

# **ARTICLE I ADMINISTRATION AND PROCEDURES**

## **1.0 Purpose and Authority <sup>1</sup>**

To lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provisions of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including considerations of the master plan, adopted by the Planning Board, and to preserve and increase amenities, all pursuant to the provisions of the Massachusetts General Laws Chapter 40A and further that the height and size of buildings and structures, size, width and frontage of lots, yards and other open spaces and the location and use of buildings, structures and land in the Town of Canton are hereby restricted and regulated as hereinafter provided.

## **1.1 Administration**

### **1.11 Execution**

The inspector of buildings shall be charged with the enforcement of the zoning by-law of the Town of Canton and shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of any zoning by-law of the Town of Canton and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of any zoning by-law of the Town of Canton.

### **1.12 Enforcement <sup>2</sup> <sup>2.1</sup>**

If the Board of Selectmen shall be informed by the building commissioner or have reason to believe that any provision of this By-law or any permit or decision thereunder has been, is being, or is about to be violated, they shall make or cause to be made an investigation of the facts, including the inspection of the premises where the violations may exist, and if they find any violation, they shall give immediate notice in writing to the owner or his duly authorized agent and to the occupant of the premises.

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<sup>1</sup> 1.0 Amended ATM 1978 under Article 40 (Section I-A)

<sup>2</sup> 1.12 Amended ATM 1960, Article 15 & ATM 1967, Article 36 (Section XIII.B)

<sup>2.1</sup> 1.12 Amended ATM 2002, Article 22

If, after such notice, such violation continues, with respect to any building, structure or use contrary to the provisions of this By-law, the Board of Selectmen shall take such action as is necessary to enforce the provisions of this By-law.

This by-law may be enforced by criminal complaint brought in the district court in the manner provided in Section 21 of Chapter 40 of the General Laws. The penalty to apply when an infraction is so prosecuted shall be, in each such case, as determined to be appropriate by the court, within the limits established by law.

This by-law may, in addition, be enforced through the non-criminal complaint procedure provided in Section 21D of Chapter 40 of the General Laws. The Building Inspector, and any local inspector designated by the Building Inspector, with approval of the Board of Selectmen, shall be enforcing agents for the purpose of non-criminal enforcement of the Zoning By-law. The penalty to be imposed for each violation of any provision of this by-law shall be one hundred dollars. Each day on which a violation exists shall be deemed to be a separate offense.

### **1.13 Other Regulations**

The provisions of this By-law shall be construed as being additional to and not as annulling, limiting, or lessening to any extent whatsoever the requirements of any other by-law, rule or regulation; provided that, unless specifically excepted, where this By-law is more stringent it shall control.

### **1.14 Validity**

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision hereof.

### **1.15 Definitions**

In this By-law the following terms, phrases and words, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

**1.15.1 Abut:** Shall mean to touch; be contiguous; border on; without intervening land. <sup>3</sup>

**1.15.2 Access Drive:** A permanent dust free surface which is required for each lot, for the passage of motor vehicles for access and egress to and from a street. An access drive may lead to or from a parking

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<sup>3</sup> 1.15.1 Inserted ATM 1991, Article 32A (Sec. I-B.23)

space or loading bay or to other access drives or to a related maneuvering aisle. <sup>4</sup>

**1.15.3 DELETED.** <sup>5</sup>

**1.15.4 Accessory Apartment:** A secondary dwelling unit located within a structure constructed as a detached one family dwelling subordinate in size to the principal unit and separated from it in a manner that maintains the appearance of the structure as a single-family house.

**1.15.5 Accessory Signs:** Any sign that, with respect to the premises on which it is erected, advertises or indicates one or more of the following: the person occupying the premises or the business transacted on the premises or the sale or letting of the premises or any part thereof, and which contains no other advertising matter. <sup>6</sup>

**1.15.6 Accessory Use:** A subordinate use of a building, structure or land customarily incidental to and located on the same lot with the main building, structure or use (or located on a lot contiguous to such lot, if in the same ownership), and which does not constitute, in effect, conversion of the main use of the premises to one not permitted.

**1.15.7 Aisle:** A roadway adjacent to, and providing direct access to, individual parking spaces.

**1.15.8 Antenna Support Structure :** any building or structure other than a tower which can be used for location of telecommunications facilities.<sup>7</sup>

**1.15.9 Apartment House:** A detached building designed for or occupied by three or more families and includes buildings in which the dwelling units are side by side with separate entrances as well as buildings in which some units share a common entrance. This definition shall include, when otherwise applicable, buildings in which the dwelling units are known as "condominiums" or "town houses" or otherwise. <sup>8</sup>

**1.15.10 Aquifer:** Geologic formation composed of rock, sand, gravel or other geologic material that contains significant amounts of potentially recoverable water.

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<sup>4</sup> 1.15.2 Amended ATM 1998, Article 1

<sup>5</sup> 1.15.3 Deleted ATM 1998, Article 1

<sup>6</sup> 1.15.5 Inserted ATM 1990, Article 39 (Section I-B.6(a))

<sup>7</sup> 1.15.8 Inserted ATM 1998, Article 20

<sup>8</sup> 1.15.9 Inserted ATM 1973, under Article 67 (Section I-B.17)

- 1.15.11 Automotive Service Station:** A building or place of business where gasoline, oil, batteries, tires and other allied products, supplies or parts of motor vehicles are furnished or sold directly or indirectly to the motor vehicle trade, or where minor repairs or adjustments to motor vehicles are performed.<sup>9</sup>
- 1.15.12 Building:** Any structure having a roof for the shelter, housing or enclosure of persons, animals, chattels, or property of any kind.
- 1.15.13 Business Establishment:** Each separate place of business whether or not consisting of one or more buildings.
- 1.15.14 Central Business Area:** Refers to that portion of the area designated as a Business District by this By-law, or any subsequent amendment thereto, which lies along Washington Street south of Revere Street and north of Neponset Street (including projections of their center lines across Washington Street), and which is not separated from said Washington Street by any other type of district.
- 1.15.15 Common Open Land:** A parcel or parcels of undeveloped land or an area of water, or a combination of undeveloped land and water within the site designated for a Flexible Residential Development, maintained and preserved for open uses, and designed and intended for the use or enjoyment of residents of the Flexible Residential Development. Common Open Land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the Flexible Residential Development, but shall not include streets or parking areas except those incidental to open space use.<sup>10</sup>
- 1.15.16 Constructed:** Includes the words "built", "erected", "reconstructed", "altered", "enlarged", "moved", and "placed".
- 1.15.17 Dwelling:** A building, or any part thereof, containing accommodations for permanent human occupancy, including one and two-family houses, apartments, and boarding or lodging houses, but not including transient accommodations such as in hotels or motels.
- 1.15.18 Family:** A single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bond.

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<sup>9</sup> 1.15.11 Inserted ATM 1973, under Article 67 (Section I-B.17)

<sup>10</sup> 1.15.15 Inserted ATM 1998, Article 39

- 1.15.19 Fast Food Establishment:** An establishment whose primary use is for the sale of fast order food for consumption on or off the premises.<sup>11</sup>
- 1.15.20 Flexible Residential Development:** An option which permits an applicant to build single family dwellings with reduced lot area and frontage requirements so as to create a development in which the lots are grouped together with adjacent common open land.<sup>12</sup>
- 1.15.21 Groundwater Protection District:** The zoning district defined to overlay other zoning districts in the Town of Canton. The groundwater protection district may include specifically designated recharge areas.
- 1.15.22 Homes Association:** A corporation or trust owned or to be owned by the owners of lots within a tract approved for flexible development, which holds the title to common open land and which is responsible for the costs and maintenance of said open land and any other facilities to be held in common.<sup>13</sup>
- 1.15.23 Junk:** Any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use (but not including any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purposes as readily as when new).
- 1.15.24 Impervious Surface:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.
- 1.15.25 Lot:** A single parcel of land held in identical ownership throughout, and defined by metes, bounds or boundary lines in a recorded deed or on a recorded plan.
- 1.15.26 Non-Conforming Use:** A use lawfully existing at the time this By-law or any amendment thereto is adopted which does not conform to the Use Regulations thereof, including an existing use permissible on special authorization of the Board of Appeals but which has not been so authorized.
- 1.15.27 Non-Accessory Signs:** Any billboard, sign, or other advertising device that does not come within the foregoing definition of an accessory sign.

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<sup>11</sup> 1.15.19 Inserted ATM 1991, Article 6 (Section I-B.22)

<sup>12</sup> 1.15.20 Inserted ATM 1998, Article 39

<sup>13</sup> 1.15.22 Inserted ATM 1998, Article 39

**1.15.28 One-Family House:** A detached building designed for or occupied exclusively by one family.

**1.15.29 Parking Bay:** An area consisting of a number of parking spaces or stalls laid out in a regular pattern side-by-side with the long dimension of included spaces parallel to each other.

**1.15.30 Permit Granting Authority:** Shall mean the Zoning Board of Appeals, **except that:**

The Planning Board is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes under Section 5.4 Flexible Residential Development, and shall adopt rules and regulations governing the administration of applications for special permits under this Section. 5.4.<sup>14</sup>

**1.15.31 Premises:** One or more contiguous lots in the same ownership or use, together with all buildings and structures thereon.

**1.15.32 Recharge Areas:** Areas where precipitation or surface water collects and infiltrates the overlying geologic material into the aquifer. Recharge areas may include areas designated as Groundwater Protection District.

**1.15.33 Recorded:** Recorded or registered in the Norfolk County Registry of Deeds.

**1.15.34 Restaurant:** Establishment whose primary use is for the sale of prepared food or beverage for consumption within the building.<sup>15</sup>

**1.15.35 Sign:** Any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to, or indicates any premises, persons, products, businesses or activities, whatever the nature of the material and manner of composition or construction.

**1.15.36 Special Permit Granting Authority:** Shall mean the Zoning Board of Appeals<sup>16</sup>, **except that:**

The Planning Board is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes under Section 5.4 Flexible Residential Development, and shall adopt rules and regulations governing the administration of applicants for special permits under this Section 5.4.<sup>17</sup>

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<sup>14</sup> 1.15.30 Inserted ATM, Article 39

<sup>15</sup> 1.15.34 Inserted ATM 1991 under Article 6 (Section I-B.21)

<sup>16</sup> 1.15.30 Inserted ATM 1978 under Article 40 (Section I-B.19)

<sup>17</sup> 1.15.36 Inserted ATM under Article 39

- 1.15.37 Standing Sign:** Any and every sign erected on or affixed to the land and any and every exterior sign that is not attached to a building.
- 1.15.38 Stealth:** Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees.<sup>18</sup>
- 1.15.39 Street or Way:** Includes a way, street or road open and dedicated to public use, certified by the Town Clerk to have been used and maintained by public authorities as a public way; or a way approved and constructed under the provisions of Subdivision Control Law; or a private way in existence prior to said Subdivision Control Law, having in the opinion of the Planning Board, adequate width, grades and construction for the vehicular traffic and the installation of Municipal services to serve the land abutting on each such way and the buildings erected or to be erected thereon.<sup>19</sup>
- 1.15.40 Structure:** A combination of materials assembled at a fixed location to give support or shelter or for other purposes, including buildings, frameworks, tents, signs, fences, antennae, and the like.
- 1.15.41 Telecommunications Facilities:** Any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, *telecommunications facilities* shall not include:
- A. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial, or
  - B. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.<sup>20</sup>
- 1.15.42 Telecommunication Tower:** A self-supporting monopole structure constructed from grade which supports telecommunications facilities. The term *tower* shall not include

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<sup>18</sup> 1.15.38 Inserted ATM 1998, Article 20

<sup>19</sup> 1.15.39 Inserted ATM 1986, Article 17 (Section I-B.20)

<sup>20</sup> 1.15.41 Inserted at ATM 1998, Article 20

amateur radio operators' equipment, as licensed by the FCC. Only free standing monopole structures with associated antenna array and/or panels are allowed. Lattice styled towers, and similar facilities requiring three or more legs and or guy wires are not allowed.<sup>21</sup>

**1.15.43 Toxic or Hazardous Material:** Any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Canton. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E and 310 CMR 30:00, and also includes such products as solvents and thinners in quantities greater than normal household use.

**1.15.44 Two-Family House:** A detached building designed for or occupied by two families, and includes both a "double house" in which the dwelling units are side by side separated by a wall, and a "duplex house" in which part of one dwelling unit is over part of the other unit.

**1.15.45 Wetlands:** An area characterized by vegetation described in General Laws, chapter 131, Section 40.<sup>22</sup>

## 1.2 Board of Appeals

### 1.21 Appointments

There shall be a Board of Appeals of three members and two associate members, all residents of the Town of Canton, who shall be appointed by the Board of Selectmen under the provisions of Chapter 40A of the General Laws, as amended. Said Board shall have all the powers and duties of boards of appeals under said Chapter and in addition, all the powers and duties herein prescribed.

### 1.22 Appeals<sup>23</sup>

Appeals to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit under this By-law, or may be

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<sup>21</sup> 1.15.42 Inserted ATM 1998, Article 20

<sup>22</sup> 1.15.45 Inserted ATM 1998, Article 39

<sup>23</sup> 1.22 Amended STM 1978, Article 40 (Section XII-B)

taken by an officer or board of the Town or other person aggrieved by an order or decision of any administrative official under this By-law. In any case, no such appeal shall be heard by said Board unless, within thirty (30) days after the refusal of a permit or the issuance of the order or decision, a notice of said appeal is filed with the Town Clerk.

### **1.23 Special Permits and Exceptions**<sup>24</sup>

Where a special permit or other exception may be authorized by the Board of Appeals under this By-law, the person desiring such exception shall make written application therefore with said Board. Where, in the opinion of said Board, the special permit or exception may be granted if accompanied by conditions specially designed to safeguard persons and property in the vicinity and the Town, it shall impose such conditions in writing and make them a part of its authorization. Said Board may require a bond or other security for compliance with the terms of its authorization.

- 1.23.1** Special permits may be issued for uses which are in harmony with the general purpose and intent of the zoning by-laws and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards and limitations of time or use.
- 1.23.2** Special permits shall only be issued following public hearings held within 65 days after filing of an application with the special permit granting authority, a copy of which shall forthwith be given to the Town Clerk by the applicant.
- 1.23.3** The special permit granting authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, content, style and number of copies of plans and specifications and the procedure for the submission and approval of such permits and shall file a copy of said rules in the office of the Town Clerk. Special permit granting authorities shall act within ninety days following a public hearing for which notice has been given by publication or posting (as provided in Mass. G.L. Chapter 40A) and by mailing to all parties in interest. Failure by the special permit granting authority to take final action upon an application for a special permit within said ninety days following the date of public hearing shall be deemed to be a grant of the permit applied for. Special permits issued by the special permit granting authority shall require a unanimous vote.
- 1.23.4** A special permit granted shall lapse two years after grant thereof which period shall not include such time required to pursue or await

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<sup>24</sup> 1.23 Amended ATM 1974, Article 64 & ATM 1978, Article 40 (Section XII-C)

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.<sup>25</sup>

**1.23.5** Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which 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 special permit granting authority finds that the proposed accessory use does not substantially derogate from the public good.

**1.23.6** In any district where a municipally owned existing building and its land is no longer needed for the purpose for which it was acquired, or for any other municipal purpose, the Zoning Board of Appeals may grant a Special Permit for any of the specific uses: Professional Office Building provided that such use is not inconsistent with the purpose and intent of this by-law and is not injurious to the neighborhood.

