ZONING

Dates appearing indicate the Town Meeting at which amendments to these sections were voted

Zoning By-Laws pages 1-131 Include amendments as of October 23, 2018 Town Meeting

Section 1

Authority and Purpose

The purpose of this by-law is to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, drainage, schools, parks, open space, and other requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to regulate land uses that have an impact on the Town’s natural, fiscal, and physical capacities; and to preserve and increase amenities by the promulgation of regulations to fulfill said purposes, in accordance with the provisions of Chapter 40A, M.G.L., and Article 89 of the Amendments to the Constitution.

Section 2

Zoning Districts

2.1 Classification of Districts

The Town of Auburn is hereby divided into the following districts:

Residential Districts:
   RA – Residence A
   RB – Residence B
   RC – Residence C
   RR – Residence R

Business Districts:
   LB – Local Business
   HB – Highway Business
   GW – Gateway
2.2 Zoning Map
The zoning maps described below are part of this by-law. Location and boundaries of the zoning districts are shown on the zoning maps, which may be amended and are collectively referred to as “The Zoning Map”.

Zoning Districts of the Town of Auburn – (consisting of four sheets designated Map Number 1-4 Scale 1" = 1,200’ and one sheet designated Map Number 5, Scale 1" = 1,000’, entitled “Town Zoning Districts with Flood Insurance Rate Map.”)

Flood Insurance Rate Map – consisting of two sheets designated panel number 4C and 5C and the associated data in the “Flood Insurance Study, Town of Auburn, revised July 4, 2011.”

NOTE: The above described zoning maps are on file at the office of the Town Clerk and the Planning Board office.

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

2.3.1 Zoning district boundaries which follow streets or railroads shall be deemed to coincide with the mean centerline thereof.

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

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

2.3.4 The extent of the RO District along Auburn Street shall be as designated on the Zoning Map. The depth of the RO District on both sides of the street shall be 200’ from the sideline of the road or the depth of a parcel with frontage on the street as of the date of adoption of this by-law, whichever is less.

2.3.5 Where a district boundary line divides any lot existing at the time such line is adopted, the following conditions shall apply:

(a) If the lot has frontage within only one district, the requirements of that district shall govern the entire lot.

(b) If the lot has frontage within two or more districts, the owner may either:
1. Follow the requirements of the more restrictive district in the entire lot, or
2. Follow the requirements of the less restrictive district into the more restrictive
district for a distance no greater than thirty (30) feet.

Section 3

Table of Principal Uses, Principal Use Definitions and Accessory Use Regulations

NOTE: This section of the by-law has three major parts: the “Table of Principal Uses,” “Principal Use
Definitions,” and the “Accessory Use Regulations,” which should be consulted to determine the
principal and accessory uses or activities which are allowed on any parcel of land in Auburn.
The Floodplain District and Aquifer and Watershed Protection District are overlay districts which
are superimposed on all other zoning districts. The reader is advised to consult the Floodplain
District and Aquifer and Watershed Protection District regulations in all cases because they may
also apply to the land in question.

Table of Principal Uses – The Table of Principal Uses designates which principal land uses are allowed in
each zoning district. Each principal use category listed on the left hand column of the table corresponds to
one of the principal use definitions found in Sections 3.2 through 3.7.

Principal Use Definitions – Sections 3.2 through 3.7 contain the definitions of the principal land uses
classified by the by-law.

Accessory Use Regulations – Section 3.9 contains the regulations applicable to uses which are accessory
to principal land uses permitted in the various districts.

3.1 Provisions for Table of Principal Uses and Principal Use Definitions

No land, structure or building shall be used except for the purposes permitted in the district as set
forth in this section unless otherwise permitted in this by-law.
In all districts only one principal use per lot is authorized. The words used to describe each
principal use contained in Sections 3.2 through 3.7, inclusive, are intended to be definitions of
such uses.

A use is permitted by right in any district under which it is denoted by the
letter “Y”.

A use is prohibited in any district under which it is denoted by the letter “N”.

A use denoted by the letters “SP” may be permitted by special permit.

A use denoted by the letters “SPA” may be permitted with site plan approval.

3.1.1 If an activity might be classified under more than one of the principal use definitions, the
more specific definition shall determine whether the use is permitted. If the activity might
be classified under equally specific definitions, it shall not be permitted unless both
principal uses are permitted in the district.
<table>
<thead>
<tr>
<th>Section</th>
<th>Land Use Classification</th>
<th>Standards and Conditions</th>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2.1</td>
<td><strong>EXTENSIVE USES</strong></td>
<td></td>
<td>RA  RB  RC  RR  RO  LB  HB  GI  IA  IP  OS  RM</td>
</tr>
<tr>
<td>3.2.1.0</td>
<td>Forestry and the harvesting of forest products</td>
<td>Y Y Y Y Y Y Y Y Y SP</td>
<td></td>
</tr>
<tr>
<td>3.2.1.1</td>
<td>Orchard, market garden, nursery, or other use of land for commercial agricultural production</td>
<td>Y Y Y Y Y Y Y Y Y SP</td>
<td></td>
</tr>
<tr>
<td>3.2.1.2</td>
<td>Commercial greenhouse; salesroom or stand for the sale of nursery, garden. or other agricultural produce (including articles of home manufacture from such produce)</td>
<td>The major portion of produce or articles to be sold shall be raised on the premises or made from produce so raised.</td>
<td>N N Y Y N Y Y N N N N</td>
</tr>
<tr>
<td>3.2.1.3</td>
<td>Commercial poultry or livestock, farm, raising of pets for gainful purposes</td>
<td>Provided the lot is greater than 5 acres.</td>
<td>Y Y Y Y Y Y Y Y Y Y</td>
</tr>
<tr>
<td>3.2.1.4</td>
<td>Reservation, wildlife preserve, or other conservation use</td>
<td>Y Y Y Y Y Y Y Y Y Y</td>
<td></td>
</tr>
<tr>
<td>3.2.1.5</td>
<td>Country club, organized camp, sporting grounds, other predominantly outdoor recreational use</td>
<td>Not to be conducted as a gainful business.</td>
<td>Y Y Y Y N N N N N N</td>
</tr>
<tr>
<td>3.2.1.6</td>
<td>Commercial camping, hunting, fishing or ski grounds, commercial golf course or riding academy</td>
<td>Any structure shall be entirely incidental to the operation of the outdoor recreation activities.</td>
<td>N N SP SP N N N N N N</td>
</tr>
<tr>
<td>3.2.1.7</td>
<td>Medium-Scale Ground Mounted Solar Energy System</td>
<td>See section 3.10</td>
<td>N SPA SPA N N N SPA SPA SPA N N</td>
</tr>
<tr>
<td>3.2.1.8</td>
<td>Large-Scale Ground Mounted Solar Energy System</td>
<td>See Section 3.10</td>
<td>N SP SP N N N SP SP SP N N</td>
</tr>
<tr>
<td>3.2.2</td>
<td><strong>RESIDENTIAL USES</strong></td>
<td></td>
<td>RA  RB  RC  RR  RO  LB  HB  GI  IA  IP  OS  RM</td>
</tr>
<tr>
<td>3.2.2.0</td>
<td>One family detached dwelling</td>
<td>Y Y Y Y Y Y SP N N N N SP</td>
<td></td>
</tr>
<tr>
<td>3.2.2.1</td>
<td>Two family detached dwelling</td>
<td>SP SP SP SP SPA N N N N SP</td>
<td></td>
</tr>
<tr>
<td>3.2.2.2</td>
<td>Town House</td>
<td>3.2.2.2.1 See Section 9.3 for SPGA 3.2.2.2.1 Each building shall have no fewer than 3 nor more 12 dwelling units 3.2.2.2.2 The building(s) shall be connected with the public sewer system prior to occupancy. 3.2.2.2.3 The maximum number of units per</td>
<td>SP SP N N SPA N N N N SP</td>
</tr>
<tr>
<td>Section</td>
<td>Land Use Classification</td>
<td>Standards and Conditions</td>
<td>Zoning Districts</td>
</tr>
<tr>
<td>---------</td>
<td>-------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>RA   RB  RC  RR  RO  LB  HB  GI  IA  IP  OS  RM</td>
</tr>
<tr>
<td></td>
<td></td>
<td>structure in the R0 district shall be four (4).</td>
<td></td>
</tr>
<tr>
<td>3.2.2.3</td>
<td>Apartments</td>
<td>3.2.2.3.1 Each building shall have no fewer than 3 nor more than 12 dwelling units, however, the maximum number of units per building in the RO district shall be (four) 4.</td>
<td>SP   SP  N   N  SPA  SP  SP  N   N  N   N  SP</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.2.2.3.2 Each building shall be connected to the public sewer system prior to occupancy.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.2.2.3.3 Special Permits for apartments in the HB district will not be allowed except in the mixed use overlay.</td>
<td></td>
</tr>
<tr>
<td>3.2.2.4</td>
<td>Converted dwelling</td>
<td>The building shall be connected with the public sewer system. All lot area and area and yard requirements and all parking regulations shall be met.</td>
<td>SP   SP  SP  SP  SP  SP  SP  N   N  N   N  SP</td>
</tr>
<tr>
<td>3.2.2.5</td>
<td>Combined business and dwelling</td>
<td></td>
<td>N    N    N  N   SPA  SP  SP  N   N  N   N  N</td>
</tr>
<tr>
<td>3.2.2.6</td>
<td>Congregate housing for the elderly and handicapped</td>
<td>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. A minimum parcel size of 5 acres in Residential districts is required.</td>
<td>SP   SP  SP  SP  SPA  SP  SP  SP  N   N  N   N  N</td>
</tr>
<tr>
<td>3.2.2.7</td>
<td>Lodging, boarding house or &quot;bed and breakfast&quot; house</td>
<td>The building shall be connected to the public sewer system prior to occupancy. This does not apply to up to four paying guests in an established dwelling unit.</td>
<td>N    N    N  N   N   N  SP  N   N  N   N  N</td>
</tr>
<tr>
<td>3.2.2.8</td>
<td>Mobile home parks</td>
<td></td>
<td>N    N    N  N   N   N  N   N  N   N  N   N</td>
</tr>
<tr>
<td>3.2.2.9</td>
<td>Mobile homes</td>
<td></td>
<td>N    N    N  N   N   N  N   N  N   N  N   N</td>
</tr>
<tr>
<td>3.2.2.10</td>
<td>Accessory Apartment</td>
<td></td>
<td>SP   SP  SP  SP  SP  N   N  N   N  N   N   N</td>
</tr>
<tr>
<td>3.2.3</td>
<td>INSTITUTIONAL USES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.3.0</td>
<td>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</td>
<td></td>
<td>SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA</td>
</tr>
<tr>
<td>3.2.3.1</td>
<td>Kindergarten, day nursery, childcare, or</td>
<td></td>
<td>SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA  SPA</td>
</tr>
<tr>
<td>Section</td>
<td>Land Use Classification</td>
<td>Standards and Conditions</td>
<td>Zoning Districts</td>
</tr>
<tr>
<td>---------</td>
<td>------------------------</td>
<td>--------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>3.2.3.1.1</td>
<td>Family day care, the licensed care of six children or less in a person's own home</td>
<td>SPA SPA SPA SPA N N N N N N N N</td>
<td>RA RB RC RR RO LB HB GI IA IP OS RM</td>
</tr>
<tr>
<td>3.2.3.2</td>
<td>Trade, professional, or other school conducted as a gainful business</td>
<td>N N N N N N SPA SPA N N N N</td>
<td></td>
</tr>
<tr>
<td>3.2.3.3</td>
<td>Church or other place of worship, parish house, rectory, or convent</td>
<td>SPA SPA SPA SPA N SPA SPA N N N N</td>
<td></td>
</tr>
<tr>
<td>3.2.3.4</td>
<td>Library or museum not conducted as a gainful business</td>
<td>SPA SPA SPA SPA N SPA SPA N N N N</td>
<td></td>
</tr>
<tr>
<td>3.2.3.5</td>
<td>Public park, playground or other public recreation facility</td>
<td>SPA SPA SPA SPA SPA SPA SPA SPA SPA SPA SPA SPA</td>
<td></td>
</tr>
<tr>
<td>3.2.3.6</td>
<td>Hospital, sanitarium, nursing, rest or convalescent home, orphanage or other philanthropic or charitable institution</td>
<td>SP SP SP SP SP SP SP N N N N</td>
<td></td>
</tr>
<tr>
<td>3.2.3.7</td>
<td>Cemetery</td>
<td>SP SP SP SP N N N N N N</td>
<td></td>
</tr>
<tr>
<td>3.2.3.8</td>
<td>Private lodge or club</td>
<td>Operated for members or employees only where the chief activity is one not conducted as a gainful business.</td>
<td>SP SP SP SP SP SPA SPA N N N N</td>
</tr>
<tr>
<td>3.2.4</td>
<td>GOVERNMENTAL AND PUBLIC SERVICE USES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.4.0</td>
<td>Telephone exchange, transformer station, radio or TV station or broadcasting facility, railroad or bus depot</td>
<td>Excluding any office, storage or repair unless otherwise allowed by the regulations of the district. Transmission towers of a type greater than 35' in height are excluded.</td>
<td>SP SP SP SP SP SP SPA SPA SPA SP</td>
</tr>
<tr>
<td>3.2.4.1</td>
<td>Airport or heliport</td>
<td>A 200' buffer zone between this use and surrounding uses is required.</td>
<td>N N N SP N N N N N N SP N</td>
</tr>
<tr>
<td>3.2.4.2</td>
<td>Governmental administration building; fire or police station</td>
<td></td>
<td>SPA SPA SPA SPA SPA SPA SPA SPA SPA SPA SPA N</td>
</tr>
<tr>
<td>3.2.4.3</td>
<td>Reservoir, pumping station, sewage treatment plant, or water supply use</td>
<td></td>
<td>SPA SPA SPA SPA SPA SPA SPA SPA SPA SPA SPA SP</td>
</tr>
<tr>
<td>3.2.4.4</td>
<td>Other governmental use not specifically listed herein</td>
<td></td>
<td>SP SP SP SP SP SP SP SP SP SP SP SP</td>
</tr>
<tr>
<td>3.2.4.5</td>
<td>Personal Wireless Service Facility consisting of freestanding tower</td>
<td>See Special Permit procedures &amp; design criteria in Sec. 9.3.11</td>
<td>N N N N N N SP SP SP SP N N</td>
</tr>
<tr>
<td>3.2.4.6</td>
<td>Personal Wireless Service Facility NOT on freestanding tower</td>
<td>See Special Permit procedures &amp; design criteria in Sec. 9.3.11</td>
<td>N N N N N N SP SP SP SP SP SP</td>
</tr>
<tr>
<td>Section</td>
<td>Land Use Classification</td>
<td>Standards and Conditions</td>
<td>Zoning Districts</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>3.2.5</td>
<td>RETAIL BUSINESS AND CONSUMER SERVICE USES</td>
<td></td>
<td>RA   RB   RC   RR   RO   LB   HB   GI   IA   IP   OS   RM</td>
</tr>
<tr>
<td>3.2.5.0</td>
<td>Retail store and sales</td>
<td>All display and sales to be conducted within the building.</td>
<td>N    N    N    N    N    SPA  SPA  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.5.1</td>
<td>Barber or beauty shop, laundry or dry-cleaning shop, shoe repair shop, self-service dry cleaning or laundry</td>
<td>See Section 3.9.12 for conditions when these uses are located in a home.</td>
<td>N    N    N    N    Y    SPA  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.5.2</td>
<td>Lunch room, restaurant, cafeteria, or similar place</td>
<td>For serving food and beverages to persons inside the building.</td>
<td>N    N    N    N    Y    SPA  SP  SP  SP  N    SPA</td>
</tr>
<tr>
<td>3.2.5.3</td>
<td>Refreshment stand drive-in or other place for the serving of food or beverages to persons outside the building</td>
<td></td>
<td>N    N    N    N    SP  SP  N    N    N    N    SP</td>
</tr>
<tr>
<td>3.2.5.4</td>
<td>Amusement Facility</td>
<td></td>
<td>N    N    N    N    N    SPA  SPA  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.5.5</td>
<td>Funeral Home</td>
<td></td>
<td>N    N    N    N    N    SPA  SPA  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.5.6</td>
<td>General services</td>
<td>All work and storage (including the regular parking of commercial vehicles) to be conducted within a building.</td>
<td>N    N    N    N    Y    SPA  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.5.7</td>
<td>Building trade shop</td>
<td>All work and storage (including the regular parking of commercial vehicles) to be conducted within a building.</td>
<td>N    N    N    N    Y    SPA  N    N    N    N    SF</td>
</tr>
<tr>
<td>3.2.5.8</td>
<td>Veterinary care</td>
<td></td>
<td>N    N    N    N    SP  SP  N    N    N    N    SP</td>
</tr>
<tr>
<td>3.2.5.9</td>
<td>Financial services</td>
<td>Sec 3.9.12 for drive-in service.</td>
<td>N    N    N    N    Y    SPA  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.6.0</td>
<td>Real estate, insurance or professional office</td>
<td>In the RO District there shall be no more than 3 employees and/or principals on the premises unless a special permit is granted.</td>
<td>N    N    N    N    Y    Y    SPA  N    N    N    N    SP</td>
</tr>
<tr>
<td>3.2.6.1</td>
<td>Medical or dental laboratory</td>
<td></td>
<td>N    N    N    N    N    Y    SPA  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.6.2</td>
<td>Motor vehicle service station or car wash</td>
<td></td>
<td>N    N    N    N    SP  SP  N    N    N    N    SPA</td>
</tr>
<tr>
<td>3.2.6.3</td>
<td>Light vehicular and equipment sales</td>
<td></td>
<td>N    N    N    N    SP  SPA  N    N    N    N    SP</td>
</tr>
<tr>
<td>3.2.6.4</td>
<td>Commercial parking lot or parking garage</td>
<td></td>
<td>N    N    N    N    SP  SP  SP  SP  SP  N    SP</td>
</tr>
<tr>
<td>3.2.6.5</td>
<td>Commercial recreation</td>
<td></td>
<td>N    N    N    N    N    SPA  N    N    N    N    SP</td>
</tr>
<tr>
<td>3.2.6.6</td>
<td>Medical or dental center</td>
<td></td>
<td>N    N    N    N    N    Y    SPA  N    N    N    N    SP</td>
</tr>
<tr>
<td>3.2.6.7</td>
<td>Auction gallery for exhibition, sale by auction, so-called “tag sales” and so-called “flea markets”</td>
<td></td>
<td>N    N    N    N    SPA  SPA  N    N    N    N    SP</td>
</tr>
<tr>
<td>Section</td>
<td>Land Use Classification</td>
<td>Standards and Conditions</td>
<td>Zoning Districts</td>
</tr>
<tr>
<td>---------</td>
<td>-------------------------</td>
<td>--------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>3.2.6.8</td>
<td>Shop of a potter, ceramist, sculptor, silversmith, jeweler, lapidary, weaver, clockmaker, musical instrument maker, wood carver, photographer, graphic artist, leather worker (not including tanning or processing), candle maker, or similar craftsman</td>
<td>All work and storage (including the regular parking of commercial vehicles) to be conducted within a building. No more than five full-time workers, or equivalent thereof, to be employed on the premises.</td>
<td>RA RB RC RR RO LB HB GI IA IP OS RM</td>
</tr>
<tr>
<td>3.2.6.9</td>
<td>Hotel or motel, but excluding retail and consumer services other than restaurant facilities</td>
<td>The building shall be connected with the public sewer system prior to occupancy.</td>
<td>N N N N Y SPA N N N N SP</td>
</tr>
<tr>
<td>3.2.6.10</td>
<td>Business services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.6.11</td>
<td>Mall or other multiple business/service/commercial use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.6.12</td>
<td>Office building for multiple offices</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.6.13</td>
<td>Regional Mall</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.6.14</td>
<td>Adult Live Entertainment Establishment</td>
<td>These are subject to the provisions of MGL Ch. 40A, Sec. 9A See standards listed in Section 9.3.10</td>
<td>N N N N N N N N SP SP SP N N</td>
</tr>
<tr>
<td>3.2.6.15</td>
<td>Adult Book Store, Adult Video Store, Adult Paraphernalia Store or Adult Motion Picture Theatre</td>
<td>See standards listed in Section 9.3.10</td>
<td>N N N N N N N N SP SP SP N N</td>
</tr>
<tr>
<td>3.2.7</td>
<td>COMMERCIAL AND INDUSTRIAL USES</td>
<td>Commercial and Industrial uses in the IA Zone must be sewered and conform to the regulations of 4.3.5.1 and 4.3.5.2: Area A. In the IA Zone, the intensity of storm water runoff from the developed site(s) shall not exceed the intensity of runoff from the previously un-developed site(s) from a 25-year storm event.</td>
<td></td>
</tr>
<tr>
<td>3.2.7.0</td>
<td>Warehouse or other enclosed building for the storage, distribution or wholesale marketing of material, merchandise, products or equipment</td>
<td>Such use not to be hazardous by reason of potential fire, explosion, or radiation. This includes &quot;mini-warehouses.&quot;</td>
<td>N N N N N SPA SPA SPA SPA N</td>
</tr>
<tr>
<td>3.2.7.1</td>
<td>Lumber yard, heating fuel sales and service, construction yard, heavy vehicle and equipment sales, other open-air storage, distribution, or sale at wholesale or retail of merchandise, products or equipment.</td>
<td>Salvage materials not included. Truck terminals are prohibited.</td>
<td>N N N N N N N N SP N SP N</td>
</tr>
<tr>
<td>Section</td>
<td>Land Use Classification</td>
<td>Standards and Conditions</td>
<td>Zoning Districts</td>
</tr>
<tr>
<td>-----------</td>
<td>-----------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>3.2.7.2</td>
<td>Research or testing facility</td>
<td>All operations to be such as to confine disturbing smoke, fumes, dust and noise to the premises, and further, no operations to be hazardous by reason of potential fire, explosion, or radiation. No research or testing to be conducted outdoors unless a Special Permit is granted for this purpose by the Zoning Board of Appeals. The definitions for Hazardous Wastes or Hazardous Materials found in Massachusetts General Laws, Chapter 21C, will apply in all cases.</td>
<td>RA   N         RB   N         RC   N         RR   N         RO   N         LB   N         HB   SPA       GI   SPA       IA   SPA       IP   SPA       OS   N         RM   N</td>
</tr>
<tr>
<td>3.2.7.3</td>
<td>Publishing, data processing and computer software manufacturing including associated offices and distribution facilities</td>
<td>All operations to be such as to confine disturbing smoke, fumes, dust and noise to the premises, and further, no operations to be hazardous by reason of potential fire, explosion, or radiation. The definitions for Hazardous Wastes or Hazardous Materials found in Massachusetts General Laws, Chapter 21C, will apply in all cases.</td>
<td>RA   N         RB   N         RC   N         RR   N         RO   N         LB   N         HB   N         GI   SPA       IA   N         IP   N         OS   N         RM   N</td>
</tr>
<tr>
<td>3.2.7.4</td>
<td>Printing, packaging, assembling and allied uses</td>
<td>All operations to be such as to confine disturbing smoke, fumes, dust and noise to the premises, and further, no operations to be hazardous by reason of potential fire, explosion, or radiation. The definitions for Hazardous Wastes or Hazardous Materials found in Massachusetts General Laws, Chapter 21C, will apply in all cases.</td>
<td>RA   N         RB   N         RC   N         RR   N         RO   N         LB   Y         HB   SP        GI   SPA       IA   SPA       IP   SPA       OS   N         RM   N</td>
</tr>
<tr>
<td>3.2.7.5</td>
<td>Light manufacturing, bottling, finishing, or processing</td>
<td>All operations to be such as to confine disturbing smoke, fumes, dust and noise to the premises, and further, no operations to be hazardous by reason of potential fire, explosion, or radiation. The definitions for Hazardous Wastes or Hazardous Materials found in Massachusetts General Laws, Chapter 21C, will apply in all cases.</td>
<td>RA   N         RB   N         RC   N         RR   N         RO   N         LB   N         HB   Y         GI   SP        IA   SPA       IP   SPA       OS   N         RM   N</td>
</tr>
<tr>
<td>3.2.7.6</td>
<td>Motor vehicle repair or body shop</td>
<td>Such use not to include the sale of fuel. The making of all but minor repairs to be conducted wholly within building sufficiently sound insulated to confine disturbing noises to the premises. The definitions for Hazardous Wastes or Hazardous Materials found in Massachusetts General Laws, Chapter 21C, will apply in all cases.</td>
<td>RA   N         RB   N         RC   N         RR   N         RO   N         LB   SPA       HB   SPA       GI   SPA       IA   N         IP   N         OS   N         RM   N</td>
</tr>
<tr>
<td>3.2.7.7</td>
<td>Removal of soil, sod, loam, sand, gravel, rock, quarried stone or other earth products</td>
<td></td>
<td>SP   SP        SP   SP        SP   SP        SP   SP        SP   SP        SP   SP        SP   SP        SP   SP        SP   SP        SP   SP</td>
</tr>
</tbody>
</table>

9
<table>
<thead>
<tr>
<th>Section</th>
<th>Land Use Classification</th>
<th>Standards and Conditions</th>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2.7.8</td>
<td>Radioactive waste storage and disposal</td>
<td>No burial, incineration, storage or disposal of low-level radioactive wastes, transuranic wastes or high level radioactive wastes to be permitted. The definitions for Hazardous Wastes or Hazardous Materials found in Massachusetts General Laws, Chapter 21C, will apply in all cases.</td>
<td>RA</td>
</tr>
<tr>
<td>3.2.7.9</td>
<td>Salvage yard for the dismantling, storage and sale of parts for automobiles and light trucks</td>
<td>A buffer comprised of landscaping natural vegetation, fencing or a combination of these shall be constructed around the perimeter of the parcel in accordance with specifications ordered by the Zoning Board of Appeals. 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 with the Town Engineer, Board of Health and DEP concerning the appropriate methods of disposal. All operations to be such as to confine disturbing smoke, fumes, dust, glare and noise to the premises.</td>
<td>RA</td>
</tr>
<tr>
<td>3.2.7.10</td>
<td>Registered Marijuana Dispensary (RMD)</td>
<td>Subject to the provisions of 105 CMR 725.000 See standards listed in Section 9.3.13</td>
<td>RA</td>
</tr>
</tbody>
</table>
3.2 Description of Uses

3.2.1 Extensive Uses

3.2.1.0 Forestry – Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products or in performing tree services.

3.2.1.1 Orchard – Use of lands for the growing of trees, shrubs and bushes, the products of which are to be sold on a retail or wholesale basis.

3.2.1.2 Commercial Greenhouse – A building whose roof and sides are made largely of glass or other translucent material and in which the temperature is regulated for the cultivation of plants for subsequent sale.

3.2.1.3 Commercial Poultry or Livestock – A parcel of land and buildings used in the raising and selling of poultry, poultry products, or livestock. (5/1/97)

3.2.1.4 Reservation, Wildlife Preserve – A parcel of land set aside for the purpose of preserving its natural character.

3.2.1.5 Country Club, Sporting Grounds, Outdoor Recreation Areas – A parcel of land used primarily for the purpose of paid outdoor recreational activities.

3.2.1.7 Medium-Scale Ground Mounted Solar Energy Systems – See Section 3.10 (10/23/18)

3.2.1.8 Large-Scale Ground Mounted Solar Energy Systems – See Section 3.10 (10/23/18)

3.2.2 Residential Uses

3.2.2.0 One Family Detached – A building containing one dwelling unit and surrounded by open space on all sides.
   Note: A “dwelling unit” is a room or group of rooms forming a habitable unit for one (1) family, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

3.2.2.1 Two Family Detached Dwelling – A building containing two dwelling units, each of which has direct access to the outside or to a common hall.

3.2.2.2 Town House – A one-family dwelling in a row of at least three such units in which each unit has its own access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more fire resistant walls.

3.2.2.3 Apartments – One or more rooms with private bath and kitchen facilities comprising an independent, self-containing dwelling unit in a building containing more than two dwelling units.
   Multifamily – A building containing three or more dwelling units, each of which has direct access to the outside or to a common hall.

3.2.2.4 Converted Dwelling – A building which is transformed from a non-residential use to a residential use.

3.2.2.5 Combined Business and Dwelling – A building used for business uses and for not more than four dwelling units.
3.2.6 Congregate housing – A development operated as a coordinated unit under a common management, which provides housing and associated services for persons 55 years of age and over, or handicapped persons under 55; such associated services consisting of, but not limited to, nursing and health care services, cleaning, food, recreational, transportation and personal services. (5/4/95)

3.2.7 Lodging, boarding house or bed & breakfast house – Any building containing four or more guest rooms intended to be used, rented or hired out by for sleeping purposes by guests, other than temporary, personal guests of a family in a dwelling unit.

3.2.8 Mobile Home Park – Any site upon which is located two or more mobile homes.

3.2.9 Mobile Home – A structure, transportable in one or more sections, which when assembled on site is less than 20 feet long at its shortest horizontal dimension and which is transported on a permanent chassis and designed to be used as a dwelling unit with or without a foundation, and with or without wheels.

3.2.10 Accessory Apartment: A separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is substantially contained within the structure of a single family dwelling, but functions as a separate unit.

3.2.3 Institutional Uses

3.2.3.0 Educational use – Use of land, buildings and structures for providing learning in a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic; or by a religious sect or denomination; or by a nonprofit educational entity or a nonprofit day care center.

3.2.3.1 Kindergarten, child care facility – A facility defined as such in MGL Ch. 28A, Sec. 9.

Family Day Care Home – A facility defined as such in MGL Ch. 28A, Sec. 9. (5/6/93)

3.2.3.2 Trade or professional school – Private educational facility for profit, including training centers and business schools.

3.2.3.3 Church, place of worship – Use of land, buildings and structures for religious purposes by a religious sect or denomination.

3.2.3.4 Library – Public or private facility containing books, etc., intended for reading, study or reference.

3.2.3.5 Public Park – a parcel of land owned by the town, state or federal government primarily used for recreational activities.

3.2.3.6 Hospital – An institution rendering medical, surgical or convalescent care.

Nursing Home – An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care. (5/4/95)

3.2.3.7 Cemetery – Public or private facility set aside for graves or tombs, including associated structures.

3.2.3.8 Private Lodge or Club – A facility used by a non-commercial organization which is characterized by formal written membership requirements.

3.2.4 Governmental and Public Service Uses

3.2.4.0 Public or Private Utility Facilities – Facilities, equipment and structures necessary for
conducting a service by a public service corporation. (5/7/98)

3.2.4.1 Airport or heliport – An area, either at ground level or elevated on a structure, used for the take-off, landing, shelter, supply and repair of commercial or private aircraft.

3.2.4.2 Governmental administration building – Use of land, buildings and structures by the Town of Auburn.

3.2.4.3 Sewage treatment plant, public water supply use – A sewage treatment plant or a facility of a public water supplier as regulated by the Massachusetts DEP

3.2.4.4 Other governmental use not specifically listed.

3.2.4.5 Personal Wireless Service Facility – “Personal Wireless Service Facility” shall mean transmitters, structures, (including but not limited to freestanding towers) and other types of installations, including but not limited to antennae and accessory structures use for the provision of wireless services, as defined in the 1996 Telecommunications Act, 47 USC 332(c)(7), but excluding equipment and antenna structures owned and used exclusively by a federally licensed amateur radio operator.

3.2.5 Business Uses

3.2.5.0 Retail Store and Sales – An establishment engaged in displaying and selling goods or merchandise within a building to the general public or to business establishments which goods or merchandise are not intended for resale; except that a garden center, florist or commercial greenhouse may have open air display of horticultural products.

3.2.5.1 Barber or beauty shop, laundry or dry cleaning shop, shoe repair shop, self-service dry-cleaning or laundry –

3.2.5.2 Lunch Room, Restaurant – Establishment where food and beverages are sold within a building to customers for consumption: (1) at a table or counter, or (2) on a patio enclosed on all sides with entrance to the patio normally available only from the building, or (3) off the premises as carry-out orders, except that drive-up service shall not be allowed, or (4) any combination of the above.

3.2.5.3 Refreshment Stand, Drive-In – A licensed food service establishment where food & beverages are served from a walk-up take-out window, or are delivered by restaurant employees to customers in their vehicles. This category does not include restaurants with a drive-through window.

3.2.5.4 Amusement Facility – Indoor facilities open to the public for a fee or admission charge, such as a theater, cinema, bowling alley, or video arcade.

