

ZONING ORDINANCE

CITY OF ATTLEBORO, MASSACHUSETTS



ADOPTED BY THE
HONORABLE MUNICIPAL COUNCIL
ON
FEBRUARY 10, 1942

AMENDMENTS THROUGH
AUGUST 2016

ATTLEBORO



CHAPTER 17
OF THE
REVISED ORDINANCES OF THE CITY OF ATTLEBORO
(AS AMENDED THROUGH NOVEMBER 3, 2015)

TABLE OF CONTENTS

SECTION 1.0

§17-1.0	GENERAL	Page	1
§17-1.1	Title and Purpose.....	Page	1
§17-1.2	Authority.....	Page	1
§17-1.3	Interpretation.....	Page	1
§17-1.4	Mixed Uses.....	Page	1
§17-1.5	Application.....	Page	1
§17-1.6	Amendment.....	Page	2

SECTION 2.0

§17-2.0	ESTABLISHMENT OF DISTRICTS	Page	3
§17-2.1	Division Into Zoning Districts.....	Page	3
§17-2.1.1	Establishment of Residential Zoning Districts.....	Page	3
§17-2.1.2	Establishment of Business Zoning Districts.....	Page	3
§17-2.1.3	Establishment of Industrial Zoning District.....	Page	4
§17-2.2	Zoning Map.....	Page	4
§17-2.3	Zoning Map Revisions.....	Page	4
§17-2.4	District Boundaries.....	Page	5

SECTION 3.0

§17-3.0	USE REGULATIONS	Page	6
§17-3.1	Use Designations.....	Page	6
§17-3.2	Uses Subject to Other Regulations.....	Page	6
§17-3.3	Prohibited Uses.....	Page	6
§17-3.4	Table of Use Regulations.....	Page	6
§17-3.5	Table of Accessory Use Regulations.....	Page	10

SECTION 4.0

§17-4.0	DIMENSIONAL AND DENSITY REGULATIONS	Page	12
§17-4.1	Applicability of Dimensional and Density Regulations.....	Page	12
§17-4.2	Minimum Lot Frontage.....	Page	12
§17-4.3	Separation of Lots.....	Page	12
§17-4.4	Screening and Buffers.....	Page	12
§17-4.5	Accessory Structures.....	Page	14
§17-4.6	Other General and Dimensional and Density Regulations.....	Page	15
	"Lot Width Exception" Diagram.....	Page	17
§17-4.7	Fences.....	Page	18
§17-4.8	Performance and Design Standards – IBP.....	Page	19
§17-4.8(A)	Table of Sound Pressure Standards.....	Page	23
§17-4.9	Table of Dimensional and Density Regulations.....	Page	24

SECTION 5.0

§17-5.0	OFF-STREET PARKING AND LOADING REGULATIONS	Page	26
§17-5.1	Off-Street Parking Requirements.....	Page	26
§17-5.2	Off-Street Loading Requirements.....	Page	26
§17-5.3	Existing Spaces.....	Page	26
§17-5.4	Computation Of Spaces.....	Page	26



§17-5.5	Combined Facilities.....	Page	26
§17-5.6	Location of Off-Street Parking and Loading Spaces.....	Page	27
§17-5.7	Municipal Parking Lots.....	Page	27
§17-5.8	Parking and Loading Space Standards.....	Page	28
§17-5.9	General Parking And Loading Space Standards.....	Page	28
§17-5.10	Table of Off-Street Parking Regulations.....	Page	29
§17-5.11	Table of Off-Street Loading Regulations.....	Page	31

SECTION 6.0

§17-6.0	NON-CONFORMING USES, STRUCTURES, AND LOTS	Page	32
§17-6.1	Non-Conformity By Initial Enactment Of Amendment.....	Page	32
§17-6.2	Extension, Alteration And Continuance.....	Page	32
§17-6.3	Reduction or Increase.....	Page	33
§17-6.4	Change.....	Page	33
§17-6.5	Restoration.....	Page	33
§17-6.6	Abandonment.....	Page	33
§17-6.7	Moving.....	Page	34
§17-6.8	Unsafe Structures.....	Page	34
§17-6.9	Special Permit Required.....	Page	34

SECTION 7.0

§17-7.0	ADMINISTRATION AND ENFORCEMENT	Page	35
§17-7.1	Administrative Officer.....	Page	35
§17-7.2	Building Permit Required.....	Page	35
§17-7.3	Certificate of Occupancy Required.....	Page	35
§17-7.4	Other Approval Required.....	Page	35
§17-7.5	Permit and Certificate Fees.....	Page	35
§17-7.6	Building Permit Time Limits.....	Page	36
§17-7.7	Violations.....	Page	36
§17-7.8	Fines for Violations.....	Page	36
§17-7.9	Prosecution of Violation.....	Page	36
§17-7.10	Severability.....	Page	36

SECTION 8.0

§17-8.0	BOARD OF APPEALS	Page	37
§17-8.1	Organization.....	Page	37
§17-8.2	Powers and Duties.....	Page	37
§17-8.3	Staff.....	Page	37
§17-8.4	Proceedings of the Board of Appeals.....	Page	37
§17-8.5	Removal of Members.....	Page	37
§17-8.6	Fee Schedule.....	Page	38
§17-8.7	Hearings: Action.....	Page	38
§17-8.8	Appeals.....	Page	39
§17-8.9	Variances.....	Page	39

SECTION 9.0

§17-9.0	SPECIAL PERMITS	Page	40
§17-9.1	Special Permit Required.....	Page	40
§17-9.2	Hearings: Action.....	Page	40
§17-9.3	Failure to Commence.....	Page	40
§17-9.4	Standards for Granting Special Permit.....	Page	40
§17-9.5	Required Site Plan.....	Page	41



SECTION 10.0

§17-10.0	SPECIAL REGULATIONS	Page	42
§17-10.1	General.....	Page	42
§17-10.2	Earth Removal.....	Page	42
§17-10.3	Mobile Home Park.....	Page	46
§17-10.4	Home Occupation.....	Page	49
§17-10.5	Open Space Residential Development - Standard Design	Page	50
§17-10.6	Open Space Residential Development - Affordable Housing.....	Page	57
§17-10.6	Open Space Residential Development - Green Design	Page	66
§17-10.8	Landfills.....	Page	75
§17-10.9	Reuse of Public Buildings.....	Page	77
§17-10.10	Reuse of Industrial Buildings.....	Page	78
§17-10.11	Downtown Residential Cluster Dwellings.....	Page	78
§17-10.12	Adult Entertainment Uses.....	Page	79
§17-10.13	Wireless Telecommunications Tower/Facility.....	Page	80
§17-10.14	Small Wind Energy Systems.....	Page	83
§17-10.15	Registered Marijuana Dispensary Uses.....	Page	85
§17-10.16	Transit Oriented Development.....	Page	90

SECTION 11.0

§17-11.0	DEFINITIONS	Page	94
§17-11.1	General.....	Page	94
§17-11.2	Definitions.....	Page	94

SECTION 12.0

§17-12.0	FLOODPLAIN DISTRICT	Page	106
§17-12.1	General.....	Page	106
§17-12.2	Definitions.....	Page	106
§17-12.3	Objectives.....	Page	107
§17-12.4	Administration.....	Page	107
§17-12.5	Permitted.....	Page	108
§17-12.6	Special Permits.....	Page	108
§17-12.7	Permit Procedures.....	Page	109
§17-12.8	Occupancy Permit.....	Page	110
§17-12.9	Areas, Open Space and Yard Regulations.....	Page	110
§17-12.10	Mobile Homes and Mobile Parks.....	Page	111
§17-12.11	Amendment.....	Page	111
§17-12.12	Warning and Disclaimer of Liability.....	Page	111

SECTION 13.0

§17-13.0	WATER RESOURCES PROTECTION DISTRICT	Page	112
§17-13.1	General.....	Page	112
§17-13.2	Permitted Uses.....	Page	112
§17-13.3	Prohibited Uses.....	Page	112
§17-13.4	Special Permits.....	Page	113



SECTION 14.0

§17-14.0 YARD SALES..... Page 114

SECTION 15.0

§17-15.0 SITE PLAN REVIEW..... Page 115

§17-15.0(A) Intent..... Page 115

§17-15.0(B) Purposes of Site Plan Review..... Page 115

§17-15.0(C) Applicability..... Page 115

§17-15.0(D) Administration..... Page 117

§17-15.0(E) Procedures for a Minor Project Site Plan Review Pre-Application Meeting..... Page 117

§17-15.0(F) Procedures for a Minor Project Site Plan Review..... Page 118

§17-1.0(G) Procedures for a Major Project Site Plan Review Pre-Application Meeting..... Page 119

§17-15.0(H) Procedures for a Major Project Site Plan Review..... Page 119

§17-15.0(I) Minor and Major Project Pre-Application Submission Materials..... Page 120

§17-15.0(J) Minor and Major Site Plan Review Submission Materials..... Page 121

§17-15.0(K) Site Plan Review Criteria..... Page 123

§17-15.0(L) Final Action for Pre-Application Meeting..... Page 124

§17-15.0(M) Final Action for Minor and Major Project Site Plan Review..... Page 124

§17-15.0(N) Appeals..... Page 124



SECTION 17-1.0 GENERAL

§17-1.1 TITLE AND PURPOSE

The following sections shall be known and may be cited as the “ZONING ORDINANCE OF THE CITY OF ATTLEBORO, MASSACHUSETTS.” The purpose of this ordinance is to promote the health, safety, and general welfare of the inhabitants of Attleboro, to facilitate the adequate provision of streets, water, schools and other requirements, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to conserve the value of land and buildings, to encourage the most appropriate use of land throughout the City and to preserve and increase its amenities.

§17-1.2 AUTHORITY

This ordinance is adopted pursuant to the authority granted by the MGL CH. 40A, THE ZONING ACT, as amended.

§17-1.3 INTERPRETATION

The provisions of this ordinance shall be interpreted to be the minimum requirements and are not intended to amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted ordinances, covenants, regulations or rules. Whenever the requirements of this ordinance differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

§17-1.4 MIXED USES

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used. Where mixed uses of the same space exist, the regulations and restrictions for all lawfully existing uses shall apply, but no use shall benefit from the lesser requirement for other uses.

§17-1.5 APPLICATION

Except as herein provided, the provisions of this ordinance shall apply to the erection, construction, reconstruction, relocation, alteration, or use of buildings, structures or land. This ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on this ordinance required by MGL CH. 40A, §5, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of such public hearing, to any reconstruction, extension or structural change of such structure, and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration, reconstruction extension or structural change to a single or two-family residential structure does not increase the non-conforming nature of said structure. Construction or operation under a building or special permit shall conform to any subsequent amendment of this ordinance unless the use or construction is commenced within six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

§17-1.6 AMENDMENT

This ordinance may be amended in accordance with the provisions of the MGL CH. 40A, §5, as amended. An amendment to this ordinance may be initiated by the submission to the Municipal Council of a proposed zoning amendment by the Municipal Council, the Board of Appeals, the Planning Board, by an individual owning land to be affected by said amendment, by ten registered voters of the City, by the Southeastern Regional Planning and Economic Development District (SRPEDD), or by other methods provided by the Attleboro Home Rule Charter.

SECTION 17-2.0

ESTABLISHMENT OF DISTRICTS

§17-2.1 DIVISION INTO ZONING DISTRICTS

The City of Attleboro, Massachusetts, is hereby divided into the following residential, business, and industrial zoning districts. They are grouped by general classification.

§17-2.1.1 ESTABLISHMENT OF RESIDENTIAL ZONING DISTRICTS

These residential zoning districts are established, and are intended to secure, for the persons who reside there, a comfortable, healthy, safe, and pleasant environment in which to live. Residential zoning districts, herein referred to as the “R” zoning districts, shall be designated as follows: Single Residence “SR” and General Residence “GR”.

- A.** Single Residential zoning districts, herein referred to as “SR” zoning districts, shall be designated as follows: Single Residence–A (“SR–A”), Single Residence–B (“SR–B”), Single Residence–C (“SR–C”), Single Residence–D (“SR–D”), and Single Residence–E (“SR–E”). Such zoning districts are established primarily to accommodate, as a matter-of-right, single-family detached residential uses at low to medium densities. Two-family dwellings are allowed by special permit in these zoning districts pursuant to the provisions of §17-10.6 OPEN SPACE RESIDENTIAL DEVELOPMENT – AFFORDABLE HOUSING and §17-10.7 OPEN SPACE RESIDENTIAL DEVELOPMENT – GREEN DESIGN.

- B.** General Residential zoning districts, herein referred to a “GR” zoning districts, shall be designated as follows: General Residence–A (“GR–A”), General Residence–B (“GR–B”), and General Residence–C (“GR–C”). Such zoning districts are established primarily to accommodate single-family detached and two-family residential uses, as a matter-of-right, and multi-family residential uses, pursuant to the provision of §17-9.0 SPECIAL PERMITS, at medium to high densities. Multi-family dwellings are allowed by-right in these zoning districts pursuant to the provisions of §17-10.5 OPEN SPACE RESIDENTIAL DEVELOPMENT – STANDARD DESIGN. Multi-family dwellings are allowed by special permit in these zoning districts pursuant to the provisions of §17-10.6 OPEN SPACE RESIDENTIAL DEVELOPMENT – AFFORDABLE HOUSING and §17-10.7 OPEN SPACE RESIDENTIAL DEVELOPMENT – GREEN DESIGN.

§17-2.1.2 ESTABLISHMENT OF BUSINESS ZONING DISTRICTS

These business zoning districts are established to accommodate commercial and business and related complementary uses within the objectives set forth in the ZONING ORDINANCE. Business zoning districts, herein referred to as “B” zoning districts, shall be designated as follows: Central Business (“CB”), Transit Oriented Development (“TOD”), General Business (“GB”), and Planned Highway Business (“PHB”).

- A.** The “CB” zoning district is established to accommodate a wide variety of commercial uses as well as mixed-use and residential uses, which will result in an intensive use of the City’s central business district.

- B.** The “TOD” zoning district is established to accommodate a compact and very highly intensive mix of residential, retail, office, civic/entertainment, and institutional uses, and to promote the creation and retention of uses in areas with high potential for enhanced mass transit and pedestrian activity with less reliance on the automobile.

- C. The “GB” zoning district is established to accommodate commercial development on a scale that is somewhat less intensive than that permitted in the “CB” zoning district. Such is achieved through setback, height, and minimum lot size regulations, which are slightly more restrictive than those applicable to the “CB” zoning district. The types of uses permissible in the “GB” zoning district are generally similar to the types permissible in the “CB” zoning district.
- D. The “PHB” zoning district is established to accommodate large scale business activities, such as shopping centers, which draw business primarily from the interstate highway.

§17-2.1.3 ESTABLISHMENT OF INDUSTRIAL ZONING DISTRICTS

These industrial zoning districts are established to accommodate industrial and business activities within the objectives set forth in the ZONING ORDINANCE. Industrial zoning districts, herein referred to as the “I” zoning district, shall be designated as follows: Industrial “I” and Industrial Business Park “IBP”.

- A. The “I” zoning district is established to accommodate: (a) enterprises engaged in the manufacturing, processing, repairing, packaging, assembling, storing, merchandising of goods and commodities, and other similar uses that are deemed within the prescribed range of activities contained herein, and (b) compatible non-residential enterprises engaged in the medical/healthcare sector of the economy.
- B. The “IBP” zoning district is established to accommodate, encourage, attract, and concentrate environmentally sound “I” and “B” development in a park-like setting, to provide flexibility for an attractive, efficient, and economical design of an industrial business park, to encourage ingenuity and originality in site design, to provide a protective zone, and to ensure compatibility between the land uses within the park and the environment through performance standards. The provisions set forth herein are established to: (a) provide a healthful operating environment for industry and business, (b) protect land uses within the park from the encroachment of other incompatible uses adverse to the operation and expansion of such land uses, (c) reduce, to a minimum, the impact of “IBP” on surrounding uses and to the development of properties adjacent to the park, (d) protect the health and safety of both workers and residents in the area, and (e) dissuade business or industry which depends, targets, or generates residential traffic as its primary source of business.

§17-2.2 ZONING MAP

The location and boundaries of the Zoning Districts are hereby established as shown on a map entitled “Zoning Map of the City of Attleboro, Massachusetts”, dated December 20, 1976, which is hereby adopted by reference and declared to be part of this ordinance. The zoning map shall be identified by the signature of the Mayor, attested by the City Clerk and shall bear the seal of the City under the following words: This is to certify that this is the zoning map of the City of Attleboro, Massachusetts, referred to in the ZONING ORDINANCE of the City of Attleboro, Massachusetts, which was adopted by the Municipal Council on December 20, 1976.

§17-2.3 ZONING MAP REVISIONS

The original zoning map shall be held in the custody of the City Clerk, who shall provide certified copies of the map for use by the Inspector of Buildings, Planning Board and other city officials and agencies, and sell reduced or full-size copies to the public. Whenever a revision of the designation, location, or boundaries of zoning districts becomes necessary as a result of an amendment to this ZONING ORDINANCE by the Attleboro Municipal Council, the City Clerk shall provide for such revision to be indicated on the zoning map within thirty (30) days of the effective date of the amendment, but no delay in updating the zoning map shall affect the validity and application of such amendment. Streets and other geographical features may be added to the zoning map from time to time to facilitate orientation, but no map alteration having the effect of changing the designation, location or boundaries of zoning districts shall be made, or shall be valid except as provided for by amendment to this ordinance.

§17-2.4 DISTRICT BOUNDARIES

Where any uncertainty exists with respect to the boundary of any zoning district, as shown on the Zoning Map, the following rules shall apply:

- A.** Where a boundary is indicated as a street, railroad, power line, watercourse or other body of water, it shall be construed to be the centerline or middle thereof: or where such boundary approximates a City boundary, then to the limits of the City boundary.
- B.** Where a boundary is indicated as following approximately parallel to a street, railroad, power line, watercourse or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the zoning map. If no distance is given, such distance shall be determined by the use of the scale shown on the zoning map.
- C.** Whenever any dispute arises on zoning district boundaries as to the exact location of a district boundary line, the Board of Appeals shall determine the location of such line.

SECTION 17-3.0 USE REGULATIONS

§17-3.1 USE DESIGNATIONS

In §17-3.4 TABLE OF USE REGULATIONS, the letter “P” designates the uses permitted by right in the district. Those uses that may be permitted in the district by special permit from the Board of Appeals are designated by the letter “S”. Those uses that may be permitted in the district by special permit from the Planning Board are designated by the letters “SPB”. Those uses that may be permitted in the district by special permit from the Municipal Council are designated by the letters “SMC”. Uses designated by the letter “N” are not permitted in the district. Other uses not specified in §17-3.4 TABLE OF USE REGULATIONS shall be deemed to be not permitted, provided however that such uses found by the Board of Appeals to be consistent with the general purpose and range of permitted uses in any district may be allowed therein by special permit.

§17-3.2 USES SUBJECT TO OTHER REGULATIONS

Uses permitted by-right or special permit shall be subject, in addition to use regulations, to all other provisions of the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended.

§17-3.3 PROHIBITED USES

Any use, whether or not specifically or generically identified elsewhere, that is significantly hazardous, offensive or detrimental to surrounding properties by reason of excessive glare, odor, noise, fumes, smoke, vibration, electric or electronic interference, radiation, pollution of air or water, danger of explosion or fire or for any other similar reason, shall be prohibited.

§17-3.4 TABLE OF USE REGULATIONS

PRINCIPAL USES – RESIDENTIAL	RESIDENTIAL		BUSINESS				INDUSTRIAL	
	GR	SR	CB	TOD	GB	PHB	I	IBP
1. One-Family Detached Dwellings.....	P	P	N	N	N	N	N	N
2. Two-Family Dwellings.....	P	N	N	N	N	N	N	N
3. Multi-Family Dwellings.....	S	N	N	N	N	N	N	N
4. Lodging House or Guest House.....	S	N	N	N	S	N	N	N
5. Conversion of Existing Dwellings to Two-Family Dwellings ¹	P	S	S	N	S	S	S	N
6. Conversion of Existing Dwellings to Multi-Family Dwellings ¹	S	N	N	N	S	N	N	N
7. Mixed Residential/Business uses whereby all dwelling units are above the first floor level and the business use is permitted by-right or is allowed by special permit.....	S	N	P	P	S	N	N	N
8. Downtown Residential Cluster Dwellings whereby residential units on the first floor level are regulated by special permit and residential units above the first floor level are permitted by-right.....	N	N	S	S	N	N	N	N

¹ When a special permit is required, the building to be so used must have been in existence prior to February 10, 1942, and must have a gross floor area of 2,400 square feet or more.

9.	Residential Cluster Development.....	S	N	N	N	N	N	N	N
10.	Residential Cluster Dwellings Primarily for the Elderly and Handicapped.....	S	S	S	S	S	N	N	N
11.	Open Space Residential Development – Standard Design.....	P	P	N	N	N	N	N	N
12.	Open Space Residential Development – Affordable Housing.....	SPB	SPB	N	N	N	N	N	N
13.	Open Space Residential Development – Green Design.....	SPB	SPB	N	N	N	N	N	N
14.	Mobile Home Park.....	SPB	N	N	N	N	N	N	N

PRINCIPAL USES – COMMUNITY FACILITIES	RESIDENTIAL		BUSINESS				INDUSTRIAL	
	GR	SR	CB	TOD	GB	PHB	I	IBP

1.	Church and other Religious Purpose.....	P	P	P	P	P	P	P	P
2.	Educational Purpose that are Religious, Sectarian, Denominational, or public in nature or those of a Non-Profit Educational Corporation.....	P	P	P	P	P	P	P	P
3.	Private School, College or University (not included in use #2 above).....	S	S	P	P	N	N	N	N
4a.	Family Day Care Home.....	P	P	P	P	P	P	P	P
4b.	Group Day Care Center.....	P	P	P	P	P	P	P	P
5.	Membership Club (Non-Profit).....	S	S	P	S	P	P	N	N
6.	Country, Fishing, Tennis or Golf Club.....	S	S	N	N	S	P	N	N
7.	Wildlife Sanctuary and Nature Trails.....	P	P	P	S	P	P	P	P
8.	Municipal Building and Recreational Facilities.....	P	P	P	P	P	P	P	P
9.	Sportsplex/Sports Complex, Indoor.....	N	N	N	N	S	P	S	P
10.	Cemetery.....	P	P	N	N	N	N	N	N
11a.	Office for no more than one Medical Doctor or Dentist.....	S	S	P	S	P	P	S	N
11b.	Professional Medical/Dental Office or Building.....	S	N	P	S	P	P	P	N
11c.	Registered Marijuana Dispensary.....	N	N	N	N	N	N	SMC	SMC
12a.	Hospital, Nursing Home.....	P	S	S	N	S	N	P	N
12b.	Health Care Facility.....	S	S	S	N	S	N	P	N
12c.	Hospital Related Services.....	S	S	S	N	S	N	P	N
13.	Veterinary Hospital.....	N	N	N	S	P	N	P	N
14.	Municipal Off-Street Parking Lot.....	P	N	P	P	P	P	N	N
15.	Historical Society.....	P	P	P	N	P	P	P	N
16.	Public or Private Utility and Facilities for Essential Service.....	P	P	P	P	P	P	P	P
17.	Sanitary Landfill.....	N	SPB	N	N	N	N	SPB	N
18.	Street, Bridge, Tunnel, Railroad Lines.....	P	P	P	P	P	P	P	P
19.	Private Utility Overhead High Voltage Transmission Line, Substation or Similar Facility or Building.....	S	S	S	S	S	S	S	S
20.	Indoor storage in a municipal building of items use in connection with the educational, recreational, athletic and municipal programs, such as equipment, books records, and supplies. The supplies and equipment shall not include any toxic, hazardous material, whether liquid, solid or gaseous, vehicles, trucks or any other type of gasoline-powered machine.....	P	P	P	P	P	P	P	P

PRINCIPAL USES – AGRICULTURE		RESIDENTIAL		BUSINESS			INDUSTRIAL		
		GR	SR	CB	TOD	GB	PHB	I	IBP
1.	Agriculture, Horticulture, Floriculture and/or Greenhouse on parcels of								
a.	less than five acres.....	P	P	N	N	N	N	N	N
b.	more than five acres.....	P	P	P	N	P	P	P	N
2.	Year–Round Stand for Wholesale and Retail Sale of Agriculture or Farm Products.....	N	S	N	S	S	P	N	N
3.	Commercial Kennel.....	N	N	S	N	P	S	S	N
4.	Commercial Stable or Livestock Farm in which all animals are completely enclosed in pens or other structures.....	N	S	N	N	N	N	N	N

PRINCIPAL USES – RETAIL, SERVICE, COMMERCIAL		RESIDENTIAL		BUSINESS			INDUSTRIAL		
		GR	SR	CB	TOD	GB	PHB	I	IBP
1.	Retail Establishment Selling Principally Convenience Goods including but not limited to food, drugs and propriety goods.....	N	N	P	P	P	P	N	N
2.	Retail Establishment Selling General Merchandise.....	N	N	P	P	P	P	N	N
3.	Eating and Drinking Places where consumption is primarily intended to be within the building.....	N	N	P	P	P	P	N	N
4.	Drive–In Eating and Drinking Establishments.....	N	N	N	S	S	P	N	N
5.	Sales by Vending Machines as a principal use.....	N	N	S	N	P	P	N	N
6.	Craft Brewery.....	N	N	P	P	P	P	N	N
7.	Brewpub.....	N	N	P	P	P	P	N	N
8.	Winery, Micro–.....	N	N	P	P	P	P	N	N
9a.	Establishments Selling Automobiles, Trucks, Boats, Motorcycles, Trailers and Farm Implements.....	N	N	N	N	P	P	N	N
9b.	Sale of Second Hand Motor Vehicles.....	N	N	N	N	P	P	S	N
10a.	Hotels.....	S	N	P	P	P	P	N	P
10b.	Motels.....	S	N	P	N	P	P	N	N
11.	Repair and Service Businesses serving local needs such as barber shops, beauty shops, shoe repair, and self–service laundry.....	N	N	P	P	P	P	N	N
12.	Funeral Establishment.....	S	N	S	N	S	S	N	N
13.	Professional Business Office, including but not limited to Banking, Insurance, Real Estate, Legal or Engineering.....	S	N	P	P ²	P	P	N	P ³
14.	Membership Club Operated for Profit.....	N	N	S	S	P	P	N	N
15a.	Automobile Service Station and Rental Establishments.....	N	N	N	N	S	S	N	N
15b.	Automobile Body Shop and/or Facility for major repairs provided that all work is carried out inside the building.....	N	N	N	N	S	N	S	N
16.	Car Washing Establishment.....	N	N	N	N	S	S	N	N
17.	Miscellaneous Business and Repair Services.....	N	N	S	S	P	S	S	N
18.	Self–Storage and Mini–Storage.....	N	N	N	N	S	S	S	N
19.	Craft Shop and Building Trade.....	N	N	P	S	P	P	P	P
20.	Physical Fitness/Workout Gymnasium.....	N	N	P	S	P	P	S	S
21.	Physical Training Service Establishment.....	N	N	P	S	P	P	S	S

² Such uses in the “TOD” zoning district may also include commercial uses such as personal service needs, coffee shop, and convenience store.

³ Such use in the “IBP” zoning district may also include commercial uses such as personal service needs, coffee shop, and convenience store provided that not more than 20% of the gross floor space of the building is devoted to such commercial use(s).

22.	Junkyards (enclosed by a 6 foot solid fence) and Automobile Salvage Yards.....	N	N	N	N	N	N	S	N
23.	Amusement Parks.....	N	N	N	N	N	S	N	N
24.	Amusement Arcade.....	N	N	N	N	SMC	SMC	SMC	N
25.	Indoor Theater or Auditorium.....	N	N	P	S	P	P	N	N
26.	Telephone Exchange.....	S	S	P	N	P	P	P	N
27.	Wireless Telecommunications Tower/Facility.....	S	S	S	S	S	S	S	S
28.	Communication and Television Tower.....	N	N	N	N	N	N	S	N
29a.	Commercial Parking Lot.....	S	N	P	N	P	S	N	N
29b.	Public Garage.....	S	N	P	P	P	S	N	N
30.	Flea Market.....	N	N	N	N	S	S	S	N
31.	Adult Bookstore.....	N	N	N	N	SMC	N	N	N
32.	Adult Motion Picture Theatre.....	N	N	N	N	SMC	N	N	N
33.	Adult Paraphernalia Store.....	N	N	N	N	SMC	N	N	N
34.	Adult Video Store.....	N	N	N	N	SMC	N	N	N
35.	Adult Cabaret.....	N	N	N	N	SMC	N	N	N

	PRINCIPAL USES – WHOLESALE, TRANSPORTATION AND INDUSTRIAL	RESIDENTIAL		BUSINESS				INDUSTRIAL	
		GR	SR	CB	TOD	GB	PHB	I	IBP
1.	Processing and Treating of Raw Materials.....	N	N	N	N	N	N	P	P
2.	Construction Industry Including Suppliers.....	N	N	N	N	P	P	P	S
3.	Heavy Manufacturing, Assembling and/or Processing of Manufactured Products.....	N	N	N	N	N	N	P	N
4.	Light Manufacturing, Assembling and/or Processing of Manufactured Products.....	N	N	S	N	S	S	P	P
5.	Bakery, Laundry, Dairy Processing, Dry Cleaning Plant.....	N	N	N	N	P	P	P	N
6.	Newspaper and/or Printing Plant.....	N	N	P	N	P	P	P	P
7.	Motor Freight Terminal and Warehousing.....	N	N	N	N	N	N	P	N
8a.	Bus, Taxi, Rail Station.....	N	N	P	P	P	P	P	N
8b.	Bus, Taxi, Rail Terminal and/or Maintenance Facility.....	N	N	N	N	P	P	P	N
9.	Open Storage of Raw Materials, Finished Goods, or Construction Equipment and Structures for storing such equipment, provided such shall be screened from outside view by an enclosed fence and gate at least six (6') feet in height, or a solid wall of evergreens to be of vertical habit and to be maintained, and a solid gate at least six (6') feet in height and not more than twenty (20') feet in width.....	N	N	N	N	S	S	P	N
10.	Storage of Fluid Other than water as a principal use (for example oil, gas, chemicals).....	N	N	N	N	N	N	S	N
11.	Establishments Devoted to Research and Development Activities.....	N	N	N	N	N	S	P	P
12.	Heliprot/Helicopter Landing Site.....	N	N	N	N	N	N	SMC	SMC
13a.	Power Plant (generating energy by any means/process other than by gasification).....	N	N	N	N	N	N	SMC	N
13b.	Refuse Incineration Facility.....	N	N	N	N	N	N	SMC	N

14a.	Hazardous Waste Facility.....	N	N	N	N	N	N	N	N
14b.	Low-Level Radioactive Waste Facility.....	N	N	N	N	N	N	N	N
14c.	Gasification Facility.....	N	N	N	N	N	N	N	N
15.	Bituminous Concrete/Asphalt Plant.....	N	N	N	N	N	N	S	N
16.	Concrete Plant.....	N	N	N	N	N	N	S	N

§17-3.5 TABLE OF ACCESSORY USE REGULATIONS

ACCESSORY USES	<u>RESIDENTIAL</u>		<u>BUSINESS</u>				<u>INDUSTRIAL</u>	
	<u>GR</u>	<u>SR</u>	<u>CB</u>	<u>TOD</u>	<u>GB</u>	<u>PHB</u>	<u>I</u>	<u>IBP</u>
1. Removal of Sand, Gravel, or other Raw Materials (see §17-10.2).....	S	S	S	S	S	S	S	S
2. Raising and Keeping of Livestock, Horses and Poultry not for commercial use.....	S	S	N	N	N	N	N	N
3. Temporary stand for retail sale of agricultural or farm products raised on the same premises (not to be used for a period of more than 3 months in any one year).....	P	P	N	N	N	N	N	N
4. Accessory Residential Building such as private garage playhouse, green house, tool shed, private swimming pool, skating rink, tennis court, carport or similar accessory structure (subject to provisions of §17-4.0).....	P	P	P	S	P	P	N	N
5. Heliport Landing Site Accessory to Permitted Use.....	SMC	N	SMC	SMC	SMC	SMC	SMC	SMC
6. Community Garage or Off-Street Parking Area for three (3) or more non-commercial motor vehicles.....	S	N	P	P	P	P	N	N
7. Storage or Garaging of one or more commercial vehicles.....	S	S	P	S	P	P	P	P
8. Home Occupation.....	S	S	N	N	N	N	N	N
9. Driveway								
a. serving residential use.....	P	P	P	P	P	P	N	N
b. serving commercial or industrial use.....	S	S	P	P	P	P	P	P
10. Accessory Storage of Trailer, Boat, Utility Trailer, or Boat Trailer provided such shall either be stored within a principal or accessory building or behind the building line within the side or rear yards and shall not be used for dwelling or sleeping purposes.....	P	P	N	N	P	P	P	P
11. Accessory Office activity related to a permitted principal use under §17-3.4 <u>WHOLESALE, TRANSPORTATION AND INDUSTRIAL</u>	N	N	P	P	P	P	P	P
12. Accessory Indoor Repair and Storage Facilities in any retail sales or consumer establishment provided such shall not occupy more than twenty-five (25%) percent of the gross floor area and shall not be located within fifteen (15') feet of any entrance used by the public.....	N	N	P	P	P	P	N	N
13. Accessory outside storage in a covered structure clearly necessary to the operation and conduct of a permitted principal wholesale, transportation, industrial and/or business use, provided it shall be screened from outside view pursuant to the requirements of §17-4.4.4(A) <u>Description of Screens</u>	N	N	N	S	S	S	P	P

14.	Light Manufacturing Use.....	N	N	N	N	N	N	P	P
15.	Retail or Consumer Service used in a multi-family dwelling over 20,000 square feet in gross floor area, provided all activities are located on the first floor level and do not exceed twenty (20%) percent of the total gross floor area of the street level. All materials goods and activities in connection with said uses shall be confined completely within building.....	N	N	S	N	N	N	N	N
16a.	News–Stand, Barber Shop, Dining Room or Cafeteria, and similar accessory services primarily for occupants or users thereof within an office or industrial building, a hotel or hospital containing more than fifty (50) sleeping rooms, or transportation terminal facility.....	S	S	P	P	P	P	P	P
16b.	Retail establishment selling principally commercial good including but not limited to food, drugs, and convenience items including vending machines, ATMs, and stamp dispensing machines. In the “IBP” district, such goods are intended to service the needs employees and businesses within the district and are not primarily intended to draw traffic from areas outside the “IBP” district.....	S	S	P	P	P	P	P	P
17.	Wall, Fence or Similar Enclosure provided for front yard restrictions.....	P	P	P	P	P	P	P	P
18.	Up to three (3) lodging units in an existing dwelling, provided the exterior of the structure is not altered.....	S	N	N	N	N	N	N	N
19.	Accessory Storage of a fluid other than water or ordinary household or building heating fuel, or any substance covered by the licensing requirements of §9–27.....	S	S	S	S	S	S	S	S
20.	Accessory Signs.....	P	P	P	P	P	P	P	P
21a.	Off–Street Parking and Loading Spaces in a zoning district same as the principal use.....	P	P	P	P	P	P	P	P
21b.	Off–Street Parking and Loading Spaces in a zoning district different from the principal use.....	S	S	S	P	S	S	S	N
22.	Radio and/or Television Towers.....	S	S	S	S	S	S	S	S
23.	Drive–Up Window for the sale of goods or the transacting of business.....	N	N	S	S	S	S	N	N
24.	Yard Sales (subject to the provisions of §17–14).....	P	P	P	N	P	P	P	N
25.	Private Kennel ⁴	P	P	N	N	N	N	N	N
26.	Commercial Kennel ⁴	S	S	N	N	N	N	N	N
27.	Small Wind Energy Systems.....	S	S	N	S	S	S	S	S
28.	Bituminous Concrete/Asphalt Plant.....	N	N	N	N	N	N	S	N
29.	Concrete Plant.....	N	N	N	N	N	N	S	N

⁴ When pre-existing, non-conforming residential uses, as established by §17–6.1 NON-CONFORMITY BY INITIAL ENACTMENT OR AMENDMENTS, are located in any “B” or “I” use district, private kennels shall be permitted as an accessory use to such residential uses as a mater-of-right and commercial kennels may be permitted as an accessory use to such residential uses by special permit.