## **1.24 Variances**

The permit granting authority shall have the power after public hearing for which notice has been given by publication and posting as provided in Mass. G.L. Ch. 40A S. 11 and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning by-laws where such permit granting authority 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 the zoning by-law would involve substantial hardship, financial or otherwise, to the petitioner or the 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 purpose of such zoning by-law.

In addition to the foregoing the permit granting authority shall have the power to permit variances for uses of land or building not otherwise permitted in the district in which the land or building is located.

The permit granting authority may impose conditions, safeguards and limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation

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<sup>25</sup> 1.23.4 Inserted STM 1998, Article 1

based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefore, and upon the expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of M.G.L. c.40A.<sup>123</sup>

### **1.3 Non-Conforming and Temporary Uses**

#### **1.31 Buildings and Uses Already in Existence<sup>26</sup>**

Any lawful building or structure, or use of a building, structure or land, existing at the time this By-law or any amendment thereto is adopted which does not conform to the provisions thereof may be continued unless and until abandoned. A nonconforming structure or use shall be considered abandoned or not used at the expiration of twenty-four months following its last documented use or occupancy (in a manner then inconsistent with any provision of the zoning by-law) and may not thereafter be resumed except in conformity with provision of this by-law.

#### **1.32 Changes, Alterations or Extensions of Non-Conforming Buildings and Uses<sup>27 28</sup>**

A valid pre-existing, non-conforming single family, or two family residential structure may be extended or altered as a matter of right if such extension or alteration takes place within the existing (so-called) "footprint" of the building or such extension or alteration does not require the variance of any provision of the zoning by-laws.

Other valid pre-existing, non-conforming structure or uses may be extended or altered provided a special permit specifically authorizing such extension or alteration is issued by the Board of Appeals, as special permit granting authority. Such special permits may only be issued where a finding is made that such use is in harmony with the general purpose and intent of the zoning by-law and may contain specific conditions,

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<sup>123</sup> 1.24 Amended ATM 2006 under Article 25

<sup>26</sup> 1.31 Amended ATM 1978 under Article 40, Amended ATM 1993 under Article 23 (Section XI-A)

<sup>27</sup> 1.32 Amended ATM 1978 under Article 40 (Section XI-B)

<sup>28</sup> 1.32 Completely Rewritten ATM 1993, Article 23 (Section XI-B)

safeguards and limitations on time and on use. No such special permit shall be issued unless the Board of Appeals is satisfied that the extension, alteration, reconstruction, replacement or structural change will not substantially increase any detrimental, injurious effect of the structure or the use on the neighborhood.

### **1.33 Repair and Restoration of Non-Conforming Buildings**

A building or structure devoted to a non-conforming use (whether in whole or in part) and a building or structure non-conforming as to height, setback or open spaces, may, if damaged or destroyed by fire or other accidental cause, be repaired or reconstructed within the same portion of the lot and used as before, provided that such repair or reconstruction is substantially completed within two years of said damage or destruction; otherwise, such building or structure shall be repaired, reconstructed and used only in conformity with the provisions of this By-law. The Board of Appeals may, however, in a specific case authorize the extension of the two-year time limit or authorize a special exception from the requirement of conformity, where, in the opinion of the Board, such limit or requirement will impose undue hardship.

### **1.34 Temporary Uses**

In any district, the Board of Appeals may authorize a temporary building, structure or use not in conformity with the provisions of this By-law, provided that such use will not be detrimental or injurious to persons, property or improvements in the vicinity and the Town. Such authorization shall not be for more than one year at a time nor be extended over more than a total of three years (whether or not consecutive).

## **ARTICLE II DISTRICT USE REGULATIONS**

### **2.0 Establishment of Districts**

#### **2.01 Types of Districts**<sup>29</sup>

For the purpose of this By-law, the Town of Canton is hereby divided into six types of use districts, which shall be known, in the order of general restrictiveness, beginning with the most restrictive, as:

- 2.01.1** Single Residence Districts.
- 2.01.2** General Residence Districts.
- 2.01.3** Business Districts
- 2.01.4** Central Business District<sup>30</sup>
- 2.01.5** Limited Industrial Districts
- 2.01.6** Industrial Districts

In addition, Single Residence Districts are further divided into lot area districts, which shall be known, in the order of general restrictiveness, beginning with the most restrictive, as:

- Single Residence AA Districts.
- Single Residence A Districts.
- Single Residence B Districts.
- Single Residence C Districts.

All regulations established by this By-law applicable to a "Single Residence District" shall apply without distinction to all such divisions of said district except as hereinafter expressly provided.

#### **2.02 Residential and Non-Residential Districts**

The term "Residential Districts" as hereinafter used shall refer to any one or all of the first two types of use districts set forth above; the term "Non-Residential Districts" as hereinafter used shall refer to any one or all of the last three types of use districts set forth above.

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<sup>29</sup> 2.01 Inserted ATM 1963, Single Residence AA Districts under Article 33 (Section II-A)

<sup>30</sup> 2.01.4 Inserted STM 1998 under Article 1

### **2.03 Location of Districts**

All districts hereinafter referred to are located as shown on a map filed with the Town Clerk, entitled "Zoning Map for the Town of Canton, Massachusetts, March 8, 1937," with any and all amendments thereto subsequently adopted. Said map, together with all explanatory matter thereon, and amendments thereto, shall be deemed to accompany, be, and is hereby made a part of this By-law.

Any area on said Zoning Map designated as a "Combination Residence Business District" shall be deemed to be included within a "Business District" under this By-law, and subject to the regulations of said Business District.

### **2.04 Boundaries of Districts**

The location of the boundary lines of the districts shown upon the aforesaid map shall be determined as follows:

- 2.04.1** Where a boundary line is shown approximately on the location of a property or lot line and the exact location of the boundary line is not indicated by means of a figure or otherwise, then the property or lot line shall be the boundary line.
- 2.04.2** Where a boundary line is shown as following a street, railroad, or utility transmission line, the boundary shall be the center line thereof unless otherwise indicated.
- 2.04.3** Where a boundary line is shown outside of the lines of a street, railroad, or utility transmission line and approximately parallel thereto, such boundary line shall be deemed parallel to the center line thereof, and where a figure is placed upon the map between such boundary line and the street, railroad, or utility transmission line, it indicates the distance in feet of such boundary line from such center line (measured at right angles thereto, unless otherwise designated).
- 2.04.4** In any case not covered by the other provisions of this paragraph, the location of a boundary line shall be determined by the distance in feet, if given, from other lines upon the map, or if distances are not given, then by the scale of the map.

### **2.05 Lots in More Than One District**

Where a district boundary line divides a lot laid out and duly recorded prior to the time such boundary line is established, the regulations applying to the portion of such lot in the less restricted district may be considered as extending not more than fifty (50) feet into the more

restricted portion, but only if the lot has frontage on a street in the less restricted district.

## **2.1 Use Regulations**<sup>31</sup>

### **2.11 Application of Use Regulations**

No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized.

Construction or operations under a building or special permit shall conform to any subsequent amendment of the zoning by-law unless the use or construction is commenced within a period not less than six months after the issuance of the permit and in cases involving construction unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

### **2.12 Single Resident District**

#### **2.12.1 Permitted Uses.**<sup>32</sup>

In a Single Residence District, the following uses are permitted as of right:

- A.** One-family house.
- B.** Church or other place of worship, parish house, rectory or convent.
- C.** Religious, sectarian, or denominational educational purpose.
- D.** Public school, library, museum, art gallery or community building.
- E.** Private school offering primarily general educational courses.
- F.** Orchard, market garden, nursery or other open use of the land for commercial agricultural production (but not including any building or structure primarily used or maintained in connection with such purpose nor the regular sale at retail of any agricultural produce, unless authorized by the Board of Appeals as hereinafter provided).
- G.** Recreational or water supply use of a governmental agency.
- H.** Public administration building, fire or police station.

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<sup>31</sup> 2.1 Inserted ATM 1978, under Article 40 (Section III-A)

<sup>32</sup> 2.12.1 Amended ATM 1973, Article 72 (Section III-B-1)

- I. Extension of an existing cemetery.
- J. Sign, as hereinafter permitted.
- K. Accessory use incidental to a permitted main use, including the following:

**K.1** The keeping overnight of not more than five motor vehicles, one of which may be a commercial vehicle. Such commercial vehicle shall not exceed a gross vehicle weight of twelve thousand, five hundred (12,500) pounds, or measure more than seven feet, six inches (7' 6") from the ground to the top of the roof, or measure more than twenty-one feet (21') from the front bumper to the rear bumper.

For the purpose of this section no, so-called, pick-up truck shall be deemed to be a 'commercial' vehicle.

Nothing in this section shall be construed to prevent any person from bringing a commercial vehicle otherwise prohibited by this section into a residential neighborhood for the purpose of making a delivery, or for performing work, or during lunchtime, or on an irregular basis.

The board of appeals may, pursuant to Article I, Section 1.23 of this by-law, provide exceptions to the foregoing requirements.

- K.2** Greenhouse, tool shed, playhouse, tennis court, boat house, or other similar building or structure for domestic storage or use.<sup>33</sup>
- K.3** The renting of rooms or the furnishing of table board in a dwelling to not more than two (2) persons other than members of the family (whether regular or transient).<sup>34</sup>
- K.4** The use of a portion of a dwelling or of a building accessory thereto by a resident of the premises as an office, studio or workroom for the conduct of a profession or customary home occupation, subject to the condition that:

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<sup>33</sup> 2.12.1-K-2 Amended ATM 1990, Article 38 (Section III-B.1 (k) (2) )

<sup>34</sup> 2.12.1-K-3 Amended ATM 1981, Article 36 (Section III-B.1 (k) (3) )

- (a) such use is clearly incidental and secondary to the use of the premises for dwelling purposes;
- (b) not more than one person other than residents of the premises is regularly employed thereon in connection with such use;
- (c) no trading in merchandise is regularly carried on;
- (d) no external change is made which alters the residential the buildings on the premises appearance of; and
- (e) there is no outward evidence that the premises are being used for any purpose other than residential (except for an accessory sign as hereinafter permitted).

In particular, uses permitted hereunder may include, but are not limited to, the office of a lawyer, doctor, dentist, architect, engineer, real estate agent or insurance agent, the studio of an artist, musician or teacher (with any regular instruction limited to one pupil at a time), or the workroom of a dressmaker, milliner, or photographer, but do not include any uses hereinafter set forth as permissible by special permit in the same district.

#### **2.12.2 Certain Residential Uses by Special Permit Only <sup>35</sup>**

In a Single Residence District, the Board of Appeals may, in a specific case, issue a special permit for any of the following residential uses:

In a Residence AA, Residence A, Residence B, and Residence C District, the Board of Appeals may, in a specific case, issue a special permit for any of the following residential uses:

- A.** The conversion and/or use of a one-family house existing on March 8, 1937, as a dwelling for not more than two families, or as a convalescent or nursing home, boarding or lodging house, or tourist home provided that:
  - A.1** such dwelling is located on a lot having an area at least twenty-five (25) per cent larger than the minimum hereafter required for the construction of a building in the same district;

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<sup>35</sup> 2.12.2 Amended ATM 1963, Article 33 (Section III-B.2)

- A.2 no exterior enlargement is made which, together with any changes made during the preceding five years, increases by more than twenty-five (25) percent of the area of the dwelling; and
  - A.3 no change is made in the external appearance and general aspect of such dwelling which alters its one-family character.
- B.** The use of a portion of a dwelling or of a building accessory thereto in connection with the conduct of a profession or customary home occupation by a resident of the premises for regular class instruction, regular sale of products of the occupation, or regular employment of not more than three (3) persons other than residents of the premises; or, the use of a portion of a dwelling accessory thereto for incidental work and storage in connection with his trade by a resident builder, carpenter, electrician, painter, plumber, or other artisan who performs the major portion of his work off the premises; provided that:
- B.1 such use does not produce noise or other effects observable at the lot lines in amounts exceeding those normal to residential property;
  - B.2 no external change is made which alters the residential appearance of the buildings on the premises;
  - B.3 there is no outside display of goods or products, storage of materials or equipment, or regular outside parking of commercial vehicles.

### **2.12.3 Accessory Residential Uses in One Family Dwellings <sup>36</sup>**

An accessory apartment is a secondary dwelling unit located within a structure as a detached one family dwelling, subordinate in size to the principal dwelling unit and separated from it, in a manner that maintains the appearance of the structure as a one family dwelling.

#### **A. Special Permit – Conditions and Requirements**

The Board of Appeals may issue a Special Permit for an accessory apartment in a detached, one-family dwelling in all residential districts provided that each of the following conditions are met:

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<sup>36</sup> 2.12.3 Inserted ATM 1990, Article 40 (Section III-B.2 c )

### **A.1 General**

- (a) The owner of the dwelling in which the accessory apartment is created shall occupy either of the dwelling units in the structure. For the purposes of this section, the "owner" shall be whoever holds title directly to the dwelling, and for whom the dwelling is the primary residence for voting and real estate purposes.
- (b) There shall be not more than one accessory apartment within a one family dwelling.
- (c) There shall be no boarders or lodgers within either unit of a dwelling with an accessory apartment.
- (d) The lot shall be at least 10,000 square feet in area; or the minimum required for each residential zone, whichever is greater.
- (e) The existing floor area of the dwelling shall have at least 2,000 square feet as of January 1, 1989, which amount shall be verified in the records of the Building Inspection Department or on a document, "Total Living Areas of Dwellings as of January 1, 1989", prepared by the Board of Assessors.
- (f) The maximum net floor area of the accessory apartment shall not exceed 30 percent of the net floor area of the dwelling as of January 1, 1989.
- (g) There shall not be more than two bedrooms in an accessory apartment.
- (h) Approval by the Board of Health, Sewer and Water Department and Conservation Commission and other Boards, as required.

### **A.2 Exterior Appearance of a Dwelling with an Accessory Apartment**

The accessory apartment shall be designed so that the appearance of the structure remains that of a one family dwelling, subject further to the following conditions:

- (a) All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling.
- (b) There shall be no enlargements or extensions of the dwelling in connection with any accessory apartment except for minimal additions necessary to comply with building, safety or health codes, or for enclosure of any entryway, or for enclosure of a stairway to a second or third story.
- (c) Any new entrance shall be located on the side or in the rear of the dwelling.
- (d) Where there are two or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and other entrances appear to be secondary.

### **A.3 Off Street Parking**

There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking space for the accessory apartment. In order to maintain the appearance of a single-family neighborhood all parking spaces on the lot shall be subject further to the following conditions and requirements:

- (a) Each parking space and the driveway leading thereto shall be bituminous concrete paving or other approved surface. No motor vehicles shall be regularly parked on the premises other than in such a parking space.
- (b) Where there are more than two outdoor parking spaces, there shall be provided suitable screening with evergreen or dense deciduous plantings, walls, fence or a combination thereof in the area between the parking spaces and the nearest side lot line and, if the parking space is in the front yard parallel to the street, in the area between the parking space and the front lot line. Screening shall be sufficient to minimize the visual impact on abutters and to maintain the single-family appearance of the neighborhood.