3.2.5.5 Funeral Home – Undertaking or funeral establishment.

3.2.5.6 General Services – Establishments providing services to the general public, such as equipment rental and leasing, building cleaning, photocopying, telephone answering, word processing or secretarial services, computer service bureaus, facilities for dancing, martial arts or music instruction, facilities for physical exercise, fitness, or health, facilities for repair of appliances, office equipment, bicycles, lawnmowers, or similar equipment, and food catering facilities. (10/18/2016)

3.2.5.7 Building Trade Shop – An establishment for use by the practitioner of a building trade, such as a carpenter, welder, plumber, electrician, builder, mason or similar occupation.

3.2.5.8 Veterinary Care – A facility where animals are given medical or surgical treatment and where boarding of animals is limited to short term care incidental to the medical or
surgical treatment.

3.2.5.9 **Financial Services** – Bank, loan agency or similar facility. (5/6/93)

3.2.6.0 **Real Estate, Insurance or Professional Office** – An office primarily devoted to professional activities, including real estate, insurance or other agency offices; an office of an accountant, physician, teacher, dentist, engineer, lawyer, homebuilder, photographer, or other recognized professional for which specific training and/or licensing is required. (5/6/93)

3.2.6.1 **Medical or Dental Laboratory** – A facility for medical or dental testing, processing, research, etc. (5/6/93)

3.2.6.2 **Motor Vehicle Service Station or Car Wash** – Facility for outdoor sale of motor vehicle fuels, related products, and services provided that all major maintenance, servicing and/or washing of vehicles shall be conducted entirely within a building.

3.2.6.3 **Light Vehicular and Equipment Sales** – Salesroom and related facilities, including, but not limited to open air display, for the sale of automobiles, motorcycles, recreational vehicles and similar vehicles, boats or light industrial or farm equipment.

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

3.2.6.5 **Commercial Recreation** – Indoor or outdoor facilities, operated as a business and open to the public for a fee, such as facilities for ice skating, roller skating, racquet sports, bowling, horseback riding, swimming, and miniature golf.

3.2.6.6 **Medical or Dental Center** – A facility for three or more medical or dental professionals.

3.2.6.7 **Auction Gallery** – Facility offering goods for sale at auction to the general public.

3.2.6.8 **Shop of a potter, ceramist, sculptor, silversmith, etc.** –

3.2.6.9 **Hotel/Motel** – A facility offering transient lodging accommodations to the general public, which may provide additional services such as restaurants, meeting rooms and recreation facilities.

3.2.6.10 **Business Services** – An establishment that provides services relating to the conduct of business, including secretarial, bookkeeping, technical, or similar services.

3.2.6.11 **Mall** – A development which upon completion will be more than 20,000 sq. ft. gross interior floor area and which includes more than one of the following: retail sales, financial services, restaurants, professional services, personal services, general services, commercial recreation, and/or amusement facilities.

**Multiple Business Use** – A structure or lot containing two or more principal uses, or a structure or lot containing two or more users of the same or similar use. (10/18/2016)

3.2.6.12 **Multiple Office Building** – Consists of a building which includes offices for one or more of the following: (3/28/88, 5/6/93)

   a. **Real Estate/Insurance/Professional Office** Sec. 3.2.6.0
   b. **Business Services** Sec. 3.2.6.10
   c. **Financial Services** Sec. 3.2.5.9

3.2.6.13 **Regional Mall** – See definition in Section 4.5.3.1
3.2.6.14 Adult Live Entertainment Establishment – Any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

3.2.6.15 "Adult Bookstore" – an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

"Adult Video Store" – an establishment having as a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

"Adult Paraphernalia Store" – an establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

"Adult Motion Picture Theatre." – an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

3.2.7 Commercial and Industrial Uses

3.2.7.0 Warehouse – A facility for the enclosed storage of goods and materials where the wholesale of goods and materials is permitted provided it is incidental to the warehouse use.

Mini-Warehouse – An enclosed facility containing separate storage spaces, no larger than 400 square feet each, leased or rented on an individual basis.

3.2.7.1 Lumber Yard – A facility for the open or enclosed storage and sales of building materials.

Construction Yard – Facility or area for storage, open or enclosed, of construction equipment or materials.

Heating Fuel Sales and Service – A facility for the storage and retail sale of heating fuels and the sales and service of heating equipment where the storage of heating fuel in containers is permitted provided such storage is incidental to the retail sale of heating fuel.

Heavy Vehicular Sales or Repair Garage – Salesroom and related facilities, including, but not limited to open air display of trucks, buses, construction and industrial equipment; establishments for the repair of trucks, buses, construction and industrial equipment, provided that all major repairs shall be conducted within a building.

3.2.7.2 Research or Testing Facility – A facility for the testing of materials, research and development

3.2.7.3 Publishing, data processing and computer software and manufacturing including associated offices and distribution facilities –

3.2.7.4 Printing, packaging, assembling and allied uses –

3.2.7.5 Light Manufacturing, Processing, etc. – The process of converting raw unfinished
materials or products into articles or substances of a different character or for a different purpose.

3.2.7.6 Motor Vehicle Repair or Body Shop – Establishment where the principal service is the repair of automobiles, similar light motor vehicles or farm implements, provided that all major maintenance and servicing of vehicles shall be conducted entirely within a building.

3.2.7.7 Earth Removal – Any activity as defined in Ch. XV of the Town of Auburn General By-laws.

3.2.7.8 Radioactive Waste Disposal – Any waste disposal as defined by MGL Ch. 21D, Sec. 2.

3.2.7.9 Automotive Salvage Yard – Any lot upon which there are stored inoperable vehicles for principal use as salvage, parts, etc.

3.2.7.10 “Registered Marijuana Dispensary (RMD)” – A not-for-profit entity registered under 105 CMR 725.100, to be known hereinafter as a RMD, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, 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 to be conducted entirely within a secure facility with no drive-thru services. Unless otherwise specified, an RMD refers to the site(s) of dispensing, cultivation, distribution, and preparation of marijuana. (10/18/2016)

3.3 Temporary Moratorium on the Sale and Distribution of Recreational Marijuana. (5/2/17)

3.3.1 Purpose:

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016 and the Cannabis Control Commission is currently required to issue regulations regarding implementation by March 15, 2018 (see Section 11 of Chapter 351 of the Acts of 2016).

Currently under the Zoning Bylaw, Recreational Marijuana Establishments and Marijuana Retailers are not a permitted use in the Town and any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating Recreational Marijuana Establishments and Marijuana Retailers. Further, the ballot measure establishes two important provisions that require ballot action by the Town prior to the adoption of zoning: First, the Town must, by ballot, determine whether it will issue licenses for Recreational Marijuana Establishments and Marijuana Retailers; and, second, by ballot that cannot occur prior to November 6, 2018, the next biennial state election, on whether to allow on-site consumption of marijuana products should the Town decide to allow licenses for such facilities.

The regulation of Recreational Marijuana Establishments and Marijuana Retailers raise novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and Marijuana Retailers and address such novel and complex issues, as well as to address the
potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments and Marijuana Retailers and other uses related to the regulation of recreational marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments and Marijuana Retailers so as to allow the Town sufficient time to engage in a planning process to address effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

3.3.2 Definitions.

"Manufacture", to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"Marijuana cultivator", an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

"Marijuana establishment", a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business. (k) "Marijuana product manufacturer", an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

"Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

“Marijuana testing facility", an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

"Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

3.3.3 Temporary Moratorium.
For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments and Marijuana Retailers. The moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and Marijuana Retailers and related uses, determine whether the town shall restrict any, or all, licenses for Recreational Marijuana Establishments and Marijuana Retailers, determine whether the town will prohibit on-site consumption at Recreational Marijuana Establishments and Marijuana Retailers and shall consider adopting new provisions of the Zoning Bylaw to address the impact and operation of Recreational Marijuana Establishments and Marijuana Retailers and related uses.

3.3.4 Severability

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this By-law or the application thereof to any person, establishment, or circumstances shall be held invalid.

3.7 Prohibited Uses

In addition to the uses listed below, all uses that pose a present or potential hazard to human health, safety, welfare, or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard or glare are expressly prohibited in all zoning districts.

3.7.1 Heavy Manufacturing – Asphalt, block, concrete or fertilizer plants; monument works, paper or pulp mill, refinery, rendering or smelting plants, slaughterhouses.

3.7.2 Storage – Non-municipal dump, salvage materials yard, including non-operable motor vehicles, tank farm, open or outdoor storage in the Industrial Park District.

3.7.3 Amusement – Amusement park, outdoor cinema, stadium or coliseum.

3.7.4 The construction of more than one dwelling or principal use structure on a single lot is expressly prohibited.

3.7.5 Billboards (except as provided in Section 4.5.10.5), trailer camps, mobile home sales, truck stops 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. (10/24/2017)

3.7.6 There will be no overnight parking of trailer trucks, trailer boxes, cabs, tractors or parts thereof.

3.7.7 Recreational Marijuana – The Town of Auburn prohibits operations of all types of marijuana establishments as defined in G.L c94G §1, including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, or any other type of licensed marijuana businesses. (5/1/2018)

3.8 Restricted Uses – All Districts
3.8.1 Earth Removal

3.8.1.1 Any application to the Planning Board for a Special Permit for authorization of earth removal shall follow the rules and regulations stipulated in Chapter XV of the Auburn General By-laws.

3.8.1.2 No Special Permit shall be required for the following:

3.8.1.2.1 Moving earth products within the limits of an individual property or series of contiguous properties of land in single ownership.

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

3.8.1.2.3 The moving and removal of earth products not to exceed 500 cubic yards when incidental to and in connection with the construction of a building or street or other activity authorized by this by-law.

3.8.2 Development in Floodway – All encroachments, including fill, new construction, substantial improvements to existing structures, and other developments are prohibited in the floodway.

3.9 Accessory Use Regulations

Accessory uses shall be permitted in all districts on the same lot with the principal use subject to the following provisions. An accessory use is a use which is subordinate to and customarily associated with the principal use and is located on the same lot as the principal building or use. (5/6/93)

3.9.1 Accessory uses permitted in the Residential Districts and dwellings in the Non-Residential Districts:

3.9.1.1 Private garage or carport for not more than four motor vehicles, solar system, greenhouse, tool shed or barn; swimming pool or tennis court provided that such recreational facilities are used only by the residents and their guests.

3.9.1.2 A home occupation, other than retail sales, conducted entirely within the dwelling unit or an accessory building by a resident and employing no persons other than the residents may be authorized by Special Permit by the Board of Appeals. Businesses using hazardous materials will not be authorized.

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

3.9.1.4 The keeping or raising of dogs, cats or other pets, the breeding for sale of dogs, cats or other pets provided that not more than four such animals more than one year old shall be permitted. All such animals shall be kept in a manner which will not create a public nuisance or potential hazard to human health, safety, welfare or through the emission of objectionable foul odors or excessive noise. (5/7/98)

3.9.2 Accessory Uses Permitted in the Business Districts:

3.9.2.1 The rental of automobiles, light trucks or trailers and similar light motor vehicles
provided that such rental is secondary to the operation of a motor vehicle service station.

3.9.2.2 Drive-up facilities may be authorized by Special Permit from the Planning Board. For the purposes of this By-law a “Drive-up Facility” is defined as any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

3.9.3 Accessory Uses Permitted in the Industrial Park District:

3.9.3.1 Uses necessary in connection with scientific research or scientific development or related production may be authorized by special permit from the Planning Board.

3.9.4 Accessory Uses Permitted in any Zoning District:

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

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

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

3.9.4.4 Where not otherwise permitted a greenhouse may be authorized by special permit from the Board of Appeals where the principal use of the property is agriculture.

3.9.4.5 Christmas trees may be sold from a lot during the Christmas Season (the day after Thanksgiving until December 25) provided the seller receives site plan approval from the Planning Board or its designee and the Auburn Police Department. The seller is also required to obtain the required license from the Board of Selectmen. Any signs that advertise the sale of Christmas trees must be located on the lot. Removal of Christmas trees must be completed within two weeks after the Christmas Season. (11/14/88)

3.9.4.6 Electric Vehicle Charging Stations may be authorized by Special Permit from the Zoning Board of Appeals. Such uses or structures must comply with all other relevant standards of the Zoning Bylaws pertaining to dimensional regulations, parking, lighting, signage, and site plan. (5/2/2017)

3.9.4.7 Roof-Mounted Solar Energy System - An Active Solar Energy System that is structurally mounted to the roof of a building or permanent structure. (10/23/18)

3.9.4.8 Small-Scale Ground-Mounted Solar Energy System - An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less) which may be located no closer than the setback requirements of the applicable zoning district. All ground-mounted solar energy systems in residential districts shall be installed in either
the side yard or rear yard to the extent practicable. (10/23/18)

3.9.5 Temporary Commercial Activities (5/2/2017)

3.9.5.1 The following temporary commercial activities may be allowed in the Local Business and Highway Business districts with a Special Permit: (5/6/93)

(a) Farmers’ markets for a period not to exceed 60 days, provided:
- no permanent structures shall be constructed,
- written approval of the owner of the site is obtained,
- adequate ingress and egress to the site shall be provided so as not to disrupt the normal traffic pattern,
- adequate parking for the activity shall be provided,
- all signs, trash and debris shall be removed from the site upon the termination of the activity,
- any required license(s) is obtained from the Board of Selectmen and Board of Health.

The Board of Appeals may limit the hours of operation of the temporary use. The Farmers Market shall not be detrimental to the principal use.

(b) Carnivals and circuses for a period not exceeding 14 days, provided:
- all of the standards under Section 3.9.4.6(a) are met,
- adequate sanitary facilities are provided,
- adequate performance bond or guarantee be provided, if required by the Building Inspector, stating that the conditions of the permit will be met.


The purpose of this bylaw is to provide reasonable regulations pertaining to GroundMounted, Solar Energy Systems (see Section 3.10.1 - Definitions). These regulations shall include, but are not limited to, standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that protect public health, safety and welfare; minimize impacts on residential properties and neighborhoods; protect natural resources, including wildlife habitat and corridors; and preserve scenic, historical, and cultural resources.

3.10.1 Definitions

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Solar Access: The access of a solar energy system to direct sunlight.
Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. Solar energy systems shall not be included in calculations for lot coverage or impervious cover.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small or large-scale).

Solar Energy System, Small-Scale: An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).

Solar Energy System, Medium-Scale: An Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).

Solar Energy System, Large-Scale: An Active Solar Energy System that occupies 40,000 square feet or more of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Solar Energy System, Off-Grid: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An Active Solar Energy System that is structurally mounted to the roof of a building or structure.

3.10.2 Applicability

This section applies to Medium-Scale and Large-Scale, Ground-Mounted, Solar Energy Systems occupying land covered by solar panels including associated equipment and appurtenant structures. This section shall also pertain to physical modifications that materially alter the type, configuration, or size of Ground-Mounted Solar Energy Systems or related equipment ("Material Modifications").

3.10.2.1 Small-Scale Ground-Mounted, Solar Energy Systems which are an accessory structure to a residential or Non-residential use do not need to comply with this section, but require a building permit, and must comply with all applicable local,
state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements and other provisions of the Zoning Bylaws, such as setback requirements.

3.10.2.2 Medium-Scale, Ground-Mounted, Solar Energy Systems shall require Site Plan Approval in accordance with the Auburn Zoning Bylaws in addition to meeting the requirements of this Section. An Installation may be permitted on one or more adjacent parcels under common ownership (including those separated by a roadway) in the Residential B (RB), Residential C (RC), Residential (RR), General Industrial (GI), Industrial A (IA), and Industrial P (IP) Zoning Districts by Site Plan Approval as indicated in the Table of Principle Uses (Section 3.2.1.7).

3.10.2.3 Large-Scale, Ground-Mounted, Solar Energy Systems shall require a Special Permit from the Zoning Board of Appeals in accordance with Section 9.3 of the Auburn Zoning Bylaws in addition to meeting the requirements of this Section. An Installation may be permitted on one or more adjacent parcels under common ownership (including those separated by a roadway) in the Residential B (RB) Residential C (RC), Residential (RR), General Industrial (GI), Industrial A (IA), and Industrial P (IP) Zoning Districts by Special Permit as indicated in the Table of Principle Uses (Section 3.2.1.8).

3.10.3 Changes of Covenant, Use, Restrictions, or Designations for Large Scale Projects

No Ground-Mounted Solar Energy Systems of any size shall be installed in violation of covenants created by a Homeowner’s Association, Condo Association, or other neighborhood governing structure that applies to a grouping of parcels of residential land.

No Large-Scale, Ground-Mounted, Solar Energy Systems shall be permitted if any of the following are needed or true unless disclosed with the initial Site Plan Approval or Special Permit Application:

3.10.3.1 Change in restrictive covenants recorded or on the deed (MGL 184, Sec. 26)

3.10.3.2 Change in restrictions or conditions recorded or on the deed (MGL 184, Sec. 26)

3.10.3.3 Change in conservation restriction in the form of a restriction, easement, covenant, condition, or right (MGL 184, Sec. 31)

3.10.3.4 Any change of use or designation of the parcel including but not limited to MGL 61, MGL 61A, or MGL 61B.

In the event any of the items are true, such notice must be submitted at the time of Site Plan Approval or Special Permit Application. In the event of a change which allows the Town of Auburn a Right of First Refusal, the Town of Auburn’s Board of Selectmen and all potential assignees must waive the Right of First Refusal before the Site Plan Approval or the Special Permit Application will be considered complete and the required periods for holding a public hearing on such application will begin to run.
3.10.4 General Requirements for all Ground-Mounted Solar Energy Systems

The following requirements are common to all Ground-Mounted Solar Energy Systems

3.10.4.1 Compliance with Laws, Bylaws and Regulations

The construction and operation of all Ground-Mounted Solar Energy Systems shall be consistent with all applicable local, state and federal requirements including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of the installation shall require a building permit and shall be constructed in accordance with the Massachusetts State Building Code.

3.10.4.2 The emergency response guide shall be provided to the Auburn Fire Department along with emergency contact information. Keys to all gate locks shall be provided to the Auburn Fire Department.

3.10.4.3 Prior to commencement of construction activities, a complete copy of the Stormwater Pollution Prevention Plan (SWPPP) shall be provided to the Town Engineer, Zoning Enforcement Officer, Planning Board, Conservation Commission, and emergency services. The SWPPP shall include the names, addresses, and contact information, including 24-hour emergency contact information for all construction-period project operators including the project owner and all project contractors and/or subcontractors. Changes and updates to the site operator contact information must be provided in writing to the Zoning Enforcement Officer within one business day of any changes/updates.

3.10.4.4 Prior to final approval by the Electrical Inspector and Zoning Enforcement Officer, an Operations and Maintenance (O&M) handbook shall be submitted to the Town Engineer, Building Commissioner, and emergency services, that includes the names, addresses, and contact information for the site owner and the site operator (if different), a description of emergency response measures including procedures for shutting down the Installation, a checklist of inspection items, a schedule for implementing routine and emergency maintenance activities, and a long term pollution prevention plan consistent with the requirements of the MassDEP Stormwater Management Standards.

At such time that the responsible party(ies) transition or change, an updated O&M plan shall be submitted to the Town Engineer, Building Commissioner, and emergency services within five business days of the change.

3.10.4.5 Emergency shut-off procedures must be clearly indicated at each ingress point to the site. Each ingress point shall restrict access to authorized personnel only.

3.10.4.6 If earthwork activities require that material including, but not limited to, clean fill, loam, sand, "11d/or gravel be imported from off site, such material must be clean and without contamination by hazardous substances or invasive species and must be obtained from a source approved by the Auburn Department of Public Works. The applicant shall submit a detailed manifest describing the source of the material and shall provide the results of materials testing demonstrating that no hazardous substances or invasive species contaminate
the material. If a manifest or material testing information is not provided, the material must be removed and replaced at the applicant’s expense.

3.10.4.7 Prior to final approval by the Building Commissioner, all landscape areas must be complete in accordance with the Landscape Plan (Section 3.10.7.4).

3.10.5 Site Plan Approval

Ground-Mounted Solar Energy Systems shall undergo Site Plan Approval (Section 9.4) by the Planning Board prior to construction, installation or modification as provided in this section. All plans and maps shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts. The following documents shall be provided in addition to or in coordination with those required for Site Plan Review (Section 9.4):

3.10.5.1 Proof of liability insurance;

3.10.5.2 Description of financial surety that satisfies Section 3.10.13.3;

3.10.5.3 All items required as part of section 9.4 of the Auburn Zoning Bylaw with the addition of the following:

(a) Proposed changes to the landscape of the site including grading, vegetation clearing and planting, screening, and new structures, including their height;

(b) Locations of Permanently Protected Open Space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Habitat of Potential Regional or Statewide Importance” also known as “Important Habitat” mapped by the DEP;

(c) Locations of local or National Historic Districts;

(d) A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment;

(e) Blueprints or drawings of the solar energy system signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

(f) One- or three-line electrical diagram detailing the solar energy system, associated components, and electrical interconnection methods, with all National Electrical Code-compliant disconnects and overcurrent devices;

(g) Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.

(h) Name, address, and contact information for the proposed system installer;

(i) Name, address, phone number and signature of the property owners, the applicant, the developer, and any other party that produced material to support the Special Permit Application or the Site Plan;
(j) The name, contact information and signature of any agents representing
the owner or applicant;

(k) Provision of water including that needed for fire protection;

(l) Zoning district designation and zoning overlay(s) for the parcel(s) of land
comprising the project site (submission of a paper copy of a zoning map
with the parcel(s) identified is suitable for this purpose);

(m) An operation and maintenance plan (see Section 3.10.7.1);

3.10.6 Site Control

The Site Plan application shall include documentation of actual or prospective access and control
of the project site sufficient to allow for construction and operation of the proposed solar energy
system.

3.10.7 Operation & Maintenance Plans, Landscape Plans

3.10.7.1 Operation & Maintenance Plan - The Site Plan application shall include a plan
for the operation and maintenance of the Large-Scale, Ground-Mounted, Solar
Energy System, which shall include measures for maintaining safe access to
the installation, stormwater and vegetation controls, as well as general
procedures for operational maintenance of the installation.

3.10.7.2 Landscaping & Buffering - Landscaping shall be provided and maintained in
accordance with the Site Plan approved by the Planning Board and
incorporated as part of the plans on which the Permit is based.

3.10.7.3 Landscaping shall be provided and maintained on the site to screen the
Installation, the accessory facilities, and appurtenant structures as determined
by the Planning Board. Landscape screening shall be provided adjacent to:

(a) Abutting properties where a front, side, or rear lot line of the Installation site
adjoins (or is separated by a public way from) a residential district or an
existing residential use;

(b) Abutting public ways.

3.10.8 Utility Notification

No Ground-Mounted, Solar Energy Systems shall be constructed until evidence has been given to
the Planning Board that the utility company that operates the electrical grid where the installation
is to be located has been informed of the solar energy system owner or operator's intent to install
an interconnected facility. Off-grid systems shall be exempt from this requirement.
3.10.9 Dimensional and Height Requirements

3.10.9.1 Setbacks - For Ground-Mounted Solar Energy Systems, front, side and rear setbacks and setbacks from property lines shall be consistent with Section 5.4 of the Auburn Zoning Bylaws within the applicable zoning district.

3.10.9.2 Appurtenant Structures - All appurtenant structures to Ground-Mounted, Solar Energy Systems shall be subject to the Town's Zoning Bylaw requirements concerning the bulk of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, fencing, transformers, and substations, shall be architecturally compatible with each other. Structures shall be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

3.10.9.3 Height of Structures - The height of any structure associated with a Ground-Mounted, Solar Energy System shall not exceed 15 feet. The height of any solar panel from ground level shall not exceed 10 feet.

3.10.10 Design and Performance Standards

3.10.10.1 Lighting - Outdoor lighting including lighting on the exterior of a building or lighting in parking areas shall be arranged to minimize glare and light spilling over the neighboring properties. Except for low level intensity pedestrian lighting, other lighting shall be designed and located so that:

(a) The luminaire (LED) has an angle of cutoff less than 76 degrees;

(b) A line drawn from the height of the luminaire (LED) along the angle of cutoff intersects the ground at a point within the development site;

(c) The bare light bulb, lamp or light source is completely shielded from direct view at any point five feet above the ground on neighboring properties or streets.

(d) Lighting shall be directional to preclude light pollution of neighbors or the night sky and shall be “Dark Sky” compliant and meet International Dark Sky FSA certification requirements;

(e) The owner/operator shall be responsible for maintenance of lighting systems. Lighting shall not be kept on at night unless there is an emergency or is required for safety purposes as determined by the Building Commissioner.

3.10.10.2 Signage - Signs on Ground-Mounted, Solar Energy Systems shall comply with all applicable requirements of the Zoning Bylaws. A sign shall be required to identify only the owner and provide a 24-hour emergency contact phone number. Solar electric installations shall not be used for displaying any
advertising except for reasonable identification of the manufacturer or operator of the solar electric installation.

3.10.10.3 Utility Connections - Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar electric installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

3.10.10.4 Access Roads - Access roads shall be constructed to minimize grading, removal of stone walls or trees and minimize impacts to environmental or historic resources as approved by the emergency services departments in the Town of Auburn (e.g., Fire, Police and DPW).

3.10.10.5 Vegetation Management - Herbicides may not be used to control vegetation at the solar energy system.

3.10.10.6 Hazardous Materials - Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to MassDEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If any hazardous materials, including, but not limited to, lithium ion (storage batteries) are used within the solar electric equipment, then impervious containment areas capable of controlling and containing any release of hazardous materials to the environment and to prevent potential contamination of groundwater are required. A list of any hazardous materials proposed to be located on the site and a plan to prevent their release shall be provided to the Planning Board and Fire Chief. The use of Cadmium Telluride solar panels is prohibited in Auburn.

3.10.10.7 Noise - Noise generated by Ground-Mounted, Solar Energy Systems and associated equipment and machinery shall conform at a minimum to applicable state and local noise regulations, including the DEP’s Division of Air Quality noise regulations, 310 CMR 7.10.

3.10.10.8 Visual Impacts - The installation including all accessories and appurtenant structures shall be designed to minimize visual impacts, including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to provide an effective visual barrier from adjacent roads and to screen abutting residential properties, whether developed or not. Siting shall be such that the view of the solar energy system from other areas of Town shall be as minimal as possible, in the judgment of the Planning Board.

3.10.11 Safety and Environmental Standards
3.10.11.1 Emergency Services - A copy of the project summary, electrical schematic, and Site Plan shall be provided to the Auburn Fire Chief. The owner or operator shall cooperate with local emergency services to develop an emergency response plan. All means of shutting down the solar electric installation shall be clearly marked. A responsible person shall be identified for public inquiries throughout the life of the installation.

3.10.11.2 Land Clearing, Soil Erosion, and Impacts - The facility shall be designed to minimize impacts to agricultural land and shall be compatible with continued agricultural use to the maximum extent possible. The facility shall be designed to minimize impacts to environmentally sensitive land. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Ground-Mounted, Solar Energy System or otherwise prescribed by applicable laws, regulations, and bylaws. The design shall minimize the use of concrete and other impervious materials to the maximum extent possible. Locating Ground Mounted Solar Energy Systems on grades in excess of 15% shall be avoided to the maximum extent possible.

3.10.11.3 Habitat Impacts - Ground-Mounted, Solar Energy Systems shall not be located on Permanently Protected Open Space or Priority Habitat and BioMap 2 Critical Natural Landscape Core Habitat areas mapped by the Natural Heritage and Endangered Species Program (NHESP) and shall be designed to minimize impacts to "Habitat of Potential Regional or Statewide Importance" also known as "Important Habitat" mapped by the DEP to the maximum extent possible.

3.10.12 Monitoring, Maintenance, and Reporting

3.10.12.1 Solar Energy System Conditions - The facility shall be maintained in good condition. Maintenance shall include, but not be limited to, painting, landscaping, structural repairs, and maintaining the integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Building Commissioner. The property owner and the owner/operator of the facility shall together be responsible for the cost of maintaining the solar energy system and any access road(s).

3.10.12.2 Modifications - All Material Modifications to a solar energy system made after issuance of the required building permit shall require approval by the Planning Board.

3.10.12.3 Annual Reporting - The Annual Report, which certifies compliance with the requirements of this bylaw and the approved site plan, including control of vegetation, noise standards, and adequacy of road access shall be submitted by the owner/operator to the Building Commissioner no later than 45 days after the end of the calendar year. The Annual Report shall also provide information on the maintenance completed during the course of the year, the amount of electricity generated by the facility, and the amount of surety available for decommissioning or indemnification (see Section 3.10.13.3).
3.10.13 Abandonment, Decommissioning, Financial Surety, & Indemnification

3.10.13.1 Removal Requirements - Any Ground-Mounted, Solar Energy System which has reached the end of its useful life or has been abandoned consistent with Section 3.10.13.2 of this bylaw, shall be removed. The owner or operator shall apply for building permits to remove the solar energy system no more than 180 days after the date of discontinued operations. The Planning Board, Town Engineer and the Building Commissioner shall be notified by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all Ground-Mounted, Solar Energy Systems, structures, equipment, security barriers and transmission lines from the site;

(b) Proper disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion as approved by Town Engineer. The Town Engineer may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3.10.13.2 Abandonment - Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. Upon written request from the Building Commissioner addressed to the contact address provided and maintained by the owner and operator as required in this bylaw, the owner or operator shall provide evidence to the Building Commissioner demonstrating continued use of the installation. Failure to provide such evidence within thirty (30) days of such written request shall be conclusive evidence that the installation has been abandoned. If the owner or operator of the Ground-Mounted, Solar Energy System fails to remove the installation in accordance with the requirements of this section, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned Ground-Mounted, Solar Energy System. The applicant, Installation owner, and/or landowner shall agree to allow entry to remove an abandoned or decommissioned installation. The Town's cost for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property.

3.10.13.3 Financial Surety - A form of surety shall be provided and thereafter maintained, either through an escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 150 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. A fully inclusive estimate of the costs associated with removal,
prepared by a licensed Professional Engineer shall be submitted to the Town Engineer for review. The amount shall include a mechanism for calculating increased removal costs due to inflation. The owner shall increase or replenish the surety as necessary to maintain an adequate amount, as determined by the Planning Board in accordance with the requirements of this bylaw.

3.10.13.4 Indemnification - The owner/operator shall indemnify and hold harmless the Town of Auburn and/or any of its citizens from any and all liabilities, losses and/or damages, including reasonable attorney fees, resulting from the failure of the owner/operator to comply with the terms of this by-law and/or negligence in the operations and maintenance of any structures built in accordance with it. Any surety provided for in this by-law shall be available for the aforementioned indemnification.

3.10.14 Severability

The provisions of this bylaw are severable, and the invalidity of any section, subdivision, subsection, paragraph or other part of this bylaw shall not affect the validity or effectiveness of the remainder of this bylaw. For any provision of this bylaw that conflicts with another state or local bylaw, the most restrictive provision shall apply.

Section 4

Overlay Districts
(6/3/91)(5/5/11)

4.1 Floodplain District

4.1.1 Purpose – The purpose of the Floodplain District is to protect persons and property against the hazards of the 100-year flood, to maintain the flood storage capacity and flow pattern of the floodplain and to provide long-term control over land subject to inundation by the 100-year flood.

4.1.2 Existing Regulations – All development in the floodplain district including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with the following:
4.1.2.1 Section of the Massachusetts State Building Code (780 CMR, as amended) which addresses floodplain and coastal high hazard areas (5/2/2017)
4.1.2.2 Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
4.1.2.3 Minimum Requirements for the Subsurface Disposal of Sanitary Sewerage (Title 5), DEP (310 CMR 15)
4.1.2.4 Town of Auburn Wetlands Protection By-law.
4.1.2.5 Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)

Any variances from the provisions and requirements of the above-referenced regulations may only be granted in accordance with the required variance procedures.

4.1.3 Definitions:
• “Base flood” or “100-year flood” – The flood having a one percent chance of being equaled or exceeded in any given year.
• “Floodplain” – Any land subject to being inundated by the base flood.
• “Floodway” – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

4.1.4 Floodplain District Boundaries – The Floodplain District is established as an overlay district whose boundaries and regulations are superimposed on all districts established by this By-law. The Floodplain District includes all special flood hazard areas within the Town of Auburn designated as Zone A and AE, on the Worcester County Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRMs that are wholly or partially within the Town of Auburn are panel numbers 25027C0784E, 25027C0792E, 25027C0801E, 25027C0802E, 25027C0803E, 25027C0804E, 25027C0806E, 25027C0808E, 25027C0811E and 25027C0812E, dated July 4, 2011. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Building inspector, Planning Board and Conservation Commission.

