ZONING BYLAW

AMHERST
MASSACHUSETTS

AMENDED THROUGH MAY 2014

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ARTICLE 1 PURPOSE

This **Zoning Bylaw** is enacted pursuant to, and under the authority of, Chapter 40A of the General Laws as amended, for the purpose of promoting the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst, and to encourage the most appropriate use of land throughout Amherst. This Zoning Bylaw is in accordance with the recommendations of the Master Plan adopted by the Planning Board and is consistent with the comprehensive plan of the regional planning agency.

ARTICLE 2 ZONING DISTRICTS

SECTION 2.0 ZONING DISTRICTS
SECTION 2.1 ZONING MAP
SECTION 2.2 BOUNDARY INTERPRETATIONS

SECTION 2.0 ZONING DISTRICTS

For the purpose of this Bylaw, the Town of Amherst is hereby divided into the following classes of zoning districts:

2.01 Residential Districts

The purpose of all residential zones is to promote a suitable environment for residential life through the provision of recreational, religious and educational facilities as basic elements of a balanced neighborhood, to stabilize and protect the essential characteristics of existing residential development, and to foster development that is compatible with the other natural and built characteristics of the area.

R-LD Low Density Residence

The purpose of the R-LD District is to provide for residential areas that allow limited development, while providing protection for environmentally sensitive areas, agricultural resources, and other similar lands. To this end, this is the lowest density residential district.

R-F Fraternity Residence

The purpose of the R-F District is to provide for residential areas dedicated to the specific residential requirements of fraternities, sororities and similar residential facilities associated with educational institutions. To this end, uses other than sororities, fraternities and the like are restricted in this district.

R-O Outlying Residence

The purpose of the R-O District is to provide for lower density residential areas. In general, the R-O District is intended to be a transitional area between the low density R-LD District and medium density R-N District.

R-N Neighborhood Residence

The purpose of the R-N District is to provide for residential areas of medium densities. In general, the R-N District is appropriate for lands adjacent to higher density residential districts, near arterial or primary residential streets, or in areas transitional between the lower density districts and other districts.

R-VC Village Center Residence

The purpose of the R-VC District is to provide for residential neighborhoods, within and adjacent to village centers, that are of medium densities and that allow a limited mix of residential and office uses. The R-VC is, in general, intended to provide for a transition between the Business Village Center District and surrounding residential districts.

R-G General Residence

The purpose of the R-G District is to provide for residential neighborhoods of medium to higher density in areas both near the Town Center and between the University and the Town Center. Such areas are convenient to the services, facilities, institutions and/or employment opportunities provided in the Town Center or by the University.

PURD Planned Unit Residential Development

The purpose of the PURD District is to provide for a mixture of housing types and open space, with variations in dimensional requirements, in appropriate areas within the Town, at greater densities than would otherwise be allowed by the underlying zoning. The PURD is an overlay district. The requirements of this District are intended to encourage design of creative development, protection of the natural resources, and compatibility with surrounding areas.

2.02 Business Districts

B-G General Business

The purpose of the B-G District is to provide for a mixed use area, of high density, containing a wide variety of commercial, office, residential, institutional, civic, and cultural uses. To this end, it is intended that this district be applied within the Town Center of Amherst.

B-VC Village Center Business

The purpose of the B-VC District is to provide areas within the village centers of Amherst that allow for a mix of uses, including retail, commercial, office and housing of moderate to high density.

B-N Neighborhood Business

The purpose of the B-N District is to provide for areas of mixed use and moderate density to serve as small centers providing goods and services within or near residential neighborhoods, or as a transitional zone between more densely-developed business areas and residential neighborhoods.

B-L Limited Business

The purpose of the B-L District is to provide areas for moderate density, office, commercial and multifamily developments. It is intended to be located in transitional areas between high density business districts and high density residential districts or in appropriate areas along arterial or primary roads.

OP Office Park

The purpose of the OP District is to provide areas for office and limited research activities. To this end, the standards and regulations are intended to limit the types of uses and to provide for a clean, open and quiet environment that will not adversely impact adjoining residential areas.

COM Commercial

The purpose of the COM District is to provide areas for a wide range of retail uses and services and commercial activities in appropriate locations along primary roads within the Town.

2.03 Industrial/Research Park Districts

PRP Professional and Research Park

The purpose of the PRP District is to provide an open and attractive environment for office, research and low intensity industrial activities. The standards and regulations are intended to limit development to those activities that are non-commercial in nature and that operate in a clean and quiet manner.

LI Light Industrial

The purpose of the LI District is to provide areas for certain light manufacturing, warehousing, wholesaling and similar activities.

R&D Research & Development

The R&D District is an overlay district intended to modify the regulations in underlying business and industrial/research park districts in order to facilitate research and development and testing uses and to provide specific additional regulations with regard to such uses.

2.04 Special Districts

ED Educational

ED zoning allows any use of land and buildings which may legally be carried on by, or under the auspices of, the college or university which owns or manages the property. It is intended that the Educational District only include land which is owned or managed by Amherst College, Hampshire College, or the University of Massachusetts.

MP Municipal Parking

The MP District is an overlay district intended to include selected areas of the downtown General Business (B-G) District and abutting General Residence (R-G) District. Within the MP District, a wide range of permitted retail, service, commercial and residential uses shall be exempted from the requirement to provide off-street parking spaces. It is the policy of the Town of Amherst to encourage dense multi-use development in its Town Center. Toward that end, provision of off-street parking is not required for selected uses within the MP District.

DR Design Review

The DR District is an overlay district intended to include the General Business (B-G) District, and the abutting Limited Business (B-L) districts. The purpose of the DR District is to support the success and vitality of Amherst's Town Center by assuring that the historic character, aesthetic character, and functional quality of the design of Town Center buildings and sites are protected and enhanced. The DR District corresponds to those areas where the exterior design of new development or alterations requiring permits is subject to review by the Design Review Board.

TCDR Town Common Design Review

The TCDR District is an overlay district intended to include the Amherst Town Common and sites within 150 feet of the Common greenspace, as measured from the outside edges of the curbs bordering the three sections of the Common, parking lots and interior roadways inclusive. The purpose of the TCDR District is to protect and enhance of the design of the historic Town Common and that of the surrounding buildings and landscapes. The TCDR District corresponds to those areas where the exterior design of new development or alteration on or within the vicinity of the Town Common is subject to review by the Design Review Board.

2.05 Resource Protection Districts

FPC Flood-Prone Conservancy

The FPC District consists of those geographical areas which by virtue of their relationship to components of the natural hydrology of the Town of Amherst, have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution and in general are essential to the public health, safety, and welfare. To this end, the number and types of uses allowed are restricted.

WP Watershed Protection

The WP District is an overlay district intended to provide additional protection to those lands which by virtue of their location, slope and soils, make up the watersheds of the public water supply.

ARP Aquifer Recharge Protection

The ARP District is an overlay district intended to provide additional protection to those lands, which by virtue of their location, slope, soils, subsurficial geology and water tables, constitute the recharge area for Zones I, II and III of the public water supply wells of the Town of Amherst within the Lawrence Swamp Aquifer.

FC Farmland Conservation

The FC District is an overlay district, configured to include, and intended to protect those lands which, by virtue of their soils, acreage, location adjacent to and contiguous with other farm land, and lack of protection under existing underlying zoning, comprise the critical farmland of the Town of Amherst.

SECTION 2.1 ZONING MAP

The location and boundaries of zoning districts shall be as delineated on the Town of Amherst Geographic Information Systems (GIS) map entitled 'Official Zoning Map, Amherst, Massachusetts, May, 2011,' as amended. This map, including overlay districts, shall be on file in the Town Clerk's Office in electronic and hard-copy (paper) format with copies available upon request. The “Official Zoning Map” shall also be available for viewing on the Town of Amherst website.

Said Zoning Map and amendments thereto as shall be duly adopted shall be considered an integral part of this Bylaw. Amendments to zoning district boundaries adopted by action of Town Meeting shall be shown as amendments to this Map or shown on such other maps as may be incorporated as part of this Zoning Bylaw.

SECTION 2.2 BOUNDARY INTERPRETATION

For purposes of interpretation, it shall be assumed that:

2.21 Boundaries which appear to follow streets, railroads or streams shall coincide with the center line thereof.

2.22 Boundaries which appear to follow public or institutional property lines shall coincide with such property lines.

2.23 Boundaries which appear to run parallel to the side lines of streets or railroad rights-of-way shall be considered to be parallel to and a multiple of 50 feet distant from such lines (as determined by scaling the map unless a different distance is specifically indicated) or in specific instances shall run parallel to said streets, railroads or streams at the exact distance indicated on the Zoning Map.

2.24 Where a district boundary shall include a numerical figure followed by the letters MSL, it is at that number of feet above mean sea level. The basic source for determining such a line shall be the U.S. Geological Survey or subsequent field surveys, based on U.S.G.S. bench marks, or by Registered Land Surveyors.

2.25 For boundary interpretations in the Flood Prone Conservancy district, see also Section 3.223, 3.224, 3.225, and 3.227 of this Bylaw.

2.26 The Watershed Protection (WP) District is bounded by the topographic ridge on the upside, the fall lines (lines normal to actual topographic contours) on the lateral sides, and the Shutesbury town line by Atkins Reservoir.

ARTICLE 3 USE REGULATIONS

SECTION 3.0 PROHIBITED USES - ALL DISTRICTS
SECTION 3.1 RESTRICTED USES - ALL DISTRICTS
SECTION 3.2 SPECIAL DISTRICTS
SECTION 3.3 USE CLASSIFICATION AND STANDARDS

SECTION 3.0 PROHIBITED USES - ALL DISTRICTS

3.01 The development or operation on a single lot of more than one dwelling or more than one of the Principal Uses described in Section 3.3 is expressly prohibited except where the Principal Uses are clearly complementary to each other, or where otherwise provided by this Bylaw.

3.02 Trailer camps, billboards and all open air storage of junk, including inoperable automobiles and all uses which are excessively obnoxious or injurious to their neighborhood or to all property in the vicinity are expressly prohibited in all zoning districts in the Town. Inoperable automobiles and other materials related thereto stored in an auto salvage yard operating under an approved Special Permit shall not be considered junk under this Section.

SECTION 3.1 RESTRICTED USES - ALL DISTRICTS

3.11 Building Near Ponds

No permanent structure shall be located within 100 feet of any pond or Surface Water Impoundment of flood retention area without a Special Permit from the Zoning Board of Appeals permitting such structure within 100 feet. Such Permit shall not be issued unless the Zoning Board of Appeals takes into consideration the following in addition to the findings required by Section 3.22, if applicable, and by Article 10.

3.111 Elevation and placement of buildings

3.112 Drainage

3.113 Sewage disposal

3.114 Erosion and sedimentation control

3.115 Effect of fill, roadways, or other encroachments

3.116 Equipment location

3.117 Refuse disposal

3.118 Extent of paving

3.12 Earth Removal and Filling of Land

3.121 Any application to the Zoning Board of Appeals for a Special Permit, or to the Planning Board for Site Plan Review or Definitive Subdivision Plan Approval, as specified in Sections 3.1225, 3.1226, 3.374 and 5.10, shall include the following specific information:

3.1211 The location of the proposed excavation or filling;

3.1212 The legal name and address of the owner of the property;

3.1213 The legal name and address of the petitioner;

3.1214 Names and addresses of all abutting property owners including those on the opposite side of any streets;

3.1215 A plan of land involved prepared by a Registered Land Surveyor, showing all manmade features, property lines, vegetative cover, watercourse, drainage swales, soil characteristics and existing topography by two foot contours plus a strip 100' wide surrounding said land;

3.1216 A plan of land showing two foot contours of the finish grading and drainage of the site with clear identification of the top and toe slopes after the proposed completion of the excavation or filling project;

3.1217 The estimated quantity of material to be removed or added and topsoil to be stripped and replaced.

3.1218 The proposed form of bond to be used.

3.122 No Special Permit shall be required for the following:

3.1221 Moving earth products within the limits of an individual property or land in single ownership.

3.1222 Removal of earth products from an operating farm nursery, or cemetery to the extent that such removal is necessary to the operation of the same.

3.1223 The moving and removal of earth products for any municipal purpose by, or on behalf of, any Department of the Town of Amherst;

3.1224 The moving and removal of earth products when incidental to and in connection with the construction of a building or street or other activity authorized by this Bylaw.

3.1225 Filling of land in conjunction with a development that requires a Special Permit. Any such filling of land, however, shall be approved as part of the Special Permit required for the development and shall meet the conditions of Section 3.12.

3.1226 Filling of land in conjunction with a development that requires definitive subdivision plan approval. Any such filling of land, however, shall be approved as part of the subdivision plan and shall meet the conditions of Section 3.12.

3.13 Development in Floodways

All encroachments including fill, new construction, substantial improvements to existing structures and other developments are prohibited in the floodway, unless certification is provided demonstrating that such encroachment will not result in any increase in flood levels during the occurrence of a 100-year flood. Such certification shall be provided by a registered professional engineer or any other person, who, in the opinion of the Planning Board, is qualified to make such determination. Floodways are shown on the Floodway and Flood Boundary Map, as amended, produced by the Federal Emergency Management Agency. This section shall not supersede any of the requirements of the Flood Prone-Conservancy District.

3.14 Development Near Public Water Supply Sources

Notwithstanding any other provision of this Zoning Bylaw, in all zoning districts, any use of land located within Zones I, II, and III for a public water supply well, wellfield, or spring, or within Zones A, B, and C of a surface public water supply source shall be subject to the provisions of 310 CMR 22, including 310 CMR 22.20A-20G and 22.21, as amended, and all such Amherst board of Health regulations as may apply.

SECTION 3.2 SPECIAL DISTRICTS

3.20 Design Review Districts

3.200 General

The Design Review District (DR) and Town Common Design Review District (TCDR) are overlay districts and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force, and shall not be modified by the conditions of the DR or TCDR Districts unless superseded by the restrictions and prohibitions of said districts.

3.2000 Establishment of Districts

The Design Review District (DR) and Town Common Design Review District (TCDR) shall consist of the geographic areas shown for these districts on the Official Zoning Map.

3.2001 Purpose

The purpose of this section and these districts is to preserve and enhance the Town's cultural, economic and historical resources by providing for a detailed review of all changes in land use, the appearance of structures and the appearance of sites which may affect these resources. The review procedures are intended to:

1) Enhance the social and economic viability of the Town by preserving property values and promoting the attractiveness of the Town as a place to live, visit and shop;

2) Encourage the conservation of buildings and groups of buildings that have aesthetic or historic significance;

3) Prevent alterations that are incompatible with the existing environment or that are of inferior quality or appearance; and

4) Encourage flexibility and variety in future development.

3.201 Design Review Board

In accordance with the provisions of Chapter 40A of the Massachusetts General Laws, a Design Review Board is hereby established. The Design Review Board shall review applications for all actions that are subject to the provisions of this section and shall make recommendations to the appropriate permit-granting authority concerning the conformance of the proposed action to the design review standards contained herein.

The Design Review Board shall consist of five members, two of whom are registered architects, landscape architects or persons with equivalent professional training, and one of whom operates a business or owns commercial property in the affected area. Appointments to the Design Review Board shall be made by the Select Board. Of the five Design Review Board members, one member shall represent the Planning Board and one member shall represent the Historical Commission. The Planning Board and Historical Commission shall vote to recommend their representatives and forward those recommendations to the Select Board prior to appointment. These two representative members need not be members of the Planning Board or Historical Commission.

The terms of all members of the Design Review Board shall be three years, except that when the Board is originally established, the Select Board shall make two of their appointments for a two year term and the remaining appointment shall be for a one year term.

3.202 Reviewable Actions

The following types of actions shall be subject to review by the Design Review Board and shall be subject to the design standards herein.

3.2020 Actions in the DR Districts

All new structures, alterations or additions to existing structures, changes in outdoor land use or changes in site design which require a building permit, Site Plan Review, Special Permit or Variance and which affect the exterior architectural appearance of a building or site shall be subject to review by the Design Review Board, provided that the action occurs within the General Business (B-G) District or abutting Limited Business (B-L) zoning districts.

3.2021 Actions in the TCDR District

Any construction, alteration, demolition or removal that affects the exterior architectural appearance of a building or site shall be subject to review by the Design Review Board provided that the site is on or within 150 feet of the Amherst Town Common, as measured from the outside edges of the curbs bordering the three sections of the Common's greenspace, parking lots and interior road ways inclusive.

Exterior architectural appearance shall be defined as the architectural character and general composition of the exterior of a building, including but not limited to the kind, color and texture of building materials, including paint color, and the type, design and character of all windows, doors, light fixtures, signs, awnings, utility and ventilation structures and all other appurtenant elements.

The appearance of a site shall be defined as the character, layout and general composition of the site, including but not limited to the kind, color and texture of such materials as plantings, paving, benches, site lighting, free-standing signs, utility structures and all other appurtenant elements.

3.2022 Actions by Town Government

Any construction, alteration, demolition or removal of a structure or site by the Town of Amherst shall be subject to review by the Design Review Board. This includes all actions throughout the Town of Amherst, except for routine maintenance of existing structures or sites. Any repair, renovation or rehabilitation which will result in substantial alteration to the form or appearance of a structure or site shall not be considered routine maintenance. Where the status of such an action by the Town is in doubt, the department or agency responsible shall request a determination from the Zoning Enforcement Officer prior to beginning work.

3.203 Procedures for Review of Actions Subject to Design Review

3.2030 Applications for all actions subject to review by the Design Review Board shall be made by submitting a complete application form along with the required application materials and fee to the Planning Department where application forms may be obtained.

3.2031 All applications to the Design Review Board shall include all information required by the Rules and Regulations of the Design Review Board, as applicable, in addition to any other information that the Board may require, and any information that is required under this Bylaw as part of an application for a building permit, Site Plan Review, Special Permit or Variance. The Design Review Board may waive any and all of the requirements for design review submittal and approval.

3.2032 Upon receipt of an application for design review, the Planning Department shall immediately transmit a copy of the application to the Building Commissioner or the appropriate Town staff for the applicable permitting authorities. The Design Review Board shall review the application and transmit its recommendations in writing to the applicant and Building Commissioner or other appropriate Town staff within thirty-five (35) days of the receipt of the application. If the application for design review is associated with an application for a Variance or a Special Permit, the Building Commissioner shall immediately transmit the Design Review Board's recommendations to the Zoning Board of Appeals.

Failure by the Design Review Board to make and transmit its recommendation within the thirty-five (35) day period allocated shall be considered a recommendation for approval of the application submitted, unless the applicant has granted an extension in public meeting or in writing.

3.2033 No design review shall be required in those instances where the Design Review Board determines that specific actions subject to Section 3.202 do not constitute substantial alterations to the form or appearance of a building or site, and where no new or additional requirements of the Zoning Bylaw must be met for the proposed action.

3.204 Design Review Principles and Standards

The design review principles and standards described in this section are intended to guide the applicant in the development of site and building design and the Design Review Board in its review of proposed actions. These principles and standards shall not be regarded as inflexible requirements and they are not intended to discourage creativity, invention or innovation. The Design Review Board is specifically precluded from mandating any official aesthetic style for Amherst or for imposing the style of any particular historical period. The design review principles and standards shall apply to all actions reviewable under Section 3.202.

3.2040 General Principles

1) Every reasonable effort shall be made to preserve the distinguishing original qualities of a building, structure or site and its environment. The removal or alteration of any historic material or architectural features should be avoided when possible.

2) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.

3) Stylistic features distinctive to the architecture of a specific building, structure or landscape, or examples of skilled craft which characterize a building, structure or site shall be conserved or preserved where feasible and appropriate, and may be considered for use as the basis for design of additions. Their removal or alteration should be avoided whenever possible.

4) Contemporary design for new structures or sites, alterations or additions to existing properties shall not be discouraged when such new development, alterations or additions do not destroy significant historical, architectural or cultural material, and when such design is compatible with the design character of the surrounding environment.

5) The design of alterations and additions shall, where reasonable and appropriate, strive to improve the quality, appearance and usability of existing buildings, structure and sites.

3.2041 Design Review Standards

The Design Review Board shall consider, at a minimum, the following standards in the course of the design review of a proposed action.

1) Height - The height of any proposed alteration should be compatible with the style and character of the building, structure or site being altered and that of the surroundings.

2) Proportions - The proportions and relationships of height to width between windows, doors, signs and other architectural elements should be compatible with the architectural style and character of the building or structure and that of the surroundings.

3) Relation of Structures and Spaces - The relation of a structure to the open space between it and adjoining structures should be compatible with such relations in the surroundings.

4) Shape - The shape of roofs, windows, doors and other design elements should be compatible with the architectural style and character of a building or site, and that of its surroundings.

5) Landscape - Any proposed landscape development or alteration should be compatible with the character and appearance of the surrounding area. Landscape and streetscape elements, including topography, plantings and paving patterns, should provide continuity and definition to the street, pedestrian areas and surrounding landscape.

6) Scale - The scale of a structure or landscape alteration should be compatible with its architectural or landscape design style and character and that of the surroundings. The scale of ground-level design elements such as building entryways, windows, porches, plazas, parks, pedestrian furniture, plantings and other street and site elements should be determined by and directed toward the use, comprehension and enjoyment of pedestrians.

7) Directional Expression - Building facades and other architectural and landscape design elements shall be compatible with those of others in the surrounding area with regard to the dominant vertical or horizontal expression or direction related to use and historical or cultural character, as appropriate.

8) Architectural and Site Details - Architectural and site details including signs, lighting, pedestrian furniture, planting and paving, along with materials, colors, textures and grade shall be treated so as to be compatible with the original architectural and landscape design style of the structure or site and to preserve and enhance the character of the surrounding area. In the downtown business districts, these details should blend with their surroundings to create a diverse, functional and unified streetscape.

9) Signs - The design of signs should reflect the scale and character of the structure or site and its surroundings. Signs should simply and clearly identify individual establishments, buildings, locations and uses, while remaining subordinate to the architecture and larger streetscape.

   The choice of materials, color, size, method of illumination and character of symbolic representation on signs should be compatible with the architectural or landscape design style of the structure or site, and those of other signs in the surroundings.

3.21 Educational District (ED)

3.211 In an Educational District any use of land and buildings is permitted which may legally be carried on by, or under the auspices of the College or University which owns or manages the property in said District provided that the appropriate officials shall file with the Planning Board, for its information, plot plans of any new construction or significant change in use at least 60 days prior to initiation of said construction or change.

3.212 It is intended that the Zoning Map shall include in Educational Districts only land which is in fact owned or managed by Amherst College, Hampshire College, or the University of Massachusetts (but not all such land will necessarily be so zoned).

3.213 All setbacks, side and rear yards and heights within 50 feet of the boundary of an Educational District shall conform to the dimensional regulations applicable to the adjacent zoning district.

3.214 Within an Educational District, adequate off street parking shall be provided so that neither curb parking on public streets nor parking on property outside the Educational District shall be needed in connection with uses within the Educational District.

3.215 For wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

3.22 Flood Prone - Conservancy (FPC) District

3.220 This section does not authorize any person to trespass, infringe upon or injure the property of another, and it does not excuse any person of the necessity of complying with other sections of this Bylaw or other applicable laws, regulations and bylaws.

3.221 The invalidity of any portion of the FPC District shall not invalidate any other portion or provision thereof.

3.222 The purposes of this District are:

3.2220 To provide that lands in the Town of Amherst subject to seasonal or periodic flooding as described hereinafter shall not be used for residences or other purposes in such a manner as to endanger the health or safety of the occupants thereof.

3.2221 To protect persons and property within the Town of Amherst from the hazards of flood inundation by assuring the continuation of natural flow patterns and the maintenance of adequate and safe floodwater storage capacity.

3.2222 To protect the community against pollution and costs which may be incurred when unsuitable uses occur along water courses, wetlands, ponds and reservoirs, or in areas subject to flooding.

3.223 The FPC District shall consist of those geographical areas hereinafter delineated which by virtue of their relationship to components of the natural hydrology of the Town of Amherst, have substantial importance to the protection of life and property against the hazards of floods, erosion, and pollution, and in general are essential to the public health, safety, and welfare. Those geographical areas include flood prone areas, natural water storage areas adjacent to ponds, rivers, streams and wetlands as well as reservoirs.

The FPC District is considered to be:

3.2230 All areas designated as the FPC District on the Official Zoning Map on file in the Town Clerk's Office. The FPC District is determined by the following information: Department of Interior Map of Flood Prone Areas 1969; Soils Survey, 1965; Wetlands Map, 1973; Town of Amherst base map, 1972, as revised; historical flood information; hydrologic surveys; U.S.G.S. topographic maps; and other topographic surveys.

3.2231 All land within a minimum of 75 feet horizontally of the crest of the bank of the Mill River.

3.2232 All land within a minimum of 50 feet horizontally of the crest of the bank of Cushman Brook, Amethyst Brook, Adams Brook, Hearthstone Brook, Swamp Brook, and Hawley Brook downstream from North East Street.

3.2233 All land within a minimum of 25 feet horizontally of the crest of the bank of flowing and intermittent streams not otherwise specified in Section 3.2230, 3.2231, 3.2232, but designated on the Town Base Map, 1972 as revised.

3.224 The reference documents for the FPC District shall be the Official Zoning Map and the Town of Amherst base map, dated 1972, as revised, for determining the name and location of streams and other water bodies. The Town Base Map shall be on file in the Town Clerk's office.

3.225 Where an elevation above mean sea level (MSL) is a boundary for the FPC District, the planimetric representation of that elevation shall be determined by the most recent topographic survey of the area. The topographic survey must be done by a registered land surveyor, or other professional approved by the Planning Board.

3.226 If any portion of a lot falls within the FPC District, that portion may be used to meet the lot area and yard requirements for the district in which the remainder of the lot is situated.

3.227 Where a water body may be subject to more than one of the preceding designations, the more stringent shall apply. All water bodies or wetlands encircled by an area designated above are hereby included within the FPC District. The Building Commissioner shall determine the "crest of the banks" of streams when necessary.

3.228 In instances where the Planning Board is authorized to issue a Site Plan approval in the FPC District, the following factors shall be considered in assuring the protection from flood hazards:

Drainage
Elevation of buildings
Adequacy of sewage and refuse disposal
Control of erosion and sedimentation
Location of equipment
Storage of buoyant material
Extent of paving
Effect of fill, roadways or other encroachments on flood runoff and flow
Storage of chemicals and other hazardous substances

3.229 In instances where the Special Permit Granting Authority issues a Special Permit in the FPC District said Authority must find that such factors as those listed in Section 3.228 above will not appreciably affect the water table or water quality, reduce flood storage capacity, or interfere with the natural flow and drainage pattern of the area.

3.230 No dumping, filling, channeling, or alteration of the natural course of a water body or stream shall be permitted within the FPC District except where it is demonstrated that such use is consistent with agricultural or conservation purposes and public health and safety. Such use shall not appreciably affect the water table, reduce flood storage capacity, or interfere with the natural flow and drainage pattern of the area.

3.231 Structures associated with the allowable uses indicated in Section 3.3, and accessory structures, shall not be located within the Flood Prone-Conservancy District without a Special Permit from the Zoning Board of Appeals.

3.24 Watershed Protection (WP) District

3.240 General

The Watershed Protection District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force and shall not be modified by the conditions of the WP District unless superseded by the restrictions and prohibitions of the WP District.

3.241 Establishment of District

The Watershed Protection District shall consist of those geographic areas shown by the Official Zoning Map. This District is configured to include those lands, which by virtue of their natural slope and soils, relate directly to the public water supply system, insofar as being areas where water flows overland into the recharge areas as defined by the ARP District in Section 3.25 and into the Atkins Reservoir.

3.242 Purpose

The purpose of this district is to protect the public health by preventing contamination of the surface water flowing overland into Atkins Reservoir or into the aquifer of the Lawrence Swamp Basin.

3.243 Restrictions and Prohibitions

The following are restricted or prohibited, as the case may be, in the WP District, except as part of normal agricultural operations.

3.2430 The release upon or within any land or water in the WP District of any hazardous materials is prohibited, except otherwise provided in Section 3.24.

3.2431 Industrial or commercial uses which involve, as their primary business activity, hazardous material in amounts exceeding the minimum threshold amount requiring compliance with the Mass. Dept. of Environmental Quality Engineering Hazardous Waste Regulations, 310 CMR 30, as amended, are prohibited.

3.2432 Commercial uses which involve, as their primary business activity, hazardous materials, including but not limited to, truck or bus terminals, car washes, gasoline sales, motor vehicle service and repair shops, fuel oil storage and sales, and wood preserving, stripping and refinishing operations are prohibited.

3.2433 The use of septic system chemical cleaners which contain hazardous materials, including but not limited to methylene chloride and 1-1-1 trichlorethane is prohibited.

3.2434 Underground storage and/or transmission of oil or other petroleum products not in a containment structure approved by the Permit Granting Board, except for liquified petroleum gases and gasoline which shall require a Special Permit in accordance with Section 3.244, is prohibited.

3.2435 Industrial or commercial storage of sodium chloride and other de-icing materials, pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals is prohibited.

Sodium chloride, if used for ice control, shall be used at the minimum level consistent with public highway safety standards. The base ratio shall be 1 part salt to 10 parts sand, with higher levels of salt used only where necessary to maintain public safety.

Calcium chloride, chemically treated abrasives and other alternative de-icing materials shall be used to the maximum extent feasible for winter road maintenance. Municipal storage of all such snow and ice chemicals shall occur on a paved surface, with berms, within a covered structure designed to prevent the generation and escape of contamination run-off or leachate.

The outdoor storage of de-icing materials or pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals for home use is prohibited.

3.2436 Industrial or commercial uses which involve the storage, use or presence of any oil, petrochemical product, pesticide, herbicide, fertilizer, or other hazardous leachable materials on any site within the WP District shall require a Special Permit from the Zoning Board of Appeals. A Special Permit shall be issued only upon a specific finding that the hazardous material(s) will be transported, stored, used and disposed of in a manner that will not constitute a threat to the Lawrence Swamp Aquifer or the Atkins Reservoir.

3.2437 Pesticides, herbicides, fertilizers and other leachable lawn and garden chemicals shall be used in accordance with Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended.

3.2438 Runoff water shall not be diverted from land in this district into another watershed basin.

3.2439 Any uses of land or related activities specifically restricted or prohibited under 310 CMR 22, inlcuding 310 CMR 22. 20A-20G and 22.21, as amended, and all such Amherst Board of Health regulations as may apply.

3.244 Special Permits/Site Plan Review

3.2440 For all uses which require either a Special Permit or Site Plan Review in accordance with Section 3.3, and that are located in the WP District, the following information shall be required as part of the application submission:

1. A site plan which shall show, at a minimum:

   a. Drainage plans, showing location of drainage facilities and direction in which surface water is to be drained

   b. Erosion and sedimentation control measures

   c. Measures to prevent contamination of surface drainage from any potential on-site pollutants

2. a. In addition, for any commercial or industrial use involving hazardous materials, a written operating plan shall be filed which shall include physical and management provisions for:

      i. Protecting hazardous materials from vandalism

      ii. Prevention of corrosion of containers or piping and subsequent leakage of hazardous materials

      iii. Indoor storage of all hazardous materials

      iv. Storage area features such as impervious floor surfaces with no interior drains

      v. Measures to prevent hazardous material spills during transport, transfer or use

      vi. Notification, containment and clean-up in the event of hazardous materials spills

      vii. Evidence of insurance, bonding or other financial security adequate to cover the cost containment and clean-up of any hazardous material spills

      viii. The availability and feasibility of proposed disposal methods

      ix. Safe storage, transfer, and disposal of accumulated hazardous waste materials

   b. The operating plan shall identify all chemicals, pesticides, fuels and other hazardous materials and estimates of the amounts of such materials to be used each month for the first two years of operation. Following approval of a permit, records shall thereafter be retained showing the actual amounts used each month.

c. Uses permitted by either a Special Permit or Site Plan Review shall submit two (2) copies of an annual report containing actual data for each month and describing any changes in the operation or physical conditions on the premises. The annual report shall also describe any changes in operations or conditions expected or proposed for the upcoming year. One copy of the annual report shall be forwarded to the Board of Health. Annual reports shall be due on the anniversary of the granting of the approval, or within fourteen (14) working days of that date.

3. The applicant shall file six (6) copies of the proposed operating plan with the Zoning Board of Appeals (Special Permit)/Planning Board (Site Plan Review). Copies shall be transmitted, within 7 days, to the ZBA/Planning Board, Conservation Commission, Board of Health, and Building Commissioner, for their review and recommendations.

3.2441 The Zoning Board of Appeals and Planning Board may require reasonable additional information it finds necessary for adequate assessment of the proposed use.

3.2442 The following findings shall be made for any approvals granted:

1. The permit granting Board shall find that the proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.

2. The permit granting Board shall find that the proposed use provides for adequate sewage disposal and water service systems.

3. The permit granting Board shall find that the proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the WP District during construction.

4. The permit granting Board shall find that the proposed use will not adversely affect the quality and quantity of water in the Lawrence Swamp Basin or the Atkins Reservoir.

3.245 Exemptions

In any instance where a property owner disputes the inclusion of their property in the WP District, the owner may engage a professional hydrogeologist, or engineer or geologist with experience in hydrogeology to determine if that property should be included in the WP District, based on the definition of and purposes of the district and on the characteristics of the property. Based on this determination, the property owner may apply to the Zoning Board of Appeals for a Special Permit for any use that would otherwise be permitted in the underlying zoning district but which is prohibited or constrained by the restrictions of the WP District. The Board shall find, based on Sections 3.241 and 3.242, that the property either is or is not exempt from the provisions of Section 3.24 and may, therefore, issue a Special Permit.

3.246 Residential Development

For all parcels of land which are located in that area of the WP Overlay District which is associated with the Lawrence Swamp Aquifer, the following requirements shall be met:

3.2460 Residential subdivisions requiring approval under M.G.L. Ch. 41, the Subdivision Control Law, shall be laid out as cluster developments in accordance with Section 4.3 of the Zoning Bylaw.

3.25 Aquifer Recharge Protection (ARP) District

3.250 General

The Aquifer Recharge Protection (ARP) District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force, and shall not be modified by the conditions of the ARP District unless superseded by the restrictions and prohibitions of the ARP District.

3.251 Establishment of District

The Aquifer Recharge Protection (ARP) District shall consist of those geographic areas shown on the Official Zoning Map. This District is configured to include all those lands which by virtue of their natural slope, soils, subsurficial geology and water tables relate directly to the recharge of groundwater into the large aquifer located in the Lawrence Swamp basin consisting of the Zones I, II and III aquifer recharge areas for the Town of Amherst's public wells.

3.252 Purpose

The purpose of this district is to protect the public health by preventing contamination of the ground and surface water flowing into the aquifer of the Lawrence Swamp Basin, which is the major water supply for the Town.

3.253 Prohibitions

The following uses are prohibited in the ARP District, except as part of normal agricultural operations.

3.2530 Business and industrial uses, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair, which generate, treat, process, store or dispose of hazardous waste, except for the following:

1. Very small quantity generators of hazardous waste, as defined by 310 CMR 30.00, as amended, may be allowed by the Special Permit Granting Authority in accordance with Section 3.250 of this bylaw;

2. Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390, as amended;

3. Waste oil retention facilities required by M.G.L. Ch. 21, Sec. 52A, as amended, and;

4. Treatment works approved by the Massachusetts Department of Environmental Protection and designed in accordance with 314 CMR 5.00, as amended, for the treatment of contaminated ground or surface waters.

3.2531 Industrial or commercial uses which dispose of process waste waters on site.

3.2532 Truck or bus terminals, car washes, gasoline sales, motor vehicle service and repair shops, commercial fuel oil storage and sales, solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage, with the exception of the disposal of brush or stumps.

3.2533 Underground storage of liquid petroleum products, except for the following:

1. Storage for normal household use, outdoor maintenance, and heating of a structure;

2. Waste oil facilities required by statute, rule or regulation;

3. Emergency generators required by statute, rule or regulation;

4. Treatment works approved under 315 CMR 5.00 for treatment of ground or surface waters;

5. Underground storage tanks for gasoline which existed at the time of adoption of this bylaw may be replaced, provided that any such replacement tank is of no greater volume, and shall be provided with a secondary containment system in compliance with the Massachusetts Fire Safety Code (527 CMR); provided that such storage, listed in items 1. through 5. above, is in free-standing containers within buildings or above ground and in either case is provided with secondary containment facilities, impermeable and capable of holding a spill equal to 1.5 times the total volume of the primary container. The replacement of any underground storage tanks for heating oil which existed at the time of adoption of this bylaw shall meet the requirements of the Board of Health.