SECTION 17-4.0

DIMENSIONAL & DENSITY REGULATIONS

§17-4.1 APPLICABILITY OF DIMENSIONAL AND DENSITY REGULATIONS

Except for the “TOD” district, the regulations for each district pertaining to minimum lot area, width and depth, minimum front, side and rear yards, maximum height of buildings and structures, maximum number of stories, maximum building area and maximum floor area ratio shall be as specified in this section and set forth in §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS and subject to the further provisions of this ordinance. The regulations for the “TOD” district pertaining to lot area, width and depth, front, side and rear yards, height of buildings and structures, number of stories, building area and floor area ratio shall be as specified in §17-10.16 TRANSIT ORIENTED DEVELOPMENT and subject to the further provisions of this ordinance.

§17-4.2 MINIMUM LOT FRONTAGE

In “GR” and “SR” zoning districts, minimum lot frontage shall be fifty (50') feet for one, two or multifamily dwellings and the same as the minimum lot width for other permitted principal structures.

§17-4.3 SEPARATION OF LOTS

Except by eminent domain taking, lots shall not be reduced, separated or transferred in ownership so as to bring about non-compliance with the provisions of this ordinance; provided, however, that any lot which contained two or more residential dwellings under a common ownership at the effective date of this ZONING ORDINANCE (February 10, 1942) may be divided so that a separate lot is created for each such dwelling. A plan, acceptable for recording in the Registry of Deeds, showing the proposed division of said lot shall be approved by the Planning Board if it is found to be reasonable under the existing conditions. After voting approval, a majority of the members of the Planning Board shall sign the approved plan to indicate compliance with this provision.

§17-4.4 SCREENING AND BUFFERS

§17-4.4.1 PURPOSE

The provisions of this section are to ensure proper separation, visual or otherwise, between the proposed and existing land uses.

§17-4.4.2 ADMINISTRATION

- A. The contents of §17-4.4.3 COMPLIANCE WITH SCREENING STANDARDS establishes screening and bufferyard standards, which satisfy the general purposes, established in §17-4.1 PURPOSE. As they are intended to establish a guideline, they may be flexibly administered. Due to peculiarities of any given proposal, and as there are a variety of types of land uses and the relationships between them, the application of the regulations herein may result in, for example, a use with either ineffective, insufficient, or excessive screening. Therefore, the Board of Appeals may permit variations by special permit, and thereby may require more intensive or allow less intensive screening. Without limiting the generality of §17-4.4.2 ADMINISTRATION, the Board of Appeals may allow variations from the regulations herein by modifying standards if it finds that such departure is more likely to satisfy the intent set forth herein.

- B. Whenever the Board of Appeals allows, or requires, a variation from a standard set forth herein, it shall specifically reference, in the special permit, the requirements that it imposes and also state the reason(s) for allowing, or requiring, such variation.

§17-4.4.3 COMPLIANCE WITH SCREENING STANDARDS

- A. The contents of §17-4.4.4 DESCRIPTION OF SCREENS indicates the type of screening which satisfactorily creates visual separation between land uses. Where such screening is required, the proposed use is obligated to install any required screening and/or buffer.
- B. All landscaped areas shall be properly maintained. Shrubs or trees that die shall be replaced within one growing season.

§17-4.4.4 DESCRIPTION OF SCREENS

The following types of screens are predicated on height, plant material, density, and land forms. In cases of extreme disparities between, or among, adjacent land uses, structural bufferyards, such as walls or earthen berms may be required. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque during all seasons of the year. At maturity, the portion of intermittent visual obstruction cannot contain any completely unobstructed openings of more than three (3') feet wide.

- A. Type “A” – Opaque Screen: A screen which is opaque from the ground to a minimum height of eight (8') feet, with intermittent visual obstructions from the opaque portion to a height of fifteen (15') feet located in the required front, side and rear yards. The opaque screen is intended to obstruct visual contact of a particular land use, from the street grade at a distance no farther than seven (7') feet from the screen. The opaque portion of the screen may be composed of a wall, opaque fence, earthen berm landscaped with thickly planted vegetation, or a row of dense evergreens.
- B. Type “B” – SemiOpaque Screen: A screen which is opaque from the ground to a minimum height of three and one-half (3.5) feet, with intermittent visual obstruction from the above the opaque portion to a height of six (6') feet located in the required front, side and rear yards. The semi-opaque screen is intended to partially block visual contact between uses and to create an impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.
- C. Type “C” – Broken Screen: A screen composed of intermittent visual obstructions from the ground to a height of four (4') feet located in the required front, side and rear yards. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a rail or chain link fence or planted vegetation.

§17-4.4.5 REQUIRED SCREENS AND BUFFERYARDS

Notwithstanding the setback provisions contained in §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS, the following bufferyard requirements shall prevail as they apply.

- A. Any use within a “B” and “T” zoning district which is not permitted in any bordering “GR” or “SR” zoning district shall be separated from such “GR” and/or “SR” zoning district by a twenty-five (25') foot wide bufferyard to be located in the required side or rear yard. A Type “A” screen shall be installed within the bufferyard.

- B. All uses within the “IBP” district bordering a “GR” or “SR” zoning district shall be separated by a two hundred (200) foot bufferyard along the zone line. A Type “A” screen shall also be installed no farther than twenty-five (25) feet from the zone line. In instances when a use within an “IBP” zoning district would be established across the street from a “GR” or “SR” zoning district, the two hundred (200) foot bufferyard shall prevail, while the screen may consist of a Type “B” screen.
- C. Any use regulated by special permit in a “GR” which is not permitted in any bordering “SR” zoning district shall be separated by a twenty-five (25) foot wide bufferyard to be located in the side and/or rear yard. A Type “C” screen shall be installed within the bufferyard.
- D. Dumpsters shall be screened by suitable types of screenings including opaque wood fences and dense evergreen hedges of six (6) feet in height.
- E. Accessory use #14 shall pursuant to §17-3.5 TABLE OF ACCESSORY USE REGULATIONS shall be screened by an enclosed solid fence or wall at least six (6) feet in height, with a gate, or enclosed by a “Type-A: Opaque Screen” pursuant to §17-4.4.4(A) DESCRIPTION OF SCREENS.

§17-4.5 ACCESSORY STRUCTURES

- A. For the purpose of this ordinance, an “accessory structure” shall be a detached structure, the use of which is customarily incidental and subordinate to that of the principal structure, and which is located on the same lot as that occupied by the principal structure.
- B. In all zoning districts, an accessory structure attached to the principal structure shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal structure.
- C. The following accessory structures shall not be subject to the dimensional requirements of §17-4.5(D) ACCESSORY STRUCTURES and §17-4.5(I) ACCESSORY STRUCTURES – fences, walls, tunnels, bridges, trestles, piers, wharfs and temporary structures in place for not more than thirty (30) days.
- D. Except as provided in subsection §17-4.5(C) ACCESSORY STRUCTURES, detached permitted accessory structures in the “B” and “I” districts shall be located on the lots so as not to violate the minimum front yard and height restrictions set forth in §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS.
- E. A temporary outdoor storage container shall be properly maintained so as not to create a safety hazard to abutting properties, motorists, or to the general public. A safety hazard shall be defined such as a structural deficiency or a visual obstruction that may cause an injury to a member of the general public.
- F. A temporary outdoor storage container may remain on any lot within any “R” zoning district for a period not more than one hundred and eighty (180) consecutive days.
- G. Not more than one (1) temporary outdoor storage container shall be placed on any lot within any “R” zoning district at any time without first obtaining the written consent of the Building Commissioner.
- H. Sheds in the “GR-C”, “SR-C”, “SR-D” and “SR-E” zoning districts shall be exempt from the requisite minimum side yard and rear yard provisions set forth in the schedule in §17-4.5(I) ACCESSORY STRUCTURES provided that:
 - 1. the purpose of such sheds is only the storage of items and wares that are customary to residential uses, including but not limited to, garden supplies, pool equipment, lawn furniture, lawn care equipment, tools, ladders, and fuel stored in containers approved by the State Fire Marshal;

2. such sheds contain a maximum floor area of two hundred (200) square feet and have a maximum roof height of twelve (12') feet;
 3. such sheds have grade support; and
 4. such sheds maintain a minimum of four (4') foot side and rear yard setback;
- I. Except as provided in subsection §17-4.5(C) ACCESSORY STRUCTURES and §17-4.5(H) ACCESSORY STRUCTURES, a detached permitted accessory structure in the “GR” and “SR” zoning districts shall conform to the provisions set forth in the following schedule:

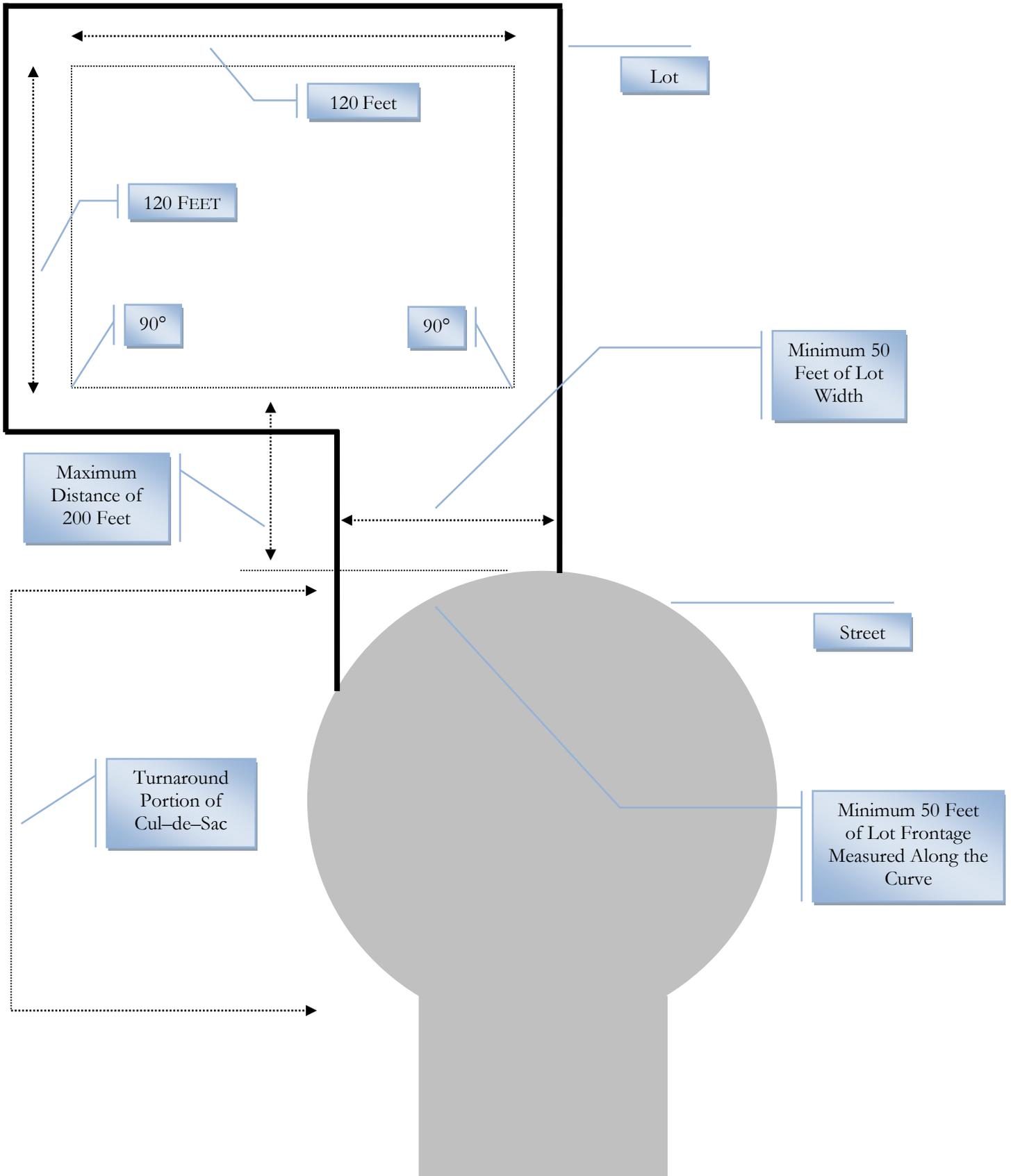
Zoning District	Maximum Coverage (percent of rear yard area)	Distance from Lot Line Front / Side / Rear	Building Height
GR-A	50%	30' / 4' / 4'	20'
GR-B	50%	30' / 4' / 4'	20'
GR-C	30%	30' / 15' / 15'	20'
SR-A	50%	30' / 4' / 4'	20'
SR-B	30%	30' / 4' / 4'	20'
SR-C	20%	30' / 15' / 15'	30'
SR-D	10%	30' / 15' / 15'	30'
SR-E	10%	30' / 15' / 15'	30'

§17-4.6 OTHER GENERAL DIMENSIONAL AND DENSITY PROVISIONS

- A. the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights Except for business or industrial development, open space residential developments, community facilities, public utilities, and uses controlled by special permit procedures, no more than one principal building shall be permitted on a lot.
- B. On a lot having frontage on more than one street, there shall be a setback depth required which is equal to the front yard depth for the district in which each street frontage is located.
- C. Projections into required yards are not permitted except as follows:
 1. Balcony or bay window may project up to two (2') feet into a required yard provided the projection is limited in total length to one-half the length of the building face.
 2. Decks, steps, stoops, window sills, chimneys, roof eaves, fire escapes, awnings, or similar architectural features may project not more than five (5') feet into the required yard setback.
 3. A bus shelter structure located on a site approved in accordance with §9-9.4 BUS of Chapter 9 of THE REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended, may be constructed within the front yard setback requirement provided that the Building Inspector finds that such structure: (a) will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street, and (b) will not restrict visibility in such a way as to hinder the safe passage of vehicles through an intersection if such structure is located on a corner lot abutting the intersection of two or more streets.

- D.** The provisions of this ordinance governing, ventilators, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above the roof, nor to domes, towers, stacks or spires, if not used for human occupancy, and if not occupying more than twenty (20%) percent of the ground floor area of the building; nor to ornamental towers, observation towers, television towers, televisions and radio antenna, and other like structures, which do not occupy more than twenty (20%) percent of the lot area.
- E.** The minimum lot width as required by §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS shall not apply to lots on a cul-de-sac which can be shown to contain a minimum of fifty (50') feet of frontage, and a square measuring one hundred and twenty (120') feet by one hundred and twenty (120') feet, the nearest part of which is within two hundred (200') feet of the street lot line, and provided, however, that at no point between the street lot line and the said square is the distance between the side lot line less than the required frontage (see figure entitled "Lot Width Exception" for explanation only).
- F.** Nothing contained in this section shall prohibit the erection or placing of any permitted building on any lot containing less than the minimum required area, but at least five (5,000) thousand square feet and fifty (50') feet of frontage, if such lot did not, on the effective date of Attleboro's ZONING ORDINANCE (February 10, 1942) adjoin other land of the same owner available for use in connection with said lot.

**“LOT WIDTH EXCEPTION”
Diagram**



§17-4.7 FENCES

- A. For the purposes of this ordinance, a “fence” shall be defined as a structure serving as an enclosure, barrier or boundary usually made of posts, boards, wire, stakes or rails, but not limited thereto. All structural posts, supports, rails or the like, shall be located on the side of the structure towards the applicant’s property. In the case where a permit is not required, all new and replacement fencing shall meet the requirements listed above.
- B. No fence over eight (8') feet in height shall be constructed without first obtaining a special permit from the Zoning Board of Appeals.
- C. All fences over two and one-half (2.5') feet in height from grade erected within eight (8') feet of any lot line (front, side and rear) shall require a building permit. All applications for said permits shall be filed with the Inspector of Buildings, who shall cause a notice of intent to construct said fence to be published in a newspaper of general circulation in the city, and shall notify abutters of said intent by postage paid letter. Ten (10) days after said publication and notice to abutters, the Inspector of Buildings may issue a permit for said fence. The building permit application shall be submitted with:
1. a sketch, picture, or design of the proposed fence,
 2. a description of materials to be used,
 3. a specification of the proposed fence height, and
 4. a site plan depicting lot lines and bounds adjacent to the proposed fence, including markers of the boundaries of the lot placed in the field;

A fence not more than eight (8') feet in height, located entirely on the applicant’s property, and not creating a traffic or safety hazard, shall be permitted by right. The decision of the Inspector of Buildings to issue a fence permit may be appealed to the Zoning Board of Appeals in accordance with the provisions of §17-8.8 APPEALS. The Building Inspector shall cause a notice of intent to construct said fence to be published in a newspaper of general circulation in the City and shall notify abutter of said intent by postage paid letter (see §3-8.1 MISCELLANEOUS for the advertising fee).

- D. No hedge or other vegetation over three (3') feet in height above the adjacent ground shall be maintained within eight (8') feet of any street lot line unless the Building Inspector finds that such vegetation will not restrict visibility in such a way to hinder the safe entry of a vehicle from any driveway to the street.
- E. At no street intersection in any district shall an obstruction to vision exceeding two and one-half (2.5') feet in height above the street grade be placed or permitted to grow on any lot within the triangle formed by the street lot lines abutting the intersection and a line connecting points on these street lot lines at a distance of thirty-five (35') feet from the point of intersection of the street lot lines.
- F. All outdoor swimming pools now in existence or hereafter erected shall be enclosed by an impassable fence, not less than four (4') feet in height, with a latching gate, or an equivalent enclosure or means of protection from access to the pool.
- G. All fences shall be properly maintained so as not to create a safety hazard to abutting properties or to the general public. A safety hazard shall be defined as a structural deficiency or any sharp protruding object that may injure or maim a member of the general public.

§17-4.8 PERFORMANCE AND DESIGN STANDARDS – IBP

Uses within the “IBP” zoning district shall adhere with the following performance and design standards. It is their intent to prevent the use of land or buildings from being used, or occupied, in any manner so as to create dangerous, injurious, explosive, radioactive, or other hazardous condition, noise, vibration, unsightliness, or excessive emission of smoke, dust, fumes, toxic gases, odors or other form of air pollution, electrical or other disturbance, glare or heat, liquid or solid waste, condition or element in a manner or amount so as to adversely affect the occupants of the industrial park or surrounding natural or human environment. The following are standards of operation for the normal daily function of uses within an “IBP” to achieve a maximum of coordination between uses in an “IBP” and surrounding uses.

- A.** Noise: The following limits are intended for normal continuous day-to-day operations. In general, all noise shall be muffled so as not to be objectionable due to intermittence, beat, frequency, or shrillness. A variance to exceed these limits by a reasonable amount may be granted for temporary and short-term operations during maintenance, or emergency conditions. Sound pressure level, which shall be measured at a height of four (4') feet above the ground, shall be measured with a sound level meter and an octave band analyzer meeting the standards of the American Standards Association.
1. The following sound pressure level standards shall not apply to a non-continuous, irregular, or infrequent intermittent source of sound, produced by, for example, a church bell or civil defense siren.
 2. The maximum permissible sound pressure level produced by any use or activity, and radiated continuously, regularly, or frequently, shall not exceed ten (10) decibels above the background noise of adjacent land uses between the hours of 7:00 a.m. and 10:00 p.m. at the property line of the sound source.
 3. The maximum permissible sound pressure level produced by any use or activity, and radiated continuously, regularly, or frequently, between the hours of 10:00 p.m. and 7:00 a.m., shall not exceed, at the property line of the sound source, the values in §17-4.8(A) TABLE OF SOUND PRESSURE STANDARDS in any octave band of frequency.
- B.** Vibration: No vibration shall be produced, which is transmitted through the ground and is discernible without the aid of either seismic or electronic vibration measuring equipment at or at any point beyond the lot line, during the normal daily activity associated with a use or activity.
- C.** Air Quality: Atmospheric emissions of gaseous or particulate matter, generated by any use or activity, shall conform to the then current local, state, and federal regulations. If the proposed use or activity is of a nature to arouse the concern, the petitioner may be required to produce plans and specifications of detail sufficient for review.
- D.** Water Quality: No use within an “IBP” shall discharge into a sewer system, stream, or ground, any material in such a way, nature, or temperature, which can contaminate any watercourse, water supply, or otherwise cause the emission of dangerous or objectionable elements or cause the accumulation of wastes conducive to the breeding of rodents or insects, or otherwise cause a violation of MGL CH. 131, §40, THE WETLANDS PROTECTION ACT.
- E.** Radioactivity: No activities shall emit dangerous levels of radioactivity.

- F.** Glare and Heat: Activities that emit glare which can be discernible at the property line, such as floodlights or high temperature processes such as combustion, welding or otherwise, whether direct or sky-reflected, shall be equipped with adequate measures to minimize or to eliminate such nuisances. These regulations shall not apply to signs or to the illumination of vehicle accommodation areas otherwise permitted by the ZONING ORDINANCE. There shall be no emission or transmission of heat, or heated air, so as to be discernible at the property line.
- G.** Dust, Fumes, Vapors, Gases, and Odors: Any use, activity, or any conditions which will generate noxious matter/emissions, such as odors, scents, aromas, fumes, vapors, and/or gases, of such intensity and character so as to be readily detectable at the property line of the lot on which the use emitting such nuisances is located, which have the potential of being injurious to human health, animals, vegetation, and/or detrimental to the enjoyment of adjoining or nearby properties, or which unreasonably will interfere with the comfort of the public, shall be equipped with adequate measures to minimize or to eliminate such nuisances. For the purposes of this subsection, noxious matter are any liquid, solid, or gaseous matter including, but not limited to, gases, vapors, dusts, fumes, and mists, containing properties, which by chemical or other means, are inherently harmful to life, capable of causing injury and health impairment, or capable of causing damage to property.
- H.** Explosive Materials: No bulk storage of gasoline or petroleum products shall be permitted except as incidental to a laboratory, a production operation, or the servicing of company-owned or-leased vehicles. Any such stored flammable or explosive materials shall be protected by safety equipment and fire-suppression devices that are in accordance with local, state, and federal regulations.
- I.** Electromagnetic Interference: All electromagnetic radiation measured at the property line must meet the current Federal Communications Commission (FCC) regulations.
- J.** Wastes and Refuse: Waste material or refuse stored outside buildings shall be placed in completely enclosed containers. Adequate provisions are to be provided so as to ensure that no waste material shall be dumped upon, or permitted to remain upon any property.
- K.** Illumination: Landscaping and non-landscaping illumination fixtures shall be so arranged and controlled, in both height and intensity, to minimize glare and light spillover onto a public way and neighboring properties. To achieve this, luminaries are to be shielded to limit light shining beyond a property line onto neighboring properties or public ways. All artificial lighting used to illuminate a parking area, maneuvering space, driveway, walkway, or pedestrian plaza, or other area, shall be arranged and shielded so as to prevent direct glare from the light source onto any residential property.
- L.** Landscaping: Open land between buildings, vehicle accommodation areas, front, side and rear yard setback areas, and property lines is to be attractively landscaped with an effective combination of, for example, lawn, trees, shrubbery, and other suitable groundcover. Any landscaped area shall be properly maintained in a sightly, and well kept, condition. The permit granting authority reserves the right to require a landscaping plan to be submitted. Undeveloped areas, proposed for future expansion, shall be maintained in a proper condition and may be landscaped if required.

- M.** Signs: Signs shall be limited to advertising only the person(s), firm, company, or entity operating the use conducted on the site, or the products produced or sold thereon, in addition to directional and informational signs. Signs may be illuminated provided that no signs, nor any other contrivance, shall be devised or constructed so as to gyrate, blink, or move in any animated fashion.
- N.** Erosion and Sedimentation Control: Exposed and disturbed areas, as a result of stripping vegetation, soil removal, and regrading, will be permanently stabilized within six (6) months of occupancy of a structure. During construction, temporary vegetation and/or mulching, shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment shall be trapped by using, for example, staked haybales, sedimentation traps, or silt traps.
- O.** Stormwater Management: Uses and roadways within an “IBP” shall be designed with a drainage system, which is sufficient to manage the volume of stormwater to be generated by the development. To this end, the location and design of the proposed stormwater system, and of all appurtenances, shall be shown on the site plan. Drainage calculations, prepared and stamped by a Registered Professional Engineer, are required to be submitted. Any proposed leaching catchbasins, galleys drywells, or any other method of stormwater control, which requires the discharge of water into the ground, must be accompanied by a soils test and a soils log, establishing the soils’ suitability. The site plan shall show the location of the test pits. Drainage calculations, at minimum, shall be prepared for a 2-year storm frequency No surface water may be channeled, nor directed, into a sanitary sewer.
- P.** Internal Roadway Network:
1. Subcollector streets shall be planned as the primary circulation streets within an “IBP” zoning district. The Planning Board is encouraged to apply the layout regulations of streets within an “IBP” zoning district in a pliant manner in order to accommodate flexibility in the layout of lots and in the location of principal and accessory structures, streets, and to provide greater harmony with the land and potential constraints. Construction shall be in accordance with the specifications of the DPW.
 2. While minor streets and privateways may be permitted in an “IBP”, such streets shall not be connected to public streets outside an “IBP” in a manner to encourage their use by through traffic.
 3. Privateways, which may be permitted in an “IBP”, shall not be considered a public street; and hence no privateway shall be used to satisfy the minimum lot frontage requirement, the minimum lot width requirement, nor any other applicable dimensional requirement. Privateways shall: (a) have a minimum paved road width of twenty (20) feet, (b) not be designed as a cul-de-sac, (c) be equipped with signs which state such, (d) ,at the discretion of the Planning Board, be equipped with speed bumps, and (e) be dedicated to the City of Attleboro as public utility easements.
- Q.** Number of Principal Buildings Per Lot: More than one (1) principal building may be placed on a lot provided that the minimum lot coverage regulation of §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS is satisfied. Shared parking facilities are encouraged. The minimum distance between principal buildings on the same lot shall be equal to the height of the lower building measured perpendicular from the face of each building.

R. Open Space shall be subject to the following:

1. Ten (10%) percent of a lot within an “IBP” is to be set aside for open space. For purposes of this subsection, usable open space shall mean that: (a) it is not encumbered with a structure, (b) it is not devoted to a roadway, parking lot, or sidewalk, (c) it is left in its natural or undisturbed state except for cutting trails for walking or jogging if wooded, or, if not wooded at the time of development, is landscaped for ballfields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the intent of creating a wooded area, (d) is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation, and (e) is legally and practicably accessible to the users of the development.
2. It is encouraged that the open space be in one (1) contiguous parcel.
3. The open space shall be accessible and thereby each parcel of open space shall have physical access containing a minimum width of twenty-five (25') feet from a street within the “IBP” zoning district.
4. Development on the open space, or its use, for other than as outlined in this section, except for utility easements, is prohibited. Structures accessory to recreation may be erected on the open space.

§17-4.8(A) TABLE OF SOUND PRESSURE STANDARDS

Frequency Band Cycles Per Second	Maximum Sound Pressure Level (dB)*	Maximum Sound Pressure Level (dB)**
<u>Column 1</u>		<u>Column 2</u>
20 - 75	69	65
75 - 150	60	50
150 - 300	56	43
300 - 600	51	38
600 - 1,200	42	33
1,200 - 2,400	40	30
2,400 - 4,800	38	28
4,800 - 10,000	35	26
<p>* Sound pressure levels under Column 1 are the maximum allowable which can be discernable from the perimeter zoning line of an IBP district which abuts, or is across from, any "B" or "I" zoning district or use.</p> <p>** Sound pressure levels under Column 2 are the maximum allowable which can be discernable from the perimeter zoning line of an IBP district which abuts, or is across from, any "R" zoning district or use.</p>		

§17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

ZONING DISTRICT	USE	Minimum Lot Area (Square Feet)	Minimum Lot Width (Linear Feet)	Minimum Yards Front Side/Rear (Linear Feet)	Maximum Building Area (Percent of Lot)	Maximum Building Height (Stories)
SR-A	▶ One-Family Dwellings	10,000 (a)	80	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	10,000 (a)	80	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	10,000	80	30 / 15 / 15	25	2.5
	(a) plus 600 square feet for each unit more than 1					
SR-B	▶ One-Family Dwellings	12,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	12,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	12,000	100	30 / 15 / 15	25	2.5
	(a) plus 600 square feet for each unit more than 1					
SR-C	▶ One-Family Dwellings	16,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	16,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	16,000	100	30 / 15 / 15	25	2.5
	(a) plus 600 square feet for each unit more than 1					
SR-D	▶ One-Family Dwellings	20,000 (a)	120	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	20,000 (a)	120	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	20,000	120	30 / 15 / 15	25	2.5
	(a) plus 600 square feet for each unit more than 1					
SR-E	▶ One-Family Dwellings	30,000 (a)	120	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	30,000 (a)	120	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	30,000	120	30 / 15 / 15	25	2.5
	(a) plus 600 square feet for each unit more than 1					
GR-A	▶ One-Family Dwellings	10,000	80	30 / 15 / 15	25	2.5
	▶ Two-Family Dwellings	10,000	80	30 / 15 / 15	25	2.5
	▶ Multi-Family Dwellings	10,000 (a)	80	30 / 15 / 15	25	2.5
	▶ Residential Cluster Development	10,000 (a)	80	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	10,000 (b)	80	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	10,000	80	30 / 15 / 15	25	2.5
	(a) plus 4,000 square feet for each unit more than 2 to a maximum of 10 units per acre (b) plus 600 square feet for each unit more than 1					
GR-B	▶ One-Family Dwellings	12,000	100	30 / 15 / 15	25	2.5
	▶ Two-Family Dwellings	12,000	100	30 / 15 / 15	25	2.5
	▶ Multi-Family Dwellings	12,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Residential Cluster Development	12,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	12,000 (b)	100	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	14,000	100	30 / 15 / 15	25	2.5
	(a) plus 5,000 square feet for each unit more than 2 to a maximum of 8 units per acre (b) plus 600 square feet for each unit more than 1					
GR-C	▶ One-Family Dwellings	16,000	100	30 / 15 / 15	25	2.5
	▶ Two-Family Dwellings	16,000	100	30 / 15 / 15	25	2.5
	▶ Multi-Family Dwellings	16,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Residential Cluster Development	16,000 (a)	100	30 / 15 / 15	25	2.5
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	16,000 (b)	100	30 / 15 / 15	25	2.5
	▶ Any Other Permitted Use	16,000	100	30 / 15 / 15	25	2.5
	(a) plus 7,000 square feet for each unit more than 2 to a maximum of 6 units per acre (b) plus 600 square feet for each unit more than 1					

§17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

ZONING DISTRICT	USE	Minimum Lot Area (Square Feet)	Minimum Lot Width (Linear Feet)	Minimum Yards Front Side/Rear (Linear Feet)	Maximum Building Area (Percent of Lot)	Maximum Building Height (Stories)	Floor to Area Ratio (F.A.R)
CB	▶ Mixed Residential/Business	6,000 (a)	0	0 / 10 / (c)	80	6	4
	▶ Hotels and Motels	6,000 (b)	200	0 / 10 / (c)	40	6	—
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	6,000 (e)	100		40	6	—
	▶ Downtown Residential Cluster Dwellings	6,000 (e)	0	0 / 10 / (c)	80	6	4
	▶ Any Other Permitted Use (a) plus 1,000 square feet for each unit more than 1 (b) plus 1,000 square feet per bedroom (c) minimum side/rear yard dimensions shall be increased by 4 feet for each story more than 3 (d) any door opening in an exterior wall shall require a minimum 4 foot yard setback (e) plus 600 square feet for each unit more than 1	0	0	0 / 0 / (d)	80	6	—
TOD	▶ Any Permitted Use (see §17-10.16.3 Dimensional and Intensity Requirements for additional dimensional and intensity requirements)	20,000	50	0 / 0 / 0	85	7	3
GB	▶ Multi-Family Dwellings	12,000 (a)	100	15 / 15 / 15	30	3	—
	▶ Mixed Residential/Business	12,000 (a)	100	15 / 15 / 15	30	3	—
	▶ Residential Cluster Dwellings Primarily for the Elderly & Handicapped	12,000 (d)	100				
	▶ Any Other Permitted Use (a) plus 1,500 square feet for each unit more than 6 (b) any door opening in an exterior wall shall require a minimum 4 foot yard setback	8,000	80	15 / 0 / (b)	40	3	—
PHB	▶ Any Permitted Use	0	120	75 / 0 / 0	50	3	0.50
I	▶ Any Permitted Use	0	0	30 / 0 / 0	50	3	—
IBP	▶ Any Permitted Use (a) minimum gross floor area of 7,500 square feet for any principal building	40,000 (a)	100	30 / 0 / 0	50	6	—

SECTION 17-5.0

OFF-STREET PARKING & LOADING REGULATIONS

§17-5.1 OFF-STREET PARKING REQUIREMENTS

Off-street parking spaces shall be at least ten (10') feet in width, twenty (20') feet in length, and shall have an area of not less than three hundred (300) square feet which includes access and maneuvering space, whether inside or outside a structure, except in a “PHB” and “TOD” district where such spaces shall be at least nine (9') feet in width, nineteen (19') feet in length, and shall have an area of not less than two hundred and eighty-three (283) square feet including access and maneuvering space. In any zoning district, if any structure is constructed, enlarged or extended, or any use of land established or any existing use changed, after the effective date of this ordinance, parking pertinent to the intended use shall be provided in accordance with the §17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS and other requirements contained herein.