4.1.5 BASE FLOOD ELEVATION AND FLOODWAY DATA
4.1.5.1 Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
4.1.5.2 Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.
4.1.5.3 Other Use Regulation In Zones AE, along watercourses within the Town of Auburn, that have a regulatory floodway designated on the Worcester County FIRMs, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

4.1.6 Permitted Uses in the Floodplain – The following uses shall be permitted within the Floodplain District provided they are permitted in the underlying district:
- Outdoor recreational uses, including boating, fishing, etc.
- Conservation of water, plants, wildlife
- Wildlife management areas, foot, bicycle and/or horse paths
- Maintenance and repair of existing structures, provided such repair does not amount to a “substantial improvement” as defined by the State Building Code.
4.1.7 Special Permit Uses – Any use permitted in the underlying district, except those listed in Section 4.1.6, shall be permitted in the Floodplain District with the issuance of a Special Permit from the Board of Appeals.

4.1.8 Special Permit Procedures – All floodplain Special Permit applications shall be accompanied by the following:

4.1.8.1 A proposed site plan for the entire area to be developed showing existing and proposed buildings, structures, signs, parking spaces, driveway openings and driveways; the Floodplain District boundary; existing and proposed topography at one-foot intervals within the Floodplain District and two-foot intervals outside the district; the floodway boundary; all facilities for surface and subsurface water drainage and sewage disposal; and all existing and proposed landscape features.

4.1.8.2 Detailed calculations and supporting materials prepared by a Registered Professional Engineer showing the existing and proposed flood storage volume of the site.

4.1.9 If a Special Permit is granted, the Board of Appeals shall impose such conditions and safeguards as public safety, welfare and convenience may require. Upon completion of any authorized work, an “as-built” plan showing all improvements, prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, shall be submitted to the Inspector of Buildings and shall specify the elevation of the lowest floor including basement, the elevation to and method by which any structure has been flood proofed and the finished grades of all disturbed areas. An elevation certificate may be submitted to provide documentation of the as-built elevations of a structure’s lowest floor.

4.1.10 NOTIFICATION OF WATERCOURSE ALTERATION

In a riverine situation, (appropriate official in community) shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
  251 Causeway Street, Suite 600-700
  Boston, MA 02114-2104
- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  99 High Street, 6th Floor
  Boston, MA 02110

4.2 Open Space Residential Development

The Planning Board may grant a special permit for an Open Space Residential Development in any residential district subject to the following:

4.2.1 Purpose – The purpose of Open Space Residential Development is to encourage the preservation of common land for conservation, agriculture, open space and recreational use; to preserve historical or archaeological resources; to protect existing or potential municipal water supplies; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to promote better utilization of land in harmony with its natural features and with the general intent of the zoning by-law through
a greater flexibility in design; and to allow more efficient provision of municipal services.

4.2.2 Procedures:

4.2.2.1 Filing of Application – Each application for a special permit for Open Space Residential Development shall be filed with the Planning Board with a copy filed forthwith with the Town Clerk, and shall be accompanied by 10 copies of a preliminary plan of the entire parcel under consideration, prepared by a professional architect, engineer or landscape architect.

4.2.2.2 Contents of Application – Said application and plan shall be prepared in accordance with requirements for a preliminary subdivision plan in the Rules and Regulations of the Planning Board governing subdivision of land, whether or not the development constitutes a subdivision, and shall include proposed location, bulk and height of all proposed buildings. In addition, the applicant shall provide the following information:

a. The number of dwellings which could be constructed under this by-law by means of a conventional development plan, considering the whole parcel, exclusive of water bodies, floodplain, and land prohibited from development by legally enforceable restrictions, easements or covenants.

b. An analysis of the site, including wetlands, water bodies, slopes, soil conditions, areas within the 100-year floodplain, and such other natural features as the Planning Board may request. As well, an existing topographic map and a proposed topographic map at two-foot intervals must be provided.

c. A summary of the environmental concerns relating to the proposed plan.

d. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.

e. Evaluation of the open land proposed within the Open Space Residential Development, with respect to use, size, shape, location, natural resource value, and accessibility by residents of the town or of the Open Space Residential Development.

4.2.2.3 Review of Other Boards – Before acting upon the application, the board shall submit it with the plan to the following boards, which may review it jointly or separately: the board of health, the town engineer, the conservation commission, and the fire department. Any such board or agency to which petitions are referred for review shall submit such recommendations as it deems appropriate to the Planning Board and the applicant. Failure to make recommendations within 35 days of receipt shall be deemed lack of opposition.

4.2.2.4 Public Hearing – After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of G.L. Chapter 40A, §9, and of the zoning by-law and regulations of the Planning Board. The hearing shall be held within 65 days after filing of the application with the board and the clerk. Notice shall be given by publication and posted and by first-class mailings to "parties in interest" as defined in G.L. Chapter 40A, §11. The decision of the board, and any extension, modification or renewal thereof, shall be filed with the board and clerk within 90 days following the closing of the public hearing. Failure of the board to act within 90 days shall be deemed a grant of the permit applied for. Issuance of the permit requires an affirmative vote of four members of a five-member board.
4.2.2.5 Relation to Subdivision Control Law – Planning Board approval of a special permit hereunder shall not substitute for compliance with the subdivision control law, nor obligate the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for board consideration under that law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, adopt regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board’s regulations under the subdivision control law.

4.2.3 Findings of Board – The Board may grant a special permit under this section only if it finds that the applicant has demonstrated the following: that the Open Space Residential Development plan will be in harmony with the general purpose of the by-law and the requirements of G.L. Chapter 40A, and the long range plan of the town; that it will not have a detrimental impact on the neighborhood, will be designed with due consideration for health and safety, and is superior to a conventional plan in preserving open space, minimizing environmental disruption, allowing for more efficient provision of services, or allowing for greater variety in prices or types of housing. In addition, the plan must meet the specific requirements of sections 4.2.4 and 4.2.5.

4.2.4 Minimum Dimensional Requirements

4.2.4.1 The area of the parcel to be developed is not less than six acres.

4.2.4.2 The minimum parcel frontage shall be in accordance with Table 2.

4.2.4.3 Every single-family detached dwelling is placed upon a lot with the height, frontage, side and rear yard requirements in accordance with the requirements of Table 2, 5.4, Dimensional Requirements – Open Space Residential.

4.2.4.4 Every two family or multi-family building is built with the setbacks from lot lines and other buildings, and the limitations as to size and height in accordance with the requirements of Table 2, 5.4, Dimensional Requirements – Open Space Residential.

4.2.4.5 Minimum width of open land between any group of lots and adjacent property is 20 feet in the RA and RB Districts and 40 feet in the RC and RR Districts, and between each group of clustered buildings is 100 feet.

4.2.4.6 Except as specified in a special permit granted under this section, all requirements of the zoning by-law shall continue to apply.

4.2.4.7 The requirements related to the ownership, upkeep, liability, and maintenance of the open land are in perpetuity and as such become the responsibility of the owners’ heirs and assigns.

4.2.5 Required Open Land

4.2.5.1 At least 30% of the parcel in the RA and RB Districts, and 40% of the parcel in the RC and RR Districts, exclusive of land set aside for roads and parking, shall be open land.

4.2.5.2 The open land, and such other facilities as may be held in common shall be conveyed to one of the following, as determined by the Planning Board, subject to the following guidelines. In general, natural resource land such as wetlands not suitable for any public use, or suitable for extensive public recreational use, should be conveyed to the town or to a trust; whereas land which will be principally used by the residents of the Open Space Residential Development should be conveyed to a home association.
4.2.5.2.1 To a corporation or trust comprising a home association whose membership includes the owners of all lots or units contained in the parcel. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the Town of Auburn over such land pursuant to M.G.L. Chapter 184, §31-33, to insure that such land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses by such as parking or roadways. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by §33 of Chapter 184 of M.G.L. In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the homes association is capable of assuming said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Worcester County Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

a. Mandatory membership in an established homes association, as a requirement of ownership of any lot in the parcel.

b. Provisions for maintenance assessments of all lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the homes association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homes association or the owner of any lot.

c. Provisions which, so far as possible, under the existing law, will ensure that the restrictions placed on the use of the open land will not terminate by operation of law.

4.2.5.2.2 To a nonprofit organization, the principal purpose of which is the conservation of open space. The developer or charity shall grant a conservation restriction as set out in 4.2.5.3.1 above.

4.2.5.2.3 To the Conservation Commission of the Town for a park or open space use, subject to the approval of Town Meeting, with a trust clause insuring that it be maintained as open space.

4.2.5.3 Subject to the above, the open space may be used for recreational purposes including golf courses, riding trails, tennis courts, gardens, swimming pools and temporary structures. The board may permit open land owned by a homes association to be used for individual septic systems, or for communal septic systems if it, and the board of health, are convinced that proper legal safeguards exist for management of a communally owned system.

4.2.6 Further Requirements

4.2.6.1 No use other than residential or recreational shall be permitted.

4.2.6.2 No lot shown on a plan for which a permit is granted under this section may be further subdivided, and a notation to this effect shall be shown upon the plan.

4.2.6.3 No certificate of occupancy shall be issued by the inspector of buildings until he has certified to the Planning Board that the premises have been built in accordance with the plan approved by the board hereunder.
4.2.6.4 The board may impose other conditions, safeguards, limitations on time and use, pursuant to its regulations.

4.2.6.5 The board may grant a special permit hereunder for Open Space Residential Development even if the proposed development is not subject to the subdivision control law.

4.2.6.6 Except insofar as the subdivision is given five years’ protection under G.L. Chapter 40A, §6, the special permits granted under this section shall lapse within two years (or less), excluding time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use has not sooner commenced or if construction has not begun, except that the Planning Board may grant an extension for good cause and shall grant an extension if the delay was caused by the need to seek other permits.

4.2.6.7 Subsequent to granting of the permit, the Planning Board may permit relocation of lot lines within the Open Space Residential Development. However, any change in overall density, street layout, or open space layout will require further hearings.

4.2.7 Optional Density Bonus

4.2.7.1 Notwithstanding the limitations set out above, the Planning Board, if it deems it otherwise advisable to do so, shall as a provision of a special permit issued hereunder authorize increases in the permissible density of population or intensity of use in the proposed Open Space Residential Development, providing that the tract is sewered and that the number of units within the tract shall not be increased more than 25% over what would otherwise be permitted within the Open Space Residential Development, if the applicant provides one or more of the following:

4.2.7.1.1 Traffic or pedestrian improvements (e.g., bikepaths, bridle paths, screened parking).

4.2.7.1.2 Open Space which is landscaped or has unusual value to the community or to the residents and comprises an unusually large percent of the tract.

4.2.7.2 Such density/intensity bonus may include any or all of the following:

4.2.7.2.1 Decrease of minimum lot size.

4.2.7.2.2 Increase in number of lots.

4.2.7.3 Off-Premises Improvements – The Planning Board may approve a density bonus when the applicant agrees to make public improvements or improvements in the public interest on property not under the applicant’s control.

4.3 Aquifer and Watershed Protection Overlay District

4.3.1 Purpose of District – The purpose of this Aquifer and Watershed Protection Overlay District is:

4.3.1.1 To promote the health, safety, and general welfare of the community;
4.3.1.2 To preserve and maintain the existing and potential groundwater supplies, aquifers and groundwater recharge areas of the Town and to protect them from adverse development or land use practices;

4.3.1.3 To preserve and protect present and potential sources of drinking water supply for the public health and safety;

4.3.1.4 To conserve the natural resources of the Town;

4.3.1.5 To prevent blight and the pollution of the environment.

4.3.2 The Aquifer and Watershed Protection Overlay District shall be considered as overlaying other zoning districts. Any uses permitted in the portion of the district so overlaid shall be permitted subject to all the provisions of this district, unless expressly prohibited under this overlay district.

4.3.3 Definition of Terms

4.3.3.1 Aquifer – Geologic formation composed of sand and gravel that contains significant amounts of potentially producible potable water.

4.3.3.2 Discharge – The term “discharge” means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of toxic or hazardous material upon or into any land or waters of the Town of Auburn. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems, and disposal of such materials into any on-site sewage disposal system, drywell, catch basin, or unapproved landfill. The term “discharge” as used and applied in this By-law does not include the following:

4.3.3.2.1 Proper disposal of any material in a sanitary or industrial landfill that has received and maintained all necessary legal approvals for that purpose.

4.3.3.2.2 Application of road salts in conformance with the Snow and Ice Control Program of the Massachusetts Highway Department; and

4.3.3.2.3 Disposal of “sanitary sewage” to subsurface sewage disposal systems as defined and permitted by Title 5 of the Massachusetts Environmental Code, and amendments made to Title 5 by the Auburn Board of Health.

4.3.3.3 Groundwater – All the water found beneath the surface of the ground. In this By-law the term refers to the slowly moving subsurface water present in aquifers and recharge areas.

4.3.3.4 Impervious Surface – Material, including buildings, on, above or below the ground that does not allow precipitation or surface water to penetrate into the soil.

4.3.3.5 Mining of Land – The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

4.3.3.6 Recharge Areas – Areas composed of permeable, porous materials that allow significant infiltration and collection of precipitation or surface water and thereby transmit this water to aquifers.

4.3.3.7 Septic Waste – Wastewaters arising from ordinary domestic water use as from toilets, sinks, and bathing facilities, etc. and containing such concentrations and
types of pollutants as to be considered normal wastes.

4.3.3.8 Solid Waste – Useless, unwanted or discharged solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

4.3.3.9 Toxic or Hazardous Materials – Toxic or hazardous materials shall mean all liquid hydrocarbon products, including, but not limited to, gasoline, fuel and diesel oil and also any other toxic, caustic or corrosive chemicals, radioactive materials or other substances controlled as being toxic or hazardous by the Division of Hazardous Waste under the provisions of Massachusetts General Laws, Chapter 21C.

4.3.3.10 Zone II Recharge Area – The area of an aquifer which contributes water to a well or to a potential well site under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at the approved 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 upgradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

4.3.3.11 Zone III Recharge Area – The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II of a public water supply well.

4.3.4 Establishment and Delineation of Aquifer and Watershed Protection Overlay Districts – For the purpose of this section, there are hereby established within the Town certain aquifer and watershed protection areas consisting of aquifer and/or aquifer recharge areas.

4.3.4.1 Districts – The Aquifer and Watershed Protection Overlay Districts overlie the presently existing zoning districts within Auburn. These underlying districts remain unchanged, and their regulations must be met, except where the requirements of the overlying Aquifer and Watershed Protection Overlay District are more stringent, in which case the more stringent requirements shall govern.

The Aquifer and Watershed Protection Overlay District includes the aquifer itself, including the land above the aquifer, and the most significant recharge areas for these aquifers.

Aquifers and aquifer recharge areas are defined by standard geologic and hydrologic investigations which may include drilling observation wells, performing pumping tests, water sampling and geologic mapping.

The Aquifer and Watershed Protection Overlay Districts consist of the Zone II and Zone III recharge areas as defined in Section 4.3.3. Zone II and Zone III have been afforded different degrees of protection.

4.3.4.2 Overlay Maps – The boundaries of this district are delineated on a map at a scale of 1 inch to 1,000 feet entitled "Aquifer and Watershed Protection Overlay District Map" dated August 2007, prepared by Geologic Services Corporation, Hudson, Massachusetts. This map is hereby made a part of this By-law and is on file in the office of the Town Clerk, Planning Board and Code Enforcement Officer. These boundaries reflect the best hydrogeologic information available as of the date of the map. In the event of a discrepancy between the map and the criteria of Zones II and III above, the criteria shall control. (5/1/08)
Where the bounds as delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) or Special Permit applicant(s) of the land in question to show where they should properly be located. The Town may engage a qualified Hydrogeologist with proven experience in the evaluation of groundwater resources to determine more accurately the location and extent of an aquifer or recharge area, and may charge the owner(s) or Special Permit applicant(s) for all or part of the cost of the investigation, or review of information submitted by the owner(s) or Special Permit applicant(s).

4.3.5.1 Activities

Uses Regulated in the Aquifer and Watershed Protection Overlay District

<table>
<thead>
<tr>
<th>Use</th>
<th>Aquifer District Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacture, use or storage of toxic or hazardous materials</td>
<td>Zone II: N</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Truck terminal</td>
<td>Zone II: N</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Landfill or open dump, junkyard, salvage yard, other solid waste disposal</td>
<td>Zone II: N</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Landfilling of sludge and septage</td>
<td>Zone II: N</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Motor vehicle service station, car wash</td>
<td>Zone II: N</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Automotive sales, service and repair shops, automotive body and paint shops</td>
<td>Zone II: SP</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Storage of ice control chemicals</td>
<td>Zone II: SP</td>
</tr>
<tr>
<td>Stockpiling and/or dumping of snow or ice from within the district on any other property within the district</td>
<td>Zone II: N</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Stockpiling and/or dumping of snow or ice containing deicing chemicals if brought from outside the district</td>
<td>Zone II: N</td>
</tr>
<tr>
<td></td>
<td>Zone III: SP</td>
</tr>
<tr>
<td>Use</td>
<td>Zone II</td>
</tr>
<tr>
<td>-------------------------------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>Industrial uses which discharge processed wastewater on site; any commercial and service uses discharging wastewater containing contaminants other than domestic septic waste</td>
<td>N</td>
</tr>
<tr>
<td>Removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 10 feet of the historical high groundwater level as determined from monitoring wells, historical water table fluctuation data compiled by the USGS, except for excavations for building foundations, roads, or utility works</td>
<td>N</td>
</tr>
<tr>
<td>Wastewater treatment facilities except for replacement, repair or systems treating contaminated ground or surface water</td>
<td>N</td>
</tr>
<tr>
<td>Storage of animal manure unless covered or contained</td>
<td>N</td>
</tr>
<tr>
<td>Storage of sludge or septage as defined in 310 CMR 32.05</td>
<td>SP</td>
</tr>
<tr>
<td>Storage of commercial fertilizers, as defined in M.G.L. Ch. 128, Sec. 64</td>
<td>SP</td>
</tr>
<tr>
<td>Storage of liquid petroleum products except for normal household use or heating of a structure, waste oil retention facilities required by statute, rule, or regulation</td>
<td>N</td>
</tr>
<tr>
<td>Facilities that generate, treat, store or dispose of hazardous waste that is subject to MGL Ch. 21E and 310 CMR 30.00 with the exception of those uses listed exempted in 310 CMR 22.21</td>
<td>N</td>
</tr>
<tr>
<td>Rendering impervious more than 15% or 2,500 sq. ft. of any lot, whichever is greater</td>
<td>SP</td>
</tr>
<tr>
<td>Application of pesticides and herbicides for non-agriculture uses and non-residential uses</td>
<td>N</td>
</tr>
<tr>
<td>Floor drainage systems in industrial or commercial process areas or hazardous material/hazardous waste storage areas which discharge to the ground without a DEP permit or authorization.</td>
<td>N</td>
</tr>
</tbody>
</table>

### 4.3.6 Dimensional Regulations, Performance Standards

#### 4.3.6.1 Minimum Lot Size in Unsewered Areas

- Not less than 40,000 square feet shall be required for each dwelling unit in portions of the Aquifer and Watershed Protection Overlay District Zone II which are not served by the municipal sewerage system, regardless of more permissive requirements in the underlying districts.

#### 4.3.6.2 In cases of a Special Permit to allow greater than 15% of a lot to be rendered impervious (or greater than 2,500 square feet), provisions for artificial recharge
of the excess surface runoff shall be provided that will not result in the
degradation of groundwater quality. In no case shall more that 80% of a lot be
rendered impervious.

4.3.6.2.1 All Special Permits for groundwater recharge shall require that the
recharge be done entirely within the property lines of the project in
order to maintain the water quality and quantity of the aquifer.
(10/1/98)

4.3.6.2.2 Recharging shall be done by using underground chambers with the
necessary pretreatment to meet both EPA and Massachusetts DEP
stormwater quality regulations. (10/1/98)

4.3.6.2.3 Open retention and/or detention basins will not be allowed in an
aquifer recharge area that requires a Special Permit. (10/1/98)

4.3.6.3 In cases of a Special Permit for the storage of ice control chemicals or storage
commercial fertilizers, the storage facilities including loading areas must be
designed to prevent the generation and escape of contaminated runoff or
leachate.

4.3.6.4 In cases of a Special Permit for the storage of sludge and septage, such
storage must be in compliance with 310 CMR 32.30 and 310 CMR 32.31.

4.3.7 Special Permits

4.3.7.1 The Special Permit Granting Authority (SPGA) for all Special Permits required
herein shall be the Board of Appeals. A Special Permit shall be granted if the
SPGA determines that the intent of this By-law as well as the specific criteria of
Section 4.3.7.2 are met. In making such determination, the SPGA shall give
consideration to simplicity, reliability, and feasibility of the control measures
proposed and the degree of threat to surface and groundwater quality which
would result if the control measures were to fail.

4.3.7.2 Special Permit Application, Procedures and Approval Criteria

4.3.7.2.1 Application – In addition to the standard requirements for Special
Permit applications, an application for a Special Permit under Section
4.3 shall also include:

a. A complete list of all chemicals, pesticides, fuels, and other
potentially toxic or hazardous materials to be used or stored on
the premises in quantities greater than those associated with
normal household use, accompanied by a description of
measures proposed to protect from vandalism, corrosion, and
leakage, and to provide for spill prevention and
countermeasures.

b. A description of potentially toxic or hazardous wastes to be
generated, indicating storage and disposal method.

c. Evidence of approval by the Massachusetts Department of
Environmental Protection (DEP) of any industrial waste treatment
or disposal system and of any wastewater treatment system over
15,000 gallons per day capacity.

d. For underground storage of toxic or hazardous materials,
evidence of qualified professional supervision of system design
and installation.

e. Analysis of the site conditions and potential impact of the proposed project by a qualified Hydrogeologist with proven experience in groundwater evaluation if so required by the Special Permit Granting Authority.

f. Evidence of approval and recommendations by the Head of the Fire Department for the above ground or underground storage of any flammable, hazardous, or toxic materials.

g. Where applicable, evidence of compliance with the performance standards in 310 CMR 22.21(2)(b) 1-7 where those uses are permitted by this By-law.

4.3.7.2.2 The Special Permit Granting Authority may hire the services of a qualified Hydrogeologist with proven experience in the evaluation of groundwater resources to determine what information it deems necessary to reach a decision, or to review information submitted by the owner(s) or Special Permit applicant(s), or may charge the owner(s) or Special Permit applicant(s) for all or part of the cost of the investigation.

4.3.7.2.3 Approval Criteria – After notice and public hearing, and after due consideration of the reports and recommendations of the Planning Board, Board of Health, Head of the Fire Department, Conservation Commission, Highway Department, Code Enforcement Officer, Sewer Department and the Auburn Water Districts, the Special Permit Granting Authority may grant such a special permit provided that it finds the proposed use:

a. Will not cause the groundwater quality at the boundaries of the premises to fall below the standards established by DEP in “Drinking Water Standards of Massachusetts” or, for parameters where no standard exists, below standards established by the Board of Health and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation.

b. Is in harmony with the purpose and intent of the By-law and will promote the purposes of the Aquifer and Watershed Protection District.

c. Will not, during construction or thereafter, have an adverse environmental impact on any aquifer or recharge area in the Town.

d. Will not adversely affect an existing or identified potential water supply.

4.3.8 Violations – Written notice of any violation shall be provided by the Code Enforcement Officer/Inspector of Buildings, Head of the Fire Department, Board of Health, or other responsible agency, to the owner of the premises, specifying the nature of the violation and specifying a time for compliance, including clean-up of any spilled materials. The time allowed shall be reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer-term compliance.
4.3.9 Conflict with Other By-laws – This By-law shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other by-law, ordinance, law or regulation. Where this By-law and another impose differing standards for the promotion and protection of health, safety and welfare, the provisions of the more stringent By-law shall prevail.

4.4 Mixed Use Development Overlay District (MD)

In order to permit a mixture of residential, open space and commercial uses, and a variety of building types, tracts of land within the Mixed Use Development Overlay District shall be developed under a special permit granted by the Planning Board as hereinafter defined and limited. Any such development must provide for a mixture of uses as appropriate.

4.4.1 Special Permit Authority – The Planning Board may grant a special permit for construction of an MD in the areas designed on the MD overlay. The special permit shall conform to this by-law and to G.L. Ch. 40A, §9, and to Regulations which the Board shall adopt for carrying out its requirements hereunder.

4.4.1.1 Review Board – The Planning Board shall have the right to establish a review board to review each proposed Mixed Use Development Special Permit. For this function, the Planning Board shall have the authority to appoint up to four (4) citizens at large to assist them in the review of the proposal. The citizen appointees shall have the right to fully discuss all elements of the proposed project but shall be advisory only, shall have no official status and shall not have any voting power.

4.4.2 Process – The process for granting a Special Permit will be followed. See Section 9.3. The Planning Board reserves the right to request further information.

4.4.3 Approval – Approval of a special permit for a Mixed Use Development shall require an affirmative vote of four of the five members of the Board. Further: the Board shall consider and make recommendations regarding, among other things, the architectural value and significance of the site, building or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Board shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity. Further, the Board may, in appropriate cases, impose dimensional and setback requirements in addition to those required by this by-law. The Board shall not consider interior arrangements or architectural features not subject to public view.

4.4.4 Permitted Uses – In a Mixed Use Development, the following uses are permitted:

4.4.4.1 Residential – Apartments, only on floors above the ground floor. However, in areas where the multi-use project abuts a residential zone, apartments are allowed on all floors on the side of the parcel facing the residential zone.

4.4.4.2 Business – Only within the first three floors.

4.4.4.2.1 Restaurants (excluding fast food restaurants)

4.4.4.2.2 Theaters

4.4.4.2.3 General retail sales and services (excluding retail sales of motor vehicles, boats, mobile homes and house trailers, automobile service stations and drive-through banking facilities
4.4.4.2.4 Banks and financial services

4.4.4.2.5 Business and professional offices (excluding medical and dental laboratories, medical and dental centers, and medical and dental offices)

4.4.4.3 Expansion of Buildings or Rehabilitation of Existing Interiors – Special Permits can be granted to mixed use development projects that are essentially an expansion of the existing building if the expansion will at least double the existing gross square footage (excluding basements); and if the project meets all parking and site plan criteria required by the Board.

Special permits can be granted to mixed use development projects that are essentially a major renovation of an existing building if the major renovation involves one hundred percent (100%) of the gross floor area, excluding basements; and if the project meets all parking and site plan criteria required by the Board.

4.4.5 Dimensional Requirements

4.4.5.1 Site Area Requirements – For both new construction and expansion, there shall be no minimum square foot requirements.

4.4.5.2 Usable Open Space – The part or parts of land or structure within an MD which are reserved for permanent active or passive recreation use. This space shall exclude parking areas, required setbacks, waterways, walkways, and be open and unobstructed to the sky. Trees, plantings, arbors, flagpoles, sculpture, fountains, swimming pools, open air recreational facilities and similar objects shall not be considered obstructions.

In all mixed use developments that are new construction, at least ten percent (10%) of the land shall be set aside as permanent usable open space, for the use of the MD residents, or for all MD users, or for the community. The required open space shall, at the option of the Board, be conveyed to the Conservation Commission or to a non-profit conservation organization, or to a corporation or trust representing persons responsible for the MD and shall be protected by a conservation restriction as required by G.L. Ch. 40A, §9, for common open space in cluster developments. A covenant shall be placed on the land such that no part of the MD can be built, sold or occupied until such time as a satisfactory written agreement has been executed for the protection of the open space.

Open space requirements do not apply for mixed use development projects which are expansions of existing buildings or are major internal renovations. It shall be the objective of this by-law, in cases where private open space has been traditionally utilized by the public and where the public has been allowed to use the area as open space by the owner or owners of the building, that open space should not be included as part of the building expansion and is subject under this section of the by-law.

4.4.5.3 Setback Requirements – Insofar as the MD abuts a residential district, all structures and facilities within the MD shall be set back no less than thirty (30) feet from adjacent residential property lines.

4.4.5.4 Height – No buildings in the MD shall exceed seventy (70) feet in height. Parking facilities within the building shall not be calculated as part of the allowable height. The maximum additional height allowed for parking facilities...
shall be nine (9) feet.

4.4.6 Parking Requirements

4.4.6.1 In all Mixed Use Development projects, adequate off-street parking shall be provided for all vehicles normally visiting the property at any one time. The parking may be ground level, underground, or in a garage structure. Parking shall be provided at the following rates, unless otherwise permitted by the Board, for the different types of use within the Mixed Use Development project on land in the same ownership or on a separate parcel, provided the nearest parking space is within three hundred (300) feet of a principal entrance to the building that the parking lot will serve, and further provided that an agreement will be recorded dedicating the parcel to parking use for the reasonable life of the building.

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Required Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Apartments</td>
<td>1.5 spaces per unit</td>
</tr>
<tr>
<td>b. All commercial and and business activities</td>
<td>1 space per 1,200 square feet of space or fraction thereof</td>
</tr>
<tr>
<td>c. Theaters, restaurants, or places of public assembly</td>
<td>1 space for every four (4) seats</td>
</tr>
<tr>
<td>d. Offices and services fraction thereof</td>
<td>1 space for every 300 square feet or fraction thereof</td>
</tr>
</tbody>
</table>

4.4.6.2 The design standards for off-street parking shall be 8.5 feet by 17 feet for angle parking and 7.5 feet by 20 feet for parallel parking. In addition, the standards of Sections 6.4, 6.5, 6.6, and 6.7 shall be followed.

4.4.6.3 The Planning Board is empowered to make a determination for proper fire equipment for a development, such determination, if in the affirmative, to be borne by the developer.

4.5 Regional Mall Overlay District (RM District)

4.5.1 Purpose - The purpose of the RM District is as follows:

4.5.1.1 To establish a Regional Mall as a permitted use;

4.5.1.2 To establish maximum gross floor area and maximum height for a Regional Mall;

4.5.1.3 To establish controls for any expansion of a Regional Mall relating to traffic; open space; parking; setback and landscaping; and preservation of natural resources, such as the aquifer, the adjoining brooks, and adjacent wetlands.

4.5.2 Boundaries of Overlay District Map – The RM District is bounded Northerly by Southbridge Street (Route 12), Swanson Road, Auburn Street and Southerly by the Massachusetts Turnpike, and includes the property known as the Auburn Mall and certain adjoining properties; and these boundaries are shown on the Zoning Map referred to in Section 2.2, as amended.

4.5.3 Definitions – The following definitions are applicable to the RM District:
4.5.3.1 Regional Mall
A multi-store complex containing at least 400,000 gross square feet of interior floor area used for retail stores and sales, including mail order sales, and which may also include restaurants or food courts, business or professional offices, financial services, personal service facilities, parking lots, decks and garages, and other structures, uses and facilities now or hereafter contained in, or associated with, shopping malls so-called. The term “Regional Mall” shall mean use of a property for a Regional Mall and for Special LB District Use in accordance with Section 4.5.4.3.

4.5.3.2 Expansion
An increase in gross floor area of any existing building to more than the gross area previously approved or that which existed prior to this zoning amendment.

4.5.4 Use Regulations

4.5.4.1 Only those uses in the underlying Local Business District that comply with the Standards and Conditions for uses in a Regional Mall, RM Zoning District, as defined by AMENDED TABLE OF PRINCIPAL USES. 3.2.5: Regional Mall Zoning District RM shall be permitted.

4.5.4.2 In the RM District, the uses allowed shall be limited to the Table of Principal Uses, Sec. 3.2.5, as defined by AMENDED TABLE OF PRINCIPAL USES. 3.2.5: Regional Mall Zoning District RM.

4.5.4.3 In the event the applicant desires to include within Regional Mall Use any use not set forth in Section 4.5.3.1 but allowed (by right, special permit, or site plan approval) in the LB District (“Special LB District Use”), the applicant shall obtain approval for the Special LB District Use by special permit from the Planning Board. Special LB District Use shall include, without limitation, amusement facility, funeral home, building trade shop, motor vehicle service station or car wash, and any residential use.

4.5.5 Dimensional Requirements – The dimensional requirements of the Local Business District shall apply except as follows:

4.5.5.1 The maximum height of buildings in the RM District devoted to Regional Mall Use (excepting parking decks and garages), determined in accordance with Section 5.2.7.2, shall be thirty-five (35) feet.

4.5.5.2 Relief from the maximum height requirement of twenty-five (25) feet in Table 1 under Section 5.4 may be granted for parking decks and garages in the case of a Regional Mall by the Planning Board by special permit, where the Planning Board determines that a greater height for the parking decks or garages will improve the layout and design of the Regional Mall.