3.2534 The outdoor storage of salt, de-icing materials, pesticides, herbicides, fertilizers and other hazardous lawn and garden chemicals for home use is also prohibited.

3.2535 Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical including but not limited to septic system chemical cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous waste.

3.2536 Stockpiling and disposal of snow or ice removed from highways or streets located outside the ARP District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.

3.2537 Wastewater treatment plants or works subject to a groundwater discharge permit under 310 CMR 5.00, except for the following:

1. The replacement or repair of an existing system that will not result in any increase in the design capacity of said system;

2. The replacement of an existing subsurface sewage disposal system with wastewater treatment works that will not result in any increase over the design capacity of the existing system, and;

3. Treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00, as amended.

3.2538 Industrial or commercial storage of sodium chloride and other de-icing materials, pesticides, herbicides, fertilizers, and other hazardous lawn and garden chemicals is prohibited.

3.2539 Excavation of earth, sand, gravel and other soils or geologic materials shall not extend closer than ten (10) feet above the long-term (20 year) average annual high water table on the site, except to provide for structural foundations, utility conduits and public works. This prohibition also shall not apply to the installation or maintenance of on-site septic systems.

3.254 Restricted Uses

The following uses are restricted in the ARP District:

3.2540 Sodium chloride, if used for ice control, shall be used at the minimum level consistent with public highway safety standards. The base ratio shall be 1 part salt to 10 parts sand, with higher levels of salt used only where necessary to maintain public safety. Calcium chloride, chemically treated abrasives and other alternative de-icing materials shall be used to the maximum extent feasible for winter road maintenance. Municipal storage of all such snow and ice control chemicals shall occur on a paved surface, with berms, within a covered structure designed to prevent the generation and escape of contamination run-off or leachate.

3.2541 Fertilizers, pesticides, herbicides and other leachable lawn and garden chemicals shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30,31), as amended, with manufacturer's label instructions, and all other necessary precautions to minimize adverse impacts on surface and groundwater.

3.2542 Industrial or commercial uses which involve the storage, use or presence of any oil, petrochemical product, pesticide, herbicide, fertilizer, or other hazardous leachable materials on any site within the ARP District, shall require a Special Permit from the Zoning Board of Appeals. A Special Permit shall be issued only upon a specific finding that the hazardous material(s) will be transported, stored, used and disposed of in a manner that will not constitute a threat to the Lawrence Swamp Aquifer. Any facility for the storage of such materials shall have secondary containment and shall be covered.

3.255 Drainage

3.2550 To the extent possible, runoff from impervious surfaces shall be recharged on the site by being diverted to areas covered with vegetation for surface infiltration. No more than 15% of the net runoff from a lot, calculated after development, may be diverted out of the ARP District. All detention or retention basins, ponds and similar drainage structures shall be permanently maintained in full working order by the property owner, unless otherwise specified by the permit granting authority.

3.2551 The rendering impervious of more than 15% of the lot area or 2,500 square feet, whichever is greater, is permitted under a Special Permit, provided that a system for artificial recharge of precipitation to groundwater is developed which the Special Permit Granting Authority finds adequately protects against the degradation of groundwater quality. For non-residential uses, recharge shall be stormwater infiltration basins or similar systems covered with natural vegetation. Dry wells shall be used only when other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease and sediments traps to facilitate removal of contamination. Any and all recharge areas, basins, wells and traps shall be permanently maintained in full working order by the property owner.

3.256 Split Zoning

For any lot that is divided by the ARP District boundary, whose frontage is not located in the ARP District and for which a proposed use (allowed by the underlying zoning district) is restricted by either the location of the District boundary or the dimensional requirements of the ARP District, an owner may apply to the Zoning Board of Appeals, for a Special Permit for a waiver of the restrictions or dimensional requirements of the ARP District provided the Board makes the findings required in Section 3.2585.

3.257 Dimensional Regulations

3.2570 Lot Coverage

Maximum lot coverage for residentially zoned land--15%

Maximum lot coverage for PRP zoned land--50%

3.2571 Building Coverage

Maximum building coverage for residentially zoned land--10%

Maximum building coverage for PRP zoned land--25%

3.258 Special Permits/Site Plan Review in the ARP District

3.2580 For all uses which require either a Special Permit or Site Plan Review in accordance with Section 3.3, the following shall be required as part of the application submission:

3.2581 A site plan which shall show, at a minimum:

a. Drainage recharge features and provisions to prevent loss of recharge.

b. Erosion and sedimentation control measures.

c. Provisions to prevent soil compaction.

d. Measures to prevent contamination from petroleum products or hazardous chemicals.

e. Provisions to prevent seepage from sewage disposal systems.

3.2582 a. In addition, for any commercial or industrial use involving hazardous materials, a written operating plan shall be filed which shall include physical and management provisions for:

i. Protecting hazardous materials from vandalism.

ii. Prevention of corrosion of containers or piping and subsequent leakage of hazardous materials.

iii. Indoor storage of all hazardous materials.

iv. Storage area features such as impervious floor surfaces with no interior drains.

v. Measures to prevent hazardous materials spills during transport, transfer or use.

vi. Notification, containment and clean-up in the event of hazardous materials spills.

vii. Evidence of insurance, bonding, or other financial security adequate to cover the cost of containment and clean-up of hazardous materials spills.

viii. The availability and feasibility of proposed disposal methods.

ix. Safe storage, transfer, and disposal of accumulated hazardous waste materials.

b. The operating plan shall identify completely all chemicals, pesticides, fuels and other hazardous materials and estimates of the amounts of such materials to be used each month for the first two years of operation. Following approval of a permit, records shall thereafter be retained showing the actual amounts used each month.

c. Uses permitted by either a Special Permit or Site Plan Review shall submit two (2) copies of an annual report containing actual data for each month and describing any changes in the operation or physical conditions on the premises.

The annual report shall also describe any changes in operations or conditions expected or proposed for the upcoming year. One copy of the annual report shall be forwarded to the Board of Health. Annual reports shall be due on the anniversary of the granting of the approval, or within fourteen (14) working days of that date.

3.2583 The applicant shall file six (6) copies of the proposed operating plan with the Zoning Board of Appeals (Special Permit)/Planning Board (Site Plan Review). Copies will be transmitted, within 7 days, to the ZBA/Planning Board, Conservation Commission, Aquifer Protection Committee, Department of Public Works, Board of Health, and Building Commissioner, for their review and recommendations.

3.2584 The Zoning Board of Appeals and Planning Board may require such additional information as they find necessary for adequate assessment of the proposed use. The Zoning Board of Appeals and Planning Board may, consistent with their regulations adopted pursuant to M.G.L. Ch. 44, 53G, employ outside consultants, including, but not limited to hydrogeologists, in the review of the proposed use.

3.2585 The following findings shall be made for any approvals granted:

1. The permit granting Board shall find that the proposal either is in harmony or is not in harmony with the purposes and intent of this section and must specify reasons therefore.

2. The permit granting Board shall find that the proposed use provides for adequate sewage disposal and water service systems.

3. The permit granting Board shall find that the proposed use will not have an adverse environmental impact on any watershed, watercourse or waterbody in the ARP District during construction.

4. The permit granting Board shall find that the proposed use will not adversely affect the quality and quantity of water in the Lawrence Swamp basin.

3.259 Exemptions & Residential Development

3.2590 Exemptions

In any instance where a property owner disputes the inclusion of their property in the ARP District, the owner may engage a professional hydrogeologist or groundwater engineer to determine if that property should be included in the ARP District based on the definition and purposes of the district and on the characteristics of the property.

Based on this determination, the property owner may apply to the Zoning Board of Appeals for a Special Permit for any use that would otherwise be permitted in the underlying zoning district but which is prohibited or constrained by the restrictions in the ARP District. Sections 3.2583 and 3.2584 of this bylaw shall apply to all applications for exemption under this section. The Board shall find, based on Sections 3.251 and 3.252, that the property either is or is not exempt from the provisions of Section 3.25 and may therefore issue a Special Permit.

3.2591 Residential Development

For all parcels of land which are located in both the ARP District and the Low Density Residence District (R-LD), the following requirements shall be met:

Residential subdivisions requiring approval under M.G.L. Ch. 41, The Subdivision Control Law, shall be laid out as cluster developments in accordance with Section 4.3 of the Zoning Bylaw.

3.26 Municipal Parking District

See Section 7.4 of this Bylaw for Purpose and Requirements.

3.27 Planned Unit Residential Development (PURD) District.

3.270 This district is an overlay district and shall be superimposed on the other districts as indicated in Table 2 Development Methods in this Bylaw. See Section 4.4, Planned Unit Residential Development.

3.28 Farmland Conservation (FC) District

3.280 General

The Farmland Conservation District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying districts shall remain in full force and shall not be modified by the conditions of the FC District unless superseded by the restrictions and conditions of the FC District.

3.281 Establishment of District

The Farmland Conservation District shall consist of those geographic areas shown as FC District on the Official Zoning Map. This District is configured to include those lands which, by virtue of their soils, acreage, location adjacent to and contiguous with other farmland forming discrete blocks, and lack of protection under existing zoning, comprise the critical farmland areas of the Town of Amherst.

3.282 Purpose

The purposes of the Farmland Conservation District are to:

3.2820 Promote and protect the practice and continued economic viability of farming through conservation of those lands on which farming is most viable while allowing development of other portions of farm properties for residential and other non-farming use;

3.2821 Maintain an adequate base of agricultural land and activity in Amherst to help ensure the continued economic viability of local farming and thereby contribute to the continued availability of agricultural support services;

3.2822 Preserve the continued economic value of land for farmers and farmland owners by retaining portions of farm properties as developable for residential and other non-farm purposes, thereby supporting the continued economic viability of individual farms and farming in Amherst;

3.2823 Preserve the culture and landscape of farming, which help define the character of Amherst.

3.283 Residential Development

3.2830 Residential subdivisions requiring approval under M.G.L., Ch. 41, Subdivision Control Law, shall be laid out as cluster developments in accordance with the provisions of this section and Section 4.3, Cluster Development, or as open space community developments in accordance with Section 4.5, Open Space Community Development (OSCD), of the Zoning Bylaw.

3.2831 Cluster developments in the FC District shall conform to the provisions of Sections 3.284 and 3.285 of this bylaw.

3.2832 For flag lots with frontage located outside the FC District and a majority of lot area within the FC District, the lot area requirements for these lots are as follows:

Minimum lot area 20,000 sq.ft.
Maximum lot area 30,000 sq.ft.

All other dimensional requirements for these lots shall be the same as those specified in Table 3 for Cluster Development flag lots in the R-N District.

3.284 Standards for Planning Board Site Plan Review (SPR)

The Planning Board shall grant Site Plan Review (SPR) Approval for a cluster development in the FC District provided it finds that in addition to meeting the provisions of Section 11.2 and 11.3 of the Zoning Bylaw, the proposed use conforms to the provisions of Section 3.285, Farmland Conservation Development Standards and Section 4.38, Cluster Development Design Standards, of this Bylaw.

3.285 Farmland Conservation Development Standards

3.2850 To the maximum practical extent, all buildings and roads shall be located on that portion of the site with soils least suitable for the production of crops or livestock.
This provision shall not apply to the location of on-site septic disposal facilities, which

must be placed in soils meeting the Massachusetts Environmental Code.

1. To assist the permit granting board in making its determination, copies of the application and site plan shall be transmitted to the Farm Committee, which shall have thirty-five (35) days to report its findings. Upon notification by the permit granting board, the Farm Committee shall assemble an expert panel consisting of professional agronomists, soils scientists and other qualified professionals to evaluate and report on the suitability of soils, including but not limited to the historical uses thereof, and the overall agricultural viability of the farm property, consistent with the purposes of the bylaw. Failure to report in the allotted time shall constitute approval by the Farm Committee. The permit granting board may grant at least one extension of this time period in response to a written request from the Farm Committee for such an extension based on a need for additional time resulting from parcel size, project complexity, time of year, or other factors.

2. The permit granting board may, consistent with its regulations adopted pursuant to M.G.L., Ch. 44, 53G, engage the service of independent professional agronomists, soils scientists, or other qualified consultants at the cost of the applicant, to assist in evaluating a site or project.

3.2851 Individual or multi-unit community septic systems may be allowed in cluster developments in the FC District where public sanitary service is not reasonably available, subject to Board of Health approval, conditions and restrictions.

3.2852 Within the common land provided in the Cluster Development, a maximum of 5,000 square feet per dwelling unit shall be set aside as usable open space for active and passive recreation.

Upon request of the applicant, the Planning Board may waive this maximum, where such a change would be consistent with the purposes of this Bylaw. In making their decision, the Planning Board shall consider whether the maximum feasible amount of common land has been set aside as permanently preserved farmland, while maintaining adequate amounts of usable open space for active and passive recreation for the Cluster Development.

3.2853 Common land set aside as permanently preserved open farmland shall have appropriate contiguous acreage, configuration and access to enable continued viable farmland operations.

3.2854 All roadways, drainage systems and utilities shall be laid out in a manner so as to have the least possible impact on adjacent or on-site agricultural lands or uses.

3.2855 No building containing dwelling units shall intrude into a minimum 150 foot buffer strip separating residential uses from adjacent or on-site farmland. Said buffer strip may include private property and Common Land. The permit granting board or authority may reduce this distance requirement where screening, substantial vegetation, land contour or other features of the site are deemed to provide sufficient buffering, and where such a change is consistent with the purposes of this Bylaw. An exception to this distance requirement shall be permitted for no more than one (1) dwelling unit associated with the management and operation of agricultural uses of the farmland. Said dwelling unit shall be included in the maximum number of lots provided for under Section 4.327.

3.2856 The permit granting board or authority may approve the use of portions of the 150 foot buffer strip between the residential and farmland portions of a cluster development as usable open space for the recreational use of cluster development residents, provided the board or authority determines such use will not impact adversely on adjacent farming activity and is consistent with Section 4.31 of the Zoning Bylaw.

3.2857 Every reasonable effort shall be made to maintain views of open agricultural lands from nearby public ways.

3.2858 Each dwelling unit and structure shall be integrated into the existing landscape through use of building placement, landform treatment and screening.

3.2859 Applicants are encouraged to site dwelling units and other structures:

1. Within any woodland contained on the parcel;

2. Into woodlands along the edges of fields;

3. In locations where new construction can be visually screened or absorbed into natural vegetative or topographic features;

4. In locations where the greatest number of units can take advantage of solar heating, summer breezes, vegetative wind screens, and other climatic site characteristics that can be utilized through siting and design.

3.29 Research & Development (RD) District

3.290 General

The Research & Development (R&D) District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying districts shall remain in full force and shall not be modified by the conditions of the R&D District unless superseded by the restrictions and conditions of the R&D District.

3.291 Establishment of District

The Research & Development (R&D) District shall consist of those geographic areas shown as R&D District on the Official Zoning Map. This District is configured to include those lands which, by virtue of their location with respect to institutions of higher learning, transportation corridors, utilities, village centers, services, and other factors, are appropriate for the siting of research, development, and testing businesses.

3.292 Purpose

The purposes of the Research & Development (R&D) District are to:

3.2920 Facilitate and promote the establishment, development, and expansion of information- and technology-intensive research and development businesses in Amherst.

3.2921 Provide opportunities for the establishment of research and development businesses, including but not limited to those derived from or associated with the research and testing activities of departments or agencies of the University of Massachusetts, Amherst College, and Hampshire College.

3.2922 Require that any research and development businesses established in Amherst are located, designed, and operated in conformance with all federal, state and local regulations regarding public health and safety.

3.2923 Expand employment opportunities for Amherst residents in the fields of research and development.

3.2924 Broaden and diversify the community's property tax base.

3.293 Permit Required

Within the R&D District, any uses under Sections 3.372.0 and 3.372.1 directly involved or associated with research, development and testing activities, including any associated accessory light manufacturing which would otherwise be regulated in the underlying zoning district under a Special Permit (SP) by the Zoning Board of Appeals shall instead be regulated under Site Plan Review (SPR) approval by the Planning Board. An exception shall be any accessory research or testing to be conducted outdoors, which shall require a Special Permit granted by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw.

3.294 Review Period

Notwithstanding the provisions of Sections 10.323 and 11.230, within the R&D District, the Fire Chief, Building Commissioner, Board of Health, Town Engineer, and Conservation Department shall have forty-five (45) days to report their findings on any application made under Sections 3.372.0 and 3.372.1 which involves the use, production or storage of materials identified as flammable, toxic, hazardous or explosive.

SECTION 3.3 USE CLASSIFICATION AND STANDARDS

For the purposes of this Bylaw, existing and future uses of land, buildings and other structures shall be allocated among the following categories. It is intended that every possible use be included in some category, and a use that does not readily fall into any category listed shall be included in the one to which it is most similar. Each use is assigned a number which is found in the left hand column of the following pages.

The Standards and Conditions column which is located to the right of the Use Classification column contains specific requirements which shall be met if the Use is to be permitted in any Zoning District by right, by Special Permit, or by Site Plan Review.

The column located to the right of the Standards and Conditions column indicates the Zoning Districts in which the specific Uses are permitted or prohibited. The following code is used in those columns:

Y	=	Yes The Use is permitted by right in that Zoning District.
N	=	No The Use is not permitted in that Zoning District.
SPR	=	The Use is permitted by right with Site Plan Review (See Section 11.2)[1]
SP	=	The Use is permitted with a Special Permit, by the Zoning Board of Appeals (See Section 10.3)
SPP	=	The Use is permitted with a Special Permit, by the Planning Board (See Section 10.3)
( )	=	The Use, if located within the Aquifer Recharge Protection District (ARP) shall be subject to the code designation within the parenthesis.

[1]No Site Plan Review shall be required in those instances where a use change is proposed and no substantial physical changes (other than signs) will occur to the site or building exterior and where no new or additional requirements of the Zoning Bylaw must be met for the proposed use.

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
SECTION 3.31	**EXTENSIVE USES**															
3.310	Forestry and the harvesting of forest products.		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.311	Orchard, market garden, nursery, or other use of land for commercial or other agricultural production.		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.312	Salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including articles of home manufacture from such produce).	Class I and Class II farm stands shall be located on a property a minimum of two (2) acres in size where it can be demonstrated that the sale of products produced from the agricultural use of the property annually generates at least $1,000 per acre based on gross sales dollars, or, on a property a minimum of five (5) acres in size.														
	3.312 Class I Farm stand		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
		For produce grown during either June, July, August & September of every year, or during the harvest season of the crop(s) raised on land of the owner or lessee, at least 25 percent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located. For produce generated without regard to seasons, at least 25% of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and at least an additional 50 percent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture (including the growing and keeping of nursery stock and the sale thereof), floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, all as provided for under MGL Ch. 40A, Sec. 3, as amended.														
	3.3121 Class II Farm stand		SP	SP	SP	SP	SP	SPR	SPR	SPR	SPR	SPR	SP	SP	SP	SP
		For produce grown during June, July, August & September of every year, or during the harvest season of the primary crop(s) raised on land of the owner or lessee, at least 15% of the products for sale shall be produced by the owner or lessee of the land on which the facility is located. For produce generated without regard to seasons, at least 15% of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and at least an additional 50 percent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other that that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture (including the growing and keeping of nursery stock and the sale thereof), floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another.														
3.313	Commercial poultry or livestock farm, or the raising of pets for gainful purposes.		Y	N	N	N	N	N	N	N	N	N	N	SP	N	SP
3.314	Reservation, wildlife preserve, or other conservation use.		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.315	Outdoor recreational use		SP	SP	N	N	N	SP	SP	SP	N	SP	N	N	N	SP
		Any structure shall be accessory to the operation of the outdoor recreation activities.														
3.316	Surface water impoundment, flood retention ponds, or other surface water storage use water storage use.		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SPR
		Any use proposed under this section shall abide by all applicable local, state, and federal regulations governing environmental, flood-related, structural, and safety aspects of the proposed use and its associated structures and site alterations, and all applicable permits governing dams and surface water impoundments shall be obtained and maintained as current. Failure to abide by said regulations or to obtain and keep current all required permits shall result in the voiding of any permit issued under this section and shall be considered a violation under Section 11.4 of this Bylaw.														
3.317	Commercial greenhouse		SP	SP	N	N	N	SP	SP	SP	N	SP	N	SP	N	N
SECTION 3.32	**RESIDENTIAL USES**	See Article 4 for Cluster Development, Planned Unit Residential Development and Open Space Community Development.														
3.320	One family detached dwelling		Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N

Bylaw Number	Land Use Classifications		Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
				Zoning Districts													
3.321	Two family detached dwelling (duplex)		Except as may otherwise be authorized under this section, a two-family detached dwelling (duplex) shall have an external appearance and footprint compatible in terms of design with those of single family dwellings in the surrounding neighborhood. In all districts, the Special Permit Granting Authority or Permit Granting Board, as applicable, shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of a new two-family detached dwelling or the addition of a single new dwelling unit to an existing single family residence such that a two-family detached dwelling (duplex) is created. Where the two dwelling units are arranged side by side, said units shall either: 1) share a significant portion of at least one common wall or floor abutting habitable space, or 2) the space, or 2) the Special Permit Granting Authority or Permit Granting Board, as applicable, may allow a duplex where the two units do not share a common wall abutting habitable space but are instead connected structurally and continuously by a shared foundation, walls and roof. The Special Permit Granting Authority or Permit Granting Board may make such an allowance only upon a determination that the design of the proposed duplex is compatible with the architecture and building and site layout of other residential buildings in the surrounding neighborhood.														
	3.3210	Owner occupied duplex		SP (N)	SP (N)	SPR	SPR	N	N	N	N	SPR	N	N	N	N	N
			For an owner occupied duplex, one (1) or both of the dwelling units serve as the principal residence of one or more owner(s) of the property.														
	3.3211	Non-owner occupied duplex		SP (N)	SP (N)	SP	SP	N	N	N	N	SP	N	N	N	N	N
			For a non-owner occupied duplex, one (1) or both dwelling units are rented and neither unit serves as the principal residence of one or more owner(s) of the property. No dwelling unit under this use category may be occupied by a total of more than four (4) unrelated persons. The Special Permit Granting Authority shall require the ongoing services of a qualified professional management company, the presence of an on-site manager, or similar provisions for proper management of the rental use as a condition of approval. 1 Name(s) and contact information shall be provided for the owner, any responsible rental property management entity, and at least one on-site resident. 2 A management plan as defined in the Rules and Regulations adopted by the Special Permit Granting Authority, shall be included as an integral part of any application. Also included hsall be a Response Plan describing the concrete steps to be taken by the property owner or management in response to complaints about the operation of the use or the conduct of the tenants. 3 In the R-G and R-VC Districts, a Special Permit granted under this section shall lapse upon any change in ownership of the subject property, and the Special Permit Granting Authority may impose a review of compliance with special Permit conditions at such intervals as it deems reasonable.														
	3.3212	Affordable Duplex		SPR (SP)	SPR (SP)	SPR	SPR	N	N	N	N	SPR	N	N	N	N	N
			An affordable duplex shall be defined as a two family detached dwelling in which at least one (1) unit shall be affordable in perpetuity or to the greatest extent allowed by law, and eligible to be counted on the Commonwealth's 40B Subsidized Housing Inventory (SHI) under the provisions of 760 CMR 50.03 (2) (a) and (b) as amended. Affordable units as described above need not be owner-occupied.														
3.322	Town House			N	N	SP	SP	N	SPR	SP	SP	SP	N	N	N	N	N
			Each building shall be separated from other such buildings by a minimum of twenty (20) feet, and have no more than ten (10) dwelling units. The building(s) shall be connected with the public sewer system prior to occupancy, and its lot, if in a Residence District, shall fall within one of the following areas: 1) areas close to heavily traveled streets, 2) areas close to business, commercial, and educational districts, or 3) areas already developed for multi-family use. A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Board or Special Permit Granting Authority, shall be included as an integral part of any application made under this section. All dimensional regulations in Article 6 shall be observed . In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.														
3.323	Apartments			N	N	SP	SP	N	SPR	SP	SP	SP	N	N	N	N	N
			The site or lot upon which one or more apartment buildings are proposed shall be located: 1) close to a heavily traveled street or streets, 2) close to a business, commercial or educational district, or 3) in an area already developed for multi-family use. Each building shall have no fewer than 3, nor more than 24 dwelling units. Each building shall be connected to the public sewer system prior to occupancy. Dimensional regulations in Article 6 shall be observed. In addition, the following requirements shall apply:														

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O	R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts														

District	Add'l Side/Rear	Floor Area Ratio	Minimum Landscape or Natural Open Space
R-G	2 ft.		
B-L	2 ft.		
B-VC	2 ft.		
B-N	2 ft.	0.3	40%

NOTE: "Minimum Landscaped or Natural Open Space" shall include (a) those portions of the lot devoted to plantings, including lawns and grass areas (b) wooded land, and pedestrian-oriented paved or unpaved areas devoted to social or recreational use in common by the residents of the building or complex provided that such areas are kept essentially open to the out-of-doors and are at ground level.

Specifically excluded from this definition are those areas devoted to parking, access, and service drives.

No more than 50% of the total number of dwelling units shall be of any one size (i.e. # of bedrooms). A management plan, as defined in terms of form and content in the rules and Regulations adopted by the Permit Granting Board or Special Permit Granting Authority shall be included as an integral part of any application under this section. In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.

Bylaw Number	Land Use Classifications	R-O	R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
3.324	Subdividable/Converted Dwellings															
3.3240	Subdividable Dwelling (See Section 12.33, Definitions)	SP (N)	SP (N)	SP	SP	N	SP	SP	SP	SP	N	N	N	N	N

1 A subdividable dwelling shall contain provisions for a specified number of dwelling units not to exceed three in accordance with a Special Permit issued prior to its use as more than a single family dwelling. The total number of dwelling units at any given time may be fewer than, but shall never exceed the maximum number allowed under the Special Permit.

2 A subdividable dwelling shall meet all zoning requirements applicable to a multi-family dwelling of the maximum number of units allowed under the Special Permit. All requirements of Table 3 (Dimensional Regulations) of Article 6 and parking requirements in Article 7 shall be met at the time of construction.

3 At least one of the dwelling units shall be and shall remain owner-occupied, which requirement shall be made a condition of any Special Permit issued under this section.

4 This use shall not be permitted in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts.

5 Prior to issuing a Special Permit for this use in the B-G, B-L, B-VC, and B-N districts, the Special Permit Granting Authority shall find that the proposed multiple dwelling use and the non-residential uses, both existing and permitted, in the district will be mutually compatible.

6 A subdividable dwelling shall be connected to the public sewer. However, the Special Permit Granting Authority may authorize the construction of a two-family subdividable dwelling on a lot serviced by a septic system approved by the Board of Health for such a dwelling.

7 A management plan as defined in the applicable regulations issued by the Special Permit Granting Authority shall be included as an integral part of any application under this section. The management plan shall be subject to review and reapproval at a public hearing held by said Authority prior to the issuance of a building permit to increase the number of dwelling units within a subdividable dwelling, which review shall be made a condition of any Special Permit issued under this section. The sole purpose of said review shall be the consideration of any changes in circumstances pertinent to said management plan that have occurred from the time of issuance of the Special Permit or any subsequent review pursuant to this requirement, and the extent to which the management plan should be modified as a result. Notice of hearing shall be provided in accordance with Mass. Gen. Laws, Chapter 40A. In addition to such notice, parties in interest as defined in Chapter 40A shall be provided with a summary of the approved management plan then in effect and any changes proposed thereto.

8 A landscape plan appropriate for the project shall be included in the application.

9 Subdividable dwellings in the R-O, R-LD, and R-N districts shall provide the following minimum areas of usable open space per dwelling unit on the same lot as said dwelling units, for the use of occupants:

R-N	1,000 sq. ft.
R-O, R-LD	2,000 sq. ft.

Bylaw Number	Land Use Classifications		Standards & Conditions		R-O R-LD	R-N	R-VC	R-G	R-F	B-G	Zoning Districts B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			10	Provided all other requirements are met, a subdividable dwelling shall be eligible for subsequent proceedings in accordance with Section 3.3241 (Converted Dwelling) of this bylaw.														
			11	For a subdividable dwelling proposed on a lot within a Definitive Subdivision Plan, or on a Subdivision Approval Not Required lot, the Special Permit Granting Authority shall be the Planning Board. For all other subdividable dwellings, the Special Permit Granting Authority shall be the Zoning Board of Appeals.														
	3.3241	Converted Dwelling (See Section 12.07, Definitions)			SP (N)	SP (N)	SP	SP	N	SPR	SP	SP	SP	N	N	N	N	N
			1	An existing residence, a structure attached to an existing residence, or a detached structure, may be converted into a dwelling unit or units provided all other zoning requirements which would apply to converted dwellings are met.														
			2	A converted dwelling use may involve the conversion of one or more structures on a given property but shall not result in a total number of dwelling units on the lot exceeding what would otherwise be allowed under the provisions of Table 3, Dimensional Regulations, for the zoning district(s) in question. Further, the total number of dwelling units on a given property shall not exceed 4 in the R-G, R-VC, R-N, R-O, and R-LD districts and shall not exceed 6 in the B-G, B-L and B-VC districts. Conversion in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts shall not be permitted.														
			3	In the B-L, B-VC and B-N districts, the Special Permit Granting Authority shall issue a Special Permit in accordance with the provisions of this section only after finding that the converted dwelling use would be mutually compatible with existing uses and structures, and with uses and structures permitted on adjacent parcels.														
			4	There shall be no significant change in the exterior of the building, except that the Special Permit Granting Authority or Permit Granting Board may authorize modification or alteration of a building if such modification or alteration does not substantially change the building's character or its effect on the neighborhood or on property in the vicinity.														
			5	Except as hereinafter provided, no converted dwelling use shall involve the demolition and removal of an existing structure proposed for conversion. Conversion may involve an entire residential structure, except that no more than twenty percent (20%) of the gross square footage of resulting habitable space in any converted dwelling use, whether in one or more buildings, may result from new building footprint as well as demolition and subsequent reconstruction of an existing structure, including structural elements or foundation. An exception shall be that up to forty percent (40%) of gross square footage of resulting habitable space may be permitted, including no more than 20% of new building footprint with the remainder being the result of demolition and reconstruction with salvaged and new building materials, when it is determined by the Special Permit Granting Authority or Permit granting Board that two (2) or more of the following criteria are met: a. The conversion addresses urgent and compelling issues of public safety or health. b. The conversion results in the creation of a minimum of one (1) dwelling unit that is fully handicapped accessible under the provisions of the AAB and ADA. c. The conversion results in the creation of a minimum of one (1) dwelling unit permanently affordable under the provisions of Sections 15.12 or 15.13, and is eligible to be counted on the Commonwealth's 40B Subsidized Housing Inventory (SHI) under the provisions of 760 CMR 50.03 (2) (a) and (b) as amended. d. The conversion is predominantly the result of sustainable construction practices, including but not limited to significant improvements in energy efficiency, retention or reuse of significant amounts of existing structural members and architectural elements, and solar orientation and design. e. If the conversion is proposed for one or more historic buildings which are: 1) on a property listed on, or 2) within area listed on, or 3) are eligible for listing on the National Register of Historic Places, or 4) have been determined by the Historical Commission to be historically significant under Section 13.4 of this Bylaw, then the proposed conversion of historic portions of the building(s) in question shall conform to the National Park Service standards and guidelines for rehabilitation of an historic building.														
			6	The proposed conversion shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the Special Permit Granting Authority. The conversion, if in a residential district, shall either: a) be located in an area that is close to heavily traveled streets, close to business, commercial and educational districts, or already developed for multi-family use and shall require owner-occupancy or a Resident Manager (see definition) in one of the units; or b) be from one to two units, one unit of which shall be and shall remain owner-occupied, a requirement which shall be made a condition of any Special Permit issued in such an instance.														
			7	The dwelling units shall be connected to the public sewer. However, the Special Permit Granting Authority may authorize, with the approval of the Board of Health, the conversion of a structure to allow an increase from one dwelling unit to two dwelling units on a lot serviced by a septic system.														

