 of this Zoning Bylaw.

C. General

No building or lot shall be so altered as to reduce the size of the then existing yard unless the resulting yard complies with the requirements of this Section, except by taking by eminent domain or by a conveyance for a public purpose.

No yard or other open space shall at any time be considered as appurtenant to more than one building in computing the requirement for yards under this Bylaw.

No building or structure shall hereafter be erected or placed nearer than ten (10) feet to any public land held or in use for a park, playground or recreational purpose and no existing building or structure shall be so altered as to result in the said building or structure being nearer than ten (10) feet to such public land.

SECTION 20. HEIGHTS OF BUILDINGS OR STRUCTURES

No building or structure, except one for religious or non-residential municipal purposes, or excepting further, a building or structure in Limited Apartment Districts authorized by Section 6A.3., shall be constructed, enlarged or altered so as to exceed a height measured from the average original grade or finished grade, whichever is lower, of the land surrounding the exterior walls to the highest roofline, of forty-five (45) feet or three stories; however, building height shall be measured from the average finished grade of the land surrounding the exterior walls to the highest roofline for projects being developed under a Special Permit for a Project of Significant Impact issued prior to March 1, 2010. Parapets, chimneys, flag poles, solar collectors or necessary projections shall not be included in the measurement of height.

Provided, however, that single family, two family and town house buildings and additions thereto erected pursuant to a building permit issued on or after November 5, 1996 and buildings or additions thereto constructed in the Lower Falls Village Commercial District shall not exceed 36 feet in height as defined and restricted in this Section.

Provided further, however, that the height of residential buildings constructed under the provisions of the Residential Incentive Overlay District shall be governed by the height restrictions contained in Section 14F.

This Section shall not apply to the replacement, without substantial change or addition thereto, of buildings in existence on May 1, 1949 which are thereafter destroyed or demolished.

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SECTION 21. OFF-STREET PARKING

A. Purpose

It is the intent of this Section that any use of land involving the arrival, departure, parking or storage of motor vehicles upon such land be so designed and operated as to assure that all structures and land uses shall have sufficient off-street automobile parking to meet the needs of persons employed at, or making use of, such structures or land uses.

B. Definitions

As used herein the following words and phrases shall have and include the following respective meanings:

Parking Space - An area exclusive of maneuvering area and driveway for the parking of one motor vehicle.

Parking Area - An area either used or required for parking of five or more motor vehicles not for sale or rental, including necessary maneuvering space, maneuvering aisle, and driveway, but not including such areas on a lot used for one or two-family dwellings.

Storage Area - An area either used or required for the storage of motor vehicles held for sale or rent.

Maneuvering Space - An area in a parking area which (1) is immediately adjacent to a parking space, (2) is used for and/or is necessary for turning, backing, or driving forward a motor vehicle into such parking space but (3) is not used for the parking or storage of motor vehicles.

Maneuvering Aisle - A maneuvering space which serves two or more parking spaces, such as the area between two rows of parking spaces.

Driveway - An area on a lot, in addition to parking and maneuvering spaces and aisles, which is designed or used to provide for the passage of motor vehicles to and from a street or way.

Motor Vehicle - Any vehicle for which registration is required in order to travel legally on Massachusetts highways.

Use - The purpose for which land or buildings are employed, arranged, designed, or intended, or for which either is occupied or maintained.

Service Area - An area used for maneuvering and/or temporary parking of motor vehicles or storage containers employed in providing the pickup and delivery of goods and services.

C. Applicability

The following activities shall be subject to the requirements of this Section, and a Parking Plan demonstrating compliance with this Section and submitted in accordance with Section 21.E shall be required for any of these activities:

1. The erection, enlargement, or alteration of a building or structure for which a parking area or storage area would be required by Section 21.D.2.;

2. The construction of a new parking area or storage area, or the enlargement or alteration of an existing parking area or storage area; enlargement or alteration shall include any installation, removal, or relocation of any curbing, landscaping islands, traffic islands, or driveways, and any striping or restriping of pavement markings on an existing parking area or storage area which alters the configuration of the parking area or number of parking spaces; and

3. Any change in the use or uses of the structure or land that would require greater parking requirements, as required by Section 21.D.2. from those applicable to the former use(s) of said structure or land.

D. Regulations and Restrictions

1. General Provisions

The following general provisions shall apply:

a. No existing off-street parking spaces shall be eliminated by the replacement or enlargement of an existing structure, unless replaced by spaces provided in accordance with this Section;

b. No existing parking area or existing storage area shall be discontinued or altered if the requirements of this Section would not thereafter be satisfied;

c. Enlargements or alterations to existing structures with less parking than is required by this Section (unless such deficient parking was allowed by a Variance or Special Permit) shall only be required to provide additional parking to accommodate the additional use (e.g. based on the applicable square footage, ground coverage, dwelling unit, guest room);

d. Changes in the use or uses of existing structures, or parts thereof, or of land, shall require additional off-street parking spaces in accordance with the provisions of this Section, but only to the extent of such change;

e. Nothing herein shall be construed to prohibit the owner of a parking or storage area from restricting the use thereof to his customers, employees, or other invitees, nor from charging a reasonable fee for the use thereof; and

f. Areas required to be kept open and unoccupied by buildings or structures under Section 18.C. and Section 19 may be used to satisfy the provisions of this Section.

2. Required Parking

In all districts which require off-street parking in accordance with this Zoning Bylaw, off-street parking shall be provided for uses (excluding public housing for the elderly) according to Table 21.1, Off-Street Parking Requirements. The Table provides the minimum number of parking spaces required for various uses in the zoning districts, but is not intended to indicate the allowed uses in the districts.

Where two or more uses are conducted on a single lot, the minimum number of required parking spaces shall be the sum of the requirements for the uses.

Table 21.1, Off-Street Parking Requirements

USE	ZONING DISTRICT	MINIMUM NUMBER OF PARKING SPACES
Apartment house, apartment hotels.	Business Districts A, Industrial Districts A.	One space for each apartment dwelling unit contained in buildings.
Hotel, inn, lodging house, restaurant or other eating place.	Single Residence Districts A, General Residence Districts A, Limited Residence Districts, Business Districts A, Industrial Districts A.	Either one space per two guest rooms or one space for each 100 sq. ft.* of area in which food is served, whichever is greater.
Building used for administrative, clerical, statistical & professional offices, and other similar uses.	Administrative and Professional Districts ***, Limited Business Districts.	One space for 100 sq. ft.* of ground coverage of buildings but not less than 3.2 & spaces per 1,000 sq. ft. of floor area of buildings.**
Hotel, motel, inn, restaurant operated in conjunction with such similar uses.	Limited Business Districts.	One space per guestroom and one space for each 100 sq. ft.* of area in which food is served.
Any building where the principal use is motor vehicle sales or service.	Business Districts A, Industrial Districts A.	One space per employee and one space per motor vehicle (not for sale or rental) owned, operated or associated with the establishment and one space per 100 sq. ft.* of area occupied by buildings.
Apartment building or group of buildings containing three or more dwelling units.	Limited Residence Districts.	One space on the lot for each dwelling unit.
Apartment building or group of buildings containing 20 or more dwelling units.	Limited Apartment Districts.	1.5 spaces for each dwelling unit of two bedrooms or less and two parking spaces for each dwelling unit providing three bedrooms or more.

Table 21.1, Off-Street Parking Requirements		
USE	**ZONING DISTRICT**	**MINIMUM NUMBER OF PARKING SPACES**
Any building used for any business, industrial, educational or commercial purpose residential uses accessory to an educational use.	Educational Districts A, Business Districts A, Industrial Districts A.	One space for each 150 sq. ft.* occupied by buildings but not less than 3.2 spaces per 1,000 sq. ft. of floor area of buildings.**
Any building used for physical education or physical recreation purpose.	Educational Districts B, Business Districts A, Industrial Districts A.	One space for every 3 permanent spectator seats, which shall include folding bleachers that are attached to buildings, but not less than one space per 1,000 sq. ft. of floor area of buildings.**
Any allowed use with or without a special permit.	Lower Falls Village Commercial District.	3.2 spaces per 1,000 sq. ft.* of first floor area of buildings.** 2 spaces per 1,000 sq. ft.* of upper floor space in excess of 4,000 sq. ft.** ****
Assisted Elderly Living, Independent Elderly Housing.	Residential Incentive Overlay District.	0.65 spaces per dwelling unit.
Conventional Multi Family Housing	Residential Incentive Overlay District.	2 spaces per dwelling unit.
Nursing Home and/or Skilled Nursing Facility.	Residential Incentive Overlay District.	1 space for 5 nursing home beds.
Any building used for any business, industrial, educational or commercial purpose.	Wellesley Square Commercial District, Business Districts, Industrial Districts.	One space for each 150 sq. ft.* of ground coverage of buildings but not less than 3.2 spaces per 1,000 sq. ft. of floor area of buildings.**
Town House	Town House, General Residence, General Residence A.	Two spaces on the lot for each dwelling unit.
Any residential use	Linden Street Corridor Overlay District	2.5 spaces per one, two or three bedroom unit.
Any nonresidential use	Linden Street Corridor Overlay District	5 spaces for each 1,000 square feet of ground coverage of buildings*, but not less than 3.2 spaces per 1,000 square feet of floor area of buildings.**

Table 21.1, Off-Street Parking Requirements		
USE	**ZONING DISTRICT**	**MINIMUM NUMBER OF PARKING SPACES**

For purposes of the above parking requirements, any increase in on-street parking spaces included in a proposed Linden Street Corridor Overlay District Development Site at the expense of the proponent shall be counted towards satisfaction of the off-street parking requirement.

* Computed to the nearest ten square feet.

** Floor area shall be the sum of the horizontal areas of the several floors (including basement) of a building to the nearest 100 square feet, except that such floor area as is provided for deck parking or other in building parking shall be counted for required parking space and not in figuring floor area for which parking must be provided. For the purpose of computing the requirements, the area shall be measured from the exterior surface of the exterior walls.

*** No parking facilities other than those for transient motor vehicles shall be located between the principal building and the principal street line.

**** If any portion of a parcel is within 600 feet of any portion of a public parking area or areas, having individually or jointly 50 or more parking spaces, off-street parking shall be provided at a ratio of 2.5 spaces per 1,000 gross square feet of commercial floor area, excluding uninhabitable basement areas.

3. Development Standards

Each parking area hereafter devoted to the off-street parking of fifteen (15) or more vehicles regardless of whether said parking area is required by this Bylaw, shall comply with the standards as hereinafter set forth:

<u>Design</u>

a. Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table:

MINIMUM PARKING SPACE AND AISLE DIMENSIONS
FOR PARKING AREAS (in feet)

Angle of Parking	Width of Parking Space	Depth of Parking Space	Width of Maneuver Aisle
61° - 90°	8'6"	18'	24'
46° - 60°	8'6"	18'	18'
45°	8'6"	18'	15'
Parallel	8'0"	22'	12'

Parking spaces for the exclusive use of handicapped individuals shall be provided in accordance with the Rules and Regulations of the Architectural Barriers Board.

Provided however, that compact car spaces having the minimum dimensions set forth in the following table may be used to satisfy up to a maximum of 30% of the off-street parking spaces required. Such spaces shall be designated for "Compact Cars Only" by signs or pavement markings.

MINIMUM PARKING SPACE AND AISLE DIMENSIONS
FOR PARKING AREAS (in feet) DEVOTED TO COMPACT CARS

Angle of Parking	Width of Parking Space	Depth of Parking Space	Width of Maneuver Aisle
61° - 90°	7'6"	15'	24'
46° - 60°	7'6"	15'	18'
45°	7'6"	15'	15'
Parallel	7'0"	19'	12'

b. The number of driveways permitting entrance to and for exit from a lot shall be limited to two per street line. Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.

c. The width of a driveway for one-way traffic shall be not less than twelve (12) feet as measured at its narrowest point. The width of a driveway for two-way use shall be a minimum of eighteen (18) feet and a maximum of twenty-four (24) feet, as measured at its narrowest point.

d. All parking areas shall be so arranged and designed that the only means of access and egress to and from such areas shall be by driveways meeting the requirements of this Section.

e. Driveways shall be arranged for the free flow of vehicles at all times, and all maneuvering spaces and aisles shall be so designated that all vehicles may exit from and enter into a public street by being driven in a forward direction.

f. On any parking area in any District, all paved portions of all parking spaces and maneuvering aisles shall be set back five (5) feet from any wall of a building, and five (5) feet from any private or public way, or any lot line of any land in residential districts or used for residential, conservation or park purposes.

g. Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other parking space, except where the parking area is attended or limited to employees.