4.5.5.3 Maximum gross floor area of the Regional Mall, exclusive of parking decks and garages, shall not exceed 990,000 square feet.

4.5.6 Parking – The parking standards and definitions set forth in Section 6 shall apply except as follows:

4.5.6.1 Relief from the Schedule of Parking Uses in Section 6.3 may be granted in the case of a Regional Mall by the Planning Board by special permit, where the Planning Board determines that the proposed number of parking spaces will be sufficient to serve the Regional Mall.

4.5.7 Site Plan Approval
4.5.7.1 Any expansion of the Regional Mall shall be subject to Site Plan Approval (SPA) in accordance with Section 9.4 as supplemented in Section 4.5.8.

4.5.8 Additional Site Plan Approval Requirements

4.5.8.1 Additional standards to be applied by the Planning Board in taking final action under Section 9.4.7.1 on a SPA for expansion of the Regional Mall are the following:

a. Pedestrian and vehicular movement to, from, and within the Regional Mall, including entrances, exits, walkways, drives and parking shall be safe and convenient as determined by the Planning Board. Factors to be reviewed may include, without limitation, conformity of width of interior driveways and access driveways with Sections 6.7.1.1 and 6.7.1.2, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas consistent with parking standards in Section 6.

b. The Planning Board shall determine that reasonable efforts have been made by the applicant to mitigate traffic congestion caused by any such expansion. Such efforts need apply only to those intersections or roadway segments, as determined by the Planning Board, that either: (i) will experience a ten (10) percent increase over projected future year “no-build” traffic volumes as a direct result of traffic generated by such expansion, or (ii) will have their operations degraded on account of such expansion to Level of Service D or lower, or which are projected to operate at Level of Service D or lower under future year “no-build” conditions. The Planning Board shall find that the proposed mitigation is reasonably likely to return future year “build” delay and volume-to-capacity ratios to that of future year “no-build” conditions. The applicant shall submit all proposed mitigation measures (“the Mitigation Plan”) to the Planning Board. Such efforts to mitigate may involve, among other things, signalization, street markings, channelization, curbing, street widening, signage and the like, and appropriate traffic demand management strategies. The above assessment of traffic impacts and mitigation measures shall be reviewed by the Planning Board and conducted in accordance with the “Guidelines for EIR/EIS Traffic Impact Assessment” dated July 1989, that are used in the MEPA review process.

The applicant shall include within the Mitigation Plan a program for monitoring traffic conditions resulting from the expansion of the Regional Mall as required by, and in conformity with, the findings made by the Massachusetts Highway Department under G.L. c.30, §61, and as stipulated by the Planning Board in the Site Plan Approval conditions. Said stipulation may include a requirement for the applicant to enter into an agreement with the Town to correct any additional impacts discovered as a result of the monitoring program.

c. Views from adjoining public ways and parks, and residential areas shall be reasonably taken into account as determined by the Planning Board in the site arrangement and building design of any Regional Mall expansion.

d. The drainage system shall be designed to convey a twenty-five (25) year storm. The applicant shall: (a) assess and mitigate downstream impacts of peak flow and volume increases and on water quality caused by stormwater runoff from the Regional Mall site, and (b) mitigate those increases in the peak flow, volume, and on degradation of quality of stormwater discharge resulting from any net expansion of impervious
surfaces. Such mitigation may involve, without limitation, installation of (a) catch basins which contain oil, grease and sediment traps designed as part of a closed drainage system and placed on the site to effectively function to remove oil, grease and sediment, (b) sedimentation tanks to collect additional stormwater pollutants not collected by the catch basin system, e.g., baffled with sections that remove grit and debris, and such other contaminant removal facilities as may be deemed appropriate by the Planning Board, and (c) detention and/or retention facilities designed to withstand the increases in the volume of stormwater discharge resulting from expansion of impervious surfaces caused by a 100-year storm. In furtherance of such mitigation efforts, any discharge to adjacent waterways and wetlands shall be set back to the maximum extent practicable and shall be designed to minimize runoff velocity. When feasible, lawful and consistent with public health, stormwater may be used to recharge any existing aquifer.

e. Applicant shall demonstrate to the Planning Board compliance with Sections 4.5.9, 4.5.10, and 4.5.11 and other applicable provisions of the Zoning By-law.

4.5.9 Open Space

4.5.9.1 In connection with any Regional Mall expansion, a minimum of ten (10) percent of the land area of the Regional Mall shall be permanent open space.

4.5.9.2 Such open space may include, without limitation, required setbacks, waterways, walkways, grassed areas, areas for plantings, and buffer zones.

4.5.9.3 All required open space shall be designed to add visual amenities to the streetscape and shall be sited for maximum visibility of the open space to persons passing the Regional Mall or overlooking it from nearby properties. The location and configuration of the required open space shall be designed to enhance the adjacent public space, to facilitate, maintain, and provide a year-round, visual amenity. All landscaped open space which is visible to the public shall be periodically maintained throughout the year.

4.5.9.4 To aid the Planning Board in reviewing the long term maintenance and operation of the open space, the applicant shall submit, in addition to the Landscape Plan under Section 9.4.3.3, a maintenance and renovation plan which outlines the day-to-day, seasonal and five (5) year work program to achieve proper maintenance and preservation of the open space. The Planning Board may impose conditions under the SPA to insure implementation of such maintenance and renovation plan, due regard being given to seasonal and weather problems.

4.5.10 Signage – In connection with any Regional Mall expansion, the requirements for signs and advertising devices in Section 7 shall be supplemented and modified as follows:

4.5.10.1 Not in limitation of Section 7.6.1, but in addition thereto, each anchor store within the Regional Mall may be allowed by the Planning Board up to three (3) exterior signs, and in addition, for identifying and promoting the Regional Mall as a whole, the Planning Board may allow up to two (2) exterior signs, in all cases of the size allowed in Section 4.5.10.2.

4.5.10.2 The Planning Board may approve the size of signs allowed under Section 4.5.10.1, but in no event shall the signs exceed:

(a) six (6) feet in height and
(b) a length greater than thirty-five percent (35%) of the wall length on which the sign is located.

4.5.10.3 Section 7.6.4 is modified (a) to allow the display area of directional signs to be up to four (4) square feet and (b) to allow directional signs to identify activity locations by store name in addition to those purposes authorized in Section 7.6.4 subject to approval by the Planning Board.

4.5.10.4 Not in limitation of Section 7.6.5, but in addition thereto, the Planning Board may allow a Regional Mall to have freestanding business signs, called entry markers, identifying the mall by name. Each entry marker may have up to three (3) sides and have ninety (90) square feet in area on each side. Entry markers shall be allowed (a) in setback and side yard areas but not closer than ten (10) feet to the property line, and (b) at vehicle entry points with all locations subject to approval by the Planning Board.

4.5.10.5 A Regional Mall may have two (2) double-sided Off-Premise Signs (as such signs are defined in Section 7.1.3) located on the premises of the Regional Mall. Off-Premise Signs allowed under this Section 4.5.10.5 shall comply with the Following conditions and requirements: (10/24/2017)

(a) Any Off-Premise Sign(s) constructed within the Regional Mall Overlay District shall be constructed for the primary purpose of advertising to those travelling on the Massachusetts Turnpike and shall be constructed so as to minimize visibility from any other roadway to the extent reasonably feasible:

(b) The construction of Off-Premise Signs shall be governed by this Subsection 4.5.10.5 and shall not be subject to the provisions of Section 7 of these By-Laws. In the event that the provisions of this Subsection 4.5.10.5 conflict with the provisions of any other section of these By-Laws, the provisions of this Subsection shall control;

(c) Any Off-Premise Signs constructed in accordance with this Subsection 4.5.10.5 shall at all times be owned, operated, permitted and maintained in accordance with applicable state and federal laws and regulations, including, without limitation, those governing the control and restriction of billboards, signs and other advertising devices, and shall be subject to the authority of the Massachusetts Department of Transportation, Office of Outdoor Advertising or any successor thereof;

(d) Any Off-Premise Signs constructed in accordance with this Subsection 4.5.10.5 shall not show any advertisement or other content containing the depiction or promotion of the use, distribution or sale of any marijuana or tobacco product or any form of adult entertainment including, without limitation, any Adult Live Entertainment Establishment, Adult Bookstore, Adult Video Store, Adult Paraphernalia Store or Adult Motion Picture Theatre;

(e) The construction of Off-Premise Signs shall be subject to Site Plan Approval in accordance with Section 9.4;

(f) The construction of Off-Premise Signs shall require a form of surety to be maintained, either through an escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the town must remove such Off-Premise Signs and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 150 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. A fully inclusive estimate of the costs associated with removal, prepared
by a licensed professional engineer shall be submitted to the Town Engineer for review prior to the receipt of Site Plan Approval. The amount shall include a mechanism for calculating increased removal costs due to inflation. The owner shall increase or replenish the surety as necessary to maintain an adequate amount, as determined by the Planning Board;

(g) Off-Premise Signs shall not exceed eighty (80) feet in height above the grade of the roadway nearest to such signs and shall not be located within three hundred (300) feet of any residence as measured from the base of any such Off-Premise Sign to the nearest lot line of a residential lot;

(h) The face(s) of each Off-Premise Sign shall not exceed forty-eight (48) feet in width and fourteen (14) feet in height;

(i) Off-Premise Signs may be Electronic Message Signs and/or Changeable Signs (as such terms are defined in Section 7.1). Such signs shall not be subject to Section 7.6.7 but shall comply with the following standards:
   i. Electronic Message Signs may display static images only and may change their static images no more than once every ten (10) seconds in accordance with the applicable provisions of the Massachusetts Department of Transportation Regulations (currently 700 CMR 3.11);
   ii. Transitions from one static image to the next shall appear instantaneously without the appearance of flashing, animation or movement of any kind;
   iii. Such signs shall come equipped with automatic dimming technology that automatically adjusts the signs’ brightness based on ambient light conditions; and
   iv. No such sign shall exceed a brightness level of 0.3 foot candles (or 2.23 nits) above ambient light as measured at a distance of 50 feet from the display.

4.5.11 Lighting

4.5.11.1 In connection with any Regional Mall expansion, the applicant shall submit for Planning Board’s approval a Lighting Plan.

4.5.11.2 Lighting for the garages or parking decks at the Regional Mall shall be designed to the Illuminating Engineering Society’s standards for parking structures/decks to the maximum allowed under the Massachusetts Energy Code. Such lighting shall enhance the security and safety of the persons shopping at the Regional Mall. Lighting at the Regional Mall shall employ cut-off type fixtures to minimize off-site glare.

Section 5

Dimensional Regulations

5.1 Standard Dimensional Provisions

No land shall be used, and no structure or building shall be used or construction begun except in accordance with Section 5, Dimensional Regulations, and the Table of Standard Dimensional
Regulations unless otherwise specifically permitted in this by-law.

5.2 Methods for Calculating Dimensional Requirements

The following shall apply:

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

5.2.2 Frontage – Frontage shall be measured in a continuous line along the sideline of a street between the points of intersection of the side lot lines with the street.

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

5.2.2.2 If a lot has frontage on more than one street, the frontage on one street only may be used to satisfy the minimum lot frontage.

5.2.3 Lot Width – Lot width shall be determined by measuring the diameter of the largest circle which can be located along a continuous but not necessarily straight line from the lot frontage to the principal structure on the lot without the circumference intersecting the lot lines.

5.2.4 Front Yards – Front yards shall be the distance measured in a straight line between the lot frontage and the nearest point of any building or structure. A lot having frontage on two or more streets shall have two or more front yards, each of which shall comply with the requirements of the front yard provisions. In no case shall any building or structure be located closer to the sideline of a street than the minimum required front yard.

5.2.5 Side and Rear Yards – Side and rear yards shall be the distance measured in a straight line from the nearest point of any building or structure to each side or rear lot line.

5.2.6 Building Coverage – The building coverage shall be determined by dividing the total ground area of all buildings on a lot, including roof overhangs greater than 1.5 feet, carports and canopies, whether or not such carports or canopies are a part of a building, by the total lot area.

5.2.7 Height in Feet

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

5.2.7.2 Height in Feet, Buildings – The vertical distance measured from the average elevation of the finished lot grade at the front of the building, to the highest point of the ceiling of the top story in the case of a flat roof; to the deck of a mansard roof; and to the eaves of a gable, hip or gambrel roof.

5.3 Special Provisions and Exceptions to Dimensional Regulations

5.3.1 Location of Structure – Unless otherwise specified in this by-law, no structure shall be located within the required yard area of any lot except: walls or fences no more than eight feet in height; uncovered steps, ramps or terraces; sign posts; pedestrian lighting facilities with a height of less than 10 feet; or flagpoles; or similar structures.
5.3.2 Hammerhead Lots (5/4/95)(10/27/97)

Purpose: The purpose of this section is to allow for optional limited development of existing lots with deep back land, to encourage efficient current and future use of land to insure adequate access to lots, and to help insure that residential development is compatible with adjoining development.

In the RA, RB, RC, RR and RO districts hammerhead lots may be approved by Special Permit from the Planning Board provided the Board finds that the following standards are met:

5.3.2.1 Each hammerhead lot must have a minimum of 50 feet frontage on an accepted Town road and have a minimum lot width of 50 feet.

5.3.2.2 Each hammerhead lot must meet the square footage dimensional requirements of the zone in which it is located, except that in the RA and RB districts the lot area must be twice the usual lot size requirement.

5.3.2.3 No more than two hammerhead lots shall have contiguous frontage.

5.3.2.4 Each hammerhead lot must contain an area in which a circle with a diameter equal to the normal frontage requirement in the zoning district may be placed without touching any property line.

5.3.2.5 Access to a hammerhead lot must be across the frontage of the lot. A Special Permit may not be issued to permit the creation of a hammerhead lot upon which there is already an existing dwelling.

5.3.2.6 Any hammerhead lot shall be limited to a single-family dwelling. The proposed house location must be shown on the plan submitted with the Special Permit application. The hammerhead lot shall contain an area of land which provides, in the opinion of the Planning Board, a suitable dwelling site, based on the following criteria: topography, presence of wetlands or steep slopes.

5.3.2.7 The proposed house location should not be in the “handle” of the hammerhead lot unless the Board determines that such location will result in less impact to adjoining properties and will be more in keeping with the character of the exiting neighborhood.

5.3.2.8 Any hammerhead lot must have adequate access to the buildable portion of the proposed hammerhead lot, access for emergency vehicles, fire, etc.

5.3.2.9 Any special Permit authorizing a hammerhead lot shall provide that the hammerhead lot shall not be further divided to reduce its area or to create additional building lots.

5.3.3 Substantial Irregularity – No lot shall be created which is substantially irregular in shape. For the purposes of this section a lot is “substantially irregular” if it has a regularity factor which is less than 0.4 as determined by the formula:

\[ r = \frac{16A}{p^2} \]  

(5/4/95)

where \( r \) = regularity factor; \( A \) = area of the lot (in square feet); and \( p \) = perimeter of the lot (in feet)

The provisions of this section shall not apply to lots shown on plans recorded in the Registry of Deeds before May 4, 1995. Lots shown on such plans shall not be considered to be nonconforming for the purposes of this By-law.

5.4 Dimensional Regulation Tables
### Table of Dimensional Regulations

**Table 1**

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Minimum Lot Area (square feet)</th>
<th>Minimum Lot Frontage (square feet)</th>
<th>Front Setback (feet)</th>
<th>Minimum Side Yard (feet)</th>
<th>Minimum Rear Yard (feet)</th>
<th>Maximum Height (feet)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>RA (1,5)</td>
<td>10,000</td>
<td>100</td>
<td>20</td>
<td>10 (2)</td>
<td>10</td>
<td>25</td>
<td>(1) Multi-family are allowed provided that the SPGA criteria are met.</td>
</tr>
<tr>
<td>RA 2-family</td>
<td>19,000</td>
<td>100</td>
<td>20</td>
<td>10 (2)</td>
<td>10</td>
<td>25</td>
<td>(2) Garage may be placed 7' from the side edge of the lot.</td>
</tr>
<tr>
<td>RB (1, 4, 5)</td>
<td>20,000</td>
<td>100</td>
<td>30</td>
<td>10</td>
<td>10</td>
<td>25</td>
<td>(3) 35' with Special Permit.</td>
</tr>
<tr>
<td>RB 2-family</td>
<td>29,000 (5)</td>
<td>100</td>
<td>30</td>
<td>10</td>
<td>10</td>
<td>25</td>
<td>(3) 35' with Special Permit.</td>
</tr>
<tr>
<td>RC (1)</td>
<td>40,000</td>
<td>160</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>25</td>
<td>(3) 35' with Special Permit.</td>
</tr>
<tr>
<td>RC 2-family</td>
<td>49,000 (6)</td>
<td>160</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>25</td>
<td>(3) 35' with Special Permit.</td>
</tr>
<tr>
<td>RR</td>
<td>60,000</td>
<td>180</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>25</td>
<td>(4) If in the Watershed and Aquifer Protection Zone A, 40,000 sq. ft.</td>
</tr>
<tr>
<td>RR 2-family</td>
<td>69,000 (6)</td>
<td>180</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>25</td>
<td>(4) If in the Watershed and Aquifer Protection Zone A, 40,000 sq. ft.</td>
</tr>
<tr>
<td>RO (1)</td>
<td>10,000</td>
<td>100</td>
<td>20</td>
<td>10 (2)</td>
<td>10</td>
<td>25</td>
<td>(5) If unsewered, 30,000 square feet minimum lot size.</td>
</tr>
<tr>
<td>RO 2-family</td>
<td>19,000</td>
<td>100</td>
<td>20</td>
<td>10 (2)</td>
<td>10</td>
<td>25</td>
<td>(5) If unsewered, 30,000 square feet minimum lot size.</td>
</tr>
<tr>
<td>LB</td>
<td>5,000</td>
<td>50</td>
<td>20</td>
<td>10</td>
<td>10</td>
<td>25</td>
<td>(6) If unsewered, 80,000 square feet minimum lot size.</td>
</tr>
<tr>
<td>HB</td>
<td>10,000</td>
<td>120</td>
<td>40</td>
<td>10</td>
<td>20</td>
<td>25 (3)</td>
<td></td>
</tr>
<tr>
<td>GI</td>
<td>10,000</td>
<td>100</td>
<td>30</td>
<td>10</td>
<td>20</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>IA</td>
<td>10,000</td>
<td>100</td>
<td>30</td>
<td>10</td>
<td>20</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>IP</td>
<td>30,000</td>
<td>100</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>35</td>
<td></td>
</tr>
</tbody>
</table>
## Table of Dimensional Regulations
### Open Space Residential (OS)

**Table 2**

<table>
<thead>
<tr>
<th>District</th>
<th>Permitted Uses</th>
<th>Development Parcel Minimum Area</th>
<th>Minimum Parcel Frontage</th>
<th>Minimum Lot Area Per Structure</th>
<th>Frontage Per Structure</th>
<th>Minimum Side/Rear Yards</th>
<th>Minimum Front Setback</th>
<th>Maximum Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residence A</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>100</td>
<td>10,000</td>
<td>100</td>
<td>15</td>
<td>30</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residence B</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>100</td>
<td>10,000 per unit (2)</td>
<td>100</td>
<td>15</td>
<td>30</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residence C</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>100</td>
<td>15,000</td>
<td>100</td>
<td>15</td>
<td>30</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residence B</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>100</td>
<td>10,000 per unit (2)</td>
<td>100</td>
<td>15</td>
<td>30</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residence C</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>100</td>
<td>30,000</td>
<td>125</td>
<td>15</td>
<td>30</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residence R</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>160</td>
<td>30,000</td>
<td>100</td>
<td>20</td>
<td>40</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residence R</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>160</td>
<td>30,000</td>
<td>100</td>
<td>20</td>
<td>40</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residence R</td>
<td>One-family dwelling</td>
<td>6 acres</td>
<td>180</td>
<td>40,000</td>
<td>100</td>
<td>20</td>
<td>40</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Two-family or Multifamily dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) The minimum clustered lot area is the land area required for the siting of each residential building exclusive of streets, water area, open space and common land.

(2) The maximum number of units per structure is eight.
Section 6

Parking Standards

6.1 Definitions

For the purpose of this section, the following terms shall have the following meanings:

6.1.1 Access Driveway – The travel lane that allows motor vehicles ingress from the street and egress from the site.

6.1.2 Building Service Area – A room or rooms in a building used to house electrical or mechanical equipment necessary to provide central utility service to the building, such as a boiler room.

6.1.3 Interior Driveway – A travel lane located within the perimeter of a parking lot which is not used to directly enter or leave parking spaces. An interior driveway shall not include any part of the access driveway.

6.1.4 Maneuvering Aisle – A travel lane located within the perimeter of a parking lot by which motor vehicles directly enter and leave parking spaces.

6.1.5 Net Floor Area – The total of all floor areas of a building not including storage areas, stairways, elevator wells, restrooms, common hallways and building service areas.

6.1.6 Parking Stall Length of Line – The longitudinal dimension of the stall measured parallel to the angle of parking.

6.1.7 Width of Parking Stall – The linear dimension measured across the stall and parallel to the maneuvering aisle.

6.2 General Provisions

Except as provided in Section 6.4, no building or structure shall be located upon any lot and no activity shall be conducted upon any lot unless the required parking facilities are provided on site in accordance with this section.

6.2.1 Change of Use – The use of any land or structure shall not be changed from a use described in one section of the Schedule of Parking Uses to a use in another section of the Schedule nor shall any net floor area of a building be increased in any manner unless the number of parking spaces required for the new use are provided.

6.2.2 Undetermined Uses – Where the use of a building or buildings has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive use allowed in the district where such undetermined use is to be located shall apply provided, however, that the number of parking spaces actually built need not exceed the number required by the actual use or uses of the building.

6.2.3 Relief from Parking Regulations by Special Permit from the Zoning Board of Appeals – Relief from the parking regulations may be granted by special permit from the Board of Appeals where the Board finds that it is not practicable to provide the number of parking spaces required, and either (1) in the case of a change from a nonconforming use to a conforming use, that the benefits of a change to conforming use outweigh the lack of parking spaces, or (2) in the case of a change from one conforming use to another conforming use, that the lack of parking spaces will not create undue congestion or traffic hazards on or off the site; provided that in either case the Zoning Board of Appeals shall
require the maximum practicable number of parking spaces.

6.3 Schedule of Parking Uses

General Requirements

6.3.1 Comparable Use Requirement – Where a use is not specifically included in the Schedule of Parking Uses, it is intended that the regulations for the most nearly comparable use specified shall apply.

6.3.2 Schedule of Parking Uses (5/13/99)

   a. Dwelling  Two spaces for each dwelling unit

   b. Home Occupation  Three spaces and where nonresidents are employed or where retail sales are conducted, the Board of Appeals shall have the authority under Section 3.9.1.2 to require the number of parking spaces it deems adequate and reasonable.

   c. Hotel, Inn or Motel  One space for each bedroom plus one space for each employee on the largest shift.

   d. Educational  One space for each staff position plus one space for each five persons of rated capacity of the largest auditorium plus one space for each student vehicle who can be expected at any one time on the premises.

   e. Nursing Home  One space for each two beds plus one space for each employee on the largest shift.

   f. Retail Store; General and Personal Services; Financial; Studio; Building Trade; or Restaurant with no Seating (5/13/99)  One space for each 180 square feet of net floor area, plus one space per employee on the largest shift.

   g. Business or Professional Office  One space for each 200 square feet net floor area.

   h. Restaurant; Funeral Home, or other Place of Assembly  One space for each three seats, plus one space for each employee on the largest shift.

   i. Industrial  One space for each 2,000 square feet of net floor area for the first 20,000 square feet plus one space for each additional 10,000 square feet of net floor area and one space per employee on the largest shift.

   j. Religious  One space for each four seats plus one space for each employee.

   k. Automotive Sales  

      1. One space for each employee on the largest shift.

      2. One space for each 180 square feet of net floor area.

      3. Additional spaces shall be provided for each
customer vehicle stored for service at the ratio of 1 space per repair bay.

4. One space for each vehicle to be displayed for sale.

The site plan must show the designated parking areas and must be appropriately labeled on the plan. Handicapped parking requirements must be shown and be consistent with the most up to date requirements of 521 CMR of the Architectural Access Board Regulations.

There shall be no infringement on the designated customer parking areas and employee parking areas by the placement of the retail vehicles or promotional displays.

There shall be no display of vehicles on any portion of the site that has not been previously designated on the site plan.

Overstocked vehicles may be grouped closer together on the site, but only in areas that have received prior approval on the site plan.

Any changes in parking layouts must reapply for site plan amendments to the Planning Board and be approved before changes of use can take place.

6.4 Loading Areas

One or more off-street loading areas shall be provided for any business that may be regularly serviced by tractor-trailer trucks or other similar delivery vehicles, so that adequate areas shall be provided to accommodate all delivery vehicles expected at the premises at any one time. Loading areas shall be located at either the side or rear of each building and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

6.5 Standard Parking Dimensional Regulations

Off-street parking facilities shall be laid out and striped in compliance with the following minimum provisions:

<table>
<thead>
<tr>
<th>Angle of Parking (in degrees)</th>
<th>Width of Parking Stall</th>
<th>Parking Stall Length of Line</th>
<th>Width Maneuvering Aisle</th>
</tr>
</thead>
<tbody>
<tr>
<td>90° (two-way)</td>
<td>9.0’</td>
<td>18.5’</td>
<td>24’</td>
</tr>
<tr>
<td>60° (one-way)</td>
<td>10.4’</td>
<td>22’</td>
<td>18’</td>
</tr>
<tr>
<td>45° (one-way)</td>
<td>12.7’</td>
<td>25’</td>
<td>14’</td>
</tr>
<tr>
<td>parallel (one-way)</td>
<td>8.0’</td>
<td>22’</td>
<td>14’</td>
</tr>
<tr>
<td>parallel (two-way)</td>
<td>8.0’</td>
<td>22’</td>
<td>18’</td>
</tr>
</tbody>
</table>
6.6 Small Car Stalls

In parking facilities containing more than 40 parking stalls, 30% of such parking stalls may be for small car use, except for retail store, personal service facility, general services or restaurant uses. Such small car stalls shall be grouped in one or more contiguous areas and shall be identified by a sign(s).

6.6.1 Small Car Parking Dimensional Regulations – Off-street small car parking facilities shall be laid out and striped in compliance with the following minimum provisions:

Small Car Parking Dimensions

<table>
<thead>
<tr>
<th>Angle of Parking (in degrees)</th>
<th>Width of Parking Stall</th>
<th>Parking Stall Length of Line</th>
<th>Width Maneuvering Aisle</th>
</tr>
</thead>
<tbody>
<tr>
<td>90° (two-way)</td>
<td>8.5’</td>
<td>15’</td>
<td>24’</td>
</tr>
<tr>
<td>60° (one-way)</td>
<td>9.8’</td>
<td>18.5’</td>
<td>18’</td>
</tr>
<tr>
<td>45° (one-way)</td>
<td>12.0’</td>
<td>21.5’</td>
<td>14’</td>
</tr>
<tr>
<td>parallel (one-way)</td>
<td>8.0’</td>
<td>18’</td>
<td>14’</td>
</tr>
<tr>
<td>parallel (two-way)</td>
<td>8.0’</td>
<td>18’</td>
<td>18’</td>
</tr>
</tbody>
</table>

6.7 Design Requirements for Parking Facilities

6.7.1 Business or Industrial Uses – Required parking spaces, loading areas and driveways shall be provided and maintained with suitable grading, paved surfaces, and adequate drainage. No parking space or other paved surface, other than access driveway(s) or walkways, shall be located within 10 feet of any lot line, and notwithstanding the foregoing, no parking space or other paved surface other than access driveway(s) or walkway(s) shall be located within the limits of a landscape buffer area.

6.7.1.1 Each lot may have one access driveway which shall be at least 24 feet wide at its narrowest point but not more than 36 feet wide at its widest point. Each lot may have one additional access drive-way for each 200 feet of frontage provided all such access drive-way(s) shall be at least 200 feet apart on the lot measured from the centerline of each access driveway. In the case of an access drive-way which shall be used for one-way traffic only, the minimum width may be reduced to 14 feet at its narrowest point.

6.7.1.2 Interior driveways shall be at least 20 feet wide for two-way traffic and 14 feet for one-way traffic.

6.7.2 Common Driveways for Non-Residential Uses (5/1/08)

A common driveway, for the purposes of this Bylaw, is defined as a privately owned and maintained driveway serving two (2) non-residential lots, but not more than four (4) non-residential lots, which is subject to any Planning Board design and construction standards developed under the authority of this Bylaw.

6.7.2.1 Located in a business or industrial district a common driveway may serve two (2) or more lots used for business or industrial uses. The driveway shall not serve more than four (4) lots and shall meet the following requirements.
a. Shall not exceed thirty six (36) feet in width,
b. The common driveway shall be described in a duly recorded easement and
governed by a duly recorded covenant or ownership agreement covering
maintenance, use and repair,
c. No common driveway created in accordance with these provisions shall be
maintained by the Town of Auburn or considered a public way for frontage
purposes.

6.7.2.2 The Planning Board may adopt, and update as necessary, regulations for the
design and construction of common driveways.

Section 7

Signs and Advertising Devices (5/1/12)

7.0 Purpose and Intent It is recognized that signs perform important functions, which are essential
for the public safety and general welfare of the community. The public
interest is served by [the] use of signs by business and services to identify
their premises as well as providing orientation, information about goods
and services available and communicating noncommercial messages. The
regulation of signs is necessary in order to preserve and enhance the
governmental interests of the Town of Auburn in its natural, scenic,
historic, cultural and aesthetic qualities as well as preventing hazards to
vehicular and pedestrian traffic.

7.1 Definitions For the purpose of this section, the following terms shall have the
following meaning:

7.1.1 Signs and Advertising Devices – Any permanent or temporary structure, device,
symbol, design, letter, words, model, banner, pennant, insignia, logo, trade flag,
balloon, lighting or representation used as or is in the nature of, an advertisement,
announcement, direction or [to] identify any place of business, product, activity or
person and which is designed to be seen from the outside of a building.

7.1.2 Erecting – Any constructing, re-lettering, extending, altering or changing of a sign
other than repainting, repairing and maintaining.

7.1.3 Sign Types and other Definitions

Abandoned Sign: Any sign or sign structure which has not been used for the display of
sign copy for more than sixty (60) days, or that no longer identifies or advertises a location,
product, or activity conducted on the premises upon which the sign is located.

Advertising Vehicle: Any registered or unregistered vehicle or trailer having attached
thereto or located thereon any sign or advertising device which advertises a product,
business, or service, or directs people to a business or activity located on any premises.
This definition does not include the identification of a firm or its products on a vehicle
operated during the normal course of business. Franchised buses and taxis are specifically
excluded from this definition.

**Animated Sign:** A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

1) Environmentally Activated: Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennants and pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

2) Mechanically Activated: Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

3) Electrically Activated: Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
   a) Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination.
   b) Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

**Banners:** a strip of cloth or other man made fabric on which a sign is painted, silk-screened or printed. The display area shall be defined as the area of one face of the banner. The banner shall not exceed (40) square feet. (5/13/99)

**Building Elevation:** The entire side of a building, from ground level to roofline, as viewed

**Canopy (Attached):** A multi-sided overhead structure or architectural projection supported by attachment to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light.

**Canopy (Freestanding):** A multi-sided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a freestanding canopy may be illuminated by means of internal or external sources of light.

**Canopy Sign:** A sign affixed to the visible surface(s) of an attached or freestanding canopy.

**Changeable Sign:** A sign with the capability of content change by means of manual or remote input, including signs, which are:

1) Manually Activated - Changeable sign whose message copy or content can be changed manually
2) Electrically Activated - Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also: Electronic Message Sign or Center

**Community Event**: An occurrence open to the general public, and organized by (or in cooperation with) a public agency or civic organization located within the Town of Auburn.

**Copy**: Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, excluding numerals identifying street address only.

**Development Complex Sign**: A freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single-owner or landlord.

**Directional Sign**: Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

**Electronic Message Sign or Center**: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

**Exterior Sign**: Any sign placed outside a building.

**Fascia Sign**: See Wall Sign.

**Freestanding Sign**: A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles, or braces placed in or upon the ground.

**Frontage (Building)**: The length of an exterior building wall or structure of a single premise oriented to the public way or other point of property access.

**Frontage (Property)**: The length of the property line(s) of any single premise along a public way or other point of property access.