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
		8 The Special Permit Granting Authority may modify the dimensional requirements of Table 3, to, one time only for any parcel, allow a conversion under Section 3.3241 that would add one (1) additional unit, only if it finds the modification would be in accordance with the provisions of Section 9.22. In those zoning districts where two family detached (duplex) dwellings are not permitted, conversion of a non-conforming single family detached dwelling may result in two (2) or more dwelling units under the applicable permit.														
		9 No detached structure shall be converted under the provisions of Section 3.3241 unless it abides by the provisions of Condition 5. above and upon completion provides at least 350 square feet of habitable space. Conversion of a detached structure alone may qualify as a supplemental detached dwelling unit if it meets the requirements established under Section 5.011.														
		10 A management plan as defined in the Rules and Regulations adopted by the Special Permit Granting Authority, shall be included as an integral part of any application.														
		11 A landscape plan appropriate for the project shall be included in the application.														
		12 Converted dwellings in the R-O and the R-LD districts shall provide a minimum of 2,000 sq. ft. of usable open space per dwelling unit for the use of occupants. Converted dwellings in the R-N district shall provide a minimum of 1,000 sq. ft. of usable open space per dwelling unit.														
3.325	Mixed-use building		N	N	SP	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
		A mixed-use building shall be a building containing dwelling unit(s) in combination with permitted retail, business, institutional, government, public service, consumer service, office or similar principal use(s) and lawful accessory use(s).														
		A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority shall be included as an integral part of any application made under this section. In those Limited Business (B-L) Districts not abutting the B-G District, and in the Commercial (COM) District, a Special Permit from the Special Permit Granting Authority authorized to act under this section of the bylaw shall be required wherever proposed residential uses above the first floor exceed ten (10) dwelling units. The proposed use shall meet the criteria of Section 10.38 or Section 11.24, as applicable, with respect to the site and potential conflicts between the residential and commercial use(s).														
		In the Commercial (COM) District no dwelling unit nor any internal space associated with a dwelling unit shall occupy any first floor portion of a building facing onto a street, public plaza, or other space customarily used by the public. First floor residential dwelling units, and any required entries thereto, shall be located on the rear of buildings, adjacent to any required parking and private open space associated with and serving those units. No more than forty percent (40%) of the first floor Gross Floor Area shall be used for residential purposes, which shall include not more than fifteen percent (15%) of said GFA associated with or incidental to, whether for storage, required entries, stair/elevator towers, or other purposes, any residential uses on upper floors.														
3.326	Fraternity or Sorority building, social dormitory, or similar use related to Amherst College, Hampshire College, or the University of Massachusetts.		N	N	N	N	SPR	N	N	N	N	N	N	N	N	N
		The building shall be connected to the public sewer system prior to occupancy. Its lot shall fall within one of the following areas:														
		Areas close to heavily traveled streets; areas close to business, commercial, and educational districts; areas already developed for multifamily use.														
		A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority shall be included as an integral part of any application made under this section.														
3.327	Overnight Lodging															
	3.327.0 Hotel or Motel		N	N	N	N	N	SP	SP	SP	SP	SP	N	N	N	N
		The building shall be connected with the public sewer system prior to occupancy. Its lot, if in a residence district, shall fall within one of the following areas: areas close to heavily traveled streets; areas close to business, commercial and educational districts; areas already developed for multifamily use.														
		In the B-N District, only hotel or motel uses with lodging rooms on 2 or more floors shall be permitted.														
		The Zoning Board of Appeals may allow a restaurant as a second Principal use, along with hotel/motel-related retail and consumer services as accessory uses, under a Special Permit for a hotel or motel.														
		A management plan, as defined in terms of form and content by the Rules and Regulations adopted by the Zoning Board of Appeals shall be part of any application made under this section.														
	3.327.1 Inn		N	N	N	N	N	SPR	SP	SP	SPR	SP	N	N	N	N

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
		In the COM District, Inns shall be allowed only in those areas which are also within the boundaries of National Historic Register Districts. The Zoning Board of Appeals may allow a restaurant as a second Principal use, along with inn-related retail and consumer services as accessory uses, under a Special Permit for an inn. A management plan, as defined in terms of form and content by the Rules and Regulations adopted by the Zoning Board of Appeals shall be part of any application made under this section.														
	3.327.2 Hostel		SP	SP	SP	SP	SP	SPR	SP	SP	SPR	SPR	N	N	N	N
		The building shall be connected with the public sewer prior to occupancy. The hostel shall be within easy walking distance of public transportation. The owner or manager of the hostel shall reside on the premises. There shall be no separate cooking facilities in guest rooms. Meals may be provided to hostel lodgers and to other persons attending scheduled educational events sponsored by and held at the hostel. In the R-G, R-N, R-O and R-LD Districts, a hostel may provide up to 20 beds. In all districts where the use is allowed, a minimum of 20 percent of hostel beds shall be in rooms containing 2-4 beds. Secure bicycle parking and/or storage shall be provided, with a total capacity equal to or exceeding the number of parking spaces required for vehicles. A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Zoning Board of Appeals, shall be part of any application made under this section.														
3.328	Congregate housing for the elderly and disabled. (See Section 12.06, Definitions)		N	N	SP	SP	N	N	N	SP	SP	SP	N	N	N	N
		The minimum lot area shall be 12,000 sq. ft. or 1,000 sq. ft. multiplied by the number of sleeping rooms, whichever is greater. The building shall be connected with the public sewer system prior to occupancy. Its lot shall fall within one of the following areas: areas close to heavily traveled streets; areas close to business, commercial, and educational districts; areas already developed for multifamily use.														
3.329	Lodging or boarding house		N	N	SP	N	N	SPR	SP	SP	SP	SP	N	N	N	N
		In the B-VC, B-N, COM and R-VC districts, the Zoning Board of Appeals may grant a Special Permit for a lodging or boarding house, provided it finds that the proposal meets the provisions of Article 7, Section 10.38 and this section. In the R-VC District, a lodging or boarding house shall let or sublet no more than a total of 7 rooms. There shall be no separate cooking facilities. Meals may be provided to lodgers/boarders/roomers, but not to members of the general public not lodged at the establishment. The owner or manager of the lodging or boarding house shall reside on the premises. Where a lodging or boarding house is to be located in an existing dwelling, there shall be no substantial change in the exterior of the building. The building shall be connected to the public sewer prior to occupancy. A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Zoning Board of Appeals shall be part of any application made under this section.														
SECTION 3.33	**INSTITUTIONAL USES**															
3.330	Non-profit Uses															
	3.330.0 Non-profit educational institution, including any educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies politic, or by a religious sect or denomination.	See Section 2.04 and 3.21	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
	3.330.1 Non-profit human service use.		SP	SP	SP	SP	SP	SPR	SPR	SPR	SP	SPR	SPR	SPR	SP	SP
		Uses under this section may include administrative offices and human service facilities providing services directly to members of the community on or from the premises, including facilities used as staging areas for off-site service delivery and facilities reasonably necessary for the safe, secure, and appropriate operation of the use. A use under this section may offer a wide range of services on or from the premises, including but not limited to, counseling and therapy, training for employment and other life skills, distribution of food and clothing, provision of meals, and/or restrooms/shower facilities. Other uses, such as retail sales, health services, personal care services, or similar uses, may be permitted, but shall be operated in a manner and during such limited hours as to render them clearly accessory and incidental to the principal non-profit human service use. Non-profit human service uses involving overnight shelter or other residential activity shall be regulated under Section 3.336.1.														
3.331	Kindergarten, day nursery or other agency for the day care of children.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
3.332	For-profit trade, professional, or other educational institution.		N	N	SP	SP	N	SPR	SPR	SPR	SPR	SPR	N	N	SPR	N
3.333	Church or other place of worship, parish house, rectory, or convent.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
3.334	Not for profit library or museum.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
3.335	Public park, playground or other public recreation facility.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
3.336	Medical or residential institutions.															
	3.336.0 For-profit hospital, sanitarium, nursing, rest or convalescent home, living care community, or other medical or residential facility.		SP	SP	SP	SP	N	SP	SP	SP	SP	N	SP	N	N	N
	3.336.1 Philanthropic or charitable medical or residential facility.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
3.337	Cemetery		SP	SP	N	N	N	N	N	N	N	N	N	N	N	N
3.338	Private lodge or club		SP	SP	SP	SP	SP	SPR	SPR	SPR	SP	N	N	N	N	N
		A club, civic, social, professional or fraternal organization that is non-profit and is operated for members or employees only, where the chief activity is one not customarily conducted as a gainful business. The organization shall be incorporated for service or charitable purposes under the regulations of the Commonwealth or other applicable authorities, and shall permit long-standing memberships. In the B-N District, if alcohol is served as part of any function conducted or permitted by the organization, the establishment shall be closed by 9:00 p.m.; otherwise, the establishment shall be closed by 11:30 p.m.														
3.339	Service building or other non-academic facility related to the operation of Amherst College, Hampshire College, or the University of Massachusetts.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR
		Owned or managed by a College or University, but located outside of any Educational District.														
SECTION	**GOVERNMENTAL & PUBLIC SERVICE**															

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
3.34																
3.340	Utility Uses															
	3.340.0 Transformer station or other energy facility or use.	Excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district.	SP	SP	SP	SP	SP	SP	SP	SP	SP	SPR	SP	SPR	SP	SP
	3.340.1 Telephone exchange, radio or TV station, broadcasting facility, recording studio or other communication use.	Excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district.	SP	SP	SP	SP	SP	SPR	SPR	SPR	SP	SPR	SP	SP	SP	SP
	3.340.2 Wireless communications facility or other similar communications use.	Excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district.	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

The following standards and conditions shall apply to commercial and public wireless communication uses and facilities:

1 Setback & Height. Towers, antenna, antenna support structures and other vertical elements of wireless communication facilities located in a residential district or upon a property abutting a residential use shall be set back from the nearest residential lot line a distance at least equal to their height. In all districts, the height of wireless communications towers shall not exceed 125 feet above the ground. In non-residential districts, the Permit Granting Authority may allow a lesser setback or greater height if such modification provides adequate safety, promotes co-location or improves design, and will not significantly impact the character and appearance of the neighborhood. In making a request for a lesser setback, the manufacturer or qualified licensed designer shall certify that the tower is designed to collapse upon itself in the event of failure. The Permit Granting Authority may also allow lesser setbacks necessary to allow for the use of an existing structure.

2 Design provisions for such facilities shall include, but are not limited to:

a. No new tower shall be used which involves a lattice construction, requires three (3) or more legs and/or requires guy wire supports.

b. No tower or other facility structure shall contain any signs or other devices for the purpose of advertisement.

c. The visible portions of support facilities and structures such as vaults, equipment buildings or enclosures and utilities shall be constructed out of and/or finished with non-reflective materials.

d. All towers, antenna, antenna support structures and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures in the surroundings; provided, however, that such facilities located on the exterior of a building shall be of colors that match and/or blend with those of the building.

e. All building-mounted facilities shall be designed and located so as to appear to be an integral part of the existing architecture of the building.

f. All electronic and other related equipment and appurtenances necessary for the operation of any wireless communication facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. When a new structure is required to house such equipment, the siting, design and materials of said structure shall be harmonious with, and blend with, the natural features, buildings and structures in the surroundings.

g. All satellite dishes shall be of mesh construction, unless technical evidence is submitted demonstrating that this requirement is infeasible. Microwave dishes are exempted from this provision.

h. All wireless communication facilities shall be protected against unauthorized climbing or other access by the public.

i. Whenever feasible, design and siting of towers shall avoid the need for application of Federal Aviation Administration (FAA) lighting and painting requirements. Except as required by the FAA, towers shall not be artificially lighted.

Bylaw Number	Land Use Classifications	Standards & Conditions	Zoning Districts													
			R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC

j. Applicants shall submit eight (8) view lines shown in a one (1) mile radius from the site, beginning at true North and continuing clockwise at forty-five (45) degree intervals. Said view lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level (5 feet above grade) which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing said view lines with the facility in place.

k. Landscape plans submitted with the application shall identify all existing vegetation, shall indicate which vegetation is to be retained on-site, and shall show all proposed new vegetation and other landscape treatments.

3 Co-location.

a. All new wireless communication facilities shall be co-located, to the maximum extent practicable and technologically feasible, with one or more existing wireless communication facilities, towers, buildings or other structures whose height, location and characteristics meet the needs of the proposed facility.

b. All new wireless communication towers or support structures shall be designed, to the maximum extent practicable and technologically feasible, for co-location of antennas and other necessary facilities for at least three other wireless communication providers, shall offer space to all other providers at market rates, and shall provide for towers that can be expanded upward. Any Special Permit granted for a new facility under this section may be conditioned upon the written agreement of the facility operator to allow the co-location of other wireless communication providers on commercially reasonable terms.

c. Any applicant proposing not to co-locate their facility or proposing to locate their facility in a residential district shall provide written evidence and documentation demonstrating why it is not feasible for their facility to be co-located with existing facilities or sited in other, non-residential districts.

4 Frequencies. All telecommunications facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies, power levels and standards, including FCC Radio Frequency Emissions standards. The applicant shall provide certification demonstrating that the maximum allowable frequencies, power levels and standards will not be exceeded. Certifications shall include technical specifications, a written explanation of those specifications, and, if necessary, field verification. The Permit Granting Authority may condition any Special Permit granted under this section upon a periodic submittal of certification of compliance with said standards.

5 Repair & Upkeep. All wireless communication facilities shall be maintained in good order and repair. Paint finishes shall be maintained and repaired when blemishes are visible from the property line. The applicant shall provide an inspection schedule, and shall file copies of inspections with the Building Commissioner.

6 License & Permits. The operator of every wireless communication facility shall submit to the Building Commissioner copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility, and shall maintain such licenses and permits and provide evidence of renewal or extension thereof when granted.

7 Removal. All structures associated with a wireless communications use shall be removed within one (1) year of the cessation of said use. If applicable, an annual certification demonstrating continued compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute, including provisions for required maintenance, shall be filed with the Building Commissioner by the permit holder. Prior to the issuance of a building permit for a wireless communications use, the applicant shall post and submit a bond or other financial surety acceptable to the Town in an amount sufficient to cover the cost of demolishing and/or removing the facility in the event the Building Commissioner condemns the property or deems it to have been abandoned or vacant for more than one year. Said amount shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. In the event the posted amount does not cover the cost of demolition and/or removal, the Town may place a lien upon the property covering the difference in cost.

8 Modifications. The Permit Granting Authority may modify any provision of these standards and conditions if it can be demonstrated that it is technically infeasible to meet said standards or conditions, or that their effect is to prohibit the proposed use throughout the Town, or if such modification will promote use of existing buildings or structures, co-location of wireless communications uses, improve safety or design, or otherwise promote the purposes of this bylaw.

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
	3.340.3 Transportation Facility															
	3.340.30 Railroad or bus depot or other transportation facility.		SP	SP	SP	SP	SP	SP	SP	SP	SP	SPR	SP	SP	SP	SP
		Excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district														
	3.340.31 Taxicab, limousine service and similar uses.		N	N	N	N	N	SPR	SP	SPR	SP	SPR	SP	SP	SP	N
		The operation of a taxi or limousine (livery) service shall be considered a principal use regulated under this section of the Bylaw when any of the following conditions are met: 1) passengers are transported from or delivered to the site, or; 2) three (3) or more vehicles are physically dispatched from or stored on-site, or; 3) any vehicle carries more than eight (8) passengers, or; 4) on-site activities include ongoing associated vehicle maintenance and repairs.														
		The operation of taxicab or limousine service may be permitted as an accessory home occupation under the provisions of Section 5.013 when all of the following Conditions are met: 1) on-site activity is limited to dispatch and storage of no more than two (2) vehicles, 2) no vehicle used by the service is capable of carrying more than eight (8) passengers, 3) only occasional minor vehicle maintenance occurs on-site, and 4) no passengers visit the premises.														
		In the B-N District, if pick-up and drop-off from the site are permitted, the establishment shall be closed by 9:00 p.m. In that district, no more than three (3) vehicles associated with the use shall be kept on-site at any time.														
3.341	Airport or heliport		SP (N)	SP (N)	N	N	N	SP	SP	N	N	SP	N	SP	N	N
3.342	Governmental administration building; fire or police station.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	N
3.343	Reservoir, pumping station buildings; sewage treatment plant, or water supply use.		SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SP
3.344	Other governmental use not specifically listed herein.		SP	SP	SP	SP	SP	SPR	SPR	SPR	SPR	SPR	SP	SP	SP	SP
SECTION 3.35	**RETAIL BUSINESS AND CONSUMER SERVICES**															
3.350	Retail Establishments															
	3.350.0 Retail stores		N	N	N	N	N	SPR	SPR	SPR	SP	SPR	N	N	N	N
		Display & sales to be primarily conducted within the building.														
		In the B-N District, no more than four (4) employees shall be on-site at any time, walk-up facilities are permitted as an accessory use for food retail only, and the establishment shall be closed by 9:00 p.m.														
	3.350.1 Convenience stores for the sale of prepared and packaged food or beverage.		N	N	N	N	N	SPR	SPR	SPR	SP	SPR	N	N	N	N
		Display & sales to be primarily conducted within the building.														
		In the B-N District, no more than four (4) employees shall be on-site at any time, walk-up facilities are permitted as an accessory use for food retail only, and the establishment shall be closed by 9:00 p.m.														
	3.350.2 Grocery, bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage.		N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
		Display & sales to be primarily conducted within the building.														
		In the B-N District, no more than four (4) employees shall be on-site at any time, walk-up facilities are permitted as an accessory use for food retail only, and the establishment shall be closed by 9:00 p.m.														
3.351	Personal care establishments.															

Bylaw Number	Land Use Classifications			Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
					Zoning Districts													
	3.351.0		Barber or beauty shop, hair salon, tanning salon or similar place for personal care services.		N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
				In the B-N District, no more than four (4) employees shall be on-site at any time, and the establishment shall be closed by 9:00 p.m.														
	3.351.1		Laundry or dry-cleaning shop, or self-service dry-cleaning or laundry.		N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
				In the B-N District, no more than four (4) employees shall be on-site at any time, and the establishment shall be closed by 9:00 p.m. No dry-cleaning shop where the cleaning is conducted on the premises may be operated in the B-N District.														
	3.351.2		Tailor, garment maker, milliner, cobbler, or other shop for the repair or manufacture and sale of clothing or footwear.		N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
				In the B-N District, no more than four (4) employees shall be on-site at any time, and the establishment shall be closed by 9:00 p.m.														
3.352	Food & Drink Establishments																	
	3.352.0	Class I	Restaurant, café, lunchroom, cafeteria or similar place.		N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
				For serving food or beverage to persons inside the building, where either: a) no alcohol is served and the establishment is not open after 11:30 p.m., or; b) alcohol is served, the establishment is not open after 11:30 p.m., and any outside wall of that portion of the building occupied by the establishment is located more than 150 feet from any residential dwelling in a Residence district. A management plan, as defined in terms of form and content by the permit granting board or authority, shall be included as an integral part of any application made under this section. The management plan shall address patrons gathered outdoors on the property, including those awaiting entry. Any service of food or beverages outside the building shall be to persons seated at tables for the purpose of outdoor dining.														
				In the B-N District, for a Class I restaurant there shall be no more than a total of 30 seats, both indoor and outdoor. Service of alcohol shall cease at 9:00 p.m., and any outside wall of a building occupied by the establishment shall be located more than 100 feet from any residential dwelling in a Residence district. Walk-up facilities may be permitted as an accessory use in concert with outdoor dining on the premises.														
	3.352.1	Class II	Restaurant or bar		N	N	N	N	N	SP	SP	SP	N	SP	N	N	N	N
				For serving food or beverage to persons inside the building, where: a) the establishment is open after 11:30 p.m. whether alcohol is served or not, or; b) regardless of hours of operation, where alcohol is served and any outside wall of that portion of the building occupied by the establishment is located 150 feet or less from any residential dwelling in a Residence district. A management plan, as defined in terms of form and content by the permit granting board or authority, shall be included as an integral part of any application made under this section. The management plan shall address patrons gathered outdoors on the property, including those awaiting entry. Any service of food or beverages outside the building shall be to persons seated at tables for the purpose of outdoor dining.														
	3.352.2	Class III	Drive-up restaurant		N	N	N	N	N	N	N	N	N	SP	N	N	N	N
				For serving food or beverages outside the building via a drive-up window or other similar method to persons remaining in their vehicles.														
3.353	Theater, motion picture house, bowling alley, dance hall, arcade or other indoor commercial amusement or assembly use.				N	N	N	N	N	SP	SP	SP	N	SP	SP	N	N	N
				In the Office Park District to be permitted only if determined to be compatible with the intent of said district and the uses allowable therein; and further that in such district no more than 20% of the area shall be directly related to land uses included in this section, nor shall more than 20% of the net useable floor area allowable in such an area be so used. An arcade is defined as: premises or portions of premises where a party maintains for commercial purpose six or more automatic amusement devices for public or membership use. An automatic amusement device shall mean any game, amusement or test of skill including, but not limited to: pinball machines, football tables, pool tables, electronic games or similar mechanical or electronic devices.														
3.354	Funeral establishments				N	N	SP	SP	N	SPR	SP	SP	SP	SPR	N	N	N	N
3.355	Studios & repair shops																	

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			Zoning Districts													
	3.355.0 Photographer's studio		N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
	3.355.1 Repair shop for household appliances, radio and television sets, or office equipment.		N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
3.356	Shop of a bicycle mechanic, printer, blacksmith, builder, carpenter, caterer, electrician, lawnmower mechanic, mason, painter, plumber, roofer or other member of a recognized trade.		N	N	N	N	N	SP	SP	SP	SPR	SPR	N	N	N	N
		All work and storage to be conducted within a building. All trades shop operations shall undertake all reasonable measures to prevent noise, vibration, dust, fumes or odors from creating a disturbance or nuisance beyond the limits of the establishment. No operations shall be allowed which are hazardous by reason of potential fire, explosion, radiation or similar hazard. In the B-N District, there shall be no more than four (4) employees on-site at any given time. No operations shall be allowed prior to 7:00 a.m. or after 7:00 p.m.														
3.357	Veterinary establishment, kennel, or place for the boarding of animals.		SP	N (N)	N	N	N	N	SP	N	SP	SPR	N	N	N	N
		In the B-N District, a veterinary clinic may be operated under the provisions of this section, but no kennel or overnight boarding of animals shall be permitted. There shall be no more than four (4) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.														
3.358	Office Uses															
	3.358.0 Bank, loan agency, real estate, insurance or other business or professional office providing services to the public in person on the premises.		N	N	N	N	N	SPR	SPR	SPR	SP	SPR	SPR	N	N	N
		In the B-N District, no drive-through facilities shall be permitted. There shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.														
	3.358.1 Technical or professional office such as architect, engineer, lawyer, financial services, or similar office providing services predominantly by appointment to the public in person on the premises.		N	N	SP	N	N	SPR	SPR	SPR	SPR	SPR	SPR	SP	SPR	N
		For the purposes of this section, the public shall be defined as including all persons acting as customers or clients receiving services. "Predominantly by appointment" shall mean that a majority of customers or clients who are provided services in person on the premises during any extended period of operation (monthly, quarterly, or annually) shall do so through prior appointment. Exceptions shall be discretionary follow-up visits by customers or clients with regard to services already provided, visits by affiliated professionals or consultants, salespersons, service contractors (delivery, maintenance, etc.), and the like. Office uses under this section shall advertise their on-premises services as being available to the general public only by appointment.														
	3.358.2 Administrative business office or similar business or professional office not providing services to the general public in person on the premises.		N	N	SP	N	N	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	N
		For the purposes of these sections, the public shall be defined as including all persons acting as customers or clients. Exceptions shall be affiliated professionals or consultants, salespersons, service contractors (delivery, maintenance, etc.), and the like. No office use under this section shall advertise its services as being available to customers and clients on the premises. Services shall be advertised as being available exclusively by telephone, mail, on-line, or other remote means. [For Sections 3.358.1 and 3.358.2, inclusive]														

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				Zoning Districts													
			In the B-N District, there shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m. In the PRP District, uses under these sections shall be located on parcels served by town water and sewer. Notwithstanding t he provisions of footnote f., of Table 3, Dimensional Regulations, when a use under these sections is located on a property adjoining a residential district, a minimum 50-foot uninterrupted vegetated buffer shall be established and maintained between buildings associated with uses under this section and the nearest residential property boundaries. When the Special Permit Granting Authority or Permit Granting Board determine that an increased buffer is warranted and the subject property and site layout allow, a vegetated buffer of up to 100 feet in width may be required. Said buffer may include any drives or roadways. In the R-VC District, the Zoning Board of Appeals may grant a Special Permit for an office use under Sections 3.358.1 or 3.358.2 providing it finds that, in addition to meeting the provisions of Article 7 and Section 10.38, the proposed office use meets the following conditions: 1. Is located on the ground floor only, and occupies no more than 50 percent of the gross floor area of the structure, exclusive of storage space. 2. Shall be allowed only as a second Principal use, where the first Principal use is a residential use. 3. Shares a property line with or is adjacent to another property with a similar use permitted under this section or a property in the B-L, B-VC or COM districts. 4. Employs no more than 3 persons (for a Section 3.358.1 office) or 5 persons (Section 3.358.2) who work on -site, other than residents of the property. 5. Where located in an existing dwelling, the residential character of the structure and site shall be maintained.													
3.359	Medical or dental laboratory			N	N	N	N	N	SPR	SPR	SPR	SP	SPR	SPR	SPR	SPR (SP)	N
			In the B-N District, there shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.														
3.360	Medical Uses																
	3.360.0	Medical office		N	N	SP	N	N	SPR	SPR	SPR	SP	SPR	SPR	N	SP	N
			See definition under Article 12. In the R-VC District, a medical office shall be permitted only under a Special Permit as part of a mixed use under Section 3.325, and is not otherwise permitted. In the B-N District, there shall be no more than six (6) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.														
	3.360.1	Medical group practice		N	N	N	N	N	SPR	SPR	SPR	SP	SPR	SPR	N	N	N
			See definition under Article 12. In the B-N District, there shall be no more than eight (8) employees on-site at any given time, and the establishment shall be closed by 7:00 p.m.														
	3.360.2	Medical center		N	N	N	N	N	SPR	SPR	SPR	N	SPR	SPR	N	N	N
			See definition under Article 12.														
	3.360.3	Clinic or emergency care facility		N	N	N	N	N	SPR	SPR	SPR	N	SPR	SPR	N	N	N
			An outpatient public health clinic as defined under Article 12.														
	3.360.40	Medical Marijuana Treatment Center (MMTC)		N	N	N	N	N	SP	SP*	SP	N	SP	SP	SP	N	N
			*Allowed only in those B-L Districts which co-occur with the R&D overlay district. For other standards and conditions see Section 3.360.41. See definition under Article 12.														
	3.360.41	Off-Site Medical Marijuana Dispensary (OMMD)		N	N	N	N	N	SP	SP	SP	N	SP	SP	SP	N	N
			See definition under Article 12.														

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1. Purposes. It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (RMDs) as Medical Marijuana Treatment Centers (MMTCs) and Off-site Medical Marijuana Dispensaries (OMMDs) facilities is necessary advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Amherst.

   Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, MMTCs and OMMDs will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (DPH).

2. Application Requirements. Above and beyond the standard application requirements for Special Permits, an application for a use under this section shall include the following:

   a) The name and address of each owner of the facility/operation;

   b) Copies of all required RMD registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;

   c) Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

   d) A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;

   e) In addition to what is normally required in a site plan pursuant to Section 11.2, details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.

   f) A Management Plan as required under the Rules and Regulations of the Special Permit Granting Authority, including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

   g) A traffic impact report as set forth in the Rules and Regulations of the Special Permit Granting Authority shall be developed and submitted with the application.

3. Regulations. The following regulations shall apply to uses under this section:

   a. Use Regulations.

      1) Uses under this section may only be involved in the uses and activities permitted by its definition as limited by state law, and may not include other businesses or services in the same building.

      2) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.

      3) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

   b. Locational and Physical Requirements

      1) All aspects of a MMTC or OMMD relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

      2) No outside storage of marijuana, related supplies, or educational materials is permitted.

      3) No MMTC shall have a gross floor area in excess of 25,000 square feet.

      4) No OMMD facility shall have a gross floor area accessible to patients which is in excess of 2,500 square feet, except as may be permitted under 3., e., 1), c). Space in an OMMD facility which is dedicated to administration or operations and is accessible only to employees of the facility shall not be included in this limitation.

      5) Ventilation – all facilities shall be ventilated in such a manner that:

         a) No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and

         b) 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 MMTC or OMMD facility or at any adjoining use or property.

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													

6) A number of signs determined to be sufficient by the Special Permit Granting Authority shall be displayed on the exterior of the facility's entrance in plain sight of clients stating that "Registration Card Issued by the MA Department of Public Health Required" in text two inches in height.

c. Reporting Requirements

1) All Special Permit holders for uses under this section shall provide the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority with the names, phone numbers, mailing and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facilities identified as designated contact persons to whom notice should be made if there are operating problems associated with any use under this section. All such contact information shall be updated as needed to keep it current and accurate.

2) The designated contact persons shall notify the Police Department, Fire Department, Building Commissioner, Board of Health, and Special Permit Granting Authority in writing:

a) A minimum of thirty (30) days prior to any change in ownership or management of a facility regulated under this section, and

b) A minimum of twelve (12) hours following a violation, a potential violation, or any attempts to violate any applicable law, or any criminal, potential criminal, or attempted criminal activities at a facility regulated under this section.

3) The designated representatives of permitted facilities shall file an annual report with the Special Permit Granting Authority and shall appear before said Authority to present the report no later than January 31st of each year, providing a copy of all current applicable state licenses for the owners and facilities, to demonstrate continued compliance with the conditions of the Special Permit.

4) The designated contact persons shall be required to respond by phone or email within twenty-four (24) hours of the time of contact and inquiry regarding operation of the facility by a town official to the telephone number or email address provided as the contact for the business.

d. Transfer/Discontinuance of Use

1) A Special Permit granted under this Section is non-transferable and shall have a term limited to the duration of the applicant's ownership of the premises as a MMTC or OMMD.

2) Any MMTC or OMMD permitted under this section shall be required to remove all material, plants equipment and other paraphernalia in compliance with 105 CMR 725.105 (J), (O) prior to expiration of its DPH Registration or immediately following revocation or voiding of its DPH Registration.

e. Prohibitions.

1) The building(s) in which the proposed uses occur shall not be located:

a) Within three hundred (300) feet of any building:

i. containing another MMTC or OMMD; or

ii. in which is located a public or private elementary school, middle school, secondary school, preparatory school, licensed daycare center, or any other facility in which children commonly congregate in an organized ongoing formal basis; or

iii. owned by and operated as part of the campus of any private or public institution of higher learning, or

iv. housing a public library; or

v. any residential use, excepting a mixed-use building under s

b) Within, on the same lot as, or on a lot immediately adjacent to a licensed pharmacy; or

c) Within buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana. An exception shall be that the Special Permit Granting Authority may grant permission for palliative and therapeutic care uses in the same building in which an MMTC or OMMD is operated; or

d) Wiithin a building containing residential units, including transient housing or group housing such as hotels, motels, lodging houses, or dormitories.

2) The proposed use shall not display:

a) Off-premises signage; or

b) On-premises signage or other marketing on the exterior of the building or in any manner visible from a public way, which, in the opinion of the Special Permit Granting Authority, may promote or encourage:

i. The use or abuse of marijuana or other drugs for non-medical purposes; or

ii. The use or abuse of marijuana or other drugs by minors; or

iii. The active marketing or marijuana or other drugs for medicinal purposes.

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													

iv. An exception shall be that the Special Permit Granting Authority shall not prohibit signage which is required by the MA Department of Public Health.

4. Findings. In addition to the findings required under Section 10.38, and meeting the provisions of Articles 7, 8, and all other applicable sections of this Bylaw, the Special Permit Granting Authority shall find that the proposed use:

a. Meets a demonstrated need.

b. Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

c. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.

d. Provides a secure indoor waiting area for patients.

e. Provides an adequate pick up/drop off area.

f. Provides adequate security measures to ensure that no individual participant will pose a direct 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.

g. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

3.361	Auction gallery for exhibition, sale by auction, so-called "tag sales" and so-called "flea markets".		N	N	N	N	N	N	SPR	N	N	SPR	N	SPR	N	N
3.362	Shop of a potter, ceramist, sculptor, silversmith, jeweler, lapidary, weaver, clockmaker, musical instrument maker, wood carver, graphic artist, leather worker (not including tanning or processing), candlemaker, or similar craftsperson.	All work and storage to be conducted within a building.	N	N	N	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N
SECTION 3.37	**RESEARCH AND INDUSTRIAL USES**															
3.370	Warehouse or other enclosed building for the storage, distribution or wholesale marketing of material, merchandise, products or equipment.	Such use not to be hazardous by reason of potential fire, explosion, or radiation.	N	N	N	N	N	N	N	N	N	SPR	N	SPR	SPR	N
3.371	Lumber yard, fuel storage plant, contractor's yard, or other open-air establishment for the primary storage, distribution, or sale at wholesale or retail of merchandise, products or equipment.	Salvage materials not included. See Section 3.02	N	N	N	N	N	N	N	N	N	SP	N	SP	N	N
3.372	3.372.0 Research and Development or Testing facility		N	N	SP	N	N	SP	SP SPR*	SP	SP	SPR	SPR	SPR	SPR	N

* In those areas of the B-L District which coincide with the Research & Development (R&D) overlay district, Site Plan Review approval shall be required for uses regulated under this section. In all other areas of the B-L District, a Special Permit shall be required from the Zoning Board of Appeals.

Uses under this section shall include research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This shall include but not be limited to activities conducted in laboratory settings. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses under the provisions of Section 5.07.

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
		In the B-G, B-L, B-VC, B-N and R-VC districts, the Zoning Board of Appeals may grant a Special Permit for a research and development use, provided that it consists only of office or similar uses and meets the provisions of Section 3.359, Article 7 and Section 10.38. An exception shall be where the B-L District coincides with the R&D overlay district, in which case such a research and development use, similarly limited, shall be permitted through Site Plan Review approval. In all zones, all outdoor storage of materials and equipment shall be screened from public view, from public ways and abutting residential districts. No operation shall create noise, vibration, dust, fumes, or odors that are a nuisance beyond the lot line, and further no operations shall be permitted which the Permit Granting Board or Special Permit Granting Authority, after consultation with the Board of Health, determines to be unduly hazardous by reasons of potential fire, explosion, radiation, or chemical or biological hazard, including hazards resulting from the use, production or storage of materials or waste identified as toxic or hazardous, flammable, or explosive. No research or testing shall be conducted outdoors unless a Special Permit is granted for this purpose by the Special Permit Granting Authority authorized to act under the applicable section of this bylaw.														
3.372.1	Publishing, data processing, light manufacturing, light assembly including computer hardware and software, and scientific products with associated offices and distribution facilities.		N	N	SP	N	N	SP	SP SPR*	SP	SP	SPR	SPR	SPR	SPR	N
		In those areas of the B-L District which coincide with the Research & Development (R&D) overlay district, Site Plan Review approval shall be required for uses regulated under this section. In all other areas of the B-L District, a Special Permit shall be required from the Zoning Board of Appeals. Uses under this section shall include those which involve the limited light manufacture or production, principally from previously-prepared materials, of finished products or parts. This may include processing, fabrication, assembly, treatment, and packaging of such products as well as incidental storage and distribution of such products and associated offices. These uses may also include the on-site production within enclosed structures of custom goods fabricated principally by hand through the use of hand tools and small-scale mechanical equipment. No mass manufacturing, processing, or fabrication normally conducted under Section 3.372.2 nor any on-premises sale of products shall be permitted in association with uses under this section, except that the on-premises sale of custom-made goods produced by hand manufacturing may be permitted under a Special Permit granted by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw. In the R-VC District, the Zoning Board of Appeals may grant a Special Permit for a use under this section, provided that the proposed use consists only of offices or similar uses and meets the provisions of Sections 3.359, Article 7 and Section 10.38. In all zones, all outdoor storage of materials and equipment shall be screened from public view, from public ways and abutting residential districts. No operation shall create noise, vibration, dust, fumes, or odors, that are a nuisance beyond the lot line, and further, no operations shall be permitted which the Permit Granting Board or Special Permit Granting Authority, after consultation with the Board of Health, determines to be unduly hazardous by reason of potential fire, explosion, radiation, or chemical or biological hazard resulting from the use, production or storage of materials or waste identified as toxic or hazardous, flammable, or explosive. Where permitted, all operations involving such materials shall be conducted in a fully enclosed building in accordance with all applicable public health and safety regulations.														
3.372.2	Manufacturing, assembly and processing, including associated offices and distribution facilities.		N	N	N	N	N	N	N	N	N	N	N	SP	SP	N
		Uses under this section shall include those involving the manufacture, assembly and/or processing, from extracted or raw materials or from previously-prepared materials, of finished materials, products, or parts. These uses may include processing, fabrication, assembly, treatment, and packaging of such products, as well as incidental storage and distribution of such products and associated offices. These uses may involve the production and/or storage of volumes of toxic or hazardous, flammable, or explosive materials under appropriate safeguards and conditions, as determined by the Special Permit Granting Authority under the requirements of this section. The on-premises sale of products shall not be permitted in association with any uses under this section. In all zones, all outdoor storage of materials and equipment shall be screened from public view, from public ways and abutting residential districts. No operation shall create noise, vibration, dust, fumes or odors, that are a nuisance beyond the lot line, and further, no operations shall be permitted which the Permit Granting Board determines to be unduly hazardous by reason of potential fire, explosion, radiation, or chemical or biological hazard resulting from the use, production, or storage of materials or waste identified as toxic or hazardous, flammable, or explosive. Where permitted, all operations involving such materials shall be conducted in a fully enclosed building in accordance with all applicable public health and safety regulations.														
3.373	Removal of soil, sod, loam, sand, gravel, rock, quarried stone, or other earth products.		SP (N)	SP (N)	N	N	N	N	N	N	N	N	N	SP	SP	SP
		Any Special Permit under this section issued by the Zoning Board of Appeals shall be subject to, but not limited by, the following conditions: 1. No excavation shall be permitted below the grade of a road bounding the property at any point nearer than 300' to such road.														

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
		2. No excavation below the natural grade of any property boundary shall be permitted nearer than fifty feet to such boundary.														
		3. No slope created by the removal operation shall be finished at a grade in excess of the natural angle of repose of the material.														
		4. All excavated areas shall, upon completion of the operation, be covered with not less than four inches of loam; brought to the finish grade and seeded in a satisfactory manner.														
		5. Within the Flood-Prone Conservancy (FPC) District excavation of earth products shall be prohibited if such excavation will lower the level of the water table or will interfere with the natural flow pattern or reduce the flood storage capacity of a stream.														
		6. No permit for earth products removal shall be issued if such removal will (1) endanger the general public health or safety, or (2) constitute a nuisance, or (3) result in detriment to the normal use of adjacent property by reason of noise, dust, or vibration, or, (4) result in traffic hazards in residential areas or excessive congestion or physical damage on public ways.														
		7. A Special Permit for any earth products removal may be issued for a period not exceeding five years in duration. Upon reapplication for a permit, the Zoning Board of Appeals, at its discretion may grant one or more extensions of said permit, each of which shall not exceed five (5) years duration.														
		8. In approving the issuance of such permit, the Zoning Board of Appeals shall impose reasonable requirements which shall constitute a part of the permit and which may include: grading, seeding and planting, fencing necessary for public safety, methods of removal, location and use of structure, hours of operation, routes of transportation of material removed, control of drainage and disposition of waste incident to the operation.														
		9. The Board may require suitable bond or other security adequate to assure compliance with the provisions of this section.														
3.374	Processing of earth in connection with its authorized removal.		SP (N)	SP (N)	N	N	N	N	N	N	N	N	N	SP	N	SP
		Such processing shall be clearly secondary to the removal of earth products. It shall not involve importation of significant quantities of materials from off the premises.														
3.375	Radioactive waste storage and disposal		N	N	N	N	N	N	N	N	N	N	N	SP	N	N
		No burial, incineration, storage disposal of low-level radioactive wastes, transuranic wastes or high level radioactive wastes to be permitted unless a Special Permit is granted for this purpose by the Zoning Board of Appeals.														
SECTION 3.38	**MOTOR VEHICLE RELATED USES**															
3.380	Automobile & truck rental		N	N	N	N	N	SP	SP	N	N	SPR	N	N	N	N
3.381	Automotive filling station, including sales of related products and services.		N	N	N	N	N	SP	SP	SP	N	SPR	N	N	N	N
		Limited to minor repairs, unless conducted within the building.														
3.382	Automotive salvage yard for the dismantling, storage and sale of parts for automobiles and light trucks.		N	N	N	N	N	N	N	N	N	SP	N	N	N	N
		A buffer comprised of landscaping, natural vegetation, fencing or a combination of these shall be constructed around the perimeter of the parcel. All waste materials and storm water runoff shall be disposed of in a manner specified by the Zoning Board of Appeals. The Zoning Board of Appeals shall consult the Town Engineer, Board of Health and D.E.P. concerning the appropriate methods of disposal. All operations to be such as to confine disturbing smoke, fumes, dust, glare and noise to the premises.														
3.383	Car wash		N	N	N	N	N	N	N	N	N	SPR	N	N	N	N
3.384	Parking facilities															
	3.3840 Commercial parking lot or parking garage		N	N	N	N	N	SP	SP	SP	N	SP	N	N	N	N
	3.3841 Public parking lot or garage		N	N	N	N	N	SPR	SPR	SPR	SP	SPR	SP	SP	SP	N
3.385	Establishment for repair of motor vehicles or farm equipment.		N	N	N	N	N	SP	SP	SP	N	SPR	N	N	N	N

Bylaw Number	Land Use Classifications	Standards & Conditions	R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
			Zoning Districts													
		Not to include sale of fuel. Limited to minor repairs, unless conducted within the building.														
3.386	Motor vehicle sales, including trucks, boats, and farm equipment.		N	N	N	N	N	SP	SP	N	N	SPR	N	N	N	N
		For the display and sale of such vehicles including warranty work and other repair and service conducted as an accessory use.														
3.387	Sale of auto parts, excluding installation and repair services.		N	N	N	N	N	SPR	SPR	SPR	SP	SPR	N	N	N	N
		Inside sales only. In the B-N District, there shall be no more than four (4) employees on-site at any time, and the establishment shall be closed by 9:00 p.m.														
3.388	Sales of auto parts, including tires, batteries, mufflers, and the installation and service thereof.		N	N	N	N	N	SP	SP	N	N	SPR	N	N	N	N
		Inside sales only.														
3.389	Truck terminal		N	N	N	N	N	N	N	N	N	SP	N	SP	N	N

ARTICLE 4 DEVELOPMENT METHODS

SECTION 4.0 OVERVIEW
TABLE 2 DEVELOPMENT METHODS
SECTION 4.1 GENERAL DEVELOPMENT STANDARDS
SECTION 4.2 CONVENTIONAL RESIDENTIAL SUBDIVISION DEVELOPMENT
SECTION 4.3 CLUSTER DEVELOPMENT
SECTION 4.4 PLANNED UNIT RESIDENTIAL DEVELOPMENT
SECTION 4.5 OPEN SPACE COMMUNITY DEVELOPMENT

SECTION 4.0 OVERVIEW

This Bylaw permits four (4) methods which may be utilized to develop land for residential purposes where such Uses are permitted in Section 3.3. The four methods are:

Conventional Residential Subdivision Development;
Cluster Development;
Planned Unit Residential Development (PURD); and
Open Space Community Development (OSCD)

In order to ensure development which is compatible with the Purposes and Intent of this Bylaw, the four Development Methods shall comply with the General Development Standards set forth in Section 4.1, and the applicable Standards set forth in Sections 4.32 and 4.42.