Construction

a. All required parking spaces, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface, such as bituminous concrete or cement concrete, and shall provide for a satisfactory disposal of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership and such surfaces shall be well maintained.

b. Parking areas in all Districts shall be provided with curbing, wheel stops, or other devices to prevent motor vehicles from being parked or driven within required setback areas or onto the required landscaped open space.

c. In any parking area the surface shall be painted, marked or otherwise delineated so that each parking space is apparent.

Landscaping

a. For an outdoor parking area containing twenty (20) or more parking spaces, there shall be planted at least one tree for every ten (10) parking spaces on any side of the perimeter of such parking area that abuts the side line of a private or public way, or abuts the lot line of land in residential districts or land used for residential purposes.

b. In any outdoor parking area a landscaped open space having an area of not less than 10% of the outdoor parking area on the lot shall be provided. A minimum of one half of the required landscaped open space shall be located in the interior of the parking area.

c. Trees required by the provisions of this Section shall be at least two (2) inches in diameter at a height of five (5) feet at the time of planting and shall be of a species characterized by rapid growth and by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this Section.

Screening

Any parking, storage or service area which abuts residential districts or uses shall be screened from such residential districts or uses and any parking area shall be screened from a public or private way in accordance with the following requirements:

a. Materials - plant materials characterized by dense growth which will form an effective year-round screen shall be planted, or a fence or a wall shall be constructed, to form the screen. Where a grill or open-work fence or wall is used it shall be suitable in appearance and materials. Screening may consist of both natural and man-made materials. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this Section.

b. Height - screening shall be at least five (5) feet in height. Plant materials when planted, may be not less than 3 1/2 feet in height if of a species or variety which shall attain the required height and width within three (3) years of planting. Height shall be measured from the finished grade.

c. Width - screening shall be in a strip of landscaped open space at least five (5) feet wide, and so located as not to conflict with any corner visibility requirements or any other Bylaws of the Town.

d. Maintenance - all required plant materials shall be maintained in a healthy condition and whenever necessary replaced with new plant materials to insure continued compliance with screening requirements. All required fences and walls shall be permanently maintained in good repair and presentable appearance and whenever necessary they shall be repaired or replaced.

e. Lighting - all artificial lighting used to illuminate a parking or storage area, maneuvering space or driveway shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property.

E. Administration

1. Permits

Any application for a permit for the activities listed in Section 21.C. shall be accompanied by a Parking Plan showing compliance with the requirements of this Section. For activities that constitute a Major Construction Project or Project of Significant Impact as defined by Section 16A.B.1., the required Parking Plan shall be submitted to the Zoning Board of Appeals for review. The Zoning Board of Appeals shall grant a Parking Plan Permit if the requirements of this Section are satisfied. For all other activities, the required Parking Plan shall be submitted to the Building Inspector. The Building Inspector shall grant a Parking Plan Permit if the requirements of this Section are satisfied. If the Building Inspector or Zoning Board of Appeals, as applicable, determines that the Plan is not in compliance with this Section, they shall deny the application setting forth their grounds for denial in writing.

A Parking Plan shall include:

a. The quantity, location, and dimensions of all driveways, maneuvering spaces and aisles, parking spaces, storage areas, and drainage facilities;

b. The location, size, and type of materials for surface paving, curbing or wheel stops, landscaping, screening and lighting;

c. The location of all building and lot lines; and

d. Such other information as the Building Inspector or Zoning Board of Appeals, as applicable, may require.

The Plan shall be a drawing at a scale of 1 inch equals 20 feet or 1 inch equals 40 feet or at such other scale as the Building Inspector or Zoning Board of Appeals, as applicable, may direct.

Where necessary for the administration of this Section, the Building Inspector or Zoning Board of Appeals, as applicable, may require that the owner, operator or occupant of a lot or any building thereon, furnish a statement as to the number of employees customarily working at any one time on the premises. The Building Inspector or Zoning Board of Appeals, as applicable, may, at any reasonably time, enter upon a lot or into any building thereon, in order to make such determinations as are necessary for the administration of this Section.

2. Special Permits

   a. In the case of such activities which do not meet the requirements of this Section, or are not otherwise exempt, the Zoning Board of Appeals may grant a Special Permit, pursuant to Section 25.

   b. Standards: In considering the issuance of a Special Permit from the requirements of this Section, the Zoning Board of Appeals shall make a finding that the standards specified in Section 25.D. are satisfied.

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SECTION 22. DESIGN REVIEW

A. Purpose

It is the intent of this Section to provide detailed review of uses and structures having substantial impact on the Town; to prevent blight, to enhance the natural and aesthetic qualities of the Town; to conserve the value of land and buildings; and to protect and preserve the historic and cultural heritage of the Town.

B. Design Review Board

1. Composition

For the purposes of this Section 22, the Design Review Board shall be appointed by the Planning Board to consist of five persons as follows:

a. A member of the Planning Board or designee by the Board who shall be a resident;

b. A person qualified by training and experience in architecture who shall be a resident;

c. A person qualified by training and experience in landscape design and landscape architecture who shall be a resident;

d. A person qualified by training and experience in the art or design professions who shall be a resident; and

e. A person recommended by one or more of the Town associations representing Wellesley retail business owners.

The Planning Board may appoint up to three Alternate Members each of whom shall meet one or more of the qualifications set forth above. In the absence of a Member, the Chairman of the Design Review Board may designate an Alternate Member to serve in the place of the absent Member. An Alternate Member so designated may discuss, vote, and otherwise participate as a Design Review Board member in matters that come before the Board.

2. Authority and Specific Powers

The Design Review Board shall review requests for sign permits submitted under the provisions of Section 22A, requests for Project Approval submitted in accordance with Section 16A and other projects as specified in this Zoning Bylaw. It shall evaluate such requests based on the criteria in Section 22.C. Its findings, along with any restrictions and conditions, shall be incorporated in the recommendations of the Planning Board to the Special Permit Granting Authority.

C. Design Criteria

The Design Review Board shall review requests for special permits under this Section 22 based on the following standards:

2. Preservation and enhancement of landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

3. Relation of buildings to environment. Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings with respect to:

   a. height
   b. street facade
   c. rhythm of solids and voids
   d. spacing of buildings or signs
   e. materials, textures, and color
   f. roof slopes
   g. scale.

3. Open space - All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

4. Signs and advertising devices - The size, location, design, color, texture, lighting and materials of signs and advertising devices shall be in harmony with significant architectural features of existing and proposed buildings and structures and with surrounding properties.

5. Heritage - Removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

D. Design Guidelines Handbook

The Design Review Board shall publish and make available to the public on request a booklet of guidelines based on the specific Design Criteria cited in Section 22.C. to effectuate the purposes of this Section 22.

SECTION 22A. SIGNS

(Editor's Note: Section XXIIA updated 1/9/14 to reflect amendments adopted under Article 31 at 2013 ATM; updated 9/10/2015 to reflect amendments approved under Article 33 and Article 34 at 2015 ATM)

A. Title

This section shall hereafter be known and cited as the "Town of Wellesley Sign Bylaw" or "Sign Bylaw."

B. Purpose

1. Purpose. This Section was enacted with the following purposes:

   a. To protect the rights of individuals and businesses to convey their messages through signs;

   b. To encourage the effective use of signs as a means of communication;

   c. To promote and protect business viability and economic opportunity;

   d. To improve traffic and pedestrian safety as it may be affected by distracting signs;

   e. To preserve the natural beauty and environment, as well as the architectural and historical assets, of the Town;

   f. To protect the public health, safety, and general welfare;

   g. To encourage and promote aesthetic integrity, village character, creativity and community appearance by exercising reasonable control;

   h. To encourage compatibility and harmony with surrounding buildings, land and land uses;

   i. To ensure the fair and consistent enforcement of sign standards; and

   j. To make it easier, faster, and more economically efficient to apply for a sign permit.

C. Definitions

Words and phrases used in this Section shall have the meanings set forth herein. Words and phrases not defined herein, but defined in the Town of Wellesley Zoning Bylaw, shall be given the meanings set forth in such Bylaw. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Headings or captions are for reference purposes only and shall not be used in the interpretation of this Section.

Abandoned Sign - Any sign associated with a use which has ceased operations for sixty (60) or more days and/or contains or exhibits broken panels, visible rust, visible rot,

damaged support structures, or missing letters or which is otherwise dilapidated, unsightly, or unkempt.

Address Sign - A sign indicating the numerical location, or numerical and street location, of a particular property.

Animated Sign - Any sign, or part of a sign, that uses any movement or change of lighting or color to depict action or create a special effect or scene.

Audible Sign - Any sign which emits a sound which is audible or emits a signal which can be converted into audible sounds, whether by radio or other means.

Awning - Any device, fixed or retractable, of any material, which extends over or otherwise covers a sidewalk, courtyard, walkway, eating area, driveway, or other area or space whether that area or space is intended for pedestrians, vehicles or other purposes. Also known as a "canopy."

Awning Sign - Any sign that is a part of, attached to, or displayed on an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area.

Banner - A sign placed above or across a public or private street or way with the prior written permission of the Board of Selectmen; the Board of Selectmen shall determine the terms and conditions for the use of such sign, including, but not limited to, dimensional and length of time of allowances. Neither flags nor awning signs are considered banners.

Beacon - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Building Sign - Any sign attached to any part of a building, as contrasted to a ground sign.

Business Establishment - Any non-residential use, whether or not consisting of one (1) or more buildings. In a building with more than one (1) non-residential tenant, each tenant shall constitute a separate business establishment.

Changeable Copy - Any lights, lettering, or images that may be electronically or manually changed to form a sign message or messages.

Commercial Districts - Shall refer to the Business Districts, Business Districts A, Industrial, Industrial A, Lower Falls Village Commercial District, and Wellesley Square Commercial District.

Commercial Message - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Director - The Planning Director of the Town of Wellesley, or his or her designee for a particular purpose.

Directional Signs - Any sign limited solely to directing both vehicular and pedestrian traffic within or setting out restrictions on the use of parking areas.

Directory Sign - A sign which may be utilized by multiple business establishments occupying a single building with a shared public entrance.

Entrance - A means of accessing a building. For the purpose of regulating signage the following are types of entrances:

a. Public Entrance - An entrance to a single business establishment available for use by the general public during hours of operation.

b. Principal Entrance - The primary public entrance to a single business establishment.

c. Secondary Entrance - A public entrance to a single business establishment that is additional to the principal entrance.

d. Shared Public Entrance - A common public entrance that provides access to multiple business establishments but does not directly access any single business establishment.

Externally Illuminated Sign - A sign illuminated by an external light source directed solely toward such sign.

Facade of the Business Establishment - That portion of the building wall facing a street or containing a public entrance, which corresponds to the height and width of the interior space rented or owned by the tenant of the business establishment.

Flag - Any fabric or bunting containing colors, patterns, or symbols used as a symbol of a government or other entity or organization.

Flashing Sign - A sign, the illumination of which is not kept constant in intensity at all times when in use or which exhibits marked changes in lighting effects.

Gasoline Filling Station - A business engaged, as a primary purpose, in the retail dispensing of motor vehicle fuels to the public.

Ground Sign - Any sign, supported by structures or supports that are placed on or anchored in the ground, independent from any building or other structure.

Inspector of Buildings - The Inspector of Buildings of the Town of Wellesley, or his or her designee for a particular purpose.

Institutional Use - For the purpose of this Section, shall mean any religious or educational use.

Internally Illuminated Sign - A sign illuminated by an internal light source, utilizing translucent panels, canvas or other fabric, letters, devices or other similar components to create an image by allowing light to pass through. A "Reverse Lit" sign is not an internally illuminated sign.

Lot - An area of land in single ownership with definite boundaries, established by a recorded plan or deed, including a lot created by combining several previously recorded lots, and used or available for use as a site of one (1) or more buildings or for any other purpose.

Moving Sign - Any and every sign any part of which moves, is designed to move, or to be moved, by any means.

Multi-Faced Sign - Any sign consisting of more than one (1) sign face.

Non-Conforming Sign - Any sign legally erected prior to the adoption of this section, or any amendment thereof, which does not conform to the requirements of this section or such future amendments.

Normal Grade - The lower of 1) existing grade prior to construction or 2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

Obscene Matter - As defined in M.G.L. Chapter 272, § 31.

Office and Professional Districts - Shall refer to the Administrative & Professional Districts, Limited Business Districts, Educational Districts, Educational Districts A, and Educational Districts B.