**Ground Sign**: See Monument Sign.

**Historical Marker**: A small sign attached to a building identifying a person or event of historic significance related to the property.

**Hours of Operation**: The actual hours when a building is open for business, and not more than thirty (30) minutes prior to opening or following closing.

**Illuminated Sign**: A sign characterized by the use of artificial light, either projecting through its surface(s) [Internally illuminated]; or reflecting off its surface(s) [Externally illuminated].

**Inflatable Sign**: A balloon or other gas-filled figure. These signs are prohibited in Auburn.

**Interior Sign**: Any sign placed within a building, but not including Window Signs as
defined by this bylaw. Interior Signs, with the exception of Window Signs as defined, are not regulated by this Chapter.

**Mansard**: An inclined decorative roof-like projection that is attached to an exterior building facade.

**Marquee**: See Canopy (Attached)

**Marquee Sign**: See Canopy Sign

**Menu Board**: A freestanding sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than twenty percent (20%) of the total area for such sign utilized for business identification.

**Monument Sign**: (Also known as a Ground Sign) A freestanding sign which is attached to the ground by means of a wide base of solid appearance.

**Off-Premise Sign**: A permanent or temporary sign (including the structure to which it is attached) erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property upon which it is displayed.

**On-Premise Sign**: A sign (and the structure to which it is attached) erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**Parapet**: The extension of a building facade above the line of the structural roof.

**Pole Sign**: See Freestanding Sign.

**Political Sign**: A temporary sign intended to advance a political statement, cause, or candidate for office. A legally permitted advertising sign shall not be considered to be a political sign.

**Portable Sign**: Signs which are not permanently affixed to a building, structure or the ground including, but not limited to those used in conjunction with a gasoline service station and automobile dealerships, ‘sandwich board’ or A-frame signs, and signs mounted on a truck or trailer chassis with or without wheels whose primary function is that of a sign and not to transport goods or merchandise.

**Projecting Sign**: A sign other than a Wall Sign that is attached to or projects more than eighteen (18) inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.

**Real Estate Sign**: A temporary sign advertising the sale, lease, or rental of the property or premises upon which it is located.

**Revolving Sign**: A sign that revolves three hundred and sixty degrees (360) about an axis. See also: Animated Sign, Mechanically Activated.
**Roof Line:** The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

**Roof Sign:** A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs. Roof signs are prohibited in the Town of Auburn.

**Sign Copy:** Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, exclusive of numerals identifying street address only.

**Sign Height:** The height of a sign as measured from the ground to the highest point of the sign structure. For a sign placed on sloping or uneven terrain, the height of the sign shall be measured by, determining the average ground elevation directly beneath the sign, and using that average elevation as the ground level.

**Sign Structure:** Any structure supporting a sign.

**Temporary Sign:** A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs. Banners, balloons, and pennants are temporary signs, regardless of the manner by which they are affixed to a building or to the ground.

**Wall or Fascia Sign:** A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than eighteen (18) inches from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For visual reference and comparison examples of differences between wall or fascia signs and roof signs, see Section 3.

**Wayfinding Sign:** A sign or series of signs located in a manner that provides orientation and direction to a destination or destinations within a specific geographic area.

**Window Sign:** A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

7.2 **General Regulations:** The following regulations shall apply in all districts:

7.2.1 No exterior sign or advertising device shall be erected except as provided by this by-law which shall include not being erected that in any way creates a traffic hazard or obscures or confuses traffic control.

7.2.2 **Illumination:**

7.2.2.1 Sign may be illuminated by either of the following methods:
1) By a white, steady stationary light of reasonable intensity shielded and directed solely at the sign, and not casting light on the premises;

2) By interior non-exposed lights of reasonable intensity.

7.2.2.2 The light from any sign shall be so shaded, shielded or directed or shall be maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighboring premises, reflect or shine on or into residential lots, nor impair the safe vision of operators of vehicles moving on public roads and highways. No illumination shall be permitted which casts glare beyond the perimeter of the property on which the sign is located.

7.2.2.3 Light bulbs shall be enclosed in a housing, can, sleeve, or other container.

7.2.2.4 Seven-day timers shall be installed on every illuminated sign, which shall coincide with times of illumination as stated in Section 7.2.2.5 of this Bylaw.

7.2.2.5 No sign shall be illuminated more than 30 minutes before opening or after closing of any store or business. In the case of Multiple Business Signs (MBS) illumination will coincide with business first to open and last to close.

7.2.2.6 No sign shall containing red, yellow and/or green lights, within 300 feet of any intersection.

7.2.2.7 Except for permanent subdivision identification signs, in no instance shall any illuminated sign be located closer than fifty (50) feet to any residential district. With the exception of those signs located within the Residential Office District.

7.2.3 Any sign, which advertises or identifies products, businesses, services or activities which are no longer sold, located or carried on or at the premises shall be removed within 60 days of the cessation of the service or sales of such product. After such time the sign shall be considered abandoned and any replacement shall be required to conform to the provisions of this Bylaw.

7.2.4 Temporary banner signs shall be permitted for a period of time not to exceed thirty (30) days. All temporary banner signs shall require a permit with the exception of those listed in Section 7.5 of this Bylaw.

7.2.5 Nonconforming Signs: Any sign legally erected prior to the effective date of this bylaw which was permitted by previous provision contained in the Zoning Bylaw; or other bylaws of the Town but which is not in conformity with the provisions of this Section 7, shall be considered a non-conforming sign.

7.2.5.1 Non-Conforming Signs may be maintained, except as hereafter provided:
(a) A non-conforming sign shall be brought into compliance with this Section 7 of the Zoning Bylaw if there is a:

1. Change in the use, or

2. Change in the location of the sign on the premises, or

3. Change in the location of the building, or the property line in a manner that renders the sign to be nonconforming with respect to dimensional requirements.

(b) A non-conforming sign shall be brought into compliance with this Section 7 if it is rebuilt or relocated. Rewording or re-lettering of a non-conforming sign is allowed as long as such sign is not required to be brought into compliance for a reason provided in Section 7.2.5.1 (a) above.

(c) A non-conforming sign shall not be changed or altered to another sign, which does not comply with this Section 7 of the Zoning Bylaw.

7.3 Sign Permits: No sign, which requires a sign permit shall hereafter be constructed except in conformity with a sign permit from the Inspector of Buildings.

7.3.1 Applicability: All signs shall require a sign permit except as provided in Section 7.5.

7.3.1.1 Location of Signs: All signs shall be erected in the exact location described in the permit.

7.3.1.2 Inclusion of permit number on sign: All signs shall have the permit number clearly visible and located at the lower right hand corner of the sign face or structure, that is visible from the street. This excludes all signs that are exempt under Section 7.5 of this Bylaw.

7.3.2 Application – All applications for signs requiring a sign permit shall be obtained from the Inspector of Buildings and shall include at least:

(1) The location, by street number, of the proposed sign;

(2) The name and address of the sign owner and the owner of the premises where the sign is to be located, if other than the sign owner;

(3) A scale drawing showing the proposed construction, method of installation or support, colors, dimensions, location of the sign on the site, and method of illumination;

(4) Such other pertinent information as the Inspector of Buildings may require to ensure compliance with the by-law and any other applicable law; and
(5) The owner of the sign and the owner of the premises where the sign is to be located must sign the application. The Inspector of Buildings shall have the authority to reject any sign permit application, which is not complete when submitted.

7.3.3 Fees – The Board of Selectmen shall establish and from time to time review a sign permit fee, which shall be published as part of the sign, permit application.

7.4 Signs Prohibited in All Districts

7.4.1 Except as provided in Section 4.5.10.5, all billboards, signs on utility poles, trees or fences and all signs not located on the same premises as the advertised activity, business product or person.

7.4.2 All signs consisting of pennants, ribbons, streamers, spinners, strings of lights unless associated with a specific holiday, revolving beacons, searchlights or animated skies.

7.4.3 All Animated Signs as defined in Section 7.1.3 of this Bylaw, except for indicators of time and temperature or barber poles.

7.4.4 No sign, portion of a sign, or structural support for such sign shall extend above the lowest point of the roof of a building, except that for one-story buildings having a continuous parapet above the lowest point of the roof, or mansard style roof. Signs may be placed below the highest point of such parapet rather than the lowest point of the roof. For a mansard roof the sign must be placed at least one foot below the top of the lower slope.

7.4.5 Advertising vehicles or any sign attached to, or placed on, a vehicle or trailer parked on any public or private property, except for signs meeting the following conditions:
   A. The primary purpose of such vehicle or trailer is not the display of signs
   B. The signs are magnetic, decals, or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
   C. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.

7.4.6 Portable Signs as defined in Section 7.1.3 of this Bylaw.

7.5 Signs Which Do Not Require a Sign Permit

7.5.1 Resident Identification Sign – For single and two family residential uses in any district one identification sign upon a lot identifying the occupants of the dwelling
or one sign identifying an authorized home occupation shall not require a sign permit. In the residential districts, one sign identifying any other use, which is conducted on the premises and is permitted in the residential districts. All such signs shall not exceed two square feet of display area and, if lighted, shall use indirect white light only.

7.5.2 Government Signs – Signs erected and maintained by the Town of Auburn, the Water Districts, the Commonwealth of Massachusetts, or the Federal Government on any land, building or structure used by such agencies and any other signs at any location required by such agencies for public health or safety purposes shall be exempt.

7.5.3 Temporary Construction Signs – One temporary construction sign for a new project identifying the building, the owner or intended occupant and the contractor, architect and engineers, which shall not be illuminated nor in excess of 32 square feet of display area.

Such signs shall not be erected prior to the issuance of a building permit and shall be removed within seven days of completion of the construction or issuance of the occupancy permit, whichever comes first.

7.5.4 Fuel Pump Signs – Fuel pump signs on service station fuel pumps identifying the name or type of fuel and price thereof.

7.5.5 Window Signs: Window signs in the Business or Industrial districts shall not require a sign permit provided that their aggregate display surface covers no more than 25% of the window or door on which they are placed or sixteen (16) square feet, whichever is smaller. Such signs shall not be illuminated other than by standard lighting fixtures on the building. Window signs promoting a public service or charitable event shall not be calculated in the allowable 25%.

7.5.6 Political Signs: Political signs are allowed on private property for a period beginning 30 days before an election. All signs must be removed within seven days following an election. Signs shall be no more than 12 square feet in area.

7.5.7 Real Estate Signs: Real Estate signs are allowed for a period 10 days beyond the closing date of a sale. Signs shall be no more than 12 square feet in Residential districts and 32 square feet in all other districts. Other than Residential districts no sign shall remain for longer than 365 days.

7.5.8 Service and Charitable Organizations – Signs announcing fundraising and community service events shall be allowed for a period beginning 30 days before an event. Signs shall be removed within seven days following such event. These signs shall not exceed ten (10) square feet, be placed as to obstruct sightlines at intersections or advertise anything other than the community event.

7.6 Signs Permitted in the Business, or Industrial Districts: Any principal use permitted in the
Business or Industrial Districts may erect a sign or signs subject to the following:

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Zoning District</th>
<th>RA, RB, RC, RR</th>
<th>RO</th>
<th>LB</th>
<th>HB</th>
<th>GLIA, IP</th>
<th>RM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Max Height/Max Size</td>
<td>Max Height/Max Size</td>
<td>Max Height/Max Size</td>
<td>Max Height/Max Size</td>
<td>Max Height/Max Size</td>
<td>Max Height/Max Size</td>
<td>Max Height/Max Size</td>
<td></td>
</tr>
<tr>
<td>Wall Sign</td>
<td></td>
<td>6'/4 s.f.</td>
<td>6'/24 s.f.</td>
<td>8'/5% or 90 s.f.*</td>
<td>10'/10% or 120 s.f.*</td>
<td>15'/20% or 250 s.f.*</td>
<td>15'/25% or 300 s.f.*</td>
</tr>
<tr>
<td>Free Standing</td>
<td></td>
<td>N/A</td>
<td>10'/24 s.f.</td>
<td>12'/40 s.f.</td>
<td>18'/60 s.f.</td>
<td>20'/100 s.f.</td>
<td>30'/150 s.f.</td>
</tr>
<tr>
<td>Monument</td>
<td></td>
<td>N/A</td>
<td>4'/24 s.f.</td>
<td>8'/40 s.f.</td>
<td>10'/60 s.f.</td>
<td>15'/100 s.f.</td>
<td>15'/100 s.f.</td>
</tr>
<tr>
<td>Elec. Mess. Center</td>
<td></td>
<td>N/A</td>
<td>N/A</td>
<td>10%**</td>
<td>25%**</td>
<td>10%</td>
<td>25%**</td>
</tr>
</tbody>
</table>

*Percentage of wall area up to a maximum
**Requires a Special Permit from the ZBA

7.6.1 Signs Allowed – Table 7.6.1 outlines the allowable size and height of signs by Zoning District. The maximum size shall be prescribed for each property.

7.6.1.1 Individual business with a building fronting on multiple streets shall be allowed multiple signs but these signs shall not exceed the maximum square footage outlined in Table 7.6.1.

7.6.1.2 Buildings which contain multiple business shall calculate allowable sign area for each business based on the building frontage that is associated with said business. Signs shall not exceed the allowed percentage in Table 7.6.1 nor shall the aggregate exceed the total outlined in such.

7.6.2 Secondary Signs – If a business has a direct entrance into the business in a wall other than the front wall, there may be a secondary sign affixed to such wall, and if the business has a wall, other than the front wall, that faces upon a street or parking area, there may be a secondary sign affixed to such wall whether or not such wall contains an entrance to the business; provided, however, that no business shall have more than two secondary signs in any event. The display surface of any secondary sign shall not exceed six square feet.

7.6.3 Directory Signs – One exterior directory sign listing the name and location of the occupants of the premises may be erected on the exterior wall of a building at the main entrance-provided the display area shall not exceed four square feet.

7.6.4 Directional Signs – Directional signs may be erected for the safety and direction of vehicular or pedestrian traffic and shall be limited to wall and freestanding signs only. The display area of each directional sign shall not exceed six square feet and no directional sign shall be located more than six feet above the ground level if mounted on a wall of a building more than three and one-half feet above the ground if free-standing. One such sign, not exceeding three (3) feet in height, may be placed at each vehicular entrance or exit on a lot to identify such entrance or exit provided such sign does not constitute a traffic hazard; such signs shall not affect the
computation of allowable number of signs or aggregate sign size on a property. Directional signs shall not advertise, identify or promote any product, person, premises or activity but may identify the street name/number and provide traffic directions.

7.6.5 No sign shall be erected with any part closer than 10 feet from the traveled roadway or side or rear yard lot lines.

7.6.6 Canopy and Awning signs.

7.6.6.1 The copy area of canopy and awning signs shall not exceed an area equal to twenty-five percent (25%) of the background area of the canopy, awning or awning surface to which such sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.

7.6.6.2 Neither the background color of a canopy or awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

7.6.6.3 For the purpose of calculating the permitted size and height of a sign, awning signs shall be considered as wall signs, and they shall count toward the permitted area for all wall signs.

7.6.7 Electronic Message Centers. Electronic Message Center signs are allowed by Special Permit in LB, HB, GI, IA, IP and RM districts. Elements to be reviewed and regulated in allowing a Special Permit shall include, but not be limited to the following:

7.6.7.1 Such signs shall display static images only.

7.6.7.2 Such signs may change their static images no more than once every thirty (30) minutes as a free standing or monument sign or once every five (5) minutes as a wall sign. In addressing this issue, Zoning Board of Appeals may review sight distances and speed limits on surrounding roads.

7.6.7.3 Transitions from one static image to the next shall appear instantaneously without the appearance of flashing, animation or movement of any kind.

7.6.7.4 The background of any Electronic Message Center shall remain a consistent color and intensity from one message to the next.

7.6.7.5 Such signs shall come equipped with automatic dimming technology that automatically adjusts the sign’s brightness based on ambient light conditions.

7.6.7.6 No electronic message center sign shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle meter as a distance of 50 feet from the display.
7.6.7.7 Electronic Message Center Signs shall meet the dimensional requirements outlined in Table 7.6.1.

7.6.7.8 The shall be only 1 Electronic Message Center allowed per property.

7.6.7.9 No Electronic Message Center shall be located within two hundred (200) feet of any residence.

7.6.7 Landscaping: The area surrounding the base of all freestanding and monument signs shall be attractively landscaped. This landscaping may include low shrubbery, flowers or other such plantings that will not exceed one and one half (1½) feet in height. These plantings will serve to obscure the supporting structure of the sign, while adding to overall appearance of the property.

7.6.8 Site Plan Approval: All signs shall be included as an element of all Site Plan Approval applications. The application shall include the location, size and height of all signs existing and proposed on the property. Applicants may be required to document signs on adjacent property if the Planning Board determines the circumstances warrant such to reach an informed decision.

7.7 Signs for Development Complexes

7.7.1 Master Sign Plan Required. All single-owner controlled multiple-occupancy non-residential or mixed-use development complexes on parcels exceeding four (4) acres in size, shall submit to the Zoning Board of Appeals a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

A. Proposed sign locations
B. Materials
C. Type of illumination
D. Design of freestanding sign structures
E. Size
F. Height
G. Quantity
H. Uniform standards for non-business signage, including directional and informational signs.

7.7.2 Development Complex Sign. In addition to the freestanding business identification signs otherwise allowed by this bylaw, every multiple-occupancy development complex shall be entitled to one freestanding sign per street front, at the maximum size permitted for business identification freestanding signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any freestanding sign otherwise permitted under this bylaw may identify the name of the development complex.
7.7.3 Compliance with Master Sign Plan. All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

7.7.4 Special Permit Required. The Zoning Board of Appeals shall act upon all applications for master sign plans through the special permit process. Special permits for master sign plans shall be reviewed concurrently with the site plan approval process. In their review of master sign plans, the Zoning Board of Appeals shall consider the following:

A. The relationship of the proposed signage to the overall development, as well as to surrounding properties.
B. The extent to which the proposed signage is compatible with the proposed architecture.
C. The use of appropriate landscaping to complement the proposed sign designs.

7.7.5 Waiver from Underlying Requirements. The Zoning Board of Appeals shall have the authority to modify or waive specific sign regulations related to a master sign plan if it finds that such modification or waiver results in a superior master sign plan design.

7.8 Waivers

The Zoning Board of Appeals may waive any requirement of this section through the Special Permit process outlined in Section 9.3 of these Bylaws. Through this process the Board may impose special conditions as the circumstances warrant and they deem necessary to protect the public interest and insure that the development will be consistent with the purpose of this section.

Section 8

Nonconforming Lots, Uses, Structures and Parking

8.1 Nonconforming Lots

Any lot which complied with the minimum area, frontage, and lot width requirements, if any, in effect at the time the boundaries of the lot were defined by recorded deed or plan may be built upon or used for single-family residential use, notwithstanding the adoption of new or increased lot area, frontage or lot width requirements, provided that:

8.1.1 At the time of the adoption of such new or increased requirements or while building on such lot was otherwise permitted, whichever occurs later, such lot was held, and has continued to be held, in ownership separate from that of adjoining land; and

8.1.2 The lot had at least 5,000 square feet of area and 50 feet of frontage at the time the boundaries of the lot were defined; and

8.1.3 Any proposed structure is situated on the lot so as to conform with the minimum yard requirements, if any, in effect at the time the boundaries of such lot were defined. In the
case where no minimum yard requirements were in effect at the time the boundaries of such lot were defined, the minimum front yard shall be 20 feet and the minimum side and rear yards shall be 10 feet.

8.2 Nonconforming Uses

8.2.1 Continuing of Existing Use – The requirements of Section 6 of “The Zoning Act”, Chapter 40A of the General Laws, as amended, shall apply.

8.2.2 Changing a Nonconforming Use – A nonconforming use may be changed to another nonconforming use by special permit from the Board of Appeals provided the Board of Appeals finds that the proposed use is more or equally in harmony with the character of the neighborhood and the applicable requirements of the zoning district than the existing use.

8.2.3 Extending a Nonconforming Use – A nonconforming use may be extended in an area by special permit from the Board of Appeals.

8.2.4 Abandonment – A nonconforming use which is abandoned shall not be resumed. A conforming use shall be considered abandoned:

8.2.4.1 When a nonconforming use has been replaced by a conforming use; or

8.2.4.2 When a nonconforming use is discontinued for a period of two years or more; or

8.2.4.3 When a nonconforming use has been changed to another non-conforming use by special permit from the Board of Appeals.

8.3 Nonconforming Structures

8.3.1 Continuation of Existing Structure – The requirements of Section 6 of “The Zoning Act”, Chapter 40A of the General Laws shall apply.

8.3.2 Changing a Nonconforming Structure – A nonconforming structure may be altered, reconstructed, extended or structurally changed provided that such alteration, reconstruction, extension or structural change conforms to all the dimensional requirements of this by-law.

8.3.3 Restoration – If a nonconforming structure is damaged by fire, flood or similar disaster to an extent greater than 50% of its fair market value before it was damaged, it may be rebuilt or reconstructed without a special permit from the Board of Appeals if such reconstruction is completed within two years. After two years, a special permit shall be required. However, no such special permit shall be granted unless the Board of Appeals finds that: (1) such rebuilding or reconstruction will not be detrimental to the neighborhood, and (2) to the extent possible the structure will be rebuilt or reconstructed in conformity with the dimensional requirements of this by-law.

8.4 Nonconforming Parking

This by-law shall not be deemed to prohibit the continued use of any land or structure that is nonconforming with respect to parking requirements.
Section 9

Administration

9.0 Planning Board (10/27/15)

9.0.1 The Town of Auburn Planning Board shall have and exercise all powers granted to planning boards by the Massachusetts General Laws, including Chapters 40, 40A, and 41, and by this Zoning Bylaw, including but not limited to the following:

9.0.1.1 To hear and decide applications for special permits when designated as the special permit granting authority herein;

9.0.1.2 To review Site Plans pursuant to Section 9.4 of this bylaw;

9.0.1.3 To hear and decide applications relative to the Town of Auburn Subdivision Rules and Regulations and the Subdivision Control Law, Massachusetts General Laws, Chapter 41, Section 81K-81GG.

9.0.2 The Planning Board shall adopt rules and regulations not inconsistent with the provisions of the Auburn Zoning Bylaw for conduct of its business and otherwise carrying out the purposes of Massachusetts General Laws, Chapter 40A and this bylaw, and shall file a copy of such rules in the office of the Town Clerk.

9.0.3 The Planning Board may adopt reasonable administrative fees for petitions under its jurisdiction, as well as fees for employing outside consultants to assist the Board with its review of petitions.

9.0.4 In addition to the members established by the Town Charter, the Town of Auburn Planning Board may include one (1) associate member, appointed by the Town Manager, as provided under Massachusetts General Laws, Chapter 40A, Section 9.

9.0.5 The term of each associate member shall be determined by the Town Manager.

9.1 Board of Appeals (3/24/15)

9.1.1 The Town of Auburn Board of Appeals is hereby designated as the Board of Appeals required by “The Zoning Act” of the Commonwealth of Massachusetts, Chapter 40A of the General Laws.

9.1.2 The Board of Appeals shall act on all matters over which it has jurisdiction and in the manner prescribed by the following provisions:

9.1.2.1 To hear and decide appeals from any decisions of the Building Inspector;

9.1.2.2 To hear and decide applications for special permits except as otherwise noted in this by-law;

9.1.2.3 To hear and decide petitions for variances from this by-law.

9.1.3 In addition to the members established by the Town Charter, the Board of Appeals may include two (2) associate members, appointed by the Board of Selectmen, one or both of whom may be designated from time to time by the Chairman of the Board of Appeals to sit on the board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until said vacancy is filled.
9.1.4 The term of each associate member shall be determined by the Board of Selectmen.

9.2 Building Permit

No building permit shall be issued by the Building Inspector unless the construction, alteration or relocation for which the permit is sought complies with the provisions of this by-law and Chapter 40, Section 54 of the M.G.L.

9.2.1 Application – Any application for a building permit shall be accompanied by:

1. a description of the existing and the proposed use of land or structures on the development site;

2. a plan drawn to scale and prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, showing the dimensions of the development site, the location and dimensions of all existing and proposed structures and the dimensions of all setbacks; and

3. such further information as the Inspector of Buildings require to ensure enforcement of this by-law.

The Inspector of Buildings may waive the requirements of the preceding sentence, if the Inspector determines that the proposed work is of a minor nature.

9.3 Special Permit

Certain uses are designated in this by-law as requiring a special permit. The Board of Appeals or the Planning Board are herein designated as Special Permit Granting Authorities. The Board of Appeals or the Planning Board where this by-law specifically authorizes may grant special permits for such designated uses in accordance with the standards of this by-law.

9.3.1 Rules and Regulations and Fees – The Special Permit Granting Authority shall adopt, and from time to time amend, Rules and Regulations, not inconsistent with the provisions of this by-law or Chapter 40A of the General Laws or other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Special Permit Granting Authority shall request written reports and the procedure for submission and approval of such permits. The Special Permit Granting Authority may adopt, and from time to time amend, fees sufficient to cover reasonable costs incurred by the Town in review and administration of special permits.

The Special Permit Granting Authority may hire the service of a licensed civil engineering firm, or other licensed professional, to determine what information it deems necessary to reach a decision or to review information submitted by Special Permit applicant(s). The applicant shall be responsible for the costs of said review. (12/15/04)

9.3.2 Application – Any person who desires to obtain a special permit shall submit a written application therefore to the Special Permit Granting Authority. Each application shall be accompanied by the information required by the Special Permit Granting Authority.

9.3.3 Reports from Town Boards or Agencies – The Special Permit Granting Authority shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it deems necessary or appropriate for their written reports. Any such board or agency to which petitions are referred for review shall make such recommendation or
submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant. Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.

9.3.4 Public Hearing and Decision – The Special Permit Granting Authority shall hold a public hearing no later than 65 days after the filing of an application. The Special Permit Granting Authority shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the special permit application. The Special Permit Granting Authority shall issue a decision no later than 90 days following the close of the hearing. Failure by a Special permit Granting Authority to take final action upon an application for a special permit said 90 days following the close of the public hearing shall be deemed to be a grant of the permit applied for.

9.3.5 In acting upon special permits, the Special Permit Granting Authority shall consider the following criteria:

9.3.5.1 The degree to which the activity, site plan and building design are consistent with surrounding development.

9.3.5.2 Capability of the Town to serve the premises, considering existing roads, town equipment and other municipal services.

9.3.5.3 Impact on the Town’s educational facilities.

9.3.5.4 Consequences for adjoining premises of sound, light, odor, noise or other disturbances.

9.3.5.5 The degree to which the proposal results in air or water pollution, topographical change, removal of mature trees or other botanical assets, removal of cover vegetation, risk of erosion or siltation, increased storm run-off from the site or displacement of natural habitats.

9.3.5.6 Sight distance and traffic safety at the entrance to town roads or other public ways.

9.3.5.7 Environmental compatibility of the proposal with the neighborhood character.

9.3.5.8 Employment and fiscal consequences.

9.3.5.9 The degree to which the proposed development is consistent with Auburn’s Revised Master Plan.

9.3.6 Multi-family dwellings will be allowed in the RA and RB Districts, and the RO, LB and HB districts, provided that, in addition to the criteria listed in 9.3.5, the Special Permit Granting Authority finds that:

9.3.6.1 Such dwelling will have a maximum height of 25 feet.

9.3.6.2 The lot contains not less than 10,000 sq. ft. per dwelling unit in the Residence A, Residential Office, Local Business or Highway Business districts; not less than 20,000 sq. ft. per dwelling unit in Residence B, or not less than 10,000 sq. ft. per dwelling unit if in an Open Space Residential development;

9.3.6.3 Only one multifamily dwelling structure per lot is allowed. (1/28/91)
9.3.6.4 No single dwelling structure contains more than 12 apartment units or more than eight attached houses in the RA and RB Districts. No single dwelling structure contains more than four apartment units or more than four attached houses in the RO District. (1/28/91)

9.3.6.5 Access driveways are safe, access streets are safe and have paved sidewalks and adequate to serve the additional traffic expected and to permit passage of emergency vehicles.

9.3.6.6 The neighborhood will not be affected by surface runoff, dust, glare, undue impairment of light or view by other nuisance to a degree substantially greater than would be expected of single-family development.

9.3.6.7 Such dwellings are sewered.

9.3.7 Special Permit Conditions – The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town, including, but not limited to:

9.3.7.1 Dimensional requirements greater than the minimum required by this by-law;

9.3.7.2 Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices;

9.3.7.3 Modification of the exterior features or appearances of the structure(s);

9.3.7.4 Limitation of size, number of occupants, method and time of operation, and extent of facilities;

9.3.7.5 Regulation of number, design and location of access drives, drive-up windows and other traffic features;

9.3.7.6 Requirement of off-street parking which may include screening, buffering and other special requirements;

9.3.7.7 Requirements for performance bonds or other security; and

9.3.7.8 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare of the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.

9.3.8 Time Limitation on Special Permit – A special permit shall lapse if a substantial use thereof has not been commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause within a period of time to be specified by the Special Permit Granting Authority, not to exceed two years from the date of grant thereof.

9.3.9 Effective Date of Special Permit – No special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Worcester County Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, it has been dismissed or denied.

9.3.10 Special Permit Standards for Adult Live Entertainment Establishment, Adult Bookstore, Adult Video Store, Adult Paraphernalia Store or Adult Motion Picture Theatre: No Special
Permit may be granted for any Adult Live Entertainment Establishment, Adult Bookstore, Adult Video Store, Adult Paraphernalia Store or Adult Motion Picture Theatre unless the following conditions are satisfied:

- No Adult Live Entertainment Establishment, Adult Bookstore, Adult Video Store, Adult Paraphernalia Store or Adult Motion Picture Theatre may be located within 1,000 feet of a residential zoning district, school, church or other religious use, child care facility, park, playground or another Adult Live Entertainment Establishment, Adult Bookstore, Adult Video Store, Adult Paraphernalia Store or Adult Motion Picture Theatre.

- No Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. Ch. 119, Sec. 63 or M.G.L. 272, Sec. 28.

- Any Special Permit granted under this section shall lapse within two years of the date of grant, not including the time required to pursue or await the termination of an appeal referred to in M.G.L. Ch. 40A, Sec. 17, if substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun within two years of the date of grant, except for good cause.

### 9.3.11 Purpose, Criteria & Procedures for Special Permits for Personal Wireless Service Facilities (5/7/98)

#### 9.3.11.1 Purpose and Intent

It is the intent of this section to provide for the establishment and expansion of Personal Wireless Service Facility within the Town of Auburn while protecting residential neighborhoods and minimizing the adverse visual effects of such facilities through careful design, siting and screening, and in furtherance of the requirements of the Telecommunications Act of 1996.

This section has been developed in order to:

- maximize use of existing and approved towers and other structures in order to reduce the number of Personal Wireless Communications Facilities needed to serve the community.

- encourage providers to co-locate their facilities on a single structure or site

- protect residential areas from the potential adverse impacts of such facilities

- protect public safety and avoid potential damage to adjacent properties from facility failure through engineering and careful siting of facilities.

No Personal Wireless Service Facility shall be placed, constructed, or modified except upon issuance of a Special Permit by the Planning Board.

#### 9.3.11.2 Special Permit Submittal Requirements & Procedures

All Special Permit applications for Personal Wireless Service Facilities under this section shall be accompanied by the following information, unless the provision of such information is specifically waived by the SPGA:

A. A locus plan at a scale of 1” = 200’ which shall show all property lines, the exact location of the proposed structure(s), street landscape features, residential dwellings and all buildings within five-hundred (500) feet of the facility.

B. The following information must be prepared by a professional engineer:
1. a description of the facility and the technical, economic and other reasons for the proposed location, height and design.

2. confirmation that the facility complies with all applicable Federal and State standards.

3. a description of the capacity of the facility including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.

4. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

C. Any applicant proposing not to co-locate their facility, shall provide written evidence and documentation demonstrating why it is not feasible for the facility to be co-located, and provide all co-location and alternative sites that were considered.

D. Applicants shall submit eight view lines shown in a one-mile radius from the site beginning at true North and continuing clockwise at 45 degree intervals. These 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 (five feet above grade) which show the existing conditions 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.

E. The SPGA may require the applicant to perform an on-site demonstration of the visibility of a proposed tower by means of a crane with a mock antenna array raised to the maximum height of the proposed tower, or a colored four-foot minimum diameter weather balloon at the maximum height of the proposed tower held in place at the proposed site. This on-site demonstration shall be made after the filing of the Special Permit application, but prior to the close of the public hearing. The applicant shall be responsible for the cost of advertising the date and time of the demonstration in a newspaper widely circulated in the Town.