The Zoning Districts in which the four Development Methods may be used are indicated in Table 2. Nonresidential zoning districts are not included in Table 2 because the four Development Methods described in this section apply only to residential development.

The abbreviations used in the Table are defined as follows:

Y	=	Yes	The Development Method is permitted by right.
N	=	No	The Development Method is not permitted in the zoning district.
SP	=	SPECIAL PERMIT	The Development Method is permitted if a special permit is issued by the Board of Appeals.
SPP	=	SPECIAL PERMIT PLANNING BOARD	The Development Method is permitted if a special PLANNING BOARD permit is issued by the Planning Board.

TABLE 2
DEVELOPMENT METHODS

BYLAW NUMBER	METHOD	ZONING DISTRICTS R-LD	R-O	R-N	R-VC	R-G	R-F
4.2	CONVENTIONAL RESIDENTIAL SUBDIVISION DEVELOPMENT	Y	Y	Y	Y	Y	Y
4.3	CLUSTER DEVELOPMENT	SPR	SPR	SPR	SPR	SPR	N
4.4	PLANNED UNIT RESIDENTIAL DEVELOPMENT	N	SP*	SP*	SP	SP	N
4.5	OPEN SPACE COMMUNITY DEVELOPMENT	SPP	SPP	SPP	SPP	SPP	N

* Applies only to those areas included in an overlay district called "PURD DISTRICT" as shown on the Official Zoning Map; otherwise, not permitted.

SECTION 4.1 GENERAL DEVELOPMENT STANDARDS

The four Development Methods listed in Section 4.0, Overview, shall be undertaken in accordance with the following General Standards:

4.10 All Developments in the Town shall conform to the Design Standards and Required Improvements set forth in the Rules and Regulations Governing the Subdivision of Land, the Street and Site Work Construction Standards of the Town, and all other applicable Town roadway and utility policies and regulations, as amended.

4.11 Where building lots are required or proposed, lot frontage shall be on existing or proposed minor or secondary streets, whether public or private statutory ways, as such streets are defined by the Amherst Planning Board's Rules and Regulations Governing the Subdivision of Land.

4.12 If the calculation of maximum density of lots or units for any development method referencing this section results in a figure including a fraction equal to 0.5 or greater, then the figure shall be rounded up to the nearest whole number. If the fraction is less than 0.5, the figure shall be rounded down to the nearest whole number. Dimensional requirements established for building lots in the applicable zoning district(s) and under the applicable development method shall remain in full force and effect, and shall not be altered by the provisions of this section.

SECTION 4.2 CONVENTIONAL RESIDENTIAL SUBDIVISION DEVELOPMENT

Conventional Residential Subdivision Development includes any subdivision of land, as defined in the General Laws, Chapter 41, to be developed for residential purposes.

SECTION 4.3 CLUSTER DEVELOPMENT

4.30 General Description

A "Cluster Development" shall mean a residential development in which the building and accessory uses are clustered together with reduced lot sizes, into one or more groups. The land not included in the building lots shall be permanently preserved as open space.

4.31 Purpose

It is intended that a Cluster Development be developed as an entity by a landowner, or association of adjacent landowners, in which an alternative pattern of development may be permitted by which the following benefits are likely to be gained:

4.310 Economical and efficient street, utility, and public facility installation, construction, and maintenance.

4.311 Efficient allocation, distribution, and maintenance of common open space.

4.312 Land use harmonious with the natural features.

4.313 Compatibility with the character of the surrounding residential areas.

4.314 Efficient use of land to increase the options for affordable housing.

4.315 Housing development which allows for integration of a variety of housing types within one project.

4.316 Protection of natural resources, including but not limited to aquifers, wetlands and farmland.

4.32 Use and Dimensional Standards

4.320 A one-family detached dwelling, a zero lot line single family dwelling, a two-family detached dwelling (duplex), or attached dwellings, or other lawful accessory building may be constructed on certain lots in a Cluster Development (as herein defined and limited) although such lots have less area, frontage, and/or rear and side yard dimensions than normally required.

4.321 The total area of land included within the development shall be five (5) acres or more.

4.322 In all cluster developments, a minimum of 50 percent of the total lots shall be reduced at least 25 percent in area from the minimum standard lot size requirement of the zoning district in which the parcel is located.

4.323 Density/Setbacks

4.3230 Unless otherwise provided for, the Dimensional Regulations of Table 3 shall be complied with.

4.3231 The maximum density of a cluster subdivision, except for an affordable cluster, shall not exceed the allowed density for a standard subdivision in any zoning district, said density to be calculated by taking the parcel area, subtracting 10% of that area and dividing that number by the minimum lot area of the zoning district in which the parcel is located. See Section 4.12. In addition, it is the intention of this Section that the cluster subdivision not result in more lots than would be approved for a standard subdivision under a Definitive Subdivision Plan, except as may otherwise be authorized under this Bylaw.

4.3232 The Planning Board may reduce the frontage requirements for not more than 50 percent of the lots in the subdivision.

4.324 Zero lot line units are allowed in accordance with Section 4.320. A side yard need not be provided on that side of a dwelling unit that shares a party wall or double wall with an adjacent dwelling unit.

4.325 A minimum of 40% of the total dwelling units shall be single-family dwellings. A minimum of 20% of the total dwelling units shall be non-zero lot line, single family dwellings. A maximum of 60% of the dwelling units may be two-family dwellings. A maximum of 30% of the total dwelling units may be attached dwellings, There shall be no more than eight attached dwelling units allowed in one building.

4.326 The entire development shall be serviced with public sanitary sewer system, except in the ARP and WP districts associated with the Lawrence Swamp Aquifer, and in the FC District. In these districts, the Board of Health may, in accordance with state and local health regulations, authorize individual and/or shared septic systems in Cluster Developments where public sanitary sewer service is not reasonably available.

4.327 FC District

In the FC District, dimensional regulations for Cluster Developments shall be as follows:

4.3270 The maximum number of building lots shall be calculated as follows:

1. Determine the Net Parcel Area by subtracting 50% of the area of all Unbuildable Land Area from the total parcel acreage. Unbuildable Land Area shall consist of the combined acreage of all wetlands, FPC District and 100-year floodplain areas. 100-year floodplain areas shall consist of those areas so identified on federal flood insurance maps.

2. Subtract 10 percent of the resulting Net Parcel Area for road allowance.

3. Divide the remaining 90 percent of the Net Parcel Area by the Basic Minimum Lot Area for the underlying zoning district. The resulting figure shall be the maximum number of building lots allowed in the Cluster Development.

4.3271 In the FC overlay district, the Basic Minimum Lot Area for the underlying zoning district shall be used only for determining the maximum number of building lots possible in a Cluster Development and for determining the amount of common land to be provided. Otherwise, all dimensional regulations for Cluster Developments in the FC District shall be the same as those specified in Table 3 for Cluster Developments in the R-N District, except as noted in Sections 4.3272 and 4.3273.

4.3272 In addition to the dimensional regulations specified in Table 3, there shall be a maximum lot area for cluster lots as follows:

Cluster Maximum lot area	20,000 sq. ft.
Cluster flag lot max.	30,000 sq. ft.

4.3273 A 40 foot buffer zone of open space and/or common land shall be provided along any edge of the residential portion of a Cluster Development which abuts adjacent or on-site farmland.

4.33 Affordable Units

4.330 The Planning Board may authorize a greater number of building lots than would be allowed by the density requirements of Section 4.3231 or Section 4.327 only if a minimum of 10% of the total dwelling units in the development are affordable units as herein defined. In no event shall the Board authorize a greater number of building lots than 120% of the maximum number of lots otherwise allowed under the applicable development method. For the purpose of this calculation, 10% of the total parcel size shall be subtracted for road allowance prior to calculating the maximum density normally allowed. See Section 4.12.

4.331 Attached units shall only be allowed in cluster developments that include affordable units.

4.332 For all cluster developments containing a minimum of 10% affordable units, the following Dimensional Regulations shall be substituted for those in Table 3.

	R-LD		R-O		R-N		R-VC	
	SF	Duplex/ Attached	SF	Duplex/ Attached	SF	Duplex/ Attached	SF	Duplex/ Attached
Cluster Minimum Lot Areas (sq. ft.)	25,000	25,000	15,000	15,000	10,000	10,000	7,500	7,500
Additional Lot Area/Family (sq. ft.)		10,000		6,000		4,000		2,500
Lot Frontage (ft.)	100*	100*	100*	100*	80*	80*	60*	60*
Minimum Front Setback (ft.)	20*	20*	20*	20*	15*	15*	10*	10*
Minimum Side/Rear Setback (ft.)	15*	15*	15*	15*	15*	15*	10*	10*
Maximum Building Coverage (%)	10*	10*	15*	15*	20*	25*	25*	30*
Maximum Lot Coverage (%)	15*	15*	25*	25*	30*	35*	40*	45*

*May be modified by the Planning Board by Special Permit.

4.333 Affordable housing units are those which may be rented or purchased by those who meet the guidelines for maximum annual income for a low-income or moderate-income family or household. The income limit for "low income" shall be 80% of the median income for Amherst, and the income limit for "moderate income" shall be 120% of median income for Amherst. Median income for Amherst will be as calculated by the U.S. Department of Housing and Urban Development, or any successor agency, and shall be adjusted for family size.

4.334 The applicant shall establish such restrictions, conditions, and/or limitations as are necessary to ensure that the units required for low-and moderate-income households will be permanently available for ownership, and available for a minimum of twenty years in the case of rental housing.

4.335 Housing constructed by a public agency or non-profit corporation using a federal, state, or local housing assistance program may adhere to the requirements set forth by the funding agency provided that the intent of these regulations are met.

4.336 Affordable housing units shall be geographically dispersed throughout the development.

4.34 Common Land Standards

The total area of Common Land shall equal or exceed the sum of the following:

4.340 The area by which all single-family dwelling lots are reduced below the basic minimum lot area normally required in the zoning districts.

4.341 The area by which all two-family dwelling lots are reduced below the minimum lot area normally required in the zoning districts for a two-family dwelling.

4.342 Projects that contain attached dwellings shall provide common land in accordance with the following formula: Subtract from the total parcel area the sum of a) and b), with a) being the area devoted to roads or rights-of-way and b) being the total area of all building lots. The remaining area shall be common land.

4.343 Land within the FPC District may be used to fulfill up to 60% of the Common Land requirements in Cluster Developments.

4.344 Within the common land provided in the Cluster Development, at least 2000 square feet per dwelling unit must be usable open space for active and passive recreation. Such space shall not include parking space, roadway, sidewalk area, land within the FPC District or Wetlands as determined by the Conservation Commission. Usable open space shall be defined to include such facilities as contiguous open space available for play, tot lots, gardens, hiking/jogging trails, tennis courts, or similar facilities.

4.345 In the FC District, all Common Land in a cluster development not set aside as usable open space for active and/or passive recreation shall be set aside as farmland as provided for under Section 4.351.

4.35 Common Land Ownership

4.350 Except in the WP, ARP and FC districts, all common land hereunder shall either (1) be conveyed to the Town of Amherst and be accepted by it for park or open space use, or (2) be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, (3) be conveyed to a corporation or trust owned or to be owned by the owners of the lots or residential units within the development, or (4) be conveyed to a private, non-profit or public entity for the purposes of farming, with a restriction enforceable by the Town of Amherst being recorded which provides that such land shall either be actively farmed or kept in an open and natural state, If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyances of the lots or residential units. Under the second and third ownership alternatives listed above, a restriction enforceable by the Town of Amherst shall be recorded providing that such land shall be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadway.

4.351 In the WP, ARP and FC districts, the Common Land and all Unbuildable Land Area (hereinafter within this section collectively referred to as “Common Land”) in a residential development shall be preserved as open space. Said Common Land shall be kept in an open or natural state, or as active farmland, and shall be used and managed so as to protect public water supplies (in the WP and ARP districts) and/or to preserve farmland and related accessory resource-based land uses (in the FC District, and in the WP and ARP districts where appropriate). Common Land shall not be built upon for residential use or developed for accessory uses such as parking or roadway.

4.351.0 Title to this Common Land may remain with the original owner or another individual or entity (hereinafter "owner"), or may be conveyed to the Town of Amherst, the Commonwealth of Massachusetts, a corporation or trust functioning as a homeowners' association, or a non-profit trust or similar conservation organization whose principal purposes include the protection of water quality and/or the preservation of farmland and related accessory resource-based land uses, as appropriate.

4.351.1 The applicant shall submit a management plan detailing the future use and management of the Common Land. Review and approval of the management plan shall be a condition of the Site Plan Review approval.

4.352 The location, size, and shape of common land shall be subject to the approval of the Planning Board if such land is to be conveyed to the Town.

4.36 Review and Approval Process

4.360 Approval shall be by Site Plan Review by the Planning Board, in accordance with the standards set forth in Section 11.2 and 11.3, with the purposes of Cluster Development as set forth in Sections 3.28 and 4.31, as applicable, and with the design requirements of Section 3.285 and 4.38, as applicable.

4.361 Subsequent approval by the Planning Board of such portions of a Cluster Development as constitute a subdivision shall be required as set forth in the Subdivision Control Law, including approval of the streets and utility system. A favorable action which may be made by the Planning Board on a Site Plan Review application shall not, therefore, be deemed either to constitute subdivision approval under the Subdivision Control Law or the Rules and Regulations Governing the Subdivision of Land, nor to imply that such approval will be given.

4.37 Flood-Prone Conservancy

Each application for a Cluster Development containing land within the Flood-Prone Conservancy district shall be accompanied by an additional set of plans and documents. Within ten days after receipt of the application the Planning Board shall transmit a copy thereof to the Conservation Commission which said Commission may, in its discretion, investigate the proposed development and report in writing its recommendation to the Board. The Planning Board shall not take final action on approval until it has received a report thereon from the Conservation Commission or until said Commission has allowed 35 days to elapse after receipt of such application without submission of a report.

4.38 Cluster Development Design Requirements

4.380 Vehicular and Pedestrian Circulation: primary routes shall be clearly differentiated from secondary routes and driveways; conflicts shall be minimized between vehicular routes and pedestrian routes and recreation areas.

4.381 Screening and Buffers: layout and design shall respond to needs for privacy between and around dwelling units; no structures shall be placed closer to the project property line than the front setback requirement for that zoning district.

4.382 Common Land: the majority of the common land shall consist of large blocks of contiguous areas easily accessible to most residents of the development from streets, cul-de-sacs and other open areas and links between different sections of common land shall be clearly shown; physical and visual access to the common land from the dwelling units shall be maximized, the preservation of the original landform and existing vegetation shall be maximized.

4.383 Utilities and Services: dumpsters shall be located in convenient locations, visually screened, and shall not impede pedestrian or vehicular circulation; the installation and location of drainage systems shall not impede access to common land.

4.384 Protection of Environmentally Sensitive Areas: the Board may reduce the number of lots otherwise allowed for the protection of aquifers, wetlands or other environmentally sensitive areas.

4.385 Building Siting: the Planning Board may review and approve the sites of all buildings, structures, driveways and parking areas for each lot and may establish building envelopes for all buildings within a cluster subdivision.

SECTION 4.4 PLANNED UNIT RESIDENTIAL DEVELOPMENT

4.40 General Description

Planned Unit Residential Development shall mean a mixed use development on a plot of land containing a minimum of 134,500 square feet in which a mixture of residential, open space, and such other uses, and a variety of building types, as may be permitted hereunder which are determined to be sufficiently advantageous to render it appropriate to grant special permission to depart from the normal requirements of the district to the extent authorized by this Bylaw.

4.41 Purpose

It is intended that a Planned Unit Residential Development be a subdivision to be developed as an entity by a landowner which does not correspond in lot size, bulk or type of dwelling, density, intensity of development, or required open space to the regulations in any one other district established by this Zoning Bylaw. The major purpose of the Planned Unit Residential Development, in addition to the purposes governing this Bylaw as stated in Article 1, is to provide for a mixture of housing types at certain locations and in certain districts in the Town at a greater density than would normally be allowed in each district without detracting from the livability and aesthetic qualities of the environment. A Planned Unit Residential Development should result in:

4.410 Economical and efficient street, utility, and public facility installation, construction, and maintenance,

4.411 A variety of housing types and characteristics appropriate to various social and economic groups,

4.412 Efficient allocation, distribution, and maintenance of common open space,

4.413 Land use harmonious with the natural features and,

4.414 The development of real property values for the long range future.

4.42 Use and Dimensional Standards

4.420 In a Planned Unit Residential Development the following uses shall be permitted:

4.4200 One-family dwelling

4.4201 Two-family or semi-detached dwelling

4.4202 Townhouses

4.4203 Multiple-family dwelling

4.4204 Nursery or Kindergarten

4.4205 Place of worship

4.4206 Public educational use

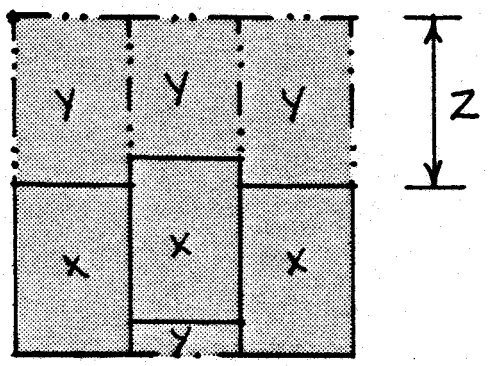
4.4207 Governmental use

4.421 In a Planned Unit Residential Development the following requirements relating to the density and intensity of land use shall be met:

4.4210 Separate lots for single family dwellings shall be permitted, but are not required. If provided, the lot area shall be three quarters of the minimum lot area required for the applicable Zoning District in Table 3. If not provided, the same calculation shall be used per lot to determine the maximum density allowed for the single family units.

4.4211 Separate lots for duplex dwelling units shall be permitted, but are not required. If provided, the lot area shall be three-quarters of the minimum lot area, plus the additional minimum area per family required for the applicable Zoning District. If not provided, the same calculation shall be used per lot to determine the maximum density allowed for the duplex dwelling units.

4.4212 Separate lots for townhouses shall be permitted but are not required. If provided, the lot area for each unit shall be not less than two times the footprint of the unit, and shall include the area of the footprint of the unit. In no case shall any property line of the lot extend further from the unit than a distance in linear feet, that is numerically equivalent to 10% of the area, in square feet, of the footprint of the unit.



x = Footprint of the townhouse

y = Lot area (2x) of the townhouse (includes footprint)

z = Distance of lot line from the townhouse (maximum 10%, in linear foot equivalent, of the area of the townhouse footprint)

4.4213 For townhouses, with or without separate lots, and for multi-family units, two times the minimum additional lot area per family for the applicable Zoning District shall be used to calculate the maximum density allowed in the PURD for these units.

4.4214 There shall be no frontage requirements in the PURD.

4.4215 Maximum height of structures: as regulated in Table 3.

4.4216 Minimum setback and rear/side yards pertaining only to the periphery of the Planned Unit Residential Development: equal to the requirements in each district as shown in Table 3. If separate full size lots are created, the minimum setback and side yards shown in Table 3 for the applicable Zoning District shall be provided. Dimensional regulations for all undersized single family and two family lots shall conform to the required regulations for the R-G District found in Table 3.

4.4217 Within the open space area provided in the PURD, at least 1,000 square feet per dwelling unit must be usable open space for active and passive recreation. Such space shall not include parking space, laundry drying area, required yards, land within the FPC District or wetlands as determined by the Conservation Commission. Usable open space shall be defined to include such facilities as contiguous open space available for play, tot lots, gardens, hiking/jogging trails, tennis courts, or similar facilities.

4.4218 Maximum percentage of dwelling units of any one type of permitted housing: 75%.

4.4219 Minimum parking requirements: as regulated in Article 7 of this By-Law.

4.4220 Not more than fifty percent of land within the FPC District and wetlands as determined by the Conservation Commission shall be used to fulfill the density requirements for the PURD notwithstanding Section 6.5.

4.43 Common Land Ownership

Open space or common land shall be assured and maintained in accordance with the procedures prescribed in Section 4.35 of this Bylaw.

4.44 Review and Approval Process

In addition to the requirements specified in Section 10.3, Special Permit, of this Bylaw and Section 9, Chapter 40A of the General Laws, the following procedures shall be required for the presentation of a Planned Unit Residential Development plan:

4.440 The proposed development shall be in harmony with the Master Plan of the community, if any, as prepared and amended by the Planning Board.

4.441 The development plan shall specify reasonable periods within which development of each section of the Planned Unit Residential Development may be started. Deviation from the required amount of usable open space per housing unit may be allowed, provided such deviation shall be adjusted for in other sections of the Planned Unit Residential Development.

4.442 Subsequent approval by the Planning Board of such portions of the development as constitute a subdivision will be required as set forth in the Subdivision Control Law, including approval of the street and utility systems. A favorable recommendation by the Planning Board that the Special Permit be issued shall not, therefore, be deemed to either constitute subdivision approval under the Subdivision Control Law or the Subdivision Rules and Regulations of the Planning Board, nor imply that such approval will be given.

4.45 Flood Prone-Conservancy

Each application for a PURD containing land zoned Flood Prone-Conservancy shall be accompanied by an additional set of plans. Within ten days after receipt of the plan, the Board of Appeals shall transmit a copy thereof to the Conservation Commission, which said Commission may, in its discretion, investigate the proposed development and report in writing its recommendations to the Board of Appeals.

4.46 The Board of Appeals shall not take final action on application for a Special Permit hereunder until it has received a report thereon from both the Planning Board and Conservation Commission, or until said Planning Board and Conservation Commission have allowed 35 days to elapse after receipt of such plan without submission of a report.

SECTION 4.5 OPEN SPACE COMMUNITY DEVELOPMENT

4.50 General Description & Purpose

An Open Space Community Development (OSCD) shall mean a principally residential development located on contiguous land and including dwelling units and accessory facilities owned individually and/or in common. In comparison to Conventional Residential Subdivision Development, an Open Space Community Development (OSCD) shall allow a mix of housing types and may allow the concurrent development of selected non-residential uses compatible with and supportive of the residential development. An OSCD may allow organized groups of households to construct dwelling units and common facilities for their collective and individual ownership and use. It is intended that an Open Space Community Development (OSCD) be a Development Method that is flexible in nature and allows for modification of lot size, bulk or type of dwelling, density, intensity of development, or required open space in the regulations of any district established by this Zoning Bylaw, so as to result in patterns of land use that are more compact and more efficiently laid out on a smaller area of a site, while preserving more open space and other natural and cultural features elsewhere.

Land not used for residential, approved non-residential or accessory purposes shall be permanently preserved as open space according to the methods hereinafter described.

It is expected that the following benefits may be gained through use of this Development Method:

4.500 Compact, economical and efficient layout, installation, construction and maintenance of buildings, streets, utilities and public facilities.

4.501 Efficient allocation, distribution and maintenance of common public and private open space.

4.502 Land development and uses that are harmonious with and which conserve, protect and enhance:

4.502.0 Natural resources of the land, including critical resource areas such as wetlands, floodplains, wildlife habitat, greenbelts and farmland.

4.502.1 Traditional resource-based land uses and practices, including farming, logging, aquaculture, and similar uses in order to preserve the cultural heritage of such uses in Amherst, as well as the traditional land development patterns and recreational opportunities resulting from and enabled by these traditional resource-based land uses.

4.502.2 Historical and archeological resources, including buildings, structures, sites and materials.

4.503 Efficient use of land so as to increase the options for and the supply of affordable housing.

4.504 Housing development that allows for integration of a variety of housing types, including handicapped accessible housing, appropriate to various social and economic groups within any given development project.

4.51 Use Standards

4.510 The following Principal uses shall be permitted in an Open Space Community Development (OSCD):

4.5100 One-family detached dwelling

4.5101 Two-family or semi-detached dwelling

4.5102 Subdividable dwelling

4.5103 Buildings or structures comprised of multiple dwelling units, as permitted under Section 4.534.

4.5104 Kindergarten, day nursery or other facility for the day care of children.

4.5105 If allowed in the underlying zoning district(s), buildings containing dwelling units in combination with stores or other permitted business or commercial uses (Section 3.325), where the Special Permit Granting Authority finds that, in addition to meeting the provisions of Section 10.38, the proposed use provides goods and/or services which will appropriately serve the households in the proposed residential development and the surrounding neighborhood.

4.511 The following aggregated accessory uses and facilities shall be permitted in an OSCD:

4.5110 Community building or common house including meeting rooms, kitchen and dining facilities for the use of residents and guests.

4.5111 Library

4.5112 Laundry

4.5113 Place of meditation or worship

4.5114 Office space

4.5115 Workshop/studio/trades building

4.5116 Other shared or common facilities for maintenance and other ancillary purposes serving the residential community.

4.52 Density Standards

4.520 The maximum density allowed in an Open Space Community Development shall be calculated as follows:

1. Determine the Net Parcel Area by subtracting 75% of the area of all Unbuildable Land Area from the total parcel acreage. Unbuildable Land Area shall consist of the combined acreage of all wetlands, FPC District and 100-year floodplain areas. 100-year floodplain areas shall consist of those areas so designated on federal flood insurance maps.

2. Subtract 8% of the Net Parcel Area for roadways, parking and utilities.

3. Divide the remaining buildable land area by the minimum lot area required in the applicable zoning district(s).

4. Multiply the resulting lot count by 1.2 (120%) to derive the maximum density. See Section 4.12.

5. Where no lots are to be provided in an OSCD, the maximum density resulting from this calculation shall serve as the total base dwelling unit count.

4.521 See Section 4.55 for density bonus provisions.

4.53 Dimensional Standards

4.530 Separate lots for residential dwellings shall be permitted, but are not required. If provided, the lots shall meet or exceed the minimum lot area requirements for cluster subdivisions for the applicable zoning district(s).

4.531 Where individual building lots are proposed, frontage need not be provided on an established way, nor shall the rear and side yard setbacks in Table 3 apply, except that non-zero lot line buildings shall be separated as required by applicable fire and building codes.

4.532 For buildings containing no more than two dwelling units, zero lot lines shall be allowed in an OSCD, and side yards need not be provided on that side of a dwelling unit that shares a party wall or double wall with an adjacent dwelling unit. Where zero lot lines are proposed, maintenance easements and covenants shall be provided to ensure access for maintenance and utility repairs or replacement.

4.533 Single-family dwelling units shall not comprise more than 50% of the total number of dwelling units.

4.534 Up to four (4) dwelling units may be allowed in a single building in the R-N District. In other Residence districts, the number of units per building shall be as provided in the bylaw.

4.535 Front setbacks shall be observed for the applicable zoning district(s), but the Special Permit Granting Authority may modify lot frontage and side and rear setback requirements to meet the needs of the development and public safety. Buildings shall be separated as required by applicable fire safety and building codes.

4.536 A buffer zone of private property, common land and/or usable open space for active or passive recreation shall be provided along any edge of the residential portion of an OSCD that abuts adjacent or on-site farmland, in accordance with Sections 3.2855 and 3.2856.

4.54 Sanitary Sewer

4.540 The entire development shall be connected with the public sanitary sewer system, except that where such sewer connection is not reasonably available, the Board of Health may, in accordance with state and local health regulations, authorize development of and connection to a package sewage treatment plant, or individual or shared septic systems. The option of individual or shared septic systems shall not be available in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts.

4.55 Density Bonuses

It is the intention of this bylaw to encourage the provision of both affordable and handicapped accessible housing. Toward that end, where affordable and/or accessible units are proposed, additional housing units may be added to an OSCD above and beyond the maximum density provided for under Section 4.520.

4.550 Affordable Units

4.550.0 In any OSCD that includes affordable dwelling units in accordance with Sections 4.333-4.334, the maximum density established under Section 4.520 may be increased by the number of affordable units proposed. Additional units allowed under this provision shall not exceed 20% of the maximum otherwise permitted under Section 4.520.

4.550.1 Affordable units shall be geographically dispersed throughout the development, except that the Special Permit Granting Authority may, for compelling reasons of development function and site design consonant with the purposes of this Bylaw, allow such units to be clustered.

4.551 Accessible Units

4.551.0 In any OSCD that includes dwelling units fully handicapped accessible under the provisions of Massachusetts Architectural Access Board regulations (521 CMR), as amended, the maximum density established under Section 4.520 may be increased by the number of accessible units proposed, except that no accessible units may be counted as part of such a density bonus unless separate affordable dwelling units are also being provided. Additional accessible units allowed under this provision shall not exceed 10% of the maximum otherwise permitted under Section 4.520.

4.552 The combined additional number of affordable and accessible units allowed under this section shall not exceed 20% of the maximum otherwise permitted under Section 4.520.

4.553 Any dwelling unit which is both affordable and handicapped accessible shall, for purposes of calculating a density bonus under this section, be counted either as a single affordable unit or as a single accessible unit, but not both.

4.56 Common Land Standards

4.560 The following minimum percentages of total parcel area in an OSCD shall be retained as substantially undeveloped Common Land kept open and undeveloped for buildings, roadways and walkways, parking and utilities:

Zoning Districts

	R-LD	R-O	R-N	R-VC	R-G
Minimum % Open Space	75	65	60	50	50

4.561 A minimum of 50% of the Common Land in an OSCD shall be upland exclusive of wetlands, FPC District and 100-year-floodplain.

4.562 Common Land shall be laid out in large, contiguous areas as appropriate to its natural or cultural characteristics and its proposed use(s), as set forth under Sections 4.35, 4.38 and 4.502.

4.563 Common land ownership shall be as provided for under Section 4.35.

4.57 Open Space Community Development (OSCD) Design Requirements

4.570 Within an Open Space Community Development (OSCD), a minimum of 2,000 square feet per dwelling unit shall be usable open space for active and passive recreation. Usable open space shall be defined to include contiguous open space developed and available for play areas, tot lots, gardens, off-road trails (including but not limited to hiking, jogging, bridle and bicycle trails, as well as those paths and easements which provide access or connection to such trails, regardless of location), ball or playing fields, basketball or tennis courts or similar facilities as are appropriate to the needs of the development. Usable open space shall not include parking areas, roadways, sidewalks or land within wetlands as determined by the Conservation Commission (except as hereinafter provided). Up to 40 percent of total usable open space may be located in an FPC District and/or wetlands, as appropriate to the intended recreation use(s), in accordance with the provisions of Section 3.22, and as permitted by the Conservation Commission.

4.571 The design requirements of Section 4.38, Cluster Development Design Requirements, shall apply to an OSCD.

4.572 For an OSCD within the FC district, the design requirements of Section 3.285 shall apply. For an OSCD outside of the FC District, the provisions of Sections 3.2850, 3.2853, 3.2854, 3.2857-3.2859 shall apply.

4.573 Vehicular access, internal circulation and related parking shall be located and designed so as to minimize their impact on adjacent residential uses outside the OSCD.

4.58 Review and Approval Process

4.580 At the time of application for a Special Permit under this section, a minimum of thirty percent (30%) of the total dwelling units in an OSCD shall be under agreement for conveyance to parties who will occupy said dwelling units. At the time of occupancy of the first unit, and thereafter, a majority of the total dwelling units in an OSCD shall be owner-occupied, as defined under Article 12. Said requirement shall be enforced through covenants in homeowners or condominium association agreements, or similar documents, the review and approval of which documents shall be a condition of permit approval. The express intent of these provisions is to encourage the early and continuing involvement of residents in the design, development and management of an OSCD. These requirements shall be ongoing and shall be made a condition of the Special Permit.

4.581 The Special Permit Granting Authority for an Open Space Community Development (OSCD) shall be the Planning Board, in accordance with the provisions of Section 10.3, the purposes, standards and requirements of Section 4.5, and such other requirements of this bylaw as may be applicable.

4.582 Subsequent approval of such portion(s) of an OSCD as constitute a subdivision shall be required as set forth in the Subdivision Control Law, including approval of the streets and utility system. A favorable action which may be made by the Planning Board on a Special Permit application shall not, therefore, be deemed either to constitute subdivision approval under the Subdivision Control Law or the Rules and Regulations Governing the Subdivision of Land, nor to imply that subdivision approval will be granted.

4.583 Each application for an Open Space Community Development (OSCD) containing land within the Flood-Prone Conservancy (FPC) District shall be accompanied by an additional set of plans and documents for transmittal to the Conservation Commission. Within ten (10) days of receipt of the application, the Planning Board shall transmit a copy thereof to the Conservation Commission. The Commission shall, at its discretion, investigate the proposed development and report in writing its recommendations to the Planning Board within 35 days of the date of application. The Planning Board shall not take final action on approval of the application until it has received a written report from the Conservation Commission or until the 35 day period has passed without receipt of such a report.

ARTICLE 5 ACCESSORY USES

SECTION 5.00 GENERAL
SECTION 5.01 RESIDENTIAL
SECTION 5.02 LIGHT INDUSTRIAL DISTRICT
SECTION 5.03 OFFICE PARK & PROFESSIONAL RESEARCH PARK
SECTION 5.04 RETAIL BUSINESS/CONSUMER SERVICE USES
SECTION 5.05 SIGNS
SECTION 5.06 RECREATION
SECTION 5.07 SCIENTIFIC RESEARCH OR DEVELOPMENT
SECTION 5.08 CHILD CARE SERVICE
SECTION 5.09 FARM CONFERENCE CENTER
SECTION 5.10 FILLING OF LAND

SECTION 5.00 GENERAL

Any use which is, in Hampshire County, customarily accessory and incidental to a permitted Principal Use shall be permitted on the same lot with said Principal Use, or on a lot adjacent thereto in the same ownership, subject to the general limitation that it shall not be detrimental to the neighborhood or the property in the vicinity, and subject further to the following provision: Wherever a Principal Use is allowed by Special Permit from the Board of Appeals then Accessory Uses to the Principal Use shall be subject to a Special Permit, unless otherwise provided in this Article.