## **B. Procedures**

- B.1** No accessory apartment shall be constructed without issuance of a building permit by the Building Commissioner.
- B.2** No use of an accessory apartment shall be permitted prior to issuance of a certificate of occupancy by the Building Commissioner. A certificate of occupancy shall be issued after the Building Commissioner determines that the accessory apartment as constructed is in conformity with the approved plans and with the provisions of this by-law.
- B.3** A Special Permit for construction of an accessory apartment shall be issued to the person or persons named in the application and shall not be deemed to run with the land and shall be for a term not to exceed three years. Upon application by the owner such special permit shall be renewed by the Board of Appeals for a additional three-year term or terms. Approval for additional terms shall not be arbitrarily withheld by the Board of Appeals.
- B.4** A Special Permit may be transferred to a new owner occupant upon application to the Board of Appeals, subject to the provisions of this by-law. The transfer of the Special Permit shall not be arbitrarily withheld by the Board of Appeals.

## **C. Affordable Accessory Apartments**<sup>112</sup>

For the purpose of promoting affordable housing in the Town of Canton and in accordance with the Massachusetts Department of Housing and Community Development Local Initiatives Program (LIP) one affordable accessory apartment may be allowed per single family lot by special permit by the Zoning Board of Appeals subject to the following conditions and requirements:

1. The Zoning Board of Appeals may issue a special permit for an Affordable Accessory Apartment on single family lots provided that:

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<sup>112</sup> Sec. 2.12.3.C Inserted ATM 2005 under Article 29

- (a) The lot contains a minimum of ten thousand (10,000) square feet of contiguous upland, except that existing accessory apartments shall have no minimum lot size requirement.
  - (b) An Owner of an existing accessory apartment built prior to the adoption of this zoning by-law may apply for an Affordable Accessory Apartment special permit.
  - (c) As a condition of this special permit, Owners of existing and proposed accessory apartments shall strive to meet the conditions and requirements of Section 2.12.3 Accessory Residential Uses in One Family Dwellings.
2. The Owner permitted under this by-law shall be subject to a minimum 15-year use restriction and the maintenance of affordable rents, as defined in subsections 5 and 6 herein. No Affordable Accessory Apartment shall be occupied until the Owner provides a copy of said use restriction, recorded at the Norfolk County Registry of Deeds to the Building Commissioner, the Canton Housing Authority, and to any monitoring agent designated by the Town. The special permit will be issued to the Owner and as such is not transferable to successors. No affordable accessory apartment shall be separated by ownership from the principal dwelling.
  3. The Owner shall be in compliance with local zoning except where specifically exempted by the Zoning Board of Appeals. The Owner shall meet all state building codes, the Wetlands Protection Act, Groundwater Protection District, Floodplain and Title V. regulations.
  4. The Owners shall be responsible for submission to the Canton Housing Authority and any town designated monitoring agency, information that includes, but is not limited to, verification of Owner occupancy status, income eligibility of the tenant, copy of the lease agreement specifying the rent amount to be charged each month. Leases shall be issued for a period not to exceed one (1) year. Submission of all required information must be provided to the Canton Housing Authority or designated monitoring agency prior to executing a lease.
  5. Affordable Accessory Apartments created under this provision shall only be rented to a person or persons meeting the Canton Housing Authority guidelines for low-income households, in accordance with the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP). For purposes of this Section 2.12.3 C, low-income persons shall have annual incomes of no more than eighty percent (80%) of the median family income as reported in the most recent LIP guidelines within the Boston SMSA.

6. The Owner shall not charge rents exceeding the maximum permitted by the latest Massachusetts Department of Housing and Community Development Local Initiative Program (LIP) regulations.
7. Failure to comply with the Massachusetts Department of Housing and Community Development LIP regulations may result in Board of Appeals suspending the Owner's Affordable Accessory Apartment Special Permit.
8. The Zoning Board of Appeals may set filing fees to cover administrative costs related to the special permit procedure.

#### **D. Carriage House <sup>112</sup>**

The Zoning Board may allow, by Special Permit, or Variance, more than one unit per lot or allow a separate dwelling structure on a single lot if such structure, carriage house/barn, was constructed prior to zoning.

#### **2.12.4 Additional Uses by Special Permit Only <sup>37</sup>**

In a Single Residence District, the Board of Appeals may, in a specific case, issue a special permit for any of the following additional uses, subject to the general provisions that:

- a) the premises in question is reasonably adaptable to the proposed use and will allow proper design thereof, including adequate separation of buildings and open areas from adjacent premises; <sup>38</sup>
- b) such use will not have a material adverse effect on the value of land and buildings in the neighborhood, or on the amenities thereof;
- c) the use itself is not injurious or dangerous to the public health, or hazardous because of undue traffic congestion, danger of fire, or other reasons; and
- d) such use does not produce noise, vibration, smoke, dust, odors, heat, glare or other effects observable at the lot lines in amounts objectionable or detrimental to the normal use of adjacent property.

The following uses require site plan approval in accordance with Article III, Section 3.0:

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<sup>112</sup> Sec. 2.12.3.D Inserted ATM 2005 under Article 29

<sup>37</sup> 2.12.4 Amended ATM 1979, Article 50 (Section 111-B.3)

<sup>38</sup> 2.12.4-A Amended ATM 1991, Article 1991, Article 32C and Article 32D (Section III-C.2(b) )

- A. Private club, lodge, or other non-profit social, cultural, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business).
- B. The garaging or maintaining of more than five (5) automobiles, or of more than one commercial vehicle, but only where in connection with a permitted main use on the same premises.
- C. Building or structure used or maintained in connection with a permitted agricultural use of the land, or used for any other purpose of agricultural production (such as a greenhouse or poultry battery).
- D. The regular sale at retail of nursery, greenhouse, garden or other agricultural produce (including articles of home manufacture from such produce), but only where at least sixty (60) percent thereof is raised on the premises (or made from produce so raised), including a salesroom or stand in connection with such purpose.
- E. Any public utility or communications use or use of the Town or other governmental agency not specifically set forth herein.
- F. Nursery school or other agency for the day care of children.
- G. Deleted <sup>39</sup>
- H. Any of the following commercial recreational uses: golf course (but not including a golf driving range or "miniature" golf course), boat or canoe livery, riding academy or stable.

## **2.13 General Residence District**

### **2.13.1 Permitted Uses.**

In a General Residence District, the following uses are permitted as of right:

- A. Any of the uses permitted as of right in any Single Residence District.
- B. Two-family house, if located on a lot having an area larger than the minimum hereafter required for the construction of a one-family

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<sup>39</sup> 2.12.4-G. Amended ATM 1968, Article 44 (Section III-3 (7) )

house in the district by an additional two thousand (2000) square feet.

C. Sign, as hereinafter permitted.

D. Accessory use incidental to a permitted main use.

**2.13.2 Certain Residential Uses by Special Permit Only.** <sup>40</sup>

In a General Residence District, the Board of Appeals may, in a specific case, issue a special permit for any of the following residential uses:

A. Apartment house, provided that: <sup>41</sup>

**A.1** such dwelling is located on a lot having an area larger than the minimum hereafter required for the construction of a one-family house in the same district by an additional four thousand five hundred (4,500) square feet for each family in excess of one accommodated therein;

**A.2** the lot has a total area of not less than two hundred seventeen thousand eight hundred (217,800) square feet

**A.3** the lot has a minimum frontage of one hundred fifty (150) feet and at least two separate means of ingress/egress. In instances where frontage is not continuous, each means of ingress/egress shall have a continuous frontage of not less than seventy-five linear feet.

**A.4**<sup>124</sup> For premises containing more than four (4) dwelling units, in consideration of the increases in the otherwise permissible density of population or intensity of a particular use authorized pursuant to this Section 2.13.2, at least ten percent (10%) of the dwelling units, in no case less than one unit, shall be deed restricted in perpetuity as "Affordable Units" as defined in M.G.L. c 40B SS. 20-23 and in the regulations of the Department of Housing and Community Development promulgated thereunder.

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<sup>40</sup> 2.13.2 Amended STM, 1998, Article 3

<sup>41</sup> 2.13.2-A Amended ATM 1986, Article 51, last 3 paragraphs inserted ATM 1963, Article 34; last sentence deleted ATM 1978, Article 40 and Amended ATM 1991, Article 32B (Section III-C.2 (a) )

<sup>124</sup> 2.13.2.A.4 Amended ATM 2006, Article 22

**A.5** <sup>41.1</sup> Notwithstanding the prior subsections of this by-law, the Board of Appeals may, in a specific case, issue a special permit for an apartment house on a lot with a total area less than two hundred seventeen thousand eight hundred (217,800) square feet provided (a) such lot already has a dwelling or commercial building on it to be razed and replaced, and (b) the lot has an area larger than the minimum required for the construction of a one-family house in the same district by an additional seven thousand (7,000) square feet for each family in excess of one accommodated thereon; and (c) the lot has a minimum frontage of seventy-five (75) feet.

In computing the size of the parcel all wetlands and flood plain areas shall be excluded.

No apartment house shall be constructed or externally enlarged except in conformity with a site plan bearing an endorsement of approval by the Board of Appeals. Said site plan shall show, among other things, a key location plan showing adjacent structures, all existing and proposed buildings, structures, parking area with spaces designated, driveway openings, driveways and other open uses, all facilities for sewage disposal and for surface water drainage, and all landscape features (such as walks, fences, walls, planting areas) on the lot. Procedure for approval shall be in accordance with Article III, Section 3.03.

- B.** Convalescent or nursing home, boarding or lodging house, or tourist home, provided that the building: <sup>42</sup>
- B.1** has the external appearance and general aspect of a one-family dwelling, or
  - B.2** is located on a lot that abuts a Non-Residential Zoning District, or
  - B.3** is located on a lot that abuts other lots containing buildings used for one or more of such purposes or occupied by more than two families.
- C.** Any other residential use permissible by special permit in Single Residence Districts (in Article II, Section 2.12.2), subject to the same provisions for authorizing each such use therein set forth.

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<sup>41.1</sup> 2.13.2-A.4 Inserted ATM 2000, Article 46

<sup>42</sup> 2.13.2-B Amended ATM 1991, Article 32C and Article 32D, (Section III-C-2 (b) )

### **2.13.3 Additional Uses by Special Permit Only.** <sup>43</sup>

In a General Residence District, the Board of Appeals may, subject to the general provisions for authorizing additional uses in Single-Residence Districts (in Article II, Section 2.12.4), issue a special permit for any of the following additional uses in this District: The following uses require Site Plan Approval under Article III, Section 3.04.

- A.** Any of the additional uses permissible by special permit in any Single Residence District, but not including any commercial recreational uses or any agricultural buildings or structures.
- B.** Office of a doctor or dentist not a resident of the premises, or a group of such offices.
- C.** Funeral parlor or undertaking establishment.
- D.** Automobile parking area for which no fee is charged, provided that such area is located on a lot directly adjacent to a Non-Residential District.

## **2.14 Business District**

### **2.14.1 Permitted Uses.**

In a Business District, the following uses are permitted as of right:

- A.** Any of the uses permitted as of right in any General Residence District.
- B.** Boarding or lodging house, convalescent or nursing home, tourist home.
- C.** Any of the additional uses permissible on special permit in any General Residence District (in Article II, Section 2.13.3), but without here requiring such special permit.
- D.** Building containing one or two dwelling units in combination with stores or other permitted uses, subject to the condition that such building conforms to the lot area provisions applicable to a one-family or two-family house, respectively, in the same district.
- E.** Store for the sale of goods at retail.

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<sup>43</sup> 2.13.3 Amended ATM 1979, Article 50 (Section III-C.3)

- F.** Showroom for building supplies (including plumbing, heating and ventilating equipment), with storage limited to floor samples only.
- G.** Salesroom for boats, trailers, trucks, farm implements, or machinery, with no repair services.
- H.** Salesroom for automobiles, with no repair services except in a garage as hereinafter authorized (in Article II, Section 2.14.3).
- I.** Wholesale office or showroom, with storage limited to floor samples only.
- J.** DELETED <sup>44</sup>
- K.** Any of the following service establishments dealing directly with the consumer: barber or beauty shop, business or trade school, clothing rental establishment, collection station for laundry or dry cleaning, dressmaking or millinery shop, frozen food locker, hand or self service laundry, household appliance repair shop, interior decorating studio, meeting hall for hire, medical or dental laboratory, photographic studio, shoe or hat repair shop, tailor shop, typewriter repair shop.
- L.** Shop of a builder, carpenter, cabinetmaker, caterer, electrician, painter, paperhanger, plumber, sign painter or upholsterer, with not more than five thousand (5000) square feet of total floor area per establishment used for work and storage (exclusive of area used for office or sales purposes).
- M.** Printing or publishing establishment, with not more than five thousand (5000) square feet of total floor area per establishment used for production and storage (exclusive of area used for office or sales purposes).
- N.** Business or professional office or agency, bank or other financial institution.
- O.** Automobile parking lot.
- P.** Sign, as hereinafter permitted.
- Q.** Accessory use incidental to a permitted main use, including such light manufacturing as is usual in connection therewith, subject to the condition that:

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<sup>44</sup> 2.14.1-J Amended STM October 19, 1970 under Article 12, Amended ATM 1980 under Article 87 (Section III-D.1 (k) )

- Q.1** such manufacturing does not occupy an area exceeding fifty (50) percent of the total floor area occupied by the main use,
  - Q.2** the major portion of any products manufactured are to be sold at retail on the premises, and
  - Q.3** not more than five (5) operators are regularly employed in such manufacturing.
- R.** Any of the following additional uses if located in a Business District within the Central Business Area (as herein defined):
- R.1** Hotel or motel.
  - R.2** Apartment house, or building containing three or more dwelling units in combination with stores or other permitted uses, subject to the conditions that such building is located on a lot having an area larger than the minimum hereafter required for the construction of a one family house in the same district by an additional three thousand (3000) square feet for each family in excess of one accommodated therein.<sup>45</sup>

**2.14.2 Certain Uses by Special Permit Only.**<sup>46</sup>

In a Business District outside the Central Business Area, the Board of Appeals may, in a specific case, issue a special permit for any of the following additional uses in this District where not detrimental to the normal use of any adjacent property in a Residential District:

- A.** Automobile repair garage.
- B.** Restaurant or similar place for the service of food or beverages only to persons inside a completely enclosed building, subject to the condition that no mechanical or live entertainment is regularly furnished except as may be authorized.<sup>46.1</sup>
- C.** Hotel or motel.
- D.** Fast food establishment.<sup>47 48</sup>
- E.** Health or exercise club.<sup>49</sup>

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<sup>45</sup> 2.14.1-R (2) Amended ATM 1986, under Article 51 (Section III-D.1 (r) (7) )

<sup>46</sup> 2.14.2 Amended STM 1998, Article 1

<sup>46.1</sup> 2.14.2-B Amended ATM 2000 under Article 45

<sup>47</sup> 2.14.2-D Inserted ATM 1973, under Article 73 (Section III-D.2 (d) )

<sup>48</sup> 2.14.2-D Amended ATM 1991, under Article 7 (Section III-D.2(d) (1) )

F. Theater, bowling alley, dance hall, or other indoor amusement.<sup>50</sup>

**2.14.3 Additional Uses by Special Permit in the Central Business Area.**<sup>51</sup>

In the Central Business Area, the Board of Appeals may, in a specific case, issue a Special Permit for the following additional uses where it determines such use will not be detrimental to the Central Business Area or to the Town:

A. Automotive service station or automotive repair garage.

B. Theater, bowling alley, dance hall, or other indoor amusement.<sup>52</sup>

C. Restaurant or fast food establishment.<sup>53</sup>

**2.15 Limited Industrial District Uses**

**2.15.1 Permitted Uses.**

In a Limited Industrial District, the following uses are permitted as of right:

A. Any of the uses permitted as of right in any Single Residence District except dwellings (other than accessory quarters as hereinafter authorized).