F. Stamped, addressed envelopes to all abutting property owners (according to the latest available tax listing) within a 1/4 mile (1,320’) radius of the proposed facility location, to facilitate the Special Permit Granting Authority’s notification of the public hearing to those property owners.

9.3.11.3 General Design Requirements

A. The only freestanding Personal Wireless Service Facilities allowed are free-standing monopoles, with associated antenna and/or panels. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed. Roof-mounted, side-mounted or structure-mounted Personal Wireless Service Facilities (non-freestanding) are permitted by Special Permit, and may not exceed ten feet above the height of the roof, building or structure, as applicable.

B. New Personal Wireless Service Facilities shall be considered by the
Special Permit Granting Authority only upon a finding by the Special Permit Granting Authority that existing or approved facilities cannot accommodate the wireless communications equipment planned for the proposed facility.

C. Freestanding monopoles shall be set back from the nearest lot line a distance at least equal to their height measured at the mean finished grade of the base of the facility. Freestanding monopoles shall also be set back from the nearest residential structure by a distance of twice the height of the facility, or a distance of 300 feet, whichever is greater.

D. No freestanding monopole shall exceed 100 feet in height as measured from ground level at the base of the facility.

E. To the extent that any personal wireless service facility extends above the height of the vegetation immediately surrounding it, they shall be painted in a light grey or light blue hue which blends with sky or clouds.

F. To minimize the number of Personal Wireless Service Facilities that are freestanding towers in the community, any proposed tower facility shall be designed and constructed so that it is reasonably capable of accommodating other users including other wireless communication infeasible based on the SPGA’s evaluation of information submitted.

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

H. The visible portions of support facilities and structures for Personal Wireless Service Facilities such as vaults, equipment buildings or enclosures and utilities shall be constructed out of and/or finished with non-reflective materials. The support facilities and equipment shall not be more that 12 feet in height. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, or wooden fence, that is equal to the height of the proposed building. The SPGA shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood. All other ancillary uses (including, for example, but not limited to a maintenance depot, vehicle storage, etc.) are prohibited.

I. Existing on-site vegetation shall be preserved to the maximum extent practicable. Landscaping shall be provided around the base of the facility adjacent to a security fence at least six feet in height. The landscaping shall consist of a planting strip at least 25 feet wide, with ground cover and or grass, and shall include at least one row of six-foot high evergreen trees at least 2 inch caliper planted no more than twenty feet on center. Applicants may substitute alternative landscaping plans that satisfy the purpose of this section.

J. All towers, antenna, antenna support structures and similar facilities, whether freestanding or attached to a building or structure, shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures in the surroundings. Facilities located on the exterior of a building shall be of colors that match and/or blend with those of the building.

K. To the extent feasible, all service providers shall co-locate on a single facility. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical.

L. Any proposed extension in the height, addition of cells, antennas or panels,
construction of a new facility, or replacement of a facility, shall be subject to a new application for an amendment to the Special Permit.

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

N. In no event shall any freestanding facility be located closer than two miles to any other such facility, unless the applicant can demonstrate that co-location on the existing facility or site is not feasible from a business and technical standpoint.

O. Adequate access shall be provided to a tower site which respects the natural terrain and does not appear as a scar on the landscape. The adequacy of the access shall be reviewed by the SPGA and Fire Chief to assure emergency access at all times.

P. All unused facilities or parts thereof or accessory facilities and structures which have not been used for one year shall be dismantled and removed at the owner’s expense.

Q. Prior to the issuance of a building permit for a personal 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 that the Building Inspector condemns the property or deems it to have been abandoned or vacant for more than one year. In the event the posted amount does not cover the cost of demolition and removal, the Town may place a lien upon the property covering the difference in cost.

R. Notwithstanding Section 3.1 of the Zoning By-law, a Personal Wireless Service Facility may be located on a lot that contains another principal use, subject to the provisions of this section.

S. The Special Permit Granting Authority may waive strict adherence to the requirements of this sub-section (with the exception of the height limit), if it finds that the safety and well being of the public will not be adversely affected by such a waiver.

9.3.12 Accessory Apartments (5/1/12)
Accessory Apartments shall be permitted only upon issuance of a Special Permit from the Zoning Board of Appeals and in accordance with the additional requirements specified herein.

9.3.12.1 General Description
An accessory apartment shall mean a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is substantially contained within the structure of a single-family dwelling, but functions as a separate unit, including ingress/egress to the unit without requiring passage through the primary dwelling unit.

9.3.12.2 Purpose
The purpose of the Accessory Apartment Bylaw is to:

(a) Provide older homeowners with a means of obtaining, through tenants in
accessory apartments, rental income, companionship, security, and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;

(b) Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;

(c) Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw; and

(d) Legalize conversions to encourage compliance with the State Building Code.

9.3.12.3 Accessory Apartment Standards
The Zoning Board of Appeals may authorize a Special Permit for a use known as an Accessory Apartment in Owner-Occupied, Single-Family Dwellings, provided that the following standards and criteria are met:

(a) The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit, including ingress/egress to the unit without requiring passage through the primary dwelling unit.

(b) Only one apartment will be created within a single-family dwelling.

(c) The lot in which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.

(d) The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.

(e) The accessory apartment shall be designed so that the appearance of the building remains that of a single family residence as much as feasibly possible. Where feasible, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform to the single family character of the neighborhood.

(f) An addition to the original building is permitted provided that the addition does not increase the floor area or volume of the original building by more than twenty (20) percent, and the addition will not alter the character of the building.

(g) The accessory apartment shall be clearly a subordinate part of the single family dwelling. It shall be no greater than seven hundred (700) square feet nor have more than one (1) bedroom.

(h) At least 2 off-street parking spaces are available for the main unit and 1 off-street parking space is available for the accessory unit. Parking spaces shall be located to the side or the rear of the structure, to the extent feasible.

(i) A Sanitarian or Professional Engineer, registered in the Commonwealth of Massachusetts, has certified that the existing or proposed improvements to new or existing sewage disposal systems are adequate and in accordance with 310 CMR 15.000, The Station Environmental Code, Title 5.
The construction of any accessory apartment must be in conformity with the State Building Code.

9.3.12.4 Application Procedure

(a) The procedure for the submission and approval of a Special Permit for an Accessory Apartment in Owner-Occupied, Single Family Dwellings shall be the same as prescribed in Section 9.3 of the Auburn Zoning Bylaw, except it shall include a notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A non-refundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 4OA, Sec. 11 must be notified.

(b) Upon receiving a Special Permit, the owner(s) must file for the subject property a Declaration of Covenants at the Worcester District Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title or if the residence is not occupied by the owner. A time-stamped copy of the recorded Declaration shall be provided to the Zoning Board of Appeals.

(c) In order to provide for the development of housing units for disabled and handicapped individuals, the Zoning Board of Appeals will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

9.3.12.5 Transfer of Ownership of a Dwelling with an Accessory Apartment

(a) The temporary Special Permit for an accessory apartment in an owner-occupied, single family dwelling shall terminate upon the sale of property or transfer of title of the dwelling, unless the Zoning Board of Appeals has approved a transfer of the Special Permit to the new owner.

(b) The new owner(s) must apply for transfer of a Special Permit for an accessory apartment in an owner-occupied, single family dwelling and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units on the premises and a written request to the Zoning Board of Appeals stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.

(c) Upon receiving the transferred Special Permit, the new owner(s) must file for the subject property a Declaration of Covenants at the Worcester District Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title or if the residence is not occupied by the owner. A time-stamped copy of the recorded Declaration shall be provided to the Zoning Board of Appeals.
9.3.12.6 Accessory Apartments in Existence Before the Adoption of Accessory Apartment Bylaw

(a) Statement of Intent:
To ensure that accessory apartments or conversions in existence before the adoption of this Accessory Apartment Bylaw are in compliance with the State Building Code.

(b) Application Procedure
The Zoning Board of Appeals may authorize, under a Special Permit and in conjunction with the Building Inspector, an Accessory Apartment in an Owner-Occupied, Single Family Dwelling. The Board will review each existing use on a case-by-case basis to determine if the dwelling conforms to the State Building Code.

The applicant must follow the same procedures described in this Accessory Apartment Bylaw including the submission of a notarized letter declaring owner occupancy and a Declaration of Covenants.

9.3.13 Registered Marijuana Dispensaries (RMD) (10/18/16)

It is the purpose and intent of this Section of the Zoning Bylaw to provide for the limited establishment of Registered Marijuana Dispensaries, known hereinafter as “RMD”, as they are authorized by the Humanitarian Medical Use of Marijuana Act, M.G.L. c. 94C, App. § 1-1 et seq., and state regulations adopted by the Massachusetts Department of Public Health under 105 CMR 725.000, the Implementation of an Act for the Humanitarian Medical Use of Marijuana, in locations suitable for lawful RMDs; to minimize any adverse impacts on adjacent properties, residential neighborhoods, schools, playgrounds, and other areas where children commonly congregate, local historic districts and other areas that are incompatible with such uses; and for the location of RMDs where they may be readily monitored by law enforcement for health and public safety purposes. It is neither the purpose nor intent of this Section of the Bylaw to supersede any federal or state laws governing the sale or distribution of narcotic drugs.

An RMD may be permitted upon application to and the granting of a Special Permit and Site Plan Approval by the Planning Board, acting as the Special Permit Granting Authority, as specified in Section 9.6 of this Zoning Bylaw. In addition to full compliance with the provisions in this Section, the applicant shall clearly demonstrate to the satisfaction of the Board that there is full compliance with all of the provisions of Section 9.3, Special Permits, relative to the grant of the Special Permit, and full compliance with all of the provisions of Section 9.4, Site Plan Approval, relative to the grant of said Site Plan Approval. The use of land or structures for a RMD, as such term is defined in Section 3.2.7.10 of this Bylaw subject to all of the below listed requirements, conditions, and procedures.

9.3.13.0 Definitions

"Registered Marijuana Dispensary (RMD)" - A not-for-profit entity registered under 105 CMR 725.100, to be known hereinafter as a RMD, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, 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 to be conducted entirely within a secure facility with no drive-thru services. Unless otherwise specified, an RMD refers to the site(s) of dispensing, cultivation, distribution, and preparation of marijuana.
9.3.13.1 Application Requirements

No RMD shall commence operations without first applying for and receiving Site Plan Approval and the grant of a Special Permit from the Planning Board, acting as the Special Permit Granting Authority. A Special Permit shall be granted provided that the Planning Board finds that the applicant has complied with all of the terms, requirements, conditions, and procedures of Section 9.3 of the Auburn Zoning Bylaw in addition to the requirements of this section. Site Plan Approval shall be granted provided that the Planning Board finds that the applicant has complied with all of the terms, requirements, conditions, and procedures of Section 9.4 of the Auburn Zoning Bylaw in addition to this section. The commercial cultivation [unless it meets the requirements for an agricultural or horticultural exemption under Massachusetts General Laws Chapter 40A, Section 3 or as a hardship cultivation as allowed by state law or regulation], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMD under this Section.

Any application for a Special Permit shall be accompanied by an application for Site Plan Approval in accordance with the provisions of Section 9.4 of this Zoning Bylaw. In addition to the materials required under Section 9.4 Site Plan Approval, the applicant shall include:

a. A copy of its certificate of registration to operate a RMD issued by the Massachusetts Department of Public Health;
b. A proposed timeline for achieving operation of the RMD and evidence that the applicant will be ready to operate within that proposed timeline;
c. A statement indicating the need for a RMD in the Town of Auburn and the projected service area including the current patient population amounts in that service area;
d. Evidence that the applicant has adequate liability insurance;
e. A Copy of the detailed written operating procedures as required by the Massachusetts Department of Public Health in 105 CMR 725.105 (or its successor regulation) and as otherwise required by other applicable law or regulation;
f. Locations of all other RMDs in Worcester County;
g. A description of the security measures, including employee security policies, required by the Massachusetts Department of Public Health for the RMD;
h. A copy of the emergency procedures required by the Massachusetts Department of Public Health for the RMD;
i. A copy of the policies and procedures for patient or personal caregiver home delivery required by the Massachusetts Department of Public Health for the RMD;
j. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between the RMD and another or independent testing laboratory as required by the Massachusetts Department of Public Health;
k. A copy of proposed waste disposal procedures;
l. A description and list of any waivers granted by the Massachusetts Department of Public Health for the RMD;
m. Details of proposed water consumption for any site that will include cultivation;
n. Evidence of the applicant's right to use the proposed site of the RMD facility such as a deed, lease or other real estate instrument;
o. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of these above entities are business organizations rather than individuals, the applicant must disclose the identity of the owners of such
entities or business organizations for each level of ownership until the disclosure contains the names of all individuals and their addresses;

p. A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of marijuana-infused products;

q. Proposed security measures for the RMD, including lighting, fencing, storage, gates, alarms, designated delivery areas, etc., to ensure the safety of persons and to protect the premises from theft;

r. Detailed site plans that include all of the information required under Section 9.4 of the Auburn Zoning Bylaw, including distances to any of the uses identified in Section 9.3.13.2 below.

The Planning Board shall refer copies of the application to the Development Coordinating Group to receive written comments related to community and environmental impact, public safety, traffic, municipal facilities and services, water supply, utility infrastructure and wastewater from representatives of the Department of Development and Inspectonal Services, Department of Public Works, Fire Department, Police Department, and the appropriate water district.

9.3.13.2 Site Restrictions

a. An RMD facility, with or without cultivation operations, cannot be located within one (1) mile of any other RMD.

b. No RMD shall be located within one thousand feet (1000\textdegree) of any use as a public or private pre-school, primary or secondary school, dance or gymnastics school, martial arts school, licensed day care center, library, park, playground, recreational facility, or any other locations where children commonly congregate as listed under 105 CMR 725.110(A)(14). Distance shall be measured in a straight line from building to building. For playgrounds, athletic fields, or any other recreational areas where children commonly congregate under 105 CMR 725.110(A)(14) that are not contained within a building, the distance shall be measured in a straight line from the edge of such uses to the nearest point of the proposed RMD facility;

c. No RMD is to be located within two-hundred fifty feet (250\textdegree) of any Residential District, or within one-hundred feet (100\textdegree) of any active pre-existing non-conforming residential uses within non-residential districts. Distances shall be measured in a straight line from property boundary line to property boundary line;

d. No RMD without cultivation operations shall have a gross floor area of less than one thousand five-hundred square feet (1,500 sf.) or in excess of seven thousand four-hundred ninety-nine square feet (7,499 sf.);

e. No RMD with cultivation operations shall have a gross floor area of less than seven thousand five-hundred square feet (7,500 sf.) or in excess of fifty thousand square feet (50,000 sf.);

f. No RMD shall be located within the Zone II Aquifer and Watershed Protection Overlay District;

g. No marijuana or marijuana-based products shall be sold or grown or cultivated on a lot used for residential purposes (except if a hardship certificate is granted by the Massachusetts Department of Public Health in accordance with 105 CMR 725.035) including transient housing such as motels and dormitories, or inside a mobile structure such as a van or truck;

h. A RMD must be located within a permanent building structure and may not be located in a trailer, cargo container, motor vehicle or other similar non-permanent enclosure. A RMD that includes open-air cultivation within such facility must ensure operations take place in designated, locked, limited access areas that are monitored by a surveillance camera system under 105 CMR 725.110(D)(1)(d-i);
i. No RMD shall have drive-thru services;

j. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a RMD;

k. Exteriors signs shall identify only the name of the RMD but shall not display advertisements for marijuana or any brand name. A RMD shall not utilize graphics related to marijuana or paraphernalia on the exterior of the RMD or the building in which the RMD is located, nor shall marijuana, marijuana-infused products, or associated products be displayed or clearly visible to a person from the exterior of the RMD. All exterior building openings, entries and windows shall be screened in such a manner as to prevent the public's view of the interior from any public or private way or from any abutting property;

l. Hours of operation for any RMD shall be established by the Planning Board but in no event shall said facilities be open to the public between the hours of 8:00 PM and 8:00 AM, including any home delivery services;

m. A RMD must ensure that trees, bushes, and other foliage outside of the RMD do not allow for a person or persons to conceal themselves from sight, as outlined under 105 CMR 725.110(A)(11) therefore requiring non-obstructive landscaping within the provisions of Section 11 of the Auburn Zoning Bylaw.

9.3.13.3 Conditions

The Planning Board, as Special Permit Granting Authority, shall attach the following conditions to all RMD Special Permits including, but not limited to, applicable site-specific conditions as determined by the Board in accordance with Section 9.3 and of this Bylaw in addition to 105 CMR 725.000:

a. The Special Permit shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application as the site for the proposed RMD. It shall not be assignable or transferable to any other person and shall terminate automatically on the date there is a voluntary or involuntary alienation of the applicant's title or leasehold interest in the premises or the applicant's right to occupy the premises terminates for any reason;

b. Each RMD permitted under this Zoning Bylaw shall as a condition of its Special Permit file an annual report to the Planning Board and the Town Clerk and appear before the Planning Board no later than January 31st annually, providing a copy of all current applicable state licenses and registrations for the RMD and/or its owners, any updated operating policies required under 105 CMR 725.105 or by the Department of Public Health, the current insurance policies for the RMD, and demonstrated compliance with the conditions of the Special Permit;

c. The Special Permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) (or its successor regulation) with the Chief of Police and the Planning Board within twenty-four (24) hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations;

d. The Special Permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, or final action regarding the RMD issued by the Department of Public Health or the Division of Administrative Law Appeals, as applicable, with the Chief of Police and the Planning Board within forty-eight (48) hours of receipt by the RMD;

e. The Special Permit holder shall provide to the Planning Board and the Chief of Police, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder and the Special Permit
holder shall immediately notify the Planning Board and the Chief of Police of any changes;

f. A Special Permit may be granted only after a determination by the Planning Board that adequate and reasonable safeguards exist to assure on a continuing basis that minors will not be allowed to gain entrance to any RMD, along with compliance with all other applicable requirements set forth herein.

9.3.13.4 Renewals and Expirations

A Special Permit issued under this Section of the Zoning Bylaw shall be valid for a period of one (1) year from the date of the decision. It shall be renewed for successive three (3) year periods provided that a written request for renewal is made to the Planning Board not less than three (3) months prior to the expiration of the then-existing Special Permit, subject to the following:

a. Publication of notice of said request shall be made in the same manner as would be required for an original application for a Special Permit. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then existing permit, a written objection to the renewal, stating reasons for such objection, is received by the Planning Board. In the event of such an objection, a public hearing on the renewal shall be held and shall proceed in a manner identical to the course of proceedings in connection with an original application for the grant of a Special Permit including submission of the same types of materials as required for an original filing.

b. Such permit shall lapse within one (1) year, including such time required to pursue or await the determination of an appeal as referred to in Massachusetts General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a permit for construction, if construction has not begun by such date except for good cause;

c. Such Permit shall require that the owner of such business to supply on a continuing basis to the Planning Board, Building Inspector and Zoning Enforcement Officer any change in the name of the record owner of address or any change in the name of the current manager; and that failure to comply with this provision within 30 days shall result in the immediate revocation of such Permit;

d. No permit shall be granted hereunder to any applicant, principal officer, agent, owner, or manager of the RMD who has been convicted of a felony in the Commonwealth of Massachusetts. The application shall include proof of the foregoing, by sworn statement and including submission to a CORI from the Chief of Police for each of the aforementioned individuals. The Chief of Police shall report to the Planning Board prior to the close of the public hearing whether or not the applicant complies with these criteria.

e. In the event the Massachusetts Department of Public Health cancels, revokes or non-renews the certificate of registration for the RMD, the Special Permit shall immediately become void. The RMD shall be required to remove all materials, plants, equipment and other paraphernalia upon the revocation, abandonment, cancellation, lapse, non-renewal or termination of the Special Permit for any reason. Any existing RMD shall be required to apply for a Special Permit within ninety (90) days following the adoption of this Section of the Zoning Bylaw.

9.3.13.5 Severability

The provisions of this Section of the Zoning Bylaw are severable and, if any of those provisions shall be held to be unconstitutional by any court of competent jurisdiction or otherwise held invalid, the remaining provisions shall remain in full force and effect.
9.4 Site Plan Approval (SPA)

The Planning Board may approve a Site Plan in accordance with the standards of this by-law. (5/6/93, 5/13/99, 5/1/08, 5/1/12)

9.4.1 Applicability – Site Plan Approval shall be required in all instances for the development of land in Section 3, Table of Principal Uses as requiring Site Plan Approval and for all accessory uses thereto. Additionally, any expansion of an existing use which now requires Site Plan Approval shall be subject to the requirements of this by-law. Furthermore, any development that requires a Special Permit, or a Variance from the Zoning Board of Appeals authorizing a use not specifically allowed by the By-law, shall also be subject to a Site Plan Approval by the Planning Board. Site Plan Approval shall not be granted prior to a final affirmative vote on the Special Permit or Variance by the Zoning Board of Appeals. The Planning Board may waive this requirement. The requirements that follow for granting Site Plan Approval may be waived in part or in total at the discretion of the Planning Board. (5/13/99, 1/28/91)

9.4.2 Rules and Regulations and Fees – The Planning Board shall adopt, and from time to time amend, Rules and Regulations not inconsistent with the provisions of this by-law or Chapter 40A of the General Laws or other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a Site Plan.

9.4.3 Application – Any person who desires to build where a site plan is required shall submit a written application therefor to the Planning Board. Each such application shall be accompanied by the following:

9.4.3.1 A written statement detailing the proposed use, the extent of the building coverage and open space as a percentage of the lot, drainage calculations and calculations of the volume of earth to be removed, if any.

9.4.3.2 Site Plan(s), prepared by a Registered Professional Engineer or Registered Land Surveyor, shall contain the following data:

a. The name and address of the property owner and the applicant (if different)
b. All lot lines and setbacks;
c. Zoning district boundaries including floodplain;
d. All wetlands and wetland buffer zones;
e. All areas designated as open space;

f. All existing and proposed topography at two-foot intervals;

g. Buildings, structures, signs, parking and loading spaces and the limits of all paving and open storage areas as existing and proposed on separate plan sheets;

h. All facilities for sewage, waste disposal and drainage;

i. That portion of any adjacent land owned or used by the applicant on which the use is similar to or connected with the use for which permission is sought;

j. Abutting properties with map and lot number and the name of the property owner.

9.4.3.3 A Landscaping Plan shall be prepared in accordance with Section 11 of these Bylaws.

9.4.3.4 A Building Elevation Plan shall be prepared by a Registered Architect or Registered Professional Engineer in all cases where the plan specifies a facility of 10,000 square feet or more of gross floor area. In any case, a Building Elevation Plan shall show the front elevation of the building and its height; and floor plan(s) for the building(s) showing the layout of each floor with a tabular summary of the net floor area use to calculate the required parking, the proposed uses to be conducted on each floor, and a list of the materials proposed for the construction of the building facades.

9.4.3.5 Such other information as the Board may reasonably require including special studies or reports, such as traffic or hydrological impact studies.

9.4.4 Reports from Town Boards or Agencies – The Planning Board shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it deems necessary or appropriate for their written reports. Any such board or agency to which petitions are referred shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the Planning Board and to the applicant. Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.

9.4.5 Public Hearing and Decision – The Planning Board shall hold a public hearing no later than 65 days after the filing of an application. The Planning Board shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the special permit application. The Planning Board shall issue a decision no later than 45 days following the close of the hearing. Failure by the Planning Board to take final action upon an application for a special permit said 45 days following
the close of the public hearing shall be deemed to be a grant of the permit applied for.

9.4.6 Performance Standards for Site Plan Approval – Plans submitted for Site Plan Approval in any zoning district shall conform to the following standards.

9.4.6.1 No fire and explosion hazards shall exist such as to produce dangerous exposure to adjacent property.

9.4.6.2 No objectionable odors shall be observable beyond the property line to a greater degree than those generally existing in the community.

9.4.6.3 No noxious, toxic or corrosive fumes or gases shall be emitted.

9.4.6.4 No residue of dust or smoke shall be detectable beyond the property line.

9.4.6.5 No exterior lighting shall shine directly on adjacent properties, or in such a manner as to create a nuisance on such properties or a hazard on public ways. To ensure exterior lighting conforms to this provision the following conditions shall be met.

a. For the proposed use all lighting installed shall conform to the standards outlined in The Illuminating Engineering Society of North America Lighting Manual.

b. All lighting, with the exception of security lighting, shall be turned on no earlier than one half hour prior to the business opening and turned off no later that one half hour after the business closing.

c. The Planning Board or its designee shall inspect the site with a light meter within fourteen (14) days after the issuance of a Certificate of Occupancy and as warranted in the future to ensure that the exterior lighting continues to abide by these requirements. Failure to do so may result in fines as detailed in Section 10.

9.4.6.6 No persistent noise shall be detectable beyond the property line in excess of the average level of street and traffic noise generally heard at the point of observation, and no noise below such level shall be objectionable with respect to intermittence, beat frequency or shrillness.

9.4.6.7 No inherent or recurrently generated vibration shall be perceptible beyond the property line.

9.4.6.8 No dangerous radiation shall be detectable at the property line.

9.4.6.9 No waste disposal of a type or quantity which the State Division of Sanitation or the Auburn Board of Health deems objectionable at that location shall be discharged into any body of water not completely
9.4.6.10 Stormwater management systems shall be designed and maintained to discharge drainage form a site at a rate of flow equal to or less than pre-development conditions for all storm events (e.g., 2-, 10-, and 100-year events). (11/19/01)

9.4.6.11 Snow storage areas shall be shown on the site plan and shall not interfere with sight distances at points of ingress/egress to a site or pedestrian/vehicle circulation, nor shall it adversely impact surrounding water bodies, streams, wetlands, or other resource areas as defined in Chapter 131 section 40 Massachusetts General Laws, as amended. (11/19/01)

9.4.6.12 No outside loud speakers or paging systems shall be used in the conduct of business on any property. (11/19/01)

9.4.6.13 Speakers used in conjunction with drive-thru service windows are allowed provided the sound emanating from such devices conforms to the standards required in Section 9.4.6.6 of this Bylaw. Appropriate measures shall be taken (e.g., landscaping, fencing, sound-proofing or sound-reducing materials) to mitigate any noise impacts to surrounding properties. (11/19/01)

9.4.6.14 Architecture should demonstrate cohesive planning in relation to the surrounding area and present a clearly identifiable design. Rather, cohesive planning can be demonstrated in:

a. Similar building scale or mass;
b. Consistent use of facade materials;
c. Similar ground level detailing, color or signage;
d. Consistency in functional systems such as driveway or pedestrian way surfaces, signage, or landscaping;
e. The framing of outdoor open space and linkages, or
f. Recognition of the importance of various buildings and features on the site.

It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity.

9.4.6.15 To allow for the least disruption in the flow of traffic on roadways in the Town of Auburn reducing the number of curb cuts on roadways is
desired. To alleviate the disruption of traffic it is preferred that adjoining parcels share a common driveway.

a. Site plans shall include provisions for interior driveways linking neighboring parcels, presently developed or that could be developed, to a common access point. These provisions shall include an easement of 20 feet at the side property lines to allow for the construction of joint access should the opportunity arise.

b. The Planning Board may approve provisions for interior driveways utilizing joint access and/or egress, recognizing that the final design and permitting of access may need further approvals from the Massachusetts Highway Department (for State roads) or the Auburn Highway Surveyor (for Municipal roads).

9.4.7 Final Action (5/1/12)

9.4.7.1 The Planning Board’s final action shall consist of either:

a. A determination that the proposed project is in compliance with the criteria set forth in this By-Law;

b. The Board may deny an application for Site Plan Approval [SPA in the Table of Uses] if:

1. The project does not comply with one or more of the criteria set forth in these bylaws and reasonable conditions cannot be imposed to ensure compliance with one or more of these criteria, or

2. The applicant has not provided information sufficient for the Planning Board to determine compliance with these bylaws.

c. Approval subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary.

d. Approval shall require 3 affirmative votes.

9.4.7.2 Record of the Planning Board’s Final Action

In each and every instance, the Planning Board shall make a detailed record of its proceedings, indicating the vote of each member and setting forth clearly the reason or reasons for its decision and of its official actions including any vote on waivers. Copies of all shall be filed within forty five (45) days after the close of the public hearing with the office of the Town Clerk of Auburn, and shall be a public record.

9.4.8 Enforcement (1/28/91)
9.4.8.1 If after inspection by the Town Planner it is determined that work subject to Section 9.4 is not completed in accordance with the approved site plan(s) or any related conditions have not been satisfied at the time an individual seeks an Occupancy Permit from the Building Inspector, the Planning Board shall require the posting of a bond or other type security deemed acceptable by the Board to assure compliance with the approved plan(s) and any conditions. The amount of security shall be a multiple of one and one half times the cost of completing any remaining improvements (either on site or off site) or to satisfy any conditions placed upon the site plan approval as certified to the Planning Board by a professional engineer to be engaged by the Town at the expense of the individual seeking the occupancy permit. Prior to the Board determining the amount of security the petitioner shall notify the Planning Board in writing as to the remaining items to be completed, as well as the expected completion date of the work. The Planning Board shall notify the Building Inspector in writing once the security has been posted with the Town. (11/15/01)

9.4.8.2 Except for a good cause, Site Plan Approval issued under this section shall lapse within two (2) years if a substantial use thereof has not commenced sooner except for a good cause.

9.5 Variance

A variance from the specific requirements of this by-law, including a variance authorizing a use not otherwise permitted in a particular zoning district, except uses prohibited in Section 3.7, may be authorized by the Board of Appeals.

9.5.1 Rules and Regulations and Fees – The Board of Appeals shall adopt, and from time to time amend, Rules and Regulations not inconsistent with the provisions of this by-law or Chapter 40A of the General Laws or other applicable provision of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Board of Appeals shall request written reports, and the procedure for submission and approval of such permits. The Board of Appeals may adopt, and from time to time amend, fees sufficient to cover reasonable costs incurred by the town in the review and administration of variances.

9.5.2 Application – Any person who desires to obtain a variance from the requirements of this by-law shall submit a written application to the Board of Appeals on a form prescribed by the Board of Appeals.

9.5.3 Reports from Town Boards or Agencies – The Board of Appeals shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it may deem necessary or appropriate for their written reports.

9.5.4 Public Hearing and Decision – The Board of Appeals shall hold a public hearing no later than 65 days after the filing of an application. The Board of Appeals shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the variance application. The Board of
Appeals shall issue a decision on such variance no later than 100 days following the filing of the variance petition with the Board of Appeals. (11/14/98)

9.5.5 Mandatory Findings – Before the grant of any variance from the requirements of this by-law, the Board of Appeals must specifically find that:
(1) owing to circumstances relating to the soil conditions, shape or topography of land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise; and (2) that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this by-law.

9.5.6 Conditions and Safeguards – The Board of Appeals may impose such conditions, safeguards and limitations as it deems appropriate upon the grant of any variance.

9.5.7 Time Limitation on Variance – Any rights authorized by a variance which are not exercised within one year from the date of grant of such variance shall lapse and may be re-established only after notice and a new hearing pursuant to this section.

9.5.8 Effective Date of Variance – No variance or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Worcester County Registry of Deeds. Such decisions shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

9.6 Special Permit Granting Authority – Responsibility

9.6.1 The Planning Board is the Special Permit Granting Authority for mall or other multiple business/service/commercial in a Highway Business or Local Business district, Open Space Residential Development, Mixed Use Development, Earth Removal, hammerhead lots, Registered Marijuana Dispensaries (RMDs), relief from the Schedule of Parking Uses in Section 6 in the case of a Regional Mall, and relief from the maximum height requirements in Table 1 under Section 5.4 for parking decks and garages in the case of a Regional Mall.(10/18/2016)

9.6.2 The Zoning Board of Appeals is the Special Permit Granting Authority for all other special permit requests.

9.7 Site Plan Approval Authority – Responsibility

9.7.1 The Planning Board is the site plan approval authority for all zoning districts.

Section 10

Enforcement

10.1 Enforcement

The Inspector of Buildings of the Town of Auburn is hereby designated as the officer charged with the enforcement of this by-law.

10.1.1 Enforcement Action – The Inspector of Buildings, upon a written complaint of any citizen of Auburn, or owner of property within Auburn or upon such Inspector’s own initiative,
shall institute any appropriate action or proceedings in the name of the Town of Auburn to prevent, correct, restrain or abate violation of this by-law. In the case where the Inspector of Buildings is requested in writing to enforce this by-law against any person allegedly in violation of same and the Inspector of Buildings declines to act, the Inspector shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefor, within 14 days of receipt of such request.