SECTION 5.01 RESIDENTIAL

5.010 Lodgers/Boarders/Roomers/Bed and Breakfast

5.0100 Lodgers/Boarders/Roomers/Bed and Breakfast - Maximum Three People. In any district, the taking of lodgers/boarders/roomers/bed and breakfast lodgers (maximum three people) shall be an accessory to the use of a dwelling unit, provided that:

5.01000 There shall be an owner who resides on the premises responsible for the operation.

5.01001 There shall be no separate cooking facilities. However, meals may be offered/provided to lodgers/boarders/roomers and breakfast may be provided to bed and breakfast lodgers.

5.01002 There shall be no substantial change to the exterior of the building.

5.01003 One parking space shall be provided for each room to be occupied by lodgers/boarders/roomers/bed and breakfast lodgers in addition to the parking required under Section 7.000.

5.0101 Lodgers/Boarders/Roomers/Bed and Breakfast - Four to Six People. In any district, the Zoning Board of Appeals may grant a Special Permit for the taking of lodgers/boarders/ roomers/bed and breakfast lodgers (four to six people) as a use accessory to the use of a dwelling unit, provided that:

5.01010 There shall be an owner who resides on the premises responsible for the operation.

5.01011 There shall be no separate cooking facilities. However, meals may be offered/provided to lodgers/ boarders/roomers, and breakfast may be provided to bed and breakfast lodgers.

5.01012 There shall be no substantial change to the exterior of the building.

5.01013 One parking space shall be provided for each room to be occupied by lodgers/boarders/roomers/bed and breakfast lodgers in addition to the parking required under Section 7.000.

5.01014 There shall be a maximum of five rooms available for rental to lodgers/ boarders/roomers/bed and breakfast lodgers.

5.01015 A management plan, as defined in terms of form and content in the Rules and Regulations of the Zoning Board of Appeals, shall be included as part of any application made under this section. A register of all lodgers/boarders/ roomers/bed and breakfast lodgers shall be kept in accordance with the Rules and Regulations covering hotels and motels within the Commonwealth.

5.0102 Bed and Breakfast

In the R-VC District, the Zoning Board of Appeals may grant a Special Permit for the taking of bed and breakfast lodgers in up to 7 rooms as a use accessory to the use of a dwelling unit.

In the B-G, B-L, B-VC and B-N districts, the Zoning Board of Appeals may grant a Special Permit for the taking of bed and breakfast lodgers in up to 10 rooms as a use accessory to the use of a dwelling unit, and for limited bed and breakfast-related retail and consumer services as a second accessory use.

The Zoning Board of Appeals may grant a Special Permit for a use under this section, provided that, in addition to meeting the provisions of Article 7 and Section 10.38, the proposed use meets the following conditions:

5.01020 There shall be an owner who resides on the premises responsible for the operation.

5.01021 The building shall be connected to the public sewer prior to occupancy.

5.01022 There shall be no separate cooking facilities. However, breakfast may be provided to bed and breakfast lodgers.

5.01023 One parking space shall be provided for each room occupied by bed and breakfast lodgers in addition to the parking required under Section 7.000.

5.01024 Retail and consumer services shall be provided only to bed and breakfast lodgers, and shall be clearly secondary and incidental to the bed and breakfast use.

5.01025 A management plan, as defined in terms of form and content by the Rules and Regulations of the Zoning Board of Appeals, shall be part of any application made under this Section. Where retail and consumer services are proposed, such information as the Board of Appeals may require on those services shall be included in the management of this plan.

5.011 Supplemental Dwelling Units

Supplemental dwelling units as defined under this section are intended to meet the changing housing needs of owner-occupied households, including housing for relatives and others associated with the household, and the provision of small, individual rental units. As accessory uses, supplemental dwelling units are exempt from the additional lot area/family requirements of Table 3. Only one (1) supplemental dwelling unit shall be permitted as accessory to a one family detached dwelling.

5.0110 Supplemental Apartment

A supplemental apartment is a small accessory dwelling unit incorporated as part of and subordinate to an existing one family detached dwelling.

1. Supplemental Apartment I - A supplemental apartment which is located entirely within an existing one family detached dwelling and requires no significant external changes to the dwelling or site beyond entrances and windows required by the building code. A Supplemental Apartment I shall be permitted in all residential zoning districts except the R-F District following review of the proposed accessory use by the Building Commissioner and verification that it meets the requirements of this Bylaw, including but not limited to the following:

a. One of the dwelling units shall be occupied by the owner(s) of the principal one family detached dwelling as their principal residence. Neither unit may be used for accessory lodging under the provisions of Section 5.01.

b. The supplemental apartment shall not be occupied by more than three (3) adult residents.

c. The supplemental apartment and property shall be operated in accordance with a Management Plan submitted to and approved by the Building Commissioner. Upon any change in ownership, a new Management Plan shall be filed in a timely manner with the Building Commissioner for review and approval.

d. Any dwelling unit on the property being rented shall be registered and permitted in accordance with the Residential Rental Property Bylaw.

e. Parking shall be provided and designed in accordance with Article 7 of this Bylaw.

f. All exterior lighting shall be designed and installed so as to be shielded or downcast, and to avoid light trespass onto adjacent properties.

g. On-site storage and management of waste and recycling shall occur on the interior of the dwelling or within an attached garage or other accessory outbuilding. There shall be no freestanding dumpster or storage unit associated with a property regulated under this section, except on a temporary basis in association with construction or similar temporary purposes.

h. A reflective street address sign for each unit shall be installed at the street in a manner ensuring their visibility for public safety personnel from any approach.

Any Supplemental Apartment I which in the judgment of the Building Commissioner does not meet these requirements shall require a Special Permit from the Zoning Board of Appeals.

2. Supplemental Apartment II - A supplemental apartment which involves significant changes to the existing one family detached dwelling, including but not limited to external fire escape structures, exterior additions not exceeding ten percent (10%) of the footprint of the habitable portions of the existing building, and other similar changes which result in a significant alteration to the appearance and function of the building or site. A Supplemental Apartment II shall require a Special Permit granted by the Zoning Board of Appeals in the R-G, R-VC, R-N, R-O, and R-LD Districts.

5.0111 Supplemental Detached Dwelling Unit

A supplemental detached dwelling unit shall be a small freestanding accessory one family detached dwelling permitted to co-occur on a residential property as supplemental and incidental to a one family detached dwelling. A supplemental detached dwelling unit may be the result of new construction or rehabilitation of an existing structure resulting in a unit meeting the general requirements of this section.

Supplemental detached dwelling units shall require a Special Permit from the Zoning Board of Appeals in the R-G, R-VC, R-N, R-O, and R-LD Districts.

5.0112 General Requirements. The following standards shall apply to supplemental dwelling units (supplemental apartments and supplemental detached dwelling units):

1. There shall be not less than 350 square feet nor more than 800 square feet of habitable space in any supplemental dwelling unit, except that any such dwelling unit built and maintained as fully accessible under the provisions of the Americans with Disabilities Act (ADA) may include a maximum of 900 square feet in habitable space.

2. No one family detached dwelling in which a supplemental apartment is constructed or upon the property of which a supplemental dwelling unit is built may be used simultaneously for accessory lodging under any provision of Section 5.010, nor shall any supplemental dwelling unit built upon the property of such a one family dwelling be so used.

3. One of the dwelling units on the property shall be occupied by the owner(s) of the principal one family residence, which requirement shall be made a condition of any Special Permit issued under this section.

4. Notwithstanding the provisions of Article 12, a supplemental dwelling unit shall be occupied by a total of no more than three (3) adult residents.

5. The design review principles and standards established under Section 3.204 shall be applied to all accessory uses under this section, and the review and recommendation of the Design Review Board may be sought by the Building Commissioner, Permit Granting Board, or Special Permit Granting Authority.

5.012 Office or Studio - The use of a portion of a dwelling or of a building accessory thereof as the office of a doctor, dentist, optician, member of the clergy, lawyer, architect, engineer or other member of a recognized profession, or as the studio or office of an artist, musician, teacher, real estate or insurance agent residing on the premises shall be considered accessory to the use of the dwelling unit, provided that:

5.0120 Not more than two persons other than residents of the premises are regularly employed therein in connection with such use.

5.0121 No external change is made which alters the residential appearance of the building on the lot.

5.0122 There is no outward evidence that the premises are being used for any purpose other than residential (except for an accessory sign or vehicle as hereinafter permitted).

5.013 Home Occupation - The Board of Appeals may authorize, by issue of a Special Permit, the use of a portion of a dwelling or building accessory thereto as the workroom of a resident artist, craftsperson, beautician, dressmaker, milliner, photographer, cabinetmaker, skate sharpener, radio repair technician or other person engaged in a customary home occupation, or as the office of a resident taxicab or limousine service operator (see Section 3.340.3), or as a place for incidental work and storage in connection with the off-premises trade by a resident builder, carpenter, electrician, painter, plumber or other artisan, or by a resident tree surgeon, landscape gardener or similar person, provided that:

5.0130 Such use is clearly secondary to the use of a premises for dwelling purposes.

5.0131 Not more than two persons other than residents of the premises are regularly employed there in connection with such use.

5.0132 No trading in merchandise is regularly conducted except for products made on the premises or of parts of other items customarily maintained in connection with, and incidental to, such merchandise.

5.0133 No external change is made which alters the residential appearance of the building on the lot.

5.0134 All operations, including incidental storage, are carried on within the principal or accessory building, and that there is no outward evidence that the premises are being used for any purpose other than residential (except for an accessory sign or vehicle as hereinafter permitted).

5.0135 The proposed accessory use would be suitably located in the neighborhood in which it is proposed and/or the total Town, whichever is deemed appropriate by the Board of Appeals.

5.0136 In Residence Districts, the use will be reasonably compatible with other uses permitted as of right in the same district;

5.0137 The use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories, and the use is not a serious hazard to abutters, vehicles or pedestrians.

5.0138 Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation on the site and at the intersection with abutting streets.

5.014 Livestock or Poultry - The raising or keeping of livestock or poultry for use by residents of the premises shall be considered as an accessory use to residential uses in selected residential districts in Amherst and shall not be permitted in other districts. All livestock and poultry raised and kept as an accessory use shall be raised and kept in a safe and humane manner consistent with best agricultural practices, and shall be subject to the regulations of this section and all applicable local and state laws. The accessory raising or keeping of livestock or poultry in residential districts:

5.0140 Shall be allowed by right in the Outlying Residence (R-O) and Low-Density Residence (R-LD) Districts;

5.0141 Shall be allowed in the General Residence (R-G), Village Center Residence (R-VC), and Neighborhood Residence (R-N) Districts under the following provisions:

5.0141.0 Only selected domesticated fowl (hens, ducks, pigeons, and doves) and domesticated rabbits (including domesticated hares) may be raised and kept as an accessory use. On such properties, no roosters, geese, swans, turkeys, pheasants, peacocks, guinea fowl, pygmy goats, potbellied pigs, or any other livestock or poultry shall be permitted, except under the provisions of a Special Permit granted by the Zoning Board of Appeals.

5.0141.1 No more than a combined total of twelve (12) total adult domesticated fowl and rabbits shall be kept on any property, regardless of the number of dwelling units. Only reproductively mature fowl and rabbits shall be considered adults counting toward this maximum.

5.0141.2 Domesticated fowl and rabbits shall be confined with fencing or other secure enclosure, which enclosure and any associated sheltering structure shall be set at least ten (10) feet from any property lines and twenty (20) feet from residential structures on any adjacent property. Within such an enclosure, a minimum of ten (10) square feet of open yard area shall be provided per adult animal. Upon receipt of a signed affidavit from all owners of property affected by a setback, in which said owners agree to a specific modification, the Building Commissioner may vary the setback from the property lines in question for enclosures, and for sheltering structures within the height and setback limitations established for accessory structures under Section 6.15.

5.0141.3 Within or attached to any such enclosure shall be provided a secure sheltering structure (e.g., coop, dovecote, hutch, or shed, as appropriate) of sufficient size to ensure the health and safety of the animals.

5.0142 In all cases, the accessory keeping and raising of livestock or poultry shall require registration of said livestock or poultry with the Amherst Health Department and shall permit regular inspections by the Animal Welfare Officer under applicable state and local law or regulations. All Special Permits issued under this section shall include as conditions of approval the submission of evidence of such registration.

5.0143 Any provision of Section 5.014, Livestock or Poultry, may be waived or modified under a Special Permit granted by the Zoning Board of Appeals for compelling reasons of public health, safety, and general public welfare.

5.0144 No provision of Section 5.014, Livestock or Poultry, shall apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3, as amended.

5.015 Garaging or Parking of Motor Vehicles

5.0151 Garaging or parking of one light panel, delivery or pick-up truck shall be considered to be a permitted accessory use in a residential district.

5.0152 Garaging or parking of larger commercial vehicles or more than one commercial vehicle may be allowed under a Special Permit, issued by the Board of Appeals.

5.016 Dwellings in Office, Research & Industrial Districts

In any Office Park (OP), Professional Research Park (PRP) or Light Industrial (LI) District, dwelling units may be permitted as an accessory use on any lot where the dwelling unit or units are determined by the permit-granting authority to be necessary for the accommodation of a manager, custodian, security guard, or other employee essential to the operation of the principal non-residential use of the lot. This may include accommodation for such employee's immediate family or household. Not more than 10% of the gross floor area (GFA) of all buildings, as determined by the Building Commissioner, shall be devoted to such accessory residential use. A larger percentage of residential GFA may be allowed only if specifically authorized by the Board of Appeals under a Special Permit.

5.017 Trailer - A trailer or mobile home may be used on any lot for not more than 60 days in any twelve month period and shall be removed at the end of said 60 days, except as provided below:

5.0170 The owner or occupier of a residence which has been destroyed by fire or natural disaster may place a mobile home on the site of such residence and may, by right, reside in such mobile home for a period not to exceed twelve months while the residence is being built. Any such mobile home shall be subject to the provisions of the State Sanitary Code.

5.0171 The tenant of a commercial place of business which has been destroyed by fire or natural disaster may place a trailer on the site of such place of business and may, by right occupy such trailer for period not to exceed twelve months while the business premises are being built. Any such trailer shall be subject to the provisions of the Amherst Board of Health.

5.0172 In circumstances other than noted in Sections 5.170 and 5.171 above, the Board of Appeals may allow the use of a trailer or mobile home as a dwelling or commercial place of business for longer than 60 days, under Special Permit, provided that a time limit is imposed as part of such permit.

5.0173 A trailer may be used for a construction site office on a temporary basis, such trailer to be removed upon completion of the construction project.

SECTION 5.02 LIGHT INDUSTRIAL DISTRICT

Where clearly secondary and incidental to a manufacturing establishment or other Principal Use in a Light Industrial District, any of the following shall be considered as Accessory Uses:

5.020 Restaurant, company store, or similar facility for the convenience of and use by, employees on the premises;

5.021 Salesroom for selling at retail to the general public not more than 10% of any goods assembled, packaged, finished, processed or otherwise manufactured on the premises;

5.022 Regular open-air storage of materials, merchandise, products or equipment needed in connection with, or produced by, the Principal Use on the Premises, but only if such open storage is specifically authorized by a Special Permit from the Board of Appeals.

SECTION 5.03 OFFICE PARK & PROFESSIONAL AND RESEARCH PARK

A restaurant, company store, or similar facility for the convenience of, and use by, employees on the premises shall be considered an accessory use in the OP and PRP Districts.

SECTION 5.04 RETAIL BUSINESS AND CONSUMER SERVICE USES

5.040 The rental of automobiles, trucks, trailers and farm implements may be granted under a Special Permit as accessory to establishments selling motor vehicle fuel, related products and services.

5.041 Seasonal outdoor dining, including sidewalk cafes, courtyard or terrace dining and similar uses may be permitted in the B-G, B-L, B-VC, B-N and COM districts as an accessory use to: 1) a restaurant, café, lunchroom, cafeteria, refreshment stand, drive-up, fast-food eatery or similar eating establishment, or; 2) to a bakery, deli, or other similar establishment for the production and sale of food or beverage on the premises, or; 3) to a retail store or convenience store selling prepared and packed food or beverage on the premises, under a Special Permit or Site Plan Review approval, whichever is required for the principal use. In the case of a retail or convenience store selling prepared and packaged food on the premises, any unpackaged food or beverage such as ice cream or soft drinks sold in association with any accessory seasonal outdoor dining use shall be sold and served only through a limited-access walk-up window or similar facility, to be consumed out of doors.

In residential districts, seasonal outdoor dining may be permitted under a Special Permit as an accessory use to a farm stand restaurant. Where appropriate, health, fire and building permits have been obtained, seasonal outdoor dining uses may also include the outdoor preparation and cooking of food or beverages.

The following conditions shall apply to any seasonal outdoor dining permitted under this section:

5.0410 Except as may be specifically allowed under conditions attached to said Site Plan Review or Special Permit, no structure, framework, planter box, fence, wall or furnishing used in conjunction with the operation of an outdoor dining use shall be allowed to remain in the area so used between November 1 and the April 1 following thereafter. In the B-G District, such temporary structures and furnishings shall be exempt from the provisions of Sections 6.20 and 6.23. No such exemption shall apply to fixed or permanent structures or furnishings.

5.0411 Where a site for a proposed outdoor dining facility is partly or completely situated upon a sidewalk within the public way or upon other publicly-owned land, evidence of a lease and/or license allowing the use of the site by the applicant shall be provided prior to the issuance of an occupancy permit.

5.0412 The permit-granting authority shall receive from the Building Commissioner a statement that the outdoor dining use will not unduly hinder safe exit from or access to the establishment in the event of a fire or other emergency.

5.0413 Except as may be specifically allowed under conditions attached to said Site Plan Review or Special Permit, no wall or fence related to an outdoor dining facility shall have a height of more than four (4) feet. No such facility shall be equipped with free-standing heating and cooling devices or served by the HVAC system(s) of adjacent and associated buildings, except for fans.

5.042 Live or pre-recorded entertainment involving music and/or human voice, whether amplified or unamplified, may be permitted in the B-G, B-L, B-VC, B-N and COM districts as an accessory use to a restaurant, bar, inn or bed and breakfast (Section 5.0102 only) under a Special Permit or Site Plan Review, whichever is required for the principal use, except that a Special Permit shall be required whenever any accessory entertainment is proposed and any outside wall of that portion of the building occupied by the principal use is located 150 feet or less from a residential dwelling in a Residence district.

The following conditions shall apply to any entertainment permitted under this section:

5.0420 Such entertainment shall be clearly accessory and incidental to the principal use.

5.0421 Sound produced by the proposed entertainment shall not generally exceed 70 dB (A) as measured at any boundary of the property on which the establishment is located, as determined by the regulations adopted pursuant to Section 5.0422.

5.0422 In order to develop reasonable and effective conditions under this section, the Planning Board shall develop regulations for the measurement of sound undertaken under Section 5.0421, and may require such information as it may deem necessary. The permit granting board or authority may impose a probationary period involving one or more monitoring tests, including but not limited to sound measurements taken during live performances and/or use of sound systems. Permit

conditions may include, but are not limited to, requirements for sound- proofing, limits on volume within rooms where entertainment occurs, and any other reasonable measures the permit granting board or authority may deem necessary.

5.043 Drive-Through Facilities

Any attached or free-standing structure designed or operated to provide goods or services for patrons who drive to the structure and remain in their vehicles while receiving said goods or services shall be considered a drive-through facility, and accessory to Principal Uses under this Bylaw. Stand-alone automated teller machines or similar unattended facilities shall be regulated under this section. Exceptions shall be drive-in restaurants (Section 3.352.2), automotive filling stations (Section 3.381) and car washes (Section 3.383), where associated drive-through facilities shall be considered part of the Principal Use and regulated accordingly. No drive-through facility shall be permitted in any zoning district except as hereinafter provided. Existing drive-through facilities accessory to any existing legal non-conforming use shall be regulated under the provisions of Section 9.2.

5.0430 No drive-through facility shall be permitted in the B-G, B-N, OP, PRP or LI Districts. Drive-through facilities may be permitted in those portions of the B-L District abutting the B-G District under a Special Permit issued by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for the Principal Use.

5.0431 In the COM District and in those outlying B-L districts not abutting the B-G District, drive-through facilities may be permitted as accessory to any permitted retail or consumer service use, or motor vehicle related use under the applicable Site Plan Review approval or a Special Permit required for the associated Principal Use, either proposed or existing.

5.0432 A drive-through facility serving as the entrance/exit structure for the control of access, payment of access fees, and the like may be permitted as accessory to any extensive use, institutional use, governmental/public service use or public parking use in any zoning district under a Site Plan Review or Special Permit, whichever is required for the Principal Use. Where the associated Principal Use is permitted by right in the applicable zoning district, an accessory drive-through facility shall require Site Plan Review approval.

SECTION 5.05 SIGNS

Signs and advertising devices referring to the property itself, or to commodities or service customarily available on the premises, shall be considered Accessory Uses, subject to the restrictions set forth in Article 8, Sign Regulations.

SECTION 5.06 RECREATION

5.060 Swimming Pools

5.0600 Private Swimming Pools - In-ground or above-ground swimming pools, 24 inches deep or greater, may be considered accessory to the use of a dwelling unit provided such pool is used only by the residents of the premises and their guests, that no portion of the water area be closer than 20 feet to the front, any side or rear lot line, and that the pool be securely fenced to a height of not less than four feet, and that if such fence has a gate, it be a self-closing gate with a latch. No fence shall be required for above-ground pools if access to the pool, and any deck area surrounding he pool, is exclusively by means of ladders or stairs that are removable, retractable, or that may be secured in some other way so as to prevent access to the pool and the deck area surrounding the pool.

5.0601 Public and Semi-Public Swimming Pools - Refer to Massachusetts General Laws, Chapter 140, Section 206.

5.061 Recreation Ways - Specific provisions for transportation by bicycle, horseback and walking within the Flood-Prone Conservancy District shall be considered as an accessory use.

SECTION 5.07 SCIENTIFIC RESEARCH OR DEVELOPMENT

5.070 Uses accessory to and necessary in connection with scientific research, scientific development, or related

production activities in districts where such activities are permitted under a Special Permit or Site Plan Review approval may be permitted as an amendment to the permit for the principal use provided that the Permit Granting Board or Special Permit Granting Authority finds that the proposed accessory use does not substantially derogate from the public good. Such an accessory use need not be located on the same parcel or parcels of land as the related principal use or activity permitted by right.

5.071 Limited manufacturing activity may be considered an allowed accessory use to a technical research and development office, laboratory, or research facility in the B-G, B-L, B-VC, COM, OP, PRP and LI districts, provided that the following requirements are satisfied:

5.0710 Such manufacturing activity shall be directly related to the research and development activities of the principal use.

5.0711 No manufacturing activity shall occur within two hundred (200) feet of a dwelling unit in a residential district, or within one hundred (100) feet of any dwelling unit in a non-residential district, including any accessory dwelling units under Section 5.016.

5.0712 No manufacturing, processing, or fabrication normally conducted under Sections 3.372.1 or 3.372.2, nor any on-premises sale of products shall be permitted in association with uses under this section.

5.0713 All manufacturing activity shall customarily occur inside of buildings; however, outdoor research work and incidental outdoor fabrication of equipment to conduct outdoor experimentation may be permitted under a Special Permit granted by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw and issued in conformance with the Standards and Conditions of the principal use and the provisions of Section 10.38.

5.0714 Manufacturing activity, excluding incidental fabrication of outdoor experiments, shall not occupy an area in excess of sixty (60) percent of the gross floor area of a building or group of associated buildings owned by the same establishment.

5.072 An airport or helipad shall not be considered an accessory use under this section.

SECTION 5.08 CHILD CARE SERVICE

5.080 A licensed family day care service for six (6) or fewer children shall be permitted as an accessory use, by right, in a one family dwelling, two family dwelling, converted dwelling, row house, and apartment. The adjacent tenants, adjacent neighbors and the property owner shall be notified by certified mail by the day care provider at least two (2) weeks prior to the establishment of the licensed family day care service. The Zoning Enforcement Officer shall be provided with a copy of the license to operate.

5.081 A licensed day care facility shall be permitted as an accessory use in the following zoning districts, provided that the Zoning Enforcement Officer is provided with a copy of the license to operate: R-F, B-G, B-L, B-VC, B-N, COM, OP, LI, PRP.

SECTION 5.09 FARMS

5.090 Farm Conference Center

The Board of Appeals may authorize, by issue of Special Permit, the use of a portion of a property as a Farm Conference Center, in the R-LD, R-O, and R-N Districts only, provided that:

5.0901 The use shall be located on a parcel of land of at least five acres in size, on which there is an existing principal use that is agricultural in nature.

5.0902 The Farm Conference Center uses shall be related to, and incidental to agricultural uses.

5.0903 The subject property shall have a lot frontage of at least 200 feet on a heavily travelled road and shall be located close to business, commercial and/or educational districts.

5.0904 All buildings associated with this use shall be connected to the public sewer system prior to occupancy.

5.0905 All buildings used for the conference center shall be located at least 100 feet from all property lines.

5.0906 The parking for such use shall be located at least fifty feet from all property lines and shall be screened from residential abutters.

5.0907 The Board of Appeals may authorize the provision of temporary accommodations in conjunction with the Farm Conference Center. However, no permanent or continuing residential occupancy shall be authorized under this section.

5.0908 Parking shall be provided in accordance with Section 7.002 of the Zoning Bylaw.

5.091 Farm Stand Restaurant

The Board of Appeals may authorize, by the issuance of a Special Permit, the use of a portion of a property as a farm stand restaurant in the R-LD, R-O and R-N districts only, provided that:

5.0910 The use shall be located on a parcel of land of at least five (5) acres in size on which there is an existing principal use that is agricultural in nature.

5.0911 The restaurant use shall be related to and incidental to the agricultural use and farm stand, and some of the food products served therein shall have been produced by the owner of the land on which the restaurant is located.

5.0912 The subject property shall have a frontage of at least 200 feet on a heavily travelled road and shall be located close to business and/or commercial districts.

5.0913 For the purposes of this section, the farm stand restaurant shall be deemed incidental to the principal use if the farm stand restaurant area accessible to the public does not exceed 40% of the total floor area in the building in which it is located which would not include any outside area eating accommodations as may be approved by the Special Permit Granting Authority.

5.0914 All buildings associated with this use shall be connected to the public sewer system prior to occupancy. The Board of Appeals may waive this requirement based upon a finding that public sanitary sewer is not reasonably available to the site, that such waiver is not detrimental to the neighborhood and that the existing or proposed septic system is in accordance with regulations of the Board of Health.

SECTION 5.10 FILLING OF LAND (See Sections 3.121 & 3.122)

Any filling of land accessory to the development of property, which raises the existing grade of any portion of a property 5,000 square feet or more in area by an average of two (2) feet or more, or any such filling which raises the existing grade of any portion of a property 2,000 square feet or more in an area by an average of five (5) feet or more shall require a Special Permit from the Special Permit Granting Authority authorized to act under the applicable section of the bylaw. Where no other permit is required under this bylaw for the proposed or existing principal use(s) of the property, such filling shall require a Special Permit from the Zoning Board of Appeals. In all cases, such filling shall be subject to the following conditions:

5.100 No slope created by the filling operation shall be finished at a grade in excess of the natural angle of repose of the materials.

5.101 All filled areas which are not to be built upon within one (1) year shall, upon completion of the operation, be covered with not less than four (4) inches of loam, brought to the finish grade, seeded and mulched in a satisfactory manner.

5.102 No permit for the filling of land shall be issued if such filling will: 1) endanger public health or safety; 2) constitute a nuisance; 3) result in a detriment to the normal use of the adjacent property; 4) cause significant erosion or sedimentation due to improper drainage design or management; or 5) result in traffic hazards in residential areas or excessive congestion, or physical damage on public ways.

5.103 In granting a permit for such an accessory use, Special Permit Granting Authority may impose reasonable requirements on grading, seeding and planting, barriers needed for public safety, control of erosion and drainage and other appropriate aspects of the use.

5.104 The Special Permit Granting Authority may require a suitable performance bond or other security adequate to ensure satisfactory compliance with provisions of this section.

ARTICLE 6 DIMENSIONAL REGULATIONS

SECTION 6.0 OVERVIEW
SECTION 6.1 INTERPRETATION
SECTION 6.2 FENCES
SECTION 6.3 FLAG LOTS
SECTION 6.4 FRONTAGE LOTS
SECTION 6.5 LOTS WITHIN THE FLOOD PRONE-CONSERVATION DISTRICT
SECTION 6.6 EDUCATIONAL & RELIGIOUS USES
TABLE 3 DIMENSIONAL REGULATIONS

SECTION 6.0 OVERVIEW

A lot may not be so reduced as to fail to satisfy any minimum dimension, area or yard required for a permitted principal use except as specified in Sections 4.3 and 4.4. Minimum lot area, frontage, setback and yard requirements, and maximum coverage and height limitations shall be prescribed in the following Table 3, "Dimensional Regulations."

Explanation of the column headings can be found in Section 6.1, Interpretation.

Dimensional regulations, shall be modified only as provided for under this Bylaw, including as indicated under Table 3 and its footnotes.

For non-conforming lots, see Section 9.1

For dimensional regulations in the Educational (ED) District, see Section 3.213

SECTION 6.1 INTERPRETATION

The following explanation shall apply to the column headings in Table 3.

6.10 Lot Area Requirements

6.100 Basic Minimum Lot Area - Except as herein specified, no dwelling or other principal building shall be constructed or used on a lot having less than the prescribed basic minimum lot area in square feet.

6.101 Cluster Minimum Lot Area - No dwelling or other principal building in a Cluster Development shall be constructed or used on a lot having less than the prescribed cluster minimum lot area, in square feet.

6.102 Additional Lot Area Per Family - No dwelling for use by more than one family shall be constructed, converted, or occupied unless the lot contains at least the basic minimum area plus the prescribed additional area per family for each family in excess of one.

6.11 Standard Lot Frontage and Cluster Lot Frontage

6.110 Except as herein specified, no dwelling or other principal building shall be constructed or used on a lot having less frontage on a street than the prescribed minimum standard lot frontage, or cluster lot frontage in cluster development.

6.111 Such frontage shall be measured along a continuous street right-of-way line on which the lot abuts, except that the frontage of lots on the convex side of a curve in a street may be taken as the straight distance between the points on the side lot lines intersected by the prescribed minimum setback line. In the case of lots which have more than one-half of their frontage along the curve of a permanent turnaround (at the end of a dead end street) or of a similar curved street segment serving no more than six (6) dwelling structures, said straight distance between the points on the side lot lines need not exceed seventy (70) percent of the prescribed minimum. On corner lots, where the included angle is less than 135 degrees, either street may be considered as the frontage street, but not both together. This requirement shall not apply to dwellings in a Planned Unit Residential Development.

6.112 In the General Business (B-G), Limited Business (B-L), Commercial (COM), Village Center Business (B-VC) and Neighborhood Business (B-N) districts, frontage requirements apply to Residence Uses only (Section 3.32).

6.12 Minimum or Maximum Front Setback

6.120 The minimum front setback shall be determined by a line parallel to the street right-of-way line extending from one side lot line to the other. No part of any building, except eaves, gutters, architectural elements, and uncovered steps, and no accessory structure (other than a sign) having a height of more than four (4) feet shall be placed within or protrude into the area between the setback line and the street line. In the case of corner lots, the setback line shall be observed for all bordering streets.

6.121 In the General Business (B-G) District, the 20 foot minimum front setback applies only to a part of a building which is within 200 feet of the side boundary of a Residence District abutting on the same street within the same block; otherwise, no setback is required.

6.13 Minimum Side Yard

6.130 The minimum side yard shall be the area between the side lot line and the side yard setback line, extending from the front yard to the rear lot line. No part of the body of any building or accessory structure, except eaves, gutters, architectural elements, and uncovered steps, shall be placed within or protrude into the area between the side lot line and the side yard setback line. An accessory structure may be located within the minimum side yard only if it is located behind the front building line.

6.131 An accessory structure having a height of six feet or less shall be set back a minimum of three feet from the side lot line. An accessory structure over six feet in height shall be setback a distance equal to its height.

6.132 In the General Business (B-G) and Light Industrial (LI) districts, minimum side yards shall be at least 20 feet when adjoining a residence district. Otherwise, side yards are not required, but if provided, shall be at least ten feet. In the General Residence (R-G) District, a single-story garage, tool shed, gazebo or similar accessory structure may, under a Special Permit, be located within the side yard behind the frontline of the principal building if such use, location, and proposed dimensions are consistent with the prevailing pattern of existing development for such structures in the neighborhood.

6.133 For towers or other structures associated with commercial and public wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

6.14 Minimum Rear Yard

6.140 The minimum rear yard shall be a similar unbroken area along the rear lot line, subject to the same provision regarding accessory buildings and structures as the rear portion of the required side yard. No part of the body of any building or accessory structure, except eaves, gutters, architectural elements, and uncovered steps, shall be placed within or protrude into the area between the side lot line and the side yard setback line.

6.141 In the General Business (B-G) and Light Industrial (LI) districts, minimum rear yards shall be at least 20 feet when adjoining a residence district. Otherwise, rear yards are not required, but if provided, shall be at least 10 feet. For towers or other structures associated with commercial and public wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

6.15 Maximum Building Coverage

6.150 Maximum building coverage shall be computed as the percentage of the total lot area which may be covered by all principal and accessory buildings and structures. For the purposes of the subsection, a portion of a lot shall be considered as being covered by a structure if it is enclosed on at least three sides by a wall or other substantially sight-impervious fence more than six feet high (whether or not having a roof), or if it has any part of any structure above it in a vertical line.

6.151 In the case of a Cluster Development as defined in Section 4.3, building coverage shall be calculated as the percentage of the total area of the development which may be covered by all principal and accessory buildings and structures.

6.16 Maximum Lot Coverage

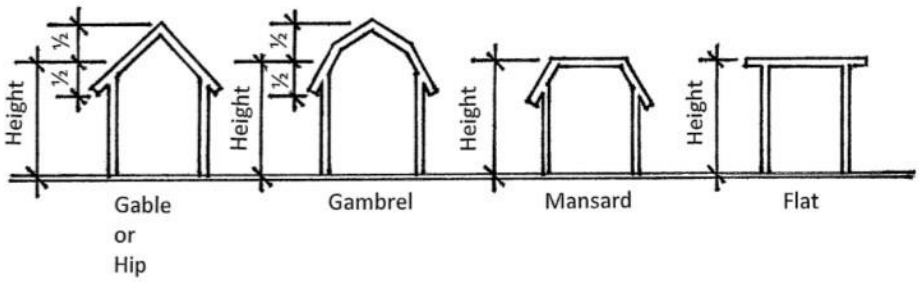
6.160 Maximum lot coverage shall include the percentage of a lot covered in the manner described in Section 6.17, Maximum Building Coverage, plus that portion of a lot covered by driveways, parking areas, walkways, tennis courts, swimming pools or other similar surfaces.

6.161 For the purposes of this Bylaw, all such surfaces, whether constructed of impermeable materials (i.e., concrete, bitumimous asphalt, oil and stone and the like) or constructed of permeable materials (i.e., gravel, peastone and the like) shall be included in the calculation of maximum lot coverage.

6.162 In the Watershed Protection (WP) overlay district, no use of land shall result in the rendering impermeable of more than 15% of the total area of any lot, or more than 20% with artificial recharge, or a total of 2,500 square feet, whichever is greater.

6.17 Minimum and Maximum Height

6.170 In all districts, the minimum or maximum height of a building shall be measured as the vertical distance from the average finished grade on the street side of the structure to the highest point of the roof for flats roofs, to the deck line for mansard roofs, and to the average height (midpoint) between the highest eaves and ridge of the main body of the roof for gable, hip, shed, saltbox, and gambrel roofs, or combinations thereof.



Section 6.17—Building Height

6.171 In the B-G, B-L, B-VC, B-N, COM, and R-VC districts, the maximum height of buildings may be modified under a Special Permit granted by the Special Permit Granting Authority authorized to act under the provisions of this bylaw for compelling reasons of building function, utility, or design, including but not limited to allowing construction of the full number of maximum floors under difficult site conditions such as steep grades, or with a pitched roof design, or similar conditions. In granting any such modification, the Special Permit Granting Authority shall consider the patterns of height and roof styles established by existing buildings, structures, and landscape features in the surrounding area, and provided that in no case shall the height of any exterior face of a building exceed the permitted height by more than ten (10) feet.

6.172 Height limitations shall not apply to chimneys, spires, cupolas, TV antennae and other parts of buildings or structures not intended for human occupancy. Towers, antennae, panels, dishes and other such structures attached to a building in association with commercial and public wireless communication uses shall not exceed the maximum height of said building, as above defined, by more than ten feet. Related electronic equipment and equipment structures shall not exceed the maximum height. For towers and other such free-standing structures associated with wireless communications uses, the provisions of Section 3.340.2 shall apply and prevail.