Out-of-Store Marketing Device - An out-of-store marketing device is any facility or equipment which is located outside of a primary building on a site zoned for non-residential uses, which is used for the primary purpose of providing a product or service without the owner's or agent's immediate presence, and which is manufactured to include a color, form, graphic, illumination, symbol, and/or writing thereon to communicate information regarding the product or service provided thereby to the public. Examples of out-of-store marketing devices include: fuel pumps, bank ATM units, vending machines, newspaper racks, drink machines, ice boxes, and phone booths.

Open Face - A type of sign and/or sign illumination utilizing an open or clear plastic sign face, allowing the light source to be visible.

Pennant - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind. Also known and referred to as a streamer.

Permanent Sign - Any sign of a type and construction as not to be easily or readily removed, which, when installed, is intended for permanent use. Types of permanent signs include, but are not limited to, standing signs, wall signs, awning signs, and window signs.

Person - A natural or legal person, including a partnership, trust, corporation or similar entity.

Portable Sign - A sign which is not permanently affixed to the ground or to a structure, including but not limited to signs on trailers which are parked in such a manner as to serve the purpose of a sign.

Principal Building - The building in which the principal use of the lot is conducted. Non-residential lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other structures with clearly accessory uses shall not be considered principal buildings.

Projecting Sign - A type of wall sign which is perpendicular to the wall to which it is attached and projects away from such wall.

Residential Districts - Shall refer to the Single Residence Districts, Single Residence Districts A, Town House Districts, General Residence Districts, General Residence Districts A, Multi-Family Residence Districts, Limited Residence Districts, and Limited Apartment Districts.

Reverse Lit - A type of sign and/or sign illumination using an opaque face and sides, generally constructed of aluminum, and a clear polycarbonate back or no back. Light does not pass through the face of the sign, but rather comes out of the back of the sign and is cast off the wall behind the sign, thereby creating a silhouette of the outline of the sign face. Also known and referred to as “Reverse Back Lit”, “Halo”, or “Halo Lit” sign or sign illumination.

Roof Sign - Any sign erected and constructed above, or projecting above, the lowest point of the eave or the top of a parapet wall of any building, or which is painted or otherwise attached or affixed to a roof.

Sign - Any device, fixture, placard, or structure affixed to, supported by, or suspended by a stationary object, building or the ground that uses any color, form, graphic, illumination, symbol, or writing to communicate information of any kind to the public.

Sign Face - That part of a sign that is or can be used for the purpose of advertising, identification or conveying a message.

Sign Permit - A permit issued by the Inspector of Buildings allowing a sign to be installed on a piece of property.

Standard Informational Sign - A sign with no one side consisting of an area greater than six (6) square feet, with a sign face made for short term use, containing no reflecting elements, flags, or projections and which, when erect, stands at a height not greater than six (6) feet. Sandwich board signs shall be considered to be a type of standard informational sign.

Standing Sign - A permanent sign erected on or affixed to the ground and not attached to a building.

Temporary Sign - Any and every sign which by its design and/or use is temporary in nature and/or is not permanently mounted. Neither flags nor awning signs are considered temporary signs.

Town - The Town of Wellesley, Massachusetts.

Wall Sign - A permanent building sign not considered to be a roof sign, window sign, temporary sign, temporary window sign, or directory, attached to or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building. Wall signs may be mounted parallel or perpendicular to a wall, subject to the requirements herein.

Window Sign - Any sign attached, painted or otherwise similarly affixed directly to the glass surface of a window or door, either inside or outside the building, and/or any illuminated sign installed inside the building within one (1) foot of the glass surface of a window or door, and designed to be visible from the exterior of the structure.

D. Powers and Duties of Personnel

The Inspector of Buildings is hereby authorized and directed to interpret, administer and enforce this Section.

E. Applicability

The standards and regulations of this Section shall apply to all signs erected, maintained, or replaced in any district within the corporate limits of the Town of Wellesley.

F. Sign Permits

1. Sign Permit Required. Unless a Sign Permit is specifically not required by the standards of this Section, it shall be unlawful for any person to erect or replace a sign without first having obtained a Sign Permit. Refer to Table 22A.1 to determine if a Sign Permit is required for a specific sign type.

2. Application Submittal and Content. When required by this Section, Sign Permit applications shall be filed in the office of the Inspector of Buildings upon forms furnished by that office. The submittal of the following information, material and fees shall constitute a complete application:

   a. The application shall describe and set forth the following:

      i. The type and purpose of the sign(s) as defined in this Section (i.e. wall sign, window sign, etc.);

      ii. Dimensions and area of the sign(s), including letter height and aggregate sign area if more than one (1) sign and/or sign face;

      iii. Materials and colors of the sign(s);

iv. Type of illumination;

v. Number, type and area of existing signs;

vi. Height of sign;

vii. The zoning district in which the subject property is located;

viii. The Business Certificate ID number, if a non-residential use;

ix. The name, address, telephone number and signature of the business owner;

x. The name, address, telephone number and signature of the owner of the property upon which the sign is to be located. The owner's agent may sign if an authorization letter from the property owner is submitted; and

xi. The name, address, and telephone number of the contractor.

b. The following attachments, and necessary copies as required by the Inspector of Buildings, shall be submitted:

i. For standing signs, a location plan or survey showing the property upon which the subject sign is to be located, the proposed location of the subject sign on the property, the distance of the proposed sign from the subject property's boundaries, and all existing structures or buildings on the subject property. Such plan shall be to a legible engineer's scale;

ii. For all signs, dimensioned drawings of the sign including lettering, borders, proposed color scheme, height and other design elements. Such drawings shall be to a legible architect's scale;

iii. For wall, awning and window signs, a dimensioned drawing or photograph of the façade indicating the placement of the signs, area of the façade of the business establishment, and height of the sign. Such drawings shall be to a legible architect's scale;

iv. Color photographs of the property including all buildings and the proposed sign location; and

v. For all signs, a copy of a letter from the Planning Director indicating the recommendation of the Design Review Board or, for signs requiring a Special Permit, a copy of a letter from the Zoning Board of Appeals indicating approval of the Special Permit.

c. Appropriate fees, as set from time to time by the Board of Selectmen and/or the Planning Board, shall be paid.

3. Processing Time; Permit Issuance. The Town shall process all complete and accurate Sign Permit applications within thirty (30) days of the Inspector of Buildings' actual receipt of a complete (per F.2. of this Section) and accurate application and upon remittance of the appropriate fee. No Sign Permit shall be issued by the Inspector of Buildings sooner than thirty (30) days unless the advisory recommendation of the Design Review Board has been received. If the advisory recommendation of the Design Review Board is not received within thirty (30) days, the Inspector of Buildings shall act on the Sign Permit.

4. Application Rejection. The Inspector of Buildings shall reject any application that is incomplete (per F.2. of this Section), that contains false material statements or omissions, or that is for a sign which would violate any standard within this Section within thirty (30) business days of receipt of said application.

5. Resubmission. A rejected application later resubmitted in conformity with this Section shall be deemed to have been submitted on the date of resubmission, instead of the original submission date. An application which is resubmitted shall meet all the standards for an original application.

6. Permit Revocation. Should it be determined that a Sign Permit was issued in error and/or pursuant to an application containing a false material statement or omission, or for a sign not meeting the standards of this Section, the Inspector of Buildings shall revoke said permit and the subject sign shall be immediately removed.

7. Expiration Date. A Sign Permit shall become null and void if the sign for which the permit was issued has not been installed and completed within six (6) months after the date of issuance; provided, however, that where an applicant can demonstrate that a commercial entity was timely engaged to construct the permitted sign, but the fabrication has not yet been completed, one (1) ninety (90) day extension may be granted by the Inspector of Buildings. No refunds shall be made for a permit after the permit is issued. If later an individual desires to erect a sign at the same location, a new application for the sign must be processed and another fee paid in accordance with the fee schedule applicable at such time.

G. Design Review

1. Design Review Required. All signs requiring a Sign Permit or Special Permit under the provisions of this Section shall require the review of the Design Review Board (refer to subsection H. for DRB Special Permit review procedures).

2. Process. Following the Inspector of Buildings' receipt of a complete and compliant Sign Permit application (per F.2. of this Section), the applicant shall submit a Design Review Board application, attachments, and the appropriate number of copies to the Planning Director, upon forms furnished by that office. The submitted application and attachments shall include the information and documents as required under subsection I., Sign Permits, 2., Application Submittal and Content, a. and b., of this Section (excluding those letters indicating the recommendation of the DRB or the action of the ZBA). The application shall be scheduled for review by the Design Review Board

at the next meeting of the Board not less than seven (7) days following the Director's receipt of the application. The Design Review Board shall render an advisory recommendation regarding the design of the sign within thirty (30) days of the Director's receipt of a Design Review Board application. Failure of the Design Review Board to make a recommendation within thirty (30) days from the date of the submission of application materials to the Director shall be deemed to constitute a recommendation for approval. The Director shall forward such recommendation in writing to the applicant and the Inspector of Buildings, to be either hand-delivered or mailed.

3. Criteria for Review. The Design Review Board's review and advisory recommendation of proposed signs shall be based on the following:

   a. Those criteria contained in Section 22.C.4. of this Bylaw;

   b. The Design Guidelines Handbook as referenced in Section 22.D. of this Bylaw;

   c. Consideration of how the proposed sign(s) relates to:

      i. The context of the building façade;

      ii. Buildings in the immediate vicinity of the sign;

      iii. The basic pattern of the street front to which the sign is oriented; and

      iv. The size, brightness, style, height and colors of other permanent structures and elements in the immediate vicinity; and

   d. Consideration of whether the proposed sign(s) is:

      i. Sized and located so as to avoid obscuring existing architectural features such as columns, sill lines, roof eaves, and cornices;

      ii. Comprised of materials and colors that reflect the character of the building to which it is attached or associated with; and

      iii. Displaying graphics, symbols, logos, and/or letters of a size that are proportional to the sign and the building to which it is attached or associated with, does not create a sign with a cluttered appearance, and are legible and visible to both vehicle operators and pedestrians; such graphics, symbols, logos, and/or letters on secondary signs should be proportionally smaller than those on a primary sign.

4. Recommendation. The Design Review Board's advisory recommendation shall take one of the following forms:

   a. Approval: The Design Review Board shall recommend the approval of proposed signs that meet the Criteria for Review and comply with all requirements of this Section.

b. Approval with Conditions: The Design Review Board shall recommend the approval with conditions of proposed signs that comply with the requirements of this Section, but do not meet the Criteria for Review. The Design Review Board may recommend conditions that require changes to the sign; conditions shall relate to the Criteria for Review with the intent being that the conditions serve to conform the sign to such Criteria.

c. Denial: The Design Review Board shall recommend denial of all proposed signs that do not comply with the requirements of this Section; the Design Review Board may recommend denial of Sign Permits that do not meet the Criteria for Review if, in the opinion of the Board, there are no possible conditions which will allow the sign to more closely meet the Criteria for Review.

H. Special Permits

1. Special Permit Granting Authority. The Zoning Board of Appeals ("ZBA") shall serve as the Special Permit Granting Authority for all Special Permits for signs and shall consider requests for Special Permits in accordance with this subsection and Section 25 of the Zoning Bylaw.

2. Circumstances in Which a Special Permit May Be Sought. Special Permits may be considered and issued for any request for relief from the requirements of this Section; however, Special Permits may not be issued to allow those signs indicated in Section 22A.I.2.b. through p.

3. Required Findings. A Special Permit for a sign may be issued provided the ZBA makes the following findings:

   a. The sign is otherwise in compliance with the provisions of this Section;

   b. Sign scale is determined to be in reasonable relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures;

   c. Sign size, shape, and placement serve to define or enhance architectural elements of the building such as columns, sill lines, cornices, and roof edges, and does not unreasonably interrupt, obscure, or hide them;

   d. Sign design is in reasonable continuity with the mounting location, height, proportions and materials of other signage on the same or adjacent structures;

   e. Sign materials, colors, lettering style, illumination and form are reasonably compatible with building design, neighborhood context and use; and

   f. Sign size, location, design and illumination are not judged to present a safety hazard to vehicular or pedestrian traffic.

4. Design Review. Prior to the granting of a Special Permit by the ZBA, the Design Review Board shall submit an advisory recommendation on the Special Permit to the

ZBA. Such recommendation shall address compliance of the sign with Section 22A.H.3. An unfavorable report of the Design Review Board shall indicate which of the findings were not met and shall state what modifications to the sign or signs could be made to render a favorable report. Failure of the Design Review Board to make such report within thirty (30) days from the date of the submission of application materials to the Design Review Board shall be deemed by the ZBA to constitute a favorable report.