§17-5.2 OFF-STREET LOADING REQUIREMENTS

Off-street loading spaces shall be at least twelve (12') feet in width, except in “PHB” district where they shall be eleven (11') feet in width, and shall in all cases be at least fifty (50') feet in length, have a vertical clearance of at least fourteen (14') feet, and have an area of not less than one thousand three hundred (1,300) square feet including access and maneuvering space, available exclusively for loading and unloading of goods and materials from one vehicle. For every building hereafter erected for retail, service, commercial, wholesale, transportation, industrial and community facility use as specified in §17-3.4 TABLE OF USE REGULATIONS, and for every such use hereinafter established in an existing building or area, the off-street loading requirements presented in the §17-5.11 TABLE OF OFF-STREET LOADING REGULATIONS shall apply, except in a “PHB” district where the number and location of off-street loading spaces shall be arranged so as to meet the reasonable needs of the occupants of the buildings such spaces are to serve, subject to the approval of the Inspector of Buildings.

§17-5.3 EXISTING SPACES

Parking or loading spaces in lesser number than the requirements of this ordinance being maintained in any zoning district in connection with any existing use on the effective date of this ordinance shall not be decreased so long as said use remains, unless an equal number of parking or loading spaces is constructed elsewhere in conformance with the requirements of this ordinance.

§17-5.4 COMPUTATION OF SPACES

When the computation of required parking or loading spaces results in the requirements of a fractional space, the fraction of one-half or more shall require one space.

§17-5.5 COMBINED FACILITIES

Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the Inspector of Buildings, provided that such facilities will continue to be available for the several buildings or uses.

§17-5.6 LOCATION OF PARKING AND LOADING SPACES

In any district, if any structure is constructed, enlarged, or extended, or any use of land established, or any existing use changed, after the effective date of this ordinance, the off-street parking spaces required for the uses listed in the §17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS shall be located in the same zoning district as the principal use they are intended to serve.

- A. Except as provided in §17-5.5 COMBINED FACILITIES, off-street parking spaces shall be provided on the same lot as the principal use they are required to serve, or, by special permit from the Board of Appeals, they may be established no further than three hundred (300') feet from the nearest boundary line of the lot on which the principal use is proposed or maintained.
- B. Off-street parking spaces in excess of the minimum number of required for the different uses listed in the §17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS may be permitted in a zoning district different from the zoning district within which the principal use they are intended to serve is located only by a special permit from the Board Of Appeals. Such additional off-street parking spaces shall not be used in a calculation to satisfy any minimum off-street parking space requirements. Ingress to and egress from such additional off-street parking spaces shall be by way of the existing parking lot or lots.
- C. Any non-residential accessory off-street parking spaces, allowed by special permit to be located in a residential zoning district, shall be separated from the adjacent residential property by a minimum twenty-five (25') foot wide landscaped buffer strip; and to the extent determined appropriate by the Board Of Appeals, fencing, plantings, or a raised earthen berm, to visually screen the non-residential off-street parking facility, may be required.
- D. Off-street loading spaces required for uses listed in the §17-5.11 TABLE OF OFF-STREET LOADING REGULATIONS, shall be permitted in a zoning district, different from the zoning district within which the principal uses they are intended to serve is located, only by special permit from the Board of Appeals.
- E. Off-street loading spaces in excess of the minimum number of required for the different uses listed in the §17-5.11 TABLE OF OFF-STREET LOADING REGULATIONS may be permitted in a zoning district, different from the zoning district within which the principal use they are intended to serve is located, only by a special permit from the Board Of Appeals.
- F. Off-street loading spaces, allowed by special permit to be located in a residential zoning district, shall be separated from the adjacent residential property by a minimum twenty-five (25') foot wide landscaped buffer strip; and to the extent determined appropriate by the Board Of Appeals, fencing, plantings, or a raised earthen berm, to visually screen the non-residential off-street loading spaces, may be required.

§17-5.7 MUNICIPAL PARKING LOTS

The Board of Appeals, by special permit, may allow the substitution of space within municipal parking lots in lieu of the parking requirements of this article, provided such lots are located within one thousand (1,000') feet of the building which is intended to be served.

§17-5.8 PARKING AND LOADING SPACE STANDARDS

All parking and loading areas containing over four spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or subject to the following:

- A.** The area shall be effectively screened with suitable planting or fencing on each side which adjoins or faces the side or rear lot line of a lot situated in any “GR” or “SR” zoning district §17-4.4 SCREENING AND BUFFERS.
- B.** The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices. The location of spaces shall be suitably marked by painted lines or other appropriate markings.
- C.** A substantial bumper of masonry, steel, or heavy timber, or a concrete curb or berm curb which is backed shall be placed at all edges of surfaced areas except at driveways in order to protect abutting structures, properties, sidewalks, and screening materials.
- D.** The layout of the parking area shall allow sufficient space for the storage of plowed snow unless removal by some other means is assured.
- E.** Any fixture used to illuminate any parking and loading area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
- F.** There shall not be any business operation for vehicle repair for profit or gasoline or oil service facilities within any required parking or loading area.
- G.** There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved construction operations.
- H.** On a corner lot, any portion of any entrance shall not be closer than thirty (30') feet to the intersection of the street lines.

§17-5.9 GENERAL PARKING AND LOADING SPACE STANDARDS

All parking and loading areas shall be subject to the following:

- A.** Parking shall not be located within the required front yard area in any district except for “GR”, “SR”, and “PHB”, where there shall be no parking closer than fifteen (15') feet to the street line.
- B.** Parking and loading spaces other than those required for single and two-family dwellings shall be so arranged as not to permit backing of vehicle onto any street.
- C.** Any two driveways leading to or from a street, to or from a single lot shall not be within thirty (30') feet of each other at their intersection with the lot line for an interior lot and forty (40') feet for a corner lot, measured along the lot lines, except that in a “PHB” district driveways may be located within as few as five (5') feet of each other at the lot line provided one such driveway is designated to be used solely for egress and other is designated to be used solely for ingress and a traffic island is located between such driveways.
- D.** Any entrance or exit driveway shall not exceed twenty-five (25') feet in width at its intersection with the lot line.

- E. The Board of Appeals may grant a special permit to allow the reduction of the parking space requirement to fifty (50%) percent of that required in the §17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS where conditions unique to the use will reasonably justify such a reduction.
- F. The Board of Appeals may grant a special permit to allow reduction or elimination of the parking and loading requirements in the Central Business zoning district when it finds said requirements unreasonable due to conditions unique to the size or shape of the lot, the location of the building on the lot, or the unavailability of land on the premises for parking and/or loading.

§17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS

PRINCIPAL USES	MINIMUM NUMBER OF OFF-STREET PARKING SPACES
----------------	---

Any use permitted by the <u>ZONING ORDINANCE</u>	Closest similar use as determined by the Inspector of Buildings
not covered by <u>§17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS</u>	
Automobile retail and service establishment and other.....	One (1) space per 1,000 square feet of gross floor space. In the case of outdoor display areas, one (1) space for 1,000 square feet of lot area
retail and service establishment utilizing extensive display areas either indoors or outdoors, which are unusually extensive in relation to customer traffic	
Building Trade.....	One (1) space per 500 square feet of gross floor space
Business, Trade or Industrial School or College.....	One (1) space per each 200 square feet of gross floor area in classrooms and other teaching station
Community Facility (city buildings, recreation, etc.).....	One (1) space per each 400 square feet of gross floor space
Craft Shop.....	One (1) space per 500 square feet of gross floor space
Dwelling, One-Family and Two-Family.....	One and one-half spaces (1.5) per unit
Dwelling, Downtown Residential Cluster.....	One (1) space per unit
Dwellings, Multi-Family and Attached.....	Two (2) spaces per unit and one additional space for every four units
Dwellings, Multi-Family Primarily for the Elderly and Handicapped	One (1) space per each three dwelling units
Hospital.....	One (1) space per bed at design capacity
Hotel, Motel, Tourist Court.....	One (1) space for each sleeping room plus one (1) space for each 400 square feet of public meeting area and restaurant space
Lodging House, Dormitory, Fraternity, Sorority..... YMCA, YWCA, and similar types of group quarters	One (1) space per rental or sleeping unit (any bedroom or group of two beds in a single room constitutes a sleeping unit)
Lounges, Bars and Nightclubs.....	One (1) space for each two seats of total seating capacity
Manufacturing or Industrial establishment.....	One (1) space per 500 square feet of gross floor space

Mixed Uses.....	Sum of various uses computed separately
Nursing Home.....	One (1) space per bed at design capacity
Offices including Finance, Insurance, or Real Estate Establishment, Medical/Dental Office Building.....	One (1) space per 300 square feet of gross floor area
Physical Fitness/Workout Gymnasium.....	One (1) space per 200 square feet of gross floor space
Physical Training Service Establishment.....	One (1) space per 400 square feet of gross floor space
Public or Private Utility.....	One (1) space per 300 square feet of gross floor area devoted to office use and one (1) space per 800 square feet of gross floor area for other, non-office, use
Residential development in the TOD zoning district.....	one (1) off-street parking stall per unit plus one (1) additional off-street parking stall for every four (4) residential units
Non-Residential development in a TOD zone except for restaurants.....	three (3) off-street parking stalls per 1,000 square feet (where application Of this formula results in the fractional stall, the number of stalls required shall be the next highest whole number); two (2) spaces for any use occupying more than 500 square feet and less than 1,000 square feet; and one (1) space for any use occupying 500 square feet or less
Restaurant, Drive-In.....	One (1) space per 50 square feet of gross floor area
Restaurant, Sit-Down.....	One (1) space for each two seats of total seating capacity
Retail Stores and Personal Service Establishment.....	One (1) space per 150 square feet of gross floor space, except in "PHB" district where there shall be one (1) space for each 200 square feet of gross floor area
School, Other	Two (2) spaces per classroom in Elementary and Junior High School; Four (4) stalls per classroom in Senior High School plus one (1) space for every 10 seats of total seating capacity in auditorium or gymnasium, whichever has the larger capacity
Sportsplex/Sports Complex, Indoor.....	One (1) space per every three persons per fire rated capacity associated with each sports arena plus one (1) space per every two (200) hundred square feet of gross retail floor area
Storage, Self- and Mini-.....	One (1) space per 15,000 square feet of gross floor space
Theater, Gymnasium, Auditorium, Church or similar place.....	One (1) space for each four seats of total seating capacity of assembly with seating facilities
Transportation Terminal Establishments.....	One (1) space per 500 square feet of gross floor space
Warehouse or Storage Establishment.....	One (1) space per 4,000 square feet of gross floor space
Wholesale Establishment.....	One (1) space per 1,000 square feet of gross floor space

§17-5.11 TABLE OF OFF-STREET LOADING REGULATIONS

PRINCIPAL USES	MINIMUM NUMBER OF LOADING SPACES
Retail, Trade, Manufacturing and Hospital Establishment with 5,000 square feet of gross floor area	One (1) space per 20,000 square feet or fraction thereof of gross floor area up to two (2) spaces; one (1) additional space for each 60,000 square feet or fraction thereof of gross floor area over 40,000 square feet; spaces used for ambulance receiving at a hospital are not to be used to meet these requirements
Business Services, Other Services, Community Facility (school, church, City building, or public or private utility establishment) with over 5,000 square feet square feet of gross floor area	One (1) space per 75,000 square feet or fraction thereof of gross floor area up to two (2) spaces; one (1) additional space for each 200,000 square feet or fraction thereof of gross floor area over 150,000 square feet

SECTION 17-6.0

NON-CONFORMING USES, STRUCTURES & LOTS

§17-6.1 NON-CONFORMITY BY INITIAL ENACTMENT OF AMENDMENTS

The provisions of this section apply to actions in connection with non-conforming uses, structures and lots as created by the initial enactment of this ordinance or by any subsequent amendment thereto. For the purpose of this ordinance, non-conforming uses, structures and lots shall be those uses, structures and lots lawfully existing at the effective date of this ordinance, or any subsequent amendment thereto, which do not conform to all provisions of this ordinance. It is the purpose of this ordinance to discourage the perpetuity of non-conforming uses whenever possible. The lawful use of any building, land or sign existing at the time of enactment of this ordinance may continue, except as otherwise provided.

§17-6.2 EXTENSION, ALTERATION AND CONTINUANCE

- A. Any non-conforming use, except for agriculture, horticulture, or floriculture, of any open space on a lot outside a structure, or of a lot not occupied by a structure, shall not be extended, except as herein provided.
- B. Any non-conforming principal use of a structure shall not be extended, except as herein provided.
- C. Any conforming or non-conforming accessory use of a portion of a non-conforming structure may be extended up to forty (40%) percent of the gross floor area of the existing structure.
- D. Any non-conforming structure may be altered and a conforming use extended throughout the altered portion, provided that any resultant alteration shall not cause the structure to violate the dimensional and density regulations of the zoning district in which it is located.
- E. Any non-conforming structure or portion thereof, which has come into conformity, shall not thereafter again become non-conforming.
- F. Non-conforming structures or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such extension or alteration shall not be substantially more detrimental to the neighborhood than the existing non-conforming use.
- G. Temporary and conditional non-conforming uses of buildings, structures of land granted by special permit under the provisions of the previous zoning ordinance may be continued, provided that the Board of Appeals shall find that a real need for the continuance of such non-conforming use exists in the neighborhood and that the continuance of such use will not substantially reduce the value of the property in the zoning district or otherwise cause injury in the neighborhood.

§17-6.3 REDUCTION OR INCREASE

- A.** Any non-conforming lot or open space on the lot, if already smaller or greater as the case may be, than that required shall not be further reduced or increased so as to be in greater non-conformity.
- B.** Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

§17-6.4 CHANGE

Any non-conforming use of a structure may be changed to another non-conforming use provided the changed use is not a substantially different use as determined by the Board of Appeals. For the purpose of this ordinance, a substantially different use is a use, which, by reason of its normal operation, would cause readily observable differences in patronage, service, sight, noise, employment or similar characteristics, from the existing non-conforming use or from any permitted use in the subject zoning district.

§17-6.5 RESTORATION

- 1.** Any non-conforming structure that is destroyed by fire or catastrophe, as determined by the Inspector of Buildings, may be rebuilt or restored and shall be exempt from any of the special permit and variance processes under the provisions of the ZONING ORDINANCE provided that:
 - A.** The structure shall be reconstructed or restored on its original foundation or on its original footprint location in the event that the foundation has been destroyed.
 - B.** The structure shall be rebuilt or restored to its original floor area, dimensions and height.
 - C.** Any pre-existing non-conforming use or uses contained within said non-conforming structure may only be re-established to the extent equal to the non-conformity prior to the damage.
- 2.** The owner of the structure shall commence operations for the reconstruction or restoration of the structure within one (1) year after the structure has sustained a catastrophe as aforesaid, and the owner shall have sought and obtained a building permit for the reconstruction or restoration within the one (1) year period since the catastrophe. Failure to commence the process of reconstruction or restoration within this time limit shall require the owner of the structure to comply with the use, dimensional and density regulations of the underlying zoning district.

§17-6.6 ABANDONMENT

Any non-conforming use of a structure or lot, which has been abandoned or not used for a period exceeding two years, shall not be used again except for a conforming use. For the purpose of this ordinance, a non-use period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of at least sixty (60) consecutive days.

§17-6.7 MOVING

Any non-conforming structure shall not be removed to any other location on the lot or any other lot unless every portion of such structure, the use thereof, and the lot shall be conforming.

§17-6.8 UNSAFE STRUCTURE

Any structure determined to be unsafe may be restored to a safe condition provided such work on any non-conforming structure shall not place it in greater non-conformity.

§17-6.9 SPECIAL PERMIT REQUIRED

A special permit from the Board of Appeals shall be required for any alteration, extension, change or continuance of a non-conforming use of a structure as provided in §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS. The procedures to be followed in the granting of such special permits shall be the same as those provided in §17-9.0 SPECIAL PERMITS hereof.

SECTION 17-7.0

ADMINISTRATION & ENFORCEMENT

§17-7.1 ADMINISTRATIVE OFFICER

It shall be the duty of the Inspector of Buildings to administer and enforce the provisions of this ordinance.

§17-7.2 BUILDING PERMIT REQUIRED

It shall be unlawful to construct, enlarge, alter, remove, or demolish a structure or a parking lot of greater than 2,500 square feet in area without first filing an application with the Inspector of Buildings in writing and obtaining the required building permit pursuant to 780 CMR and the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended. Except, however, a building permit shall not be required for residential accessory structures not exceeding one hundred and twenty (120) square feet in area and commercial accessory structures not exceeding more than one hundred (100) square feet in area.

§17-7.3 CERTIFICATE OF OCCUPANCY REQUIRED

No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy has been issued by the Inspector of Buildings. The certificate shall not be issued until all the work has been completed in accordance with the provisions of the approved permits and of the applicable ordinances for which a permit is required. Upon the request of the holder of a permit, the Inspector of Buildings may issue a temporary certificate of occupancy for a building or structure or part thereof, before the entire work covered by the permit has been completed, provided such portion or portions may be occupied safely prior to full completion of the building without endangering the public welfare, and provided that the Board of Appeals or the Planning Board, when having jurisdiction for permits issued under the provisions of this ordinance, is notified of the decision to issue a temporary certificate.

§17-7.4 OTHER APPROVAL REQUIRED

Where authorization of a use of land or of a structure is required by the Board of Appeals or the Planning Board, a copy of such written authorization shall be sent by the Clerk of said Board to the Inspector of Buildings within fourteen (14) days of granting of approval. In addition, the Inspector of Buildings shall not issue a permit until the applicant submits certification from the Bristol County Registrar of Deeds that the authorization of the Board of Appeals or the Planning Board, as the case may be, is recorded. Furthermore, the Inspector of Buildings shall not issue a permit where approval or endorsement under the Subdivision Control Law by the Planning Board is required until written notification of such approval or endorsement is received.

§17-7.5 PERMIT AND CERTIFICATE FEES

Fees shall be established by ordinance (see Chapter 3, §3-8 FEES).

§17-7.6 BUILDING PERMIT TIME LIMITS

Any permit issued shall become invalid unless the work authorized by it is commenced within six (6) months after its issuance. If the work authorized by such permit is suspended for a period of one (1) year after the time work is commenced it shall be deemed abandoned. However, for cause, one or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed in writing by the Inspector of Buildings.

§17-7.7 VIOLATIONS

The Inspector of Buildings shall serve a written notice of violation on the owner or the person responsible when a violation of any of the provisions of this ordinance is found to exist. Such notice shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

§17-7.8 FINES FOR VIOLATIONS

If the notice of violation is not complied with within thirty (30) days after service, unless otherwise provided in the Massachusetts State Building Code, the Inspector of Buildings shall institute appropriate proceedings in a court of competent jurisdiction to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this ordinance or of the order or direction made in pursuant thereto. A person who shall violate a provision of this ordinance may upon conviction be affixed a penalty in an amount not to exceed one hundred (\$100.00) dollars for each offense. Each day, or portion of a day, that any violation continues shall constitute a separate offense. A person who violates any provision of this ordinance shall receive a warning for the first offense and shall be punished for subsequent offenses by a fine according to the following schedule: second offense, twenty-five (\$25.00) dollars; third offense and each offense thereafter, fifty (\$50.00) dollars. Such penalties shall be assessed in accordance with the provisions for the non-criminal disposition of violations in MGL CH. 40, §21D, as amended. Each day, or portion thereof, of continuing violation shall constitute a separate offense. The Inspector of Buildings, or his designee, shall be authorized to issue written notice of violations. In accordance with the provisions of MGL CH. 40, §58, a lien, known as the municipal charges lien, may be imposed by the City in real property owned by a person who fails to pay any such fine by the due date. Such lien may be discharged by recording in the Registry of Deeds a certificate from the City Collector indicating that any such fine has been paid or legally abated. All costs of recording of discharging such lien shall be borne by the owner of the property.

§17-7.9 PROSECUTION OF VIOLATION

As an alternative to, or in lieu of, the imposition of fines for violation of this ordinance as is provided for in §17-7.8 FINES FOR VIOLATIONS, the Inspector of Buildings may, if the notice of violation is not complied with within thirty (30) days after service, unless otherwise provided in the Massachusetts State Building Code, institute appropriate proceedings in a court of competent jurisdiction to restrain, correct or abate such violation or to require the removal of the unlawful use of the building or structure in violation of the provisions of this ordinance or of the order or direction made in pursuant thereto. A person who shall violate a provision of this ordinance may upon conviction be affixed a penalty in an amount not to exceed one hundred (\$100.00) dollars for each offense. Each day, or portion of a day, that any violation continues shall constitute a separate offense.

§17-7.10 SEVERABILITY

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstances is held invalid, such invalidity shall not affect the remaining provisions or applications of this ordinance.

SECTION 17-8.0

BOARD OF APPEALS

§17-8.1 ORGANIZATION

There is hereby established an unpaid Board of Appeals consisting of three members and two associate members to be appointed by the Mayor subject to confirmation by the Municipal Council. Each member shall be a resident of the City of Attleboro especially fitted by education, training and experience to perform the duties of the office. Each member shall serve for a term of three (3) years, with the term of one member to expire each year. Each associate member shall serve for a term of two (2) years, with the term of one associate member to expire each year. Members and associate members of the Board of Appeals in office at the effective date of this ordinance shall continue in office until their terms expire. Members of the Board of Appeals shall elect their Chairman and Clerk annually. The Chairman of the Board of Appeals may designate any associate member to sit on the Board in case of the absence, inability to act or conflict of interest on the part of a member thereof, or in the event of a vacancy on the Board, until said vacancy is filled. No member or associate member of the Board of Appeals shall represent before the Board any party of interest in any matter pending before it.

§17-8.2 POWERS AND DUTIES

The Board of Appeals shall have the following powers and duties: to hear and decide appeals; to hear and decide applications for special permits, except those specifically delegated to another Special Permit Granting Authority; and to hear and decide petitions for variances in accordance with MGL CH. 40A, §10, as amended.

§17-8.3 STAFF

The Board of Appeals, subject to appropriation, may employ such technical, clerical, and other assistance as it deems necessary to carry out the functions of the Board of Appeals.

§17-8.4 PROCEEDINGS OF THE BOARD OF APPEALS

Meetings of the Board of Appeals shall be held at the call of the Chairman or when called in such other manner as the Board shall determine in its rules. The Board shall keep a record of its proceedings, shall establish its own rules of procedure, and, subject to appropriation, may make such expenditures as may be necessary to the performance of its functions. A copy of the rules of procedure shall be filed in the office of the City Clerk.

§17-8.5 REMOVAL OF MEMBERS

Any member or associate member may be removed for cause by the appointing authority upon written charges and after a public hearing.

§17-8.6 FEE SCHEDULE

a.	Special Permit.....	\$150.00	
b.	Special Permit – Registered Marijuana Dispensary.....	\$1,500.00	
c.	Special Permit – Multi-Family Residential.....	\$175.00	plus \$10.00 per dwelling unit
d.	Special Permit – Earth Removal (§17-10.2).....	\$325.00	plus \$50.00 per acre or fraction thereof
e.	Special Permit – Mobile Home Park (§17-10.3).....	\$575.00	plus \$25.00 per lot
f.	Special Permit – Home Occupation (§17-10.4).....	\$150.00	
g.	Special Permit – OSRD, Standard Design (§17-10.5).....	\$575.00	plus \$25.00 per one-family lot and two-family lot
h.	Special Permit – OSRD, Affordable Housing (§17-10.6).....	\$575.00	plus \$25.00 per one-family lot, \$25.00 per two-family lot, and \$10.00 per multi-family unit
i.	Special Permit – OSRD, Green Design (§17-10.7).....	\$575.00	plus \$25.00 per one-family lot, \$25.00 per two-family lot, and \$10.00 per multi-family unit
j.	Special Permit – Landfill (new) (§17-10.8).....	\$75.00	plus \$6.00 per acre or fraction thereof
k.	Special Permit – Landfill (renewal) (§17-10.8).....	\$2.00	per acre or fraction thereof
l.	Special Permit – Flood Plain District (§17-10.12).....	\$150.00	
m.	Special Permit – Water Resources Protection District (§17-10.13).....	\$150.00	
n.	Site Plan Review.....	see §17-15.0	
o.	Repetitive Petitions (MGL Ch. 40A, §16).....	\$75.00	
p.	Variance.....	\$125.00	
q.	Appeal.....	\$100.00	
r.	Pre-Application Conference.....	\$100.00	

§17-8.7 HEARINGS: ACTION

- A. Hearings of the Board of Appeals shall be advertised and conducted in accordance with MGL CH. 40A, §11 and §15, as amended.
- B. The Board shall hold a hearing on any appeal, application or petition transmitted to it by the City Clerk within sixty-five (65) days from the transmittal to the Board of such appeal, application or petition. The Board shall cause notice of such hearing to be published and sent to parties of interest, and shall notify the Planning Board and the Planning Boards of adjacent cities and towns which may forward recommendations with respect to said matter for the consideration of the Board of Appeals. The Chairman, or in his absence the Acting Chairman, may administer oaths, summon witnesses, and call for the production of papers.
- C. The concurring vote of all members of the Board of Appeals shall be necessary to reverse any order or decision of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variance in the application of this ordinance.
- D. All hearings of the Board of Appeals shall be open to the public. The decision of the Board shall be made within one hundred (100) days after the date of the filing of an appeal, application or petition, except in regard to special permits as provided in §17-9.0 SPECIAL PERMITS. Failure by the Board to act within said one hundred (100) days shall be deemed to be the grant of the relief application or petition sought, subject to an applicable judicial appeal. The Board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each questions, or if absent or failure to vote, indicating such fact and setting forth clearly the reason or reasoning for its decision and of its official actions, copies of all of which shall be filed within fourteen (14) days in the office of the City Clerk and shall be a public record. Notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties of interest, and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify the appeals, if any, shall be made pursuant to MGL CH. 40A, §17, as amended, and shall be filed within twenty (20) days after the date of filing of such notice in the Office of the City Clerk.

§17-8.8 APPEALS

- A.** An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of this ordinance, by the Southeastern Regional Planning and Economic Development District (SRPEDD), or by any person including an officer or Board of the City, or of an abutting city or town aggrieved by an order or decision of the Inspector of Buildings, or other administrative official, in violation of any provision of this ordinance.
- B.** Any such appeal shall be taken within thirty (30) days from the date of the order or decision that is being appealed by filing a notice of appeal, specifying the grounds thereof, with the City Clerk who shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to Board of Appeals. Such officer or Board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeals is taken
- C.** In exercising these powers, the Board of Appeals may, in conformity with the provisions of this ordinance and of MGL CH. 40A, as amended, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

§17-8.9 VARIANCES

- A.** After the appropriate public hearing (see §17-8.7 HEARINGS: ACTION), the Board of Appeals may grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of this ordinance where said Board specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purposes of this ordinance.
- B.** The Board of Appeals may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.
- C.** If the rights authorized by a variance are not exercised within one (1) year of the date of grant of such variance they shall lapse, and may be re-established only after notice and a new hearing.
- D.** The Board of Appeals shall not authorize a variance for any use or activity not permitted in the zoning district in which the land or structure is located. However, such variances granted prior to January 1, 1976, but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said date.

SECTION 17-9.0

SPECIAL PERMITS

§17-9.1 SPECIAL PERMIT REQUIRED

Certain uses, structures or conditions are designated as exceptions in the §17-3.4 TABLE OF USE REGULATIONS, and elsewhere in this ordinance. Upon written application duly made to the Special Permit Granting Authority, said authority may, in appropriate cases subject to the applicable conditions set forth in §17-10.0 SPECIAL REGULATIONS of this ordinance and elsewhere, and subject to other appropriate conditions and safeguards, grant a special permit.

§17-9.2 HEARINGS: ACTION

Special permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application with the Special Permit Granting Authority, a copy of which shall forthwith be given to the City Clerk by the applicant. Said authority shall adopt and from time to time may amend rules relative to the issuance of special permits, and shall file a copy of said rules in the Office of the City Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for a submission and approval of such permit granting authority shall act within ninety (90) days following a public hearing for which notice has been given in accordance with MGL CH. 40A. Failure by the Special Permit Granting Authority to take final action upon an application for a special permit within said ninety (90) days following the date of public hearing shall be deemed to be a grant of the permit applied for.

§17-9.3 FAILURE TO COMMENCE

Special permits shall lapse after one (1) year, except that special permits for open space residential developments shall lapse after two (2) years, including such time required to pursue or await the determination of an appeal 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.

§17-9.4 STANDARDS FOR GRANTING PERMIT

- A. Before granting an application for a special permit, the Special Permit Granting Authority, with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
1. The requested use is listed in §17-3.4 TABLE OF USE REGULATIONS as a special permit in the zoning district for which application is made or is so designated elsewhere in this ordinance.
 2. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
 3. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety, or the general welfare.

4. The requested use will not have a severe undesirable effect on the neighborhood, public and environment that would be lessened significantly by denying or modifying the requested permit.
 5. Any special regulations for the use set forth in §17-10.0 SPECIAL REGULATIONS are fulfilled.
 6. Uses, whether or not on the same parcel as activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.
- B.** The Special Permit Granting Authority shall also impose in addition to any applicable conditions specified in this ordinance, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this ordinance including, but not limited to, the following: (1) front, side, or rear yards greater than the minimum required by this ordinance, (2) screening buffers or planting strips, fences, or walls, (3) limitation upon the size, method and time of operation, time duration of permit, or extent of facilities, (4) regulation of number and location of driveways, or other traffic features, and (5) off-street parking or loading or other special features beyond the minimum required by this ordinance. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Special Permit Granting Authority.

§17-9.5 REQUIRED SITE PLAN

- A.** The Special Permit Granting Authority may require a site plan to be submitted by the applicant when in the opinion of the Special Permit Granting Authority said plan is necessary in order to determine that the above-mentioned restrictions are to be met. Said plans shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse and other waste disposal, and for surface water drainage and landscape features, such as fences, walls, planting areas and walks.
- B.** When the Board of Appeals requires a site plan as provided above, said Board shall, within ten (10) days after receipt thereof, transmit one copy of such plan to the Planning Board, the Conversation Commission and the Health Department. Said municipal agencies may, at their discretion, investigate the case and report in writing their recommendations to the Board of Appeals and to the applicant. When the Special Permit Granting Authority is the Planning Board, said Board shall, within ten (10) days after receipt of said site plan, transmit one copy of such plan to the Conservation Commission and the Health Department who may, at their discretion, investigate the case and report in writing their recommendations to the Planning Board and to the applicant.
- C.** The Special Permit Granting Authority shall not take final action on such plan until it has received a report thereon from said municipal agencies or until said municipal agencies have allowed thirty-five (35) days to elapse after receipt of such plan without submission of a report thereon. Failure of said agencies to make recommendations within thirty-five (35) days receipt by such agencies shall be deemed lack of opposition thereto.

SECTION 17-10.0

SPECIAL REGULATIONS

§17-10.1 GENERAL

In addition to the general conditions set forth in §17-9.0 SPECIAL PERMITS of this ordinance for all special permits, the following special conditions shall apply to the following uses in this section listed as special permits in various districts in the §17-3.4 TABLE OF USE REGULATIONS.

§17-10.2 EARTH REMOVAL

For the purpose of this ordinance “earth” shall include soil, loam, sand, gravel, stone or any other earth materials, and “removal” shall include the moving of earth from one location to another location within the boundaries of a lot or tract of land as well as the moving of earth off of any said lot or tract of land. These regulations do not include or permit screening, stockpiling, or processing of earth on the site except as required by §17-10.2(F)(11) and by special permit under §17-10.2(B)(5) by the Board of Appeals.

The restrictions on earth removal of this section shall not apply to the delivery of material onto a lot and the use of such material in the preparation of the lot for the construction of buildings and accessory uses.

- A.** Permit Required: No earth, except as otherwise provided herein, shall be removed from any parcel of land in any district in the City without a special permit from the Board of Appeals.

- B.** Exemptions: The removal of earth material in any of the following operations shall be exempt from the provisions of the section provided, however, that such exemption shall not apply to the removal of earth from hills of significant topographic importance. For the purpose of this ordinance “significant topographic importance” shall mean those naturally occurring mounds of earth and/or rock material which are designated on the most recently published United State Geological Survey (USGS) maps to have their highest elevation equal to or greater than one hundred and eighty (180) feet above mean sea level, or those naturally occurring mounds of earth and/or rock which cannot be contained in their entirety within an area of sixteen (16,000) thousand square feet and consist of slopes equal to or greater than fifteen (15%) percent on which a change of elevation of at least twenty (20) feet occurs.
 - 1.** Removal of earth material in connection with the construction of buildings and accessory improvements, including, but not limited to, the installation of septic systems, driveways, walks, parking areas and swimming pools, provided the quantity of material removed shall not exceed that displaced by the portion of the building, or accessory improvement located below the finished grade, and provided that all permits and approvals required by the Inspector of Buildings prior to beginning such construction have been received.