6.18 Minimum or Maximum Floors

6.180 A floor or story in a residential or non-residential building shall be considered to be that portion of a building, other than a half-story in a top floor (attic) or basement, between any floor and the ceiling or roof next above it, as measured under the Massachusetts Building Code.

6.181 A half-story in a top floor shall be a lawful habitable space with required means of access and egress and in which a minimum seven (7) foot floor-to-ceiling height exists in at least half of the habitable floor area but no less than one-third of the habitable floor area of the full story below.

6.182 A basement half story shall be any lawful habitable space with required means of access and egress and in which a minimum seven (7) foot floor-to-ceiling height exists in at least half of the habitable floor area but no less than one-third of the habitable floor area of the full story above, and where more than half of the habitable space is located above the average finished grade of the exterior of the building.

SECTION 6.2 FENCES

6.20 Fences – Fences, walls, or any similar structure, shall be considered accessory structures and shall be permitted within the required front, side, and rear yards subject to the conditions and requirements of Sections 6.22 through 6.29, except that fences in the B-G and abutting B-L Districts and in the B-VC and B-N Districts shall require approval of the Permit Granting Board or Special Permit Granting Authority with jurisdiction over the proposed or existing Principal or accessory use(s) for which the fence serves as an accessory structure.

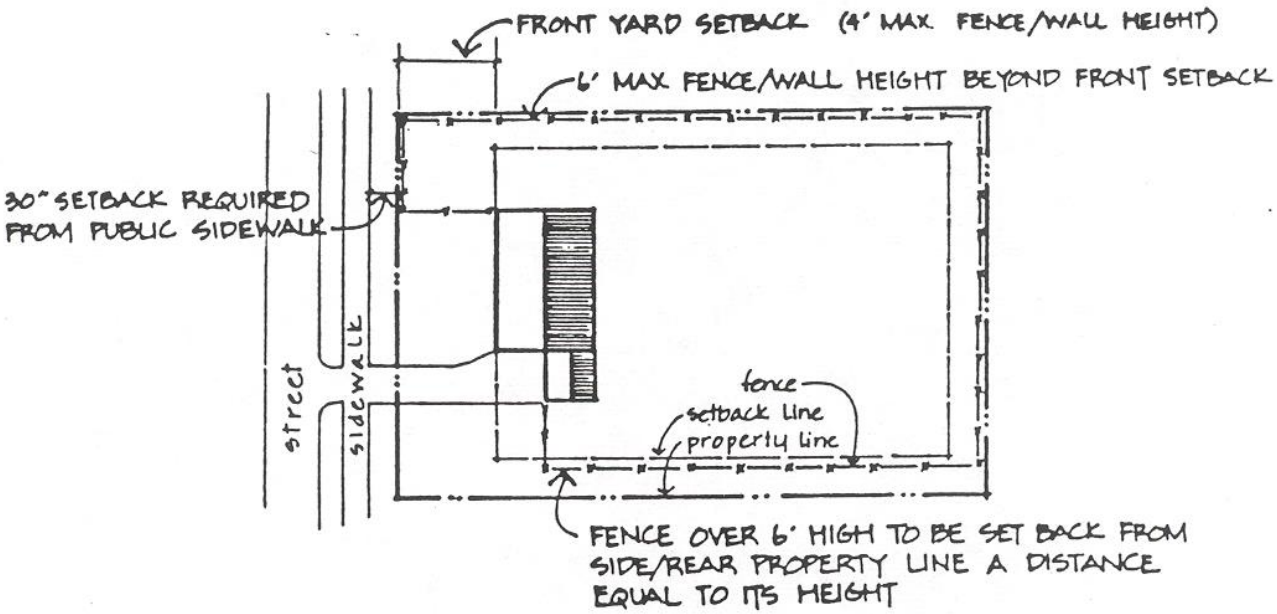
6.21 Plantings/Shrubbery - Landscape plantings shall be permitted in the required yards subject to the conditions and requirements of Sections 6.23 and 6.27.

6.22 Fences associated with agricultural uses on parcels of land of five (5) acres or larger are exempt from the regulations of Sections 6.2. Razor fences are prohibited.

6.23 All privately owned fences or walls shall be erected on private property and shall be no closer to any public sidewalk than thirty (30) inches. No landscape plantings shall intrude into or over a public sidewalk for a height of eight feet above the sidewalk.

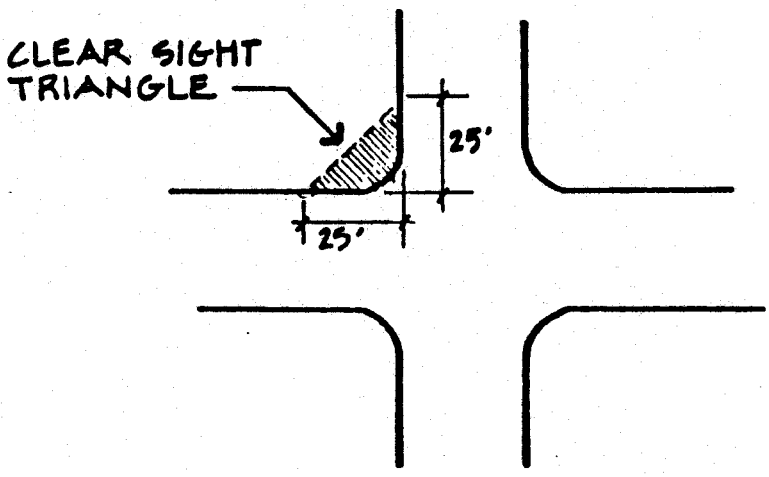
6.24 Fences and walls shall not exceed four (4) feet in height along the front lot line and that portion of the side lot lines between the front lot line and the minimum front setback line. Fences and walls shall not exceed six (6) feet in height along that portion of side lot lines between the minimum front setback line and rear lot line, and along the rear lot line.

6.25 Fences located within the side or rear yards and exceeding six feet in height shall be set back a distance equal to their height.



6.26 All fences, including temporary construction fences, but excepting agricultural fences as defined in Section 6.22, shall require a building permit.

6.27 On corner lots, no fence, wall or landscape/plantings shall be located within the clear sight triangle so as to obstruct visibility at the intersection in a manner that will jeopardize the safety of vehicles and pedestrians. The clear sight triangle is that area formed by the intersecting street lines and a straight line joining said street lines at a point twenty-five (25) feet distant from the point of intersection of street lines.



6.28 Temporary fences on construction sites may be a maximum height of eight (8) feet to protect the site, providing the fence meets the requirements of Section 6.27. The Building Commissioner, upon the issuance of a building permit, may set a limit as to the length of time the fence may remain erected.

6.29 Under the provisions of Section 10.38 or 11.24, as applicable, fence, wall, and planting requirements as found in Sections 6.23 through 6.28 may for compelling reasons of safety, aesthetics, or site design be modified by the Permit Granting Board or Special Permit Granting Authority with jurisdiction over the proposed or existing Principal or accessory use(s) for which the fence serves as an accessory structure.

SECTION 6.3 FLAG LOTS

In the Office Park (OP), General Residence (R-G), Village Center Residence (R-VC), Neighborhood Residence (R-N), Outlying Residence (R-O), and Low Density Residence (R-LD) Districts only, individual lots which do not have the required amount of street frontage may be permitted under the following conditions:

6.30 Any such lot which is included within a Definitive Subdivision Plan may be allowed by the Planning Board provided the lot meets all of the requirements of Section 6.32 through Section 6.37.

6.31 Any such lot which is not part of an Approved Definitive Subdivision Plan, may be allowed by the Zoning Board of Appeals by Special Permit provided that the lot meets all of the requirements of Section 6.32 through 6.37.

6.32 The area of each flag lot, exclusive of the access strip, shall be at least double the minimum lot area normally required for that district, except in a Cluster Subdivision, in which case it shall be at least double the minimum lot area required for a cluster lot in that district. In the FC District, the area of flag lots shall be as provided for in Sections 3.2832, 4.3271 and 4.3272.

6.33 Each lot shall have an access strip with a minimum street frontage of forty feet, a minimum width of forty feet at any point between the street and the principal building, and a maximum length of four hundred feet, after which distance the access strip shall end and the building area of the lot shall begin. Where driveway access to a principal building is achieved over the access strip of the lot, then said access strip shall have no change of direction greater than 45 degrees.

For any flag lot included within a Definitive Subdivision Plan, the Planning Board may allow an access strip in excess of 400 feet as part of its subdivision approval if it judges the proposed modification to be in conformance with the intent of Sections 6.330-6.335.

For any flag lot which is not part of a Definitive Subdivision Plan, the Zoning Board of Appeals, acting as the Special Permit Granting Authority, may allow an access strip in excess of 400 feet upon a finding that such a modification will:

6.330 Not have a substantial detrimental impact on the declared intent and purposes of any overlay district in which the land is situated.

6.331 Not create an undue safety hazard.

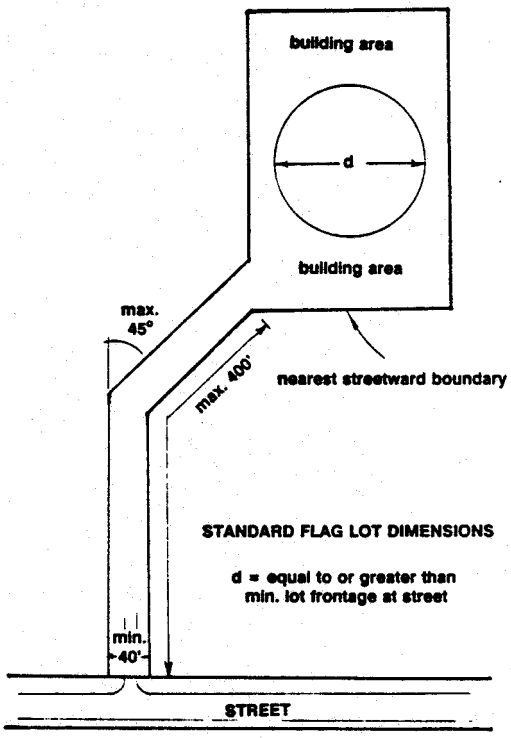
6.332 Not have a substantial adverse environmental impact on groundwater quality, wetlands, significant wildlife habitat, prime farmland or other environmentally sensitive resources.

6.333 Not remove, destroy or obstruct prominent natural features and views.

6.335 Not remove, destroy or irrevocably alter significant historical, archeological and/or cultural resources.

6.34 The width of that portion of the lot where the principal building is to be constructed, known as the building area, shall equal or exceed the distance normally required for street frontage in that district. Said width shall be measured along the nearest continuous streetward boundary of the building area of the lot. In a Cluster Subdivision, the width of the lot where the principal building is to be constructed shall equal or exceed the distance required for cluster lot frontage in that district.

6.35 That portion of a flag lot within which the principal building is to be located shall be considered the building area. The building area of a flag lot shall be capable of containing a circle whose diameter is equal to or greater than the minimum standard street frontage required in the district where the flag lot has its frontage, without any portion of said circle falling outside of the property.



SECTION 6.35 - ILLUSTRATION
For Informational Purposes Only

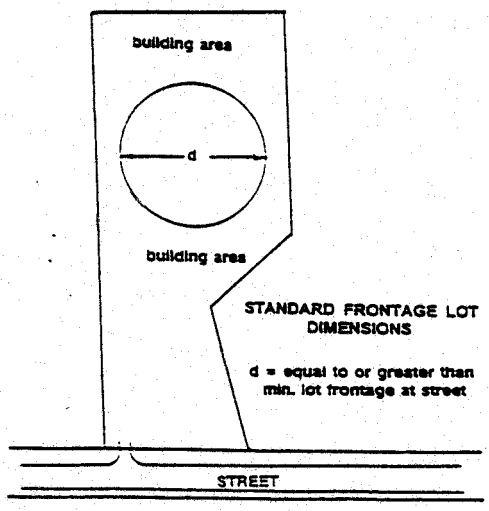
6.36 There shall be no more than three flag lots adjacent to each other at the street line.

6.37 Access to the lot shall meet the requirements of Section 7.7.

6.38 There shall be no more than three (3) flag lots created from any land identified, according to the records of the Assessor's office, as a single parcel of land as of the effective date of this Section (11/9/87) unless such flag lots are proposed as part of the Definitive Subdivision.

SECTION 6.4 FRONTAGE LOTS

6.40 That portion of a frontage lot within which the principal building is to be located shall be considered the building area. The building area of a frontage lot shall be capable of containing a circle whose diameter is equal to or greater than the minimum standard street frontage required in the district where the lot has its frontage, without any portion of the circle falling outside of the property.



SECTION 6.40 - ILLUSTRATION
For Informational Purposes Only

SECTION 6.5 LOTS WITHIN THE FLOOD PRONE-CONSERVANCY DISTRICT

If any portion of a lot falls within the Flood Prone-Conservancy District, that portion may be used to meet the minimum lot area and yard requirements for the District in which the remainder of the lot is situated.

SECTION 6.6 EDUCATIONAL AND RELIGIOUS USES

All structures approved after January 1, 1994, by a permit granting authority for educational or religious uses shall have minimum front, side and rear set backs twice the distance shown in Table 3 for that zoning district, except in the B-G District where the setbacks in Table 3 shall apply.

TABLE 3 - DIMENSIONAL REGULATIONS[l]

Zoning District	R-LD	R-O[i]	R-N[i]	R-VC	R-G	R-F	B-G	B-L COM	B-VC	B-N	OP	LI	PRP	FPC	ED
Basic Minimum Lot Area (sq. ft.)[h]	80,000	30,000	20,000	15,000	12,000[m]	20,000	12,000[b]	20,000[b]	12,000[b]	15,000[ab]	40,000[a]		30,000[a]	80,000	
Additional Lot Area/Family (sq. ft.)	10,000	10,000	6,000	4,000	2,500[am]		1,250[ab]	4,000	2,500[ab]	1,500[ab]					
Basic Minimum Lot Frontage (ft.)	200	150	120	120	100	100	40[b]	125[b]	60[b]	100[b]	100[a]		100[a]	200	
Basic Minimum/Maximum Front Setback (ft.)[an]	30	25	20	15	15	20	0/20	20	10/20	10	30	20	20	40	
Basic Minimum Side and Rear Yards (ft.)[g]	20	25	15[d]	15[d]	10[d]	10	10[ae]	25[a]	10[a]	10[ae]	f	e	f	20	
Maximum Building Coverage (%)	10	15	20	25[a]	25[a]	45[a]	70[a]	35	35[a]	35[a]	20	25	25	10	See Section 3.213
Maximum Lot Coverage (%)[o]	15	25	30	40	40	65[a]	95[a]	70/85[j]	70	65[a]	70	65	70	15	
Maximum Floors[a]	2 ½	2 ½	3	3	3	5	5	3	3	3	2 ½	3	3	1	
Minimum/Maximum Height (ft.)[an]	35	35	35	35	40	55[a]	55	35	16/40	40	35	50	35	20	
Cluster Minimum Lot Area (sq. ft.)	25,000	15,000	10,000	7,500	6,000										
Cluster Lot Frontage (ft.)[k]	100	100	80	60	50										
Cluster Minimum Front Setback[k]	20	20	15	10	10										
Cluster Minimum Side and Rear Yards (ft.)[k]	15	15	15	10	10										

TABLE 3 – DIMENSIONAL REGULATIONS FOOTNOTES

a. Requirement may be modified under a Special Permit, issued by the Special Permit Granting Authority authorized to act under the applicable section of this bylaw. In applying the criteria established in Section 10.395, the Special Permit Granting Authority shall consider the proposed modified dimensional requirement in the context of the pattern(s) of the same dimensions established by existing buildings and landscape features in the surrounding neighborhood.

b. Applies to Residence Uses only (Section 3.32). In the B-G, B-VC and B-N districts, the Basic Minimum Lot Area shall apply only to the first dwelling unit on the ground floor of subdividable dwellings and converted dwellings. For townhouses, apartments, buildings containing dwelling units in combination with stores or other permitted commercial uses, and other permitted multi-unit residential uses in these districts, the Basic Minimum Lot Area, Additional Lot Area/Family, and Basic Minimum Lot Frontage requirements shall not apply.

c. Applies to any part of a building which is within 200 feet of the side boundary of a Residence District abutting on the same street within the same block, otherwise, no front setback is required.

d. A side yard need not be provided on one side of a single family dwelling if it shares a party wall or double wall with a single family dwelling on the next lot built at the same time.

e. Rear and side yards shall be at least 20 feet when the affected property is adjoining a Residence District. Otherwise, rear and side yards are not required, but if provided, shall be at least 10 feet.

f. Except as may be otherwise provided for specific uses, rear and side yards shall be at least 50 feet when the affected property is adjoining a Residence District. Otherwise, rear and side yards shall be at least 10 feet.

g. See Section 6.15 for interpretation.

h. A buildable lot shall contain either 90% of its total lot area, or 20,000 square feet, in contiguous upland acreage.

i. Substitute the dimensional requirements in Section 4.332 for 10% affordable projects within cluster subdivisions only.

j. 85% in any B-L District adjacent to the B-G District, and along University Drive; 70% in any other B-L District and in the COM District.

k. Requirements may be modified under a Site Plan Review approval granted for a cluster subdivision.

l. The dimensional regulations shown in Table 3 shall apply to all educational and religious uses located in the zoning districts listed, except as provided for in Section 6.6.

m. In addition to the areas required by this table for any existing dwelling units on the lot, the density for new town houses (Section 3.322) and apartments (Section 3.323) shall not exceed one dwelling unit per 4,000 sq. ft. of the remaining lot area, or in the case where there are no existing dwelling units, 4,000 sq. ft. for each new dwelling unit beyond the first unit.

n. See Section 6.19 for interpretation.

o. See Section 6.18.

ARTICLE 7 PARKING & ACCESS REGULATIONS

SECTION 7.0 GENERAL REQUIREMENTS
SECTION 7.1 DESIGN STANDARDS AND LANDSCAPE STANDARDS
SECTION 7.2 COMMON FACILITIES
SECTION 7.3 LOADING AREAS
SECTION 7.4 MUNICIPAL PARKING DISTRICT
SECTION 7.5 ACCESSORY PARKING
SECTION 7.6 HANDICAPPED PARKING
SECTION 7.7 ACCESS REQUIREMENTS & INDIVIDUAL DRIVEWAYS
SECTION 7.8 BICYCLE RACKS
SECTION 7.9 WAIVERS

SECTION 7.0 GENERAL REQUIREMENTS

7.00 In all districts except Educational Districts, off-street parking spaces shall be provided and maintained in connection with the construction, conversion or increase in dwelling units or dimensions of buildings, structures or use. The provisions of this section shall apply to parking spaces for cars, vans, light trucks, and similar vehicles used predominantly for personal transportation. Parking for commercial vehicles or vehicles used for private or public transit shall be governed under the provisions of Sections 7.1, 7.3 and 7.5. Except as may be required otherwise by the Permit Granting Board or Special Permit Granting Authority, as applicable, parking spaces shall be provided in at least the following minimum amounts.

7.000 For dwellings, including apartments:

7.0000 Two (2) parking spaces for each dwelling unit.

7.0001 Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101).

7.0002 In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles.

7.001 For all other places with sleeping accommodations, including rooming houses, lodging or boarding houses, fraternity and sorority buildings, hotels, motels, inns, bed and breakfasts, hospitals, and nursing homes - one (1) parking space for each bedroom for single or double occupancy; or, where not divided into such rooms (as in a dormitory or ward) - one (1) space for every two beds. For hostels, one (1) parking space shall be provided for every five (5) beds.

7.002 For places of public assembly, including libraries, museums, clubs, restaurants, theaters, bowling alleys and other amusement centers, funeral establishments, trade schools and bus depots - one (1) parking space for each four (4) seats or, where benches are used, one (1) space for each eight (8) lineal feet of bench. Where no fixed seats are used (as in a museum), there shall be one (1) parking space provided for each 80 square feet of public floor area.

7.003 Religious and Educational Uses

7.0030 For places of public assembly for educational or religious use, one (1) parking space for every four (4) seats, or where benches are used, one (1) space for each eight (8) lineal feet of bench. Where standing room and/or seating on the floor is to be used, there shall be one (1) parking space provided for each 80 square feet of public floor area.

7.0031 For each meeting hall, social center or other similar place(s) of assembly used for religious purposes there shall be at least one (1) parking space for every four (4) seats. These parking spaces shall be in addition to the parking spaces required in Section only if there is substantial regular, concurrent use of the place(s) of assembly on the property.

7.0032 Dwelling place of a religious community. For each convent, monastery, or like dwelling place of a religious community, there shall be at least one (1) parking space for every three (3) bedrooms for single or double occupancy, or for every three (3) beds in group sleeping quarters.

7.004 For all retail, office and similar uses:

7.0040 In the B-G, B-VC, B-N and B-L (abutting B-G and B-VC only) districts, and on any lot within a COM District that abuts a B-VC or R-VC District or is within or abuts a National Historic Register District - 3.3 parking spaces per 1,000 square feet of gross first floor area, plus 2.5 spaces per 1000 square feet of GFA (gross floor area), exclusive of storage space, on all other floors.

7.0041 In the B-L and COM Districts (exclusive of those areas cited in 7.0040) and the OP, PRP and LI Districts, the parking requirement shall be the sum of the following:

3.3 spaces/1,000 sq. ft. for the first 10,000 sq. ft. of GFA; plus
2.5 spaces/1,000 sq. ft. for GFA between 10,001-12,500 sq. ft.; plus
2.0 spaces/1,000 sq. ft. for GFA over 12,500 sq. ft.

7.005 For all other permitted uses, including veterinary establishments, day nurseries, farm stands, open lots sales or storage yards, building trades establishments, storage or distribution plants, office uses under Section 3.360, and all other commercial uses, adequate parking spaces to accommodate under normal conditions the cars of occupants, employees, members, customers, clients, and visitors to the premises.

7.01 Except in the Office Park (OP), Professional Research Park (PRP) and Light Industrial (LI) Districts, off-street parking spaces required herein shall be provided either on the lot with the principal use, or on any other associated premises within 800 feet. In the OP, PRP and LI Districts, all required off-street parking shall be contained within said Districts.

7.02 Within an Educational District, adequate off-street parking shall be provided so that neither curb parking on public streets nor parking on property outside the Education District shall be needed in connection with uses within the Education District.

SECTION 7.1 DESIGN STANDARDS AND LANDSCAPE STANDARDS

The purposes of these design and landscaping requirements are to provide for: the safe and efficient flow of pedestrian and vehicular traffic; the separation of parking areas from abutting streets; visual relief from expanses of unbroken blacktop and vehicles; proper drainage and snow removal; and general visual enhancement of parking areas. Residential uses of four or fewer units shall be exempt from Sections 7.102 and 7.103.

7.10 Design Standards

7.100 For new or altered parking areas consisting of a total of five (5) or more parking spaces, where no Special Permit or Site Plan Review approval is required:

7.1000 Parking Plan Required: An accurate scaled site plan shall be submitted to the Building Commissioner demonstrating compliance of the proposed parking with this bylaw with respect to driveways, grading, slope, drainage, design, setbacks, layout, location on the site, circulation, lighting, landscaping, and other pertinent features.

7.1001 Waiver or Modification: Where not otherwise provided for under Section 7.90 or other sections of the Bylaw, any provision of Section 7.1 may be waived or modified by the Building Commissioner for compelling reasons of safety or design, except that no such administrative waiver or modification may be granted for maximum lot coverage.

7.101 Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.

7.102 Slope: Parking areas used for parking and vehicle maneuvering shall have grades not to exceed five percent slope.

Driveways used exclusively for ingress or egress or interior parking lot circulation shall have slopes not exceeding 12 percent except within 30 feet of the road, in which case the slope shall not exceed 5 percent.

7.103 Set back from buildings: except for parking within an enclosed structure, no parking space shall be located within eight feet of a building wall. No access aisle, entrance or exit driveway shall be located within five feet of a building. Loading docks are exempt from this requirement.

7.104 Dimensions, Marking & Delineation

The area of all parking areas shall be included in the calculation of maximum lot coverage.

Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The Zoning Board of Appeals (SP) or the Planning Board (SPR) may allow, upon application, small car parking spaces (8 feet x 16 feet) to be substituted for up to fifty percent of the standard parking spaces. Compact parking spaces shall be designated by clearly visible signs.

In all parking areas of five (5) or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces.

Curb radii, driveway width, and other such dimensions shall comply with the "Street and Site Work Construction Standards", adopted by the Select Board, as such standards may be amended, unless otherwise specified in Section 7.1, Design Standards and Landscape Standards.

Ramps between parking areas of different elevations shall not exceed 12 percent slope, with a maximum 5 percent transition slope for a minimum length of 20 feet at the upper and lower end of the ramp slope. All parking plans involving ramps shall be accompanied by profiles showing the ramp, ramp transitions, and overhead and wall clearances.

7.105 Lighting: adequate lighting shall be provided for all parking areas of 5 spaces or more if these areas are to be used at night. All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see.

Adjacent properties shall be protected from light intrusion through the use of cut-off luminaries, light shields, lowered height of light poles, screening or similar solutions. All exterior site lighting shall be kept extinguished outside of normal hours of use, except for lighting necessary for site security and the safety of employees and visitors, which lighting shall be activated and controlled through motion sensors or similar technology.

7.106 Entrance and exit driveways: the minimum width of entrance and exit drives shall be 10 feet wide for one-way use and 18 feet wide for two-way use. The minimum curb radius shall be 15 feet. The maximum width of such driveways at the property line shall be 24 feet. The permit granting board may modify these width and radius limitations to facilitate traffic flow and safety.

Driveways shall be located and designed so as to minimize conflict with traffic and provide clear visibility and sight distances for the observation of approaching pedestrian and vehicular traffic. The design and layout of driveways and circulation serving parking areas of 5 or more spaces shall prevent vehicles from backing into a street in order to exit the site. Circulation design, layout, and signs associated with non-residential uses shall direct exiting vehicles in a safe and convenient manner toward main thoroughfares and away from secondary streets passing through adjacent residential neighborhoods. No portion of the driveway at the edge of the street pavement shall be closer than 75 feet from an intersection, unless allowed by the Special Permit Granting Authority or Permit Granting Board.

7.11 Landscape Standards

7.110 Parking areas of 10 or more spaces shall provide a minimum of 10 percent of the total parking area as landscaped open space (this may be included in the calculation of open space area under Table 3: Dimensional Regulation: Maximum Lot Coverage).

7.111 Parking areas of 25 or more spaces shall provide landscaped islands of a minimum width of four feet, with raised curbs, throughout the parking area for the purposes of: a) defining parking lot entrances, b) defining the ends of a portion of the parking aisles, c) defining the location and pattern of primary internal access drives, d) separating parking spaces within long rows of spaces, and e) separating some of the rows of parking spaces from other rows.

7.112 Screening: parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties. Such screening may be accomplished by: depressions in grade 3 feet or more; a hedge or wall; or any type of appropriate natural or artificial permanent division. Any required screening barrier shall not be less than 3 feet high. Screening shall not be located to obstruct driver visions so as to impair safety at intersections or driveway entrances or exits.

SECTION 7.2 SHARED OR LEASED PARKING

7.20 Parking spaces required for one use shall not be considered as providing the required facilities for any other use, except as hereinafter provided. Any existing parking above 120% of parking otherwise required for all uses on a property may be shared or leased by right. Where existing parking spaces are more than 100% but less than 120% of parking otherwise required for all on-site uses, applicants for a Site Plan Review approval or Special Permit may request to share and/or lease the parking spaces, based on the following conditions:

7.200 Shared Parking: Where it has been demonstrated to the satisfaction of the permit granting authority that one or more of the following conditions is met:

7.2000 Parking spaces to be shared represent the difference between peak parking needs generated by on-site uses occurring at different times. This may include reductions in parking use resulting from employees, tenants, patrons or other parking users of the site being common to and shared by more than one different use on the site, and/or;

7.2001 Parking spaces to be shared represent the difference between current levels of peak parking utilization and anticipated lower future levels of peak parking utilization, said difference to be generated in whole or in part by a parking management plan approved by the permit granting authority. Said plan shall include and implement measures such as car and van pooling, bicycling and public transit. The permit granting authority may require periodic documentation of reductions in parking utilization realized as a result of the parking management plan.

7.201 Leased Parking: In the B-G, B-VC, B-N, B-L, COM and R-VC Districts the lease of spaces for on- or off-site uses shall be by Site Plan Review, unless otherwise required. In the R-G, R-N, R-F, R-O and R-LD districts, the lease of more than two existing parking spaces shall require a Special Permit, unless requested as part of a Site Plan Review application for an associated use on the property. Any lease of parking spaces for on- or off-site uses may only be permitted under the following conditions:

7.2010 The parking is suitably located in the neighborhood in which it is proposed, as deemed appropriate by the permit granting authority.

7.2011 Adequate and appropriate facilities, including but not limited to appropriate paving, landscaping, screening, lighting, curbing or wheel stops, are provided for the proper operation of the proposed leased parking. Special attention shall be paid to ensuring safe vehicular circulation on the site and at the intersection with abutting streets.

7.2012 The permit granting authority may require the preparation and submittal of a study to provide evidence of parking utilization levels.

SECTION 7.3 LOADING AREAS

Adequate off-street loading and receiving areas shall be provided for all business, commercial and industrial uses.

SECTION 7.4 MUNICIPAL PARKING (MP) DISTRICT

7.40 General

The Municipal Parking District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force and shall not be modified by the conditions of the MP District unless superseded by the restrictions and prohibitions of the MP District.

7.41 Establishment of District

The Municipal Parking District shall consist of those geographic areas shown for this district on the Official Zoning Map. This District is configured to include those lands which constitute the developed core of the downtown business area and immediately abutting residential areas.

7.42 Purpose

The purpose of this district is to encourage the dense development of mixed-use buildings and pedestrian spaces in Amherst Town Center. Toward that end, provision of off-street parking is not required for selected uses within the MP District.

7.43 Regulation

Notwithstanding the other provisions of Section 7.0, off-street parking spaces need not be provided for any principal or related accessory uses under the following categories of Section 3.3, Use Chart: Residential Use (Section 3.32), Retail Business and Consumer Service Use (Section 3.35), and Research and Industrial Use (Section 3.37), located within the Municipal Parking District as herein defined. The following uses shall be required to meet the parking requirements of this Bylaw within the MP District: dormitory or similar college residence hall, hotel or motel, inn and all other principal and accessory uses under other categories of Section 3.3, Use Chart.

SECTION 7.5 PARKING FOR ACCESSORY USES

For regulations governing parking associated with accessory uses, see Section 5.015, Garaging or Parking of Motor Vehicles.

SECTION 7.6 HANDICAPPED PARKING

Parking spaces shall be provided for the physically handicapped according to the following table:

10-20 spaces	1 handicapped space
21-30 spaces	2 handicapped spaces
31-50 spaces	3 handicapped spaces
51-100 spaces	4 handicapped spaces
101 or more	refer to Rules and Regulations of Architectural Access Board.

Parking spaces for the physically handicapped shall be designed in accordance with the Rules and Regulations of the Architectural Access Board of the Commonwealth of Massachusetts Department of Public Service, as such standards may be amended. Handicapped spaces shall be clearly identified by a sign stating that such spaces are reserved for physically handicapped persons. The handicapped spaces shall be located in the portion of the parking lot nearest the entrance to the use or the structure which the parking lot serves. Adequate access for the handicapped from the parking area to the structure shall be provided.

SECTION 7.7 ACCESS REQUIREMENTS & DRIVEWAYS

7.70 Flag Lots

7.701 Unimpeded access shall be provided across either the access strip or an easement at least twenty (20) feet wide.

7.702 The driveway within the access strip or easement shall have adequate drainage and shall not exceed 5% grade within fifty (50) feet of the intersection of the driveway and the paved or otherwise improved section of the street.

7.703 In all instances where either two or three flag lots are created with their access strips adjacent to each other at the street line, access to the lots shall be provided by a single common driveway.

7.704 Flag lot common driveways shall meet the requirements of Section 7.71.

7.71 Common and Individual Driveways

7.710 Common driveways shall not be considered public ways and shall not provide lot frontage.

7.711 Common driveways shall not provide access to more than four frontage and/or flag lots.

7.712 Common driveways shall be not less than sixteen (16) feet in width and with all curve radii adequate for fire and other emergency vehicles; constructed with bituminous asphalt, concrete, oil & stone, compacted gravel, or other similar material according to accepted construction standards; and shall include two (2) foot wide shoulders on each side free of obstructions such as trees, fences, poles and bushes. An individual driveway shall be constructed in accordance with the same standards, but shall be not less than twelve (12) feet in width, and need not provide clear shoulders.

7.713 Driveway Lengths

7.7130 The maximum length of a common driveway shall be four hundred (400) feet. A common driveway shall be measured along its centerline from its point of intersection with the paved or otherwise improved section of the street to the most distant portion of its turnaround.

7.7131 The length of an individual driveway originating at a common driveway plus the length of the common driveway measured from the point of intersection of the center lines of the individual and common driveways to the paved or otherwise improved section of the street, shall not exceed twelve hundred (1200) feet. Measurement of the individual driveway shall be along its centerline from its point of intersection with the center line of the common driveway to its termination at the building it serves, or to the portion of the vehicle storage area closest to said building.

7.7132 Longer driveways may be allowed by the Planning Board in accordance with Section 7.722.

7.7133 The length of an individual driveway originating at a street shall not be limited.

7.714 Common driveways shall not exceed a 5% grade within fifty (50) feet of the intersection of the driveway and the paved or otherwise improved section of the street.

7.715 The maximum grade of any common or individual driveway shall be 10%. Short sections may exceed 10% with the approval of the Planning Board in accordance with Section 7.722, but in no event shall any section exceed 15%. Individual driveways not over two hundred (200) feet long, extending directly from a street, and not exceeding 15% grade are not subject to this requirement.

7.716 The intersection angle between a common driveway center line and the street center line shall not be less than sixty (60) degrees.

7.717 The curb radii of a driveway at its intersection with the streets shall be in accordance with the Regulations of the Amherst Department of Public Works.

7.718 There shall be a turnaround located at the end of the common driveway adequate for fire and other emergency vehicles.

7.719 Street addresses for all dwelling units on a common driveway shall be posted in a manner sufficient for public safety purposes both at the intersection of the common driveway and the street and at the intersection of the common driveway and each individual driveway.

7.720 An agreement providing access over the common driveway to all lots and making all lots served by the common driveway jointly responsible for its maintenance and repair, including snowplowing, shall be recorded at the Hampshire County Registry of Deeds. Evidence of the recording shall be submitted to the Building Commissioner prior to the issuance of a building permit for any lot served by the common driveway.

7.721 The Planning Board may require engineered plans for the driveways and drainage if it deems such plans necessary.

7.722 For any lot within a Definitive Subdivision Plan, the Planning Board may allow a driveway longer than specified in Section 7.713 or may allow a section of a driveway to exceed 10% grade provided that such modification meets the provision of Sections 6.330-6.335.

For Subdivision Approval Not Required lots, the Planning Board may grant a Special Permit to allow a driveway longer than specified in Section 7.713 or may allow a section of a driveway to exceed 10% grade provided that such modification meets the provisions of Sections 6.330-6.335.

SECTION 7.8 BICYCLE RACKS

For all uses classified under Section 3.3 that are required to provide, or do provide, 10 or more parking spaces, the installation of bicycle racks shall be required. The bike racks shall be designed to provide for the locking of the bicycles to the racks. The design, location and number of bike racks shall be approved by the permit granting board as part of an approval of the permit request.

SECTION 7.9 WAIVERS

7.90 Any section or subsection of Article 7.0, Parking Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of safety, aesthetics, or site design.

7.91 Parking space requirements under Section 7.0 may be modified when one or more of the following conditions are met to the satisfaction of the Permit Granting Board or Special Permit Granting Authority:

7.910 Peak parking needs generated by on-site uses occur at different times.

7.911 A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.

7.912 A parking management plan approved by the Permit Granting Board or Special Permit Granting Authority is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. Periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan may be required as a condition of any permit granted under this section.

ARTICLE 8 SIGN REGULATIONS

SECTION 8.0 GENERAL STANDARDS
SECTION 8.1 RESIDENTIAL DISTRICTS
SECTION 8.2 BUSINESS AND INDUSTRIAL/RESEARCH PARK DISTRICTS
SECTION 8.3 FLOOD PRONE-CONSERVANCY DISTRICTS
SECTION 8.4 NON-CONFORMING AND TEMPORARY SIGNS

SECTION 8.0 GENERAL STANDARDS

Any exterior sign or advertising device, or any permanent interior sign or advertising device situated, designed or intended to be viewed from the out of doors, which is hereafter erected or maintained shall, except as expressly provided, conform to the following restrictions. Any interior sign used only temporarily or not visible from the out of doors shall be exempt from the provisions of this section. No sign or advertising device shall, in any district:

8.00 Projecting Signs

8.000 Exceed 10 square feet in area.

8.001 If affixed to, suspended from, or incorporated as part of a building, project more than 36 inches from the building, except that such a sign may project up to 48 inches from the building provided it does not exceed 6 square feet in area.