B. Plant for manufacturing of electrical or electronic devices.

C. Plant for manufacturing of medical, dental or drafting instruments, optical goods, watches, office supplies and equipment, cameras, camera supplies, film processing and other precision instruments.<sup>54</sup>

D. Plant for manufacturing of advertising displays, awnings or shades, bakery products, beverages (non-alcoholic), brushes, books, candy, clothing, or other textile products, jewelry, ice, leather goods, textiles, toys, wood or plastic products.<sup>55</sup>

E. Plant for bottling of beverages or packaging of food products but not including meat and fish products unless authorized by the

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<sup>49</sup> 2.14.2-E Added ATM 1980, under Article 87 (Section III-D.2 (e) )

<sup>50</sup> 2.14.2-F Inserted ATM 1983, under Article 34 (Section III-D.2 (f) )

<sup>51</sup> 2.14.3 Inserted ATM 1970, under Article 51 (Section III-D.3)

<sup>52</sup> 2.14.3-B Inserted ATM 1983, under Article 34, Section III-D.3 (b) )

<sup>53</sup> 2.14.3-C Inserted ATM 1993, under Article 7 (Section III-D.3 (c) )

<sup>54</sup> 2.15.1-C Amended ATM 1974, under Article 65 (Section III-E.1 (c) )

<sup>55</sup> 2.15.1-D Amended ATM 1974, under Article 57 (Section III-E.1 (d) )

Board of Appeals subject to the provisions for authorizing other lawful uses in this District (in Article II, Section 2.15.2).

- F.** Plant for light metal fabrication or finishing, but not including heavy punch presses or drop hammers unless authorized by the Board of Appeals subject to the provisions for authorizing other lawful uses in this District (in Article II, Section 2.15.2).
- G.** Printing or publishing establishment, without limitation on floor area.
- H.** Warehouse or distribution plant specifically limited to the following products: Lumber and other building supplies, contractor equipment, cotton or wool, livestock feed, fertilizer, food, furniture, hardware, household articles, metal, paint and paint supplies, tobacco, drugs and allied products, tools, wood or any products of manufacturing activities permitted by this paragraph (whether or not produced on the premises.)

The terms "warehouse" and "distribution plant" as used herein, shall not be deemed to include a rail or truck terminal or freight transfer depot owned, leased or operated by a common carrier or other carrier for hire where the dominant purpose of the facility shall be for sorting of goods and materials for reshipment and its use for storage or warehousing shall be incidental.<sup>56</sup>

- I.** Office for executive or administrative purposes only.
- J.** Scientific or research laboratory.
- K.** Public utility or communications use.
- L.** Automobile Parking lot, only when incidental to a permitted use.<sup>57</sup>
- M.** Sign, as hereinafter permitted.
- N.** Accessory use incidental to a permitted main use, including:
  - N.1** quarters for necessary caretakers and watchmen,
  - N.2** quarters for the transient accommodation of business visitors,
  - N.3** restaurant facilities for and sale of items to, and for the personal convenience of employees, and

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<sup>56</sup> 2.15.1-H Amended ATM 1974, under Article 56 (Section III-E.1 (h) )

<sup>57</sup> 2.15.1-L Amended ATM 1976, by adding Article 37 Section III-E.1 (L) )

**N.4** display and sale of products of manufacturing activities on the premises.

**O.** Any of the following additional uses, if located on a lot containing not less than ten (10) acres and constituting the main use thereof:

**O.1** Hotel or motel.

**2.15.2 Additional Uses by Special Permit Only.**<sup>58</sup>

In a Limited Industrial District, the Board of Appeals may, in a specific case, issue a special permit for any other lawful storage, distribution, retail or wholesale use or light manufacturing use, provided that:

- 1) such use is not dangerous to the vicinity through fire, explosion, emission of wastes or other causes; and<sup>59</sup>
  - 2) such use does not create more noise, vibration, dust, heat, smoke, fumes, odor or glare observable beyond the boundaries of the lot than the minimum amount normally resulting from any of the uses specifically listed here in before.
- A.** Any retail or wholesale use is incidental to and directly related to the products warehoused or shipped from the premises; and said retail or wholesale use does not utilize more than twenty-five (25%) percent of the premises or more than 5,000 square feet, whichever is less.<sup>59.1</sup>
- B.** Parking for any retail or wholesale use shall be subject to Article IV, Section 4.01, Subsection 4, 5, or 6 of the Canton Zoning By-laws, as the Zoning Board of Appeals may direct.
- C.** In a Limited Industrial District, the Board of Appeals may, in a specific case, issue a special permit to allow above or below grade structured parking without regard to the height or depth limits set forth in Section 4.06.5. If the applicant demonstrates as part of the Site Plan Review process (Section 3.0) that ,
- C.1**<sup>117</sup> The applicant has available space on the premises to comply with the otherwise applicable parking requirements

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<sup>58</sup> 2.15.2 Amended STM 1995, Article 8 (Section III-E.2)

<sup>59</sup> 2.15.2-A Amended ATM 1970, Article 50 (Section III-F.2 (a) )

<sup>59.1</sup> 2.15.2-C Amended ATM 2000 under Article 47

<sup>117</sup> 2.15.2.C1 Inserted ATM 2005, Article 36

of the by-law and the total number of surface and structure parking shall not exceed the total number of surface parking allowed in accordance with all requirements of the zoning bylaw allowing applicants to develop additional open space, and

**C.2** that the use of above and/or below grade structured parking would: (i) allow the applicant to preserve additional open space above that otherwise required by this by-law, (ii) decrease runoff from impervious surfaces, and (iii) would be effectively screened by trees of a minimum height of seven feet; and

**C.3** that the side yard width is not less than sixty feet; and

**C.4** that the lot on which such structured parking would be located is not less than eight (8) acres. The location(s) where conforming parking would otherwise be placed in the absence of such structured parking shall be shown on the Site Plan submitted for approval to the Zoning Board of Appeals. Such location(s) shall not be occupied by buildings in the future until the owner has demonstrated compliance with this section's requirements with respect to the existing as well as any additional proposed parking. Such structured parking shall not in any event exceed a height of thirty feet as measured from average finished grade to top of the uppermost deck (except for non-habitable structures, including walls and stairwells, as provided in Section 4.42) or extend more than twenty-four feet below average finished grade level.

**D.** In a Limited Industrial District, the Board of Appeals may, in a specific case, issue a special permit for a cultural use, provided that the land area of such use consists of at least 30 contiguous acres. For the purposes of this section, "cultural use" shall be defined to include, without limitation, the promotion and advancement of cultural activities through the use of educational facilities, theaters, museums, libraries, indoor and/or outdoor sports facilities, music and/or dance facilities, banquet halls, meeting and/or function rooms, other facilities for the serving of food and/or beverages, landscaped areas, parking areas, and any other improvements or facilities reasonably related to the foregoing, all of which may serve to directly or indirectly display, preserve and enhance the customs, beliefs, activities, and/or traits of a given culture, ethnic or otherwise.

- E.<sup>109</sup> In a Limited Industrial District, the Board of Appeals may, in a specific case, issue a special permit for a recreational use. For purposes of this section, the words “recreational use” shall mean indoor or outdoor sports and fitness facilities; playing fields; picnic areas; and facilities for the sale and serving of food, health products and beverages incidental and related to recreational use. The words “recreational use” shall not mean professional or semi-professional sporting events, trade shows, theaters, music concerts, nightclubs and the sale or trade of merchandise other than the sale of merchandise incidental and related to the recreational use.

In deciding whether to grant a Special Permit for recreation use in a Limited Industrial zone, the Zoning Board of Appeals shall consider as one factor the petitioner’s willingness to grant a substantial amount of free use of the relevant facilities to the Town; priority time for Canton teams; and a reduction in membership cost and fees for use of the facilities when they are not free.

- F.<sup>119</sup> In a Limited Industrial District, the Board of Appeals may, in a specific case issue a Special Permit for a car wash.

## **2.16 Industrial District Uses**

### **2.16.1 Permitted Uses.**

In an Industrial District, the following uses are permitted as of right:

- A. Any of the uses permitted as of right in any Business or Limited Industrial District, except dwellings (other than accessory quarters as here in before authorized in Limited Industrial Districts), and any automotive service station.
- B. Commercial greenhouse, kennel, animal or veterinary hospital.
- C. Golf driving range, "miniature" golf course, or other similar outdoor commercial recreational use (but not including an amusement park, drive-in theater or open-air facilities for "spectator sports" except where authorized by the Board of Appeals as hereinafter provided).
- D. Accessory use incidental to a permitted main use.

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<sup>109</sup> 2.15.2.E Amended STM 2003, under Article 1

<sup>119</sup> 2.15.2.F Inserted STM 2005 under Article 14

### **2.16.2 Additional Uses by Special Permit Only.**<sup>60</sup>

In an Industrial District, the Board of Appeals may, in a specific case, issue a special permit for any other lawful retail business, restaurant or fast food establishment, service, amusement, storage, distribution or light manufacturing use, provided that such use is not dangerous to the vicinity through fire, explosion, emission of wastes or other causes.

## **2.17 Parkland, Recreation and Open Space District**<sup>60.1</sup>

### **2.17.1 Purpose**

The purpose of the Parkland, Recreation and Open Space District (PROSD) is to provide areas of low intensity public and semipublic uses, which serve to protect and preserve the water supply, ground water quality and natural features, and /or features, which have a regional purpose, or to provide a valuable outdoor recreational resource.

### **2.17.2 Uses Permitted**

**In the Parkland, Recreation and Open Space District the following uses are permitted as of right:**

- A.** Conservation areas for water, water supply, plants, and wildlife.
- B.** Conservation areas for flood protection and dams necessary for achieving flood protection.
- C.** Active or passive recreational use, cultural, civic and not for profit expositions.
- D.** Land providing public access to recreational or conservation land or bodies of water.
- E.** Day camps, picnic areas, public gardens and nature study areas.
- F.** Golf courses, hockey rinks, and accessory uses, including snack bars, pro shops, and retail sales in connection with and incidental to a golf course or hockey rink.
- G.** Historic Structures.

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<sup>60</sup> 2.16.2 Amended ATM 1991, under Article 8 (Section III-F.2)

<sup>60.1</sup> 2.17 inserted ATM 2000 under Article 51

**H.** Cemeteries.

**I.** Hospitals.

**2.18 Table of Use Regulations**

	<b>SRD</b>	<b>GRD</b>	<b>BD</b>	<b>CBD</b>	<b>LI</b>	<b>I</b>
A one family home	Y	Y	Y	Y	N	N
Two-family house, if located on a lot having an area larger than the minimum hereinafter required for the construction of a one family house in the district by an additional two thousand (2000) square feet	N	Y	Y	Y	N	N
Boarding or lodging house, convalescent or nursing home, tourist home	N	SP	Y	Y	N	N
Building containing one or two dwelling units in combination with stores or other permitted uses, subject to the condition that such building conforms to the lot area provisions applicable to a one-family or two-family house, respectively in the same district	N	N	Y	Y	N	N
Apartment house	N	SP	Y	Y	N	N
Apartment house, or building containing three or more dwelling units in combination with stores or other permitted uses, subject to the conditions that such building is located on a lot having an area larger than the minimum hereafter required for the construction of a one family house in the same district by an additional three thousand (3,000) square feet for each family in excess of one accommodated therein	N	N	Y	Y	N	N
The conversion and/or use of a one-family house existing on March 8, 1937, as a dwelling for not more than two families, or as a convalescent or nursing home, boarding or lodging house, or tourist home provided that: (see 2.12.2 A )	SP	SP	Y	Y	N	N
The use of a portion of a building accessory thereto in connection with the conduct of a profession or customary home occupation by a resident of the premises for regular class instruction, regular sale of products of the occupation, or regular employment of not more than three (3) persons other than residents of the premises; or, the use of a portion of a dwelling accessory thereto for incidental work and storage in connection with his trade by a resident builder, carpenter, electrician, painter, plumber, or other artisan who performs the major portion of his work off the premises; provided that: (see 2.12.2 B)	SP	SP	Y	Y	N	N

**2.18 Table of Use Regulations Continued**

	<b>SRD</b>	<b>GRD</b>	<b>BD</b>	<b>CBD</b>	<b>LI</b>	<b>I</b>
Accessory residential uses in one family dwellings (see 2.12.3)	SP	SP	Y	Y	N	N
Church or other place of worship, parish house, rectory or convent	Y	Y	Y	Y	Y	Y
Religious, sectarian, or denominational educational purpose	Y	Y	Y	Y	Y	Y
Hospital, philanthropic, or charitable institution	SP	SP	Y	Y	N	N
Extension of existing cemetery	Y	Y	Y	Y	Y	Y
Public school, library, museum, art gallery or community building	Y	Y	Y	Y	Y	Y
Private school offering primarily general educational courses	Y	Y	Y	Y	Y	Y
Nursery school or other agency for the day care of children	SP	SP	Y	Y	N	N
Recreational or water supply use of a governmental agency	Y	Y	Y	Y	Y	Y
Public administration building, fire or police station	Y	Y	Y	Y	Y	Y
Public utility or communications use	SP	SP	Y	Y	Y	Y
Orchard, market garden, nursery or other open use of the land for commercial agricultural production (but not including any building or structure primarily used or maintained in connection with such purpose nor the regular sale at retail of any agricultural produce, unless authorized by the Board of Appeals as hereinafter provided)	Y	Y	Y	Y	Y	Y
Building or structure used or maintained in connection with a permitted agricultural use of the land, or used for any other purpose of agricultural production (such as a greenhouse or poultry battery)	SP	N	N	N	N	N
The regular sale at retail of nursery, greenhouse, garden or other agricultural produce (including articles of home manufacture from such produce), but only where at least sixty (60) percent thereof is raised on the premises (or made from produce so raised), including a salesroom or stand in connection with such purpose.	SP	N	N	N	N	N

**2.18 Table of Use Regulations Continued**

	<b>SRD</b>	<b>GRD</b>	<b>BD</b>	<b>CBD</b>	<b>LI</b>	<b>I</b>
Commercial greenhouse, kennel, animal or veterinary hospital	N	N	N	N	N	Y
Private club, lodge, or other non-profit social, cultural, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business)	SP	SP	Y	Y	N	N
Golf course (but not including a golf driving range or "miniature" golf course), boat or canoe livery, riding academy or stable	SP	N	N	N	N	N
Golf driving range, "miniature" golf course, or other similar outdoor commercial recreation use (but not including an amusement park, drive-in theater or open-air facilities for "spectator sports" except where authorized by the Board of Appeals as hereinafter provided)	N	N	N	N	N	Y
Funeral parlor or undertaking establishment	N	SP	Y	Y	N	Y
Business or professional office or agency, bank or other financial institution	N	N	Y	Y	N	Y
Office of a doctor or dentist not a resident of the premises, or a group of such offices	N	SP	Y	Y	N	Y
Office for executive or administrative purposes only	N	N	N	N	Y	Y
Scientific or research laboratory	N	N	N	N	Y	Y
Hotel or motel	N	N	SP	Y	Y <sup>†</sup>	Y <sup>†</sup>
Restaurant or similar place for the service of food or beverages only to persons inside a completely enclosed building, subject to the condition that no mechanical or live entertainment is regularly furnished except as may be authorized.	N	N	SP	SP	N	SP
Fast food establishment	N	N	SP	SP	N	SP
The regular furnishing of entertainment at a restaurant or similar place (Article II, Section 2.14.2 B)	N	N	SP	N	N	N
Health or exercise club	N	N	SP	N	N	N
Theater, bowling alley, dance hall, or other indoor amusement	N	N	SP	SP	N	SP
Store for the sale of goods at retail	N	N	Y	Y	N	Y
Wholesale office or showroom, with storage limited to floor samples only	N	N	Y	Y	N	Y