10.1.2 Criminal Disposition: (5/1/08)

If, after written notice, a violation of this Bylaw continues, the Building Inspector shall institute appropriate legal proceedings to enforce the provisions of this Bylaw or to restrain any violation thereof, or both. Whoever violates any provision of this Bylaw or lawful order of the Building Inspector or fails to take constructive action to rectify any such violation shall be subject, upon conviction, to a fine of three hundred dollars ($300) per offense. Each day that a violation continues shall constitute a separate offense.

10.1.3 Non-Criminal Disposition (5/1/08)

1. The provisions of this Bylaw may also be enforced by the Building Inspector by way of the non-criminal disposition procedure provided in M.G.L. c. 40 §21D. The penalty shall be fifty dollars ($50) for the first offense, one hundred dollars ($100) for the second offense, and two hundred dollars ($200) for the third and each subsequent offense. Each day on which a violation exists shall constitute a separate offense.

2. Before proceeding with non-criminal disposition of a zoning violation, the Building Inspector may give a written warning to an offender allowing the offender up to fifteen (15) days to terminate the violation and repair any damage caused thereby.

3. If the violation is not corrected after said fifteen (15) days, the Building Inspector shall give to the offender a written notice to appear before the Clerk of the District Court, Housing Court or other court of equal competency at any time during office hours, but not later than twenty-one (21) days after the date of such notice. If the offender desires to contest the violation alleged in the notice, he/she may avail themselves of the procedure provided in M.G.L. c. 40 §21D.

4. Any person notified to appear before the clerk of the district court may mail to the Town Clerk together with the notice the specific sum of money as penalty for violation of the Bylaw. Such payment shall, if mailed, be made only by postal note, money order or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the district court clerk of such payment and the receipt by the district court clerk of such notification shall operate as a final disposition of the case.

10.2 Other Laws or Regulations

This by-law shall not be construed to authorize the use of any land or structure for any purpose that is prohibited by any other provision of the General Laws or by any other by-law, rule or regulation or the town; nor shall compliance with any such provision authorize the use of any land structure in any manner inconsistent with this by-law, except as required by the General Laws.

10.3 Validity and Separability

The invalidity of one or more sections, subsections, clauses or provisions of this by-law shall not invalidate or impair the by-law as a whole or any other part thereof.
Section 11

Landscaping, Buffering and Screening
(5/1/08)

11.0 Preamble

11.0.1 The provisions of this Bylaw are intended to achieve the following:

To preserve and improve the visual and environmental character of Auburn to make it a more attractive and healthy community.

To reduce the visual and physical impact between adjacent land uses by requiring complementary landscaping treatments and buffering adjacent to property lines.

To offer property owners protection against the possible diminution of property values due to adjacent commercial and industrial construction or a change in land use.

To provide reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein when property is redeveloped.

To promote the implementation of the Master Plan.

To create attractive non-residential properties and zones which attract customers and encourage further economic investment in the Town of Auburn.

11.1 Applicability

11.1.1 No building permit or certificate of occupancy for a use, special permit and/or site plan approval shall be issued unless compliance with the provisions of this Bylaw are met, or unless the Planning Board is holding a bond to sufficiently cover the work that remains to be done.

11.1.2 Expansion of existing uses: Plans approved prior to the effective date of this Bylaw shall be subject to the provisions of this Bylaw, if a proposed expansion will exceed twenty-five (25) percent of the gross floor area or land area shown on the plan. The area and type of landscaping, buffering and screening required shall be calculated relative to the existing and proposed development. The Planning Board may take into account existing conditions and allow for equivalent compensation to be substituted for the provisions of this Bylaw.

11.2 Landscaping Plan Required

11.2.1 A landscaping plan, demonstrating compliance with the standards contained in this Bylaw for landscaping, buffer areas and screening, shall accompany each application for a
building permit, special permit and/or site plan approval. The plan shall be drawn to scale and shall include dimensions and distances.

11.2.2 The landscaping plan shall be certified by a landscape architect registered in the Commonwealth of Massachusetts and shall carry his/her seal on plans that exceed a gross floor area of ten thousand (10,000) square feet or forty (40) parking spaces.

11.2.3 The landscaping plan shall show:
   a. Existing and proposed grades, the existing vegetation to be retained, and the location, size and type of such vegetation;
   b. The proposed site development plan showing existing and proposed building footprints, walls, fences, parking spaces, loading bays, driveways, walks, storage areas, public rights-of-way, easements and the location of structures on, and the uses of, abutting properties;
   c. A plan and plant schedule giving botanical and common names of plants to be used, size at time of planting, mature size, rate of growth, quantity of each, location and method of any excavation and soil preparation, and the spacing and location of all proposed trees, shrubs and ground covers;
   d. A landscape and maintenance program including a statement that all diseased, damaged or dead material shall be replaced in accordance with the standards of this Bylaw.

11.3 Buffer Zones

11.3.1 A buffer zone is intended to provide noise abatement and an effective visual barrier between different land uses.

11.3.2 The Planning Board shall determine whether landscaping, a wall, berm, decorative fence or a combination thereof is needed to provide the intended buffering.

11.3.3 Buffer zones shall be provided in accordance with the following requirements:

**TABLE 11.1**

<table>
<thead>
<tr>
<th>Buffer Zone Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Categories (as defined under Section 3 of this Bylaw)</td>
</tr>
<tr>
<td>Multi-Family Residential*</td>
</tr>
<tr>
<td>Institutional/Government and Public Service</td>
</tr>
<tr>
<td>Business</td>
</tr>
<tr>
<td>Commercial Industrial</td>
</tr>
</tbody>
</table>

Along property lines where there is no required buffer (properties located in the same zoning district) applicants shall be required to provide the lowest level buffer zones, with the exception of multi-family uses as defined below. This is intended to aid in the management of stormwater and
provide a visual separation of property. This does not preclude the Special Permit Granting Authority or Site Plan Approval Board from requiring buffer areas if in its opinion the circumstances so warrant.

*Multi-Family shall include the following uses as defined in Section 3.2.2 of this Bylaw: Townhouses; Apartments; Congregate Housing; Lodging, Boarding or Bed & Breakfast Houses and Mobile Home Parks. Multi-Family uses shall be required to provide a minimum buffer zone of “B” (as defined below) regardless of the district in which it is located.

**TABLE 11.2
Description of Required Buffer Zones**

<table>
<thead>
<tr>
<th>Buffer Zone</th>
<th>Minimum Width</th>
<th>Screen</th>
<th>Minimum Plant Materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>25 ft.**</td>
<td>6 ft high wall or fence or 4 ft. high berm</td>
<td>1 canopy tree, 3 evergreen trees and 10 shrubs per each fifty (50) feet along the property line, rounded upward.</td>
</tr>
<tr>
<td>B</td>
<td>15 ft**</td>
<td>None Required</td>
<td>1 canopy tree, 1 evergreen tree, 2 ornamental trees and 7 shrubs per each fifty (50) feet along the property line, rounded upward.</td>
</tr>
<tr>
<td>C</td>
<td>8 ft.**</td>
<td>None Required</td>
<td>1 canopy or evergreen tree, 1 ornamental tree and 5 shrubs per each fifty (50) feet along the property line, rounded upward.</td>
</tr>
</tbody>
</table>

** The Planning Board shall allow the width of any Buffer Zone to be reduced by no more than fifty (50) percent, provided that the required plant density is increased by one hundred and fifty (150) percent and a screen is included if not already required.

*** In the instance of a conflict between the depth of the required buffer zone and that of the setback requirements for the zoning district in which the property is located, the stricter regulation shall apply.

11.4 Buffer Zone Standards

The following standards shall apply to the installation and maintenance of all landscaping, buffering and screening required by this Bylaw.

11.4.1 A buffer zone shall consist of a landscaped strip and may include fences, walls or earthen berms (see Section 11.6.3) which shall serve to provide a year-round visual screen at the time of installation. Visual screening comprised of a mixed planting of trees and shrubs in addition to walls, fences or berms shall serve to obstruct sightlines to and from adjacent properties, except in a required frontage buffer zone where the maximum height shall comply with 11.4.2 so as not to interfere with sight distance.

11.4.2 Sight Distance: In order to provide an unobstructed sight distance for motorists, there shall be a triangle that is at least 30 feet on two sides of the intersection of a street with a driveway or an interior drive that shall be clear of visual obstructions. The triangle shall be measured from the point of intersection of the street with the driveway or interior drive for a distance of at least 30 feet along the street line; along the side line of the driveway or interior drive for a distance of at least 30 feet; and by a third line connecting these two points. Within this triangle so described, nothing shall be erected, placed, planted, or allowed to grow between a height of two and one half (2 ½) feet and ten (10) feet above
the grade of the center lines of the street and the driveway or interior drive so as to impede vision for motorists

11.4.3 All trees shall be planted in accordance with Section 11.6.1 “General Tree Standards” of this Bylaw.

11.5 Other Required Landscaping & Screening

Frontage Buffer Zones

A buffer zone equivalent to the front yard setback, where required, shall be provided and landscaped in accordance with the following requirements, unless otherwise modified by the Planning Board.

a. Access drives from public rights-of-way through the required frontage buffer zone shall be permitted, but the width of such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

b. The buffer zone shall be landscaped with a minimum of one (1) canopy tree for every fifty (50) lineal feet of frontage abutting a public road right-of-way, rounded upward.

c. If ornamental trees are substituted for canopy trees, they shall be planted at a minimum of one (1) for every twenty (20) lineal feet of frontage abutting a public road right-of-way, rounded upward.

d. In addition to the required trees within the buffer zone, the remainder shall be landscaped in grass, ground-cover shrubs and other natural landscape materials.

11.5.2 Foundation Landscaping

Foundation plantings shall be provided along the front or sides of any buildings that face a public road and/or are adjacent to a parking lot or other area which provides access to the building(s) by the public. Foundation planting areas shall be integrated into the sidewalk system (between the front or sides of the building and the parking area and/or associated driveways) adjacent to the building. Foundation planting areas shall contain a minimum of one (1) ornamental tree and six (6) shrubs per thirty (30) lineal feet of applicable building frontage. Individual planting areas shall be a minimum of six (6) feet wide.

11.5.3 Interior Parking Lot Landscaping

Separate landscaped areas shall be provided within parking lots of twenty-five (25) or more parking spaces in order to break up the broad expanse of pavement and guide the vehicular and pedestrian traffic. These landscaped areas shall conform to the following requirements:

a. A continuous landscape strip or pedestrian path shall be provided between every fourth (4th) row of parking. The landscape strip or pedestrian path shall be a minimum of eight (8) feet in width, measured from the outside edge of the curb. If this landscape strip is positioned parallel to a building entrance, the applicant shall provide four (4) foot wide breaks at intervals of fifty (50) feet to allow pedestrians to pass through unabated.

b. Planting islands shall be provided at the ends of each parking row and at intervals within the parking rows so that no parking stall is more than forty-five (45) feet from any planting island. Planting islands shall be at least eight (8) feet in width, measured from the outside edge of the curb, and a minimum of one hundred and sixty (160) square feet. Each of these islands shall contain at least one ornamental tree.
c. Internal landscaped areas shall be curbed for the protection of the landscape materials. Curbing shall be a minimum of six (6) inches wide with a six (6) inch reveal.

d. Any shrubs and/or ground covers that are used shall not impede vehicular visibility.

11.5.4 Screening of Refuse and Recycling Containers

a. Outside refuse disposal and recycling containers shall be enclosed with a durable six (6) foot or higher enclosure and a gate at least as high as the container and shall not be visible from the adjacent lots or sites, neighboring properties or streets. The enclosure shall be constructed so as to be compatible with the architectural styles used in the site development. The Planning Board at its discretion may require a higher screen, if deemed necessary due to the proximity of residential land use(s).

b. Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the building(s) they serve.

c. Containers and enclosures shall be located away from public view insofar as possible, and on that side which is opposite or at the maximum distance possible from adjacent residential uses.

d. Containers and enclosures shall be situated and maintained so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

e. Concrete pads of appropriate size and construction shall be provided for the containers or groups of containers.

11.5.5 Screening of Exterior Electrical Equipment and Transformers

a. Transformers and telephone switchboxes that may be visible from any public right-of-way or adjacent properties shall be screened with either plantings or an enclosure which is harmonious with the overall architectural theme, and meets the utility provider's standards for location and maintenance.

b. Electrical equipment shall be located in the interior of a building wherever possible, or shall be located where it is substantially screened from residential properties.

11.6 Landscaping

11.6.1 General Tree Standards:

a. Tree Sizes at the time of planting:
   i. Canopy trees shall be a minimum of three and one half (3 ½) inch caliper.
   ii. Ornamental trees shall be a minimum of two and one half (2 ½) inch caliper.
   iii. Evergreen trees shall be minimum of six (6) feet tall.

b. Location:
   i. No tree shall be planted closer than five (5) feet from any street edge of pavement.
   ii. No tree shall be planted closer than ten (10) feet from any fire hydrant, utility pole or streetlight.
iii. No tree shall be placed so as to conflict with the requirements of Buffer Zone Standards 11.4.2 above.

c. Tree Preservation:

i. Preservation of healthy trees, six (6) inches in caliper or greater, shall be credited toward the required number of trees (at the Planning Board’s discretion) per the following ratio: for every six (6) inches of caliper preserved, a credit of one tree may be granted, up to a maximum of twenty-five (25) percent of required trees. The Town of Auburn Tree Warden shall approve any preserved tree for which credit is to be given. Curbing placed around preserved trees shall be located no closer than the halfway point between the drip line and the trunk of the tree.

ii. In order to receive credit for an existing tree or grove of trees, an area shall be established at the drip line and at the trunk of the tree. These areas shall not be disturbed by construction activity, excluding mulching. This area shall be indicated on the landscaping plan, barricaded and marked with signage during construction. The Town of Auburn Tree Warden shall approve all protection measures.

iii. Damaged trees, including injuries resulting from grading, paving and/or other mechanical injuries to roots, trunk or branches of the tree that will result in their death within one (1) year of construction, shall be replaced by the contractor with trees of similar character. However, in the event that a similar tree is not available, multiple trees equal to the credit awarded for the preserved tree shall be planted. In the event that sufficient space does not exist on site to plant multiple trees, the applicant shall provide an alternative solution to the Planning Board that still meets the intent of this Bylaw.

d. Mixture of Trees

Sites that require ten (10) or more new trees, excluding trees used for required screening, shall contain the following variety of trees:

<table>
<thead>
<tr>
<th>Number of Required Trees</th>
<th>Minimum Variety of Trees</th>
<th>Maximum Percent of Any Variety</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-19</td>
<td>2</td>
<td>65%</td>
</tr>
<tr>
<td>20-29</td>
<td>3</td>
<td>50%</td>
</tr>
<tr>
<td>30-39</td>
<td>4</td>
<td>40%</td>
</tr>
<tr>
<td>40+</td>
<td>5</td>
<td>35%</td>
</tr>
</tbody>
</table>

11.6.2 Landscape Material Standards

The following standards shall apply for all landscape materials:

a. Landscape and plant materials installed to satisfy the requirements of this Bylaw shall conform to or exceed the plant quality standards of the most recent edition of American Standards for Nursery Stock, published by the American Association of Nurserymen.

b. Riprap, limestone aggregate or similar materials shall be used only to stabilize soil around culverts and drains or where engineering requirements deem them necessary for erosion control.
11.6.3 Berms

a. Earthen berms shall be constructed within a buffer area wherever a residential
development is adjacent to an arterial street or limited access highway. Whenever a
wall or fence is required in addition to a berm, the wall or fence shall be located
between the berm and the higher intensity use in order to improve sound absorption.

b. The use of earthen berms and similar grading techniques in combination with the
required landscaping is encouraged.

c. These berms shall be constructed of earth and shall be between four (4) and six (6)
feet in height.

11.7 Maintenance

11.7.1 The owner of the lot shall be responsible for the maintenance, repair and replacement of
all landscaping materials installed in accordance with the approved landscaping plan.

11.7.2 All plant material shall be maintained in a healthy growing condition, replaced when
necessary, and kept free of refuse and debris. After the initial planting, all plant materials
not surviving after the first winter and through the following growing season shall be
replaced in kind.

11.7.3 Fences and walls shall be maintained in good repair.

11.8 Landscaping to be Completed Prior to Issuance of a Final Certificate of
Occupancy

The landscaping plan, as approved, shall be completed according to specifications prior to the
issuance of a final certificate of occupancy for any use or building subject to the provisions of this
Bylaw. If the completion of the structure occurs after the planting season has passed, a temporary
certificate of occupancy may be issued until the landscaping is completed. An as-built plan shall
be submitted to ensure that all landscaping, buffering and screening has been installed as
required.

11.9 Waivers

The Board may waive any requirement of this section upon finding that, because of topography,
location or other unusual conditions affecting the property, the requirements of this section would
unreasonably restrict the use of the property or would be detrimental to the development of the
planned development. In granting such waiver, the Board may impose conditions it deems
necessary to protect the public interest and to insure that the development will be consistent with
the purpose of this section.
Chapter XIV – General Hazardous Materials
(9/9/85, 5/4/95)

Section 1 – Authority
This By-law is adopted by the Town of Auburn under its home-rule powers, its police powers to protect the public health and welfare, and its authorization under Mass. Gen. Laws, Ch. 40, S. 21.

Section 2 – Purpose
The purpose of this By-law is to protect, preserve, and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface water within the Town from contamination with hazardous materials. This regulation shall apply to all premises located in whole or in part within the Town of Auburn.

Section 3 – Definitions
The following definitions shall apply in the interpretation and implementation of this By-law.

Toxic or Hazardous Materials
Toxic or hazardous materials shall mean material including, but not limited to, any material or substances defined as being toxic or hazardous under Mass. General Laws Chapters 21C and 21E using the Massachusetts Oil and Hazardous Substance List found in 310 CMR 40.000. The definition shall also include acids and alkalis, solvents, thinners, and pesticides when stored at or above the Reportable Quantity established in 310 CMR 40.000, the Massachusetts Contingency Plan, and any material in whatever form which because of its quantity, concentration, chemical corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, either separately or in combination with any other substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed.

Discharge
The term discharge, means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of toxic or hazardous material upon or into any land or waters of the town of Auburn. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems, and disposal of such materials into any on-site sewage disposal system, drywell, catch basin or unapproved landfill.

The term discharge, as used and applied in this By-law, does not include the following:
A. proper disposal of any material in a sanitary or industrial landfill that has received and maintained all necessary legal approvals for that purpose;
B. applications of road salts in conformance with the Snow and Ice Control Program of the Massachusetts Department of Public Works; and
C. disposal of “sanitary sewage” to subsurface sewage disposal systems as defined and permitted by Title 5 of the Massachusetts Environmental Code.

Owner
The term Owner shall mean every person who alone or severally with others:
A. has legal title to any property on which is located a hazardous or toxic material subject to this by-law; or
B. has care, charge or control of any such property in any capacity, including, without limitation, agent, executor, administrator, trustee, or guardian of the estate of the holder of legal title, or agent, trustee, or a person appointed by a court of competent jurisdiction; or
C. is a mortgagee in possession of such property. Each such person is bound to comply with the provisions of this By-law as if he were an owner.

**Person**
Person shall mean every individual, partnership, firm, corporation, association, group or entity owning property or carrying on an activity regulated by the By-law.

**Fire Department**
Fire Department shall mean the Fire Chief or his appointed designee.

### Section 4 – Registration

#### Section 4.1 Requirements

A. Every owner or operator of a residential, commercial or industrial establishment (including home occupations and agricultural and horticultural operations) storing hazardous materials in quantities totaling more than fifty (50) gallons liquid volume or twenty-five (25) pounds dry weight shall register with the Hazardous Materials Coordinator the types, quantities, location, and method of storage of said hazardous materials. Registration required by this provision shall be initially submitted by January 1, 1986 and annually thereafter within thirty days of April 1 each year.

B. Owners or operators of residential, commercial or industrial establishments who have not previously registered in accordance with Subsection 4.1A shall, if they meet registration requirements, register initially within thirty days of meeting such requirements and thereafter within thirty days of April 1 each year.

C. In addition to registration, owners or operators of residential, commercial or industrial establishments registered in accordance with Subsection 4.1A and 4.1B shall maintain on the premises an inventory, reconciled on a monthly basis, of purchase, use, sale and disposal of hazardous materials. The purpose of this account is to detect any product loss and to provide an ongoing record of all quantities of hazardous materials within the Town over the registration threshold.

D. Upon the request of the Fire Department and/or the Board of Health, owners or operators shall produce within twenty-four hours the latest reconciled inventory.

E. Any industrial, commercial, or institutional facility that manufactures, uses, processes, or stores hazardous materials in an amount greater than or equal to fifty (50) gallons liquid volume or twenty-five (25) pounds dry weight shall comply with the provisions of NFPA 704 – Standard System for the Identification of Fire Hazards of Materials, 1990 Edition.

#### Section 4.2 Exemptions

A. Requirements of this By-law shall not apply to the fuel oil or propane fuel within cellars or structures stored in quantities below 500 gallons in conformance with Massachusetts Fire Prevention Regulations and regulations of the Auburn Board of Health and Section 7 and 8 of this By-law for the sole purpose of heating buildings located on this site.

B. Requirements of Subsection 4.1A shall not apply to the fuel stored in automotive vehicle tanks for the sole purpose of propulsion of that vehicle.

C. Facilities that are required to file Tier II chemical inventory forms in accordance with the Emergency Planning and Community Right to Know Law of 1986 (SARA Title III) shall be exempt from the registration requirements of this By-law. They shall however comply with all other requirements of this By-law unless specifically exempted by the Hazardous Materials Coordinator after consultation with the Fire Chief and the Director of Public Health.
Section 5 – Prohibitions
A. The discharge of toxic or hazardous materials within the Town of Auburn is prohibited.
B. Outdoor storage of toxic or hazardous materials is prohibited except in product-tight containers which are protected from the elements, leakage, accidental damage and vandalism, and which are stored in accordance with all applicable requirements of Sections 7 and 8 of this By-law.
C. Use of any solid, liquid, or gaseous material for the purpose of cleaning, treating, unclogging, disinfecting, or deodorizing an on-site sewage disposal system is prohibited unless specifically approved by the Board of Health.

Section 6 – General Handling of Hazardous Materials
Wastes containing toxic or hazardous materials shall not be disposed on-site, but shall be held on the premises in product-tight containers for removal by a licensed carrier and for disposal in accordance with the Massachusetts Hazardous Waste Management Act, Chapter 21C, M.G.L.

Section 7 – Aboveground Storage of Hazardous Materials (5/7/92)
Aboveground storage of hazardous materials is prohibited, except in product tight containers in an orderly manner with wastes being stored separately from virgin materials, and on a solid surface which shall be impervious to the material(s) being stored. Outdoor storage must be designed to contain spills of not less than 110% of the maximum volume stored, and must be protected from the elements, accidental damage, and vandalism. Where more than one material, or type of material is stored, consideration shall be given to the compatibility and/or reactivity with the other materials being stored.

Section 7.1 Ice Control Chemicals
A. Where allowed, storage of ice control chemicals in quantities requiring State reporting shall be authorized only within a weatherproof shelter having an impervious floor with provisions made for safe cleanup.
B. No salt or de-icing chemicals may be applied to parking lots of multi-family residential uses (over three dwelling units), or of commercial or industrial uses within the portions of the Town of Auburn designated as an Aquifer and Watershed Protection Overlay District Area A.
C. Each commercial or industrial use with a parking lot larger than 20,000 square feet must register with the Code Enforcement Officer the name, address, and phone number of the organization responsible for snow removal and ice control on their premises, and must provide the Code Enforcement Officer with a certification specifying that said person or organization shall carry out his duties in compliance with this ordinance.

Section 8 – Underground Storage of Hazardous Materials and Fuel

Section 8.1 Restrictions
A. No new installation of underground fuel or chemical storage tanks and systems shall be allowed within two thousand (2,000) feet of a public water supply well, or within an Aquifer and Watershed Protection Overlay District Area A except as provided in Section 9 below.
B. All new or replacement tanks installed within two thousand (2,000) feet of a public water supply or within an Aquifer and Watershed Protection Overlay District Area A (after being granted a variance from Section 8.1A) shall be of fiberglass construction, located inside a water tight vault or liner system, monitored by an approved leak detection system, and otherwise be subject to the design standards contained in Subsections 8.2, 8.3 and 8.4 of this By-law.
C. The Fire Department and/or the Board of Health, or the Board of Selectmen in the
administration of their licensing authority, may require the installation of one or more
groundwater observation well(s) at any site where fuel, gasoline or other chemical is
stored underground within 2,000 feet of a public or private water supply well, or within an
Aquifer and Watershed Protection Overlay District Area A. Water samples from such
observation wells may be required by the Fire Department and/or the Board of Health at
any reasonable time, and shall be analyzed at the expense of the owner at the order of the
Fire Department and/or the Board of Health.

Section 8.2 New or Replacement Tank Selection and Installation
A. All underground storage of hazardous materials and fuel shall be contained in tanks
approved by the agents of the Fire Department and the Board of Health.

B. All tanks shall be properly installed as per the regulations contained herein, the
Massachusetts Fire Prevention Regulations and manufacturer's specification, under the
direction of the agent of the Fire Department in cooperation with the Board of Health.

C. All new and replacement tanks shall be designed, constructed and installed in accordance
with 527 CMR 9.00, and any amendments thereto.

D. No new or replacement tank or components shall be installed, whether it is part of a new
or existing storage facility, unless the owner has given at least one week's notice of its
installation to the Fire Chief; and no new or replacement tank or component shall be
buried or concealed until it has been inspected for damage and external defects, tested
for tightness under the Subsection 6.5 and approved by the Fire Chief or the Chief's
designee.

E. No new or replacement tank or component shall be installed except by a contractor who
has been either licensed by the state authorities for that purpose or certified in writing by
the manufacturer or a petroleum equipment association as qualified for the purpose. The
contractor shall, prior to installation, submit to the Fire Chief a copy of such license or
certificate.

F. The installation of a new or replacement tank or component, including anchoring of the
tank whenever water saturation of any part of the excavation can reasonably be
anticipated, shall be carried out in accordance with the manufacturer's recommendations,
accepted engineering practices and the provisions of 527 CMR 9.05(c), as amended;
provided that the back fill material for FRP tanks shall be pea gravel or crushed stone and
that the backfill material under all other tanks shall be either pea gravel or clean, non-
corrosive sand, free of cinders, stones and any other foreign material, the material under
the tank to be compacted and contoured to the shape of the tank before the tank is
installed, the balance to be thoroughly compacted.

G. Any damage to the exterior of a tank or its coating shall be repaired before the tank is
covered. The Fire Chief shall notify the Board of Health of such repaired damage, and the
Board shall make note of it in its records for that tank.

H. Every new or replacement tank and its piping shall be tested, separately, at the owner’s
expense, prior to being buried. The tank shall be tested in accordance with 527 CMR
9.05(c)(5).

I. Steel tanks completely underground shall be covered with a minimum of 2 feet of earth or
shall be covered with not less than one foot of earth, on top of which shall be placed a
slab of reinforced concrete not less than 4 inches thick. When they are or are likely to be
subjected to traffic, they shall be protected against damage from vehicles passing over
them by at least three feet of earth cover, or 18 inches of well-tamped earth plus 6 inches
of reinforced concrete or 8 inches of asphaltic concrete. When asphaltic or reinforced

107
concrete paving used as part of the protection, it shall be extended at least one foot horizontally beyond the outline of the tank in all directions.

The owner shall furnish the Fire Department and Board of Health with a certified copy of the results of all testing required by this subsection, which the Fire Department and Board of Health shall keep with the records for the storage facility.

Section 8.3 Maintenance for All Tanks
The following regulations shall apply to all new and existing underground liquid toxic or hazardous material storage systems.

A. Owners shall file with the Head of the Fire Department the size, type, age and location of each tank, and the type of fuel or chemical stored in each, on or before January 1, and evidence of date of purchasing and installation. The permit/ notification shall be on State Form FP 290, Parts 1,2,3 and 4.

B. Owners of tanks for which evidence of installation date is not available shall, at the order of the Board of Health, have such tanks systems tested. If either the Board of Health or the Fire Chief determines that the tank is not product tight, it shall be removed.

C. All steel tanks shall be subject to one of the following tests 15 years after installation and annually thereafter, or if evidence of installation date is not available: a Petro-Tite (Kent-Moore) test, or any other testing system providing equivalent safety and effectiveness. Certification of testing shall be submitted to the Fire Chief and the Board of Health. Any tanks failing the test shall be neutralized or disposed of under the direction of the Fire Chief with the assistance of the Board of Health.

D. At such time the exhumed tank shall be examined for leaks. If a leak exists, an investigation of amount and location of the spilled substance shall be undertaken at the expense of the owner. If, in the opinion of the agent of the Fire Department and/or the Board of Health, the spilled substance poses a significant threat to health and safety, it shall be removed by the owner.

E. All leaking tanks must be emptied within 24 hours of leak detection and removed in a time period to be determined by the Fire Chief with the assistance of the Board of Health.

F. If it is necessary to replace an underground steel tank that has developed a corrosion-induced leak, all other steel tanks at the facility of the same age or older, whether they are leaking or not, shall be replaced with tanks that meet the requirements of Section 8.2 of this By-law.

G. If a tank is taken out of service temporarily or permanently, the Fire Department and Board of Health shall be notified. The final disposition of the tank and product shall be in accordance with Massachusetts Board of Fire Prevention Regulations, 525 CMR, and as approved by the Fire Department and Board of Health.

Section 8.4 Inventory Control For All Tanks With Capacities Greater Than 500 Gallons
The following provision applies to all underground toxic or hazardous material storage systems with capacities greater than 500 gallons:

A. Every underground storage system shall have a method of accurately gauging the volume contained in the tank and a method of accurately metering the quantity of product removed during service. The metering device shall be maintained in accurate calibration. Storage systems in service at the time of passage of this regulation shall be in compliance within one hundred eight days of the effective date of this regulation.

B. All commercial or industrial establishments (including home occupations, agricultural and horticultural operations) shall create accurate daily inventory records, as required by
Mass. Fire Prevention Regulations 527 CMR 5.05 (3), based on actual daily measurement and recording of tank product and water levels and the daily recording of actual sales, use and receipts. The inventory records shall include a daily computation of gain or loss. The mere recording of pump meter reading and product delivery receipts shall not constitute adequate inventory records.

C. The owner or operator of commercial or industrial establishments shall participate in a program of regularly scheduled inventory verification. Frequency of inventory verification shall be as follows:

1. annually for systems from which less than 25,000 gallons/month is sold or used.
2. semi-annually for systems from which 25,000-100,000 gallons/month of product is used or sold.
3. quarterly for systems from which more than 100,000 gallons/month is used or sold.

D. Owners shall submit annually to the Fire Department, together with a copy to the Board of Health, a certified statement that inventory records have been maintained and shall be made available to the Fire Department and/or Board of Health upon request.

E. Where the storage tanks are owned by the operators, inventory verification shall be performed by a certified auditor or other independent qualified person approved by the Fire Department and Board of Health.

Section 9 – Variances

A. The Fire Department together with the Board of Health may grant a variance from the provisions of Section 8.1A herein upon the following conditions and in accordance with requirements of the Massachusetts Board of Fire Prevention Regulations, 527 CMR.

1. In granting a variance, the Fire Department and Board of Health will take into consideration the direction of the groundwater flow, soil conditions, depth to groundwater, size, shape, and slope of the lot, existing and known future water supplies.

2. In consideration said variance the Fire Department and Board of Health may hire, at the expense of the applicant (up to a maximum of $1,200) a qualified Hydrogeologist with proven experience to review information supplied by the applicant.

3. At a public hearing the applicant shall establish that the proposed location of an underground storage tank will not threaten or adversely affect public or private water sources.

4. Notice of any public hearing shall be given by placing notification in a local newspaper regularly circulated within said Town of Auburn, and at least fourteen (14) days before said hearing.

5. The Fire Department and Board of Health shall refer the application for a variance to the Conservation Commission, Planning Board, Department of Public Works, Zoning Board of Appeals and the Auburn Water District for their review and comments. No final decision of the Fire Department and Board of Health relative to such application shall be issued no less than twenty-one (21) days following the receipt of such application by the aforementioned agencies.

6. Persons aggrieved by a decision of the Fire Department and Board of Health as to the denial of a variance may appeal said decision under any applicable law.