I. Exempt and Prohibited Signs and Devices

1. Exempt. The following signs shall not count toward the total amount of signage allowed and shall be exempt from regulation under this Section:

   a. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or statute;

   b. Any sign inside a building, except for regulated window signs;

   c. Banners;

   d. Address signs, the letter and number height of which does not exceed eight (8) inches;

   e. Flags;

   f. Works of art that do not include a commercial message;

   g. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meet Department of Transportation standards and which contain no commercial message of any sort;

   h. Signs located on property owned by the Town and approved by the Board of Selectmen; and

   i. Signs sanctioned by the Town of Wellesley Historical Commission, which display historical information about buildings, properties, people and the like, and not exceeding two (2) square feet in area. Such signs may be wall or ground mounted.

2. Prohibited Signs. The following types of signs are prohibited in the Town:

   a. Any sign not specifically identified in Table 22A.1, Signage Allowances Based on Zoning District or Use, as allowed or any sign not allowed by the issuance of a Special Permit;

   b. Promotional beacons, laser lights or images;

   c. Audible signs;

   d. Moving signs;

e. Roof signs;

f. Signs in the right-of-way, other than those belonging to a government, public service agency, or railroad;

g. Signs mounted or located on a tree, utility pole, or other similar structure;

h. Portable signs;

i. Signs which depict obscene matter or are considered obscene matter, as defined in M.G.L. Chapter 272, § 31;

j. Signs which advertise an activity which is illegal under federal, state or local laws;

k. Signs not in good repair, in violation of codes, or containing or exhibiting broken panels, visible rust, visible rot, damaged support structures, or missing letters;

l. Abandoned signs, identifying abandoned or discontinued business. Such signs shall be removed within sixty (60) days following the abandonment or discontinuance as ordered by the Inspector of Buildings;

m. Animated signs; flashing signs;

n. Imitation traffic signs, signs which contain or are an imitation of an official traffic sign or signal or contain the words “stop,” “go,” “slow,” “caution,” “warning,” or similar words in such a manner as to resemble official traffic control signs;

o. Pennants; and

p. Signs and/or portions of signs rented, leased, and/or purchased by an individual, group and/or business and located upon property to which such individual, group and/or business does not possess a Business Certificate ID to operate a commercial activity. This prohibition shall not apply to signs attached or affixed to, or an integral part of, out-of-store marketing devices or to standard informational signs installed on a property during such time that permitted construction activity is occurring, the property is being considered for sale, lease, or rent, and/or beginning thirty (30) days before and ending five (5) days after any federal, state or local election, ballot initiative or referendum.

J. Measurement of Sign Area and Height

1. Measurement of Sign Area.

a. Generally. Sign area shall be computed as the area within the smallest single rectangle or square enclosing the extreme limits of the sign face including any cabinet or frame or material, texture, or color forming an integral part of the sign face used to differentiate the sign face from the structure upon which it is placed.

For purposes of determining the maximum size limitations, any intermediary removable surface to which a sign is attached shall be deemed part of the sign, and any sign composed of separate letters, numbers, or symbols cut into or attached to a wall or painted on or otherwise attached to an awning, canopy, or window shall be deemed to occupy the entire area within a single rectangle or square enclosing the extreme limits of the sign, including any structural elements.

b. Structure. The computation of the area of a sign face shall not include the structure, supports, or uprights on which the sign face is placed or any portions of a sign structure that are not intended to contain any message or idea and are purely structural or decorative in nature, other than those parts contained within the rectangle or square that delimits the sign face.

c. Changeable Copy. For any signs on which the words, letters, figures, symbols, logos, fixtures, colors, or other design elements routinely change or are intended to be changed from time to time, the sign face area shall include the entire area within which any words, letters, figures, symbols, logos, fixtures, colors, or other design elements may be placed, together with any frame or material, texture or coloring forming an integral part of the sign face or used to differentiate the sign face from the structure upon which it is placed.

d. Multi-Faced Signs. For multi-faced signs, the sign area shall be the sum of the area of both sign faces and shall be limited to the maximum sign area for the sign type in the specific zoning district or for the specific use.

2. Measurement of Sign Height.

a. Ground Signs. The height of a standing sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest component of the sign. Where the normal grade is below the normal grade of a public street, the sign base can be raised to the elevation of the normal grade of the street before the height limitations are applied (surveyor's certificate required).

b. Building Signs. The height of a wall sign shall be determined to be the vertical distance measured from grade to the top of the highest attached component of the sign.

K. Location, Construction, and Design Standards

1. Setback. Unless a more restrictive setback is specified otherwise in this Section, all Ground Signs, whether permanent or temporary, shall be set back at least fifteen (15) feet from the nearest property line, whether or not said line abuts a public or private street or way; except Standard Informational Signs which may be located anywhere on the lot, but shall not create a traffic safety hazard by blocking visibility of traffic on a public street from a driveway and shall not overhang a public sidewalk.

2. Corner Clearance. All signs shall meet the corner clearance requirements contained within the Town Bylaws.

3. Right-of-Way. No sign or any part thereof, except authorized government, public service agency, or railroad signs, shall be located in any right-of-way. Any pre-existing sign which projects into, on or over a public sidewalk, street or way shall be subject to the provisions of the State Building Code regulating such signs and shall be subject to bonding and/or insurance requirements as determined by the Board of Selectmen.

4. Compliance with Building Code. All signs permitted under this Section shall be constructed and installed in accordance with the applicable provisions of the State Building Code and with the reasonable requirements of the Inspector of Buildings.

5. Maintenance. All signs, together with the structural elements, shall be kept in good repair and in a proper state of preservation to the reasonable satisfaction of the Inspector of Buildings. The Inspector of Buildings may order the removal of any sign that is not maintained in accordance with the provisions of this Section, the State Building Code and/or the Zoning Bylaw.

6. Installation. No sign shall be painted or posted directly on the exterior surface of any wall. All signs must be painted, posted or otherwise securely attached to a substantial intermediary removable surface which shall be securely attached to the building; however, the foregoing shall not prevent the installation of a sign consisting of individual letters or devices securely attached to the exterior wall of the building. Installed signs shall display the name of the installer and the permit number issued by the Inspector of Buildings in a conspicuous location.

7. Illumination.

    a. Permitted: The following types of illumination shall be allowed:

        i. Externally Illuminated Signs: Signs may be externally illuminated by white, steady, stationary light shielded and directed solely at the sign; and

        ii. Reverse Lit Signs: Signs may be reverse lit, illuminated by white light only.

    b. Prohibited: The following types of illumination shall be prohibited, except as may be permitted by the issuance of a Special Permit:

        i. Internally Illuminated Signs;

        ii. Open Face Channel Letters; and

        iii. Exposed neon tubing or exposed LEDs.

    c. Time: Unless a business establishment is open to the public, no sign shall be illuminated between the hours of 12:00 a.m. and 6:00 a.m.

L. Regulations Based on Sign Type

1. Standing Signs.

   a. Location: Standing signs shall be located on the same lot with the principal building.

2. Wall Signs.

   a. Orientation: A wall sign shall be mounted parallel or perpendicular to the wall of the building and shall not project beyond the face of the wall to which it is attached.

   b. Projection: A wall sign shall not project more than one (1) foot, in the case of a sign mounted parallel to a wall, or four (4) feet in the case of a sign mounted perpendicular to a wall, from the face of the wall to which it is attached. No wall sign shall project into, on or over a public sidewalk, street or way.

   c. Location: Wall signs shall be mounted on the façade of the business establishment owned or leased by the Sign Permit applicant.

3. Awning Signs.

   a. Location: Awning signs shall be mounted on the façade of the business establishment owned or leased by the Sign Permit applicant.

   b. Display: Awning signs shall be painted on or attached flat against the surface of the awning or canopy and shall not be attached to or displayed on the underside.

4. Temporary Signs and Temporary Window Signs.

   a. Registration: Prior to their installation, temporary signs and temporary window signs shall be registered with the Inspector of Buildings.

   b. Time: Lots or business establishments upon which a temporary sign and/or temporary window sign is allowed, per Table 22A.1, Signage Allowances Based on Zoning District or Use, shall be limited to display such signs for a period not exceeding thirty (30) days with no more than three (3) such thirty (30) day periods permitted per calendar year. Thirty (30) day periods may be utilized consecutively.

M. Signage Allowances Based on Zoning District or Use

If not otherwise stated, any sign not specifically allowed in a zoning district or for a specific use as provided herein shall be prohibited, except as otherwise provided for under this Section. The following table (Table 22A.1, Signage Allowances Based on Zoning District or Use) provides standards governing signs within specific zoning districts or for specific uses. Specific uses shall be allowed signage as indicated for such use rather than based on the zoning district of such use, unless the signage allowances of the zoning district are

less restrictive than those indicated for the specific use. Signs for which a permit is not required shall meet all other provisions of this Section applicable to the subject sign.

Table 22A.1, SIGNAGE ALLOWANCES BASED ON ZONING DISTRICT OR USE							
Sign Type	**Standard**	**Zoning Districts and Uses**					
		Residential Districts	**Office and Professional Districts**	**Commercial Districts Fronting Streets Other Than Worcester Street**	**Commercial Districts Fronting Worcester Street**	**Gasoline Filling Stations**	**Institutional Uses**
TOTAL PERMANENT SIGNAGE	**Number of Signs**	1 per lot	2 per building	• 1 standing sign per lot. • 2 permanent signs, consisting of no more than 1 wall sign, 1 awning sign, or 1 window sign (not to include window signs 1 sq. ft. or less in area) per business establishment.		NA	1 standing sign per lot
	Maximum Total Area	1 sq. ft.	30 sq. ft. (per building)	For the sum of all wall, awning, and window signs, 50 sq. ft. or 10% of the area of the façade of the business establishment, whichever is less, per business establishment; for standing signs, 25 sq. ft.	For the sum of all wall, awning, and window signs, 75 sq. ft. or 10% of the area of the façade of the business establishment, whichever is less, per business establishment; For standing signs, 50 sq. ft.	100 sq. ft.	25 sq. ft. for lots fronting on streets other than Worcester Street; 50 sq. ft. for lots fronting on Worcester Street

Table 22A.1, SIGNAGE ALLOWANCES BASED ON ZONING DISTRICT OR USE							
Sign Type	**Standard**	**Zoning Districts and Uses**					
		Residential Districts	**Office and Professional Districts**	**Commercial Districts Fronting Streets Other Than Worcester Street**	**Commercial Districts Fronting Worcester Street**	**Gasoline Filling Stations**	**Institutional Uses**
STANDING SIGNS	**Permit Required**	No	Yes				
	Number of Signs	1 per lot	1 per building	1 per lot			
	Maximum Area	1 sq. ft.	15 sq. ft.	25 sq. ft.	50 sq. ft.	50 sq. ft. for lots fronting on streets other than Worcester Street; 75 sq. ft. for lots fronting on Worcester Street	25 sq. ft. for lots fronting on streets other than Worcester Street; 50 sq. ft. for lots fronting on Worcester Street
	Maximum Letter Height	NA	14 inches	14 inches	18 inches	14 inches for lots fronting on streets other than Worcester Street; 18 inches for lots fronting on Worcester Street	
	Maximum Height	4 feet	6 feet		10 feet	6 feet for lots fronting on streets other than Worcester Street; 10 feet for lots fronting on Worcester Street	

Table 22A.1, SIGNAGE ALLOWANCES BASED ON ZONING DISTRICT OR USE							
Sign Type	**Standard**	**Zoning Districts and Uses**					
		Residential Districts	**Office and Professional Districts**	**Commercial Districts Fronting Streets Other Than Worcester Street**	**Commercial Districts Fronting Worcester Street**	**Gasoline Filling Stations**	**Institutional Uses**
WALL SIGNS	**Permit Required**	No	Yes				
	Number of Signs	1 per lot	1 per building	• 1 per business establishment • 1 additional sign shall be allowed for each additional street level public entrance, beyond the principal entrance, utilized by the business establishment. • For business establishments occupying more than 1 building, 1 additional sign shall be allowed per building, to be affixed to such additional building. • For buildings occupied by more than 1 business establishment which share a common public entrance, 1 additional wall sign may be displayed on the building and such sign may be located on one or more business establishment's facade.		NA	

Table 22A.1, SIGNAGE ALLOWANCES BASED ON ZONING DISTRICT OR USE							
Sign Type	**Standard**	**Zoning Districts and Uses**					
		Residential Districts	**Office and Professional Districts**	**Commercial Districts Fronting Streets Other Than Worcester Street**	**Commercial Districts Fronting Worcester Street**	**Gasoline Filling Stations**	**Institutional Uses**
WALL SIGNS	**Maximum Area**	1 sq. ft.	15 sq. ft.	50 sq. ft. or 10% of the area of the façade of the business establishment, whichever is less.	75 sq. ft. or 10% of the area of the façade of the business establishment, whichever is less.	50 sq. ft. for lots fronting on streets other than Worcester Street; 75 sq. ft. for lots fronting on Worcester Street	
				Additional signs allowed per additional public entrances and additional signs allowed for building occupied by more than 1 business establishment, shall not exceed 25 sq. ft. or 10% of the area of the wall to which attached.			
	Maximum Letter Height	NA	14 inches		18 inches	14 inches for lots fronting on streets other than Worcester Street; 18 inches for lots fronting on Worcester Street	
	Maximum Height	4 feet	15 feet	20 feet		NA	