**2.18 Table of Use Regulations Continued**

	<b>SRD</b>	<b>GRD</b>	<b>BD</b>	<b>CBD</b>	<b>LI</b>	<b>I</b>
Showroom for building supplies (including plumbing, heating and ventilation equipment), with storage limited to floor samples only	N	N	Y	Y	N	Y
Salesroom for boats, trailers, trucks, farm implements, or machinery, with no repair services	N	N	Y	Y	N	Y
Salesroom for automobiles, with no repair services except in a garage as hereinafter authorized (in Article II, Section 2.14.3)	N	N	Y	Y	N	Y
Automobile repair garage	N	N	SP	SP	N	Y
Any of the following service establishments dealing directly with the consumer: barber or beauty shop, business or trade school, clothing rental establishment, collection station for laundry or dry cleaning, dressmaking or millinery shop, frozen food locker, hand or self service laundry, household appliance repair shop, interior decorating studio, meeting hall for hire, medical or dental laboratory, photographic studio, shoe or hat repair shop, tailor shop, typewriter repair shop	N	N	Y	Y	N	Y
Shop of a builder, carpenter, cabinet maker, caterer, electrician, painter, paperhanger, plumber, sign painter or upholsterer with not more than five thousand (5000) square feet of total floor area per establishment used for work and storage (exclusive of area used for office or sales purposes)	N	N	Y	Y	N	Y
Printing or publishing establishment, with not more than five thousand (5000) square feet of total floor area per establishment used for production and storage (exclusive of area used for office or sales purposes)	N	N	Y	Y	N	Y
Printing or publishing establishment, without limitation on floor area	N	N	N	N	Y	Y
Plant for manufacturing (specific uses defined in text)	N	N	N	N	Y <sup>d</sup>	Y <sup>d</sup>
Plant for bottling of beverage or packaging of food products but not including meat and fish products unless authorized by the Board of Appeals subject to the provisions for authorizing other lawful uses in this district (in Article II, Section 2.15.2)	N	N	N	N	Y	Y

**2.18 Table of Use Regulations Continued**

	<b>SRD</b>	<b>GRD</b>	<b>BD</b>	<b>CBD</b>	<b>LI</b>	<b>I</b>
Plant for light metal fabrication or finishing, but not including heavy punch presses or drop hammers unless authorized by the Board of Appeals subject to the provisions for authorizing other lawful uses in this district (in Article II, Section 2.15.2)	N	N	N	N	Y	Y
Warehouse or distribution plant specifically limited to certain products	N	N	N	N	Y <sup>c</sup>	SP
The lawful storage, distribution, retail or wholesale use or light manufacturing use	N	N	N	N	SP	SP
Automobile parking lot	N	N	Y	Y	N	Y
Automobile parking lot when incidental to a permitted use	N	N	Y	Y	Y	Y
The garaging or maintaining of not more than five (5) vehicles, one of which may be a commercial vehicle, but only where in connection with a permitted main use on the same premises (Article II, Section 2.12.1 K.1)	SP	SP	Y	Y	N	N
Parking Garages (Article II, Section 2.15.2 E)	N	N	N	N	SP	N
Parking Garage (Article IV, Section 4.06.5)	Y	Y	Y	Y	Y	Y
Automobile parking area for which no fee is charged, provided that such area is located on a lot directly adjacent to a Non-Residential District	N	SP	Y	Y	N	N
Sign, as hereinafter permitted	Y	Y	Y	Y	Y	Y
Accessory use incidental to a permitted main use	Y <sup>a</sup>	Y	Y <sup>b</sup>	Y <sup>b</sup>	Y <sup>c</sup>	Y <sup>c</sup>
Telecommunication Facilities	SP	SP	SP	SP	SP	SP
Any of the additional uses permissible on special permit in the GRD (in Article II, Section 2.13.3), but without here requiring such special permit.	N	N	Y	Y	N	Y

a: Article II, Section 2.12.1 (K) 1-4

b: Article II, Section 2.14.1 (Q) 1-3

c: Article II, Section 2.15.1 (N) 1-4

d: Article II, Section 2.15.1 (C) (D)

e: Article II, Section 2.15.1 (H)

††: if located on a lot containing not less than ten (10) acres constituting main use thereof

Y = allowed by right

N = not allowed

SP = allowed by special permit

## 2.19 Adult Entertainment District<sup>114</sup>

The purpose and intent of this adult entertainment by-law is to address and mitigate the secondary effects of the adult uses regulated herein. Such secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties and adverse impacts on the quality of life in the Town, all of which secondary impacts are adverse to the health, safety, and general welfare of the Town of Canton and its inhabitants.

The provisions of this adult entertainment by-law have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter or materials including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this adult by-law to restrict or deny access by adults to adult uses and to sexually oriented matter or materials protected by the Constitutions of the United States of America and the Commonwealth of Massachusetts, nor restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this bylaw to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

As is set forth below, the methods employed in this adult entertainment by-law to address and mitigate the secondary effects of the adult uses regulated herein are to define the area where such uses may be located and to prevent a concentration of such uses within that area.

- A. Uses subject to this special regulation are as follows:
  - 1. Adult Bookstores
  - 2. Adult Motion Picture Theatres
  - 3. Adult Clubs
  - 4. Adult Paraphernalia Stores
  - 5. Adult Video Stores
  
- B. The Zoning Board of Appeals, as special permit granting authority, may issue a special permit for the establishment of the adult uses specified in subsection 2.19B, consistent with the standards applicable to applications for special permits generally, providing that all the following conditions are met:
  - 1. The adult uses must be located in an Industrial District.

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<sup>114</sup> 2.19 Inserted ATM 2005, Article 31

2. The adult uses are located at least 500 feet from any residential zone or district, or residential development.
  3. Adult uses must be located at least 500 feet from any establishment licensed under the provisions of MGL c. 138, Section 12. In case of an adult club, which itself must be licensed under the provisions of MGL c. 138, Section 12, such club must be located at least 500 feet from any other establishment licensed under the provisions of MGL c. 138, Section 12.
  4. Adult uses must be located 500 feet from any public or private a) school, b) house of worship, c) day care facility, and d) park, playground, playfield or recreation facility.
  5. Signs and advertising devices for adult uses shall not be illuminated and shall not exceed six (6) square feet. No more than two signs or advertising device shall be permitted.
- C. In granting a special permit under this section 2.19, the Zoning Board of Appeals as special permit granting authority may impose any condition or limitation upon the establishment, location, construction, maintenance and/or operation of the regulated adult use which is reasonably necessary to prevent the secondary effects of the adult uses regulated herein.
- D. In any case where a building permit for the regulated adult use has not been obtained within six months after the granting thereof, the special permit granted shall become null and void.
- E. Definitions
- “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 c. 272, Section 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 c. 272, Section 31.
- “Adult Paraphernalia Store”, an establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys, which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, Section 31.
- “Adult Video Store”, an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis

depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, Section 31.

“Adult Club”, Establishment which displays live nudity for its patrons, any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in MGL c. 272, Section 31.

## **ARTICLE III SPECIAL CONDITIONS RELATING TO NON-RESIDENTIAL BUILDINGS AND USES**

### **3.0 Site Plan Approval**

#### **3.01 Requirement for Site Plan <sup>61</sup>**

No building, except a residential structure for single or two family use, shall be constructed or externally enlarged, and no non-residential use, including any charitable or philanthropic, religious or educational use or purpose, shall be expanded in ground area, or established in an existing building not previously used for non-residential purposes, except in conformity with a site plan bearing an endorsement of approval by the Board of Appeals. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, loading areas, driveway openings, driveways, service areas, other open uses, and all facilities for either underground or overhead utilities, including, but not limited to electric, telephone, fire alarm systems, gas, water, sewage, and drainage, refuse and other waste disposal and for surface water drainage, and all landscape features (such as walks, fences, walls, planting area and green belts) on the lot. <sup>126</sup>

#### **3.02 Definitions Applicable to Site Plan.**

For the purposes of this Section, the following uses shall be considered as commercial purposes and all buildings designed, arranged or constructed for, or occupied by, one or more of such use shall be considered as commercial buildings:

**3.02.1** Any of the uses herein set forth as permitted as of right or permissible on special permit in any Non-Residential District but not herein set forth as permitted or permissible in any Residential District.

**3.02.2** Any of the following other uses:

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<sup>61</sup> 3.01 Amended ATM 1973 under Article 84, Amended ATM 2000 under Article 42 (Section IV-D.1)

<sup>126</sup> 3.01 Amended ATM 2006, Article 23

- A. Salesroom or stand for the sale of nursery, greenhouse, garden or other agricultural produce.
- B. Nursery school or other agency for the day care of children; office of a doctor or dentist not a resident of the premises.
- C. Any commercial recreational use; kennel, animal or veterinary hospital.
- D. Convalescent or nursing home, boarding or lodging house, tourist home, funeral parlor or undertaking establishment.
- E. Automobile parking area.

### **3.03 Procedure for Approval <sup>62</sup>**

Any person desiring approval of a site plan under this section shall submit said plan in quadruplicate, with application for approval thereof, directly to the Board of Appeals and at the same time or prior thereto the applicant shall submit a copy of the application and three (3) copies of such plan to the Planning Board, which said Board may, in its discretion, investigate the case and report in writing its recommendations to the Board of Appeals.

The Board of Appeals shall not take final action on such plan until it has received a report thereon from the Planning Board, or until said Planning Board has allowed thirty-five (35) days to elapse after receipt of such plan without submission of a report thereon.

In exercising its jurisdiction under this Section, the Board of Appeals shall conform to all requirements of procedure applicable to a board of appeals when deciding requests for special permits under General Law, Chapter 40A, as amended (including the requirements thereof for public notice and hearing).

### **3.04 General Conditions for Approval.**

In considering a site plan under this Section the Board of Appeals shall assure, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which located:

- 3.04.1** Protection of adjoining premises against detrimental or offensive uses on the site.

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<sup>62</sup> 3.03 Amended ATM 1976, under Article 40 ( Section IV-D.3)

- 3.04.2** Convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.
- 3.04.3** Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and the methods of drainage for surface water. <sup>63</sup>
- 3.04.4** Adequacy of space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment.
- 3.04.5** Lateral connections of utilities including, but not limited to electric, telephone, and fire alarm to buildings and other structures shall be underground in all cases where the property to be served abuts any street where these utilities are installed underground.

### **3.05 Authority of Board.**

The Board of Appeals shall have power to modify or amend its approval of a site plan on application of the owner, lessee, or mortgagee of the premises, or upon its own motion if such power is reserved by the Board in its original approval. All of the provisions of this Section applicable to approval shall, where apt, be applicable to such modification or amendment.

### **3.06 As-Built Plan.**

Upon completion of all work authorized under a site plan approved by the Board of Appeals, copies of an "As Built" plan shall be filed. Such plan shall be certified and signed by a professional engineer and shall show as actually constructed, all underground public and private utility lines including details of structures and appurtenances where appropriate, all service connections and ties to same, site elevations, grades and slopes, utility invert elevations and pipe slopes, all parking requirements, curbing, and any other pertinent data relative to the approved site plan. Two copies of the plan shall be filed with the Board of Appeals and the Planning Board. Within 14 days from submission, the Planning Board shall submit their recommendation on the "As-Built" plan to the Board of Appeals.

#### **3.06.1 Security <sup>63.1</sup>**

The Zoning Board of Appeals (ZBA), as a condition of granting a permit, shall require that the performance of the As Built Drawings, including the site landscaping shown on the approved Site Landscape Plan, be secured

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<sup>63</sup> 3.04.3 Inserted ATM 1973, under Article 85 (Section IV-D.4 (c) )

<sup>63.1</sup> 3.06.1 Inserted ATM 2002, Article 52

by one, or in part by one and in part by the other, of the methods described below:

- Bond of Deposit: By a proper bond or a deposit of money or negotiable securities or letter of credit, sufficient in the opinion of the ZBA to secure performance of the conditions and observance of the safeguards of such permit.
- Covenant: By a covenant running with the land, executed and duly recorded by the owner of record, whereby the conditions and safeguards included in such permit shall be performed before any lot may be conveyed other than by mortgage deed. Nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant of the entire parcel of land, the development of which is governed by the permit.

**A. Reduction of Security**

Until completion of the As Built Drawings the penal sum of any deposit or security held may time to time be reduced by the ZBA by an amount not to exceed 50% of the value of work originally estimated.

**B. Release of Security**

Upon the satisfactory completion of the As built Drawings, security or the performance of which was given, the applicant shall send by registered mail to the ZBA an affidavit that the conditions and safeguards in connection with which such security has been given have been complied with by the Applicant.

Upon the Zoning Board of Appeals determination that the conditions and safeguards of the permit have been complied with by the applicant, the Zoning Board of Appeals shall release the interest of the Town in such security, return or release the security to the person who furnished the same, or release the covenant by the appropriate instrument, duly acknowledged.

Upon the Board's determination that the conditions and safeguards included in the permit have not been complied with by the applicant, the Zoning Board of Appeals shall specify the conditions or safeguards with which the applicant has not complied in a notice sent by registered mail, to the applicant.

**C. Failure to Notify Applicant**

If the ZBA fails to send such a notice within sixty days after it receives the applicant affidavit, all obligations under the security shall cease and

terminate, any deposit shall be returned and any such covenant become void.

**D. Applicant Failure to Complete Work**

Upon failure of the applicant to complete such work to the satisfaction of the ZBA and in accordance with all applicable plans, regulations and specifications, the Town shall be entitled to enforce such bond or to realize upon such securities to the extent necessary to complete all such work without delay.

**3.07 Town Site Inspection Program <sup>63.2</sup>**

All buildings, except a residential structure for single or two family use, shall be subject to the Town Site Inspection Program (TSIP). The Planning Board is responsible for the administration, management and implementation of the TSIP.

The cost of the TSIP is the responsibility of the applicant. The TSIP includes, but is not limited to, daily field inspections, field reports, field tests, laboratory work, meetings, conferences and related professional inspection and/or coordination services by the Planning Board or its representative(s).

As a condition of the permit, the applicant shall provide the Town of Canton with a “Site Access Certificate” specifying that the Planning Board and the Planning Board’s representative will have unlimited access to the applicants private property for the purpose of inspecting the site work.

The Planning Board shall adopt reasonable rules and regulations to implement the TSIP, including fees required to offset the cost of the inspection services. The rules and regulations shall be adopted by majority vote of the Planning Board after a duly constituted public hearing. The TSIP will be in full force the effect upon adoption by the Planning Board.

**3.08 Site Landscaping <sup>63.3</sup>**

**3.08.1 Purpose**

The purpose of Section 3.08 Site Landscaping is to reduce soil erosion and storm water runoff; to improve the microclimate of parking lots; to provide visual buffers, and to enhance and preserve the visual character of the site and the community.

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<sup>63.2</sup> 3.07 Inserted ATM 2002, Article 57

<sup>63.3</sup> 3.08 Inserted ATM 2002, Article 51

### **3.08.2 Applicability**

Landscaping Areas for parking lots shall be provided in accordance with Section 4.06.2 All Parking Areas, Subsection G. and the Planning Board's current "Landscape Procedures and Standards". Applicants should strive to provide landscaped areas in excess of the standards specified in Section 4.06.2.