 - 2.** Removal of earth material incidental to the grading or landscaping of a single lot, provided said removal does not change the elevation of any portion of said lot by more than two (2) feet and further provided that the amount of earth to be removed or altered does not exceed one hundred and fifty (150) cubic yards. In an

approved subdivision, this exemption shall apply only to the grading and landscaping of individual lots therein for which a building permit has been issued and shall not be construed as permitting the grading of the entire land area in the subdivision. Said grading and landscaping shall not result in the raising of the elevation of any land within the 100-year floodplain district.

3. The removal of earth material, exclusive of the removal permitted under the provisions of paragraphs ~~§17–10.2(B)(1) EARTH REMOVAL – EXEMPTIONS~~ and ~~§17–10.2(B)(2) EARTH REMOVAL – EXEMPTIONS~~ immediately above, necessary to complete an approved subdivision, provided said removal does not exceed an aggregate of four hundred and fifty (450) cubic yards of earth material per one hundred (100') feet of street length within the street right-of-way width inclusive of any earth material to be removed in association with the construction of side slopes adjacent to the right-of-way within a 1:3 slope to a maximum horizontal distance of ten (10') feet, and further provided that said removal is restricted to the moving of earth from one location to another location within the boundaries of the subdivision.
 4. Removal of earth material from an operating farm, nursery, golf course, cemetery, or other similar use, to the extent that such removal is necessary to the continuing operation of the same. The exemption allowed hereunder shall apply to existing operations only, and shall not be considered to include earth removal that may be required by new construction or any expansion of current operations.
 5. Removal of earth material by or on behalf of the City of Attleboro for the maintenance of its streets, public utilities or for other purposes which benefit the City. If necessary, temporary processing of earth on site such as screening, crushing or stockpiling of material may be granted by special permit by the Board of Appeals.
- C.** Standards for Granting Permit: No permit for the removal of earth shall be granted unless the Board of Appeals shall find that the proposed earth removal operation shall not be contrary to the best interests of the City. For this purpose, an earth removal operation shall be considered contrary to the best interests of the City which – (1) will be injurious or dangerous to the public health and safety, (2) will produce noise, dust or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property, (3) will result in a change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted, (4) will have a material adverse effect on the health or safety of persons living in the neighborhood or on the use or amenities of adjacent land, and (5) will alter an area of significant topographic significance.
- D.** Permits in Approved Subdivision: Approval of a preliminary or a definitive subdivision plan by the Planning Board under the Subdivision Control Law shall not be construed as authorizing the removal of earth from the land included in the Subdivision Plan, except in accordance with the provisions of this ordinance. Removal of earth from any such land shall be allowed only in the same manner as removal from other parcels of land in the City.
- E.** Required Site Plan: Each application for a permit for earth removal shall be accompanied by a site plan prepared by a Registered Professional Engineer and a Registered Land Surveyor, at a scale of eighty feet to the inch (1"=80') or larger, indicating the following –
1. Property lines, abutting owners of record, and buildings or other structures within one hundred (100') feet of site boundaries, adjacent public streets and private ways.

2. Unique features of the area which may be affected by earth removal operations, such as landmarks, exposed ledges of geological significance and control points and bench marks used in triangulation and topographical surveying.
3. Natural features such as water courses, wetlands, 100-year flood plain boundary if present, and ground water elevation. An environmental impact statement may be required by the Board of Appeals if deemed necessary due to the extent of the operation.
4. Topographic mapping showing all existing contours to U.S. Coastal and Geodetic Survey Datum at intervals of not more than two (2') feet and contours of finished grade after the conclusion of the operation.
5. Proper provision of safe and adequate water supply and sanitary sewerage, and for temporary and permanent drainage on the site.
6. Proper provisions for vehicular traffic and control of entrances and exits to public streets and private ways.
7. Delineation of fence locations.
8. A separate key sketch at a scale of one inch equals two thousand (1"=2,000') feet with a proposed earth removal site shaded to show relation of the surrounding road networks shall be shown on the plan and key sketch shall be in the same direction.

F. Conditions of Permit: In granting a permit for earth removal hereunder, the Board of Appeals shall impose reasonable conditions governing the removal operation. Such conditions shall include, but not be limited to, the following –

1. Removal operations shall not be conducted closer than fifty (50') feet to a public street or private way or to any adjoining property line unless otherwise specifically provided for by the Board of Appeals.
2. The Board of Appeals shall designate hours of operation.
3. Routes of transportation shall be designated. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling from the load, and the operators shall clean up any spillage that does occur on public ways. Access roads leading to public ways shall be treated to reduce dust and the transporting of surface material to the pavement of public ways.
4. Adequate provisions shall be made for drainage during and after completion of operation. No area shall be excavated so as to cause an accumulation of free-standing water unless the Board of Appeals shall permit the creation of a pond in an area not used as a source of drinking water.
5. Lateral support shall be maintained for all adjacent properties and no banks shall be left after completion of operation with a slope that exceeds one foot of vertical in two foot of horizontal distance (2:1).

6. Maximum depth of any and all excavations, including excavation associated with proposed stormwater detention/retention basins, channels and swales, shall at all times be at least four (4) feet above the maximum ground water elevation unless the Board of Appeals finds that deeper excavation shall not be injurious to the public health and welfare, in which case limitations on excavations shall be as determined by the Board of Appeals.
 7. Off-street parking shall be provided. Any shelters or buildings erected or moved onto the premises for use by personnel or storage of equipment shall be removed from the premises within sixty (60) days after permit expiration date.
 8. Any access to excavated area or areas in the process of excavation shall be adequately posted with “Keep Out Danger” signs.
 9. During operation, any excavation, quarry, bank or work face having a depth of ten (10') feet or more and/or creating a slope of more than thirty (30°) degrees downward shall be fenced. Such fence shall be located ten (10') feet or more from the edge of said excavation and shall be at least six (6') feet in height.
 10. Provision shall be made for the adequate control of dust during operation. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes.
 11. Topsoil and loam from the site shall be stockpiled on the property and as operations proceed, areas brought to grade shall be covered with at least four inches of topsoil and/or loam and seeded with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization; provided however, that those portions of a site which have been approved by the Board of Appeals as future locations for concrete, bituminous concrete, and/or buildings need not be so covered. Final restoration work shall be completed within six (6) months after expiration or withdrawal of a permit or completion of operation.
 12. All tree stumps, boulders, and other residual material shall be disposed of off the site, unless otherwise specifically provided by the Board of Appeals.
- G.** Period of Permit: Any permit granted for earth removal shall be for a period not to exceed one year. For a continuation of an operation beyond the period designated in the initial permit, a new application must be made and a new permit granted in the same manner as for the initial permit except that the Board of Appeals may waive requirements for the submittal of a site plan. Such waiver must be granted in writing to the applicant by the Board of Appeals. All other provisions relating to operational standards and permit procedures shall apply.
- H.** Performance Guarantee: The Board of Appeals shall require that a performance guarantee, acceptable to the City Treasurer, be posted in an amount determined by the Board of Appeals to be sufficient to guarantee conformity to the provisions of any permit issued hereunder. Such guarantee shall not be released until there is filed with the Board of Appeals a certification from a Registered Professional Engineer and a Registered Land Surveyor and an approval from the Superintendent of Public Works – Highway Division that the site conditions at the completion of all work are in accordance with the requirements of the permit.

- I. Existing Operations: Any earth removal operation which is being lawfully conducted on any premises on the effective date of this ordinance without a permit from the Board of Appeals may continue to be conducted until it is abandoned, but said earth removal operation shall not be extended. Discontinuance of such operation for more than twenty-four consecutive months shall be deemed to constitute abandonment. For the purposes of this section, the abandonment period shall not be broken by temporary operation except when such operation is for a period of at least sixty (60) consecutive days. Any earth removal operation being conducted under a permit issued by the Board of Appeals prior to the effective date of this ordinance may continue until the expiration of said permit.

- J. Necessity for Other Permits: Any earth removal and/or grading permitted by this section shall not be deemed to eliminate the need for appropriate authorization for excavation or fill in the Flood Plain District or in any wetland area subject to MGL CH. 131, or for any other permit required by this ordinance or state or federal law.

§17-10.3 MOBILE HOME PARK

- A. Permit Required: No mobile home park shall be established or operated in the City unless a special permit has been granted by the Planning Board. Such permit shall be granted prior to the issuance of any license by the Health Department. No mobile home, trailer, or like structure shall be used for living quarters anywhere in the City except within mobile home parks, except that in a case of an emergency or disaster, when so proclaimed by the Mayor, temporary occupancy permits for such use may be granted by the Inspector of Buildings.

- B. Required Site Plan: A site plan shall be submitted with each application for a permit for a proposed mobile home park alteration, modification, or extension. Said plan shall be prepared by a Registered Professional Engineer or a Registered Land Surveyor to a scale of one inch equals eighty feet (1"=80') and shall indicate the following –
 - 1. All mobile home lots, park streets, playgrounds, and parking areas, including the size and location of mobile homes to be located on the mobile home lots.
 - 2. Required buffer zones, open space, playgrounds, and parking areas.
 - 3. Water courses and other bodies of water, natural or artificial.
 - 4. Existing large trees or other natural features.
 - 5. All abutting land with the names of the owners.
 - 6. The contour of the land involved drawn on a scale of five (5') foot intervals to the U.S. Coastal and Geodetic Survey Datum. In the case of land bordering on or including permanent flowing or standing waters, or where the high ground water elevation is within six (6') feet of the existing or proposed ground surface level the Planning Board may require the plan to show the existing and proposed contours on a scale of two (2') foot intervals.
 - 7. A separate key sketch, at a scale of one inch equals two thousand (1"=2,000') feet, showing the relation of the surrounding road networks. North points of the plan and the key shall be in the same direction.

C. Required Site Report: A site report containing the following information shall be required –

1. Location of the nearest public water system. The size of the water main serving the area, the location of existing fire hydrants along any public roads adjacent to that development, and the location of proposed fire hydrants within the mobile home park.
2. The type of sewage disposal system to be provided or intended to be used in the mobile home park, such as individual systems on each lot, community system, or municipal system. Statements shall also specify the location of the nearest municipal sewage system and whether it is available and feasible for use.
3. Statement of existing use of adjacent properties and intended use of adjacent undeveloped lands if known.
4. Certified report of a Registered Professional Engineer indicating the highest known surface water elevations on the mobile home park site in the last ten (10) years.
5. Statement of proposed surface drainage system, including storm drainage flow direction of the mobile home park and adjacent properties and evidence that existing drainage systems, natural or man-made, are of sufficient size to contain maximum runoff from the site without flooding or erosion.
6. Such additional and supplementary information as the Planning Board and the Health Department may request after initial review of the application.

D. Conditions of Permit:

1. No mobile home park shall be less than fifteen (15) acres in area exclusive of park streets and the area provided for recreation, service and other permanent buildings.
2. There shall be no more than eight mobile home lots laid out on each acre, exclusive of park streets and the area provided for recreation service and other permanent buildings.
3. There shall be provided central facilities for recreation and services such as laundry, which shall be available to all mobile home park residents.
4. At least one off-street parking space, substantially equivalent to a 10'x20' rectangle, shall be provided for each mobile home lot.
5. The occupied area of a mobile home lot shall not exceed fifty (50%) percent of the lot area. Occupied area shall mean that total of all area covered by a mobile home and roofed mobile home accessory buildings on a mobile home lot. Not more than one single-family mobile home shall be permitted on each mobile home lot.
6. No mobile home shall be located closer than fifteen (15') feet to the nearest mobile home lot line or park street, and no mobile home accessory building closer than ten (10') feet to such a lot line or park street except as specifically authorized by the Planning Board in a cluster or other arrangement deemed by that agency to be suited to the terrain or other considerations. Each mobile home shall be located with at least a thirty (30') foot setback from any abutting public street or highway.

7. Collector streets shall conform to standards set forth in the Planning Board's most recent RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN ATTLEBORO, as amended, relative to construction and paving of streets in subdivision in the City and shall have direct connection to a public street or highway. Mobile home park streets connected to collector streets shall be not less than thirty (30') feet in width and shall conform to standards of the Attleboro Public Works Department – Highway Division and be approved by the Superintendent of Public Works – Highway Division with regard to grading, contours and traveled surface. Mobile home park streets shall have a turnaround at their terminus with a radius of no less than thirty (30') feet. The maintenance of collector and park streets shall be the responsibility of the mobile home owner operator. All site construction, including the construction of streets, shall be subject to inspection by and approval of the Superintendent of Public Works – Highway Division.
8. Each mobile home lot within a mobile home park shall have a frontage of at least fifty (50') feet on a park street.
9. No mobile home lot shall be located within one hundred (100') feet of any stream, lake, or other water, except where public sewage facilities are available and utilized and the location will not present a potential flood hazard.
10. No permit shall be granted for establishing or developing a mobile home park unless a connection is made to a municipal water supply system and all units within the mobile home park connected to it. A private water system for use in a central laundry or other similar use may be permitted at the discretion of the Health Department.
11. Where a public sewage system is available at or within the boundary of the mobile home park site, connection shall be made thereto so to serve all mobile home and permanent buildings within that mobile home park.
12. Mobile homes shall not be stored or displayed on mobile home park premises except when mounted on a pad on a lot. New mobile homes displayed for sale by the mobile home park owner or operator must be sold for use within that mobile home park. Used mobile homes offered for sale by individual mobile home owners must be displayed on a pad on a lot within that mobile home park, but may be sold either for use within that mobile home park to an individual, the mobile home park owner or operator, or for use outside that mobile home park. The mobile home park owner or operator, may also display those used units on a pad on a lot for resale within that mobile home park premises. Nothing in this paragraph shall be construed as permitting the storage of unoccupied units in any mobile home park for sale in the ordinary course of business, or as inventory, or the sale of such units except in those zoning districts as determined by this ordinance wherein such commercial activity is permissible with or without permits from the proper authority.
13. The developer shall provide for a buffer zone of at least thirty (30') feet with appropriate vegetation, between the mobile home park and any adjacent property and shall establish a similar thirty (30') foot buffer where such mobile home park shall be adjacent to any highway or road.

§17-10.4 HOME OCCUPATION

- A.** Purpose: A business operating in a residential dwelling shall be defined as a home occupation business. Such businesses shall include catering, dressmaking, fine arts studios, insurance, real estate, offices for architects, engineers, land surveyors, lawyers, and medical professionals, and other uses not herein specified but consistent with the purpose and intent of this section.
- B.** Permit Required: A special permit from the Board of Appeals shall be required for the use of a dwelling in any residential district as a home occupation business except as otherwise provided herein.
- C.** Conditions of Special Permit: In addition to the requirements of §17-9.0 SPECIAL PERMITS, the following conditions shall also apply –
1. The home occupation business is carried on strictly within the principal building, unless otherwise authorized by the Board of Appeals.
 2. No more than two non-residents shall be employed therein.
 3. In the case of musical instruction, no more than one pupil shall receive instruction at a given time.
 4. No more than forty (40%) percent of the existing gross floor area of the principal building, or, in any other situation, no more than six hundred (600) square feet is devoted to such use.
 5. No display of supplies, goods, or wares shall be visible from the street.
 6. No advertising on the premises will be permitted other than a single, non-illuminated sign not to exceed one square foot in area, and carrying only the occupant's name and occupation.
 7. The building and premises shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance of the building.
 8. The principals of the building shall not permit any emissions of odor, gas, smoke, dust, noise, electrical or magnetic disturbances, or any other nuisances to be discharged from the building. Moreover, in any multifamily dwelling the home occupation business shall not be objectionable or detrimental to any other occupant of the dwelling.
 9. The building in which the home occupation business is located shall not contain or include any exterior design feature that is not customary of buildings located in residential use districts.
 10. No more than one commercial vehicle in connection with the home occupation business shall be stored on the premises. An off-street parking space, located behind the required principal building setback line, shall be provided for any such commercial vehicle.
 11. The proposed use shall have suitable off-street parking.
 12. The special permit shall not be transferable.

- D.** Period of Permit: A special permit granted for a home occupation business shall be for a period not to exceed five (5) years.
- E.** Exemption: The establishment of a home occupation business in a residential zoning district may be exempt from the provisions of §17-10.4 HOME OCCUPATION of the ZONING ORDINANCE provided that such home businesses are limited to – (a) home office business that entails the use of typical office equipment such as computers, facsimile machine, copiers, telephones and other similar office equipment, (b) bookkeeping, (c) computer programming, computer assisted graphic design, web site design, and (d) the use of a home address for the purpose of a business office address, and similar uses not herein specified but consistent with the general purpose and range of permitted uses in this section as determined by the Inspector of Buildings. Further provided that –
1. No non-resident of the dwelling unit shall be employed in the home business.
 2. No client, customers, business associates or employees shall conduct face-to-face business at the site at anytime.
 3. No deliveries of parcels, mail, equipment or materials by the US Postal Service or any private courier or company shall be made to the site at a greater volume and frequency than is common to a residential use.
 4. No on-site or off-site advertising intended to direct customers to the home address.
 5. No commercial vehicles, equipment or materials associated with the home occupation business shall be stored for anytime at the site.
 6. No vehicles associated with the home occupation business having business signage or displaying advertising shall be parked within the front building setback line.
 7. No building or premises shall render objectionable or detrimental the residential character of the neighborhood or be a nuisance to the neighborhood due to anything associated with the home occupation business. This includes other occupants of a multi-family dwelling if the home occupation is located in such.
 8. No building or premises shall contain or include any exterior design feature that is not customary of buildings located in a residential zoning district.

§17-10.5 OPEN SPACE RESIDENTIAL DEVELOPMENT – STANDARD DESIGN

- A.** Purpose and Intent: The purpose and intent of this section of the ZONING ORDINANCE are as follows:
1. To allow for greater flexibility and creativity in the design of residential developments.
 2. To encourage the permanent preservation of open space, wildlife habitat, and other resources including aquifers, water bodies and wetlands, and historical and archaeological areas.

3. To promote a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features.
 4. To minimize the total amount of disturbance on the site.
 5. To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.
- B.** Eligibility and Authority: Any proposed development site containing five (5) or more acres within any “R” zoning district shall be eligible to use the provisions pursuant to §17-10.5 OPEN SPACE RESIDENTIAL DEVELOPMENTS – STANDARD DESIGN as an alternative to a conventional subdivision subject to the requirements of this section of the ZONING ORDINANCE.
1. Contiguous Parcels: To be eligible for consideration as a *standard design open space residential development*, the tract shall consist of a contiguous parcel. The open space parcel property shall still be considered contiguous if it is separated by a, trail, path or other non-obstructive easement.
 2. Land Division: The proposed development may be a subdivision pursuant to MGL CH. 41 SUBDIVISION CONTROL LAW provided, however, a *standard design open space residential development* may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided.
 3. Where a site may cross zoning boundaries, the *standard design open space residential development* shall be restricted to land in the “R” zoning districts.
- C.** Allowable Uses: The following uses are allowable by-right for a *standard design open space residential development* subject to all applicable requirements of this section. Where any conflicts occur between the permitted uses listed below and those listed in §17-3.4 TABLE OF USE REGULATIONS, the provisions contained in this section shall prevail. All other uses not specifically listed below shall be governed accordingly by §17-3.4 TABLE OF USE REGULATIONS.
1. In the “Single Residence” zoning districts, permitted uses in a *standard design open space residential development* shall only include single-family dwellings.
 2. In the “General Residence” zoning districts, permitted uses in a *standard design open space residential development* may include single-family dwellings, two-family dwellings, and multi-family dwellings with a maximum of five (5) consecutive attached units.
- D.** Design Standards: The following design standards shall apply to all *standard design open space residential development* plans and govern the development and design process:
1. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
 2. Dwellings shall be oriented and placed on lots in such a manner so as to promote visual interest. The intention of reduced setback requirements is to afford designers flexibility in the layout of the lots to encourage, for example, staggered alignment of dwellings and the articulation of individual units within a two-family or multi-family dwelling.

3. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover.
 4. The development shall be designed to be visually harmonious with, and complement, the natural features that are to be preserved. Such design shall be achieved through the appropriate siting of dwellings, the creation of “no-cut” buffers, or other methods.
 5. Protected Open Space shall have physical and legal access of not less than ten (10') feet in width from a street. Stone bounds shall be installed to demarcate all boundaries between Protected Open Space and private lots within the proposed development.
 6. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
- E. Dimensional Requirements:** The following dimensional requirements shall apply to *standard design open space residential developments*. Where these requirements differ from those in §17-4.0 DIMENSIONAL AND DENSITY REGULATIONS, the provisions pursuant to this section shall prevail.
1. Building Height: Maximum building height shall be 2.5 stories.
 2. Lot Frontage: Minimum frontage shall be fifty (50') feet. Lots having reduced area shall not have frontage on a street other than a street within the *standard design open space residential development*.
 3. Lot Width: Minimum lot width shall be fifty (50') feet.
 4. Lot Area: Minimum lot area shall be 5,000 square feet. Where multiple units are located on an individual lot, said lot shall contain at least 2,500 square feet for each additional unit.
 5. Lot Coverage: Maximum lot coverage shall be fifty (50%) percent.
 6. Yard Setbacks for Principal Structures: Principal structures shall have a minimum frontyard setback of ten (10') feet, a minimum sideyard setback of ten (10') feet, and a minimum rearyard setback of ten (10') feet.
 7. Yard Setbacks for Accessory Structures: Detached accessory structures shall have a minimum frontyard setback of ten (10') feet, a minimum sideyard setback of four (4') feet, and a minimum rearyard setback of four (4') feet.
- F. Protected Open Space:**
1. Minimum Protected Open Space Requirement. A minimum of fifty percent (50%) percent of the site's total land area shall be Protected Open Space. At least fifty (50%) percent of the site's total wetland area and at least last fifty (50%) percent of the site's total upland area shall be set aside as Protected Open Space. A sample calculation is provided below:

Sample Calculation

Existing Conditions:

20 acre site with 12 acres of upland and 8 acres of wetland

Protected Open Space Minimum Requirements:

50% of the site's total land area = 10 acres

50% of the site's total upland area = 6 acres

50% of the site's total wetland area = 4 acres

Therefore, the protected open space shall consist of at least ten (10) acres of which at least six (6) acres are upland and at least four (4) acres are wetlands.

2. Protected Open Space shall be one (1) contiguous parcel and boundaries shall be configured to avoid narrow strips of land in order to maximize the parcel's utility as wildlife habitat. A parcel of Protected Open Space shall still be considered contiguous even if it is separated by a trail, a path, a non-obstructive easement, or by site design features that in the opinion of the Planning Board better serve the purpose of maximizing wildlife habitat within the proposed development or in combination with abutting conservation land on a neighboring site. To provide pedestrian or wildlife corridors, narrow strips of land may be permitted for the purpose of connecting non-contiguous parcels of conservation land.
3. Protected Open Space may be used for wildlife habitat, conservation, historic preservation, outdoor education, passive recreation, community gardens, or a combination of these uses, and shall be served by suitable access for such purposes.
4. Wastewater and stormwater management systems serving a *standard design open space residential development* may be located within Protected Open Space. Surface systems, such as retention and detention ponds, and the easements that encumber them, shall not qualify towards the minimum open space requirement.
5. Ownership of Protected Open Space: The Protected Open Space shall, at the Planning Board's determination, be conveyed to:
 - a. the City or its Conservation Commission; or
 - b. a non-profit organization, a principal purpose of which is the conservation of open space;
6. Description of Restriction on Protected Open Space: Protected open space, unless conveyed to the City or its Conservation Commission, shall be subject to a permanent Conservation Restriction in accordance with MGL CH. 184 §31 and §32, approved by the Planning Board and enforceable by the City, conforming to the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant, which shall be approved by the Planning Board and enforceable by the City.

7. Maintenance of Protected Open Space: In any case where Protected Open Space is not conveyed to the City or to the Conservation Commission, the City shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the City may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the City shall be assessed against the properties within the development and/or to the owner of the open space. The City may file a lien against the lot or lots to ensure payment of such maintenance.
- G. Relationship to PLANNING BOARD RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended. *Standard design open space residential development* applications are allowed by-right pursuant to MGL CH. 41 SUBDIVISION CONTROL LAW and the PLANNING BOARD RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended. Where the provisions contained herein impose greater or additional requirements than those contained in the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, the requirements contained herein shall prevail.
- H. Filing Application: The filing of a preliminary or definitive subdivision application for a proposed *standard design open space residential development* shall comply with the applicable sections of the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended. The filing of a preliminary plan is encouraged prior to the filing of a definitive plan of a subdivision in order to address any issues or questions and to determine the feasibility of the site design concept before detailed engineering design is performed. The following are the application filing requirements:
 1. Four-Step Design Process: At the time of the application for the *standard design open space residential development*, the petitioner shall demonstrate to the Planning Board that the following design process was performed, in the order so prescribed, by a multidisciplinary team of qualified professionals to determine the layout of proposed streets, house lots, unit placement if multi-family, including designation of all common areas and open space.
 - a. Identifying Conservation Areas: Identify preservation land by two steps. First, Primary Conservation Areas (such as ANRAD-verified wetlands, riverfront areas, and floodplains regulated by local, state, or federal law) and Secondary Conservation Areas (including otherwise unprotected elements of the natural landscape deemed to be valuable such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area of the site shall consist of land outside identified Primary and Secondary Conservation Areas to the greatest extent practicable.
 - b. Locating Residential Uses: Locate the approximate sites of residential structures within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.
 - c. Designing and Locating Streets and Trails: Design and locate streets and trails to access the house lots or units in such a manner so as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas located on or off the subject parcel. New trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
 - d. Configuring Lot Lines: Draw lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

2. Existing Conditions Plan:
- a. Regional Locus – A locus plan locating the site on the most recent USGS quadrangle map that includes a one-half (0.5) mile radius around the site.
 - b. Site Locus – A plan showing the following site elements on a single sheet:
 - 1. location and dimensions of lot boundaries;
 - 2. identification of the underlying zoning district(s), location of the zoning line(s), and any overlay districts;
 - 3. location and dimensions of adjacent rights-of-way or other means of access to the site;
 - 4. location and owners' names of all abutting properties including properties across the street from the subject premises;
 - 5. footprint of existing structures;
 - 6. location and dimensions of any easements, right-of-ways, restrictive covenants and any other restrictions connected with the site;
 - c. Primary Conservation Areas – The location of the following site features:
 - 1. ANRAD-verified wetlands, vernal pools, 100-year floodplain, surface waterbodies, and any other resource areas, as well as the twenty-five (25') foot wetlands protection zone pursuant to the LOCAL WETLANDS ORDINANCE (Chapter 18 of the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended);
 - 2. areas within the jurisdiction of the Massachusetts Endangered Species Act (MESA);
 - 3. areas identified as having historic or archaeological significance;
 - d. Secondary Conservation Area – The location of the following site features:
 - 1. buffers to wetlands or surface waterbodies pursuant to the WETLANDS PROTECTION ACT (MGL Ch. 131, §40);
 - 2. slopes fifteen (15%) percent or greater;
 - 3. existing stone walls;
 - 4. scenic vistas including established meadows;
 - 5. trees that measure over twelve (12") inches at *diameter at breast height*;
 - 6. rock outcrops;
 - 7. existing trails;

- e. Potentially Developable Area – A clearly delineated building envelope of the entire site that does not include any Primary Conservation Areas and avoids Secondary Conservation Areas to the greatest extent practicable.

- 3. Yield Plan: The maximum number of allowable lots and allowable dwelling units shall be derived from a Yield Plan. The Yield Plan shall show a conventional subdivision layout conforming to the applicable provisions of the ZONING ORDINANCE and RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, to show the maximum number of lots and dwelling units that could be placed upon the site by-right under a conventional subdivision approach. No land that is unusable for building due to being subject to an easement, or otherwise legally restricted, shall be included in the calculation of land available for development. The petitioner shall have the burden of proof to demonstrate that the maximum number of lots and dwelling units resulting from the design and engineering specifications shown on the yield plan is feasible.

The number of lots shown on the Yield Plan and accepted by the Planning Board shall be referred to as the Yield Plan Lot Maximum (YPLM). The number of dwelling units shown on the Yield Plan and accepted by the Planning Board shall be referred to as the Yield Plan Unit Maximum (YPUM).

The Yield Plan shall contain, at a minimum, the following information:

- a. parcel boundaries, north arrow, date, legend, title “Yield Plan”, and scale;
- b. the name and address of the record owner(s), the applicant, and the design engineer and/or land surveyor that prepared the plan;
- c. the names, approximate location, and widths of adjacent streets;
- d. existing topography at two (2') foot contour intervals;
- e. soils map using NRCS soil survey information;
- f. all on-site local, state, and federal regulatory resource boundaries (such as wetlands, floodplain, vernal pools) and buffer zones;
- g. lot lines with lot dimensions and land area, or unit locations and footprint and proposed common areas;
- h. location and dimensions of rights-of-way and stormwater management systems;
- i. if available, the location and results of any test pit investigations for soil profiles, percolation rates, and determination of seasonal high groundwater table;

- 4. Proposed Conditions Plan: The number of lots in the Proposed Conditions Plan shall not exceed the Yield Plan Lot Maximum (YPLM). The number of units in the Proposed Conditions Plan shall not exceed the Yield Plan Unit Maximum (YPUM).

The Proposed Conditions Plan shall contain, at a minimum, the following information:

- a. the proposed topography of the land shown at a minimum contour interval of two (2') feet; elevations shall be referred to mean sea level;

- b. the existing and proposed lines of streets, ways, driveways, and easements;
- c. proposed street grades;
- d. a detailed narrative explanation of the characteristics, as well as the proposed quantity, use and ownership of the open space;
- e. all proposed landscaped and buffer areas shall be noted on the plan and explained in a detailed narrative;
- f. a summary of the number of single family, two-family, and multi-family units;
- g. architectural elevations for each housing type proposed as part of the *standard design open space residential development*;
- h. a list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and easements relating to public infrastructure;

§17-10.6 OPEN SPACE RESIDENTIAL DEVELOPMENTS – AFFORDABLE HOUSING

- A. Purpose and Intent: In addition to those purposes listed in §17-10.5(A) OPEN SPACE RESIDENTIAL DEVELOPMENTS – STANDARD DESIGN, the purpose of this section is to provide incentives as an opportunity for the integration of well-designed affordable housing into *open space residential developments*.
- B. Eligibility and Authority: Any development having eligibility pursuant to the provisions of §17-10.5(B) OPEN SPACE RESIDENTIAL DEVELOPMENTS – STANDARD DESIGN with respect to the size of the development site and its location in an “R” zoning district shall also have eligibility pursuant to the provisions of §17-10.6 OPEN SPACE RESIDENTIAL DEVELOPMENTS – AFFORDABLE HOUSING. An *affordable housing open space residential development* may only be allowed by special permit.
- C. Allowable Uses: The following uses are permitted through the special permit for an *affordable housing open space residential development* subject to all applicable requirements of this section. Where any conflicts occur between the permitted uses listed below and those listed in §17-3.4 TABLE OF USE REGULATIONS, the provisions contained in this section shall prevail. All other uses not specifically listed below shall be governed accordingly by §17-3.4 TABLE OF USE REGULATIONS.
 - 1. In the “Single Residence” zoning districts, permitted uses in an *affordable housing open space residential development* may include single-family dwellings and two-family dwellings.
 - 2. In the “General Residence” zoning districts, permitted uses in an *affordable housing open space residential development* may include single-family dwellings, two-family dwellings, and multi-family dwellings with a maximum of five (5) consecutive attached units.

D. Design Standards: The following design standards shall apply to all *affordable housing open space residential development* plans and govern the development and design process:

1. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
2. Dwellings shall be oriented and placed on lots in such a manner so as to promote visual interest. The intention of reduced setback requirements is to afford designers flexibility in the layout of the lots to encourage, for example, staggered alignment of dwellings and the articulation of individual units within a two-family or multi-family dwelling.
3. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover.
4. The development shall be designed to be visually harmonious with, and complement, the natural features that are to be preserved. Such design shall be achieved through the appropriate siting of dwellings, the creation of “no-cut” buffers, or other methods.
5. Protected Open Space shall have physical and legal access of not less than ten (10') feet in width from a street. Stone bounds shall be installed to demarcate all boundaries between Protected Open Space and private lots within the proposed development.
6. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

E. Dimensional Requirements: The following dimensional requirements shall apply to *affordable housing open space residential developments*. Where these requirements differ from those in §17-4.0 DIMENSIONAL AND DENSITY REGULATIONS, the provisions pursuant to this section shall prevail.

1. Building Height: Maximum building height shall be 2.5 stories.
2. Lot Frontage: Minimum frontage shall be fifty (50') feet. Lots having reduced area shall not have frontage on a street other than a street within the *affordable housing open space residential development*.
3. Lot Width: Minimum lot width shall be fifty (50') feet.
4. Lot Area: Minimum lot area shall be 5,000 square feet. Where multiple units are located on an individual lot, said lot shall contain at least 2,500 square feet for each additional unit.
5. Lot Coverage: Maximum lot coverage shall be fifty (50%) percent.
6. Yard Setbacks for Principal Structures: Principal structures shall have a minimum frontyard setback of ten (10') feet, a minimum sideyard setback of ten (10') feet, and a minimum rearyard setback of ten (10') feet.

7. Yard Setbacks for Accessory Structures: Detached accessory structures shall have a minimum frontyard setback of ten (10') feet, a minimum sideyard setback of four (4') feet, and a minimum rearward setback of four (4') feet.