Table 22A.1, SIGNAGE ALLOWANCES BASED ON ZONING DISTRICT OR USE							
Sign Type	**Standard**	**Zoning Districts and Uses**					
		Residential Districts	**Office and Professional Districts**	**Commercial Districts Fronting Streets Other Than Worcester Street**	**Commercial Districts Fronting Worcester Street**	**Gasoline Filling Stations**	**Institutional Uses**
AWNING SIGNS	**Permit Required**			Yes			
	Number of Signs			1 per business establishment			
	Maximum Area			25% of the area of the portion of the awning to which such sign is affixed or 10% of the façade of the business establishment, whichever is less.			
	Maximum Letter Height			8 inches			
WINDOW SIGNS	**Permit Required**			Yes; No, if sign area is 1 sq. ft. or less			
	Number of Signs			2 per business establishment, consisting of 1 sign, 1 sq. ft. or less in area, and 1 sign greater than 1 sq. ft. in area. Window signs 1 sq. ft. or less in area shall not count toward the Maximum Total Area of all Permanent Signage.			
	Maximum Area			10 sq. ft. or 10% of the area of all exterior windows (excluding doors) of the business establishment, whichever is less.			
	Maximum Letter Height			8 inches			
DIRECTORY SIGNS	**Permit Required**		No				
	Number of Signs		1 per shared public entrance to a building occupied by more than 1 business establishment				
	Maximum Area		1 sq. ft. per business establishment occupying the building or 6 sq. ft., whichever is less				

Table 22A.1, SIGNAGE ALLOWANCES BASED ON ZONING DISTRICT OR USE							
Sign Type	**Standard**	**Zoning Districts and Uses**					
		Residential Districts	**Office and Professional Districts**	**Commercial Districts Fronting Streets Other Than Worcester Street**	**Commercial Districts Fronting Worcester Street**	**Gasoline Filling Stations**	**Institutional Uses**
DIRECTIONAL SIGNS	**Permit Required**		No				
	Maximum Area		4 sq. ft.				
STANDARD INFORMATIONAL SIGNS	**Permit Required**	No					
	Number of Signs	1 per lot; lots shall be allowed an unlimited number of signs during a period beginning thirty (30) days before and ending five (5) days after any federal, state or local election, ballot initiative and/or referendum					
	Maximum Area	No single sign face shall exceed 6 sq. ft.					
	Maximum Height	3 feet or 6 feet for post and arm type signs					
TEMPORARY SIGNS	**Permit Required**		No Sign Permit is required, but the sign must be registered consistent with L.4.a. of this Section				
	Number of Signs		1 per lot. Refer to L.4.b of this Section for time limits on the display of such signs				
	Maximum Area		25 sq. ft.	12 sq. ft.	25 sq. ft.	12 sq. ft. for lots fronting on streets other than Worcester Street; 25 sq. ft. for lots fronting on Worcester Street	6 sq. ft.
	Maximum Height		15 feet				6 feet

Table 22A.1, SIGNAGE ALLOWANCES BASED ON ZONING DISTRICT OR USE							
Sign Type	**Standard**	**Zoning Districts and Uses**					
		Residential Districts	**Office and Professional Districts**	**Commercial Districts Fronting Streets Other Than Worcester Street**	**Commercial Districts Fronting Worcester Street**	**Gasoline Filling Stations**	**Institutional Uses**
TEMPORARY WINDOW SIGNS	**Permit Required**			No Sign Permit is required, but the sign must be registered consistent with L.4.a. of this Section			
	Number of Signs			1 per business establishment. Refer to L.4.b of this Section for time limits on the display of such signs			
	Maximum Area			25% of the area of the window on which it is attached			
OUT OF STORE MARKETING DEVICE SIGNS	**Permit Required**			No			
	Number of Signs			1 sign shall be allowed on each out-of-store marketing device			
	Maximum Area			14 sq. ft.			
	Maximum Height			No more than 2 feet above the device			
MENU SIGN	**Permit Required**			Yes			
	Number of Signs			1 sign per drive-thru facility			
	Maximum Area			10 sq. ft.			
	Maximum Height			6 feet			

N. NON-CONFORMING SIGNS.

Any non-conforming sign may continue to be maintained but shall not be enlarged, redesigned or altered in any way unless it is brought into conformity with the requirements of this Section and the Zoning Bylaw. This shall not include the substitution or interchange of poster panels, painted boards, or dismountable material on non-conforming signs, which shall be permitted. Any such sign which has been destroyed or damaged to such an extent that the cost of restoration would exceed thirty-five percent

(35%) of the replacement value of the sign at the time of the destruction or damage, shall not be repaired or rebuilt or altered unless in conformity with this Section.

The exemption herein granted shall terminate with respect to any sign which:

a. Shall have been abandoned;

b. Advertises or calls attention to any products, businesses or activities which are no longer carried on or sold, whether generally or at the particular premises; or

c. Shall not have been repaired or properly maintained within sixty (60) days after notice to that effect has been given by the Inspector of Buildings.

SECTION 22B. SWIMMING POOLS

A. Purpose

This Section is adopted by the Town for the regulation and restriction of private swimming pools.

B. Definitions

Private Swimming Pool - Any outdoor pool, having a depth of at least 24" and a water surface area of at least one hundred fifty (150) square feet, which is used, or intended to be used, as a swimming or bathing pool in connection with a residence and available only to the family and private guests of the householder.

C. Applicability

1. Other requirements of the Zoning Bylaws notwithstanding the regulations and restrictions set forth herein shall apply to private swimming pools.

2. The provisions of this Section 22B shall not apply to any swimming pool for which a building permit has been issued prior to the adoption of this Section.

D. Regulations and Restrictions

1. Location.

   a. Minimum setback from street - No structural part of a swimming pool shall be located less than thirty (30) feet from any property boundary line abutting a public street or private way or less than fifty (50) feet from the centerline of any private way.

   b. Minimum setback from abutting property - No structural part of a private swimming pool shall be located closer to any property boundary line than the distance S specified by the following formula: S = 4e, where e equals the difference in elevation, measured to the nearest foot, between the overall height of the pool structure at the perimeter of the pool or walkway railing, if any, and the natural ground elevation at the nearest property boundary line, provided however, that in no event shall the required side yard be less than ten (10) feet nor more than thirty (30) feet.

2. Lot Coverage - For the purposes of Section 18, exterior swimming pools constructed at or below grade shall not be considered building coverage.

3. Lighting - All artificial lighting used to illuminate a swimming pool shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property.

4. Fencing - A fence or protective barrier not less than six (6) feet in height having self-latching devices on all gates shall be installed and maintained that will prevent the

unauthorized entry of small children to the pool area. The location and type of fence or protective barrier shall be acceptable to the Building Inspector.

SECTION 22C. ANTENNAS

A. Purpose

This Section is adopted by the Town for the regulation and restriction of the construction, erection, installation, placement and/or use of antennas, and other devices that perform the functions of antennas, and of accessory telecommunications structures, equipment and facilities and similar devices, within the Town.

B. Definitions

As used in this Section 22C, the following words and terms shall have and include the following respective meanings:

Device - Any antenna or other apparatus that performs the function of antennas, together with any telecommunications structures, equipment and facilities ancillary and/or accessory thereto; by way of example and not limitation, "device" shall mean among other things panel antennas, whip antennas, pole antennas, dish and cone-shaped antennas, other free-standing antennas and personal wireless service facilities.

It is recognized that technology is rapidly changing and the definitions herein, specifically that of a "device", is intended to encompass such devices and things as they evolve over time.

Free Standing Device - A monopole wireless service facility not requiring guy wires for support; and any other device mounted on the ground and not mounted on any existing building or structure.

Personal Wireless Service Facilities - Facilities for the provision of personal wireless services; such facilities may, by way of example, include but are not limited to transmitting and receiving equipment, antennas, antenna structures and supports and other equipment, structures and installations accessory to such facilities.

Personal Wireless Services - Wireless telecommunications services regulated by the Federal Communications Commission ("FCC") and defined as "personal wireless services" in Section 704, or other sections, of the Federal Telecommunications Act of 1996 as amended; by way of example but not limitation, personal wireless services include cellular telephone services, so-called personal communications services ("PCS") and paging services.

Height - A distance measured from the average finished grade of the land surrounding the device to its highest point, surface or projection, in the case of free-standing devices, or

A distance measured from the average finished grade of the land surrounding the exterior walls to the highest point, surface or projection of the device, in the case of devices mounted on existing buildings.

C. Applicability

Other provisions of this Zoning Bylaw notwithstanding the regulations and restrictions set forth herein shall apply to the construction, erection, installation, placement and/or use of devices including but not limited to personal wireless service facilities, and free-standing devices, antennas of federally licensed amateur radio operators and so-called satellite dishes, on land, buildings or structures within the Town of Wellesley.

No device exterior to an enclosed building and/or structure, whether mounted thereon or free-standing shall be constructed, erected, installed, placed and/or used on land, buildings and/or structures within the Town of Wellesley on or after October 8, 1996 except in accordance with the provisions of this Section 22C and Section 25. Devices in existence on October 8, 1996 may be maintained and shall be kept in good condition. The Inspector of Buildings may order the removal, repair or securing of any device for public safety purposes that is determined, by the Inspector of Buildings, to be hazardous to life or property, in poor condition, disrepair or damaged by storm or other cause. The Inspector of Buildings shall determine on a case by case basis whether the repair of a device shall require a special permit in accordance with this section.

D. Regulations and Restrictions

1. Design Review

The construction, erection, installation and/or placement of all devices, except those for customary private household use as further described in Section 22C.D.2.b. below, are subject to review by the Wellesley Design Review Board. In review of applications the Design Review Board shall employ the following guidelines:

<u>Screening, Landscaping and Preservation of Existing Vegetation</u>

Whenever possible, devices shall be sited so as to minimize the visibility of such devices from adjacent property and shall be suitably screened from abutters and residential neighborhoods. To the extent feasible installation of free-standing devices shall minimize the removal of existing trees and other vegetation.

<u>Height</u>

A device shall be designed and installed at the minimum height necessary for the proper functioning of the telecommunications services to be provided by the device at that location. Free-standing devices shall not exceed 45 feet in height unless the Special Permit Granting Authority makes the finding under Section 22C.D.3.c. required for installation of a device at a height greater than 45 feet.

<u>Color</u>

Free-standing, wall mounted and roof-mounted devices shall be painted or otherwise colored or finished in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached.

Fencing

Any fencing necessary to control access to devices shall be compatible with the character of the area. (see also Section 22C.4.c. below)

Signs

There shall be no advertising permitted on or in the vicinity of devices. There shall be a sign not exceeding 4 square feet in area at each installation which shall display a phone number where the person responsible for the maintenance of the installation may be reached on a 24 hour basis. All other signage shall be consistent with the provision of Section 22A.

Lighting

Night lighting of installations shall be prohibited except for such lighting as may be necessary for emergency repair purposes.

Parking

Free-standing device installations shall provide one off-street parking space for service vehicles.

Personal Safety

When devices are mounted in locations above or in the vicinity of pedestrian areas or other areas open to the public such installations shall be made in a manner that does not impede or restrict the movement of pedestrians nor pose a hazard to any person.