### **3.08.3 Submission Requirements**

The Applicant shall submit a Site Landscape Plan (Plan) prepared by a Massachusetts Registered Landscape Architect. The Plan shall show, but not be limited to, the following information:

- Layout of the proposed buildings, parking lots, loading bays, and access and egress roads;
- Location and type of proposed site and landscape lighting;
- Provision for the site surface and sub-surface drainage;
- Location, general type and quality of existing vegetation, including specimen trees;
- Existing vegetation to be preserved;
- Mitigation measures employed for protecting existing vegetation during construction and a sediment control plan;
- Locations and labels for all proposed plants;
- Plants lists or schedule with the botanical and common name, quantity and spacing and size of all proposed landscape material at the time of plantings; and
- Location and description of other landscape improvements, such as landscaped earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights and courts or paved areas;

### **3.08.4 Maintenance of Landscape Area**

To ensure the implementation and long-term maintenance of landscaping plans and requirements, the Town shall require one or more of the following:

- Applicants watering schedule and maintenance schedule for the first year after project acceptance.
- A 2-year guarantee on all new plant material. If any required tree or shrub dies within this period of item, it shall be replaced.
- The applicant may be required to post surety in the form of either cash, bond of deposit, or covenant running with the land conditioned upon satisfactory implementation of the landscape work.

### **3.08.5 Landscape Procedures and Standards**

The Planning Board shall adopt reasonable landscape procedures and standards for site landscaping. The procedures and standards shall be adopted by majority vote of the Planning Board after a duly constituted public hearing. The landscape procedures and standards will be in full force and effect upon adoption by the Planning Board.

## **3.1 Enclosure and Screening**

### **3.11 In A Business and Limited Industrial District.**

In a Business District and in a Limited Industrial District, all uses permitted as of right or permissible on special permit, and all uses accessory thereto, shall be conducted within a completely enclosed building, except the following:

- 3.11.1** Uses permitted as of right or permissible on special permit in any General Residence District.
- 3.11.2** The dispensing of food, beverages or goods at a drive-in or stand, where authorized.
- 3.11.3** Accessory outdoor dining area where authorized.
- 3.11.4** The dispensing of fuel, lubricants or fluids at a garage or service station, where authorized.
- 3.11.5** Plants growing in the soil.
- 3.11.6** Automobile parking lots.
- 3.11.7** Exterior signs, as hereinafter permitted.
- 3.11.8** Exterior lights, as hereinafter regulated.
- 3.11.9** The open display or storage of goods, products, materials or equipment, where accessory to a permitted main use conducted in a completely enclosed building on the same premises, subject to the condition that the total ground area devoted to such open use does not exceed twenty-five (25) percent of the ground area covered by said building. In a Limited Industrial District only, such open display or storage shall, if visible at normal eye level from any point beyond the boundaries of the lot and less than five hundred (500) feet

distant, be completely screened from such view by wall, fences, or landscaping.

### **3.12 In An Industrial District** <sup>64</sup>

In an Industrial District, all uses permitted as of right or permissible on special permit may be conducted within or without a completely enclosed building, but excluding outside storage required to have a special permit under Article II, Section 2.16.2.

### **3.13 In All Non-Residential Districts**

In all Non-Residential Districts, the open storage of "Junk" as herein defined (whether as a main use, where authorized, or as an accessory to a main use) shall, if visible at normal eye level from any point beyond the boundaries of the lot and less than five hundred (500) feet distant, be completely screened from such view by walls, fences or landscaping.

## **3.2 Greenbelts in Limited Industrial Districts and Industrial Districts**

**3.2.1** In a Limited Industrial District and in an Industrial District where a lot used for a purpose not permitted in any Residential District abuts or extends into a Residential District, or abuts another lot which has frontage only in a Residential District or which extends from a Residential District into a Limited Industrial District or an Industrial District by less than fifty (50) feet, there shall be provided a "Greenbelt" along the particular portions of the lot which are next to such Residential District or such abutting lot. Such "Greenbelt" shall consist of an area of not less than twenty-five (25) feet in width containing a dense planting of trees and shrubs to provide within such area a natural barrier between the lot and the adjacent premises having an effective height of not less than seven (7) feet; provided that if the Board of Appeals determines that such "Greenbelt" will create a traffic hazard it may grant an exception to the requirements of this paragraph to the extent it determines is necessary to alleviate such traffic hazard. <sup>65</sup>

**3.2.2** In a Limited Industrial District and in an Industrial District, where a lot or lots used for a purpose not permitted in any Residential District abuts or abut a lot or lots used and occupied for Residential purposes, or abuts another lot and/or lots which has frontage only in a Residential District or which extends from a Residential District into a Limited Industrial District or an Industrial District by less than fifty (50) feet, there shall be

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<sup>64</sup> 3.12 Amended ATM 1968, under Article 45 (Section IV-D.3)

<sup>65</sup> 3.2.1 Amended ATM 1969, under Article 13 (Section IV-B.1)

provided a "Greenbelt" along the perimeter of the lot or lots, which are used for a purpose not permitted in any Residential District which abuts the lot or lots used and occupied for Residential purposes. Such "Greenbelt" shall consist of an area of not less than twenty-five (25) feet in width containing a dense planting of trees and shrubs to provide within such area a natural barrier between the lot and the adjacent premises having an effective height of not less than seven (7) feet; provided that if the Board of Appeals determines that such "Greenbelt" will create a traffic hazard it may grant an exception to the requirements of this paragraph to the extent it determines is necessary to alleviate such traffic hazards. <sup>66</sup>

### **3.3 Lighting**

In all Non-Residential Districts, all lights and other sources of illumination (whether interior or exterior), and all intense light emanating from operations or equipment (such as from an acetylene torch) shall be shielded from direct view at normal eye level from streets and Residential Districts.

### **3.4 Special Provisions in Non-Residential Districts <sup>67</sup>**

#### **3.41 Automobile Service Stations and Other Automotive Services.**

Automobile service stations, automobile repair garages, storage battery service stations, body shops and painting shops, tire stores, radiator shops or any of their appurtenances or accessory uses shall not be erected, placed or located within 50 feet of any residence district or residence structure. In addition, the use of structure shall conform to the following requirements (in addition to district requirements):

**3.41.1** The minimum frontage on a street shall be 150 feet.

**3.41.2** The maximum width of driveways and curb cuts measured at the street lot line or lines shall be 30 feet; the minimum width shall be 24 feet.

**3.41.3** The minimum distance of driveways, measured at the street lot line or lines shall be as follows:

- |           |                                  |         |
|-----------|----------------------------------|---------|
| <b>A.</b> | From corner lot line:            | 20 feet |
| <b>B.</b> | From interior lot line:          | 10 feet |
| <b>C.</b> | From other driveway on same lot: | 20 feet |

**3.41.4** The minimum setback of any building from all street lot lines shall be 50 feet.

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<sup>66</sup> 3.2.2 Amended ATM 1969, under Article 14 (Section IV-B.2)

<sup>67</sup> 3.4 Inserted ATM 1973, under Article 67 (Section IV-E)

- 3.41.5** The minimum setback of gasoline pumps from all street lot lines shall be 16 feet.
- 3.41.6** A raised concrete or granite curb at least six inches in height shall be constructed along all street lines except at driveway openings.
- 3.41.7** Properties in Residential Districts or any residence structures which abut an automobile service station or other automotive service shall be protected from headlight glare by either:
- A.** A strip at least four feet wide, densely planted with shrubs which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or
  - B.** An opaque wall, barrier, or fence of uniform appearance at least five feet high, but more than seven feet above finished grade.
  - C.** Such screening shall be maintained in good condition at all times and shall not be permitted to exceed seven feet in height within required side yards. Such screening of barriers may be interrupted by normal entrances or exits and shall not be required within ten feet of a street lot line.

## **ARTICLE IV GENERAL REGULATIONS**

### **4.0 Off Street Parking in All Districts**

#### **4.01 Parking Requirements <sup>68</sup>**

In all districts, there shall be provided and maintained improved off-street automobile parking spaces in connection with the erection, establishment or increase by units or dimensions of buildings, structures and uses, in the following amounts:

- 4.01.1** One parking space for each family dwelling unit.
- 4.01.2** Two (2) parking spaces for each apartment house dwelling unit.
- 4.01.3** For all other places with sleeping accommodations, including boarding and lodging houses, tourist homes, hotels, motels, hospitals, sanitariums, convalescent and nursing homes -- one parking space for each sleeping room for single or double occupancy, or, where not

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<sup>68</sup> 4.01 Inserted ATM 1963, under Article 34; Amended ATM 1973, under Article 76 (Section V-A.1 (a) )

divided into such rooms (as in a dormitory), one space for each two (2) beds.

- 4.01.4** For places of public assembly, including meeting halls, auditoriums and stadiums, libraries, museums, art galleries, community buildings, private clubs and lodges, funeral parlors, restaurants (except fast food restaurants), and other eating and drinking establishments, theaters, bowling alleys, dance halls and other amusements, bus depots and other passenger terminals one (1) parking space for each two (2) seats. Where benches are used each two (2) lineal feet of bench shall equal one seat; where no fixed seats are used (as in a terminal or dance hall) each twenty (20) square feet of public floor area shall equal one seat.
- 4.01.5** For recreational uses not involving intensive assembly, such as boat liveryes, riding stables, ski grounds, golf driving ranges, and the like -- sufficient parking spaces as are deemed adequate by the Board of Appeals to accommodate the automobiles of employees and patrons during peak usage periods of a normal in-season Saturday or Sunday.<sup>69</sup>
- 4.01.6** For retail stores and offices, including salesrooms and showrooms, consumer service establishments, public administration buildings, business and professional offices, executive and administrative offices, banks and other financial institutions -- one parking space for each two hundred fifty (250) square feet of gross floor area on the ground floor plus one additional space for each five hundred (500) square feet of gross floor area on all other floors. For the purposes of this Section, "gross floor area" means the total floor area contained within the exterior walls, including any mezzanine, space used for heating and other utilities and for incidental storage.<sup>70</sup>
- 4.01.7** For all other business uses, including drive-ins, fast food restaurants, open air sales lots, automobile repair garages and filling stations -- sufficient spaces as are deemed adequate by the Board of Appeals to accommodate the automobiles of employees and patrons under conditions expected during the peak business hours of the average day.<sup>71</sup>
- 4.01.8** For all storage, distribution, manufacturing and industrial uses, including shops of the building trades, wholesale showrooms, printing and publishing establishments, warehouses, contractors plants, lumber yards, trucking terminals, laboratories and utility plants -- one parking space for each two hundred fifty (250) square feet of gross floor area

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<sup>69</sup> 4.01.5 Amended ATM 1973, under Article 77; Amended STM 1991; under Article 9 (Section V-A.3)

<sup>70</sup> 4.01.6 Amended STM October 19, 1970 under Article 7, Amended ATM 2000 under Article 41 (Section V-A.4)

<sup>71</sup> 4.01.7 Amended STM October 19, 1970, under Article 8 and Amended STM April 29, 1991, under Article 9 (Section V-A.6)

on the ground floor (as defined above), or one parking space for each three (3) employees (based upon the maximum number employed at any one time), whichever requires the greater number of parking spaces. However, where it can be shown that the number of spaces required under the provisions of this paragraph are clearly in excess of demand generated by the intended use, the Board of Appeals may, by Special Permit, approve a lesser number of spaces provided that the number of spaces otherwise required by this section could eventually be accommodated on the site should the use of the premises ever be changed so that additional spaces were required.<sup>72</sup>

#### **4.02 Mixed Uses**

In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Section; parking spaces for one use shall not be considered as providing the required parking facilities for any other use unless it can be clearly demonstrated to the Board of Appeals that the need for parking occurs at different times.

#### **4.03 Exceptions<sup>73</sup>**

Notwithstanding the other provisions of this Section, off-street parking spaces need not be provided in the following cases:

**4.03.1** For detached family dwellings in any district where the computed requirement is two (2) spaces or less.

**4.03.2** For stores, offices and other lawful uses located in a Business District within the Central Business Area (as herein defined) where the total requirement of all uses in the same building, or in the same establishment if occupying more than one building, is five (5) spaces or less.

#### **4.04 Changes In Requirements**

Whenever after the date of adoption of the By-Law, there is a change in the lawful use of the premises or in any unit of measurement specified in any of the foregoing paragraphs of this section, which change separately or when combined with previous changes, creates a need for an increase or decrease of more than ten per cent (10%) of the number of off-street parking spaces as determined by the provisions of this section, more off-street parking spaces shall, and fewer spaces may, respectively, be provided within six months on the basis of the adjusted needs.

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<sup>72</sup> 4.01.8 Amended STM October 19, 1970, under Article 5 (Section V-A.7)

<sup>73</sup> 4.03 Amended STM October 19, 1970, under Article 6 (Section V-D)

#### 4.05 Location of Facilities

Off-street automobile parking spaces, to the extent required in this Section, may be provided either on the same lot or premises with the parking generator or on any lot or premises associated therewith a substantial portion of which, at least, is within three hundred (300) feet of such generator.

#### 4.06 Design Standards <sup>74</sup>

##### 4.06.1 General

Off-street parking facilities and connecting drives between such facilities and the street shall be designed to insure the safety and convenience of persons traveling within or through the parking area, and between the parking facility and the street. The provisions outlined herein shall be considered minimum criteria for evaluating such design.

##### 4.06.2 All Parking Areas

- A. Each space shall be in a parking lot designed with appropriate means of vehicular access between each space and the street and shall have minimum dimensions of 9 feet by 18 feet exclusive of access drives or aisles except in the following instances: <sup>75</sup>
  - A.1 Parking spaces parallel to the flow of traffic shall have minimum dimensions of 8 feet by 21 feet.
  - A.2 Stall depth may include up to two (2) feet of any landscaped area adjacent to the front or rear of a stall and used for bumper overhang.
- B. Aisles providing vehicular access to individual parking spaces shall be a minimum of 24 feet in width where spaces are laid out and at an angle of 90 degrees to the aisle. Aisles designed for one-way traffic flow with parking spaces laid out at an angle less than 90 degrees to the direction of vehicle travel may have reduced widths as indicated in the following table: <sup>76</sup>

Parking Angle

Minimum Aisle Width

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<sup>74</sup> 4.06 Entire Section rewritten STM October 19, 1970, under Article 9 (Section V-F)

<sup>75</sup> 4.06.02-A Amended ATM 1985, under Article 48 (Section V-F.2 (a) (1) (6) )

<sup>76</sup> 4.06.02-B Amended ATM 1985, under Article 48 (Section V-F.4)

30 degrees	12 feet
45 degrees	13 feet
60 degrees	18 feet

- C. Parking facilities and connecting drives shall be provided and maintained with a permanent, dust-free surface with individual spaces properly marked and maintained. Adequate drainage shall be provided.
- D. Required spaces shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind.
- E. Parking stalls in parking lots shall be set back from the street lot line to whatever extent may be necessary in the specific situation, as determined by the Zoning Board of Appeals, to avoid the probability of cars backing or otherwise maneuvering on the sidewalk upon entering or leaving the stalls. In no other case shall parking lots be designed to require or encourage cars to back onto a public or private way in order to leave the lot.
- F. The surfaced area of parking lots and all entrance and exit drives shall be set back a minimum of five feet from all lot lines, except when an access drive crosses the street layout. Such setback shall be seven feet where two feet of setback area is included in minimum stall depth as provided in Section 4.06.2 A above. Such setback area shall be landscaped and maintained.
- G. All proposed parking areas with twenty (20) or more parking spaces and all proposed truck loading areas with four or more bays shall be shown on a Site Landscape Plan prepared by a registered professional Landscape Architect.. The plan shall show the layout of the parking area or loading bay, the access and egress, location of trees and shrubs, location and type of any proposed lighting, loading spaces and the provisions for surface and subsurface drainage. These requirements are in addition to the requirements of Section 3.2 Greenbelts in Limited Industrial District and Industrial District.