F. Protected Open Space:

1. Minimum Protected Open Space Requirement. A minimum of fifty percent (50%) percent of the site's total land area shall be Protected Open Space. At least fifty (50%) percent of the site's total wetland area and at least last fifty (50%) percent of the site's total upland area shall be set aside as Protected Open Space. A sample calculation is provided below:

Sample Calculation

Existing Conditions:

20 acre site with 12 acres of upland and 8 acres of wetland

Protected Open Space Minimum Requirements:

50% of the site's total land area = 10 acres

50% of the site's total upland area = 6 acres

50% of the site's total wetland area = 4 acres

Therefore, the protected open space shall consist of at least ten (10) acres of which at least six (6) acres are upland and at least four (4) acres are wetlands.

2. Protected Open Space shall be one (1) contiguous parcel and boundaries shall be configured to avoid narrow strips of land in order to maximize the parcel's utility as wildlife habitat. A parcel of Protected Open Space shall still be considered contiguous even if it is separated by a trail, a path, a non-obstructive easement, or by site design features that in the opinion of the Planning Board better serve the purpose of maximizing wildlife habitat within the proposed development or in combination with abutting conservation land on a neighboring site. To provide pedestrian or wildlife corridors, narrow strips of land may be permitted for the purpose of connecting non-contiguous parcels of conservation land.
3. Protected Open Space may be used for wildlife habitat, conservation, historic preservation, outdoor education, passive recreation, community gardens, or a combination of these uses, and shall be served by suitable access for such purposes.
4. Wastewater and stormwater management systems serving a *standard design open space residential development* may be located within Protected Open Space. Surface systems, such as retention and detention ponds, and the easements that encumber them, shall not qualify towards the minimum open space requirement.
5. Ownership of Protected Open Space: The Protected Open Space shall, at the Planning Board's determination, be conveyed to:
 - a. the City or its Conservation Commission; or
 - b. a non-profit organization, a principal purpose of which is the conservation of open space;

6. Description of Restriction on Protected Open Space: Protected open space, unless conveyed to the City or its Conservation Commission, shall be subject to a permanent Conservation Restriction in accordance with MGL CH. 184 §31 and §32, approved by the Planning Board and enforceable by the City, conforming to the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant, which shall be approved by the Planning Board and enforceable by the City.
7. Maintenance of Protected Open Space: In any case where Protected Open Space is not conveyed to the City or to the Conservation Commission, the City shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the City may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the City shall be assessed against the properties within the development and/or to the owner of the open space. The City may file a lien against the lot or lots to ensure payment of such maintenance.

G. Increase in Number of Allowable Units – Density Bonus:

1. Inclusion of one or more dwelling units restricted in perpetuity to occupancy by low-income to moderate-income households shall entitle a petitioner to additional market rate dwelling units. The number of units restricted to low-income to moderate-income units shall be referred to as the Number of Affordable Units (NAU) and shall be counted as part of the Yield Plan Unit Maximum (YPUM). The number of additional market rate units allowed shall be referred to as the Density Bonus (DB). The Density Bonus shall equal two market rate units for every one affordable unit, but in no instance shall the Density Bonus be greater than twenty-five (25%) percent of the YPUM.

The Density Bonus shall be calculated as the lesser of the following:

- a. 2 x NAU;
- b. 0.25 x YPUM, rounded down to the nearest whole number;

Example 1: If the YPUM is twenty (20) units, and one (1) of those original twenty (20) units is restricted in perpetuity to occupancy by a low-income to moderate-income household, the petitioner is granted a Density Bonus of two (2) units. In this scenario, there would be twenty-one (21) market rate units and one (1) affordable unit.

Example 2: If the YPUM is twenty (20) units, and three (3) of those original twenty (20) units are restricted in perpetuity to occupancy by a low-income to moderate-income household, the petitioner is granted a Density Bonus of five (5) units. In this scenario, there would be twenty-two (22) market rate units and three (3) affordable units.

2. The units added under the Density Bonus must be identified on the Proposed Conditions Plan and must be of the same building type as the affordable units.

- H. Special Permit Procedures: The procedures for the special permit are subject to the provisions pursuant to §17-9.0 SPECIAL PERMITS with the exception of the site plan requirements, which are subject to the provisions contained in §17-10.6(K) FILING APPLICATION.
- I. Criteria for Granting Special Permit: The Planning Board may grant, grant with conditions, or deny a special permit application for an *affordable housing open space residential development*. The Planning Board may grant a special permit pursuant to the provisions of §17-9.0 SPECIAL PERMITS and based on the following criteria:
1. The application complies with all applicable sections of the ZONING ORDINANCE.
 2. The application achieves greater flexibility and creativity as compared to the design of a conventional subdivision.
 3. The application promotes permanent preservation of open space and other natural resources including waterbodies, wetlands, and historical and archaeological resources.
 4. The application promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features as compared to the design of a conventional subdivision.
 5. The application minimizes the total amount of disturbance on the site.
 6. The application provides for well-designed access to open space amenities and pedestrian connections.
 7. The application complies with the design standards pursuant to the provisions of §17-10.6(D) DESIGN STANDARDS.
 8. The application facilitates the design, construction, and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.
 9. The application does not create any undue risk to public health, safety, and welfare.
 10. The application complies with the affordable housing provisions contained in this section.
- J. Relationship Between Special Permit for an *Affordable Housing Open Space Residential Development* and the PLANNING BOARD RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended: Where provisions contained herein impose greater or additional requirements than those contained in the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, the requirements contained herein shall prevail. A special permit application for an *affordable housing open space residential development* may be filed concurrently with, or prior to, the filing of a preliminary or definitive subdivision plan. When filed concurrently, the Planning Board shall act separately on the applications. The denial of the special permit shall preclude the approval of the preliminary or definitive subdivision plan. However, the grant of the special permit shall not imply the approval of the preliminary or definitive subdivision plan. Each action may include conditions and modifications. Should the special permit application for an *affordable housing open space residential development* be filed and granted prior to the filing

of a preliminary or definitive subdivision plan, the Planning Board shall review the preliminary or definitive subdivision plan to determine whether there is any variation from the approved special permit. If the Planning Board determines that a substantial variation exists, the petitioner shall be required to amend the special permit pursuant to §17-9.2 HEARINGS: ACTION prior to the approval of the definitive subdivision plan. A substantial variation shall constitute of the following:

1. An increase in the number of building lots and/or units.
2. A change in the proposed number of units to be restricted for low-income to moderate-income households.
3. A change in the open space that would result in non-compliance with the provisions pursuant to §17-10.6(F) OPEN SPACE.
4. Changes in the roadway, open space, and/or house lot layout or unit placement that would consume more than five (5%) percent or 10,000 square feet (the lesser amount) of the Primary or Secondary Conservation Areas identified as part of the four-step design process.
5. Changes to the design that would cause non-compliance with any of the design standards pursuant to the provisions of §17-10.6(D) DESIGN STANDARDS.

K. Filing Application: The filing of a preliminary or definitive subdivision application for a proposed *affordable housing open space residential development* shall comply with the applicable sections of the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended. The filing of a preliminary plan is encouraged prior to the filing of a definitive plan of a subdivision in order to address any issues or questions and to determine the feasibility of the site design concept before detailed engineering design is performed. The following are the application filing requirements:

1. Four-Step Design Process: At the time of the application for the *affordable housing open space residential development*, the petitioner shall demonstrate to the Planning Board that the following design process was performed, in the order so prescribed, by a multidisciplinary team of qualified professionals to determine the layout of proposed streets, house lots, unit placement if multi-family, including designation of all common areas and open space.
 - a. Identifying Conservation Areas: Identify preservation land by two steps. First, Primary Conservation Areas (such as ANRAD-verified wetlands, riverfront areas, and floodplains regulated by local, state, or federal law) and Secondary Conservation Areas (including otherwise unprotected elements of the natural landscape deemed to be valuable such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area of the site shall consist of land outside identified Primary and Secondary Conservation Areas to the greatest extent practicable.
 - b. Locating Residential Uses: Locate the approximate sites of residential structures within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.

- c. Designing and Locating Streets and Trails: Design and locate streets and trails to access the house lots or units in such a manner so as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas located on or off the subject parcel. New trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- d. Configuring Lot Lines: Draw lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

2. Existing Conditions Plan:

- a. Regional Locus – A locus plan locating the site on the most recent USGS quadrangle map that includes a one-half (0.5) mile radius around the site.
- b. Site Locus – A plan showing the following site elements on a single sheet:
 - 1. location and dimensions of lot boundaries;
 - 2. identification of the underlying zoning district(s), location of the zoning line(s), and any overlay districts;
 - 3. location and dimensions of adjacent rights-of-way or other means of access to the site;
 - 4. location and owners' names of all abutting properties including properties across the street from the subject premises;
 - 5. footprint of existing structures;
 - 6. location and dimensions of any easements, right-of-ways, restrictive covenants and any other restrictions connected with the site;
- c. Primary Conservation Areas – The location of the following site features:
 - 1. ANRAD-verified wetlands, vernal pools, 100-year floodplain, surface waterbodies, and any other resource areas, as well as the twenty-five (25') foot wetlands protection zone pursuant to the LOCAL WETLANDS ORDINANCE (Chapter 18 of the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended);
 - 2. areas within the jurisdiction of the Massachusetts Endangered Species Act (MESA);
 - 3. areas identified as having historic or archaeological significance;
- d. Secondary Conservation Area – The location of the following site features:
 - 1. buffers to wetlands or surface waterbodies pursuant to the WETLANDS PROTECTION ACT (MGL Ch. 131, §40);
 - 2. slopes fifteen (15%) percent or greater;

3. existing stone walls;
 4. scenic vistas including established meadows;
 5. trees that measure over twelve (12") inches at *diameter at breast height*;
 6. rock outcrops;
 7. existing trails;
- e. Potentially Developable Area – A clearly delineated building envelope of the entire site that does not include any Primary Conservation Areas and avoids Secondary Conservation Areas to the greatest extent practicable.

3. Yield Plan: The maximum number of allowable lots and allowable dwelling units shall be derived from a Yield Plan. The Yield Plan shall show a conventional subdivision layout conforming to the applicable provisions of the ZONING ORDINANCE and the RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, to show the maximum number of lots and dwelling units that could be placed upon the site by-right under a conventional subdivision approach. No land that is unusable for building due to being subject to an easement, or otherwise legally restricted, shall be included in the calculation of land available for development. The petitioner shall have the burden of proof to demonstrate that the maximum number of lots and dwelling units resulting from the design and engineering specifications shown on the Yield Plan is feasible.

The number of lots shown on the Yield Plan and accepted by the Planning Board shall be referred to as the Yield Plan Lot Maximum (YPLM). The number of dwelling units shown on the Yield Plan and accepted by the Planning Board shall be referred to as the Yield Plan Unit Maximum (YPUM).

The Yield Plan shall contain, at a minimum, the following information:

- a. parcel boundaries, north arrow, date, legend, title “Yield Plan”, and scale;
- b. the name and address of the record owner(s), the applicant, and the design engineer and/or land surveyor that prepared the plan;
- c. the names, approximate location, and widths of adjacent streets;
- d. existing topography at two (2') foot contour intervals;
- e. soils map using NRCS soil survey information;
- f. all on-site local, state, and federal regulatory resource boundaries (such as wetlands, floodplain, vernal pools) and buffer zones;
- g. lot lines with lot dimensions and land area, or unit locations and footprint and proposed common areas;
- h. location and dimensions of rights-of-way and stormwater management systems;
- i. if available, the location and results of any test pit investigations for soil profiles, percolation rates, and determination of seasonal high groundwater table;

4. Proposed Conditions Plan: The number of units in the Proposed Conditions Plan shall not exceed the sum of the Yield Plan Unit Maximum (YPUM) and the Density Bonus. The number of lots in the Proposed Conditions Plan shall not exceed the sum of the Yield Plan Lot Maximum (YPLM) and the number of lots necessary to build the additional units allowed under the Density Bonus.

The Proposed Conditions Plan shall contain, at minimum, the following information:

- a. the proposed topography of the land shown at a minimum contour interval of two (2') feet; elevations shall be referred to mean sea level;
- b. the existing and proposed lines of streets, ways, driveways, and easements;
- c. proposed street grades;
- d. a detailed narrative explanation of the characteristics, as well as the proposed quantity, use and ownership of the open space;
- e. all proposed landscaped and buffer areas shall be noted on the plan and explained in a detailed narrative;
- f. a summary of the number of single family, two-family, and multi-family units;
- g. architectural elevations for each housing type proposed as part of the *affordable housing open space residential development*;
- h. a list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and easements relating to public infrastructure;
- i. location of each affordable housing unit;
- j. location of each Density Bonus unit;

L. Affordable Housing Restrictions:

1. As a condition of any special permit issued pursuant to this section, the petitioner shall be required to execute an affordable housing deed restriction and/or contractual agreement, in a form acceptable to the Planning Board, which restricts the sales price of such units in perpetuity to assure their affordability. The special permit shall not be exercised until the petitioner records the restriction at the Registry of Deeds.
2. The petitioner shall demonstrate that the restriction is consistent with the Massachusetts Department of Housing and Community Development's (DHCD) regulations and guidelines under MGL CH. 40B. Each affordable unit created in accordance with this section shall have limitations governing its sale and resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for low-income and moderate-income households. The sale controls shall be established through a restriction on the property and shall be in force in perpetuity.
 - a. Eligibility for Affordable Housing Units: Prior to any sale, the buyer shall be determined to be income-eligible by the Attleboro Office of Community Development in accordance with the definitions for low-income and moderate-income housing pursuant to §17-11.0 DEFINITIONS. The U.S. Department of Housing and Urban Development's income guidelines that are in effect at the time of sale shall serve as the criteria to determine income eligibility.

- b. **Sale Price of Affordable Housing Units:** In an effort to maintain the affordability of a property for the life of the property under this subsection and to help low-income and moderate-income individuals gain wealth, the (re)sale formula, administered by the Attleboro Office of Community Development, allows each homeowner of an affordable housing unit the opportunity to earn a profit on the home while still allowing the home to be affordable for the next homeowner. The (re)sale formula calculates the sales price of an affordable housing unit based upon the current fair market value, the profit from the previous owner, and the income status of the current buyer to produce a discounted purchase price.
3. All affordable units constructed under this section shall be situated within the development so as not to be in less desirable locations than market rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market rate units. The location of the affordable units shall be identified on the proposed definitive subdivision plan.
 4. Affordable housing units shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units. Interior features and mechanical systems of affordable units shall conform to the same specifications as apply to market rate units.
 5. Affordable housing units shall be constructed concurrent to the construction of the market rate units in accordance with the minimum requirement schedule outlined below. In calculating the number of building permits required for affordable units, a fraction equal to or greater than 0.5 shall be rounded up to the nearest whole number.

<u>Market Rate Housing Units</u> Percentage of Building Permits Issued	<u>Affordable Housing Units</u> Required Minimum Percentage of Concurrent Building Permits Issued
< 30%.....	0%
≥ 30% and < 50%.....	25%
≥ 50% and < 75%.....	50%
≥ 75% and < 90%.....	75%
≥ 90%.....	100%

§17-10.7 OPEN SPACE RESIDENTIAL DEVELOPMENT – GREEN DESIGN

- A. **Purpose and Intent:** In addition to those purposes listed in §17-10.5(A) OPEN SPACE RESIDENTIAL DEVELOPMENTS – STANDARD DESIGN, the purpose of this section is to provide incentives as an opportunity for the integration of green design into *open space residential developments*, as follows:
 1. Provide incentives to develop healthy residential neighborhoods that are energy efficient and, by using specifically prescribed design standards, decrease non-renewable fuel consumption and carbon emissions.
 2. Provide well-designed green neighborhoods that are compact, walkable, and economically viable.
 3. Provide opportunities to integrate attractive residential, open space, and environmentally-friendly amenities into proposed residential developments that will increase the quality of life of the residents therein.

- B.** Eligibility and Authority: Any development having eligibility pursuant to the provisions of §17-10.5(B) OPEN SPACE RESIDENTIAL DEVELOPMENTS – STANDARD DESIGN with respect to the size of the development site and its location in an “R” zoning district shall also have eligibility pursuant to the provisions of §17-10.7 OPEN SPACE RESIDENTIAL DEVELOPMENTS – GREEN DESIGN. A *green design open space residential development* may only be allowed by special permit.
- C.** Allowable Uses: The following uses are permitted through the special permit for a *green design open space residential development* subject to all applicable requirements of this section. Where any conflicts occur between the permitted uses listed below and those listed in §17-3.4 TABLE OF USE REGULATIONS, the provisions contained in this section shall prevail. All other uses not specifically listed below shall be governed accordingly by §17-3.4 TABLE OF USE REGULATIONS.
1. In the “Single Residence” zoning districts, permitted uses in a *green design open space residential development* may include single-family dwellings and two-family dwellings.
 2. In the “General Residence” zoning districts, permitted residential uses in a *green design open space residential development* may include single-family dwellings, two-family dwellings, and multi-family dwellings with a maximum of five (5) consecutive attached units. Multiple principal residential structures may be located on a single lot.
- D.** Increase in Number of Allowable Units – Density Bonus: The total number of allowable units may be increased provided that the proposed development complies with the design standards of §17-10.7(F) SPECIAL DESIGN STANDARDS FOR RESIDENTIAL AREAS and all other applicable requirements of §17-10.7 OPEN SPACE RESIDENTIAL DEVELOPMENT – GREEN DESIGN. The number of additional units allowed shall be referred to as the Density Bonus (DB) and shall be calculated at 0.25 x YPUM, rounded down to the nearest whole number.
- E.** General Design Standards: The following design standards shall apply to all *green design open space residential development* plans and govern the development and design process:
1. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
 2. Dwellings shall be oriented and placed on lots in such a manner so as to promote visual interest. The intention of reduced setback requirements is to afford designers flexibility in the layout of the lots to encourage, for example, staggered alignment of dwellings and the articulation of individual units within a two-family or multi-family dwelling.
 3. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover.
 4. The development shall be designed to be visually harmonious with, and complement, the natural features that are to be preserved. Such design shall be achieved through the appropriate siting of dwellings, the creation of “no-cut” buffers, or other methods.

5. Protected Open Space shall have physical and legal access of not less than ten (10') feet in width from a street. Stone bounds shall be installed to demarcate all boundaries between Protected Open Space and private lots within the proposed development.
6. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

F. Special Design Standards:

1. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal/alteration. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas.
2. All open space shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
3. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.
4. All residential uses shall have access to pedestrian routes that lead to any proposed amenities within the site. These networks may include crosswalks, sidewalks, bike paths, and trails.
5. Building orientation for residential uses shall be such that at least seventy-five (75%) percent or more of the buildings shall have one axis at least 1.5 times longer than the other, and such that the longer axis is within fifteen (15°) degrees of the geographical east/west axis. The length to width ratio shall be applied only to the length of walls enclosing conditioned spaces; walls enclosing unconditioned spaces such as garages, arcades, or porches shall not be counted in these calculations.
6. Where a building meets the standard for §17-10.7(F)(5) SPECIAL DESIGN STANDARDS, the roof shall be designed so that any protuberances, dormers or other features shall not preclude the future installation of solar power generating technology.
7. Where a building meets the standard for §17-10.7(F)(5) SPECIAL DESIGN STANDARDS, the glazing area on the north-facing and south-facing walls of these buildings should be at least fifty (50%) percent greater than the sum of the glazing area on the east-facing and west-facing walls.
8. At least ninety (90%) percent of the glazing on the south-facing wall shall be completely shaded (using shading, overhangs, etc.) at noon on June 21 and unshaded at noon on December 21.
9. Use paving materials for a minimum of fifty (50%) percent of the site that have a Solar Reflectance Index (SRI) of at least 29.
10. Use roofing materials for a minimum of seventy-five (75%) percent of residential roofing that have a Solar Reflectance Index (SRI) equal to or greater than 78 for low-sloped roofs (slope less than or equal to 2:12) and 29 for steep-sloped roofs (greater than 2:12).

G. Dimensional Requirements: The following dimensional requirements shall apply to *green design open space residential developments*. Where these requirements differ from those in §17-4.0 DIMENSIONAL AND DENSITY REGULATIONS, the provisions pursuant to this section shall prevail.

1. Building Height: No building shall exceed a height of 2.5 stories.
2. Lot Frontage: Minimum frontage shall be fifty (50') feet. Lots having reduced area shall not have frontage on a street other than a street created by the *green design open space residential development*; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot frontage will further the goals of §17-10.7 OPEN SPACE RESIDENTIAL DEVELOPMENT – GREEN DESIGN.
3. Lot Width: Minimum lot width shall be fifty (50') feet.
4. Lot Area: Minimum lot area shall be 5,000 square feet. Where multiple residential units are located on an individual lot, said lot shall contain at least 2,500 square feet for each additional unit.
5. Lot Coverage. Maximum lot coverage shall be fifty (50%) percent of each individual lot. Where multiple units are proposed on a single lot, the assumed lot lines drawn in accordance with the Proposed Conditions Plan shall be used for this calculation. The Planning Board may allow a higher lot coverage percentage in cases where the increased lot coverage will further the goals of this section.
6. Yard Setbacks for Principal Residential Structures: Principal structures shall have a minimum frontyard setback of ten (10') feet, a minimum sideyard setback of ten (10') feet, and a minimum rearyard setback of ten (10') feet.
7. Yard Setbacks for Accessory Structures. Detached accessory structures shall have a minimum frontyard setback of ten (10') feet, a minimum sideyard setback of four (4') feet, and a minimum rearyard setback of four (4') feet.

H. Protected Open Space:

1. Minimum Protected Open Space Requirement. A minimum of fifty percent (50%) percent of the site's total land area shall be Protected Open Space. At least fifty (50%) percent of the site's total wetland area and at least last fifty (50%) percent of the site's total upland area shall be set aside as Protected Open Space. A sample calculation is provided below:

Sample Calculation

Existing Conditions:

20 acre site with 12 acres of upland and 8 acres of wetland

Protected Open Space Minimum Requirements:

50% of the site's total land area = 10 acres

50% of the site's total upland area = 6 acres

50% of the site's total wetland area = 4 acres

Therefore, the protected open space shall consist of at least ten (10) acres of which at least six (6) acres are upland and at least four (4) acres are wetlands.

2. Protected Open Space shall be one (1) contiguous parcel and boundaries shall be configured to avoid narrow strips of land in order to maximize the parcel's utility as wildlife habitat. A parcel of Protected Open Space shall still be considered contiguous even if it is separated by a trail, a path, a non-obstructive easement, or by site design features that in the opinion of the Planning Board better serve the purpose of maximizing wildlife habitat within the proposed development or in combination with abutting conservation land on a neighboring site. To provide pedestrian or wildlife corridors, narrow strips of land may be permitted for the purpose of connecting non-contiguous parcels of conservation land.
3. Protected Open Space may be used for wildlife habitat, conservation, historic preservation, outdoor education, passive recreation, community gardens, or a combination of these uses, and shall be served by suitable access for such purposes.
4. Wastewater and stormwater management systems serving a *standard design open space residential development* may be located within Protected Open Space. Surface systems, such as retention and detention ponds, and the easements that encumber them, shall not qualify towards the minimum open space requirement.
5. Ownership of Protected Open Space: The Protected Open Space shall, at the Planning Board's determination, be conveyed to:
 - a. the City or its Conservation Commission; or
 - b. a non-profit organization, a principal purpose of which is the conservation of open space;
6. Description of Restriction on Protected Open Space: Protected open space, unless conveyed to the City or its Conservation Commission, shall be subject to a permanent Conservation Restriction in accordance with MGL CH. 184 §31 and §32, approved by the Planning Board and enforceable by the City, conforming to the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant, which shall be approved by the Planning Board and enforceable by the City.
7. Maintenance of Protected Open Space: In any case where Protected Open Space is not conveyed to the City or to the Conservation Commission, the City shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the City may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the City shall be assessed against the properties within the development and/or to the owner of the open space. The City may file a lien against the lot or lots to ensure payment of such maintenance.

- I. Special Permit Procedures: The procedures for this special permit are subject to the provisions pursuant to §17-9.0 SPECIAL PERMITS with the exception of the site plan requirements, which are subject to the provisions contained in §17-10.7(L) FILING APPLICATION.
- J. Criteria for Granting Special Permit: The Planning Board may grant, grant with conditions, or deny a special permit application for a *green design open space residential development*. The Planning Board may grant a special permit pursuant to the provisions of §17-9.0 SPECIAL PERMITS and based on the following criteria:
1. The application complies with all applicable sections of the ZONING ORDINANCE.
 2. The application achieves greater flexibility and creativity as compared to the design of a conventional subdivision.
 3. The application encourages permanent preservation of open space and other natural resources including waterbodies, wetlands, and historical and archaeological resources.
 4. The application promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features as compared to the design of a conventional subdivision.
 5. The application minimizes the total amount of disturbance on the site.
 6. The application provides for well-designed access to open space amenities and pedestrian connections.
 7. The application complies with the design standards pursuant to the provisions of §17-10.7(E) GENERAL DESIGN STANDARDS and §17-10.7(F) SPECIAL DESIGN STANDARDS.
 8. The application facilitates the design, construction, and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.
 9. The application does not create any undue risk to public health, safety, and welfare.
 10. The application complies with the *green* provisions contained in this section.
- K. Relationship Between Special Permit for a *Green Design Open Space Residential Development* and the PLANNING BOARD RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended: Where provisions contained herein impose greater or additional requirements than those contained in the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, the requirements contained herein shall prevail. A special permit application for a *green design open space residential development* may be filed concurrently with, or prior to, the filing of a preliminary or definitive subdivision plan. When filed concurrently, the Planning Board shall act separately on the applications. The denial of the special permit shall preclude the approval of the preliminary or definitive subdivision plan. However, the grant of the special permit shall not imply the approval of the preliminary or definitive subdivision plan. Each action may include conditions and modifications. Should the special permit application for a *green design open space residential development* be filed and granted prior to the filing of a preliminary or

definitive subdivision plan, the Planning Board shall review the preliminary or definitive subdivision plan to determine whether there is any variation from the approved special permit. If the Planning Board determines that a substantial variation exists, the petitioner shall be required to amend the special permit pursuant to §17-9.2 HEARINGS: ACTION prior to the approval of the definitive subdivision plan. A substantial variation shall constitute of the following:

1. An increase in the number of building lots and/or units.
2. A decrease in the open space acreage that would result in non-compliance with the provisions pursuant to §17-10.7(H) OPEN SPACE.
3. Changes in the roadway, open space, and/or house lot layout or unit placement that would consume more than five (5%) percent or 10,000 square feet (the lesser amount) of the Primary or Secondary Conservation Areas identified as part of the four-step design process.
4. Changes to the design that would cause non-compliance with any of the design standards pursuant to the provisions of §17-10.7(F) SPECIAL DESIGN STANDARDS.

L. Filing Application: The filing of a preliminary or definitive subdivision application for any proposed *green design open space residential development* shall comply with the applicable sections of the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended. The filing of a preliminary plan is encouraged prior to the filing of a definitive plan of a subdivision in order to address any issues or questions and to determine the feasibility of the site design concept before detailed engineering design is performed. The following are the application filing requirements:

1. Four-Step Design Process: At the time of the application for the *green design open space residential development*, the petitioner shall demonstrate to the Planning Board that the following design process was performed, in the order so prescribed, by a multidisciplinary team of qualified professionals to determine the layout of proposed streets, house lots, unit placement if multi-family, including designation of all common areas and open space.
 - a. Identifying Conservation Areas: Identify preservation land by two steps. First, Primary Conservation Areas (such as ANRAD-verified wetlands, riverfront areas, and floodplains regulated by local, state or federal law) and Secondary Conservation Areas (including otherwise unprotected elements of the natural landscape deemed to be valuable such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area of the site shall consist of land outside identified Primary and Secondary Conservation Areas to the greatest extent practicable.
 - b. Locating Residential Use: Locate the approximate sites of residential structures within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community.

- c. Designing and Locating Streets and Trails: Design and locate streets and trails to access the house lots or units in such a manner so as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas located on or off the subject parcel. New trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- d. Configuring Lot Lines: Draw lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

2. Existing Conditions:

- a. Regional Locus – A locus plan locating the site on the most recent USGS quadrangle map that includes a one-half (0.5) mile radius around the site.
- b. Site Locus – A plan showing the following site elements on a single sheet:
 - 1. location and dimensions of lot boundaries;
 - 2. identification of the underlying zoning district(s), location of the zoning line(s), and any overlay districts;
 - 3. location and dimensions of adjacent rights-of-way or other means of access to the site;
 - 4. location and owners' names of all abutting properties including properties across the street from the subject premises;
 - 5. footprint of existing structures;
 - 6. location and dimensions of any easements, right-of-ways, restrictive covenants and any other restrictions connected with the site;
- c. Primary Conservation Areas – The location of the following site features:
 - 1. ANRAD-verified wetlands, vernal pools, 100-year floodplain, surface waterbodies, and any other resource areas, as well as the twenty-five (25') foot wetlands protection zone pursuant to the LOCAL WETLANDS ORDINANCE (Chapter 18 of the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended);
 - 2. areas within the jurisdiction of the Massachusetts Endangered Species Act (MESA).
 - 3. areas identified as having historic or archaeological significance.
- d. Secondary Conservation Area – The location of the following site features:
 - 1. buffers to wetlands or surface waterbodies pursuant to the WETLANDS PROTECTION ACT (MGL Ch. 131, §40);
 - 2. slopes fifteen (15%) percent or greater;

3. existing stone walls;
 4. scenic vistas including established meadows;
 5. trees that measure over twelve (12") inches at *diameter at breast height*;
 6. rock outcrops;
 7. existing trails;
- e. Potentially Developable Area – A clearly delineated building envelope of the entire site that does not include any Primary Conservation Areas and avoids Secondary Conservation Areas to the greatest extent practicable.

3. Yield Plan: The maximum number of allowable lots and allowable dwelling units shall be derived from a Yield Plan. The Yield Plan shall show a conventional subdivision layout conforming to the applicable provisions of the ZONING ORDINANCE and the RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, to show the maximum number of lots and dwelling units that could be placed upon the site by-right under a conventional subdivision approach. No land that is unusable for building due to being subject to an easement, or otherwise legally restricted, shall be included in the calculation of land available for development. The petitioner shall have the burden of proof to demonstrate that the maximum number of lots and dwelling units resulting from the design and engineering specifications shown on the Yield Plan is feasible.

The number of lots shown on the Yield Plan and accepted by the Planning Board shall be referred to as the Yield Plan Lot Maximum (YPLM). The number of dwelling units shown on the Yield Plan and accepted by the Planning Board shall be referred to as the Yield Plan Unit Maximum (YPUM).

The Yield Plan shall contain, at a minimum, the following information:

- a. parcel boundaries, north arrow, date, legend, title "Yield Plan", and scale;
- b. the name and address of the record owner(s), the applicant, and the design engineer and/or land surveyor that prepared the plan;
- c. the names, approximate location, and widths of adjacent streets;
- d. existing topography at two (2') foot contour intervals;
- e. soils map using NRCS soil survey information;
- f. all on-site local, state, and federal regulatory resource boundaries (such as wetlands, floodplain, vernal pools) and buffer zones;
- g. lot lines with lot dimensions and land area, or unit locations and footprint and proposed common areas;
- h. location and dimensions of rights-of-way and stormwater management systems;
- i. if available, the location and results of any test pit investigations for soil profiles, percolation rates, and determination of seasonal high groundwater table;

4. Proposed Conditions Plan: The number of units in the Proposed Conditions Plan shall not exceed the sum of the Yield Plan Unit Maximum (YPUM) and the Density Bonus. The number of lots in the Proposed Conditions Plan shall not exceed the sum of the Yield Plan Lot Maximum (YPLM) and the number of lots necessary to build the additional units allowed under the Density Bonus.

The Proposed Conditions Plan shall contain, at minimum, the following information:

- a. the proposed topography of the land shown at a minimum contour interval of two (2') feet; elevations shall be referred to mean sea level;
- b. the existing and proposed lines of streets, ways, driveways, and easements;
- c. proposed street grades;
- d. a detailed narrative explanation of the characteristics, as well as the proposed quantity, use and ownership of the open space;
- e. all proposed landscaped and buffer areas shall be noted on the plan and explained in a detailed narrative;
- f. a summary of the number of single family, two-family, and multi-family units;
- g. architectural elevations for each housing type proposed as part of the *open space residential development*;
- h. a list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and easements relating to public infrastructure;
- i. shadow analysis demonstrating proper shading and exposure for applicable standards in §17-10.7(F) SPECIAL DESIGN STANDARDS;
- j. all calculations for Solar Reflectance Index of materials used to comply with the standards in §17-10.7(F) SPECIAL DESIGN STANDARDS or manufacturing specifications that document compliance with those standards;
- k. documents stamped by the architect and a structural engineer showing the appropriate roof load, location of conduit and the potential location of the dash box for those roofs that will be designed for future installation of solar power generating technologies;
- l. location of each Density Bonus unit;

§17-10.8 LANDFILLS

- A. Permit Required: No landfill shall be established or operated in the city unless a special permit has been granted by the Planning Board.
- B. Period of Permit: Each special permit shall be issued for a period of not less than one nor more than five years and, if issued for less than five years, may be extended for up to five years without the requirement for a new site plan or a new public hearing, provided the operation conforms substantially to the approved operations plan, there is no encroachment or probability of encroachment on land subject to regulations under MGL CH. 131, §40, and further

provided that not less than one (1) month prior to the renewal date the owner of the landfill has submitted an application for renewal to the Special Permit Granting Authority with copies to the Superintendent of Public Works – Highway Division, Health Officer, Conservation Commission, and the Municipal Council, and no public hearing has been requested in writing by any of the above. In the event that a public hearing is so requested, or after five years, the same process shall be followed as for the initial permit application. Fees for the initial application and for the renewal with and without a public hearing shall be established by ordinance.