7. All tanks must be installed in conformance with Section 8.1B.
Section 10 – Enforcement

Section 10.1 Enforcing Agency
A. The provisions of this By-law shall be enforced by the Fire Department, with assistance, where necessary, from the Board of Health. The agents of the Fire Department and the Board of Health may, according to law, enter upon any premises at any reasonable time to inspect for compliance.

B. Upon request of an agent of the Fire Department or the Board of Health, the owner or operator of any premises at which toxic or hazardous materials are used or stored shall furnish all information required to enforce and monitor compliance with this By-law, including a complete list of all chemicals, pesticides, fuels and other toxic or hazardous materials used or stored on the premises, a description of measures taken to protect storage containers from vandalism, corrosion and spillage, and the means of disposal of all toxic or hazardous materials produced on the site. A sample of wastewater disposed to on-site septic systems, drywells or sewage treatment systems may be required by the agent of the Fire Department or the Board of Health.

C. All records pertaining to storage, removal and disposal of toxic or hazardous materials shall be retained by the owner or operator for no less than three years, and shall be made available for review upon the request of the agent of the Fire Department or the Board of Health.

D. Certification of conformance with the requirements of this By-law, as it applies, shall be obtained from the Fire Department and the Board of Health prior to issuance of construction and occupancy permits for any residential use.

Section 10.2 Reporting of a Discharge
A. Any person having knowledge of a discharge of hazardous material shall immediately report the discharge to the Fire Department and the Board of Health.

B. Service companies shall report to tank owners, the Fire Department and the Board of Health any unaccounted for significant increase in heating fuel consumption which may indicate a leak. Section 10.3 Violation Written notice of any violation of this By-law shall be given to the owner and operator by the agent of the Fire Department and/or the Board of Health, specifying the nature of the violation; and corrective measures that must be undertaken, including containment and cleanup of discharged materials; any preventive measures required for avoiding future violation; and a schedule of compliance. Requirements specified in such a notice shall be reasonable in relation to the public health hazard involved and the difficulty of compliance. The cost of containment and cleanup shall be borne by the owner and operator of the premises.

Section 10.3 Violation
Written notice of any violation of this By-law shall be given to the owner and operator by the agent of the Fire Department and/or the Board of Health, specifying the nature of the violation; and corrective measures that must be undertaken, including containment and cleanup of discharged materials; any preventive measures required for avoiding future violation; and a schedule of compliance. Requirements specified in such a notice shall be reasonable in relation to the public health hazard involved and the difficulty of compliance. The cost of containment and cleanup shall be borne by the owner and operator of the premises.

Section 10.4 Penalty
Any person who violates any provision of this By-law shall be punished by a fine of not more than $200. Each day, or portion thereof, during which a violation continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. This By-law may be enforced pursuant to Mass. General Laws, Chapter 40, §21D by a Town Police Officer or other having police powers. Upon request of the Fire Department or the Board of Health, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this By-law.
Section 11 – Fees
A. Any person registering storage of hazardous materials pursuant to Section 4 shall pay to the Fire
Department an annual Registration Fee of five dollars ($5) for every 1,000 gallons or fraction thereof
of storage capacity. Such fee shall be due on the same date as the annual registration. Failure to pay
shall constitute a violation and shall subject the violator to the penalties of Section 10 of the By-laws.

B. The Fire Department and/or Board of Health may charge for expenses incurred in the enforcement of
this By-law.

C. In every case the operator shall assume responsibility for costs incurred necessary to comply with this
regulation.

Section 12 – Severability
A. The invalidity of any portion of this By-law shall not affect the validity of the remainder.
Chapter XV - Earth Removal Regulations (9/9/85)

Section 1.0 – General

The removal from any lot of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel shall be done only in accordance with Section 3.0 through 8.0, except that the following shall be exempted from these provisions.

Section 2.0 – Exemptions

Section 2.1
The removal of less than 50 cubic yards of such material within any twelve-month period.

Section 2.2
Removal incidental to construction on a lot where such removal is explicitly allowed under a valid building permit or under agreements governing road construction in an approved subdivision. However, should said removal exceed 500 cubic yards, Section 3.0 through 8.0 shall apply unless waived by the permit granting authority.

Section 2.3
Removal on a parcel for which removal was authorized under a legal permit issued prior to adoption of Chapter XV may continue until the expiration date of said permit, provided all by-laws, permits and conditions applicable prior to the adoption of this Chapter shall be complied with. Subsequent to that date full compliance with all the requirements of Chapter XV must be met.

Section 2.4 Single family homes not in a subdivision.

Section 3.0 – Special Permit from the Planning Board

Removal shall be allowed only under a special permit issued by the Planning Board following written application, a copy of which shall be forwarded to the Conservation Commission. The following shall be conditions for such issuance.

Section 3.1
The application shall be accompanied by a plan showing all man-made features, property lines, names and addresses of all abutters if available from the Assessors, including those across any street or way, topography at 5 foot contour interval of the site and all land within 100 feet of the area from which the above material is to be removed, together with the grades below which the finish surface will not lie, and the proposed cover vegetation and trees. If involving more than one acre and/or 500 cubic yards of removal, the plan shall be prepared by a Registered Land Surveyor or Engineer.

Section 3.2
A performance bond in the amount determined by the Planning Board shall be posted in the name of Town assuring satisfactory performance in the fulfillment of the requirements of this By-law and such other conditions as the Planning Board may impose as conditions to the issuance of the permit.

Section 3.3
Before granting a permit, the Planning Board shall hold a public hearing and give due consideration to the location of the proposed earth removal, to the general character of the neighborhood surrounding such location, to the protection of water supplies and aquifers, to the general safety of the public on the public ways in the vicinity, and to the recommendation of the Conservation Commission. Prior to said hearing, the applicant shall notify the abutters as to the time and place of hearing and shall provide the Planning Board with proof of such notification.
Section 3.4
Permits for earth removal with the provision set forth herein shall not be transferable.

Section 4.0 – Removal

Section 4.1
Finish grade shall not lie below a level that would reasonably be considered a desirable grade for the later development of the area, or below the grades specified on the plan accompanying the permit application. The Planning Board may specify a base grade below which excavation shall in no event take place. The Planning Board from time to time may require the site be surveyed by a Registered Land Surveyor or Engineer for compliance with these By-laws. Cost of survey to be paid by the permit holder.

Section 4.2
Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

Section 4.3
The Board may require that up to a fifty foot buffer strip shall be maintained at all boundaries, and not excavated, if they feel such a requirement is warranted.

Section 4.4
The visibility, sound, and airborne particulates from processing equipment shall be screened from adjacent premises through the design and location of such equipment, and through use of natural vegetation planting, overburden piles, and surge piles as screening.

Section 4.5
Dust shall be controlled through watering. Applying oil or chlorides for dust control is prohibited.

Section 4.6
Finish grade shall not lie below a level that is ten (10) feet above the natural, seasoned high groundwater table for the site.

Section 5.0 – Restoration

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or upon completion of removal to the extent covered by the performance bond (Section 3.2) that entire area shall be restored as follows:

Section 5.1
All land shall be so graded that no slope exceeds one (1) foot vertical rise in three (3) feet horizontal distance unless an evaluation has been made by a professional engineer which has found that a steeper slope can be stabilized and shall be so graded as to safely provide for drainage without erosion. The Planning Board may require the restored site be surveyed by a Registered Land Surveyor or Engineer for compliance with these By-laws. Cost of survey to be paid by permit holder.

Section 5.2
All boulders larger than one-half cubic yard shall be removed or buried, and all tree stumps removed.

Section 5.3
The entire area excepting exposed ledge rock shall be covered with not less than four (4) inches of topsoil, seeded and covered with two (2) inches of hay mulch.
Section 5.4
Performance Bond shall not be released until sufficient time has lapsed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

Section 5.5
Restoration must be completed within one year of the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or upon completion of removal to the extent covered by the performance bond (Section 3.2).

Section 6.0 – Additional Conditions

The Planning Board may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which removal may take place, grasses, shrubs, and trees to be planted.

Section 7.0 – Involvement of Wetlands

As provided in Chapter 131, Section 40 of the General Laws, no person shall remove, or dredge and bank, flat, marsh, meadow, or swamp, bordering on an inland waterway without filing written notice of his intention to do so with the Conservation Commission and with the Massachusetts Department of Environmental Quality Engineering.

Section 8.0 – Renewals or Revocation of Permit

No permit shall be issued under the provisions of Chapter XV to extend for a term of more than one year, but a permit may be renewed upon application and after a public hearing. Prior to renewal, inspection of the premises shall be made by the Building Inspector to determine that the provisions of the By-law shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with Section 5.0.
Chapter XVI - Earth Filling
(5/2/96)

Section 1.0 – Purpose
The purpose of this by-law is:

A. To insure against erosion, adverse drainage runoff, dust control, encroachment onto abutting property and into wetland boundaries that may trigger Conservation and DEP approvals.

B. To protect the general public from dangerous conditions such as excessive slopes, pooling and stagnation of standing water to dangerous levels, and to protect the general public by limiting hours of operation and truck routes.

C. To determine fencing and screening requirements prior to fill operations to protect the general public.

D. Make determinations when and where retaining walls and rip rap may be required and constructed consistent with the applicable provisions of the State Building Code and accepted engineering standards.

E. To insure that proper fill material an proper construction methods are being utilized.

F. To review a finished site to insure proper topsoil cover and the establishment of vegetation and permanent drainage control methods.

Section 2.0 – Applicability
The fill of any lot of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel shall be done only in accordance with this by-law.

Section 3.0 – Exemptions (11/15/01)
Filling is permitted in the Town of Auburn without an earth fill permit if such filling is entirely incidental to:

A. The construction of a building or structure for which a valid building permit has been issued and filling is incidental to the construction. However, should said fill exceed 500 cubic yards a Special Permit from the Planning Board shall be required.

B. The construction of ways within subdivisions that have been approved by the Planning Board.

C. Construction in accordance with a valid Special Permit, Variance or Site Plan Approval.

D. Utility construction in public and private ways and property and incidental to municipal operations and activities.

E. The routine landscaping (not including significant changes in topography) of a lot with a one (1) or two (2) family residence thereon by the owner thereof so long as the existing topography of the parcel in no location exceeds a 15% grade.

F. Refilling a previously excavated area to the natural grade.

G. The fill of less than 50 cubic yards of such material within any twelve-month period. All other filling shall require a permit from the Code Enforcement Officer. Filling in excess of 500 cubic yards shall require a Special Permit from the Planning Board.

Section 4.0 - Plan Requirements
All activities requiring a permit from the Code Enforcement Officer or a Special Permit shall submit an application, on a form to be provided by the Code Enforcement Officer. Where deemed necessary by the Code Enforcement Officer, an applicant may be required to submit a site plan showing the area to be filled. If filling in excess of 500 cubic yards is proposed, a plan prepared by a Registered Land Surveyor or Engineer shall be submitted.
Section 4.1
Where a site plan is required it shall show all man-made features, property lines, names and addresses of all abutters if available from the Assessors, including those across any street or way, topography at 5 foot contour interval of the site and all the land within 100 feet of the area from which the above material is to be filled, together with the grades which the finish surface are proposed and the proposed cover vegetation and trees. If filling involves more than one acre and/or 500 cubic yards of fill, the plan shall be prepared by a Registered Land Surveyor or Engineer.

Section 4.2
Where deemed necessary by the Code Enforcement Officer or Planning Board a performance bond in the amount determined by the Planning Board shall be posted in the name of the Town of Auburn assuring satisfactory performance in the fulfillment of the requirements of this By-law and such other conditions as the Planning Board may impose as conditions to the issuance of the permit.

Section 4.3
Before granting a Special Permit, the Planning Board shall hold a public hearing and give due consideration to the location of the proposed earth filling to the general character of the neighborhood surrounding such location, to the protection of water supplies and aquifers, to the general safety of the public on the public ways in the vicinity, and to the recommendation of the Conservation Commission. Prior to said hearing, the applicant shall notify the abutters as to the time and place of hearing and shall provide the Planning Board with proof of such notification.

Section 4.4
Permits for earth filling with the provision set forth herein shall not be transferable, an shall be issued for a term not to exceed one year. A permit may be renewed upon re-application.

Section 5.0 - Standards for Filling
A. Finish elevations shall not lie above a level that would reasonably be considered a desirable elevation for the later development of the area, or in excess of the elevations specified of the approved plan accompanying the permit applications. The Code Enforcement Officer may specify a finished grade to which filling will not exceed.

B. Maximum finished grades shall not exceed a slope greater than 3 foot horizontal to 1 foot vertical rise unless retaining walls or rip rap are employed and approved by the Code Enforcement Officer and Town Engineer, or when engineering data has been submitted by an engineer showing methods of fill stabilization and approved by the Town Engineer. All retaining walls applicable to the provisions of the State Building Code (780 CMR) shall be constructed in conformance with the applicable code provisions. All rip rap walls shall be constructed according to the specifications of the Massachusetts Highway Department

C. The area to be filled shall have all vegetation removed such as trees, brush, tree stumps and any accumulated rubbish, junk and debris including building products and material.

D. All fill materials shall include sand, gravel, clay, stone, quarried rock or other subsurface products free from hazardous waste material as defined by the DEP as being hazardous material. The material shall also be free from organic material such as trees, stumps and building materials. Certification shall be submitted as to location of fill material source.

E. All boulders larger than 1/2 cubic yard shall be buried unless utilized in a landscape scheme and placed so as not to cause a danger to motor vehicle traffic and to the general public.

F. Filling in excess of 50 cubic yards shall require a minimum of 4 inches organic topsoil, and seeded, mulched, or established suitable vegetation to stabilize the fill material. Where filling is incidental to facilitate parking of vehicles the fill material shall be covered by a suitable binding material to prevent air borne dust and erosion.
G. Filling in excess of 300 yards shall require a plan to be submitted, if deemed appropriate by the Code Enforcement Officer and Town Engineer. The plan shall show methods of temporary and permanent drainage and sedimentation control and methods of final stabilization of fill material.

H. Temporary fencing, where deemed appropriate by the Code Enforcement Officer, Fence Viewer, for the protection of the general public during fill operations, shall be at least 4 feet high with suitable gates to exclude unauthorized persons from the site.

I. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties. Provisions shall be made for the daily cleaning of all material carried by equipment onto public roadways.

J. Dust shall be controlled through watering. Applying oil or chlorides for dust control is prohibited.

K. The Code Enforcement Officer may require that a 10 foot buffer strip shall be maintained at all boundaries, and not disturbed if they feel such a requirement is warranted.

L. The visibility, sound, and airborne particulates from processing equipment shall be screened from adjacent premises through the design and location of such equipment, and through use of natural vegetation planting, overburden piles, and surge piles as screening.

M. The Code Enforcement Officer or Planning Board may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which filling may take place, grasses, shrubs and trees to be planted.

N. No permit shall be issued under the provisions of Chapter XVI to extend for a term of more than one year, but a permit may be renewed upon application and after a public hearing. Prior to filling, inspection of the premises shall be made by the Building Inspector and Town Engineer to determine that the provisions of the By-law shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with this by-law. The public hearing may be waived by the Planning Board for Earth Fill permit extensions.

**Section 6.0 – Enforcement**

The Inspector of Buildings of the Town of Auburn is hereby designated as the officer charged with the enforcement of this by-law.

A. **Enforcement Action**

The Inspector of Buildings, upon a written complaint of any citizen of Auburn, or owner of property within Auburn or upon such Inspector's own initiative, shall institute any appropriate action or proceedings in the name of the Town of Auburn to prevent, correct, restrain or abate violation of this by-law. In the case where the Inspector of Buildings is requested in writing to enforce this by-law against any person allegedly in violation of same and the Inspector of Buildings declines to act, the Inspector shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefor, within 14 days of receipt of such request.

B. **Fine**

Violation of this by-law shall be punishable by a fine of $100.00 for each offense. Each day that such violation continues shall constitute a separate offense.

C. **Other Laws or Regulations**

This by-law shall not be construed to authorize the use of any land or structure for any purpose that is prohibited by any other provision of the General Laws or by any other by-law, rule or regulation or the town; nor shall compliance with any such provision authorize the use of any land in any manner inconsistent with this by-law, except as required by the General Laws.

D. **Validity and Separability**

The invalidity of one or more sections, subsections, clauses or provisions of this by-law shall not invalidate or impair the by-law as a whole or any other part thereof.
CHAPTER XVII  STORMWATER MANAGEMENT

EROSION CONTROL & ILLICIT DISCHARGE BYLAW

SECTION 1 GENERAL
  1.1  Purpose
  1.2  Authority
  1.3  Responsibility
  1.4  Definitions
  1.5  Regulations
  1.6  Fees

SECTION 2 ILLICIT DISCHARGE
  2.1  Applicability
  2.2  Prohibited and Exempt Activities
  2.3  Emergency Suspension of Storm Drainage System Access
  2.4  Notification of Spills

SECTION 3 STORMWATER MANAGEMENT AND EROSION CONTROL
  3.1  Applicability
  3.2  Regulated and Exempt Activities
  3.3  Surety

SECTION 4 ADMINISTRATION
  4.1  Enforcement
  4.2  Waivers
  4.3  Severability
  4.4  Transitional Provision
SECTION 1 GENERAL

1.1 Purpose:

Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town of Auburn's water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

1.1.1 Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:
(a) Impairment of water quality and decreased flow in lakes, ponds, streams, rivers, wetlands and groundwater;
(b) Contamination of drinking water supplies;
(c) Erosion of stream channels;
(d) Alteration or destruction of aquatic and wildlife habitat;
(e) Flooding; and,
(f) Overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources.

1.1.2 The objectives of this Bylaw are to:
(a) Protect water resources;
(b) Require practices that eliminate soil erosion and sedimentation;
(c) To prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
(d) To require the removal of all such illicit connections;
(e) Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
(f) Require practices to manage and treat stormwater runoff generated from new development and redevelopment,
(g) Protect groundwater and surface water from degradation or depletion;
(h) Promote infiltration and the recharge of groundwater;
(i) Prevent pollutants from entering the municipal storm drain system;
(j) Ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
(k) Ensure adequate long-term operation and maintenance of stormwater best management practices;
(l) Require practices to control waste such as but not limited to the following: discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
(m) Comply with state and federal statutes and regulations relating to stormwater discharges; and
(n) Establish the Town of Auburn’s legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.
1.2 Authority:

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

1.3 Responsibility:

1.3.1 The Land Use Enforcement Officer (LUEO) or other Town Designee as appointed by the Town Manager shall administer this bylaw.

1.3.2 The Stormwater Committee and/or its LUEO or other Town Designee shall review all applications for a land disturbance permit, conduct inspections, issue a permit and conduct any necessary enforcement action.

1.3.3 The Stormwater Committee may adopt and periodically amend Stormwater Regulations relating to receipt and content of Land Disturbance applications; review time periods, permit terms, conditions, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Bylaw by majority vote of the Stormwater Committee, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) calendar days before the hearing date. After public notice and hearing, the Stormwater Committee may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Committee to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

1.3.4 The Stormwater Committee will refer to the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Standards or the latest edition of Town of Auburn’s Design Standards, whichever is more stringent in the protection of the town's environmental and infrastructure resources, for execution of the provisions of this Bylaw.

1.3.5 The Applicant will publish a notice in the local newspaper that the LUEO or other Town Designee is accepting comments on the Land Disturbance Permit. The Land Disturbance Permit application shall be available for inspection by the public during normal business hours at the Town Hall for 5 business days from the notice. A public hearing is not required. The public may submit their comments within the time that the Land Disturbance Permit is available for inspection. Comments may be submitted to the LUEO or other Town Designee during business hours.

1.3.6 Filing an application for a land disturbance permit grants the Stormwater Committee or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

1.3.7 The LUEO or other Town Designee may:

(a) Approve the Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw;

(b) Approve the Application and issue a permit with conditions, modifications, requirements for operation and maintenance requirements of permanent structural BMPs, designation of responsible party, or restrictions that the LUEO or other Town Designee determines are required to ensure that the project will protect water resources and will meet the objectives and requirements of this Bylaw; or

(c) Disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this Bylaw. If the LUEO or other Town Designee finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and...
runoff volume, the LUEO or other Town Designee may disapprove the application, denying a permit.

1.3.8 No permit shall be issued by the LUEO or other Town Designee for projects that require approval from the Conservation Commission, Zoning Board or the Planning Board until those decisions have been rendered.

1.3.9 The LUEO or other Town Designee shall take final action on an Application within 30 days if review from Conservation Commission, Zoning Board or Planning Board is not required. Failure to take action shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the Stormwater Committee’s action, the Land Disturbance Permit shall be considered presumptively approved.

1.3.10 The LUEO or other Town Designee shall take final action on an Application within 30 days of final decision(s) from Conservation Commission, Zoning Board and/or Planning Board Failure to take action shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the LUEO or other Town Designee’s action, the Land Disturbance Permit shall be considered presumptively approved.

1.3.11 Appeals of LUEO or other Town Designee’s action shall be filed with the Stormwater Committee within 20 days of a decision. Any decision of the Stormwater Committee shall be final. Further relief of a decision by the Stormwater Committee made under this Bylaw shall be reviewable in the Superior Court and action filed in the court within 20 days thereof. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

1.4 Definitions:
For the purposes of this Bylaw, the following shall mean:

ABUTTER: The owner(s) of land within one (100) hundred feet of the land disturbance site.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (M.G.L. c. 131 § 40) and it’s implementing regulations (310 CMR 10.00).

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any “person” as defined below requiring a permit for any activity in this bylaw.

AUTHORIZED ENFORCEMENT AGENCY: Stormwater Committee or its agents will be in charge of enforcing the requirements of this bylaw.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.


CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or construction site materials that may adversely impact water quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.
CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DESIGN STANDARDS: The Town of Auburn's design standards for development and redevelopment.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction, including any increase in impervious area.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

DISTURBANCE OF LAND: Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

ENVIRONMENTAL SITE MONITOR: A Professional Engineer, or other trained professional selected by the Stormwater Committee or its agent and retained by the holder of a Land Disturbance Permit to periodically inspect the work and report to the Stormwater Committee or its agent.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during preconstruction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

GRADING: Changing the level or shape of the ground surface.

GROUNDWATER: Water beneath the surface of the ground including confined or unconfined aquifers.

GRUBBING: The act of clearing land surface by digging up roots and stumps.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 7, subsection 4, of this Bylaw.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LANDSCAPE DESIGN STANDARDS: Section 11 of The Town of Auburn's Zoning Bylaws.

LAND USE ENFORCEMENT Officer: (LUEO) Agent in charge of enforcement and interpretation of the Stormwater Bylaws and Regulations.
LOT: An area or parcel of land or any part thereof, recorded with the Massachusetts Registry of Deeds or Land Court.

MASSACHUSETTS ENDANGERED SPECIES ACT: (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the “taking” of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards as defined under the Wetlands Protection Regulations, Section 310 CMR 10.05 (k), and further described in the Massachusetts Stormwater Handbook prepared and issued by the Massachusetts Department of Environmental Protection. The Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies, control the quantity of runoff from a site, and promote the recharge of groundwater by stormwater infiltration.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Auburn.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN: A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER: A person with a legal or equitable interest in property.

PERMIT HOLDER: The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is considered toxic to humans or the environment and may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include, but not be limited to:
1. paints, varnishes, and solvents;
2. oil and other automotive fluids;
3. some non-hazardous liquids and solid wastes and yard wastes;
4. refuse, rubbish, garbage, litter, ordinances or other discarded or abandoned objects, accumulations and floatables;
5. pesticides, herbicides, and fertilizers;
6. hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. dissolved and particulate metals;
8. animal wastes;
9. rock; sand; salt, soils;
10. construction wastes and residues;
11. and noxious or offensive matter of any kind.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT: Development, rehabilitation, demolition or phased projects that disturb the ground surface on previously developed sites.

RESPONSIBLE PARTIES: Owner(s), persons with financial responsibility, and persons with operational responsibility.

RUNOFF: Rainfall, snowmelt, or water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL: Earth materials including duff, humic materials, sand, rock and gravel.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Runoff from precipitation or snow melt.

STORMWATER COMMITTEE: A Committee of the Town of Auburn consisting of the following members: Highway Surveyor, Sewer Superintendent, Director of Public Health, Zoning Enforcement Officer, Agent of the Conservation, , the Town Engineer, the Town Planner and Auburn Water District (Commissioner,
Superintendent or designee). The representative of the Auburn Water District shall be “ex-officio” (non-voting).

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a qualified professional engineer (PE) which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

STORMWATER MANAGEMENT REGULATIONS: A set of procedures and policies adopted and updated from time to time by the Stormwater Committee under the authority of this bylaw.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

SURFACE WATER DISCHARGE PERMIT: A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under M.G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

TSS: Total Suspended Solids. Material, including but not limited to trash, debris, soils, sediment and sand suspended in stormwater runoff.

VERNAL POOLS: Confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, which has been certified by the Mass. Division of Fisheries and Wildlife.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool contents, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

WATERCOURSE: A natural or man-made channel through which water flows, including a river, brook, or stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s40 and in the Town of Auburn Wetland Protection Bylaw.

1.5 Regulations:
The Town may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Town to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw. Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 4 of this Bylaw.

1.6 Fees:
The Stormwater Committee may adopt any regulations deemed necessary to accomplish the purposes of this Bylaw, including the adoption of a system of fees for services related to the Town’s review of plans and the Town’s issuance of permits. Any changes to the Committee’s fee schedule shall require a duly noticed and advertised public hearing.

SECTION 2 ILICIT DISCHARGE

2.1 Applicability:
This Section shall apply to flows entering the municipal storm drainage system.

2.2 Prohibited and Exempt Activities:

2.2.1 Prohibited Activities

2.2.1.1 Illicit Discharges. No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth.

2.2.1.2 Illicit Connections. No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.

2.2.1.3 Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Land Use Enforcement Officer.

2.2.2 Exemptions

2.2.2.1 Discharge or flow resulting from fire fighting activities;

2.2.2.2 The following non-stormwater discharges or flows are exempt from this Bylaw, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

(a) Waterline flushing;

(b) Flow from potable water sources;

(c) Springs;

(d) Natural flow from riparian habitats and wetlands;

(e) Diverted stream flow;

(f) Rising groundwater;

(g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

(h) Discharge from landscape irrigation or lawn watering;

(i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), or air conditioning condensation;

(j) Water from individual residential car washing;

(k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided test data is submitted to the Town substantiating that the water meets the one ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town Bylaws;

(l) Discharge from street sweeping;

(m) Dye testing, provided verbal notification is given to the Highway Surveyor prior to the time of the test;
(n) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

(o) Discharge for which advance written approval is received from the Highway Surveyor as necessary to protect public health, safety, welfare or the environment.

2.2.2.3 Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Auburn Town Manager, Board of Selectmen or Board of Health.

2.3 Emergency Suspension of Storm Drainage System Access:

The Town may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Town may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

2.4 Notification of Spills:

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and LUEO or other Town Designee and the Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the LUEO or other Town Designee no later than the next business day. The reporting person shall provide to the LUEO or other Town Designee written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or facility operator shall also retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 3 STORMWATER MANAGEMENT AND EROSION CONTROL:

3.1 Applicability:

This Section shall apply to all land-disturbing activities within the jurisdiction of the Town of Auburn.

3.2 Regulated and Exempt Activities:

3.2.1 Regulated Activities. Regulated activities shall include, but not be limited to:

3.2.1.1 Land disturbance associated with a building permit for a new or expanded structures over 120 square feet,

3.2.1.2 Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that, all together, disturbs 10,000 square feet or more of land,
3.2.1.3 Paving or other change in surface material (including structures) over an area of 5,000 square feet or more causing a significant reduction of permeability or increase in runoff,

3.2.1.4 Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 10,000 square feet,

3.2.1.5 Any other activity altering the surface of an area exceeding 10,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR

3.2.1.6 Land disturbance where there is an existing or proposed slope of 15% or greater and where the land disturbance is greater than or equal to 500 square feet within the sloped area.

3.2.2 Exempt Activities. The following activities are exempt from the requirements of this Bylaw:

3.2.2.1 Normal maintenance and improvement of Town owned public ways and appurtenances.

3.2.2.2 Normal maintenance and improvement of land in agricultural use.

3.2.2.3 Repair of septic systems In accordance with Title V (CMR 15.00).

3.2.2.4 Normal maintenance of existing landscaping, gardens or lawn areas, provided such maintenance includes the addition, alteration or removal of less than 50 cubic yards of soil material, construction of any walls less than 4 feet high, alteration of existing grades by less than 4 feet in elevation provided such alteration remain within the 50 cubic yards threshold.

3.2.2.5 The construction of fencing that will not alter existing terrain or drainage patterns.

3.2.2.6 Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.

3.3 Surety:

The Stormwater Committee may require the permit holder to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the LUEO or other Town Designee to insure that the work will be completed in accordance with the permit. If the project is phased, the LUEO or other Town Designee may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the LUEO or other Town Designee has received the final report as required in the Regulations and issued a certificate of completion.

SECTION 4 ADMINISTRATION:

4.1 Enforcement:

4.1.1 Authorized Agent:

The Stormwater Committee, LUEO or other Town Designee shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

4.1.2 Orders:
4.1.2.1 The Stormwater Committee, LUEO or other Town Designee may issue a written order to enforce the provisions of this Bylaw or the regulations thereunder, which may include:

(a) a requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw or provisions of the land-disturbance permit;
(b) maintenance, installation or performance of additional erosion and sediment control measures;
(c) monitoring, analyses, and reporting;
(d) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
(e) compliance with the Operation and Maintenance Plan.
(f) elimination of illicit connections or discharges to the municipal storm drain system;
(g) performance of monitoring, analyses, and reporting;
(h) that unlawful discharges, practices, or operations shall cease and desist; and
(i) remediation of contamination in connection therewith.

4.1.2.2 If the enforcing person determines that abatement or remediation of contamination, or erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed: Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Auburn may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator/property owner, to be recouped through all available means, including the placement of liens on the property.

4.1.2.3 Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator (if different than the property owner) and the property owner shall be notified of the costs incurred by the Town of Auburn, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Committee within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Stormwater Committee affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner’s property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

4.1.3 Criminal Penalty:

Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder, may be punished by a fine of not more than $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

4.1.4 Non-Criminal Disposition:

As an alternative to criminal prosecution or civil action, the Town of Auburn may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, which has been adopted by the Town in Sec. 19 of the general bylaws, in which case the Stormwater Committee or authorized agent shall be the enforcing person. The penalty for each violation shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

4.1.5 Tax Liens:
The Town of Auburn shall require the repayment of services provided to the responsible party which the responsible party was obligated to perform as put forth in the Operation and Maintenance Plan. The Town will send the responsible party a bill for services provided. If the bill is not paid the Town may impose a tax lien on the responsible party or parties' property.

4.1.6 Entry to Perform Duties Under this Bylaw
To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Town, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Town deems reasonably necessary.

4.1.7 Appeals:
The decisions or orders of the Town shall be final. Further relief shall be to a court of competent jurisdiction.

4.1.8 Remedies Not Exclusive:
The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

4.2 Waivers:

4.2.1 The Stormwater Committee may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action:
(a) is allowed by federal, state and local statutes and/or regulations,
(b) is in the public interest, and
(c) is not inconsistent with the purpose and intent of this bylaw.

4.2.2 Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the by-law does not further the purposes or objectives of this bylaw.

4.2.3 All waiver requests shall be discussed and a decision will be made by the Stormwater Committee within 30 days of receiving the waiver request.

4.2.4 If in the Stormwater Committee opinion, additional time or information is required for review of a waiver request, the Committee may continue a consideration of the waiver request to a date certain, announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

4.3 Severability:
The provisions of this Bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

4.4 Transitional Provision:
Residential property owners shall have 180 days from the effective date of the Bylaw to comply with its provisions or petition the Town for an extension. Building permits and other approvals granted prior to the effective date of this Bylaw and the promulgation of Stormwater Regulations and Standards shall not be required to adhere to Section 3 of this Bylaw.
Chapter XVIII

STRETCH ENERGY CODE (5/1/12)

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three year cycle. Since July 1, 2010, the baseline energy conservation requirements of the MA State Building Code defaulted to the latest published edition, currently the IECC 2009, with Massachusetts amendments as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

Section 2 Purpose
The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

Section 3 Applicability
This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

Section 4 Stretch Code
The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Auburn General Bylaws, Chapter XVIII.

The Stretch Code shall be enforceable by the inspector of buildings or building commissioner. This Stretch energy Code will go into effect July 1, 2013.