The landscaped area shall be at least five (5) percent of the total interior parking lot area and five (5) percent of the loading bay area. Landscape areas shall be an integral part of the parking lot or loading bay and shall contain an appropriate mix of shade trees and other plants. Planting along the exterior perimeter of a parking area, whether for required screening or general beautification, shall

not be considered part of the five (5) percent interior landscape area.<sup>76.1</sup>

- H.** Where parking requirements of a building constructed after adoption of the Design Standards are to be met by utilizing spaces previously constructed in connection with an earlier building or buildings, those spaces directly related to the requirements of the new buildings shall conform to these Design Standards as shall all related access drives and aisles.

#### **4.06.3 Large Parking Areas**

Any parking area designed to accommodate more than 50 automobiles at a time shall contain access drives which shall be bounded by granite or concrete curbing broken only at intersections with other access drives, parking aisles and/or the street or where such curbing would be contrary to good engineering practice.

#### **4.06.4 Access Drives<sup>77</sup>**

Access drives shall be a minimum of 30 feet wide unless a median island is provided between opposing directions of vehicular travel. Drive connections or curb cuts shall not exceed 70 feet at the street line unless a special permit is granted on the basis that such additional width is necessary for the safety and convenience of traffic movement. Access drives shall have a permanent dust free surface. The use shall not be for providing storage or the standing of such vehicles, but for the passage of motor vehicles. The Board of Appeals may grant an exception to this Article IV, Section 4.06.4 by a special permit.

#### **4.06.5 Parking Garages<sup>78</sup>**

Community or group parking solely for the parking of motor vehicles of residents or employees, or customers of nearby (or the same) buildings; provided that parking garages, parking decks or any other parking structures and the parking of any motor vehicles shall be limited to parking at ground level or to a maximum of twelve (12) feet below finished grade level and shall be prohibited above ground level in any and all districts.

#### **4.06.6 Loading Areas<sup>79 80</sup>**

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<sup>76.1</sup> 4.06.2-G Rewritten ATM 2000 under Article 56

<sup>77</sup> 4.06.4 Amended ATM 1985, Article 53 and ATM 1979, under Article 48 (Section V-F.4)

<sup>78</sup> 4.06.5 Amended ATM 1989, under Article 6 (Section V-F.5)

<sup>79</sup> 4.06.6 Inserted STM October 19,1970, under Article 9 (Section V-G)

Except in the Business District of the Central Business Area in addition to the requirements for automobile parking space, there shall also be provided for each building or group of buildings sufficient off-street loading spaces to insure that all loading operations take place off the public way. Loading spaces and access drives leading thereto shall be so designed that vehicles to be loaded or unloaded are not required to maneuver in the public way to enter or leave the designed loading area.

Number of Loading Bays Required for  
New Structures by Gross Floor Area of Structure  
(in thousands of square feet)

<u>Uses</u>	<u>2-15</u>	<u>15-50</u>	<u>50-100</u>	<u>100-150</u>	<u>150-300</u>	<u>Over 300*</u>
Retail, Trade, Wholesale and Storage, Industry, Communications and Utilities	1	2	3	4	5	1
Consumer Services, Office Buildings Hotel, Recreation, Institution, and Education	1	2	3	4	5	1

\* (for each additional 150 or fraction thereof)

<sup>80.1</sup>Where it can be shown that the number of bays required under the provisions of this paragraph are clearly in excess of the demand generated by the intended use, the Board of Appeals may, by Special Permit, approve a lesser number of bays. Such reduction in the number of bays to be provided shall only be effective, however, if the number of bays required by this section could be accommodated on the site should the use of the premises be changed so that additional bays were required.

## **4.1 Signs And Advertising Devices <sup>81</sup>**

### **4.11 Purpose**

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80 4.06.6 Table Inserted ATM 1973, under Article 68 (Section V-G)

<sup>80.1</sup> 4.06.6 Amended by adding paragraph after Table, ATM 2001, under Article 41.

81 4.1 Completely rewritten ATM 1967, under Article 41. This section of the By-Law became effective without approval of the Attorney General by reason of his failure to act within the time limits prescribed by Section 32, Chapter 40

This section is adopted by the Town for the regulation and restriction of billboards, signs, and other advertising devices within the Town.

## **4.12 Administration**

### **4.12.1 Enforcement**

The Building Inspector is hereby designated and authorized as the officer charged with the enforcement of this Section.

### **4.12.2 Permits**

No sign, billboard, or other advertising device shall be erected on the exterior of any building or on any land, and no sign shall be altered or enlarged, until an application, on appropriate forms furnished by the Building Inspector, has been filed with the Building Inspector with such information, including photographs, plans, and scale drawings, as he may require, and a permit for such erection, alteration, or enlargement has been issued by him. The fee for such permits shall be determined from time to time by the Selectmen.

**A.** The provisions of Section 4.12.2 shall not apply to:

**A.1** Signs permitted in a residential area as provided in Section 4.14 Regulations And Restrictions.

**A.2** One real estate sign advertising the premises for sale or rent of not over six square feet in area located on premises in a business area.

**4.12.2.B** <sup>110</sup>The Town of Canton, acting through its Board of Selectmen, may erect in any zoning district a temporary sign or signs for public safety or government message purposes, subject to the following conditions:

(1) Requests for placement of said signs shall be made to the Board of Selectmen by any Town of Canton official or elected or appointed board on a form to be supplied by the Board of Selectmen.

(2) The Board may consider in its decision the following:

a. Size of the sign, but in no event larger than 25 square feet in area

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<sup>110</sup> 4.12.2 B Inserted ATM 2004, under Article 46

- b. Whether the sign shall be illuminated and, if so, during what time periods
- c. Dates for erecting and removing the sign
- d. The distance the sign shall be back from the paved surface of any public way, but in no event less than 25 feet
- e. The message on the sign
- f. The number of colors on the sign, but in no event more than four including the color white
- g. The total number of signs to be erected
- h. The location or locations of the sign or signs

#### **4.12.3 Appeals**

A person aggrieved by an order or decision of the Building Inspector under this Section may appeal to the Board of Appeals.

- A.** It shall be the duty of the Board to hear the appeal of any person aggrieved by an order or decision of the Building Inspector, and to hear and determine all applications for special permits as provided for under this Section.
- B.** Upon the filing of an appeal or application for a permit hereunder, the Board shall hold a public hearing thereon, notice of which shall be given by publication and by mailing, at the expense of the applicant, and render its decision all in accordance with the provisions of this By-law governing appeals under the other Sections hereof.

#### **4.12.4 Severability**

The invalidity of any part or provision of this Section, or of the application hereof to any particular subject matter, shall not invalidate any other part or provision hereof or affect the application hereof to any other subject matter.

#### **4.13 Special Permits**

The Board of Appeals may grant a special permit for a sign not complying with the provisions of the foregoing Section 4.14, if it determines that the particular sign will be in harmony with the general purpose and intent of this Section, and will not be injurious to the neighborhood in which such sign or signs are to be located, nor to traffic and safety conditions therein, nor otherwise detrimental to the public safety and welfare.

In granting such permission, the Board shall specify the size, type and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.

#### **4.14 Regulations And Restrictions**

##### **4.14.1 Residential Areas**

###### **A. Accessory Signs**

No accessory sign shall be erected or maintained on any lot in a Single Residence or General Residence District except as

**A.1** There may be one such sign for each lot, indicating only the name of the owner or occupant, the street number, and a permitted use or occupation in the particular area under this Zoning By-law. Such sign may be a standing sign, but shall not exceed one (1) square foot or, where a permitted use or occupation is set out, two (2) square feet in area.

**A.2** There may be one temporary unlighted sign on each lot advertising the sale or rental of the premises or the name and address of the contractor, architect and engineer responsible for any construction on the premises, provided that such sign shall not exceed twelve (12) square feet in area and shall be removed promptly after such sale, rental or construction has been effected.

**A.3** No accessory sign shall be illuminated except by a white, steady, stationary light shielded and directed solely at the sign. The foregoing is applicable whether the sign is exterior to a building or designed to be visible through a door or window.

**A.4** Churches, schools and public or other non-profit uses shall not be subject to the limitations of the Section 4.14.1(a).

###### **B. Non-Accessory Signs**

No non-accessory sign shall be erected or maintained in a single Residence or General Residence District.

##### **4.14.2 Business, Limited Industrial and Industrial Areas**

###### **A. Accessory Signs**

In a Business, Limited Industrial or Industrial District, only those accessory signs which are permitted in residential areas, (as provided in Section 4.14.1 or which comply with the following provisions of this Section 4.14.2 A, may be erected or maintained.

#### **A.1 Location**

- (a) An accessory sign shall be affixed to a building except as hereinafter provided as to standing signs.
- (b) An accessory sign affixed to a building shall be parallel with a wall of the building and shall not project beyond the face of any other wall of the building, or above the top of the wall to which it is attached. Roof signs are not permitted.
- (c) The sign shall not project more than twelve (12) inches.
- (d) Standing signs. Standing signs are prohibited except as follows:
  - 1. Any such signs, permits for which, in particular instances, may be granted by the Board of Appeals, in accordance with the provisions of Paragraph 7 of this Subpart.
  - 2. During the construction of a building, a temporary standing sign may be erected on the premises identifying the building, the owner, the contractors, the architects, and the engineers, but such sign shall not exceed twenty (20) square feet in surface area, nor ten (10) feet in any dimension. Such sign shall be removed promptly after the completion of the building.

#### **A.2 Size**

A sign shall not occupy an area in excess of one hundred square feet. For purposes of applying this maximum space limitation, any intermediary removable surface to which a sign is affixed shall be deemed part of the sign; and any sign composed of separate letters or devices cut into or affixed to a wall shall be deemed to occupy the entire area within a single continuous perimeter enclosing the extreme limits of the sign, including any structural elements.

### **A.3 Number**

- (a) There shall be not more than one (1) exterior sign for each business establishment consisting of a single building, except that, if such building has more than one public entrance, there may be a secondary sign affixed to each wall in which such entrance is located other than the wall to which the principal sign is affixed. If a business establishment consists of more than one building, a secondary sign may be affixed to a wall of each such building. The secondary sign or signs for any business establishment shall not exceed in the aggregate fifty (50) per cent of the maximum permissible area for a single sign for said business establishment.
- (b) In addition to the foregoing sign or signs, one directory of the business establishments occupying a building may be affixed to the exterior wall of the building at each entrance to the building. Such directory shall not exceed an area determined on the basis of one (1) square foot for each establishment occupying the building.

### **A.4 Illumination**<sup>82</sup>

No sign shall be illuminated except in accordance with the following restrictions:

- (a) No sign shall contain any moving, flashing or animated lights, except such portions of a sign as consist solely of indicators of time and temperature.
- (b) No more than four colors including white, shall be used. No red or green lights shall be used if, in the opinion of the Chief of Police, such colors would create a driving hazard.
- (c) Exposed gaseous tube-type signs shall not exceed ten (10) square feet in area; signs illuminated by reflected or silhouette-type lighting are not subject to this limitation.
- (d) No sign shall be illuminated between the hours of eleven o'clock P.M. and seven o'clock A.M., unless the business establishment or office is open to the public.

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<sup>82</sup> 4.14.2-A.4 Amended ATM 1969, under Article 16 (Section VI-Part C, Subpart 2.4 (b) )

- (e) No illumination shall be permitted which casts glare onto any portion of any street, or residential premises.
- (f) The provisions of this Section 4.14.2 (A.4) shall apply not only to exterior signs, but also to interior signs which are designed or placed to show through windows or doors of buildings.

#### **A.5 Movement**

No sign, any part of which moves or is designed to move, by any means, shall be permitted, except such portions of a sign as consists solely of indicators of time or temperature.

#### **A.6 Construction and Maintenance**

No sign shall be painted or posted directly on the exterior surface of any wall, but all signs must be painted, posted or otherwise securely affixed to a substantial intermediary removable surface which shall be securely affixed to the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices securely affixed to the exterior wall of a building. The material and construction of any sign and intermediary surface, and the manner of affixation of the sign to the intermediary surface, and the intermediary surface to the wall of the building, shall be in accordance with any applicable provisions of the Building Code of the Town of Canton, and, otherwise, with the reasonable requirements of the Building Inspector. All signs, together with their structural elements, shall be kept in good repair and in a proper state of preservation to the reasonable satisfaction of the Building Inspector. The Building Inspector may order the removal of any sign that is not maintained in accordance with the provisions of this By-law.

#### **A.7 Special Signs** <sup>83</sup>

- (a) Gasoline filling stations and garages may, if they elect to do so, divide the one exterior sign affixed to the front wall of the building, to which they are entitled as herein above provided, into separate signs affixed to and

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<sup>83</sup> 4.14.2-A.7 (A) Amended ATM 1991, under Article 30 (Section VI-Part C, Subpart 2.7 (a) )

parallel to such walls, and indicating the separate operations or departments of the business, provided, however, that the total size of the separate signs shall not exceed the maximum size permitted under this section for a single exterior sign on such wall. In addition, one standing sign, indicating the company whose gasoline is being sold, may be erected of such type, in such location, and in such manner, as the Board may permit. The standard type of gasoline pump, bearing thereon, in usual size and form, the name or type of gasoline and the price thereof, shall not be deemed to be in violation of this Section. The Board of Appeals shall have the right, after a public hearing, to issue a special permit to a gasoline filling station to have one (1) two-sided sign attached to a free-standing sign pole for the limited purpose of displaying daily prices of gasoline. The price sign shall be no larger than 20 square feet and have no more than two (2) colors.

- (b) In particular instances, the Board, at a regularly scheduled meeting, may permit standing signs, if it shall find that the nature of the use of the premises, or the location of the building with reference to the street or streets is such that a standing sign or signs may be permitted in harmony with the general purpose and intent of this Section, subject to the following requirements:<sup>84</sup>
1. Any such sign shall not exceed (i) one hundred (100) square feet in area; or (ii) twenty (20) feet in any dimension; or (iii) twenty (20) feet in height from the ground. No such sign shall be located within fifteen (15) feet of any property boundary line.
  2. In granting such permission, the Board shall specify the size, type and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.
- (c) The regulations contained in Section 4.14.2 shall not apply to any sign limited solely to directing traffic within or setting out restrictions on the use of parking areas and not exceeding four (4) feet in area.