8.002 If supported by or suspended from a pedestal or post, project more than 36 inches over or into any pedestrian way customarily used by the public, except that any such sign may project up to 48 inches over any such way provided it does not exceed 6 square feet in area.

8.003 Extend into a 24 inch setback from a vertical plane above the curb line of any adjacent street customarily used by the public.

8.01 Extend more than four feet above the eavesline or parapet of any building to which it is affixed.

8.02 Incorporate or be lighted by, flashing or blinking lights, or be designed to attract attention by a change in light intensity or direction, or by repeated mechanical or electrical motion. Fixed banners or electronic billboards using changeable lights to convey the time, temperature, or other public information shall be exempt from this prohibition.

8.03 If free standing, extend more than twelve feet above ground level.

8.04 Maximum Surface Area

8.040 No sign shall have a surface area greater than 80 square feet, except that this requirement may be modified under a Special Permit issued by the Special Permit Granting Authority authorized to act under the applicable section of the Bylaw. No sign receiving such a permit for a modification of total surface area shall exceed 125 square feet in area, except as may be permitted under the provisions of Section 8.4.

8.041 Maximum surface area for signs under this and following sections shall be calculated as follows:

1) The surface area of any sign, either freestanding or attached, shall be considered to be the full visual presentation of the sign's display, including all lettering, numerals, symbols, decorative borders, background surface, framing, or ornamental structure, whether open or enclosed.

2) The surface area of a sign shall not include the surface area of any incidental supporting poles, arms, structural framework, bracing, lighting fixtures, or any open areas contained within or framed by such incidental structures which are not an integral part of the design of the sign's display.

3) For a sign consisting of individual letters, numerals, designs, and symbols attached to or painted directly on the surface of a building, wall, window, awning, canopy or other approved surface with no other structure or background, the surface area of the sign shall be considered to be that of the smallest quadrangle which encompasses all of the letters, numerals, designs, colors and symbols constituting the sign's display.

4) For a sign with display areas or surfaces mounted on two surfaces of the same structure, or on parallel and back-to-back structures within 12" of one another, or where the interior angle formed by two display surfaces on a single structure is 60 degrees o less, the display area of a single side—the larger side when there is a difference—shall constitute the total surface area for the purposes of this Bylaw. Where the interior angle formed by the two display surfaces is greater than 60 degrees, the combined area of both display surfaces shall be considered one surface for the purpose of establishing maximum surface area.

SECTION 8.1 RESIDENTIAL DISTRICTS

In all Residence Districts, the following exterior signs are permitted on private property, and no others::

8.10 Numbers of Signs and Dimensions

8.100 In the case of a dwelling or use accessory thereto – one (1) sign not over two (2) square feet in area for each household residing on the premises, not to exceed a total of eight (8) square feet in area, indicating the address and/or names of the owners or occupants and one (1) sign not over eight square feet in area pertaining to the accessory use.

8.101 In the case of a permitted or authorized use other than a dwelling or use accessory thereto, or in the case of sale or lease of the premises – two (2) signs pertaining to such use, sale or lease provided that the combined total area of such signs clearly visible from any point off the premises shall exceed twelve (12) square feet only under a Special Permit issued by the Special Permit Granting Authority.

In the R-VC District only, the Special Permit Granting Authority may grant a Special Permit for two (2) signs pertaining to an accessory use, where the combined total area of such signs clearly visible from any point off the premises shall not exceed twelve (12) square feet, with any single sign not to exceed eight (8) square feet in area.

8.102 In the case of a fraternity or sorority – one (1) sign identifying the group residing on the premises and not to exceed twelve (12) square feet in area.

8.103 No sign allowed under this section shall exceed four feet (4') in height above grade, except that projecting signs with a total area of three square feet or less may be up to six feet (6') in height above grade**.**

8.104 There shall be no front setback requirement for signs allowed on private property under this section, except that no sign shall be set closer to any public sidewalk than 30 inches (30").

Signs shall be set back from any side or rear property boundary a distance equal to or greater than their height above grade. On corner lots, no sign or portion thereof shall be located within the clear sight triangle, as defined in Section 6.27.

8.11 No billboard, nor any sign on which the principal product or service advertised is not regularly produced or available on the premises, shall be erected or maintained in any Residence District.

8.12 In the case of a fraternity or sorority - one sign identifying the group residing on the premises and not to exceed twelve square feet.

8.13 Political Signs

8.130 Election Signs -- Election signs shall be those signs pertaining to a candidate for election or ballot question. Such signs shall be allowed except each sign shall be erected no earlier than sixty days prior to an election and shall be removed within three days after the election. No such sign shall be located in the clear sight triangle, as defined in Section 6.27.

8.131 Message Signs -- Message signs shall be those signs displaying a political, religious, or other non-commercial message other than that allowed under Sections 8.10 through 8.13 and 8.104. A maximum of two such signs per property shall be allowed. Each sign shall not exceed six square feet in size. No such sign shall be located in the clear sight triangle, as defined in Section 6.27.

SECTION 8.2 BUSINESS AND INDUSTRIAL/RESEARCH PARK DISTRICTS

In all Business and Industrial/Research Park Districts, the following exterior signs are permitted:

8.20 Signs affixed to, suspended from, or incorporated as part of a building, provided that the total area of the sign on a wall shall not exceed 10 percent of the area of that wall.

8.21 A marquee over the principal entrance to a place of public assembly, subject to the provisions of Article III, Section 5 of the Town By-Law.

8.22 Permanent signs identifying a business or facility may be allowed on cloth or fabric structures such as awnings or upon fixed banners under the permitting procedures required under this Bylaw for the use with which they are associated, and shall conform to the provisions of this section.

8.23 In the outlying B-L, the COM, OP, PRP and LI Districts, the following additional signs are permitted:

8.230 One free standing sign, or one monument sign, for each street frontage, subject to the following standards:

1) For any sign located a distance equal to or greater than the required building setback in that zone:

maximum 60 square feet in size
maximum 12 feet high

2) For any sign located half of the distance required for the building setback in that zone:

maximum 30 square feet
maximum 10 feet high;

3) For any sign located between the property line and half the distance required for a building setback in that zone:

Monument sign only

maximum 15 square feet
maximum 6 feet high

8.231 For any parcel with continuous frontage of 300 feet or more, one free standing sign or one monument sign, located the distance equal to or greater than the required building setback:

maximum 80 square feet
maximum 12 feet high

8.232 In the PRP, OP, and LI Districts, one additional monument sign, for identification purposes, subject to the following conditions:

1) The sign shall include the name of the research, office, or industrial park.

2) The sign shall be located at the principal street entrance to the park.

3) The sign shall only be allowed where the park was established through an approved subdivision plan.
4) The sign shall only be allowed where there are three (3) or more separate parcels included in the approved subdivision for the park.
5) The sign shall have a maximum height of 10 feet and maximum size of 60 square feet.
6) The sign shall be in accordance with an approved sign plan.

8.24 In the B-G, B-VC, B-N Districts and B-L District adjacent to B-G and B-N, the following additional signs are permitted:

8.240 One free standing sign, or one monument sign, for each street frontage, subject to the following standards:

maximum height - 10 feet
maximum size - 25 square feet

8.25 For any sign located on a property in a B-VC, B-N, B-L or COM district and also in a National Historic Register District or local historic district, the minimum front setback may be the same as established for business uses in the B-G District, subject to approval of the sign location and design by the permit-granting authority. The authority may approve the proposed sign(s) if it finds that:

8.250 The provisions of Section 8.28 have been met with regard to vehicular and pedestrian safety.

8.251 The proposed setbacks are consistent with the setbacks of existing signs in the vicinity and/or are consistent with historical precedent for sign locations in the vicinity.

8.252 The design of the proposed sign(s) is consistent with the design principles and standards in Section 3.2041, 9).

8.253 The sign(s) appropriately identify and reflect the character of the proposed uses of the property.

8.26 For properties located within a Business or Industrial/Research Park zone with a vehicular entrance to that property, located on a parcel of land not in the same ownership as the parcel of land on which the principal use is situated, the following signs are permitted:

8.260 One free standing or monument sign to be located at the vehicular entrance subject to the following conditions:

1) Maximum height - 10 feet.
2) Maximum size - 30 square feet.
3) Such sign shall meet the requirement of Section 8.28.
4) Such sign shall be located on a parcel of land that is immediately abutting the parcel of land of the principal use which is identified by the sign.
5) The sign owner shall submit to the permit granting authority proof of an easement. or other legal document that grants permission to use the subject property for a sign.

8.27 All free standing and monument signs shall be located within a landscaped area equal to 150% of the area of the sign.

8.28 No free standing or monument sign shall be located in such a manner that it will impair sight distances of pedestrians and/or vehicles at an intersection or at a vehicular or pedestrian entrance to a property.

8.29 All signs shall be located on the same parcel of land as the business, location, product or service identified on the sign, except as provided for in Section 8.26.

SECTION 8.3 FLOOD PRONE-CONSERVANCY DISTRICTS

In all Flood Prone-Conservancy Districts the following signs and no others are permitted:

8.30 Name plates of the type described in Section 8.10 herein.

8.31 Announcement: one or two signs not exceeding a total of twelve (12) square feet in area for the following purposes:

8.310 Advertisement for the sale, rental or lease of the premises.

8.311 Announcement or bulletin board for a public charitable or religious institution.

8.312 Advertisement for a building contractor only while construction is occurring on the site.

SECTION 8.4 NON-CONFORMING AND TEMPORARY SIGNS

8.40 Signs legally existing at the time this Bylaw was adopted may continue as non-conforming uses, subject to the provisions of Article 9 hereof.

This provision shall not apply to billboards, signs and other advertising devices subject to the provisions of Sections 29 through 33, inclusive, of Chapter 93, and of Chapter 93D of the General Laws.

8.41 An off-site directional or identification sign may be erected and maintained in any district where the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for the use(s) associated with the sign(s), finds that such signs will serve the public convenience, will not endanger the public safety, and will be of such size, location, and design as will not be detrimental to the neighborhood. Where an off-site directional or identification sign serves a geographic destination but not a specific land use, a Special Permit from the Zoning Board of Appeals shall be required.

8.42 Nothing herein shall affect provisions in existing Town By-Laws relating to temporary signs permitted by the Select Board, or posted by the Town or government, nor to the regulation by the Select Board under Article III, Section 5 of the Town By-Laws of signs which extend six inches or more into or over the limits of a public way.

8.43 The Building Commissioner may grant a temporary sign permit for temporary exterior signs made of cloth, fabric, vinyl, paper or other similar materials, including banners, pennants and flags, for such purposes as grand openings, going-out-of-business sales and seasonal promotions. A temporary sign permit shall not exceed 3 weeks in duration.

SECTION 8.5 MODIFICATION & WAIVERS

Any section or subsection of Article 8, Sign Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of public convenience, public safety, aesthetics, or site design.

ARTICLE 9 NON-CONFORMING LOTS, USES AND STRUCTURES

SECTION 9.0 OVERVIEW
SECTION 9.1 NON-CONFORMING LOTS
SECTION 9.2 NON-CONFORMING USES AND STRUCTURES
SECTION 9.3 LOCATIONAL REQUIREMENTS IN MIXED USE CENTERS

SECTION 9.0 OVERVIEW

Non-conforming Lots, Uses, and Structures shall be regulated as provided in Chapter 40A, Section 6 of the General Laws and as provided in this Bylaw.

SECTION 9.1 NON-CONFORMING LOTS

9.10 Notwithstanding the area and frontage requirements hereof, a detached one-family or two-family residential use or lawful building other than a dwelling may be constructed and used on a lot having less than the prescribed basic minimum area and/or minimum frontage, width, yard or depth requirements (provided that all other regulations of this Bylaw are complied with) if said lot, prior to the date of the adoption of the requirements in question was otherwise exempt from such requirements by the provisions of Chapter 40A, Section 6.

9.11 Such a non-conforming lot shall not be further reduced in area or frontage, and if it is subsequently combined with other land in such a way as to reduce or eliminate the non-conformity, it shall not again be subdivided except in accord with this Bylaw.

SECTION 9.2 NON-CONFORMING USES AND STRUCTURES

9.20 Any lawful building or structure, or use of a building, structure or land, existing at the time of adoption of this Bylaw or any amendment thereto which does not conform to the regulations thereof may be continued. However, except as hereinafter set forth, a non-conforming building or structure shall not be structurally altered, enlarged, nor reconstructed so as to increase its non-conformity under this bylaw. For the purpose of this section, a structural alteration shall be any change to the exterior of a building or other structure which involves alteration, relocation, enlargement, or reconstruction of walls or other significant elements of the building or structure.

9.200 Under Section 11.1, the Building Commissioner may permit the repair, alteration, reconstruction, extension or structural alteration of a lawful, dimensionally non-conforming single family or two family dwelling in any zoning district or a lawful, dimensionally non-conforming building in the B-G, B-L, B-VC, B-N or COM districts, or in either circumstance, a portion thereof, or accessory structures thereto, provided the proposed change does not constitute a change of use under this Bylaw, and at least one of the following conditions is met:

9.2000 In the case of a building non-conforming solely because of insufficient lot frontage or lot area, or both, the proposed change shall meet all dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors and maximum height.

9.2001 In the case of a dimensionally non-conforming building with sufficient lot frontage and lot area, where said building, or a portion thereof, is non-conforming as to one or more of the dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors or maximum height, all dimensional requirements met by the building prior to the proposed change shall be met after completion of the proposed change.

9.2002 In the case of a building non-conforming as to lot frontage and/or lot area, and non-conforming as to one or more of the dimensional requirements for front setback, side and rear yards, building coverage, lot coverage, maximum floors or maximum height, all dimensional requirements met by the building prior to the proposed change shall be met after completion of the proposed change.

9.201 Where a new or expanded existing non-conforming use is proposed in an existing lawful dimensionally non-conforming building, and no exterior alteration, reconstruction, extension or structural alteration will occur, the permit requirements of Section 3.3 shall apply but no additional Special Permit under Section 9.22 shall be required for the proposed use.

9.21 For the purposes of this section a non-conforming use which has been discontinued for twenty four (24) consecutive months shall not be re-established and any future use shall conform to the regulations of this Bylaw.

9.22 The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building.

9.23 A building or structure devoted to a non-conforming use (whether in whole or in part) or a building or structure non-conforming as to setback, yards, coverage or height, may, if damaged or destroyed by fire or other accidental cause, be repaired or reconstructed within the same portion of the lot and used as before, provided that such repair or reconstruction is substantially completed within twenty four (24) months of the date of the damage or destruction.

SECTION 9.3 LOCATIONAL REQUIREMENTS IN MIXED USE CENTERS

9.30 Purpose

The purpose of this section is to establish regulations for the location of new additions or enlargements to non-conforming uses and structures, or the creation of separate buildings on the same lot as non-conforming uses and structures in the B-G, B-L, B-VC, B-N and COM Districts. These regulations are intended to promote sound design, enhance the creation of pedestrian-friendly streetscapes and spaces, and foster more functional and successful mixed use properties. Where the provisions of this section conflict with Section 9.1 and 9.2 of this Article, this section shall apply and prevail.

9.31 Non-conforming Structures

9.310 Enlargements, Repairs, or Alterations – Non-conforming structures may be permitted to be enlarged, extended, reconstructed, repaired or altered by the Permit Granting Board or Special Permit Granting Authority in conformance with the provisions of Section 9.2 provided, however, that any such enlargement, extension, reconstruction, repair or alteration shall conform to the locational regulations established herein.

9.311 Permitted Additions – Where a non-conforming structure is being expanded under Section 9.310, the addition shall abide by the following requirements:

9.3110 Front and Rear Additions – Any addition in front of an existing building shall be placed such that its front façade is set at or within the front setback area established by the minimum and maximum front setback. Rear additions may only be undertaken simultaneously with front or side additions, and only where the rear extension is not increasing the degree of existing nonconformity.

9.3111 Side Additions for Buildings Located Within the Front Setback Area – For an existing building located at the front setback, any side addition shall also be located at or within the front setback area.

9.3112 Side Additions for Buildings Located Outside of the Front Setback Area – For an existing building located at the rear edge or behind the front setback area, any side addition shall be extended forward such that its front façade is located at or within the front setback area.

9.312 Permitted New Buildings – The front facades of all separate new buildings being constructed on a site with an existing non-conforming structure shall be located at or within the front setback area.

9.313 Modification or Waiver – Any provision of this section may be modified or waived by the Special Permit Granting Authority authorized to act under the applicable section of this Bylaw for compelling reasons of safety, aesthetics, sustainable site design, or historic or environmental preservation needs which serve the purposes of this section.

ARTICLE 10 SPECIAL PERMIT GRANTING AUTHORITY

SECTION 10.0 APPOINTMENT
SECTION 10.1 APPEALS
SECTION 10.2 VARIANCES
SECTION 10.3 SPECIAL PERMITS
SECTION 10.4 CONDITIONS, SAFEGUARDS, AND LIMITATIONS
SECTION 10.5 NOTICE OF HEARING

SECTION 10.0 APPOINTMENT

10.01 The Zoning Board of Appeals shall consist of three members and four associate members, all residents of the Town of Amherst, the three members appointed and serving for three year terms and as otherwise set forth in Chapter 40A of the General Laws, as amended. The term of each member and associate member shall conclude at the later of the expiration of such term or the qualification of a successor. Said Board shall have all of the powers and duties of Boards of Appeals under said Chapter, and, in addition, all the powers and duties herein prescribed. Copies of rules promulgated by the Board of Appeals may be obtained from the Town Clerk's Office.

10.02 The Planning Board shall consist of nine regular members. In addition, two associate members may be appointed. All members shall be appointed by the Town Manager, with approval of the Select Board, under Section 4.54 of the Amherst Town Government Act and shall be appointed for a term of three years, except for appointments to fill an unexpired term.

Associate members may sit on the Board only for the purposes of hearing and voting upon decisions on Special Permit applications and only in the case of absence, inability to act, or conflict of interest on the part of a regular Board member, or in the event of a vacancy on the Board.

The Planning Board Chair shall designate the associate member to sit on the Board when necessary and in accordance with above circumstances.

SECTION 10.1 APPEALS

Appeals to the Board of Appeals may be taken by any persons aggrieved by reason of their inability to obtain a permit or enforcement action from any administration office under the provisions of said Chapter 40A, or by the regional planning agency, or by any person, including an officer or board of the Town or of an abutting Town aggrieved by an order or decision of the Building Commissioner, Local Inspector, or other administrative official, in violation of any provision of said Chapter or the Zoning Bylaw of the Town of Amherst.

Any such appeal shall be taken by the Board within thirty (30) days from the date of the order or decision which is being appealed, by filing a notice of appeal with the Town Clerk in accordance with the provisions of Chapter 40A.

SECTION 10.2 VARIANCES

Petitions of variances from the terms of the applicable zoning provisions shall be dealt with by the Board of Appeals in accordance with Chapter 40A of the General Laws, as amended. The Board shall grant no variances which would amount to an amendment of this Bylaw.

SECTION 10.3 SPECIAL PERMITS

10.30 Purpose

Special Permits are intended to provide detailed review of certain Uses and Structures which may have substantial impact upon traffic, utility systems, and the character of the Town, among other things. The Special Permit review process is intended to insure a harmonious relationship between proposed development and its surroundings, and insure that proposals are consistent with the purpose and intent of this Bylaw.

10.31 Authorization

10.310 This Bylaw authorizes the Board of Appeals and the Planning Board to be the Special Permit Granting Authority. A special permit may be required in situations wherein the issues of use or uses and/or location and design are deemed to warrant a process of review conducted by the Board of Appeals or Planning Board, and which includes a public hearing.

10.311 All uses for which a Special Permit is granted shall satisfy:

1. The Special District Requirement set forth in Section 3.2, if applicable;
2. The relevant Standards set forth in Section 3.3; and
3. All other applicable requirements and Standards of this Bylaw.

10.312 Nothing in this Bylaw shall require a change in the plan, construction or designated use of any structure on land for which a Special Permit is in effect at the time of adoption of this Bylaw, or on which a Building Permit has been issued; subject however, to any expiration term of such Special Permit or to Chapter 40A, Section 6, of the General Laws and to the requirement that construction or operations under a building or special permit shall conform to any subsequent amendment of the Bylaw unless the use or construction is commenced within a period of not more than six months after issuance of the permit, and on cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. The Special Permit Granting Authority may require any such Special Permit to conform with some or all requirements of the Bylaw if it is amended, modified or transferred.

10.313 In all instances where a Special Permit is required by this Bylaw, no structure shall be erected or externally enlarged, altered, or used for activities or uses, nor shall land subject to such a permit be so used, nor shall any area for parking, loading, or vehicular service, including driveways giving access thereto, be established, used or changed, except in conformity with said Permit. All Special Permits granted by the Special Permit Granting Authority shall include an approved site plan bearing the endorsement of said Authority.

10.32 Application and Approval Procedures

10.320 The size, form, contents, and style of plans and specifications required as part of an application for a Special Permit are contained in the Rules and Regulations of the Special Permit Granting Authority, a copy of which is on file in the Town Clerk's Office.

10.321 The procedure for the submission and approval of Special Permits is prescribed in the Rules and Regulations of the Special Permit Granting Authority, a copy of which is on file in the Town Clerk's Office.

10.322 All plans and documents required by this Bylaw shall be considered integral parts of an application. Applications shall be subject to such Rules and Regulations relating to scale, dimensions, legend, form, fees, preparation and other information as may from time to time be promulgated by the Special Permit Granting Authority. The Special Permit Granting Authority may require additional information in order to review an application adequately and make a decision. Site Plans for Planned Unit Residential Developments shall be prepared in accordance with the specifications for Preliminary Subdivision plans set forth in the Rules and Regulations Governing the Subdivision of Land, as may be amended from time to time.

10.323 Upon receipt of an application for a Special Permit, the Special Permit Granting Authority shall transmit copies of the application and plans to appropriate Town boards and officials which may include: the Building Commissioner, Planning Director, Town Engineer, Fire Chief, Conservation Director, Board of Health, Historical Commission, Public Transportation Committee, Leisure Services Commission, and others as necessary. These boards and officials shall have thirty-five (35) days to report to the Special Permit Granting Authority their findings and recommendations. Failure to report in the allotted time shall constitute approval by that board or official of the application submitted.

10.33 Modification, Amendment or Renewal

The Special Permit Granting Authority shall have the authority to modify, amend, or renew its approval of a Special Permit upon written application of the owner, lessee, or mortgagee of the premise; provided however, that such action is consistent with the purposes and intent of this Bylaw, and a public hearing has been held.

10.34 Transfer

Where a Special Permit involving the construction of buildings has not been implemented by substantial construction, said Permit shall not pass to future owners of the property without a public hearing and approval by the Special Permit Granting Authority.

10.35 Document Distribution

Where the Special Permit Granting Authority grants a Special Permit, one (1) copy each of the decision, conditions, and approved plans shall be filed with the Planning Board, Building Commissioner, and the Town Clerk; one (1) copy shall be returned to the applicant, and one (1) copy of said document shall be kept on file in the Department of Inspection Services or Planning Department. The set of documents on file with the Town Clerk shall bear the endorsement of the Special Permit Granting Authority and certification by the Special Permit Granting Authority that copies of the decision and related plans have been filed in accordance with this section.

10.36 Time Schedule

A Special Permit shall only be issued following a public hearing held within 65 days after the Special Permit Granting Authority receives an application from the Town Clerk. The Special Permit Granting Authority shall act within 90 days following a public hearing. Failure to take final action upon an application for a Special Permit within said 90 days following the date of a public hearing shall be deemed to be a grant of the permit applied for.

10.37 Expiration

A Special Permit granted under this article shall lapse within two years of the date that it is filed with the Town Clerk by the Special Permit Granting Authority unless it has been both recorded at the Registry of Deeds and substantial construction or use thereunder has commenced within this period

10.38 Specific Findings Required

The Special Permit Granting Authority may grant a Special Permit authorized by this Bylaw if said Authority finds, when applicable, that:

10.380 The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority.

10.381 The proposal is compatible with existing Uses and other Uses permitted by right in the same District.

10.382 The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features.

10.383 The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians.

10.384 Adequate and appropriate facilities would be provided for the proper operation of the proposed use.

10.385 The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.

10.386 The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.

10.387 The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements. If the Special Permit Granting Authority deems the proposal likely to have a significantly adverse impact on traffic patterns, it shall be permitted to require a traffic impact report, and the proposal shall comply with Section 11.2437 of this Bylaw.

10.388 The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use.

10.389 The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.

10.390 The proposal ensures protection from flood hazards as stated in Section 3.228, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances.

10.391 The proposal protects, to the extent feasible, unique or important natural, historic or scenic features.

10.392 The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage. When a non-residential use adjoins a residential district, an uninterrupted vegetated buffer shall, to the extent feasible, be established and maintained between buildings associated with uses under this section and the nearest residential property boundaries. Where natural, undisturbed vegetation already exists on-site prior to site preparation and clearing, the majority of that vegetation may be retained and included as part of the buffer, along with the addition of such new plantings, selective removals, and other management of site plantings as are determined to be necessary to maintaining an effective year-round visual screen. See Section 11.3.

10.393 The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions. Except for architectural and interior-lit signs, all exterior site lighting shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. All site lighting, including architectural, sign, and parking lot lighting, shall be kept extinguished outside of those business hours established under an approved site management plan, except for lighting determined to be necessary for site security and the safety of employees and visitors.

10.394 The proposal avoids, to the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes, and wetlands.

10.395 The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto. Within the B-L, B-VC, B-N, COM, OP, LI and PRP Districts, and any residential zoning district where the project in question occurs within the boundaries of a National Historic Register District, the Special Permit Granting Authority shall, if it deems the proposal likely to have a significant impact on its surroundings, be permitted to use the design principles and standards set forth in Sections 3.2040 and 3.2041, 1) through 9) to evaluate the design of the proposed architecture and landscape alterations. Within the B-G and abutting B-L districts, and for any Town project within any district, the provisions of Section 3.20, Design Review, shall remain in effect.

10.396 The proposal provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.

10.397 The proposal provides adequate recreational facilities, open space and amenities for the proposed use.

10.398 The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.

SECTION 10.4 CONDITIONS, SAFEGUARDS, AND LIMITATIONS

10.40 In granting a Variance, the Board of Appeals; or in granting a Special Permit, the Special Permit Granting Authority, in accordance with Sections 9 and 10 of Chapter 40A, may impose conditions, safeguards, and limitations which shall be in writing and shall be a part of any Variance or Special Permit granted. Such conditions, safeguards, and limitations may include, among other matters and subjects:

10.400 Setback, Side and Rear Yards greater than the minimum required by this Bylaw;

10.401 Screening of parking areas or other parts of the premises from adjoining premises or from the streets by specified walls, fences, plantings, or other such devices;

10.402 Limitation of size, number of occupants, method or time of operation or extent of facilities;

10.403 Modification of the exterior design or appearance of buildings, structures, signs, or landscape materials.

10.41 In granting a Variance, the Board of Appeals; or, in granting a Special Permit, the Special Permit Granting Authority, may require a bond or other security to insure compliance with the conditions and approved Site Plan.

SECTION 10.5 NOTICE OF HEARING

The Special Permit Granting Authority, for a Special Permit application, or the Board of Appeals, for a Variance or Appeal, shall fix a reasonable time for a public hearing. The notice, posting, and publication therefore shall be in accordance with the provisions of Section 11, Chapter 40A of the General Laws.

In addition to the notice requirements of M.G.L. Chapter 40A, the following requirements shall also apply:

In any instance where a Special Permit or Site Plan Review application is filed with the Town and there are tenants or lessees on the property which is the subject of the permit request, the applicant shall provide notice of the permit request to those tenants or lessees of the units by distributing a notice of the request, with the date, time and location of the public hearing, to those tenants or lessees, or by posting notice in one or more common areas such as will likely result in actual notice to tenants or lessees. The applicant shall submit a sworn and notarized letter to the Permit Granting Authority stating that this requirement has been met and by what means.

If said notification requirements have been met to the satisfaction of the Permit Granting Authority, a circumstance where individual tenants or lessees fail to receive notification shall not serve to invalidate the public hearing.

ARTICLE 11 ADMINISTRATION AND ENFORCEMENT

SECTION 11.0 AMENDMENT
SECTION 11.1 EXECUTION
SECTION 11.2 SITE PLAN REVIEW
SECTION 11.3 MAINTENANCE OF COMMON AREAS, LANDSCAPING AND IMPROVEMENTS
SECTION 11.4 ENFORCEMENT

SECTION 11.0 AMENDMENT

This Bylaw, and all the maps incorporated in it, may be amended as provided in Chapter 40A of the General Laws.

SECTION 11.1 EXECUTION

The Building Commissioner shall enforce the provisions of this Bylaw as hereinafter provided. No building shall be constructed, altered, moved, or changed in use in the Town without a permit from the Commissioner. Such permit shall be withheld unless such construction, alteration or proposed use is in conformity with all provisions of this Bylaw. Where a Special Permit or Site Plan Review approval is required (pursuant to the provisions of this Bylaw), or where an appeal or petition involving a variance is pending, the Building Commissioner shall issue no such permit except in accordance with the written decision of the appropriate Board.

SECTION 11.2 SITE PLAN REVIEW

11.20 PURPOSE

The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures which may have significant impacts, both within the site and in relation to adjacent properties and streets, on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties; and community needs.

11.21 APPLICABILITY

Notwithstanding anything contained in this Bylaw to the contrary, no building permit for construction, exterior alteration, relocation, or change in use except where noted, shall be granted for any use requiring Site Plan Review under Section 3.3, until the provisions of this section have been fulfilled and an application approved by the Planning Board.

Site Plan Review shall be used to judge the appropriateness and impacts of the site development characteristics of a proposed project. Uses for which site plan review is required are permitted uses in accordance with Section 3.3, Table of Uses.

11.22 SUBMISSION PROCEDURE

11.220 An applicant for site plan review shall file with the Planning Department an application form, fee, the required number of copies the site plan, and any additional information as may be required, in the Planning Board's Rules and Regulations. A copy of the application shall be filed with the Town Clerk.

11.221 The following information shall be filed at the time of application: a site plan, which shall include landscape, utility and drainage information, building elevations, and a traffic study and plan. An application shall not be considered complete until all required information and fees are submitted.

11.222 The Planning Board may waive all or any of the requirements for site plan submittal review and approval.

11.223 The exact form and contents of the application, fees, plans and information shall be as required by the Rules and Regulations of the Planning Board. The Board shall adopt, and may periodically amend, after a public hearing, such Rules and Regulations relating to the procedures and administration of this section and such Rules and Regulations shall be on file at the Planning Department and Town Clerk's office.

11.23 REVIEW PROCEDURE

11.230 The Planning Board shall transmit copies of the application and site plan to appropriate Town Boards, and departments which may include: the Town Engineer, Fire Chief, Conservation Department, Building Commissioner, Board of Health, Historical Commission, Public Transportation Committee, Leisure Services Commission, and others as necessary. These Boards and departments shall have thirty-five (35) days to report to the Planning Board their findings and recommendations. Failure to report in the allotted time shall constitute approval by that Board or Department of the application submitted.

11.231 Notice, including notice to parties of interest, and public hearing shall be done in accordance with the procedures required for Special Permits, as found in Chapter 40A. In addition to the notice requirements of M.G.L. Chapter 40A, the following requirements shall also apply:

In any instance where a Special Permit or Site Plan Review application is filed with the Town and there are tenants or lessees on the property which is the subject of the permit request, the applicant shall provide notice of the permit request to the tenants or lessees of the units by distributing a notice of the request, with the date, time and location of the public hearing, to those tenants or lessees, or by posting notice in one or more common areas such as will likely result in actual notice to tenants or lessees. The applicant shall submit a notarized letter to the permit granting authority stating that this requirement has been met and by what means.

If said notification requirements have been met to the satisfaction of the permit granting authority, a circumstance where individual tenants or lessees fail to receive notification shall not serve to invalidate the public hearing.

11.232 The Planning Board, or its designated subcommittee, shall schedule a viewing of the property for the purpose of making an informed decision, unless, pursuant to Section 11.222, the Board judges the change to be insignificant and does not require a visit.

11.24 REVIEW CRITERIA/DESIGN GUIDELINES

The following criteria and guidelines shall be used by the Board in evaluating the site plan and all information submitted as part of the application.

11.240 GENERAL

11.2400 Conformance with all appropriate provisions of the Zoning Bylaw and the goals of the Master Plan.

11.2401 Protection of Town amenities and abutting properties through minimizing detrimental or offensive actions.

11.2402 Protection of abutting properties from detrimental site characteristics resulting from the proposed use, including but not limited to air and water pollution, flood, noise, odor, dust vibration, lights or visually offensive structures or site features.

11.2403 Provision of adequate recreational facilities, open space and amenities.

11.241 ENVIRONMENTAL

11.2410 Protection of unique or important natural, historic or scenic features.

11.2411 Adequacy of proposed methods of refuse disposal

11.2412 Ability of proposed sewage disposal and water supply systems within and adjacent to the site to serve the proposed use.

11.2413 Adequacy of the proposed drainage system within and adjacent to the site to handle the increased runoff resulting from the development.

11.2414 Provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage. When a non-residential use adjoins a residential district, an uninterrupted vegetated buffer shall, to the extent feasible, be established and maintained between buildings associated with uses under this section and the nearest residential property boundary. Where natural, undisturbed vegetation already exists on-site prior to site preparation and clearing, the majority of that vegetation may be retained and included as part of the buffer, along with the addition of such new plantings, selective removals, and other management of site plantings as are determined to be necessary to maintaining an effective year-round visual screen. See Section 11.3.

11.2415 Adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction.

11.2416 Protection of adjacent properties by minimizing the intrusion of air and water pollution, flood, noise, odor, dust and vibration through appropriate site and structure design and the use of appropriate design and materials for containment, ventilation, filtering, screening, sound-proofing, sound–dampening and other similar solutions.

11.2417 Protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and building exterior lighting, through the use of cut-off luminaries, light shields, lowered height of light poles, screening or similar solutions. Except for architectural and interior-lit signs, all exterior site lighting shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. All site lighting, including architectural, sign, and parking lot lighting, shall be kept extinguished outside of those business hours established under an approved site management plan, except for lighting determined to be necessary for site security and the safety of employees and visitors.

11.2418 Protection from flood hazards as stated in Section 3.22, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant material; extent of paving; effect of fill, roadways or other encroachment on floor runoff and flow; storage of chemicals and other hazardous substances.

11.2419 Protection of wetlands by building in accordance with the provisions of the Wetlands Protection Act, Chapter 131, Section 40, and the Amherst Wetlands Bylaw.

11.242 DESIGN

11.2420 Within the B-L, B-VC, B-N, COM, OP, LI and PRP Districts, and any residential zoning district where the project in question occurs within the boundaries of a National Historic Register District, the Permit Granting Authority shall, if it deems the proposal likely to have a significant impact on its surroundings, be permitted to use the design principles and standards set forth in Sections 3.2040 and 3.2041, 1) through 9) to evaluate the design of the proposed architecture and landscape alterations.
Within the B-G and abutting B-L districts, and for any Town project within any district, the provisions of Section 3.20, Design Review, shall remain in effect.

11.2421 The development shall be reasonably consistent with respect to setbacks, placement of parking, landscaping and entrances and exits with surrounding buildings and development.

11.2422 Building sites shall avoid, to the extent feasible, the impact on steep slopes, floodplains, scenic views, grade changes and wetlands.

11.2423 If there is more than one building on the site, the buildings shall relate harmoniously to each other in architectural style, site location and building exits and entrances.

11.2424 Screening shall be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.

11.243 TRAFFIC/PARKING

11.2430 The site shall be designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties.

11.2431 The location and number of curb cuts shall be such to minimize turning movements, and hazardous exits and entrances.

11.2432 The location and design of parking spaces, bicycle racks, drive aisles, loading areas and sidewalks shall be provided in a safe and convenient manner.