- C. Site Requirements:** A special permit shall only be issued if the proposed landfill site meets the following conditions –
1. Not less than 30 acres no more than 120 acres total site area, excluding waterbodies, streams or land subject to flooding; provided however, that landfills which are strictly limited to the disposal, of ash and sludge produced through the operation of a water pollution treatment facility (to be referred to as “ash/sludge landfills”) shall be allowed a minimum size of twenty acres. Wetlands shall not extend into areas where solid waste will be deposited, unless permitted under an order of conditions under MGL CH. 131, §40. Applications and permits for ash/sludge landfills shall be specifically noted as such and the disposal limitations shall be made a condition of the permit.
 2. Predominant soils suitable for landfill, preferably sand–clay loam with about fifty (50%) percent sand. Use of the site as a landfill shall not interfere with natural surface or subsurface drainage or ground water movement to a water supply or recharge area.
 3. There shall be no dwellings or other buildings for continuous human occupancy, except farms or residences of a landfill caretaker and/or guard, within twenty (20') feet of the proposed limits of the waste deposit area.
 4. The location shall be deemed appropriate with respect to the character of the neighborhood and the recommendations of the Comprehensive Plan on the patterns of land use and traffic in the area.
 5. Buffer area, provided for in paragraph 3, shall be appropriately screened by a landscaped strip not less than twenty–five (25') feet in width, or a solid fence or wall not less than six (6') feet in height, or a chain link fence with a row of densely planted evergreens.
- D. Site Plan:** In addition to the requirements of §17–9.5 REQUIRED SITE PLAN, the site plan for a landfill shall show additional information as required by the Special Permit Granting Authority. A report and plan describing the proposed use upon completion of landfill operations and the provisions for protection from pollution, gases and structural instability shall be submitted. A map of the area surrounding the landfill, identifying the status and condition of streets and access roads, shall also be submitted.
- E. Standards and Conditions of Permit:** The Special Permit Granting Authority shall only grant the permit if it is satisfied that the site is suitable, that the proposed operation has or can be reasonably expected to obtain the necessary approvals, that there will be no nuisance or hazard to public health, and that the proposed landfill will meet a need for the City of Attleboro and its inhabitants. The Special Permit Granting Authority shall impose conditions deemed necessary to protect the public and to minimize adverse impacts. Where appropriate, the Special Permit Granting Authority shall require a bond or other security to ensure compliance with the conditions of the special permit, including compliance with the site plan as it may be modified by the Special Permit Granting Authority.

- F. Site Restoration: As a condition of the special permit, restoration of the land after partial or full completion of operations or after discontinuance of operations, whether voluntary or forced, shall be ensured. Such restoration shall include grading and drainage, as may be needed for the protection of public health and safety, and loaming and planting of all excavated or exposed areas.
- G. Revisions: Any revisions or expansions of landfill operations shall require application and hearing in the same manner as the original special permit.
- H. Exclusive Use: No use of buildings or land for purposes other than waste disposal, resource recovery and activities incidental or accessory thereto, including the residences of a caretaker and/or guard, shall be located on the same site as a landfill. No disposal of sewage, other than treated, disinfected or partially de-watered sludge, and no burning or incineration, except as part of a specially permitted material or energy recovery process, shall be permitted.
- I. Access: A special permit may provide that truck access to the landfill site shall be limited to specified public ways or roads on the land of the applicant, may regulate the size and other specifications of such trucks to prevent nuisances, and may require that appropriate signs, conforming to local and state regulations, be erected at the applicant's expense to direct trucks to the approved landfill access routes.
- J. Failure to obtain assignment of the landfill by the Health Officer or failure to meet all of the requirements of the Commonwealth of Massachusetts, or violation of the terms and conditions of the special permit for landfill shall render such permit void. In such case, the landfill operation shall cease forthwith except for land restoration activities, and shall not be resumed until the violation has been corrected and provisions satisfactory to the Special Permit Granting Authority made to prevent recurrence. An order closing a landfill or suspending its operation by the Health Department, the Massachusetts Department of Environmental Protection (MA DEP), or any other agency having jurisdiction shall be prima facie evidence of a violation of the special permit. In addition to termination of landfill operations, other penalties for violation may be imposed in accordance with Massachusetts General Laws.

§17-10.9 REUSE OF PUBLIC BUILDINGS

- A. In order to permit greater flexibility in the reuse of surplus municipal buildings while maintaining the integrity of the single residential districts, all uses allowed by right or special permit in the General Residence use districts shall be allowed by in the Single Residence use districts by special permit from the Board of Appeals. Further, in order to maximize reuse potential in mixed use areas, all uses allowed by right or special permit in the Business and Industrial/Business Park use districts shall be allowed in the General Residence use districts by special permit from the Municipal Council. Public buildings located in “General Residence”, “Central Business”, “Planned Highway Business” and “Industrial” zoning districts shall be developed in accordance with §17-3.4 TABLE OF USE REGULATIONS.
- B. For the purpose of this ordinance, public buildings shall be defined as municipally owned properties for including but not limited to schools, libraries and fire stations.
- C. The Board of Appeals or Municipal Council may grant said special permit after public hearing and in accordance with the provisions of §17-9.0 SPECIAL PERMITS only when it is satisfied that the proposed reuse is in the best interests of the residents of the area as well as the City of Attleboro. Said special permit shall be for the reuse of existing buildings only. All dimensional and density regulations required in the underlying use district shall be enforced notwithstanding the granting of any such special permit.

§17-10.10 REUSE OF INDUSTRIAL BUILDINGS

- A. In order to permit greater flexibility in the reuse of industrial buildings, this section allows, by special permit, the conversion of such buildings for multi-family residential use with a higher density than permitted in “General Residence” zoning districts. This provision applies only to those buildings in “General Residence” zoning districts that contain a minimum of 30,000 square feet.
- B. For the purpose of this ordinance, industrial buildings shall be defined as factories, warehouses, mills, and plants.
- C. The Board of Appeals may grant said special permit after public hearing and in accordance with the provisions of §17-9.0 SPECIAL PERMITS. Said special permit shall be for the reuse of the existing building and may, at the discretion of the Board of Appeals, allow new construction provided that the applicant has shown that the existing building is used to its capacity.
- D. The dimensional, density, and parking regulations for this provision are as follows:
 - 1. The dimensional regulations for this section shall be those required in the underlying use district (see §17-4.0 DIMENSIONAL AND DENSITY REGULATIONS).
 - 2. The minimum lot size for this section shall be 10,000 square feet plus 2,000 feet for each unit more than two.
 - 3. The minimum number of off-street parking spaces shall be established in the special permit.

§17-10.11 DOWNTOWN RESIDENTIAL CLUSTER DWELLINGS

- A. In order to permit greater flexibility for the development of high-density multi-family residential buildings in the “Central Business” use district while maintaining the integrity of the business zone, residential dwelling units on the first floor level may be allowed by special permit in the “Central Business” use district from the Board of Appeals.
- B. The Board of Appeals may grant said special permit after public hearing and in accordance with the provisions of §17-9.0 SPECIAL PERMITS only when it is satisfied that the proposed development of residential dwelling units on the first floor level is in the best interests of the “Central Business” use district as well as the City of Attleboro. Said special permit shall apply only to the first floor level residential dwelling units.
- C. All dimensional and density regulations required in the underlying use district pursuant to §17-4.0 DIMENSIONAL AND DENSITY REGULATIONS shall prevail notwithstanding the granting of any such special permit. All off-street parking regulations required in the underlying use district pursuant to §17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS shall prevail notwithstanding the granting of any such special permit unless otherwise specified by the Board of Appeals. First floor level façades of such residential buildings, as well as the style of related architectural and landscape features, shall consist of a design and quality so as to complement and enhance the integrity of the adjoining uses and the character of the downtown.

§17-10.12 ADULT ENTERTAINMENT USES

- A.** Permit Required: No adult bookstore, adult motion picture theatre, adult paraphernalia store, adult video store, and adult cabaret, all as defined in §17-11.0 DEFINITIONS hereof, shall be established or operated in the City unless a special permit therefor has been granted by the Municipal Council.
- B.** Standards for Granting Special Permit: No special permit may be granted hereunder for an adult entertainment use unless each of the following standards is fully satisfied –
1. The requested use is listed in §17-3.4 TABLE OF USE REGULATIONS as a special permit in the district for which the application is made.
 2. No adult entertainment establishment shall be located within the following designated areas:
 - a. Two hundred (200') feet from the nearest boundary line of any residential zoning district or from the nearest property line of any residential use;
 - b. Two hundred (200') feet from the nearest property line of any public or private school;
 - c. Two hundred (200') feet from the nearest property line of any church or other religious facility;
 - d. Two hundred (200') feet from the nearest property line of any public park or recreation area and any principal or accessory private recreational facility use;
 - e. Two hundred (200') feet from the nearest property line of any group day care center, family day care center, nursing home and hospital;
 - f. One thousand (1,000') feet from the nearest property line of any other adult entertainment establishment.

The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the adult entertainment establishment is to be located to the nearest boundary line of a residential zoning district, or to the nearest property line of any residential use, public or private school, church or other religious facility, public park or recreational area, group day care center, family day care center, nursing home, hospital or any other adult entertainment use, as the case may be.

3. An adult entertainment use may not be allowed within a building containing other retail, consumer or residential uses, and within a shopping center, shopping plaza, or mall.
4. The adult entertainment use shall comply with the off-street parking requirements contained in §17-5.0 OFF-STREET PARKING AND LOADING REGULATIONS of this ordinance.
5. No adult entertainment use may have any flashing lights visible from outside the establishment.

6. No adult entertainment use may have a freestanding accessory sign. Further, no sign shall rotate, be illuminated or contain reflective or fluorescent elements that sparkle in sunlight.
 7. No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of adult bookstore, adult cabaret, adult motion picture theater, adult paraphernalia store or adult video store shall be displayed in the windows of, or on the building of, any adult bookstore, adult cabaret, adult motion picture theater, adult paraphernalia store or adult video store.
 8. A site plan shall be submitted by the applicant in order that the Special Permit Granting Authority may determine that the above standards have been met. The site plan shall show among other things all existing and proposed buildings, parking spaces, driveways, service areas and other open uses. The site plan, pursuant to subparagraph §17-10.11(B)(2)(A) STANDARDS FOR GRANTING SPECIAL PERMIT through §17-10.11(B)(2)(F) STANDARDS FOR GRANTING SPECIAL PERMIT above, shall also show the distances between the proposed adult entertainment establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day care center, family day care center, nursing home and hospital and any other adult entertainment establishment.
- C. Imposition of Other Conditions: The Special Permit Granting Authority may impose, in addition to any applicable conditions specified herein, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this ordinance, including, but not limited to, the following – front, side, or rear yards greater than the minimum required by this ordinance; screening buffers or planting strips, fences or walls; limitation upon the size, method and time of operation; time duration of the permit; regulation of number and location of driveways or other traffic features; and off-street parking. Furthermore, all standards and conditions of §17-9.4 SPECIAL PERMITS shall be applicable to the granting of a special permit under this section.
- D. Lapse of Permit: Any special permit granted hereunder for an adult entertainment use shall lapse after one (1) year, including such time required to pursue or await the determination of an appeal 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.

§17-10.13 WIRELESS TELECOMMUNICATIONS TOWER/FACILITY

- A. A wireless telecommunications tower, whether a self-supporting lattice tower, guy tower, or self-supporting monopole tower, shall not exceed a maximum height of one hundred and fifty (150') feet in height, as measured by the vertical distance from the ground elevation at the base of the tower to the highest point on the tower, even if said highest point is an antenna, beacon, or any other structure.
- B. Notwithstanding the minimum yard setback provisions set forth in §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS, the setback of a wireless telecommunications tower/facility is located shall be a fall zone equal to a minimum of one hundred and twenty-five (125%) percent of its maximum height (as measured from the ground elevation at the base of the tower to the highest point on the tower, or two hundred (200') feet, whichever is greater even if said highest point is an antenna, beacon, or any other structure). Guy wires used to support a wireless telecommunications tower are exempt from this provision. The Board of Appeals may waive the requirements of this fall zone setback upon receipt of written consent of the owner of all abutting property which are within the setback.

- C. To minimize to the extent possible the proliferation of wireless telecommunication towers in the City, the petitioner and/or owner of a wireless telecommunications tower shall allow other commercial wireless telecommunication service providers, using functionally compatible technology, to co-locate antennae, equipment, and facilities on a wireless telecommunications tower and site, unless satisfactory evidence to the contrary is presented to the Board of Appeals, which concurs that technical constraints prohibit co-location. To ensure co-location, the Board of Appeals may deny a special permit for a wireless telecommunications tower because of inadequate provisions and/or arrangements for co-location.
- D. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- E. No advertising or signage, except for appropriate warning signs and placards, is permitted on wireless telecommunication towers or antennae that provide commercial wireless telecommunications services.
- F. The petitioner shall submit a written statement of non-interference, prepared by a Massachusetts licensed professional engineer, certifying that the wireless telecommunications tower, including reception and transmission functions, will not interfere with the radio, television, or other telecommunication services enjoyed by the public.
- G. The petitioner of a wireless telecommunication tower shall submit a “Power Density Study” (PDS) to the Zoning Board of Appeals and Building Department. The PDS shall demonstrate that the cumulative effect of the electromagnetic field radiation emissions from the wireless telecommunications tower complies with allowable safety levels of the standards of the American National Standards Institute (ANSI) or the standards of the Institute of Electronic and Electrical Engineers (IEEE), whichever has the more current and more restrictive standards at the time the PDS is prepared. The PDS shall be prepared by a qualified Radio Frequency Engineer.
- H. After a wireless telecommunication tower is operational, the tower owner, and any successor-in-title, shall submit a PDS to the Zoning Board of Appeals and Building Department every two (2) years. The first post-operational PDS is due two (2) years from the date of issuance of the Occupancy Permit. A PDS shall be submitted every two (2) years thereafter from the date of the previous PDS. Failure to submit the requisite PDS may serve as grounds to revoke the special permit. The PDS shall demonstrate that the cumulative effect of the electromagnetic field radiation emissions from the wireless telecommunications tower complies with allowable safety levels of the standards of the American National Standards Institute (ANSI) or the standards of the Institute of Electronic and Electrical Engineers (IEEE), whichever has the more current and more restrictive standards at the time the PDS is prepared. Furthermore, the tower facility owner, and any successor-in-title, shall submit an interim PDS to the Zoning Board of Appeals and Building Department whenever the number of antennae installed on the tower is increased or at the Zoning Board of Appeals’ request if, in the opinion of the Board, any new technology installed at the facility might affect the safety standards established by ANSI or IEEE. For example, if the number of antennae is increased on the tower before the first post-operational PDS is submitted, or if the number of antennae is increased on the tower after the first post-operational PDS is submitted but before the next scheduled PDS is due, the tower facility owner, and any successor-in-title, shall submit an interim PDS demonstrating that the cumulative effect of the electromagnetic field radiation emissions from the wireless telecommunications tower complies with allowable safety levels of ANSI standards or IEEE standards, whichever has the more current and more restrictive standards at the time the PDS is prepared. Every two (2) year PDS and any interim PDS shall be prepared by a qualified Radio Frequency Engineer.

- I.** It is inherent that a wireless telecommunications tower/facility may pose some visual impacts due to the tower height. To reduce the visual impacts, without restricting the installation of the facility, the petitioner shall:
1. demonstrate that the wireless telecommunication tower's visual impacts will be minimized on neighboring properties through project site planning and proposed mitigation; this may include, but not be limited to, information regarding site selection, design or appearance, buffering, and screening of ground mounted electrical and control equipment;
 2. demonstrate that the wireless telecommunications tower is designed to blend into the surrounding environment through the use of non-reflective, unobtrusive, color and camouflaging architectural treatment;
 3. demonstrate that the wireless telecommunications tower shall not be artificially illuminated unless required by the Federal Aviation Administration (FAA) or other federal or state authority; if illumination is required, the petitioner shall provide a copy of such requirement to establish the requisite markings and/or lighting; and
 4. demonstrate that clearing of natural vegetation is limited to that which is necessary for the construction, operation and maintenance of the wireless telecommunications tower and as otherwise prescribed by applicable laws, regulations, and ordinances;
- J.** At such time that a wireless telecommunications tower and its associated facilities are scheduled to be abandoned or their operations discontinued, the owner shall notify the Building Department in writing by certified mail of the proposed date of abandonment or discontinuation of operations. The owner shall physically remove the wireless telecommunications tower and its associated facilities within ninety (90) days from the date of abandonment or discontinuation of operations. The cost for dismantling and removing the wireless telecommunications tower and its associated facilities, as well as for any necessary site restoration, shall be at the owner's sole expense. The ninety (90) day period may be extended at the written request of the owner and at the discretion of the Building Inspector. In the event that a wireless telecommunications tower and its associated facilities are not removed within ninety (90) days from the date of abandonment or discontinuation of operations, the City shall have the authority to enter the subject property and physically remove the wireless telecommunications tower.
- K.** In the event that the owner fails to give such notice, the wireless telecommunications tower may be considered abandoned/discontinued at the discretion of the Building Inspector if it is not used for a continuous period of twelve (12) months. After the twelve (12) month period of abandonment, the Building Inspector may issue a Notice of Abandonment to the owner. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from "notice" receipt date. The Building Inspector shall withdraw the Notice of Abandonment and notify the owner that said "notice" has been withdrawn if the owner provides sufficient information that demonstrates the wireless telecommunications tower has not been abandoned. If the owner fails to respond to the Notice of Abandonment, or if the Building Inspector finds the owner's response does not demonstrate that the wireless telecommunications tower has not been abandoned, the owner shall physically remove the wireless telecommunications tower and its associated facilities within ninety (90) days from the date of the Notice of Abandonment. The cost for dismantling and removing the wireless telecommunications tower and its associated facilities, as well as for any necessary site restoration, shall be at the owner's sole expense. If the owner fails to physically remove the wireless telecommunications tower within the ninety (90) day period, the City shall have the authority to enter the subject property and physically remove the wireless telecommunications tower.

- L. The Board of Appeals shall require, as a condition of approval, that the recipient of the special permit furnish a performance bond from a surety company licensed to do business in the Commonwealth of Massachusetts naming the City of Attleboro as the Obligee. Such performance bond shall be held by the City Treasurer and be in a form that is reasonably acceptable to the City Treasurer. The amount of the surety bond shall be set by the Board of Appeals to be commensurate to the cost for dismantling and removing the wireless telecommunications tower and its associated facilities, as well as for any necessary site restoration, in the event the City must take such action. The duration of the performance bond shall be for a period of ninety-nine (99) years. The petitioner shall submit a detailed estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism to accommodate for the rate of inflation over ninety-nine (99) years. The recipient of the special permit may, at its option, post a cash performance bond that satisfies the requirements of this section as an alternative to furnishing a corporate surety bond.

§17-10.14 SMALL WIND ENERGY SYSTEMS

- A. A wind turbine tower, whether a self-supporting monopole or guyed monopole structure, shall not exceed a maximum height of one hundred (100) feet in height in any “B” or “T” zoning district, as measured by the vertical distance from the ground elevation at the base of the tower to the tip of the wind turbine blade when it is at its highest point. The petitioner shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
- B. A wind turbine tower, whether a self-supporting monopole or guyed monopole structure, shall not exceed a maximum height of fifty (50) feet in height in any “R” zoning district, as measured by the vertical distance from the ground elevation at the base of the tower to the tip of the wind turbine blade when it is at its highest point. The petitioner shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
- C. Notwithstanding the minimum yard setback provisions set forth in §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS, the setback of a wind turbine tower from the property lines of the lot on which it is located shall be a fall zone equal to a minimum of two hundred (200%) percent of its maximum height (as measured from the ground elevation at the base of the tower to the tip of the wind turbine blade when it is at its highest point), or 200 feet, whichever is greater. Guy wires used to support a wind turbine tower are exempt from this provision. The Board of Appeals may waive the requirements of this fall zone setback upon receipt of written consent of the owner of any abutting property which could be impacted by such waiver if the tower were to fall down.
- D. A small wind energy system shall not exceed sixty (60) decibels using the A scale (dBA), as measured at the property line, except during short-term events such as severe wind storms and utility outages.
- E. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- F. No advertising or signage is permitted on a wind turbine tower except for the manufacturer’s or installer’s identification on the wind turbine and appropriate warning signs and placards.

- G. It is inherent that a small wind energy system may pose some visual impacts due to the tower height needed to access the wind resources. To reduce the visual impacts, without restricting access to the wind resources, the petitioner shall:
1. demonstrate that the small wind energy system's visual impacts will be minimized on neighboring properties through project site planning and proposed mitigation; this may include, but not be limited to, information regarding site selection, turbine design or appearance, buffering, and screening of ground mounted electrical and control equipment; all electrical conduits shall be underground;
 2. demonstrate that the small wind energy system is designed to blend into the surrounding environment through the use of non-reflective, unobtrusive, color and camouflaging architectural treatment;
 3. demonstrate that the small wind energy system shall not be artificially illuminated unless required by the Federal Aviation Administration (FAA) or other federal or state authority; if illumination is required, the petitioner shall provide a copy of such requirement to establish the requisite markings and/or lighting;
 4. demonstrate that the small wind energy system is sited in a manner that does not result in significant flickering or shadowing impacts; the petitioner has the burden of proving that this effect does not have significant adverse impact on neighboring properties either through siting or mitigation; and
 5. demonstrate that clearing of natural vegetation is limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances;
- H. At such time that a small wind energy system is scheduled to be abandoned or its operations discontinued, the owner shall notify the Building Department in writing by certified mail of the proposed date of abandonment or discontinuation of operations. The owner shall physically remove the small wind energy system and its associated facilities within ninety (90) days from the date of abandonment or discontinuation of operations. The cost for dismantling and removing the small wind energy system and its associated facilities, as well as for any necessary site restoration, shall be at the owner's sole expense. The ninety (90) day period may be extended at the written request of the owner and at the discretion of the Building Inspector. In the event that a small wind energy system and its associated facilities are not removed within ninety (90) days from the date of abandonment or discontinuation of operations, the City shall have the authority to enter the subject property and physically remove the small wind energy system.

In the event that the owner fails to give such notice, the small wind energy system may be considered abandoned/discontinued at the discretion of the Building Inspector if it is not used for a continuous period of twelve (12) months. After the twelve (12) month period of abandonment, the Building Inspector may issue a Notice of Abandonment to the owner. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from "notice" receipt date. The Building Inspector shall withdraw the Notice of Abandonment and notify the owner that said "notice" has been withdrawn if the owner provides sufficient information that demonstrates the small wind energy system has not been abandoned. If the owner fails to respond to the Notice of Abandonment, or if the Building Inspector finds the owner's response does not demonstrate that the small wind

energy system has not been abandoned, the owner shall physically remove the small wind energy system and its associated facilities within ninety (90) days from the date of the Notice of Abandonment. The cost for dismantling and removing the small wind energy system and its associated facilities, as well as for any necessary site restoration, shall be at the owner's sole expense. If the owner fails to physically remove the small wind energy system within the ninety (90) day period, the City shall have the authority to enter the subject property and physically remove the small wind energy system.

- I. The Board of Appeals shall require, as a condition of approval, that the recipient of the special permit furnish a performance bond from a surety company licensed to do business in the Commonwealth of Massachusetts naming the City of Attleboro as the Obligee. Such performance bond shall be held by the City Treasurer and be in a form that is reasonably acceptable to the City Treasurer. The amount of the surety bond shall be set by the Board of Appeals to be commensurate to the cost for dismantling and removing the wind turbine tower and its associated facilities, as well as for any necessary site restoration, in the event the City must take such action. The duration of the performance bond shall be for a period of ninety-nine (99) years. The petitioner shall submit a detailed estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism to accommodate for the rate of inflation over ninety-nine (99) years. The recipient of the special permit may, at its option, post a cash performance bond that satisfies the requirements of this section as an alternative to furnishing a corporate surety bond.

§17-10.15 REGISTERED MARIJUANA DISPENSARY USES

- A. Purpose and Intent: The purpose of this ordinance is to allow by special permit the establishment of registered marijuana dispensaries registered under 105 CMR 725.100 where the primary purpose is to provide the lawful distribution of medical marijuana that has been recommended by a licensed physician, to minimize the adverse impacts of registered marijuana dispensaries on adjacent properties, residential neighborhoods, schools, and recreational facilities, and to regulate the siting, design, placement, and security of a registered marijuana dispensaries.
- B. Permit Required:
 1. No registered marijuana dispensary, as defined in §17-11.0 DEFINITIONS hereof, shall be established or operated in the City unless a special permit therefore has been granted by the Municipal Council.
 2. Special Permit Application Requirements – A special permit application for a registered marijuana dispensary must include all of the following information:
 - a. If the application is being filed by an agent for the owner, documentation from the owner must explicitly acknowledge that the owner is aware that the proposed use of the property is a registered marijuana dispensary.
 - b. The legal name of the registered marijuana dispensary.

- c. A notarized copy of the name, address, and date of birth of each principal officer and member of the registered marijuana dispensary and a notarized copy of the name, address, and date of birth of each registered marijuana dispensary agent.
- d. A copy of the registered marijuana dispensary's Certificate of Registration.
- e. The proposed activities, including how the registered marijuana dispensary intends to operate as an MMDC and/or an MMCC.
- f. Evidence that the applicant has adequate liability insurance.
- g. Detailed written operating procedures as required by the Massachusetts Department of Public Health in 105 CMR 725.105 and as otherwise required by other applicable law or regulation.
- h. The identity and location of any other registered marijuana dispensaries for which the applicant may cultivate marijuana.
- i. The proposed waste disposal procedures manual for the registered marijuana dispensary.
- j. A list of any waivers from the Massachusetts Department of Public Health regulations granted for the registered marijuana dispensary.
- k. A detailed floor plan of the premises of the proposed registered marijuana dispensary that identifies the gross square footage and describes the functional areas of the establishment, including areas for any preparation of marijuana-infused products.
- l. The name, telephone number, and email address of an emergency/after-hours contact person for the establishment.

C. Applicability:

1. The production, processing, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted by special permit as a registered marijuana dispensary under this section.
2. A registered marijuana dispensary shall not be established in the City except in compliance with the provisions set forth under this section.
3. Nothing in this ordinance shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

D. Standards for the Granting of a Special Permit: In addition to the special permit requirements contained in §17-9.0 SPECIAL PERMIT, no special permit may be granted hereunder for a registered marijuana dispensary use unless all of the following standards are satisfied:

1. No registered marijuana dispensary use shall be located within the following designated areas. The distance between the registered marijuana dispensary and uses cited below, shall be measured in a straight line, without regard for intervening structures, from any parcel line of the real property on which the registered marijuana dispensary is located or to be located, to the nearest point on a parcel line of the real property referenced herein.
 - a. One hundred (100') feet from any residential zoning district.
 - b. One thousand (1,000') feet from a parcel on which another registered marijuana dispensary (including the site of the dispensary and/or any cultivation activities) is established.
 - c. One thousand (1,000') feet from a parcel on which any adult entertainment use is established.
 - d. One thousand hundred (1,000') feet from a parcel containing a public or private school.
 - e. Five hundred (500') feet a registered daycare center, and any family day care home and group day care home.
 - f. Five hundred (500') feet from any public park, recreational area, or facility in which children commonly congregate.
2. The Municipal Council shall refer a copy of the special permit application, floor plan and site plan to the Inspection Department, Fire Department, Police Department, Health Department, and the Department of Planning and Development. These departments shall review the application and submit written comments to the Municipal Council within thirty (30) days of the date of distribution of the application to said departments, but prior to the close of the public hearing. The lack of any department submitting written comments to the Municipal Council within the timeline specified herein shall not preclude the Municipal Council from rendering a decision on the special permit application.
3. Minimum Design Standards:
 - a. The maximum permissible gross floor area of a registered marijuana dispensary establishment operating as a medical marijuana dispensary center is three thousand (3,000) square feet or less.
 - b. The entrance shall be visible from a public street or from the establishment's frontage.
 - c. A registered marijuana dispensary establishment must be located in a permanent building and shall not be located in a trailer, cargo container, motor vehicle, or in any other impermanent space.

- d. A registered marijuana dispensary use shall comply with the applicable dimensional requirements contained in §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS.
 - e. A registered marijuana dispensary use shall comply with the off-street parking requirements contained in §17-5.0 OFF-STREET PARKING AND LOADING REGULATIONS.
 - f. The site shall be properly landscaped, including lawn areas, trees, and shrubbery provided that any shrubs shall have a maximum mature height of not more than two and one-half (2.5') feet.
 - g. The site shall be properly illuminated both for aesthetic purposes and security purposes.
 - h. The security of the facility and the site shall comply with 105 CMR 725.110.
 - i. Signage and Wares:
 - 1. A registered marijuana dispensary may only identify the establishment by the registered name.
 - 2. Any exterior signage shall conform to the requirements set forth in 105 CMR 725.105(L).
 - 3. Any exterior signage shall not depict figures or symbols related to marijuana.
 - 4. Any exterior signage shall not display advertisements for marijuana or any brand name or utilize graphics related to marijuana or marijuana paraphernalia.
 - 5. Off-site signage in any form, including billboards, shall not be allowed.
 - 6. Any illumination of exterior signage shall be turned off at closing in accordance with 105 CMR 725.105(L).
 - 7. Marijuana, marijuana-infused products, or associated products shall not be displayed or clearly visible to a person from the exterior of a registered marijuana dispensary establishment.
 - 8. A registered marijuana dispensary establishment shall not have a drive-thru or provide/offer any drive-thru service.
 - j. The disposal of waste shall comply with 105 CMR 725.105(J).
4. A site plan shall be submitted by the applicant in order that the Special Permit Granting Authority may determine that the proposed establishment complies with the above standards. The site plan shall show among other things the proposed registered marijuana dispensary, parking spaces, driveways, service areas and other open uses. The site plan, pursuant to subparagraph §17-10.15(D)(1)(A) STANDARDS FOR GRANTING SPECIAL PERMIT through §17-10.15(D)(1)(F) STANDARDS FOR GRANTING SPECIAL PERMIT above, shall also show the distances between the proposed registered marijuana dispensary and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day care center, family day care center, and any other adult entertainment establishment.

- E.** Openness of Premises: Any and all distribution, possession, storage, display, sales or other distribution of marijuana shall occur only within the restricted interior area of a registered marijuana dispensary and shall not be visible from the exterior of the business. Therefore, a registered marijuana dispensary shall be designed and constructed such that no area or portion where marijuana is cultivated or stored is visible from the exterior. Consumption of marijuana on the premises or grounds of a registered marijuana dispensary is prohibited, provided however that the RMD may administer marijuana for the purposes of teaching use of vaporizers, or demonstration of use of other products as necessary.
- F.** Cultivation, Acquisition and Distribution Requirements: Cultivation of medical marijuana, marijuana-infused products, or associated products shall follow the regulations set forth in 105 CMR 725.105(B).
- G.** Additional Conditions, Limitations, and Safeguards:
- 1.** Implementation of an Act for the Humanitarian Medical Use of Marijuana (105 CMR 725.000) – Applicants shall be required to follow the regulations set forth in 105 CMR 725.000.
 - 2.** No Entitlement Or Vested Rights To Permitting – No person shall be deemed to have any entitlement or vested rights to permitting under this ordinance by virtue of having received any prior permit from the City including, by way of example only, any zoning permit or any wholesale food manufacturer’s license. In order to lawfully operate a registered marijuana dispensary, any person must qualify for and obtain a special permit in accordance with the requirements of this ordinance.
 - 3.** Conditions – The Municipal Council shall attach conditions, limitations and other appropriate safeguards to the special permit. Conditions shall include, but not be limited to:
 - a.** The special permit shall not be assignable or transferable to any other person, and shall remain exclusively with the applicant.
 - b.** The registered marijuana dispensary shall supply the Municipal Council on a continuing basis of any change in the name and contact information for the emergency/after-hours contact.
 - c.** That the recipient of the special permit shall obtain an RMD registration and Compliance Certificate from the Department of Public Health to operate the registered marijuana dispensary within the City of Attleboro.
 - d.** In the event the Massachusetts Department of Public Health cancels, revokes or non-renews the Certificate of Registration for the registered marijuana dispensary, the Municipal Council shall immediately commence proceedings to revoke special permit.
 - e.** The registered marijuana dispensary shall be required to remove all materials, plants, equipment and other paraphernalia upon the revocation, abandonment, cancellation, lapse, non-renewal or termination of the Certificate of Registration and the special permit. The Municipal Council may require the applicant to post a bond as a condition of approval to cover the costs of any demolition or dismantling associated with the registered marijuana dispensary.

- f. No later than January 31 of every year in operation, the registered marijuana dispensary shall file a copy of all current applicable state licenses and registrations for the establishment, any updates to its operating policies, the current insurance policies for the establishment, and demonstrate compliance with the conditions of the special permit.
 - g. The registered marijuana dispensary shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Municipal Council within twenty-four (24) hours of creation. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
 - h. The registered marijuana dispensary 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 establishment issued by the Massachusetts Department of Public Health or other state agency, as applicable, with the Municipal Council within forty-eight (48) hours of receipt by the registered marijuana dispensary.
 - i. The Municipal Council may impose, in addition to any applicable conditions specified herein, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this ordinance, including, but not limited to, the following – front, side, or rear yards greater than the minimum required by this ordinance; screening buffers or planting strips, fences or walls; limitation upon the size, method and time of operation; time duration of the permit; regulation of number and location of driveways or other traffic features; and off-street parking. Furthermore, all standards and conditions of §17-9.4 SPECIAL PERMITS shall be applicable to the granting of a special permit under this section.
- H. Lapse of Permit:** Any special permit granted hereunder for a registered marijuana dispensary use shall lapse after one (1) year, including such time required to pursue or await the determination of an appeal 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.
- I. Conflict-of-Laws:** In the event of any conflict between the provisions of this ordinance and any other applicable state or local law, the stricter provision, as deemed by the Zoning Enforcement Officer, shall prevail. In addition, any terms not defined in this section but defined elsewhere in the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended, Building and Board of Health Regulations, or any Commonwealth of Massachusetts Laws and regulations shall have the meanings given therein to the extent the same are not inconsistent with this section.