2. By-Right Provisions

The following devices may be constructed, erected, installed, placed and/or used within the Town subject to the issuance of a building permit by the Inspector of Buildings in those instances when a building permit is required:

a. A device or combination of devices installed on land, a building or other structure, provided that such a device or combination of devices, including its supports, is:

i. finished in a manner designed to be aesthetically consistent with the exterior finish of such building or structure and otherwise in accordance with Section 22C.D. hereof; and

ii. mounted in such a manner so that it does not:

- obscure any window or other exterior architectural feature;
- extend above the highest point of the roof by more than 12 feet;

- extend beyond the face of any wall, or exterior surface in the case of structures that do not have walls, by more than 18 inches;

- extend below the top of the wall, or exterior surface in the case of structures that do not have walls, of a one-story building or structure; or

- extend more than 8 feet below the top of the wall, or exterior surface in the case of structures that do not have walls, of a multi-story building or structure; and

iii. comprised of devices which do not individually or in the aggregate have a front surface area facing surrounding streets and adjacent properties that exceeds 50 square feet in area;

b. A device for customary private household use such as a conventional chimney-mount television antenna or home satellite dish not over 3 feet in diameter in conjunction with a single or two-family dwelling; provided that in the case of a home satellite dish that is a free-standing device, such home satellite dish shall be installed in the rear yard only and otherwise shall be in compliance with the provisions of Section 22C.D.1. above;

c. A device owned by and located on the property of an amateur radio operator licensed by the FCC, which device shall be installed at the minimum height necessary for the proper functioning of amateur radio communications in accordance with the licensing requirements for that location, provided that in the case of an amateur radio device that is a free-standing device, such device shall be installed in the rear yard only and otherwise shall be in compliance with the provisions of Section 22C.D.1. above;

d. A device installed wholly within and not protruding from the interior space of an existing building or structure (including interior space behind existing roofs or within existing mechanical penthouse space) or behind existing rooftop mechanical screens in such a manner that the device would not be visible from surrounding streets and from adjacent properties and only for so long as such device remains wholly within such space or behind such roofs or screens.

e. A device used exclusively for non-commercial, public safety purposes.

All devices and installations not prohibited by this Section 22C, free-standing or otherwise, shall require a special permit in accordance with Section 22C.D.3. except those meeting the requirements of this Section 22C.D.2.

3. Special Permit Provisions

The Special Permit Granting Authority may issue a special permit under the provisions of Section 25 for:

- A device or combination of devices (including its supports) installed on land, a building or structure, if such device or devices exceeds any one or more of the dimensional requirements of Section 22C.D.2.a. above;

- A free-standing device in accordance with Section 22C.D.3.c. below;

- All other devices and installations not prohibited by this Section 22C and not otherwise prohibited;

provided the Special Permit Granting Authority finds:

a. that the requested installation is essential to the proper functioning of the telecommunications services to be provided by the device at that location and that an alternative installation meeting the By-Right limitations of Section 22C.D.2. is not workable; and

b. that the requested installation will not adversely impact adjacent property materially; and

c. in the case of a free-standing device, that the center point of the base of the monopole shall be set back from the property lines of the lot on which such device is located by a distance equal to the overall vertical height of the monopole and mounted device plus five feet, unless the applicant demonstrates that due to topography and/or other characteristics of the site lesser setbacks shall not pose any public safety danger to any adjacent properties; and

d. that the overall height does not exceed 45 feet, unless the applicant demonstrates that a greater height is essential to the proper functioning of the telecommunications services to be provided by the device at that location and that an alternative installation meeting the requirements of this Section any less invasive is not workable; and

e. that the report of the Design Review Board has been received and the installation and the special permit are consistent with that report under the guidelines established in Section 22C.D.1.

4. Prohibitions

a. Lattice style towers and facilities requiring three or more legs and/or guy wires for support shall not be allowed.

b. Advertising signs shall not be allowed. Other signs shall not be allowed except in accordance with Section 22C.D.1. and Section 22A.

c. Fences utilizing razor wire or barbed wire or similar wire types shall not be allowed.

E. Certification and Evidence

In all cases, whether use is By-Right or otherwise, the owner and/or operator of any device except as described in Section 22C.D.2.b. above shall, prior to installation of any device, and, if requested by the Inspector of Buildings, but not more than once each year, file with the Inspector of Buildings a certificate and evidence that the device complies with the applicable standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and a periodic (at least annual) maintenance schedule for the device and, in the case of existing devices, that the device remains in use.

F. Cessation of Use

Devices shall be removed by the owner and/or operator of any device within one (1) year of cessation of use. Cessation of use shall be determined by the Inspector of Buildings.

SECTION 22D. Retaining Walls

A. Purpose and Intent

The Town of Wellesley adopts this section to accomplish and ensure the following:

1. To allow for the review of retaining walls of a size that may impact surrounding buildings, land, and uses;

2. To require the construction of retaining walls in a manner consistent with engineering and construction best practices; and

3. To lessen the impact of large retaining walls on abutting properties and the public by encouraging the use of landscaping and aesthetically pleasing design elements.

B. Applicability and Exemptions

The regulations and requirements contained herein shall apply to all retaining walls erected in the Town of Wellesley, except the following:

1. Retaining walls that retain less than four (4) feet of unbalanced fill shall be exempt from the requirements of this section.

2. A terraced combination of walls, in which each separate wall retains less than four (4) feet of unbalanced fill and in which each successive wall is separated by a distance at least two times (2x) the height of the highest wall.

C. General Provisions

1. Determining Retaining Wall Height - The height of a retaining wall shall be the distance from the grade at the base of the face of the wall, exclusive of any fill, to the grade at the back of the wall at the same section. For walls that are not a constant height the largest of these measurements shall be used to determine the height of the wall.

   For the purpose of determining the height of terraced retaining walls, walls determined to constitute separate walls shall be measured in the manner described above, independent of other walls. Multiple walls determined to constitute a single wall shall be measured from the grade at the front of the lowest wall to the grade at the back of the highest successive wall.

2. Terracing - Terracing of retaining walls is allowed and encouraged. In a terraced retaining wall system, if two (2) retaining walls are separated by a distance at least two times (2x) the height of the higher of the two (2) walls, the walls shall be considered as separate walls; if two (2) retaining walls are separated by a distance less than two times (2x) the height of the higher of the two (2) walls, the walls shall be considered as a single wall.

3. Setback - Retaining walls four (4) feet or greater in height shall not be located within ten (10) feet of a property line, with the exception that portions of such walls which are less than four (4) feet in height shall not be subject to such requirement. No wall shall encroach on the required setback as required herein, except by a Special Permit issued in accordance with Section 22D.E.

4. Height Limitation - No retaining wall shall exceed fifteen (15) feet in height, except by a Special Permit issued in accordance with Section 22D.E.

5. Nonconforming Retaining Walls - Retaining walls constructed and/or permitted prior to the adoption of these regulations shall be allowed to remain in their existing state; however, significant changes or alterations to such walls shall be made in conformity with these regulations. The repair and routine maintenance, as determined by the Inspector of Buildings, of nonconforming retaining walls shall be allowed without requiring conformity with these regulations.

D. Design Review and Permitting

1. Design Review - Design Review shall be required for all retaining walls requiring a permit, as determined by the Inspector of Buildings, and retaining seven (7) feet or more of unbalanced fill. The Design Review Board shall review retaining walls in accordance with Section 22, and shall consider such requests under those criteria contained in Section 22.C. The Design Review Board shall submit an advisory recommendation to the Inspector of Buildings prior to the issuance of a permit.

2. Permitting - A permit shall be required, consistent with the requirements of the Town of Wellesley Building Department, for all retaining walls that retain four (4) or more feet of unbalanced fill.

E. Special Permit Provisions

The Special Permit Granting Authority shall consider requests for special permits in accordance with this Section and Section 25 of the Zoning Bylaw.

1. Circumstances Under Which A Special Permit May Be Granted - The Special Permit Granting Authority may grant a Special Permit in the following situations:

   a. Retaining walls not meeting the Setback requirements indicated in Section 22D.C.3.

   b. Retaining walls greater than fifteen (15) feet in height as indicated in Section 22D.C.4.

2. Required Findings - A Special Permit for a retaining wall may be issued provided the Special Permit Granting Authority finds:

    a. That the retaining wall is otherwise in compliance with the provisions of this Section;

    b. That the requested retaining wall will not adversely impact adjacent property or the public;

    c. That the report of the Design Review Board has been received and the requested retaining wall is consistent with that report and those criteria contained in Section 22.C. of the Zoning Bylaw; and

    d. That the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.

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SECTION 22E. TEMPORARY MORATORIUM ON MARIJUANA ESTABLISHMENTS
(Editor's Note: Section XXIIE added March 27, 2018 to reflect new provisions adopted under Article 30 at 2017 ATM)

A. Purpose

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, manufacture, processing, distribution, sale, possession, testing and use of marijuana. The law provides that it is effective on December 15, 2016, and that a new state agency, the Cannabis Control Commission (CCC), is required to issue regulations regarding implementation by March 15, 2018.

The regulation of such Marijuana Establishments raises novel and complex legal, planning, and public safety issues. The Town needs time to consider and address these issues, as well as the potential impact of the forthcoming Cannabis Control Commission regulations, by means of a comprehensive planning process to consider amending the Zoning Bylaw to regulate Marijuana Establishments. The temporary moratorium provided in Section 22E is intended to allow sufficient time for the Town to engage in such a planning process and to adopt suitable Zoning Bylaw provisions in a manner consistent with sound land-use planning objectives.

B. Definition

As used in Section 5.6.6, the term "Marijuana Establishment" shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of marijuana-related business, subject to regulation under Chapter 94G of the Massachusetts General Laws; provided, however, that a Registered Marijuana Dispensary shall not be deemed to be a Marijuana Establishment.

C. Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures as a Marijuana Establishment. The moratorium shall be in effect through December 31, 2018, unless extended, continued, or modified as a subsequent Town Meeting. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of Marijuana Establishments and other related land uses and structures, consider the Cannabis Control Commission regulations regarding Marijuana Establishments when they are issued, and shall consider adopting new provisions of the Zoning Bylaw governing the location, operation and effects of Marijuana Establishments for consideration by the 2018 Annual Town Meeting.

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SECTION 23. ENFORCEMENT AND PENALTIES

A. The Inspector of Buildings shall be charged with the enforcement of this Zoning Bylaw and shall withhold a permit for the construction, alteration, or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of this Zoning Bylaw; and no permit or license shall be granted for a new use of a building, structure, or land which use would be in violation of this Zoning Bylaw.

B. Before issuing any permit, except for work on an existing building or structure or for a new structure of less than 300 square feet of floor area, the Inspector of Buildings shall cause to be published at the expense of the applicant in a newspaper of general circulation in the Town, under the heading, "Building Permits" the name of the applicant, the name of the street on which the property to which the permit relates is located or by which it is approached, the street number (or if no street number has been assigned, an approximation thereof made by the Inspector for this purpose only) and the nature of the work to be done.

C. At least ten (10) days before issuing any permit, except a permit for work on an existing building or structure or for a new structure of less than 300 square feet of floor area, the Inspector of Buildings shall at the expense of the applicant send notice by mail, postage prepaid, to the abutters and abutters to the abutters within 300 feet of the property line of the applicant, including owners of land directly opposite on any public or private street or way, as they appear on the most recent applicable tax list. Owners of land directly opposite the applicant on any public or private street or way, shall be considered abutters under this Section.

D. The two preceding paragraphs shall not apply to the issue of a permit by, or under the direction of, the Permit Granting Authority upon an appeal duly taken in the particular case.

E. If the Inspector of Buildings shall be informed, or have reason to believe that any provision of this Zoning Bylaw or of any permit or decree thereunder has been, is being, or is likely to be violated, he shall make or cause an investigation to be made of the facts, including an inspection of the property where the violation may exist, and, if he finds any violation, he shall give immediate notice in writing to the owner or his duly authorized agent and to the occupant of the premises, and shall order that any violation of the provisions of this Zoning Bylaw shall immediately cease.

F. If the Inspector of Buildings is requested in writing to enforce the provisions of this Zoning Bylaw against any person allegedly in violation of the same and such officer acts or declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

G. If, after such notice and order, such violation continues, or if any owner, agent, or occupant fails to obey any lawful order of the Inspector of Buildings with respect to any violation or any use contrary to the provisions of this Zoning Bylaw, the Inspector shall forthwith revoke any permit issued for the occupation of the premises, shall make complaint to the Superior Court or any court of competent jurisdiction for an injunction

or order restraining the further use of the premises, and shall take such other action as is necessary to enforce the provisions of this Zoning Bylaw.

H. Whoever violates any provision of this Zoning Bylaw or any of the conditions under which a permit is issued by the Inspector of Buildings or permission is granted by the Permit Granting Authority or special permit Granting Authority, or any decision rendered by the Permit Granting Authority under the provisions of this Zoning Bylaw, shall be liable to a fine of not more than three hundred ($300) dollars for each day such violation continues. The Inspector of Buildings is authorized to allow a reasonable period of time, not to exceed ten (10) days, for correction of a zoning violation prior to issuing a citation; however, this period of time may be extended for up to thirty (30) additional days if the Inspector of Buildings determines that the purpose and intent of the Zoning Bylaw would be served by so doing.

SECTION 24. PERMIT GRANTING AUTHORITY

A. Zoning Board of Appeals

The Zoning Board of Appeals (hereinafter termed the ZBA) shall consist of three members appointed by the Board of Selectmen. Appointment shall be for three year terms, so arranged that the term of one member shall expire each year.