11.2433 Provision for access to adjoining properties shall be provided as appropriate.

11.2434 Where possible, driveways located in commercial and business districts shall be located opposite each other.

11.2435 Joint access driveways between adjoining properties shall be encouraged.

11.2436 A traffic impact report shall be required, unless waived under Section 11.222. Information required as part of this report shall be as set forth in the Rules and Regulations of the Planning Board.

11.2437 When a traffic impact report is required, the proposed development shall comply with the following standards:

1. Level of Service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed development, nor shall any nearby intersection degrade below the Level of E.

2. Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed development.

3. Safety hazards shall not be created or added to as a result of traffic generated by the proposed development.

4. If any of the standards in Section 11.2437 1 - 3 are violated, the applicant shall provide alternative proposals to meet the standards, including but not limited to; reduction in the size of the development, change in proposed uses on the site, contributions to off-site street and intersection improvements or construction of off-site street and intersection improvements.

11.25 PLANNING BOARD DECISION

11.250 The concurring vote of at least two-thirds (2/3), but not fewer than five (5), of the members of the Board participating and voting shall be required for any decision on a site plan application (abstaining members being considered not to be voting). The Board's written decision shall consist of either:

11.2500 Approval of the site plan based on a determination that the proposed project meets all of the requirements of Section 11.2.

11.2501 Denial of the site plan based on a determination that either: a) insufficient information was submitted with the application in order for the Board to adequately review the proposal, or; b) a determination that the project does not meet the requirements of Section 11.2.

11.2502 Approval of the site plan subject to conditions, modifications and reasonable restrictions necessary to ensure compliance with the requirements of Section 11.2. Such conditions may include the following:

11.25020 Controls on location and type of access to the site.

11.25021 Requirements to reduce the traffic impact of the proposed development in accordance with Section 11.243.

11.25022 Requirements to minimize impacts on the capacities of infrastructure serving the site, including but not limited to, water, sewer, storm drains, and sidewalks.

11.25023 Requirements to minimize any environmental degradation during construction.

11.25024 Other conditions designed to ensure compliance with the criteria and guidelines of Section 11.24.

11.251 The Planning Board shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office and other appropriate parties in accordance with the provisions of MGL Chapter 40A.

11.252 For the purpose of securing the performance of all proposed work, including landscaping and off-site improvements, the Board may require any of the following: a performance bond, deposit of money, bank passbook, or letter of credit in an amount determined by the Board to be sufficient to cover the cost of all or any part of improvements required.

11.253 Any site plan approval granted under this Section shall expire in two (2) years if substantial construction has not begun by such date.

11.254 Violations of the approved site plan or any conditions of approval shall be subject to the provisions of Section 11.45 of the Zoning Bylaw.

SECTION 11.3 MAINTENANCE OF COMMON AREAS, LANDSCAPING AND IMPROVEMENTS

11.30 The recipient of any permit under this Bylaw, or any successor, shall be responsible for maintaining all common areas, landscaping and other improvements or facilities required by this Bylaw or any permit issued in accordance with its provisions. Those areas, improvements, or facilities for which an offer of dedication to the public has been accepted by the appropriate public authority are excluded. Such improvements shall include, but are not limited to, private roads and parking areas, water and sewer lines, passive and active recreational facilities, and vegetation and trees used for screening and landscaping. Such improvements shall be properly maintained so that they can be used in the manner intended. Vegetation and trees indicated on approved site plans shall be replaced if they die or are destroyed.

11.31 The minimum planting size for landscape material shall be 1-1/2" caliper for trees and 5 gallon for shrubs. The Amherst Landscaping Guidelines should be used for reference in the preparation of landscape plans.

SECTION 11.4 ENFORCEMENT

11.40 If the Building Commissioner shall be informed or have reason to believe that any provision of this Bylaw or any permit or decision thereunder has been, is being, or is about to be violated, the Commissioner shall make an investigation of the facts, including the inspection of the premises where the violations may exist. Where written complaint is made to the Commissioner, the Commissioner shall take action upon such complaint within 14 days of receipt thereof and shall report such action in writing to the complainant.

11.41 If the Commissioner finds no violation or prospective violation, any person aggrieved by said decision, or any officer or Board of the Town, may within 30 days appeal to the Board of Appeals.

11.42 If the Commissioner finds a violation or prospective violation, the Commissioner shall give immediate notice in writing to the owner and to the occupant of the premises and shall order the person(s) in lawful control of the premises to cease and desist and refrain from such violation. Any person aggrieved by said decision or, any officer or Board of the Town, may within 30 days appeal to the Board of Appeals.

11.43 If after such order, such violation continues and no appeal to the Board of Appeals is taken within 30 days, and Town Manager shall, upon notice from the Building Commissioner forthwith make applications to the Superior Court for an injunction or order restraining the violation and shall take such other action as is necessary to enforce the provision of this Bylaw.

11.44 If after action by the Building Commissioner, appeal is taken to the Board of Appeals, and after a public hearing, the Board of Appeals finds that there has been a violation or prospective violation, the Commissioner shall issue an order to cease and desist and refrain from such violation unless such order has been previously issued. If such then continues, the Town Manager shall, upon notice from the Building Commissioner, forthwith make application to the Superior Court for an injunction or order restraining the violation and shall take such other action as may be necessary to enforce this Bylaw.

11.45 Any violation of the provisions of this Bylaw, the conditions of a permit granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw, shall be liable to a fine of not more than one hundred dollars ($100.00) for each violation. Each day such violation continues shall be deemed a separate offense.

In addition to the procedures for enforcement as described above, the provisions of this Bylaw, the conditions of a permit granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw, may be enforced, by the Building Commissioner, by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall be one hundred dollars ($100.00) for each offense. Each day such violation continues shall be deemed a separate offense.

11.46 Construction or operations under a building permit or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of six months after issuance of the permit; additionally, in cases involving construction begun within such six-month period, such construction shall be continued through to completion as continuously and expeditiously as is reasonable.

ARTICLE 12 DEFINITIONS

For the purposes of this Bylaw certain words and terms used herein shall be interpreted as follows:

12.00 Aggregated accessory uses: One or more uses customarily accessory to principal residential uses as allowed in this Zoning Bylaw, where such accessory use(s) are aggregated, used and shared in common by the occupants of more than one residential dwelling unit located on the same property or a different property from the accessory use(s).

12.01 Amusement device: Any mechanical or electronic game, amusement, sport or test of skill including, but not limited to, videogame machines, pinball machines, pool or billiard tables, or similar mechanical or electronic devices.

12.02 Apartment: A residential use consisting of one or more buildings, each building containing no fewer than three (3), nor more than twenty-four (24) dwelling units. Apartment dwelling units may share internal accessways and entrances and need not have separate exterior entrances on the ground level.

12.03 Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable ground water.

12.04 Arcade: Premises, or portions of premises, where six or more amusement devices are maintained for public or private membership use.

12.05 Bar: A food and drink establishment or a part of such an establishment devoted primarily to the service and consumption of alcoholic beverages on the premises, and in which the service of food is only incidental.

12.06 Bed and Breakfast: A use accessory to a dwelling unit consisting of overnight lodging with breakfast. In a bed and breakfast no meals other than breakfast shall be served, and no breakfast shall be served nor shall any retail and consumer services be provided to any member of the public not lodged as an overnight guest.

12.07 Congregate Housing For the Elderly And Handicapped: A building or buildings, or a portion thereof, arranged or used for lodging by elderly and handicapped residents, as defined in Chapter 121B of the General Laws, wherein meals may be served in one or more group dining facilities.

12.08 Converted Dwelling: A use containing one or more dwelling units created predominantly through the conversion of existing residential or non-residential space, where said units are located in or attached to an existing residence of ten or more years of age, or a detached structure constructed prior to 1964, located on a lot where at least one dwelling unit lawfully existed prior to the conversion. A converted dwelling use may include portions of dwelling units created through new construction, but no new dwelling unit in a converted dwelling use may be created as a result of new construction alone. Proposed multi-unit residential uses not meeting the thresholds established for the conversion of existing space shall be considered to be the residential use category most closely corresponding to the total number of new dwelling units they include and the nature of the use, as determined by the Zoning Enforcement Officer or Special Permit Granting Authority or Permit Granting Board, as applicable.

12.09 Discharge Area: That portion of the surface area of an aquifer which, because of an overlying layer of impermeable material such as clay, tends to discharge more precipitation and stream flow out of the watershed as surface runoff than it allows to percolate into the ground and recharge the aquifer. Where an overlying layer is not completely impermeable as a result of natural conditions or human activity, a discharge area can be a potential location for the introduction of groundwater pollution.

12.10 Drive-up restaurant: A restaurant, refreshment stand, fast-food eatery, or other similar place for the service of food or beverages, some portion of which is served to persons remaining in their vehicles outside the building, via a drive-up window or other similar method.

12.11 Dwelling Unit: A single residential unit providing complete independent living facilities for a household of one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

12.12 Dwelling Unit, Attached: A building containing three or more units, each unit having a separate entrance.

12.13 Dwelling Unit, Detached: A single family dwelling, containing one unit, which provides complete independent living facilities.

12.14 Dwelling Unit, Two Family Detached (Duplex): A single residential building containing two (2) dwelling units, arranged vertically one above the other, or horizontally side by side, each with a separate entrance.

12.15 Dwelling Unit, Zero Lot Line: A single family unit, sited on one or more lot lines, with no yard along these lot lines. A zero lot line unit may be attached to an adjoining zero lot line unit provided they are separated by a party wall, with no openings along the dividing lot line.

12.16 Family (Household):

12.160 An individual residing in one dwelling unit; or

12.161 A group of persons related by marriage, civil union, blood, adoption, guardianship, or other duly authorized custodial relationship residing together in one dwelling unit; or

12.162 A group of unrelated individuals, not to exceed 4, residing cooperatively in one dwelling unit. In this instance, an accessory use as described in Sections 5.010 and 5.011 is not permitted.

12.163 A group of individuals, regardless of relation, residing in congregate or similar group housing for the elderly or disabled, in half way houses, or in other goup residential uses authorized and operated under state and federal law.

12.17 Farmland: Land under agricultural use as defined in MGL Ch. 128, Section 1A, and MGL Ch. 61A, Sections 1 and 2, inclusive, as amended, and, including for the purposes of this Bylaw, the lawful propagation and raising of wild or game species under applicable state and federal law, and, land under agricultural use whose soils are classified as prime, unique, or of state and local importance by the USDA Soil Conservation Service. The provision of MGL Ch. 40A, Section 3, shall apply.

12.18 Floor Area Ratio: The ratio of gross floor area of all buildings to the lot area.

12.19 Groundwater: All the water found beneath the surface of the ground. More specifically, the slowly moving subsurface water present in the aquifer and recharge areas.

12.20 Habitable Space: The gross square footage of the enclosed interior space of a residential building or dwelling, which space is used or intended to be used for living, sleeping, cooking, or eating purposes. Includes within any single dwelling unit any rooms containing toilets, bathtubs or showers, as well as any laundries, pantires, foyers, communicating corridors, closets and storage spaces, but excluding any such spaces where they are used in common with other dwelling units.

12.21 Hazardous Material: Any material or combination of materials, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to a present or potential threat to human health, safety or welfare or to the environment when improperly stored, treated, transported, disposed of, used or otherwise managed. This definition includes all substances which are included in the definition of hazardous materials contained in M.G.L. Chapter 21C.

12.22 Hostel: An overnight lodging facility licensed by a recognized national or international hostelling organization, offering temporary lodging to members of such organizations and other travelers, as well as educational programs and other goods and services related to hostelling. Lodging for non-members shall not exceed fourteen (14) days in any four (4) month period, with a limit of no more than seven (7) consecutive days. Lodging for members shall not exceed thirty (30) days in any four (4) month period, with a limit of no more than fourteen (14) consecutive days.

12.23 Hotel or Motel: A structure used or designed for overnight lodging, and which may also provide a restaurant and hotel/motel-related retail and consumer services to lodgers and the public.

12.24 Housing, Affordable: Affordable housing units are units which may be rented or purchased by those who meet the guidelines for maximum annual income for low-income or moderate-income family or household. The income limit for low-income shall be 80% of the median income for Amherst and the income limit for moderate-income shall be 120% of median income for Amherst.

Median income for Amherst shall be as calculated by the U.S. Department of Housing & Urban Development, or any successor agency and shall be adjusted for family size.

12.25 Inn: A structure used or designed for overnight lodging, and which may also provide a restaurant and related retail and consumer services to lodgers and the public. An inn shall be located in a historic building 75 years or more in age.

12.26 Limousine: A livery vehicle primarily garaged or engaged for hire in the town of Amherst, which is used to carry passengers under pre-arranged contract for an agreed-upon hourly fare, or; operates as a charter, business courtesy, employee shuttle, customer shuttle, or; a motor vehicle on a regularly scheduled route without the use of a taximeter.

12.27 Livestock and Poultry: All domesticated mammals and birds that are raised and kept for agricultural purposes, including but not limited to horses, ponies, donkeys, mules, cattle, goats, llamas, alpacas, swine, sheep, rabbits, hares, and fowl, which shall be defined as including, but not limited to, chickens (hens and roosters), turkeys, pigeons, capons, ducks, geese, swans, pheasants, peacocks, guinea fowl, emus, and all wild mammals and game birds raised and kept in accordance with state and local law. Except as provided for under Section 5.014, livestock and poultry shall not include domesticated animals raised and kept as pets such as dogs, cats, rabbits, various species of rodents, exotic birds, reptiles, fish, amphibians or wild animals as provided for in accordance with state and local law.

12.28 Lodging or boarding house: A residential use housed in a single dwelling or in part of a dwelling where no fewer than six (6) but not more than ten (10) unrelated persons are let or sublet lodging in private rooms or quarters not constituting dwelling units for definite periods of time, and where there are no overnight stays by transient guests. The building shall be occupied by the owner of the property or the manager of the use. Meals may or may not be provided, but only one common kitchen facility shall exist and no meals shall be provided by the establishment to members of the general public not lodged in the establishment. Lodging or boarding houses shall not include hotels, motels, inns, sorority, fraternity and cooperative residences licensed or regulated by agencies of the Commonwealth. Lodging or boarding houses shall abide by all applicable state and local laws and regulations governing lodging houses, boarding houses, or rooming houses.

12.29 Lot, Buildable: Any lot meeting the minimum lot area and lot frontage requirements of the zoning district in which it is located and which contains either 90 percent of its total lot area, or 20,000 square feet, in contiguous upland acreage.

12.30 Medical Care Providers:

12.300 Other Medical or Dental Professionals: A health care professional who may provide patient care, patient support, or ancillary medical services under the supervision of a principal health care provider. For the purposes of this Bylaw, this shall include nurse practitioners, registere or licensed practical nurses, physicians' assistants, dental hygienists, sonographers, phlebotomists, and similar medical professionals.

12.301 Principal Health Care Provider: A health care professional licensed to operate as a physician dentist in the Commonwealth of Massachusetts, who provides care to patients and may refer patients or receive referrals for specific medical or dental services, particularly in an outpatient setting. For the purposes of this Bylaw, principal health care providers shall include physicians, dentists, and physician specialists such as psychiatrists, dermatologists, dental surgeons, and ophthalmologists.

12.31 Medical Marijuana Treatment Center (MMTC): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. An MMTC shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

12.32 Off-Site Medical Marijuana Dispensary (OMMD): A medical marijuana facility that is located off-site from any cultivation/processing facility that is controlled and operated by the same registered and approved non-profit entity which operates an affiliated MMTC but which serves only to dispense the processed marijuana, related supplies and educational materials to patients registered and qualified under the provisions of 105 CMR 725.00 or their personal caregivers.

12.33 Medical Uses:

12.330 Clinic or emergency care facility: Any private or public health clinic, or other similar community health facility providing diagnosis and ambulatory emergency medical care to persons on an exclusively outpatient basis as a principal use. A clinic or emergency care facility may also be accessory to a medical center, hospital, or similar facility.

12.331 Medical center: Two (2) or more medical group practices, or medical offices, or combination thereof, operating in the same building or on the same property, which may also contain associated principal or accessory uses such as diagnostic testing facilities, physical therapy, therapeutic or counseling services, pharmacies, medical supply retailers, and similar uses. A medical center shall not include medical residential facilities.

12.332 Medical group practice: A Medical, dental, or psychiatric practice larger than a medical office, including principal health care providers, other medical or dental professionals, and administrative or clerical staff, providing services on the premises. A medical group practice and its principal health providers shall offer medical services within one area of medical practice (ex., general practice, orthopedics, cardiology, obstetrics and gynecology, oncology, etc.) or within a small number of closely related areas of medical practice, and may also contain in-house diagnostic testing facilities, medical counseling services, and similar services, or may be associated with other similar accessory or complementary principal uses in the same building.

12.333 Medical office: A Medical, dental, or psychiatric practice offering medical or dental services on an outpatient basis and including a total of no more than the full time equivalent of three (3) principal health care providers and two (2) other medical or dental professionals, exclusive of administrative or clerical staff, providing services on the premises. A medical or dental office may also contain associated in-house ancillary services such as in-house diagnostic testing facilities, medical counseling services, and similar services.

12.34 Oil: Insoluble or partially soluble crude or fuel oils, lube oil, sludge, asphalt or partially insoluble derivatives of mineral, animal or vegetable oils.

12.35 Owner-Occupant(s): One or more natural persons who, in their individual capacity as distinct from any representative capacity, own(s) a whole or undivided interest in fee simple of certain real property and at least one of whom occupies a dwelling unit thereon as his or her principal residence (see definition).

12.36 Permit Granting Board: That Board designated by the Zoning Bylaw to hear and decide Site Plan Review applications.

12.37 Pets: Domesticated animals such as dogs, cats, rabbits, selected exotic mammals (pot-bellied pigs, dwarf goats, etc.), various species of rodents (rats, mice, guinea pigs, hamsters, ferrets, chinchillas, etc.), exotic birds, reptiles, fish or amphibians. The keeping of wild animals, exotic birds, fish, reptiles, and amphibians as pets is subject to the requirements of M.G.L. Ch. 131, Sections 23, 25 and 26A, as amended, and 321 CMR 2.12 and 9.01, as amended.

12.38 Recharge Area: Areas composed of permeable stratified sand and gravel or till and certain wetlands that collect precipitation or surface water and carry it to the aquifer.

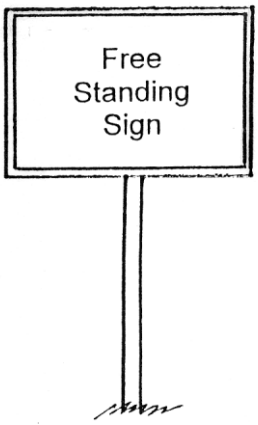
12.39 Residence, Principal: The primary residence of an individual, family (as defined in this Bylaw), or property owner, i.e., the home where an owner, and the owner's family if applicable, resides as the primary dwelling; provided however, that no person shall hold concurrent rights in more than one (1) principal residence, as set forth under MGL Ch. 188, Section 1, as amended. Regular or periodic interruptions in residency shall not be considered to change the status of principal residence where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indices of residency. For the purposes of this Bylaw, principal residency shall be determined by the Zoning Enforcement Officer, or the Permit Granting Authority or Special Permit Granting Authority, as may be applicable, based upon a preponderance of evidence, including but not limited to the following indices of residency and address, as applicable: declaration of homestead, filing of state and federal income taxes, voter registration, annual street list, driver's license, motor vehicle registration, mortgage, mailing address, and telephone listing (if any).

12.40 Resident Manager: A live-in resident of a rental residential use qualified and responsible for implementation of the property management plan and for managing and coordinating the maintenance, housekeeping, and administrative duties for the rental units under their charge.

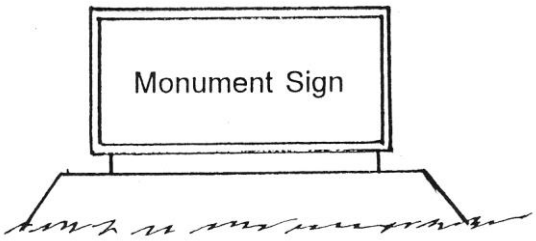
12.41 Restaurant: An establishment or part of an establishment devoted primarily to the service and consumption of food and beverages on the premises. Any such establishment shall be considered a restaurant if the service of food is its primary activity and the service of alcoholic beverages, if any, is incidental to the sale, service and consumption of food and non-alcoholic beverages.

12.42 Sign: Any fabricated or illuminated display structure, device or surface incorporating letters, numerals, figures, symbols or other graphic or design elements used for the visual attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, merchandise or event, where such sign is displayed in any manner out of doors, or displayed indoors for the purpose of being viewed from the out of doors.

12.43 Sign, free standing: A sign supported permanently upon the ground by poles.



12.44 Sign, monument: A sign mounted either directly on the ground or on a wall that is situated on the ground.



12.45 Sign, projecting: A sign affixed to and projecting laterally, in whole or in part, from the side of a building, wall, or structure for a distance of at least 12 inches.

12.46 Special Permit Granting Authority: The Zoning Board of Appeals and the Planning Board are designated as the Special Permit Granting Authorities, as provided within the Articles of this Bylaw.

12.47 Street: An accepted 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 which has been 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 Amherst having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting on the way.

12.48 Subdividable Dwelling: A building constructed for potential multi-family residential purposes as its principal use and having an external appearance and footprint substantially consistent with those of a one family detached dwelling. The internal construction design of the building allows for ease of both conversion into more dwelling units, and consolidation into fewer dwelling units, all within the maximum number established under Section 3.324 of this Bylaw.

12.49 Taxicab: A vehicle for hire garaged in Amherst and used for the conveyance of persons from any point of origin within the town of Amherst to any other location for a fee, whether hourly or by a taximeter; except livery vehicles as previously defined or a vehicle operated in a manner and for the purposes stated in Massachusetts General Laws, Chapter 159A.

12.50 Town House: A residential use consisting of one or more buildings containing no fewer than three nor more than ten (10) attached dwelling units, each of which has a separate private entrance on the ground level and where no building is more than three stories in height. Individual town house dwelling units extend from foundation to roof, and may consist of more than one floor, with each unit having fully exposed walls on at least two sides for access, light, and ventilation.

12.51 Toxic or Hazardous Substance: Any chemical substance or mixture of substances in a gaseous, liquid or solid state which is listed in the Massachusetts toxic or hazardous substance list compiled and maintained by the commissioner of the Massachusetts Department of Public Health in compliance with the provisions of M.G.L. Ch. 111F, section four, as amended, and which is manufactured, processed, used or stored in the workplace, but which shall not include alcoholic beverages as defined in MGL Ch. 138, Section one, or articles intended for personal consumption by employees in the workplace, or consumer articles packaged for distribution to, and used by, the general public, or articles sold or used in retail food establishments and all other retail trade establishments, exclusive of articles used in processing and repair areas, or substances being transported in interstate commerce.

12.52 Truck Terminal: A building or area in which freight brought by truck is assembled and/or stored for routing and reshipment or in which semi-trailers, including tractor and/or trailer units, and other trucks are parked or stored.

12.53 Upland Acreage: Lot area, not including watercourses, waterbodies, vernal pools, banks, or bordering or isolated vegetated wetland as defined by the Massachusetts Wetlands Protection Act Regulations 310 CMR 10.00, or the Amherst Wetlands Bylaw.

12.54 Waste: Any discarded material, or any material otherwise generated or produced as a by-product of any activity which is not intended for further use by the generator or producer.

12.55 Wastewater Treatment Works Subject to 314 CMR 5.00: Any wastewater treatment plants or works, including community septic systems, which require a groundwater discharge permit from the Massachusetts Department of Environmental Protection (DEP).

12.56 Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

12.57 Wetlands: those lands defined as wetlands by the provisions of the Massachusetts Wetlands Act, M.G.L. Chapter 31, Section 40, as amended, and by the provisions of the General Bylaws of the Town of Amherst Massachusetts, Article II, General Regulations, Wetlands Protection, as amended.

12.58 Wireless Communications Facilities: Facilities used for the principal purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes and accessory structures. For the purposes of this bylaw, wireless communications facilities do not include the following accessory uses or structures: antennae or dishes used solely for residential household television and radio reception; antennae or dishes used for commercial or public purposes which are not visible from any neighboring property or public way, or as set forth in Section 3.340.2,j., or dishes for these purposes measuring two (2) meters or less in diameter; nor amateur radio facilities, including towers under sixty-five (65) feet above ground, actively used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission (FCC), provided that the tower is not used or licensed for any commercial use.

12.59 Zone I Recharge Area: That area encompassed by a circle extending around the wellhead of a public drinking water well, with the wellhead at its center and including all land within a 400 foot radius.

12.60 Zone II Recharge Area: That area of an aquifer which contributes water to a public drinking water well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend up-gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

12.61 Zone III Recharge Area: The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II, as defined in 310 CMR 22.00, as amended.

12.62 Zoning Enforcement Officer: The Building Commissioner of the Town of Amherst.

ARTICLE 13 DEMOLITION DELAY FOR STRUCTURES OF HISTORICAL OR ARCHITECTURAL SIGNIFICANCE

SECTION 13.0 POLICY
SECTION 13.1 PURPOSES
SECTION 13.2 DEFINITIONS
SECTION 13.3 PROCEDURE
SECTION 13.4 STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE
SECTION 13.5 DEMOLITION
SECTION 13.6 EMERGENCY DEMOLITION
SECTION 13.7 ENFORCEMENT AND REMEDIES
SECTION 13.8 SEVERABILITY

SECTION 13.0 DECLARATION OF POLICY

Finding that the economic, cultural and aesthetic standing of the Town of Amherst can best be maintained and enhanced by due regard for the historical and architectural heritage of the Town and by striving to discourage the destruction of such cultural assets, it is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures of historical and architectural significance, located within the Town of Amherst, is a public necessity, and is required in the interest of the prosperity, civic pride and general welfare of the people.

SECTION 13.1 PURPOSES

The purposes of this Bylaw are to:

13.10 Designate, preserve, protect, enhance and perpetuate those structures and sites within the Town that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage;

13.11 Foster civic pride in the vestiges and accomplishments of the past;

13.12 Stabilize or improve the aesthetic and economic vitality and values of such structures and sites;

13.13 Protect and enhance the Town's attraction to tourists and visitors;

13.14 Promote the use of historical or architectural structures and sites for the education and welfare of the people of the Town;

13.15 Promote good urban design including the perpetuation of related private open spaces;

13.16 Promote and encourage continued private ownership and utilization of such buildings and sites now so owned and used: and

13.17 Provide owners of significant structures with time to consider alternatives to demolition.

SECTION 13.2 DEFINITIONS

The provisions of this bylaw shall be liberally construed to effect the purposes expressed or implied in Section 13.1. Definitions of the following words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated:

"Commission" - The Amherst Historical Commission.

"Demolition" - Any act of pulling down, destroying, removing or razing a structure or portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.

"Demolition Permit" - A permit issued by the Building Commissioner under the State Building Code for the demolition of a building or structure.

"Significant structure" - A structure or site found by the Amherst Historical Commission to contribute to the historical or architectural heritage or resources of the Town pursuant to Section 13.4 of this Bylaw.

"Structure" - Any edifice, object or building of any kind that is constructed or erected and requires more or less permanent location on the ground or attachment to an object with permanent location on the ground, not including wheels.

SECTION 13.3 PROCEDURE

13.30 No permit for demolition of a significant structure shall be issued except as provided in this bylaw.

13.31 Every application for a demolition permit shall be made upon a form provided by the Building Commissioner, and shall be signed by the owner or the owner's agent under the power of attorney. Every application shall include such locational information, plans and narrative description and justification of the proposed demolition as shall be required under Historical Commission rules and regulations for such applications. Notice to abutters and parties in interest shall be done in accordance with the procedures required for Special Permits, as found on M.G.L. Chapter 40A.

13.32 Upon receipt of any application for a demolition permit, the Building Commissioner shall within five (5) days transmit a copy thereof to the Amherst Historical Commission.

13.33 Within thirty-five (35) days of the Commission's receipt of a copy of the application for a demolition permit, the Commission shall hold a public hearing on such application, and shall make a determination as to whether the structure is a *significant structure* under one or more of the criteria set forth in Sections 13.40 and 13.41. The Commission shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the owner by certified mail, to abutters and parties in interest by mail, and by posting and by publication once in a local newspaper. The Commission may conduct a site visit prior to the hearing.

13.34 If, within thirty-five (35) days of the Commission's receipt of a copy of an application for a demolition permit, no public hearing has been held, or if within fourteen (14) days following the close of the public hearing no finding by the Commission has been filed with the Building Commissioner, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

13.35 If after holding a public hearing the Commission shall determine that the structure is not a *significant structure* because it fails to meet one or more of the criteria set forth in Section 13.4, or if the Commission shall determine that the structure is a *significant structure* meeting one or more of the criteria set forth in Section 13.4, but that the proposed demolition would not be detrimental to the historical or architectural heritage or resources of the Town, then the Commission shall notify the Building Commissioner in writing of its findings within fourteen (14) days of said determination. Upon receipt of such notification, or upon expiration of said fourteen (14) days without such notice, the Building Commissioner may issue a demolition permit, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.

13.36 If, after such hearing, the Commission determines that the structure is a *significant structure* and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with findings, of its determination to the applicant and the Building Commissioner, and no demolition permit shall be issued until twelve (12) months after the date of such determination by the Commission.

SECTION 13.4 STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE

The Historical Commission shall determine that a structure be designated as a *significant structure* if it meets one or more of the following criteria:

13.40 It is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register, or;

13.41 The Commission determines that the structure meets one or more of the following three criteria:

13.410 **Historical Importance.** The structure meets the criteria of historical importance if it:

13.4100 Has character, interest or value as part of the development, heritage or cultural characteristics of the town of Amherst, the Commonwealth of Massachusetts or the nation, or;

13.4101 Is the site of an historic event, or;

13.4102 Is identified with a person or group of persons who had some influence on society, or;

13.4103 Exemplifies the cultural, political, economic, social or historic heritage of the community.

13.411 **Architectural Importance**. The structure meets the criteria of architectural importance if it:

13.4110 Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or;

13.4111 Embodies those distinguishing characteristics of an architectural type, or;

13.4112 Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town, or;

13.4113 Contains elements of architectural design, detail, materials or craftsmanship which represents a significant innovation.

13.412 **Geographic Importance**. The structure meets the criteria of geographic importance if:

13.4120 The site is part of, or related to, a square, park, or other distinctive area, or;

13.4121 The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.

SECTION 13.5 DEMOLITION

Notwithstanding the provisions of Section 13.36, the Building Commissioner may issue a demolition permit for a *significant structure* under any of the following circumstances:

13.50 If at any time, after inspection, the Building Commissioner shall determine that the structure poses an imminent threat to the public health or safety of the community under Section 13.63, and so advises the Commission in writing, or;

13.51 The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is or will be willing to purchase, preserve, rehabilitate or restore such building, and so advises the Building Commissioner in writing, or;

13.52 The Commission is satisfied that the owner has made continuing bona fide and reasonable efforts to locate a purchaser who would be willing to preserve, rehabilitate and restore the subject building but that such efforts have been and will continue to be unsuccessful, and so advises the Building Commissioner in writing.

SECTION 13.6 EMERGENCY DEMOLITION

13.60 If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Building Commissioner.

13.61 Upon receipt of any application for an emergency demolition permit, the Building Commissioner shall within five (5) days transmit a copy thereof to the Amherst Historical Commission.

13.62 As soon as is practicable, but within 14 days after receipt of such an application, the Building Commissioner shall inspect the building or structure with a team consisting of the Commissioner, Town Engineer, Fire Chief, Historical Commission Chair and two (2) other members of the Commission selected by the Chair, or the designees of said officials.

13.63 Within 5 days after inspection of the building or structure, and after consultation with other members of the inspection team, the Building Commissioner shall determine: 1) whether the condition of the building or structure represents a serious and imminent threat to public health and safety, and; 2) whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety.

13.630 If the Building Commissioner finds: 1) that the condition of the building or structure poses a serious and imminent threat to public health and safety, and; 2) that there is no reasonable alternative to the immediate demolition of the building or structure, then the Commissioner may issue an emergency demolition permit to the owner of the building or structure.

13.631 If the Building Commissioner finds: 1) that the condition of the building or structure does not pose a serious and imminent threat to public health and safety, and/or; 2) that there are reasonable alternatives to the immediate demolition of the building or structure which would protect public health and safety, then the Commissioner may refuse to issue an emergency demolition permit to the owner of the building or structure.

13.64 Upon issuing an emergency demolition permit under the provisions of this section, the Building Commissioner shall submit a brief written report to the Commission describing the condition of the building or structure and the basis for his/her decision to issue an emergency demolition permit.

Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by M.G.L. Chapter 143, Sections 6-10.

SECTION 13.7 ENFORCEMENT AND REMEDIES

The following enforcement and remedies shall apply under this bylaw:

13.70 The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.

13.71 The Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity they shall deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.

13.710 Any owner of a building and/or structure subject to this Bylaw who knowingly acts to demolish said building and/or structure, or damage a portion of a building or structure in a way which increases its likelihood of total failure, without first obtaining a building permit for demolition in accordance with the provisions of this Bylaw, or who likewise by some causative action contributes to the deterioration of said building or structure during the demolition review period, shall be in violation of this Bylaw and subject to enforcement by a non-criminal complaint pursuant to the provisions of M.G.L. Chapter 40, Section 21D, as amended.

13.711 Notwithstanding the provisions of Section 11.45, the fine for any such violation shall be three hundred dollars ($300.00) for each offense. Each day the violation exists shall constitute a separate offense until the demolished building is rebuilt or re-created as directed by the Historical Commission, or unless otherwise agreed to by the Commission.

13.712 Notwithstanding the above, this section does not create an affirmative obligation to maintain a property.

13.72 No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this bylaw for a period of two (2) years from the date of the completion of such demolition.

SECTION 13.8 SEVERABILITY

If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect to the extent that the overall purposes of this article can still be met.

ARTICLE 14 Reserved

ARTICLE 15 INCLUSIONARY ZONING

SECTION 15.0 INTENT AND PURPOSE
SECTION 15.1 REGULATIONS

SECTION 15.0 INTENT & PURPOSE

The purpose of this Article is to promote the general public welfare, including but not limited to ensuring an economically integrated and diverse community, by maintaining and increasing the supply of affordable and accessible housing in the Town of Amherst. This purpose includes:

15.00 Ensuring that new residential development generates affordable housing as defined in Section 12.20.

15.01 Ensuring that affordable housing created under this section remains affordable over the long term, with the majority of such housing remaining affordable in perpetuity, except as may be otherwise required under state or federal programs.

15.02 Maintaining a full mix of housing types and unrestricted geographic distribution of affordable housing opportunities throughout Amherst.

15.03 To the extent allowed by law, ensuring that preference for new affordable housing is given to eligible persons who live or work in Amherst.

SECTION 15.1 REGULATIONS

To ensure the purposes of this section, the following regulations shall apply to residential development in Amherst:

15.10 All residential development requiring a Special Permit and resulting in additional new dwelling units shall provide affordable housing units at the following minimum rates:

Total Development Unit Count	Required Affordable Unit Provision
1-9 units	None*
10-14 units	Minimum one (1) dwelling unit
15-20 units	Minimum two (2) dwelling units
21 units	Minimum 12% of total unit count

* While provision of affordable units is not required for developments containing 1-9 units under this section, the Bylaw encourages affordability and provides for incentives. See Sections 4.33 and 4.55.

Where two or more units are required to be provided under this section, a minimum of forty-nine percent (49%) of affordable units shall be eligible and countable for the purpose of the Commonwealth's 40B Subsidized Housing Inventory (SHI) or its successor. Calculation of the number of total affordable units or the number of SHI-eligible units shall, if the required percent of the total results in a fraction, be rounded up to the next whole number where the fractional portion is equal to 0.5 or greater, and shall be rounded down to the next whole number where the fractional portion is less than 0.5.

15.11 Affordable and accessible dwelling units provided under Section 15.10 shall be counted as meeting the requirements for density bonuses under the provisions of Section 4.55, Density Bonuses, of this Bylaw.

15.12 The applicant shall establish such housing restrictions, conditions, and/or limitations as are necessary to ensure that the affordable housing units provided under this section will be permanently available for purchase by eligible low-and moderate-income buyers, and available for a minimum of twenty years in the case of rental housing.

15.13 Housing constructed by a public agency or non-profit corporation using a federal, state, or local housing assistance program may adhere to the requirements set forth by the funding agency provided that the purpose of these regulations are met.

15.14 In any residential development, affordable housing units provided shall be dispersed throughout the development, and shall be comparable to market rate units in terms of the quality of their design, materials, and general appearance of their architecture and landscape.

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*Note: This Index is not adopted as part of the **Official Zoning Bylaw**. It is provided for informational purposes only.