§17-10.16 TRANSIT ORIENTED DEVELOPMENT

§17-10.16.1 PURPOSE AND INTENT

The purpose of the Transit Oriented Development (TOD) zoning district is to create and promote a blend of compact and very highly intensive residential, retail, office, civic entertainment, and institutional uses, and to create and promote the retention of uses in areas with high potential for enhanced mass transit and pedestrian activity with less reliance on the automobile. Pedestrian circulation and transit access are especially important and have an increased emphasis in the TOD zoning district. The development standards are designed to require compact urban growth, opportunities for increased choice of transportation modes, and a safe and pleasant pedestrian environment by encouraging an attractive streetscape, a functional mix of complementary uses, and the provision of facilities that support transit use, bicycling, and walking.

§17-10.16.2 REQUIRED SITE PLAN

The contents of a site plan for any proposed development in the “TOD” zoning district, whether by-right or by special permit, shall comply with the provisions pursuant to §17-15.0(J) SITE PLAN REVIEW – MINOR AND MAJOR SITE PLAN REVIEW SUBMISSION MATERIALS.

§17-10.16.3 DIMENSIONAL AND INTENSITY REQUIREMENTS

1. The minimum lot area is 20,000 square feet.
2. The minimum building height is two (2) stories.
3. The maximum building height is seven (7) stories. Further provided that no building shall exceed by more than two stories or thirty (30') feet, whichever is less, the height of any abutting building. If a proposed building is to be constructed between two existing buildings of varying height, the shorter of the two existing buildings shall serve as the reference.
4. The minimum lot frontage is fifty (50') feet. Where deemed appropriate, the frontage may be reduced to less than fifty (50') feet or waived completely by special permit provided that pedestrian and vehicular access to a development lot is provided by easement or other method and furthermore, it is demonstrated that such a reduction furthers the purposes, the spirit and intent of the “TOD” zoning district.
5. The minimum lot width is fifty (50') feet. Where deemed appropriate, the minimum lot width may be reduced by special permit, but in no case can it be reduced to less than the lot frontage.
6. The minimum front yard setback in the “TOD” zoning district is zero (0') feet. In instances when the minimum lot frontage requirement is waived by special permit pursuant to §17-10.16.4 DIMENSIONAL REQUIREMENTS, any building on the landlocked lot must maintain a minimum twenty (20') foot setback from the adjoining property line(s) that is nearest to the principal building on the adjoining property.
7. The minimum side yard setback in the “TOD” zoning district is zero (0') feet. Alleys between buildings may be encouraged for the provision of beneficial public connections, open spaces, and walkway connections, where deemed appropriate.
8. The minimum rear yard setback in the “TOD” zoning district is zero (0') feet.
9. Minimum building coverage is sixty (60%) percent.
10. Maximum building coverage is eighty-five (85%) percent.
11. The maximum floor-to-area ratio (FAR) is 3.
12. The number of dwelling units is a function of the proportion of the FAR devoted to residential use.

§17-10.16.4 OFF-STREET PARKING REGULATIONS

The contents of §17-10.16.5 OFF-STREET PARKING REGULATIONS establishes off-street parking lot standards within the “TOD” zoning district, which satisfy the general purposes established in §17-10.16.1 PURPOSE AND INTENT. These standards are intended to establish a guideline, they may be flexibly administered due to peculiarities of any given proposal, as there are a variety of types of land uses and the relationships between them. Therefore, the permit granting authority may permit variations from the regulations herein by modifying standards if it finds that such departure is more likely to satisfy the intent set forth herein.

1. Shared off-street parking is encouraged particularly on lots serving more than one principal use (see §17-5.5 COMBINED FACILITIES).
2. Parking lots shall be located to the rear of buildings.
3. A minimum of fifteen (15%) percent of all parking lots shall be landscaped.
4. Parking lots with more than thirty (30) off-street parking stalls shall be interrupted by properly designed raised landscaped islands of at least five (5') feet in width and twenty (20') feet in length. Each landscaped island shall contain at least two (2) shade trees. Landscaped islands may be used in the calculation to satisfy the provisions of §17-10.16.5(3) OFF-STREET PARKING REGULATIONS.
5. Parking lots shall be screened along all sidewalks by a landscaped buffer of not less than four (4') feet in width.
6. Parking lots shall provide adequate security lighting and landscape lighting.
7. Parking lots shall provide well-designed and marked pedestrian walkway connections to the sidewalk system.
8. Parking structures shall provide well-designed and marked connections to surface parking lots, walkways/sidewalks, and streets.
9. Parking structures shall be designed, to the extent practicable, to be compatible with adjacent buildings and architecture.
10. Parking structures and parking lots shall display well-placed and proper signage that shows the location and best means of access to the commuter rail station.
11. Parking structures shall be designed so that vehicles are not visible/discernible from outside view through the use of architectural treatments.

§17-10.16.5 DESIGN STANDARDS AND GUIDELINES

In addition to the site plan review criteria contained in §17-15.0(K) SITE PLAN REVIEW CRITERIA, the following shall apply to the “TOD” zoning district.

1. The minimum width of unobstructed sidewalks shall be five (5') feet and they shall consist of concrete and held in place by granite curbing. The typical curbing reveal shall be six (6") inches but this may be reduced at the discretion of the Superintendent of Public Works based on existing curbing conditions in the field. Sidewalks shall comply with all applicable ADA requirements.

2. The minimum width of a one-way driveway shall be twelve (12') feet. The minimum width of a two-way driveway shall be eighteen (18') feet and they shall consist of concrete and held in place by granite curbing. The minimum width of either a one-way driveway or a two-way driveway may be increased at the discretion of the Fire Chief.
3. All buildings, landscaped areas, walkways, and parking areas shall be properly illuminated with aesthetic and security considerations. Lighting fixtures and poles shall complement, or to the extent practicable, conform to the style, height, color, and features of public streetscape lighting in the "TOD" zoning district.
4. All utilities shall be placed underground.
5. The main entrance of any building shall face a street. For purposes of this ordinance, a driveway does not constitute a street.
6. The main entrance of any building shall not be set back more than five (5') feet from the front property unless a public seating area or plaza is provided in front of the building.
7. Except for façades facing a parking lot, façade modulation through window patterns, varying materials/colors/textures, awnings, varying rooflines, and/or other architectural treatments are encouraged. Monolithic blank walls are strongly discouraged.
8. The ground floor of a front commercial façade shall contain no less than thirty (30%) percent glass.
9. Architectural style and materials shall be compatible with surrounding buildings and must provide a visually interesting environment.
10. All buildings shall articulate the line between the ground floor with the upper level floor(s) with a cornice, canopy, or other architectural visual device.
11. The height of any sign, whether freestanding or affixed to a building, may extend no higher than the height of the ground story.
12. Signage may be either parallel or perpendicular to a building. If a sign is perpendicular, the bottom of the sign must have no less than seven (7') feet of clearance as measured from the ground elevation and may project no further than three (3') feet from the building's façade.
13. The total area of a sign shall not exceed twenty-five (25%) percent of a building's ground floor front façade wall area.
14. Signage may be double-sided.
15. Signage may be illuminated. The permit granting authority reserves the right to regulate the illumination of a sign whether internally or externally illuminated, the hours of illumination, the relative brightness of the illumination, and other characteristics such as gyration, flashing, message boards, so forth.
16. Signage's use of color, shape, and material shall be complementary.

SECTION 17-11.0

DEFINITIONS

§17-11.1 GENERAL

For the purpose of this ordinance and unless the context of usage clearly indicates another meaning, certain terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words “used” or “occupied” include the words “designed”, “arranged”, “intended”, or “offered”, to be used or occupied; the words “building”, “structure”, “lot”, “land”, or “premises” shall be construed as though followed by the words “or any portion thereof” and the word “shall” is always mandatory and not merely directory. Terms and words not defined herein but defined in the Massachusetts State Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster’s Unabridged Dictionary. Uses listed in the §17-3.4 TABLE OF USE REGULATIONS – RETAIL, SERVICE AND COMMERCIAL and §17-3.4 TABLE OF USE REGULATIONS – WHOLESALE, TRANSPORTATION AND INDUSTRIAL shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

§17-11.2 DEFINITIONS

Abandonment: The visible or otherwise apparent intention of an owner to discontinue to use of a building or premises; or the removal of the characteristic equipment of furnishing used in the performance of the non-conforming use, without its replacement by similar equipment or furnishings; or the replacement of the non-conforming use of building by a conforming use or building.

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 MGL CH. 272, §31. For the purpose hereof, the words “substantial or significant” shall mean more than twenty-five (25%) percent of the establishment’s inventory of stock or more than twenty-five (25%) percent of the establishment’s gross floor area.

Adult Cabaret: A nightclub, bar, restaurant, tavern, dance hall, or similar commercial establishment that regularly features:

- a. persons who appear in a state of nudity; or
- b. live performances which are characterized by an emphasis depicting anatomical areas specified as less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola, and human genitals in a state of sexual arousal, or relating to sexual conduct or sexual excitement as defined in MGL CH. 272, §31; or
- c. films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of anatomical areas specified as above, or relating to sexual conduct or sexual excitement as defined in MGL CH. 272, §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 MGL CH. 272, §31.

Adult Paraphernalia Store: An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys that are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL CH. 272, §31. For the purposes hereof, the words “substantial or significant” shall mean more than twenty–five (25%) percent of the establishment’s inventory of stock or more than twenty–five (25%) percent of the establishment’s gross floor area.

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 MGL CH. 272, §31. For the purposes hereof, the words “substantial or significant” shall mean more than twenty–five (25%) percent of the establishment’s inventory of stock or more than twenty–five (25%) percent of the establishment’s gross floor area.

Alteration: Any construction, reconstruction, or other action resulting in a change in the structural parts or height, number of stories or exits, size, use of location of a building or other structure.

Amusement Arcade: Any premises wherein over fifty (50%) percent of the floor space available to the public is reserved for mechanical or electrical devices furnishing amusement upon a deposit of money or five or more such amusement devices are installed. For purposes of computing percentage of floor space used, each amusement device shall be considered to require space equal to two hundred (200%) percent of the actual floor space covered by said device.

Antenna: Any structure, device, or platform used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional antennae (such as panels, microwave dishes, and satellite dishes) and omnidirectional antennae (such as whip antennae), which are located on the exterior of, or outside of, any wireless telecommunications tower, building, or other structure.

Automobile Body Shop and/or Facility For Major Repairs: An establishment, available to the public and operated for gain, engaging in any type of automobile body work, painting, and/or repairs, including major engine and transmission repairs, and excluding the selling of automobile fuel.

Automobile Service Station: An establishment, other than a private garage, available to the public and operated for gain which supplies fuel, oil and automobile accessories to motor vehicles, and which may include grease racks or elevators and may provide repairs for the normal and safe operation of automobiles, excluding body work and painting.

Basement: A portion of a building, partly below grade, which has less than one–half of its height, measured from finished floor to finished ceiling below the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is four (4') feet or more above the average grade.

Bituminous Concrete/Asphalt Plant: a use of land, building or structure, or parts thereof, whether portable or non-portable, which produces and/or recycles asphalt or similar coated road stone and has equipment designed to heat and dry aggregate and to mix mineral aggregate with asphalt cement, bitumen, liquid asphalt, and/or tar. Asphalt plant includes, but is not limited to, the systems for screening, handling, storing and weighing hot aggregate, systems for loading, transferring and storing mineral filler, systems for mixing asphalt concrete, stockpiling and storage of bulk materials used in the process or finished product(s) manufactured on the premises, the storage and maintenance of equipment, and facilities for the administration or management of the business.

Board: The Board of Appeals of the City of Attleboro, Massachusetts.

Brewpub: An establishment wherein the primary use is a restaurant which specializes in producing craft beers in limited quantities for on-site retail sale to restaurant patrons. Other ancillary uses may include beer tastings and tours as well as retail sales of related goods all of which are subject to all applicable statutes of the Commonwealth.

Buffer, “No Cut”: A designated area within which all vegetation remains in its natural state.

Building: A combination of any materials, whether portable or fixed, having a roof, enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals or property. For purposes of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature.

Building Area: The aggregate of maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces.

Building Line: The line established by this ordinance beyond which a building shall not extend, except as specifically provided in this ordinance, which is a line set back thirty (30') feet from and parallel to the frontage line.

Building, Attached: A building having any portion of one or more walls in common with adjoining buildings.

Building, Coverage: The building area expressed as a percent of the total lot area.

Building, Detached: A building having open space on all sides.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Building Trade: Shop of a carpenter, plumber, electrician, mason, builder, or similar occupation.

Bus, Taxi, Rail Station: Station where transport vehicles load or unload passengers or goods.

Bus, Taxi, Rail Terminal and/or Maintenance Facility: Facility where transport vehicles are stored, garaged, and/or repaired.

Cellar: A portion of a building, partly or entirely below grade which has half or more than one-half of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story.

Certificate of Use and Occupancy: A statement signed by the Inspector of Buildings, setting forth either that a building or structure complies with the ZONING ORDINANCE or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

Concrete plant: a use of land, building or structure, or parts thereof, whether ready mix or central mix, which combines various ingredients such as, but not limited to, sand, water, aggregate (rocks, gravel), fly ash, potash, and/or cement, to form concrete. A concrete plant shall include those parts and accessories, including mixers, cement batchers, aggregate batchers, conveyors, radial stackers, aggregate bins, cement bins, heaters, chillers, cement silos, and batch plant controls.

Co-Location: The location of more than one antenna on a wireless telecommunications tower, building, or other structure.

Craft Brewery: A brewery, such as a microbrewery or a nanobrewery, producing not more than 15,000 barrels of beer on an annual basis for on-site wholesale and retail sale and tastings, which is much smaller than large-scale corporate breweries, independently owned, and generally characterized by its emphasis on quality, flavor and brewing technique.

Craft Shop: Shop of a craftsman where articles or goods are produced, assembled, processed or manufactured on a custom or individual basis involving the use of hand tools or small mechanical equipment. Typical craft shop operations include on-site production of custom furniture, custom cabinets and counter tops, stonewalls and patios, custom jewelry, glass blowing, ceramic studios, sculptors, photographers, and other similar products where all storage is indoors, as well as retail and wholesale sales.

Day Care, Family Home: Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age, or children under sixteen years of age if such children have special needs; provided however, in either case, that the total number of children under sixteen in a family day care home shall not exceed six, including participating children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

Day Care, Group Center: Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, pre-school, or known under any other name which receives children, not of common parentage, under seven years of age, or under sixteen years of age if such children have special needs, for non-residential custody and care during part or all of the day separate from their parent(s). Day care center shall not include; any part of a public school system; any part of a private organized educational system, unless the services of such a system are primarily limited to kindergarten, nursery or related pre-school services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

Development, Residential Cluster: A development consisting of a minimum of two (2) residential buildings comprised of two-family dwellings, multi-family dwellings, or a combination thereof.

District: A zoning use district as established by §17-2.0 ESTABLISHMENT OF DISTRICTS of this ordinance.

Drive-In-Eating Establishment: A business establishment wherein food is usually served to or consumed by patrons while they are seated in parked cars.

Driveway: An open space, located on a lot which is not more than twenty-five (25') feet in width built for access to a garage or off-street parking or loading space.

Dump: A site intended or used for disposal, including open burning of solid waste, not in accordance with an approved operations plan and with the requirements for a landfill; dumps are not permitted land use in Attleboro.

Dwelling: A privately or publicly owned permanent structure which is occupied in whole or part as the home residence or sleeping place of one or more persons. The term "one family", "two-family", or "multi-family" dwelling shall not include hotel, lodging house, hospital, membership club, mobile home, or dormitory.

Dwelling, Attached Single-Family: A building containing two, three or four dwelling units.

Dwelling, Downtown Residential Cluster: A residential building containing a minimum of eight (8) attached dwelling units, including apartment house and garden apartment house, whereby residential units on the first floor level are regulated by special permit and residential units above the first floor level are permitted by right.

Dwelling, Multi-Family: A building containing three or more dwelling units and including apartment house and garden apartment house.

Dwelling, One-Family: A detached building containing one dwelling unit.

Dwelling, Primarily For The Elderly And Handicapped: Any multi-family dwelling and two-family dwelling in which the elderly and handicapped shall at all times be given priority in occupancy, and which at no time shall have less than fifty (50%) percent of the units occupied by the elderly, and which at no time shall have more than fifteen (15%) percent of the units occupied by those other than the elderly and handicapped. The word “elderly” as used herein is defined as any person who is 55 years or older, and the word “handicapped” as used herein is defined as any person whose impairment –

- a. is expected to be of continued and definite duration,
- b. substantially impedes her/his ability to live independently, and
- c. is such that his/her ability to live independently could be improved by more suitable housing.

Dwelling, Two-Family: A building containing two dwelling units.

Dwelling Unit: One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single house-keeping unit with permanent provisions for living, sleeping, eating, cooking and sanitation.

Essential Services: Services provided by public or private utility, or governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication supply, or disposal systems whether underground or overhead. Facilities necessary for the provision of essential services including poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate services by such public or private utility, or governmental agencies for the public health, safety, or general welfare.

Fall Zone: The potential fall area of a wireless telecommunications tower or a wind turbine tower.

Family: An individual or two or more persons related by blood, marriage, or legal adoption living together as a single housekeeping unit and including necessary domestic help such as nurses or servants and further including not more than three lodgers or roomers taken for hire. A group of individuals not related by blood, marriage or legal adoption, but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of seven individuals shall constitute a single family.

Feedstock: Any bulk raw material constituting the principal input for an industrial process.

Flea Market: Any group of independent vendors gathered at a central location open to the public to display and sell merchandise, with such sales transactions conducted separately and the ensuing sales tax collected and reported separately, regardless of whether a participating vendor owns the location, a fee is charged for vendor participation, or a fee is charged to the public to enter the area and view the displays. Sales sponsored by civic, religious and non-profit fraternal organizations for the sole benefit of such organizations shall not be considered flea markets under this definition.

Flicker: The moving shadow created by the sun shining on the rotating blades of a wind turbine.

Floor Area, Gross: The sum of the gross horizontal area of the several floors including basements of a principal building and its accessory building on the same lot, measured from the exterior faces of the walls. It does not include cellars; unenclosed porches or attics not used for human occupancy; malls within a shopping center utilized purely for pedestrian circulation and/or decorating purposes between individual shops of the center; any floor space in an accessory or principal building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this ordinance; or any such floor space intended or designed for accessory heating ventilating and air-conditioning equipment.

Floor Area Ratio: The ratio of the gross floor area to the total lot area.

Frontage: *see* Lot Frontage

Garage, Community: A group of private garages, either detached or under one roof, arranged in a row or around a common means of access.

Gasification/Gasify: a thermo-chemical process that converts carbon-containing materials (feedstock), such as coal, petroleum coke (petcoke), biomass, waste, or other materials, with little or no oxygen present and at high temperatures, into a synthetic gas or synthesis gas (syngas).

Gasification Facility: a structure with a capacity to gasify five hundred (500) pounds or more of feedstock in a twenty-four (24) hour period.

Glazing: the transparent part of a wall.

Hazardous Waste: waste that poses significant threat to public health and exhibits volatile characteristics, including toxicity, reactivity, ignitability and corrosiveness, which appears on federal or state official lists of hazardous wastes.

Hazardous Waste Facility: a structure that includes loading docks, parking areas, storage areas and other related areas where hazardous waste is held or stored.

Health Care Facility: Nursing home, rest home or sanitarium providing twenty-four hour inpatient services for the treatment and/or care of elderly, invalid or convalescent persons.

Height: The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest beams of a flat roof, the deck of a mansard roof or the mean level of the highest gable or slope of a hip roof, or to the highest part of a sign.

Heliport: An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

Helicopter Landing Site: An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters, but no auxiliary facilities.

Hospital: An institution providing acute twenty–four hour inpatient services which include, but are not limited to the treatment of emergencies, intensive and patient care units for adults and children, and major clinical, diagnostic and therapeutic health care services.

Hospital–Related Services: Hospital or health care related commercial services, such as laboratories, pharmacies, laundries, and medical equipment rentals, which are operated by and on the principal premises of a hospital or health care facility.

Household, Low–Income: Households that qualify for “Low–Income” status as defined by the income guidelines of the most recent Providence Metropolitan Statistical Area (PMSA).

Household, Moderate–Income: Households that qualify for “Moderate–Income” status as defined by the income guidelines of the most recent Providence Metropolitan Statistical Area PMSA.

Hospital, Veterinary: A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care.

Hotel: A facility offering transient lodging accommodations to the general public, containing more than 50 sleeping rooms, and having a common entrance, providing additional services such as restaurants, meeting rooms, entertainment and recreational facilities but not including a boarding house, lodging house or rooming house.

Junk: Any worn out, castoff, or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered junk.

Junkyard: The use of more than two hundred (200) square feet of the area of any lot, whether inside or outside a building, or the use of any portion of any lot that joins any street, for the storage, keeping or abandonment of junk.

Kenel, Commercial: A pack or collection of dogs on single premises maintained for sale, commercial breeding, boarding, grooming, training, hunting, or for any other commercial purposes, and including any shop where dogs are on sale.

Kenel, Residential: A pack or collection of more than three (3) dogs, three (3) months old or over, owned or kept by a person on a single premises and maintained exclusively as domestic pets and not maintained for sale, commercial breeding, boarding, grooming, training, hunting, or for any other commercial purposes.

Landfill: The site and the process for the disposal of solid waste in an environmentally sound manner by compaction and deposit in trenches or on the surface and covering daily with approved cover material in accordance with an operations plan approved by the Massachusetts Department of Environmental Protection or other agency having jurisdiction; includes incidental operations and facilities, such as sorting or separation, shredding, baling, transfer stations, and partial resource recovery, but does not include incineration or open burning.

Landscaping: Improvements to land to enhance its attractiveness and facilitate its use and enjoyment by planting or removal of vegetation, application of pavement, surface materials or ground cover and minor grading which does not alter the overall surface drainage pattern or change the grade at any point by more than one (1') foot vertically.

Light Manufacturing: Fabrication, processing, or assembly employing only electric or other inoffensive motor power, utilizing hand labor or quiet machinery and processes, mechanical or chemical transformation of materials or substances, whether the new product is finished or semi-finished as raw material in some other process, into new products including the fabrication, processing, assembly or blending of materials such as lubricating oils, plastics or resin that are free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or bright lights, refuse matter, electromagnetic radiation, heat or vibration.

Lodging House and/or Guest House: A building containing four or more lodging units.

Lodging Unit: One or more rooms for the semi-permanent use of one, two or three individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boarding houses, lodging houses, tourist homes, guest houses or rooming houses. It shall not include convalescent, nursing or rest homes, dormitories or charitable educational or philanthropic institutions; or apartments or hotels.

Lot: An area or parcel of land or any part thereof, including an internal pond wholly on the lot, designated on a plan filed with the Inspector of Buildings by its owner or owners as a separate lot and having boundaries identical with those recorded in the Bristol County Registry of Deeds.

Lot, Corner: A lot at the point of intersection of an abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in case of a curved street, extended street lot lines, being not more than one hundred and thirty-five (35°) degrees.

Lot Coverage: that portion of a lot that is or may be covered by structures, accessory structures, and impervious surfaces.

Lot Frontage: The continuous distance measured along the street lot line pursuant to MGL CH. 41 §81L between the points of intersection of the side lot lines with the street lot line. In the case of a curve, lot frontage is measured along the arc distance along the curve.

Lot, Landlocked: Any lot that does not have lot frontage.

Lot Line, Rear, Side: Any lot boundary that is not a street line.

Lot Line, Street: The boundary line of a lot separating the lot from the adjacent street as defined by plan or deed.

Lot, Through: A lot, the front and rear lot lines of which abut streets; or a corner lot, two opposite lines of which abut streets.

Lot Width: The horizontal distance from lot line to lot line measured parallel to the street lot line at the minimum frontyard depth required by this ordinance, provided that the distance between side lot lines or a side lot line and the opposite street lot line is not less than the minimum required lot frontage at any point within the required front-yard depth.

Medical Marijuana Dispensary Center (MMDC): means a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered RMD that acquires, possesses, processes (including development of related products such as edible marijuana-infused products), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, MMDC refers to the site(s) of dispensing and preparation of marijuana.

Medical Marijuana Cultivation Center (MMCC): means a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered RMD that cultivates, possesses, processes (including development of related products such as edible marijuana-infused product, tinctures, aerosols, oils, or ointments), transfers, transports, sells or distributes marijuana, products containing marijuana, and related supplies to a qualified Medical Marijuana Dispensary Center. Unless otherwise specified, MMCC refers to the site(s) of cultivation of marijuana.

Membership Club: A social, sports, or fraternal association or organization which is used exclusively by members and their guests and is not conducted as a gainful business.

Mobile Home: A dwelling unit built on a chassis, containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a temporary or a permanent foundation for permanent living quarters.

Mobile Home Park: Any parcel of land, under single or common ownership or control, which contains, or is designed, laid out or adapted to accommodate mobile homes.

Motel: An establishment, including inns and motor inns, providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building but not including a boarding house, lodging house or rooming house.

Open Space, Protected: In open space residential developments, land that is un-built upon and preserved in its natural state through a legal restriction or conveyance for the purposes of open space preservation, conservation, or passive recreation.

Owner: The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure or lot in question.

Passive Recreation: Recreational activities using no motorized vehicles and requiring no structures, buildings, or paving except for any structures, buildings, or paving associated with walking trails.

Personal Caregiver: means a person, registered by the Department, who is at least twenty-one (21) years old, who has agreed to assist with a registered qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying physician. An employee of a hospice provider, nursing, or medical facility or a visiting nurse, personal care attendant, or home health aide providing care to a qualifying patient may serve as a personal caregiver, including to patients under eighteen (18) years of age as a second caregiver.

Physical Fitness/Workout Gymnasium: A commercial facility engaged in instructional and/or direct exercise and fitness activities that is equipped with bars, barbells, weights, benches, mechanical weight machines, cardiovascular machines such as but not limited to ellipticals, treadmills, stationary bicycles, and stationary escalators, indoor swimming pool and sauna, indoor running/walking track for individual physical fitness that is open to the public/walk-in on a membership basis.

Physical Training Service Establishment: A commercial facility engaged in instructional and/or direct exercise and training activities, including but not limited to aerobic dance, personal training, yoga classes, fitness classes, spinning classes, Pilates classes, and other related physical training conditioning activities.

Potentially Developable Area: The area of land that lies outside of Primary Conservation Areas and, to the extent practicable, avoids intrusion into Secondary Conservation areas. Primary and Secondary Conservation Areas are identified on site plans pursuant to the required OSRD design process.

Power Plant: a structure, also referred to as a generating station, power station, or powerhouse, for generating energy from materials including, but not limited to, coal or bio-mass through processes including, but not limited to, incineration or nuclear reaction.

Qualifying Patient: means a Massachusetts resident eighteen (18) years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under eighteen (18) years of age who has been diagnosed by two Massachusetts licensed certifying physician, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(j) (or its successor regulation).

Refuse Incineration Facility: a structure for converting waste materials into ashes through a combustion process.

Registered Marijuana Dispensary (RMD): means a not-for-profit entity registered under 105 CMR 725.100 (or its successor regulation), which operates as a Medical Marijuana Dispensary Center (MMDC) and/or a Medical Marijuana Cultivation Center (MMCC).

Segmentation: The phasing of development activities on a parcel(s) such that the applications for separate phases would receive a lower level of permit review than if the phases were considered in the aggregate. This process is applicable to individual parcels or more than one contiguous parcel that may be in common ownership or may otherwise be developed in a coordinated manner through a common petitioner.

Sign: Any permanent structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by any means, including intermittent or repeated motion of illumination.

Small Wind Energy System: A wind energy conversion system consisting of a single wind turbine tower, which has a rated capacity of 60 kilowatts or less and will be used for onsite consumption.

Solar Reflectance Index (SRI): A value that incorporates both solar reflectance and emittance in a single value to represent a material's temperature in the sun. SRI quantifies how hot a surface would get relative to standard black and standard white surfaces. It is calculated using equations based on previously measured values of solar reflectance and emittance as laid out in the American Society for Testing and Materials Standard E 1980.

Special Permit Granting Authority: The Board of Appeals, Planning Board, or the Municipal Council, as designated in this ordinance for the issuance of special permits.

Sportsplex/Sports Complex, Indoor: An indoor recreational facility intended to accommodate one or more sports and recreational uses including, but not limited to soccer, basketball, batting cages, ice skating, ice hockey, rollerblading, and track. Accessory uses are allowed on the premises such as the sale of retail sporting gear associated with the types of sporting activities within the Sportplex, as well as food courts, ATMs, and other related complementary uses and activities that are within the range of uses referenced herein, as determined by the Zoning Board.

Storage Container, Temporary (or portable) Outdoor: a temporary (portable) outdoor storage container is a transportable unit intended to be used on a limited and temporary basis for the storage of household goods and wares, personal items, building materials, and other materials that are customarily related and incidental to the principal use established on the premises. A temporary (portable) outdoor container is not defined as a shed or a bin.

Storage, Self- and Mini-: Any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a “self-service” basis. Such self storage facilities lease/rent space to individuals, usually storing household goods, or to small businesses, usually storing excess inventory or archived records. Self storage facility operators frequently provide controlled access to rental space areas, individual door alarms, interior units lights, and security cameras. The storage of explosives, ammunition, radioactive materials, or any flammable liquids, solids, or gases are prohibited.

Story: The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is four (4') feet or more above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and not used or intended to human occupancy.

Story, Half-: A space intended for use for human occupancy in which the height of vertical exterior walls between the floor and intersection with rafters of a sloping roof is four (4') feet or less.

Structure: A combination of materials for permanent or temporary occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, sign, windmill, wireless telecommunications tower, solar collectors (roof top or otherwise), shelter, pier, wharf, temporary outdoor storage container, bin or the like.

Use: The purpose of which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

Use, Accessory: Non-principal uses, buildings and structures customarily incidental and subordinate to the principal permitted use of the premises occupying not over forty (40%) percent of the land or the floor area.

Use, Principal: The main or primary purposes for which the use of land or a structure is designed, arranged, or intended, or for which it may be used, occupied or maintained.

Wetlands: The term wetlands as used in this ordinance shall mean wet meadows, marshes, swamps, bogs; areas where ground water, flowing or standing surface water, or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year, emergent and submergent plant communities in inland water; and/or that portion of any bank which touches any inland waters.

Wind Turbine (or Windmill): A turbine that is powered by the wind. A wind turbine is a machine that consists of blades and associated mechanical and electrical conversion components that is mounted on top of a tower and converts the wind's kinetic energy into rotary mechanical energy. The rotational energy is converted into electricity by using a generator.

Wind Turbine (or Windmill) Tower: A self-supporting monopole or guyed monopole structure that supports a wind turbine.

Winery, Micro–: A small wine producer that produces small batches of various wines from grapes, primarily for local consumption, by following winemaking processes. Typically, a small batch of wine is defined as yielding six (6) gallons. A micro–brewery does not have its own vineyard on the premises and instead sources its grape product from vineyards owned elsewhere by the winery or from outside suppliers. That such a facility also may involve related ancillary on–site uses including warehousing/storage of wine, associated laboratories, wine tastings, as well as retail and wholesale sales.

Wireless Telecommunications Facility: Support facilities that are typically associated with a wireless telecommunication tower including, but not limited to, the compound equipment area, concrete pad(s), booster cabinets, BTS cabinets and battery base units, power/telco cabinets, battery backup cabinets, CSC cabinets, multi–gang meter boards, transformers, perimeter fencing, ice bridge, and gravel access drive.

Wireless Telecommunications Tower/Facility: Any structure, including self-supporting lattice towers, guy towers, or monopole towers, whether free-standing or in association with a building or other permanent building or structure, that is used primarily for the purposes of supporting one or more antennae for cellular telephone service. For purposes of this definition and pursuant to MGL Ch. 40A §3, HAM radio towers are excluded from this definition and from the regulatory provisions pursuant to §17–10.13 WIRELESS TELECOMMUNICATIONS TOWER/FACILITY.

Yard: A portion of a lot upon which the principal building is situated unobstructed artificially from the ground to the sky, except as otherwise provided herein.

Yard, Front: A yard extending for the full width of the lot between the front line of the nearest building wall and the street lot line.

Yard, Rear, Side: The space between the line, other than a street line, and the nearest wall of principal building or structure.

Yard Sale: The sale of personal property conducted on a residential lot of land or in a building thereon. The term shall include garage sales, rummage sales or other similar sales, which are advertised by a sign or other means, for the public to attend.

Yield Plan: A site plan that shows a conventional subdivision layout, which conforms to the applicable provisions pursuant to the ZONING ORDINANCE, the LOCAL WETLANDS ORDINANCE, the WETLANDS PROTECTION ACT (MGL Ch. 131, §40), and the RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, showing the maximum number of lots and units that could feasibly be placed on the site.

SECTION 17-12.0

FLOODPLAIN DISTRICT

§17-12.1 GENERAL

The floodplain district is superimposed over any other district established by this ordinance. The floodplain district shall include those areas within the 100-year floodplain and specifically includes all special flood hazard areas within the City of Attleboro designated as Zone A, AE, AH, AO, A99, V, or VE on the Bristol County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Bristol County FIRM that are wholly or partially within the City of Attleboro are panel numbers 25005C0092F, 25005C0094F, 25005C0109F, 25005C0117F, 25005C0118F, 25005C0119F, 25005C0136F, and 25005C0137F dated July 7, 2009 and panel numbers 25005C0104G, 25005C0106G, 25005C0107G, 25005C0108G, 25005C0111G, 25005C0112G, 25005C0113G, 25005C0114G, 25005C0116G and 25005C0128G dated July 16, 2015. The exact boundaries of the floodplain district may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report dated July 16, 2015. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Zoning Board of Appeals, Building Commissioner, and Conservation Commission. Elevations noted upon said maps and study shall be considered prima facie evidence of the 100-year flood levels. Where elevations are lacking, the 100-year flood level shall be provided by the applicant based on the best available engineering and historic data (also see §17-12.6(C) SPECIAL PERMITS).