There shall be one Associate Member of the ZBA for each Member appointed by the Board of Selectmen for a three-year term.

Any Member or Associate Member may be removed for cause by the appointing authority upon written charges and after a public hearing.

Vacancies shall be filled for unexpired terms in the same manner as in the case of the original appointments.

The Chairman of the ZBA shall designate the corresponding Associate Member to sit on the ZBA in the case of absence, inability to act, or conflict of interest on the part of any Member thereof, or in the event of a vacancy on the ZBA until said vacancy is filled in the manner herein provided.

No Member or Associate Member of the ZBA shall represent before such board any party in interest in any matter pending before it.

B. Powers

The ZBA shall have the following powers:

1. To hear and decide appeals in accordance with Section 24.C.

2. To hear and decide petitions for variances as set out in Section 24.D.

3. To hear and decide applications for special permits upon which the ZBA is empowered to act as Special Permit Granting Authority under this Zoning Bylaw under the procedures set forth in Section 25 in exercising these powers, the ZBA may make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may grant or direct the granting of a permit.

4. To hear and decide appeals from decisions of the Planning Board pursuant to Section 16D.H.

C. Appeals

1. An appeal to the Permit Granting Authority, as herein provided, may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under this Zoning Bylaw and the Zoning Act (Chapter 40A, Mass. General Laws, as amended), by the regional planning agency in whose

area the Town is situated, or of an abutting city or town aggrieved by an order or decision of the Building Inspector, or other administrative official, in violation of any provision of this Zoning Bylaw or of the Zoning Act (Chapter 40A, Mass. General Laws, as amended).

2. Any appeal under this Section to a Permit Granting Authority shall be taken within thirty (30) days from the date of the order or decision which is being appealed, by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, who shall forthwith, within two business days, transmit copies thereof to such officer or board whose order or decision is being appealed, and to the Permit Granting Authority. Such officer or board shall forthwith, within seven (7) days, transmit to the Permit Granting Authority copies of all documents and papers constituting the record of the case in which the appeal is taken.

3. The concurring vote of all the members of the ZBA shall be necessary to reverse any order or decision of any administrative official under this Zoning Bylaw, or the Zoning Act (Chapter 40A, Mass. General Laws, as amended).

4. If the granting or denial by the ZBA of an appeal would result in or constitute the issuance of a building permit, the ZBA shall issue to the owner and to the applicant if other than the owner, a copy of its decision, certified by the Permit Granting Authority, containing the name and address of the owner, identifying the land affected, setting forth compliance with any statutory requirements for such a decision and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and with the Town Clerk. No building permit resulting from or constituted by such a decision shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days has elapsed and, pursuant to the applicable provisions contained with Chapter 40A, Mass. General Laws, as amended, no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located, and indexed in the grant or index under the name of the owner of record, or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

D. Variances

1. The Permit Granting Authority shall have the power, after a public hearing for which notice has been given pursuant to the applicable section of this Zoning Bylaw and by mailing to all parties in interest, to grant upon appeal or upon petition, with respect to particular land or structures, a variance from the terms of this Zoning Bylaw where the Permit Granting Authority specifically finds that:

   a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant owing to circumstances relating to: i)soil conditions, ii) shape, or iii) topography of such land or structures, especially affecting such land or structures but not generally affecting the zoning district in which it is located; and the hardship shall not have been self-created; and

b. 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 Zoning Bylaw.

2. The Permit Granting Authority may impose conditions, safeguards, and limitations both of time and of use, including the continued existence of any particular structures, but excluding any conditions, safeguards, or limitations based on the continued ownership of the land or structures to which the variance pertains, by the applicant, petitioner, or any owner.

3. The concurring vote of all the members of the ZBA, if a three-member Board, shall be necessary to effect any variance in the application of this Zoning Bylaw.

4. No variance may authorize a use or activity not otherwise permitted in the zoning district in which the land or structure is located; provided, however, that such variance properly granted prior to January 1, 1976, but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date.

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

6. Application

   All petitions for variance, over which the Permit Granting Authority exercises original jurisdiction, shall be filed by the petitioner with the Town Clerk who shall forthwith, within two business days, transmit a copy thereof to the ZBA.

7. Notification and Effectiveness of the Decision

   Upon the granting of a variance, or any extension, modification, or renewal thereof, the Permit Granting Authority shall issue to the owner and to the applicant if other than the owner, a copy of its decision, certified by the Permit Granting Authority, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the granting of such variance and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and with the Town Clerk. No variance or any extension, modification, or renewal thereof shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days has elapsed and, pursuant to the applicable provisions contained within Chapter 40A, Mass. General Laws, as amended, no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located, and indexed in the grantor index under the name of the owner or record, or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

8. Withdrawal

   Any petition for a variance which has been transmitted to the Permit Granting Authority may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the Permit Granting Authority.

E. General Rules and Procedures

1. The ZBA shall adopt rules, not inconsistent with the provisions of this Zoning Bylaw for the conduct of its business and for purposes of the Zoning Act, (Chapter 40A, Mass. General Laws, as amended), and shall file a copy of said rules with the Town Clerk.

2. Each ZBA shall elect annually a chairman from its own number and a clerk, and may, subject to appropriation, employ experts and clerical and other assistants.

3. Meetings of the ZBA shall be held at the call of the chairman or when called in such other manner as the ZBA shall determine in its rules. The ZBA shall hold a public hearing on any appeal, application, or petition transmitted to it by the Town Clerk within sixty-five (65) days from the date of transmittal to the ZBA of such appeal, application, or petition. The ZBA shall cause notice of such hearing to be published and sent to parties in interest as provided within the Zoning Bylaws, and not less than fourteen (14) days prior to said hearing, shall notify the Planning Board of the Town and the planning boards of cities and towns adjacent, all of which may then forward recommendations with respect to said matter for the consideration of the ZBA.

   The chairman, or in his absence the acting chairman, may administer oaths, summon witnesses, and call for the production of papers.

4. All hearings of the ZBA shall be open to the public. The decision of the ZBA shall be made within one hundred (100) days after the date of the filing of an appeal, application, or petition. Failure by the ZBA to act within one hundred (100) days shall be deemed to be grant of relief, application, or petition sought, subject to an applicable judicial appeal. The ZBA shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decision and of its official actions, or in the event of a failure of the ZBA to act within said one hundred (100) days, indicating such fact, copies of which shall be filed within fourteen (14) days of the decision or action, in the offices of the Town Clerk and of the Planning Board, and shall be a public record; and notice of the decision and the reasonings on which such decision is based, shall be mailed forthwith, and within two business days of the aforesaid filing, to the petitioner, applicant, or appellant, to the parties in interest, and to every person present at the hearing who requested that such notice be sent to him and stated the address to which such notice was to be sent, and further, copies of all approved plans shall be sent to the office of the Planning Board. Each notice shall specify that appeals, if any, shall be made pursuant to the applicable section of Chapter 40A, Mass. General Laws, as

amended, and shall be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk.

5. No appeal, application, or petition which has been unfavorably and finally acted upon by the Permit Granting Authority shall be acted favorably upon within two years after date of final unfavorable action unless:

    a. Said Permit Granting Authority finds, by a unanimous vote of a three-member Board, specific and material changes in the conditions upon which unfavorable action was based, and describes such changes in the record of its proceedings; and

    b. All but one of the members of the Planning Board consents thereto; and

    c. After notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

6. The required time limits for a public hearing and action to be taken may be extended by written agreement between the applicant and the Permit Granting Authority. A copy of such agreement shall be filed in the office of the Town Clerk.

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SECTION 25. SPECIAL PERMIT GRANTING AUTHORITY

(Editor's Note: Amended 7/9/2014 to reflect amendments approved under Article 34 at 2014 ATM)

A. General Authority and Conditions

This Zoning Bylaw provides for specific types of uses which shall only be permitted in specified districts upon the granting of a special permit, as provided herein. Special permits may be granted only for uses which are in harmony with the general purpose and intent of this Zoning Bylaw, and shall be subject to general or specific provisions as set forth herein, and such permits may also impose conditions, safeguards, and limitations on time or use, in order to further the objectives of this Zoning Bylaw.

B. Specific Powers

1. Scientific Development, Research or Related Production

   The Special Permit Granting Authority may grant a special permit for uses accessory to activities permitted as a matter of right, whether or not on the same parcel as activities permitted as a matter of right, which activities are necessary in connection with scientific development, research or related production, provided that the Special Permit Granting Authority finds that the proposed accessory uses do not substantially derogate from the public good.

2. Findings

   The Special Permit Granting Authority is empowered to make findings in accordance with Section 17 and G. L. Chapter 40A, Section 6.

3. Project Approval

   The Special Permit Granting Authority is empowered to review and approve plans in accordance with the requirements of Section 16A and this Section 25. The provisions of Section 25.C. of this section shall apply to the review and approval of plans for Major Construction Projects as defined in Section 16A of this Zoning Bylaw. The approval of plans by the Special Permit Granting Authority in accordance with Section 16A shall constitute the granting of a special permit.

4. Special Permits and Special Use Permits

   The Special Permit Granting Authority may grant special permits subject to any conditions or limitations as specifically provided in this Zoning Bylaw.

5. Adult Uses

   The Special Permit Granting Authority is empowered to review and approve applications for Adult Uses as defined in Section 1B. subject to the provisions of Section 25.D. below and subject to all of the following additional conditions and limitations:

a. The Special Permit Granting Authority shall not grant a special permit for an Adult Use where there is another Adult Use located within a one half mile radius;

b. The Special Permit Granting Authority shall not grant a special permit for an Adult Use where there is a school, day care center, family day care home, parkland, playground, library or branch library, religious use, funeral home or cemetery located within 350 feet.

c. The Special Permit Granting Authority shall not grant a special permit for an Adult Use where there is a residential zoning district located within 350 feet;

d. Special permits granted shall be subject to annual renewal.

An application to the Special Permit Granting Authority for an Adult Use shall include the following information:

- Name and address of the legal owner of the proposed adult Use;
- Name and address of all persons having lawful, beneficial, equity or security interests in the Adult Use;
- Names and addresses of the manager(s) and assistant manager(s);
- The number of employees;
- Proposed security precautions; and
- The physical layout of the premises showing, among other things, the location or proposed location of the adult books, adult paraphernalia or adult videos.

The legal owner of an Adult Use having received a special permit shall promptly notify the Special Permit Granting Authority of any changes in the above information within l0 days and failure to do so will be grounds for revocation of the special permit.

6. Registered Marijuana Dispensaries

a. Purpose - The purpose of this subsection is to regulate the siting, design, placement, security, safety, monitoring, and modifications of Registered Marijuana Dispensaries ("RMDs") within the Town of Wellesley to ensure that such uses are operated in a manner consistent with the overall health, welfare and safety of the Town in compliance with Chapter 369 of the Acts of 2012, *An Act for the Humanitarian Medical Use of Marijuana*, and 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, and to minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said RMDs.

b. Compatibility with State Laws - These regulations pertaining to RMDs are not intended to supersede state laws and/or regulations, including but not limited to Chapter 369 of the Acts of 2012, *An Act for the Humanitarian Medical Use of Marijuana*, and 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*; rather, these regulations shall take precedence where they are more stringent, and where a matter is not addressed herein, compliance with 105 CMR 725.000 shall be required. Terms used herein not defined within the Zoning Bylaw shall be as defined in 105 CMR 725.000.

c. Applicability and Authority

i. Applicability:

(1) No RMD use shall commence unless permitted by the issuance of a special permit as authorized by this Section and subsection.

(2) No special permit for an RMD use shall be issued unless the use is located in one of the zoning districts established within the Zoning Bylaw specifically authorizing such use.

(3) The establishment and operation of RMDs shall be subject to continued compliance with all special permits, including any conditions thereof, the provisions of this Section and subsection, any other applicable requirements of the Zoning Bylaw, and local and state laws and regulations.

(4) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana is prohibited unless permitted as an RMD as required and authorized by the Zoning Bylaw.

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

ii. Authority: The Special Permit Granting Authority is empowered to review and take action on special permit applications for Registered Marijuana Dispensaries consistent with the procedures established in Section 25.C.; the Special Permit Granting Authority may deny, grant, or grant with conditions all such applications.

d. General Regulations - All RMDs shall be subject to the following conditions and limitations:

i. Location:

(1) No special permit for an RMD shall be granted where such use would be located within 500 feet of a:

a. Public or private elementary school, middle school, or high school;

b. Child care facility, including family daycare homes, daycare centers, and/or nursery schools; or

c. Any establishment catering to or providing services primarily intended for minors, as determined by the Special Permit Granting Authority.