§17-12.2 DEFINITIONS

Base Flood, also called 100-year flood, means the flood having a one (1%) percent chance of being equaled or exceeded in any given year.

Floodplain is defined as the relatively flat lowland which adjoins a watercourse or other body of water and which is subject to seasonal or periodic flooding by the watercourse or water body at a storm frequency of one (100) hundred years.

Floodway is defined as the normal channel of a river or other watercourse and those portions of the floodplain adjoining the normal channel which are reasonably required to carry off the base flood and which channel and the floodplain are within a floodway area on the Flood Insurance Rate Maps abutting (and inclusive of) a river, brook or stream identified in Table 1 or Table 3 of the Flood Insurance Study (said maps and study referenced in §17-12.1 GENERAL).

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, as defined by the Massachusetts State Building Code, used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

Mean Sea Level means, for purposes of this section, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

§17-12.3 OBJECTIVES

- A. To promote the health and safety of the occupants of lands subject to seasonal or periodic flooding in those areas located in the floodplain district.
- B. To prevent the reduction of the water-carrying capacity of streams, brooks, rivers, and drainage courses by controlling the alteration or relocation of such water course, and by preventing encroachment by any future public or private development in the floodway, which would result in an increase in the base flood level.
- C. To preserve the natural flood control characteristic and the water storage capacity of the floodplain.
- D. To protect the public from hazard and loss through the regulation of future development of land adjoining such watercourses.
- E. To effect the safety and purity of water, the control and containment of sewage, the safety of gas, electric, fuel and other utilities from breaking, leaking, short-circuiting, grounding, igniting, electrocuting or any other dangers due to flooding.
- F. To implement the requirements of the National Flood Insurance Program and the floodplain management criteria mandated by said program.

§17-12.4 ADMINISTRATION

- A. The Inspector of Buildings shall administer this ordinance as follows:
 - 1. Review proposed development within the floodplain district to assure that all necessary permits for the intended construction required under this zoning ordinance have been granted and that any other permits required under MGL CH. 131, §40, as amended, or any other statute or regulation for the alteration of land subject to the flow of water or flooding.
 - 2. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
 - 3. Obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source as criteria for requiring that all new construction or substantial improvements meet the requirements set forth in this ordinance.
 - 4. Obtain the elevation, in relation to mean sea level, of the lowest floor, including basement, if any, of all new or substantially improved structures, and if the structure has been flood-proofed, obtain the elevation to which it was flood-proofed.
 - 5. Maintain records of flood-proofing certifications prepared by Registered Professional Engineers and architects of the lowest floor elevations and flood-proofing elevations determined in accordance with this ordinance.

B. The Conservation Commission shall administer this ordinance as follows:

1. Notify, in riverine situations, adjacent communities and the State Coordination Office, Massachusetts Department of Conservation and Recreation, prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.
2. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

§17-12.5 PERMITTED

- A.** The following outdoor uses shall be permitted by right in the floodplain district, provided they are permitted in the underlying district and further provided no buildings or structures are erected; wildlife sanctuaries, nature trails, agriculture, horticulture and floriculture.
- B.** The expansion of the following existing uses (or their accessory uses) is permitted by right to a maximum of fifteen (15%) percent of the lot coverage existing when this section was enacted, provided that such expansions conform to all other provisions of this ordinance and do not constitute substantial improvement of the structure; single-family detached dwellings, two-family dwellings, and multi-family dwellings existing at the time this §17-12.0 FLOODPLAIN DISTRICT was advertised (August 21, 1978). Structures expanded under this provision shall use construction materials and utility equipment that are resistant to flood damage and construction methods and practices that will minimize flood damage. This provision does not apply to mobile homes and mobile home parks.

§17-12.6 SPECIAL PERMITS

- A.** No structure or building shall be erected, constructed, substantially improved, enlarged (except as provided in §17-12.5 PERMITTED), or otherwise created or moved, no earth or other material dumped, filled, excavated, or transferred, unless a special permit is granted by the Board of Appeals. All the following conditions shall be required in the granting of such a special permit:
 1. The proposed use shall comply in all respects to the provisions of the underlying district in which the land is located.
 2. There shall be no encroachments, including filling or excavation, new construction or substantial improvements in the floodway, which would cause any increase in the 100-year flood level.
 3. All development within the floodplain district, including structural and non-structural activities, must be in compliance, where applicable, with MGL CH. 131, §40 and with the following:
 - a.** Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR “Flood Resistant Construction and Construction in Coastal Dunes”);
 - b.** Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

- c. Inland Wetlands Restrictions, DEP (currently 310 CMR 13.00);
- d. LOCAL WETLANDS PROTECTION ORDINANCE (currently Chapter 18 of the REVISED ORDINANCES OF THE CITY OF ATTLEBORO, as amended) and LOCAL WETLANDS PROTECTION REGULATIONS, as amended
- e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

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

- 4. All accessory structures shall be anchored to prevent movement.
 - 5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - 6. The Board of Appeals may require such additional requirements and conditions as it finds necessary to protect the health, safety, or welfare of the public or the occupants of the proposed use, or of the floodplain district.
- B.** These provisions shall not apply to the reconstruction or repair of a structure existing at the time of advertisement of §17-12.0 FLOODPLAIN DISTRICT (August 21, 1978) after a fire or other catastrophe as provided in §17-6.5 RESTORATION of this ordinance unless it constitutes substantial improvements as defined herein. However, all major repairs shall use construction methods and practices that will minimize flood damage.
- C.** Where a specific area or parcel of land located within the floodplain district is proven by competent engineering and surveying evidence to the satisfaction of the Board of Appeals to be above the 100-year flood elevation, and where the proposed use of such land will not increase the flood level, increase the danger of flood damage or reduce water storage capacity, and is consistent with the objectives of §17-12.3 OBJECTIVES, the Board of Appeals may by special permit authorize the proposed use of such land and exempt it from some or all of the restrictions of this section. However, if an applicant wishes to seek a release from the mandatory purchase of flood insurance, said applicant shall follow the procedures contained in the letter of Map Amendment, Part 1920, National Flood Insurance Program regulations.

§17-12.7 PERMIT PROCEDURES

- A.** Anyone desiring a special permit under §17-12.6 SPECIAL PERMITS shall submit an application to the Board of Appeals which shall comply with the conditions and submittal requirements as listed herein. Special permits shall be consistent with all requirements of other agencies, such as the Conservation Commission, the Massachusetts Department of Environmental Protection, and Department of Public Works – Highway Division, acting within their respective jurisdiction. The application procedure shall be the same as for other special permits (see §17-9.0 SPECIAL PERMITS). Copies of the application for a special permit with accompanying plans shall be sent by the Board of Appeals to the Inspector of Buildings, the Health Department, the Conservation Commission, the Department of Public Works – Highway Division, and the Planning Board for their recommendation.

B. Six (6) copies of a site plan prepared by a Registered Professional Engineer or a Registered Land Surveyor, shall be submitted with the application. The site plan shall be drawn to a scale adequate to show details clearly and must be acceptable to the Board of Appeals, but shall not be smaller than one inch equals eighty feet (1"=80'). The site plan shall be oriented to show the true north point. The scale and date shall be shown in addition to the following:

1. Boundaries and dimensions of lot(s) in question and names of abutting owners as they appear on the most recent tax list.
2. Natural or man-made features such as swamps, marshes, water bodies, streams, open or man-made ditches, easements, wetlands and boundary of the floodplain district.
3. The 100-year flood level and the elevation of the lowest floor level, when required by the Board, contours shall be drawn to two (2') foot intervals with contour elevations to the United States Coast and Geodetic Survey datum.
4. The location of existing and proposed structures, and means of access. A separate key sketch (six copies also required) at a scale of one inch equals two thousand (1"=2,000') feet shall be drawn to show the relation of the lot(s) in question to surrounding road networks. North points of the site plan and the key sketch shall be in the same directions.

C. Board of Appeals Procedures:

1. The Board of Appeals shall not take final action on an application for a special permit hereunder until it has received a report thereon from the Inspector of Buildings, the Health Department, the Conservation Commission, the Department of Public Works – Highway Division, and the Planning Board or until thirty-five (35) days have elapsed after receipt of said plan without submission of a report.
2. The Board of Appeals may, as a condition of approval, require that effective notice be given to prospective purchasers by signs or otherwise, of past flooding of said premises, and the steps undertaken by the petitioners or his successor in title to alleviate the effects of the same.

§17-12.8 OCCUPANCY PERMIT

No occupancy permit (see §17-7.3 CERTIFICATE OF OCCUPANCY REQUIRED) shall be issued for special permit uses in the floodplain district until the Inspector of Buildings, the Health Department, the Conservation Commission, the Department of Public Works – Highway Division, and the Planning Board have received a certified plan showing the foundation and floodplain elevations, elevations of the completed construction, and until all requirements of any special permit granted under this §17-12.0 FLOODPLAIN DISTRICT or required under MGL Ch. 131, §40, as amended, or any other statute or regulation for the alteration of land subject to flow of water or flooding are satisfied.

§17-12.9 AREAS, OPEN SPACE, AND YARD REGULATIONS

The portion of any lot within the floodplain district may be used to meet the lot area, space and yard requirements for the district in which the remainder of the lot is situated.

§17-12.10 MOBILE HOMES AND MOBILE HOME PARKS

- A.** All mobile homes and mobile home parks except those existing prior to the adoption of this §17-12.0 FLOODPLAIN DISTRICT are prohibited from being located in the floodplain district. Owners and/or occupants of all mobile homes presently located in the floodplain district shall be notified by the Inspector of Buildings that the mobile home may be anchored to resist flotation, collapse, or lateral movement by providing anchorage as listed below:
1. Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations, with mobile homes less than fifty (50') feet long requiring one additional tie per side.
 2. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty (50') feet long requiring four additional ties per side.
 3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
- B.** Future additions to any mobile home or accessory building located within the floodplain district shall meet the requirements as listed above, as well as those in §17-10.3(D) MOBILE HOME PARKS – CONDITIONS OF PERMIT.

§17-12.11 AMENDMENT

Amendments to the Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) referenced herein, adopted by the Federal Emergency Management Agency (FEMA) in accordance with the procedures outlined in the letter of Map Amendments, National Flood Insurance Program Regulations (NFIPR), to the extent that they change any floodplain or floodway boundaries shall subsequently be adopted by the City as amendments to the ZONING ORDINANCE.

§17-12.12 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Attleboro, any officer or employee thereof, or the Federal Emergency Management Agency (FEMA), for any flood damages that result from reliance on this section or any administration decision lawfully made thereunder.

SECTION 17-13.0

WATER RESOURCES PROTECTION DISTRICT

§17-13.1 GENERAL

The purpose of this section is to protect public health, safety and welfare by regulating the uses of land and buildings and any characteristics of such uses that may pollute or otherwise damage water resources, including the sources of current and future water supply for the City of Attleboro and the surrounding area. The Water Resources Protection District is superimposed over any other district established by this ordinance. All uses, dimensional requirements and other provisions of this ordinance applicable to such underlying districts shall remain in force and effect, except that where the Water Resources Protection District imposes greater or additional restrictions and requirements, such restrictions and requirements shall prevail. The Water Resources Protection District shall include those areas of the city that are delineated on a map entitled “Water Resource Protection Districts, City of Attleboro, Massachusetts, December 1981” and on file in the office of the City Clerk. Said map is hereby adopted by reference and declared to be part of this ordinance.

§17-13.2 PERMITTED USES

- A. No principal uses shall be permitted by right in the Water Resources Protection District, provided however that any building or installation to be utilized as part of the municipal water system shall be so permitted.
- B. Accessory uses, except as specified in §17-13.3 PROHIBITED USES, shall be permitted in accordance with §17-3.5 TABLE OF ACCESSORY USE REGULATIONS in “SR” and “GR” use districts only. No other accessory uses shall be permitted except in accordance with §17-13.4 SPECIAL PERMITS.
- C. Existing single and general residential uses served by the municipal sewer system may be expanded as permitted in the underlying districts. No other uses shall be expanded, altered or added to in any way except in accordance with §17-13.4 SPECIAL PERMITS.

§17-13.3 PROHIBITED USES

The following uses are prohibited as either principal or accessory uses in the water resource protection districts, provided, however, that where such uses lawfully existed prior to the passage of this section, they may be continued but not expanded, added to or enlarged:

- A. Outdoor storage of salt, snow-melting chemicals, or hazardous substances including, but not limited to pesticides, herbicides, and water soluble and volatile chemical compounds. This prohibition shall include, without limitation, outdoor storage of materials containing or coated with such chemicals and susceptible to being carried into the surface or groundwater within the water resource protection districts.
- B. Junkyards, salvage yards, dumps, landfills, manufacturing of pesticides, fertilizers, herbicides, and commercial facilities for the storage or treatment of hazardous wastes as defined by applicable state and/or federal laws.
- C. Any manufacturing or processing industrial use not served by the municipal sewer system.

§17-13.4 SPECIAL PERMITS

- A.** Except as otherwise specified in §17-13.2 PERMITTED USES and §17-13.3 PROHIBITED USES, those principal and accessory uses permitted in the underlying district in accordance with §17-3.4 TABLE OF USE REGULATIONS and §17-3.5 TABLE OF ACCESSORY USE REGULATIONS may be allowed in the water resource protection districts by special permit from the Planning Board. Such permit shall consider any report and recommendations from the Health Department and Water Department and may be conditional upon safeguards and requirements to protect the water supply and the public health and welfare.
- B.** All applications for said special permits shall include, but need not be limited to the following:
- 1.** Site plan showing the extent of impervious areas, drainage and layout and design of disposal facilities.
 - 2.** Proposed method for the disposal of sewage and other waste materials.
 - 3.** Design and leakage monitoring system for petroleum storage facilities larger than one hundred (100) gallons or any other chemical storage.
- C.** The Special Permit Granting Authority may impose standards and conditions to control causes of pollution to ground and surface waters, to ensure adequate disposal of sewage and other waste materials, and to allow monitoring of the storage facilities for possible pollutant.

SECTION 17-14.0 YARD SALES

§17-14 YARD SALES

No person shall operate, conduct, manage or permit a yard sale upon his or her premises or other property under his or her control more often than six (6) times per calendar year. Said yard sale shall not be continued for a period of time of more than two (2) days per month. No yard sale shall be conducted before 8:00 a.m. or after 8:00 p.m.

SECTION 17-15.0

SITE PLAN REVIEW

§17-15.0 SITE PLAN REVIEW

- A.** Intent: The provisions of site plan review provides a mechanism for the coordinated review of a petitioner's compliance with the design elements contained herein for projects that may cause a variety of impacts to the environment, the local economy, and the character of surrounding neighborhoods. It is the intent of site plan review to establish a dialogue with a petitioner so as to enhance the design of a project and reduce adverse impacts on the City of Attleboro and its residents.
- B.** Purposes of Site Plan Review: To protect and promote the City's economic, environmental, and cultural resources, this section addresses the following purposes –
1. Traffic, Parking, and Public Access: To promote sound on-site circulation patterns for pedestrians and motorists. To promote roadway traffic safety and traffic calming, and to protect the capability of State and local roads to conduct vehicular, bicycle, and pedestrian traffic smoothly, safely, and efficiently.
 2. Public Services and Utilities: To minimize or prevent adverse impacts to existing public services and facilities, including sewers, storm drains, solid waste disposal systems, parks, schools, streets, and services.
 3. Open Space and Environmental Protection: To preserve open space, public access, scenic views, and to protect natural features and other environmentally sensitive areas. To prevent erosion and adverse drainage impacts. To minimize the loss of wildlife habitat and other vegetation that has substantial aesthetic, educational, ecological, and/or economic value to the City of Attleboro.
 4. Land Use Planning: To ensure that the design of the proposed project is reasonably compatible with surrounding uses and is compliant with all requirements of the City's ZONING ORDINANCE.
 5. Community Character: To ensure that proposed activities and uses are, by virtue of their design, successfully integrated into the context of surrounding uses and neighborhoods.
 6. Health: To minimize or prevent adverse air-quality impacts, light and glare, odors, and noise.
- C.** Applicability: The following criteria shall be used to determine if a proposed project is to be reviewed as a Major or Minor Project under this section –
1. Minor Projects: Any project that is not included within the definition of a Major Project and involves one of the following is considered a Minor Project subject to site plan review by the Review Committee (see §17-15.0(D)(2) ADMINISTRATION) –
 - a. development, redevelopment, or expansion of any primary structure or accessory structure that will involve the disturbance of a land area containing more than two thousand and five hundred (2,500) square feet and less than ten thousand (10,000) square feet;
 - b. development that would result in the creation of more than eight (8) off-street parking stalls and less than thirty (30);

2. Major Projects: Any project that includes one or more of the following criteria is considered a Major Project subject to site plan review by the Planning Board (see §17-15.0(D)(3) ADMINISTRATION) –
 - a. development, redevelopment, or expansion of any primary or accessory structure that will involve the disturbance of a land area containing ten thousand (10,000) square feet or more;
 - b. development that would result in the creation of thirty (30) or more off-street parking stalls;

3. Exemptions: The following activities shall be exempt from the provisions of §17-15.0(C)(1) APPLICABILITY and §17-15.0(C)(2) APPLICABILITY –
 - a. construction, renovation, or modification of a single-family dwelling and associated accessory structures customary to single-family lots;
 - b. construction, renovation, or modification of a two-family dwelling on a single lot and associated accessory structures customary to such lots;
 - c. normal maintenance of stormwater management systems as well as normal maintenance and improvement of land in agricultural use as defined by the WETLANDS PROTECTION ACT (MGL CH. 131, §40) regulation 310 CMR 10.04 and MGL CH. 40A §3;
 - d. emergency projects necessary for the protection of the public health or safety, provided that the work is to be performed or has been ordered to be performed by any agency of the Commonwealth or by the Mayor;
 - e. emergency repairs to existing utilities;
 - f. applications for definitive subdivision plans under MGL CH. 41;
 - g. any principal use specifically identified as allowed only through special permit by the Zoning Board of Appeals pursuant to §17-3.4 TABLE OF USE REGULATIONS;
 - h. any other uses or activities specifically exempted from the provision of §17-15.0 SITE PLAN REVIEW in other sections of the ZONING ORDINANCE;
 - i. Expansion of an existing building whereby the expansion is less than twenty-five (25%) percent of the building's existing footprint further provided that the total land disturbance is less than ten thousand (10,000) square feet.

4. Segmentation: In an effort to prevent segmentation (see definition in §17-15.0 DEFINITIONS), the site plan review thresholds listed in §17-15.0(C)(1) APPLICABILITY and §17-15.0(C)(2) APPLICABILITY above shall apply to individual parcels or more than one contiguous parcel that may be in common ownership or otherwise developed in a coordinated manner through a common petitioner at the time of application. Further, the build-out of phased projects or expansions that are applied for within a two (2) year period shall be considered cumulatively when determining the status of the project as either “Minor” or “Major”.

D. Administration:

1. Pre-Application Meeting: Prior to the submittal of a Minor or Major Project Site Plan Review application, the petitioner may schedule an optional Pre-Application Meeting with the respective reviewing authority. The purpose of this Pre-Application Meeting shall be to afford the petitioner input from the reviewing authority and staff during the formative stages of the concept design and to highlight areas where the petitioner may need to give additional attention prior to filing an application pursuant to §17-15.0(F) PROCEDURES FOR MINOR PROJECT SITE PLAN REVIEW or §17-15.0(H) PROCEDURES FOR MAJOR PROJECT SITE PLAN REVIEW. A Pre-Application Meeting is intended to encourage discussion and to provide guidance to the petitioner. However any opinions or advice offered by the reviewing authority shall not constitute or imply an approval or a denial of a project. Pre-Application Meetings shall be held in accordance with §17-15.0(E) PROCEDURES FOR A MINOR PROJECT SITE PLAN REVIEW PRE-APPLICATION MEETING, §17-15.0(G) PROCEDURES FOR A MAJOR PROJECT SITE PLAN REVIEW PRE-APPLICATION MEETING, and §17-15.0(I) MINOR AND MAJOR PRE-APPLICATION SUBMISSION MATERIALS.
2. Minor Project Site Plan Review: Review of Minor Projects shall be performed by the Review Committee as established herein and subject to the procedural and submittal requirements listed in this section. The Review Committee shall consist of five (5) members: the Building Commissioner or his/her designee, the Director of Planning and Development or his/her designee, the Fire Chief or his/her designee, the Police Chief or his/her designee, and the Chair of the Planning Board or his/her designee, a majority of which shall constitute a quorum. Minor Project Site Plan Review shall occur at a public meeting conducted in accordance with the Open Meeting Law.
3. Major Project Site Plan Review: Review of Major Projects shall be administered by the Planning Board. Major Project Site Plan Review shall require a public hearing and shall be subject to the procedural and submittal requirements listed in this section.
4. Fee Schedule:
 - a. Pre-Application Meeting – The filing fee is \$50.00.
 - b. Minor Project Site Plan Review Application – The filing fee is five (\$0.05) cents per square foot of gross floor area of the sum of all principal structures shown on the site plan plus fifteen (\$15.00) dollars for each off-street parking stall;
 - c. Major Project Site Plan Review Application – The filing fee is five (\$0.05) cents per square foot of gross floor area of the sum of all principal structures shown on the site plan, plus fifteen (\$15.00) dollars for each off-street parking stall, plus seventy-five (\$75.00) dollars for legal advertisement.

E. Procedures for a Minor Project Site Plan Review Pre-Application Meeting:

1. The current owner of record or an authorized representative may request a Pre-Application Meeting by submitting the required materials with a cover letter that is time-stamped at the City Clerk's Office. The materials shall include one (1) original and five (5) copies of the required conceptual materials.

2. Prior to scheduling a Pre-Application Meeting, and within ten (10) days of receiving the request, the Department of Planning and Development shall notify the petitioner as to whether the materials are adequate for a Pre-Application Meeting and, if applicable, specify the time and location for the meeting. Said meeting shall be scheduled to occur within twenty (20) days of receiving the original request for a Pre-Application Meeting. A petitioner may request to reschedule this meeting for another time through direct consultation with the Department of Planning and Development.
3. Review Committee comments shall be compiled by Department of Planning and Development staff and forwarded to the current owner of record or the authorized representative within five (5) business days of the Review Committee meeting. A copy of said comments shall be transmitted to the Building Inspector and the City Clerk.

F. Procedures for Minor Project Site Plan Review:

1. The current owner of record or an authorized representative shall submit a copy of the application for Minor Project Site Plan Review to the Department of Planning and Development after the original application is time-stamped at the City Clerk's Office. The application shall include an administrative filing fee in accordance with the schedule established in §17-15(D)(4) SITE PLAN REVIEW – ADMINISTRATION, one (1) original and three (3) copies of the site plan application, six (6) copies of the site plan, and all supporting material.
2. Prior to scheduling a public meeting for the project, and within ten (10) days of the filing of the application, the Review Committee shall determine if the proposed project qualifies as a Minor Project and if the application is complete. Initial determination that an application is complete shall not preclude the Review Committee from requesting or considering new information during the course of the review process.
 - a. Within ten (10) days of determining an application for a Minor Project is complete, the Review Committee shall review and take final action on the application at a public meeting posted in accordance with the Open Meeting Law. An extension of time may be requested in writing by the petitioner, but must be approved by the Review Committee.
 - b. If the proposed project does not qualify as a Minor Project, the Review Committee shall notify the petitioner in writing.
 - c. If it is determined that the application is incomplete, the Review Committee shall notify the petitioner in writing of what areas of the application are incomplete.
3. Final action of the Review Committee shall be determined through a majority vote of the members present. The Review Committee shall file its decision in writing with the City Clerk within five (5) business days of taking final action on the application. A copy of said decision shall be transmitted to the Building Inspector forthwith.

G. Procedures for a Major Project Site Plan Review Pre–Application Meeting:

1. The current owner of record or an authorized representative may submit a request for a Pre–Application Meeting by submitting the required materials with a cover letter that is time–stamped at the City Clerk’s Office. The materials shall include one (1) original and thirteen (13) copies of the application and conceptual materials.
2. Prior to scheduling a Pre–Application Meeting, and within ten (10) days of receiving the request, the Department of Planning and Development shall notify the petitioner as to whether the materials are adequate for a Pre–Application Meeting and, if applicable, specify the time and location of the Planning Board meeting. The Planning Board meeting shall be scheduled to occur within thirty (30) days of receiving the original request for a Pre–Application Meeting. A petitioner may request a different Planning Board meeting through direct consultation with the Department of Planning and Development.
3. Planning Board comments shall be compiled by Department of Planning and Development staff and forwarded to the current owner of record or the authorized representative within five (5) business days of the Planning Board public meeting. A copy of said comments shall be transmitted to the Building Inspector and the City Clerk.

H. Procedures for Major Project Site Plan Review:

1. The current owner of record or an authorized representative shall submit a copy of the application for Major Site Plan review to the Planning Board after the original application is time–stamped at the City Clerk’s Office. The application shall include an administrative filing fee in accordance with the schedule established in §17–15(D)(4) SITE PLAN REVIEW – ADMINISTRATION, one (1) original and three (3) copies of the site plan application, eighteen (18) copies of the site plan, the certified list of abutters, and all supporting material.
2. Prior to scheduling a public hearing, and within (14) days of the filing of the application, the Department of Planning and Development shall determine if the project qualifies as a Minor or Major Project and if the application is complete. Initial determination that an application is complete shall not preclude the Planning Board from requesting or considering new information during the course of the review process.
3. After determining that an application is complete, the Department of Planning and Development shall transmit a copy to the Planning Board, Board of Health, Building Commissioner, Fire Department, Department of Public Works – Highway Division, Police Department, the Water Department, the Wastewater Department, and Conservation Commission.
4. The Planning Board shall conduct a public hearing within twenty–one (21) days of the date the Department of Planning and Development determines that the application is complete. The notification requirements of the public hearing shall comply with the following:
 - a. Notice shall be given by publication in a newspaper of general circulation in the City at least seven (7) days prior to the opening of the public hearing and by posting such notice in a conspicuous place in the City Hall and on the City’s web–site for a period of not less than seven (7) days before the day of the meeting.

- J.** Minor and Major Project Site Plan Review Submission Materials: A Professional Land Surveyor or Professional Civil Engineer shall sign and date and place their seal upon all pertinent documents and plans as appropriate. All drawings shall be prepared on standard 24"x36" plan sheets. Site plans shall be at a minimum scale of 1"=40' unless otherwise specified. Elevation drawings, where required, shall be drawn at a minimum scale of 1"=4'. A site plan prepared for other municipal permitting processes (i.e., Stormwater Management Permit) may be submitted to satisfy the site plan submission requirements of this section provided that it also contains the information required by this section.
- 1.** Minor Project Submission Requirements: The following information shall be included on the site plan for all Major and Minor Projects, as applicable.
- a.** Regional Locus: A locus plan locating the site on the most recent USGS quadrangle map that includes a half-mile radius around the site and zoning district boundaries.
 - b.** Site Locus: A plan showing the following site elements –
 - 1.** location and dimensions of lot boundaries;
 - 2.** identification of the underlying zoning district(s), location of the zoning line(s), and any overlay districts;
 - 3.** location and dimensions of adjacent rights-of-way or other means of access to the site;
 - 4.** location and owners' names of all abutting properties including properties across the street from the subject premises;
 - 5.** location and dimensions of any easement, right-of-ways, restrictive covenants and any other restrictions connected with the site;
 - c.** Significant Site Features: The location of wetlands, streams, water bodies, 100-year flood plain boundary with elevation, and unique natural land features, including all stone walls, trees over eight (8") inches in diameter measured at breast height, rock outcrops, and the general location of the tree line.
 - d.** Structures: Existing and proposed structures, including dimensions, footprint, total gross floor area, number of stories, facade elevations, height of top of foundation, building height(s), and building yard setbacks.
 - e.** Signage: The location, dimensions, height, lighting, and other characteristics of all existing or proposed signs including alterations to existing signs.
 - f.** Landscaping: Proposed landscape features including conceptual grading, a planting plan, and the locations and a description of buffer areas, screening, and fencing.
 - g.** Parking: Parking lot and loading area layouts, parking stall dimensions, driveways, access and egress curb cut openings, bicycle racks, and bus stops or drop-off areas.

- h. Water, Wastewater, Drainage Systems, and other Utilities: The locations and description of all existing and proposed septic systems, sanitary sewer, water supply, storm drainage systems, utilities, refuse, and other waste disposal methods.
 - i. If requested by the Planning Board, the application shall also include a Technical Review Fee to cover the review of specific design or engineering elements of the proposed development subject to MGL CH. 44 §53G.
2. Major Project Submission Requirements: In addition to the information required for a Minor Project, the following information shall also be included on the site plan for a Major Project as applicable –
- a. Traffic: The plan shall show pedestrian, bicycle, and vehicular traffic flow patterns and proposed traffic signage and show access to and from the site and circulation within the site.
 - b. Lighting Plan: Existing and proposed exterior lighting, including locations, lighting source, estimated average foot-candles, shielding, and fixture types.
 - c. Public Access: The location and description of proposed public access areas, including parks, conservation areas, gardens, bikeways, pathways, or sidewalks.
 - d. Stormwater Management Plan: In addition to any information provided relative to stormwater management pursuant to ~~§17-15.0(j)(1) MINOR PROJECT SUBMISSION REQUIREMENTS~~, the following information shall be provided to the Planning Board as part of a Major Project application:
 - 1. existing topography at two (2') foot contours interval;
 - 2. mapping of predominant soils from NRCS soil survey information;
 - 3. boundaries of existing predominant vegetation and proposed limits of clearing;
 - 4. location of floodplain limits;
 - 5. location of existing and proposed roads, buildings, and other structures;
 - 6. location of existing and proposed conveyance systems such as grass channels, swales, and storm drains;
 - 7. existing and proposed catchment areas and drainage flow paths;
 - 8. preliminary location of channel modifications, such as bridge or culvert crossings;
 - 9. preliminary selection and rationale for structural stormwater management practices; and
 - 10. description of any proposed innovative site design measures intended to reduce impervious cover, minimize disturbance of natural areas and/or disconnect impervious surfaces from piped stormwater conveyance systems;

- e. Architectural Elevations: Plans, photographs, and/or other drawings shall include the architectural elevations of all sides of all new buildings and of those sides of existing buildings that are proposed to be altered in any way. The drawings shall show the following –
 - 1. exterior material, including trim and colors;
 - 2. type, pitch and material of roofs;
 - 3. size, type, and spacing of windows, doors and other openings;
 - 4. size, location, and lighting of signs affixed to or hanging from the building;
 - 5. the relationship of massing, scale and height to other existing structures in the immediate vicinity with photos and drawings; and
 - 6. elevations or renderings of new construction, renovation or expansions;

K. Site Plan Review Criteria: In reviewing and evaluating the site plan, and in taking final action regarding site plan review, the Planning Board or Review Committee shall require that the site plan(s) promote the objectives set forth in §17-15.0(B) PURPOSES OF SITE PLAN REVIEW. These standards embrace the following criteria for the proposed development –

- 1. Traffic, Parking, and Public Access:
 - a. Minimizes vehicular traffic impacts of the proposed development on adjacent highways or roads.
 - b. Maximizes the convenience and safety of vehicular, bicycle, and pedestrian movement within the neighborhood and site and on adjacent highways and roads.
- 2. Public Services and Infrastructure:
 - a. Is designed with suitable water supply, wastewater systems, solid waste disposal systems, and stormwater management practices.
 - b. Is within the capacity of the municipal infrastructure, as determined by municipal officials.
 - c. Includes measures to prevent pollution of surface or groundwater, minimize erosion and sedimentation, prevent changes in groundwater levels, and prevent increased runoff, flow and flow rates, and limits the potential for flooding.
- 3. Open Space and Environmental Protection:
 - a. Demonstrates that the adverse impacts to open space and sensitive areas such as wetlands, floodplains, surface water and groundwater have been minimized.
 - b. Proposes a landscape design that complies with all applicable standards of the ZONING ORDINANCE.

4. Land Use Planning: Is consistent with the land use goals of the ZONING ORDINANCE and any land use or facilities plans adopted by Municipal Council.
5. Community Character:
 - a. Minimizes obstruction of scenic views from publicly accessible locations.
 - b. Minimizes impacts to important natural or historical features.
 - c. Screens objectionable features, such as large blank walls, open dumpsters, loading or storage areas, from neighboring properties, and roadways.
 - d. Is appropriate with regard to the size, shape, and architectural design of the buildings or structures both in relation to the land area upon which the building or structure is situated and to the adjacent buildings and structures within the neighborhood.
6. Health:
 - a. Minimizes adverse air-quality impacts, noise, glare, and odors.
 - b. Provides for proper disposal of trash.
- L. Final Action for Pre-Application Meeting: Final action of the Planning Board or Review Committee shall consist of a letter documenting the comments expressed by the review authority. Comments shall reflect concerns and impressions expressed at the meeting(s) and shall serve as a record of potential deficiencies or time-consuming issues. The Pre-Application Meeting shall not result in approval or disapproval, but is intended to provide guidance to the petitioner on how to proceed with the project.
- M. Final Action for Minor and Major Project Site Plan Review: Final action of the Review Committee or Planning Board shall consist of one of the following –
 1. Approval as Submitted: Approval based on a determination that the application complies with the criteria and design performance standards set forth in this section.
 2. Approval with Conditions: Approval of the application subject to any reasonable conditions, modifications, and restrictions the Planning Board or Review Committee may deem necessary to ensure the health, safety, and general welfare of the community.
 3. Disapproval: A disapproval of the application for the reasons of violations of provisions in the ZONING ORDINANCE, or determination that the site plan(s), although proper in form, is so intrusive on the interests of the public in one or more aspects regulated by the ZONING ORDINANCE, that no reasonable terms or conditions can be devised to adequately protect the interests of the public.
- N. Appeals: Appeal of the Review Committee's or Planning Board's final action on a site plan review application shall be made to the Zoning Board of Appeals in accordance with §17-8.8 APPEALS. The Zoning Board of Appeals shall uphold, overturn, or remand the matter to the Planning Board or Review Committee for reconsideration, as applicable.