(2) The 500 foot distance shall be measured in a straight line from the nearest point of the structure within which the RMD would operate (from the nearest point of the exterior of the tenant space if the RMD is located in a structure occupied by multiple tenant spaces), to the nearest point of any property on which a public or private elementary school, middle school, or high school is located, or to the nearest point of any structure containing or associated with other uses noted above.

(3) The commencement of one or more of the above uses within 500 feet of a proposed RMD location during the review of a special permit application for an RMD (beginning on the date of submittal), following the issuance of a special permit, or following the commencement of the RMD use shall not invalidate the RMD use, the special permit issued therefor, or the ability to renew any unexpired or unrevoked special permit.

ii. Configuration and Operation:

(1) An RMD shall be located in, and conduct all operations within, an enclosed building; this shall not prohibit operations involving the delivery or receiving of permitted goods and products, which may involve transfer to or from a motor-vehicle outside of an associated building.

(2) All publicly accessible entrances shall be visible from a public way.

(3) Drive-through windows and/or any interactions or sales to customers within vehicles are prohibited.

(4) No RMD shall be located inside a building containing residential dwelling units, including transient housing, group housing, hotels, motels, lodging houses, and/or dormitories.

(5) The hours of operation of RMDs shall be set by the Special Permit Granting Authority, but in no event shall an RMD be open to the public, performing deliveries, and/or otherwise operating between the hours of 8:00 PM and 8:00 AM; there shall be no exemptions to the prohibited hours of operation for emergencies.

(6) No person under the age of eighteen (18) shall be permitted on the premises of the RMD unless he or she is a qualified patient or primary caregiver, or is accompanied by a parent or legal guardian.

(7) No marijuana shall be smoked, ingested, or otherwise consumed on the premises of an RMD; the term "premises" includes all buildings, accessory structures, parking lots or parking areas, walks and/or other immediate surroundings located on the same lot/parcel as the RMD use.

(8) All RMDs shall be ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere, and so that no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the RMD or at any adjoining use or property.

iii. Signage:

(1) All signs associated with RMDs shall comply with 105 CMR 725.000 and Section 22A.

(2) All special permit applications for RMDs shall include a proposed exterior sign package, which may be included as a condition of issuance of the special permit.

(3) For every publicly accessible entrance there shall be at least one (1) sign that includes the language "Registration card issued by the MA Department of Public Health required" with a minimum text height of two (2) inches.

(4) Temporary signs and standard informational signs, as defined in Section 22A shall be prohibited.

iv. Security:

(1) RMDs shall provide the Wellesley Police Department, Inspector of Buildings and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are

operating problems associated with the establishment; this information shall be updated when staff of the RMD changes.

(2) No operator and/or employee of an RMD shall have been convicted of any felony under state or federal law.

(3) Trash dumpsters shall be locked and enclosed by a screening enclosure so as not to be accessible to the public.

(4) The exterior grounds, including the parking lot and landscaped areas, shall be lighted in such a manner that all areas are clearly visible at all times during business hours; all light fixtures shall have full cut off shields.

(5) The RMD shall be equipped with, and the operators of such RMD shall maintain in working order at all times, burglary/robbery alarms.

(6) A video surveillance system in compliance with 105 CMR 725.000 shall be installed and maintained; the system shall monitor all areas that may contain marijuana, parking lot areas, main building entrances and exits, and any and all transaction areas for the dispensing of marijuana.

(7) Procedures and protocols for the delivery and transport of marijuana and MIPs shall be in compliance with 105 CMR 725.000 and approved by the Chief of Police.

e. Procedures and Findings

i. Procedures: In addition to the procedures established in Section 25.C., special permits issued for RMDs shall be:

(1) Limited to the current applicant and shall lapse if the permit holder ceases operation of the RMD; and

(2) Renewed annually.

ii. Findings: In addition to determining compliance with the above General Regulations, all other applicable Sections of the Zoning Bylaw, and the applicable Special Use Permit Standards contained in Section 25.D., the Special Permit Granting Authority in their review of any special permit application for an RMD shall find that the proposed Registered Marijuana Dispensary:

(1) Meets a demonstrated local and regional need based on the proximity of other RMDs serving the Town's qualifying patients;

(2) Meets all other applicable requirements of the Zoning Bylaw and the permitting requirements of all applicable agencies of the Commonwealth of Massachusetts and the Town of Wellesley, and will otherwise comply with all applicable state and local laws and regulations;

(3) Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;

(4) Provides a secure indoor waiting area for patients;

(5) Provides adequate pick up/drop off area;

(6) Provides adequate security measures to ensure that no individual participants will pose a threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities; and

(7) Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the RMD.

f. Severability - The provisions of this subsection (Section 25.B.6.) are severable. If any provision, paragraph, sentence, or clause of this Section, or the application thereof to any person, establishment, or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of this Section or the Zoning Bylaw.

C. Procedures

The Special Permit Granting Authority shall adopt and from time to time amend rules relative to the granting of special permits, and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and specifications, and the procedure for the submission and approval of such permits.

Each application for a special permit shall be filed by the petitioner with the Town Clerk and a copy of said application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Special Permit Granting Authority. The Special Permit Granting Authority shall hold a public hearing, for which notice has been given, on any application for a special permit within sixty-five (65) days from the date of filing such application.

The Special Permit Granting Authority shall act within ninety (90) days following a public hearing for which notice has been given by publication and posting as provided within this Zoning Bylaw, and by mailing to all parties in interest. Failure by a Special Permit Granting Authority to take final action within ninety (90) days or extended time, shall be deemed to be a grant of the special permit. The petitioner who seeks such

approval by reason of the failure of the Special Permit Granting Authority to act within such time, shall notify the Town Clerk, in writing within fourteen (14) days from the expiration of the time period of such approval and that notice has been sent by the petitioner to parties in interest. The petitioner shall send such notice to parties in interest, by mail, and each such notice shall specify that appeals, if any, shall be made pursuant to Mass. General Laws Chapter 40A and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the petitioner that the Special Permit Granting Authority failed to act within the time prescribed. After the expiration of twenty (20) days without notice of appeal, or if appeal has been taken, after receipt of certified records indicating that such approval has become final, the Town Clerk shall issue a certificate stating the date of approval, the fact that the Special Permit Granting Authority failed to take action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the petitioner.

The required time limits for a public hearing and action, 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.

Special permits granted by a Special Permit Granting Authority shall require a two-thirds vote of boards with more than five (5) members, a vote of at least four (4) members of a five (5) member board, and a unanimous vote of a three (3) member board.

Upon the granting of a special permit, or any extension, modification, or renewal thereof, the Special Permit Granting Authority shall issue to the owner, and to the applicant if other than the owner, a copy of its decision, or, in the event of a failure of the Special Permit Granting Authority to act within ninety (90) days from the date of the aforesaid public hearing, a copy of the application for a special permit accompanied by the certification of the Town Clerk stating the fact that the Special Permit Granting Authority failed to act within the time prescribed and no appeal has been filed and that the grant of the application resulting from such failure to act has become final or that if an appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. No special permit nor any extension, modification, or renewal thereof shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days has elapsed and, pursuant to the applicable provisions contained within Chapter 40A. Mass. General Laws, as amended, no appeal has been filed, or that if such appeal has been filed that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

The Special Permit Granting Authority shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason for its decision and of its official actions, copies of all which shall be filed within fourteen (14) days in the office of the Town Clerk and shall be deemed a public record, and notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties in interest, and to every person present at the hearing who requested that notice be sent to

him and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to Mass General Laws Chapter 40A and shall be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk.

Petitions for special permits shall be submitted to the Special Permit Granting Authority and referred within seven (7) days by it for review to the following: The Board of Health, the Planning Board (except when the Planning Board is the Special Permit Granting Authority), the Town Engineer, the Wetlands Protection Committee, and any other Town agency or board designated by the Special Permit Granting Authority. Any such board or agency to which petitions are referred for review shall make such recommendations as they deem appropriate and shall send copies thereof to the Special Permit Granting Authority and to the applicant; provided, however, that failure of any board or agency to make recommendations within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed lack of opposition thereto.

No application or petition which has been unfavorably and finally acted upon by the Special Permit Granting Authority shall be acted favorably upon within two (2) years after the date of final unfavorable action unless:

1. Said Special Permit Granting Authority finds, by a unanimous vote of a three-member Board, specific and material changes in the conditions upon which unfavorable action was based, and describes such changes in the record of its proceedings; and

2. All but one of the members of the Planning Board or Board of Selectmen, when serving as Special Permit Granting Authority, consents thereto; and

3. After notice is given to parties in interest of the time and place of the proceedings when such consent will be considered. Any application for a special permit which has been transmitted to the Special Permit Granting Authority may be withdrawn, without prejudice, by the petitioner prior to the publication of a public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the Special Permit Granting Authority.

A special permit shall lapse within two (2) years of the effective date of grant of such special permit, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

D. Special Use Permit Standards

The Special Permit Granting Authority may grant a special permit in accordance with this Section only if it finds that, in addition to all other conditions which may otherwise be required under this Zoning Bylaw, all of the following conditions are met:

1. Vehicular Circulation

   That the circulation patterns for motor vehicles which would result from the proposed use or structure which is the subject of the special permit do not create conditions that add to traffic congestion or accident potential on the site or in the surrounding area.

2. Driveways

   That new driveways are not less than 50 feet from street intersections; and that new driveways have widths not less than the width of driveways specified in Section 21 of this Zoning Bylaw; and that Special Permit requests for uses which would increase the number of vehicle trips, where the property is served by an existing driveway less than 50 feet from a street intersection, are not granted without a favorable recommendation from the Town Traffic Engineer that the special permit use will not create conditions referred to in Section 25.D.1. above.

3. Vehicle Queuing Lanes

   That vehicle queuing lanes, including those for drive through facilities, have a width equal to or greater than nine feet; and that vehicle storage capacity and separation are provided so that vehicles will not encroach onto sidewalk areas or designated fire lanes, or interfere with the travel or maneuvering of other vehicles into and out of parking spaces, driveways or within the public way.

4. Compatibility with Surroundings

   That any modification of a premises resulting from the proposed use or structure which is the subject of the special permit is made compatible, to the extent required by the Special Permit Granting Authority with the existing natural and man-made features of the site and with the characteristics of the surrounding area; and that consideration is given to the protection of trees and other natural features.

5. Pedestrian Safety

   That pedestrian and bicycle circulation is provided, in accordance with nationally recognized safety standards; and that separation, such as curbing, bollards or landscaped buffer areas, is provided between pedestrian areas and all areas open to vehicular traffic, such as parking spaces, vehicle queuing lanes and driveways.

6. Noxious Uses

   That the proposed use or activity is consistent with the provisions of Section 16.A. and B.

7. Intensity of Use

   That any increase in: the number of vehicle trips, the number of employees or visitors, the number of parking spaces, the amount of energy used, or the volume of

liquid or solid waste produced, likely to result from the proposed use or activity will not adversely affect the character of the site and its surrounding area.

For the purposes of this Section 25.D., the term "surrounding area" shall mean the area within which owners of land surrounding the site are defined as parties in interest in accordance with Section 26.B., unless otherwise specifically determined by the Special Permit Granting Authority.

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SECTION 26. NOTICE FOR PUBLIC HEARINGS

A. In all cases where notice of a public hearing is required, notice shall be given by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing; and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing.

B. As used in this Zoning Bylaw, "parties in interest" shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Planning Board of the Town, and the planning boards, of every abutting city or town. Owners of land directly opposite the petitioner on any public or private street or way, shall be considered abutters under this Section.

The assessors maintaining any applicable tax list shall certify to the Permit Granting Authority or Special Permit Granting Authority the names and addresses of parties in interest, and such certification shall be conclusive for all purposes.

C. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid.

The Permit Granting Authority or Special Permit Granting Authority may accept a waiver of notice from, or an affidavit of actual notice to any party in interest or, in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than five (5) nor more than ten (10) additional days to reply.

D. Publications and notices required by this Section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition, the date, time, and place of the public hearing, the subject matter of the public hearing sufficient for identification, the place where the texts and maps thereof may be inspected, and the nature of the action or relief requested, if any.

E. No defect in the form of any notice under this Zoning Bylaw shall invalidate this Zoning Bylaw or amendment thereto, unless such defect is found to be misleading.

D. No such hearing shall be held on any day on which a state or municipal election, caucus, or primary is held in the Town.

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SECTION 27. INTERPRETATION

This bylaw as amended so as to include this Section 27 for the first time shall be deemed to constitute a reenactment and continuance of the Zoning Bylaw in effect at the time of such amendment.