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<sup>84</sup> 4.14.2-A.7 (b) Amended ATM 1976, under Article 39 (Section VI-Part C, Subpart 2.7 (b) )

- (d) A business may affix to any existing lawful sign or on the exterior wall of its building a sign advertising available employee positions. The particular employee positions available may be altered without specific authorization for each alteration. Such sign shall not exceed fifty (50) square feet. No such sign shall be erected until a permit has been obtained from the Building Commissioner pursuant to Section 4.12.2. Said permit shall expire on the ninety-first day following the date it was issued, provided, however one extension may be granted, in the discretion of the Building Commissioner, for good cause, for not more than an additional ninety days.<sup>84.1</sup>

#### **A.8 Non-Accessory Signs**<sup>85</sup>

No non-accessory signs shall be erected or maintained in a Business, Limited Industrial or Industrial District, unless permitted under a permit lawfully issued, and remaining in full force and effect, by the Outdoor Advertising Authority, or by any board or official succeeding to its authority in the administration of Sections 29-33, inclusive of C. 93 of the General Laws, or any act in addition thereto or an amendment thereof and unless allowed by a special permit granted by the Board of Appeals, which special permit shall be granted only if the Board of Appeals determines that said sign shall not be detrimental to the neighborhood in which such sign is to be located nor to traffic and safety conditions therein nor otherwise detrimental to the public safety and welfare, and in any event:

- (a) Within fifty (50) feet of any public way.
- (b) Within three hundred (300) feet of any public park, playground or other public grounds, if within view of any portion of the same.
- (c) Nearer than fifty (50) feet to any other such billboard, sign or other advertising device, unless such billboards, signs or other advertising devices are placed back to back.

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<sup>84.1</sup> 4.14.2-(d) Inserted ATM 2000 under Article 44

<sup>85</sup> 4.14.2-A.8 Amended ATM 1970, under Article 81 (Section VI-Part C, Subpart 2.8)

- (d) On any location at the corner of any public way, and within a radius of one hundred and fifty (150) feet from the point where the center lines of such ways intersect.
- (e) Nearer than one hundred (100) feet to any public way, if within view of any portion of the same, if such billboard, sign or other advertising device shall exceed a length of eight (8) feet or a height of four (4) feet.
- (f) Nearer than three hundred (300) feet to any public way, if within view of any portion of the same, if such billboard, sign or other sign or other advertising device shall exceed a length of twenty-five (25) feet or a height or ten (10) feet.
- (g) Roof signs are not permitted.

Notwithstanding the issuance of a permit by the Outdoor Advertising Authority, no sign shall be constructed without a Building Permit issued by the Building Inspector of the Town of Canton where applicable in accordance with Section 4.12 hereof and not in conflict with the provisions of the General Laws of the Commonwealth of Massachusetts relating to the authority of the Outdoor Advertising Authority. Any non-accessory sign shall comply with the provisions of Paragraphs 4. (Illumination), 5. (Movement), and 6. (Construction and Maintenance) of Section 4.14.2(A) hereof.

#### **4.14.3 Non-Conforming Signs**

Any non-conforming sign legally erected prior to the adoption of this Section, or any amendment thereof, may be continued to be maintained, but shall not be enlarged, reworded (other than in the case of theater signs), redesigned or altered in any way unless it is brought into conformity. Any such sign which has been destroyed or damaged to such an extent that the cost of restoration would exceed thirty-five (35) per cent of the replacement value of the sign at the time of the destruction or damage, shall not be repaired or rebuilt or altered unless in conformity with this Section.

The exemption herein granted shall terminate with respect to any sign which:

- A. shall have been abandoned;

- B. advertises or calls attention to any products, businesses or activity which are no longer carried on or sold, whether generally or at the particular premises; or
- C. shall not have been repaired or properly maintained within 60 days after notice to that effect has been given by the Building Inspector.

**4.15 Projecting Accessory Sign or Canopy/Awning Accessory Signs**  
<sup>85.1</sup>

The Zoning Board of Appeals, by special permit, may allow Projecting Accessory Sign or Canopy/Awning Accessory Signs in the Central Business District, Business District, Limited Industrial District and Industrial District.

A Special Permit may be granted under this subsection only if the Zoning Board of Appeals finds that a Projecting or Canopy/Awning style sign is in the public interest. In granting such permission, the Zoning Board of Appeals shall specify the size and location of the sign and impose such other terms and restrictions as it may deem to be in the public interest.

An application for a special permit for Projecting or an Awning/Canopy Accessory Sign shall include the following information:

- 4.15.1** Name, address and telephone number of applicant.
- 4.15.2** Plans indicating location and placement of sign.
- 4.15.3** Plan and elevation drawings which show the building facade and the proposed sign to scale.
- 4.15.4** Sign specifications including material, colors, form of support, method of lighting (including type of lighting, number of fixtures, placement of fixtures, number of lumens per fixture, and method of shielding).
- 4.15.5** Location of proposed sign with respect to neighboring signs and advertising devices.

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<sup>85.1</sup> 4.15 Inserted ATM 2000 under Article 55

**4.15.6** Such other information as the Zoning Board of Appeals may require.

## 4.2 Open Space Requirements <sup>86</sup>

### 4.21 Lot Area and Width in Residential Districts <sup>87 125</sup>

In all Residential District, no building except a one-story building of accessory use, shall be constructed on lot having less area than the "Required Lot Area" or having less width, measured through that part of the building where the lot is narrowest, than the "Required Lot Width Through Building", or having less area than the "Minimum Required Non-Wetland Area" specified in the following table for the district in which said lot is located, and not more than one building constructed as a dwelling, or so used, shall be located on each such lot except that an apartment house may, subject to the conditions of a special permit, be authorized to consist of more than one building on a lot.

<u>District Required</u>	<u>Lot Area Required</u>	<u>Lot Width Through Building</u>	<u>Minimum Required Non-Wetland Area</u>
Single Residence AA	45,000 sq.ft.	200 ft.	30,000 sq.ft.
Single Residence A	30,000 sq.ft.	150 ft.	20,000 sq.ft.
Single Residence B	15,000 sq.ft.	115 ft.	12,000 sq.ft.
Single Residence C	10,000 sq.ft.	100 ft.	7,500 sq.ft.
General Residence	10,000 sq.ft.	100 ft.	7,500 sq.ft.

In computing the "Non-Wetland Area" required for a Residential Lot, no portion of any brook, creek, stream, river, pond, lake or reservoir or portion thereof, nor any freshwater wetland as defined by the Massachusetts Wetlands Protection Act, MGL Chapter 131, Section 40, nor any portion of a way or street, as defined by the By-law may be included in the minimum required Non-Wetland Area.

### 4.22 Lot Frontage in Residential District <sup>88 113</sup>

Residential Districts, no building except a one-story building of accessory use, shall be constructed on a lot which does not have frontage on at least one street and a width at any point between the frontage street and the nearest part of said building for the following distances:

<sup>86</sup> 4.2 Amended ATM 1978, under Article 40 (Section VII-A)

<sup>87</sup> 4.21 Amended ATM 1973 under Article 69, Amended ATM 1963, Single Residence AA inserted under Article 33, Amended ATM 1999 under Article 28 (Section VII-A)

<sup>125</sup> 4.21 Amended ATM 2006, Article 20

<sup>88</sup> 4.22 Amended ATM 1985, Article 50 (Section VII-B)

<sup>113</sup> 4.22 Amended ATM 2005, Article 30

	Frontage and Frontage Lot Width
Residence AA	125 ft.
Residence A	100 ft.
Residence B	75 ft.
Residence C	75 ft.

**4.23 Dwellings in Business and Commercial Districts**

In a Business or Commercial District, no building shall be constructed as a dwelling, or so used, on a lot having less lot area than the amount required for its construction in the abutting Residential District (or, where more than one such district abuts, in the particular district nearest to the building in question).

**4.24 Lot Area and Width in Limited Industrial District**

In a Limited Industrial District no building except a one-story building of accessory use, shall be constructed on a lot having an area of less than one and one-half (1 1/2) acres or having less than two hundred (200) feet of lot width, measured through that part of the building where the lot is narrowest.

**4.25 Exceptions for Existing Lots <sup>89</sup>**

Notwithstanding the foregoing provisions, a dwelling for not more than one family (where otherwise lawful) or any other permitted building may be constructed on a lot having less than the minimum area, but not less than 5,000 square feet, width and frontage required by this Section if all other provisions of this By-Law are complied with, and if, prior to the date of adoption of the requirements in question, said lot:

**4.25.1** Was laid out and recorded in conformity with the area, width and frontage requirements, if any, applicable to the construction of such a dwelling or other building on said lot at the time of said recording, and provided further that said lot did not, on said date of adoption, adjoin other land of the same owner available for use in connection therewith, or

**4.25.2** Was shown on a final or definitive subdivision plan duly approved by the Canton Planning Board.

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<sup>89</sup> 4.25 Amended ATM 1978, Article 40 (Section VII-E)

No lot on which a building is constructed under the provisions of this paragraph shall thereafter be reduced or changed in size or shape so as to further increase its non-conformity with the area, width and frontage requirements hereof.

**4.25.3** Was shown on a preliminary subdivision plan submitted to and tentatively approved by said Board in accordance with its rules and regulations, provided that said lot is subsequently shown on a final or definitive subdivision plan duly approved by the Canton Planning Board within nine (9) months of the date of tentative approval of the preliminary plan.

**4.26 Lot Coverage in All Districts <sup>90</sup>**

In all Districts, no building shall be constructed so as to cover, together with any other buildings on the lot, a larger portion of the lot area than the "Permitted Lot Coverage" specified in the following table for the district in which said lot is located:

District	Permitted Lot Coverage
Single Residence	25%
General Residence	30%
Business	90%
Limited Industrial	40%
Industrial	50%
General Residence -- Apartment Houses	20%

**4.27 Lot Frontage in Limited Industrial and Industrial Districts <sup>91</sup>**

In Limited Industrial and Industrial Districts, all buildable lots shall leave at least seventy-five (75) feet of frontage on a street.

**4.28 Build Factor <sup>91.1</sup>**

In all Residential Districts, no building except a one-story building of accessory use, shall be constructed on a lot which has a Build Factor of more than 23.00. The purpose of the Build Factor is to limits the degree to which a lot may have an irregular or odd shape.

The Build Factor is a ratio of lot perimeter to lot area and is calculated according to the following formula:

$$\frac{\text{Lot Perimeter (Squared)}}{\text{Actual Lot Area}} == \text{Build Factor}$$

<sup>90</sup> 4.26 Amended ATM 1963, under Article 34 (Section VII-G)

<sup>91</sup> 4.27 Amended ATM 1987, under Article 60 (Section VII-H)

<sup>91.1</sup> 4.28 Inserted ATM 1999 under Article 26

### 4.3 Setback and Yard Regulations <sup>92 113</sup>

#### 4.31 Setback and Yard Regulations for Buildings

In all districts, no building shall be constructed so as to be nearer to the line of any street than the "Required Setback Distance," or nearer to the side lines of its lot than the "Required Side Yard Width," or nearer to the rear line of its lot than the "Required Rear Yard Depth," specified in the following table for the district in which said lot is located:

<b>MINIMUM</b>	<b>SR-AA</b>	<b>SR-A</b>	<b>SR-B</b>	<b>SR-C</b>	<b>GR</b>
<i>Lot Area</i>	45,000 sq. ft.	30,000 sq. ft.	15,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
<i>Lot Width Through Bldg.</i>	200'	150'	115'	100'	100'
<i>Frontage</i>	125'	100'	75'	75'	75'
<i>Coverage</i>	25%	25%	25%	25%	30%
<i>Required Setback Distance</i>	60'	60' from sideline of Turnpike St., 40' from sideline of all other streets	60' from sideline of Turnpike St., 30' from sideline of all other streets	60' from sideline of Turnpike St., 30' from sideline of all other streets	60' from sideline of Turnpike St., 30' from sideline of all other streets
<i>Required Side Yard Width</i>	40'	20'	15'	10'	10'
<i>Required Width Accessory Bldg.</i>	12' for a bldg. having a height of <15' & setback of at least 200'	6' for a bldg. having a height of <15' & setback of at least 150'	3' for a bldg. Having a height of <15' & setback of at least 100'	3' for a bldg. having a height of <15' & setback of at least 100'	3' for a bldg. having a height of <15' & setback of at least 100'
<i>Required Rear Yard Depth</i>	35'	35'	35'	35' and 25' for an attached roofed & enclosed single story porch	35' and 25' for an attached roofed & enclosed single story porch
<i>Required Depth Accessory Bldg.</i>	12' for a bldg. having a height of <15'	6' for a bldg. having a height of <15'	3' for a bldg. Having a height of <15'	3' for a bldg. having a height of <15'	3' for a bldg. having a height of <15'

<sup>92</sup> 4.3 Amended ATM 1963 under Article 34; ATM 1970, under Articles 52 and 52; ATM 1973, under Articles 78-82; ATM 1974, Article 59 (Section VII-A)

<sup>113</sup> Amended ATM 2004, Article 30 (Sec. 4.22)

For Required Height see Section 4.41; *For Required Open Space see Section 4.2*

**4.31 Setback and Yard Regulations for Buildings Continued**

<b>MINIMUM</b>	<b>GR-Apt.</b>	<b>B</b>	<b>LI</b>	<b>I</b>
<b>Lot Area</b>	10,000 sq. ft.		1 1/2 acres	
<b>Lot Width Through Bldg.</b>	100'		200'	
<b>Frontage</b>	75'		75'	75'
<b>Coverage</b>	20%	90%	40%	50%
<b>Required Setback Distance</b>	60' from sideline of Turnpike St., 40' from sideline of all other streets	60' from sideline of turnpike St. 25' from all other streets except no setback required from line of Washington St, within the Central Business Area	60'	60'
<b>Required Side Yard Width</b>	25'	6' unless the wall adjoining a side lot line be either a party wall or a wall with its outer face coincident with said line	25' unless side yard abuts a railroad right-of-way 35' if side yard abuts a residential district or a bldg. used primarily for residential purposes	20' unless side yard abuts a railroad right-of-way 35' if side yard abuts a res. district or abuts a bldg. used primarily for res. purposes
<b>Required Width Accessory Bldg.</b>	3' for a bldg. with a height of > 15' & setback of at least 100'			
<b>Required Rear Yard Depth</b>	35'	20' for a dwelling except a dwelling in which all rooms open onto a street, yard or exterior court at least 20' in depth may be constructed within 6' of the rear line of its lot; 6' for all other bldgs.	25' unless the rear yard abuts a railroad right-of-way 35' when rear yard abuts residential district or abuts a bldg. used primarily for residential purposes	10' unless the rear yard abuts a railroad right-of-way 35' if rear yard abuts residential district or abuts a bldg. used primarily for residential purposes
<b>Req. Depth Accessory Bldg.</b>	3' for a bldg. with a height of >15'			

*For Required Height see Section 4.41; For Required Open Space see Section 4.2*

#### **4.32 Determination of Setback**

For the purposes of this Section, the required setback distance shall be measured from the nearest exterior line of the street in question, provided, however, that where the street has a right-of-way width of less than forty (40) feet, the setback distance shall be measured from a line on the lot twenty (20) feet from and parallel to said center line.

#### **4.33 Setback Exceptions**

In all districts (except where subject to the provisions hereof on "Corner Clearance"), a building may be constructed as near to the line of any street as the average of the set-backs of the dwellings or other main buildings nearest thereto on either side of the building in question. Where, in determining the average setback, the nearest main building on either side is more than three hundred (300) feet from the building in question, such side building shall not be counted, but instead the intervening space shall be considered as though occupied by a main building having the required setback (whether or not said space is laid out as a separate lot).

#### **4.34 Setback for Other Uses**

In all districts, no open storage or display of goods, products, materials or equipment, and no gasoline pump, vending machine or similar commercial device, and no sign over one square foot in area (except above a height of ten feet) shall be located nearer to the line of any street than either fifteen (15) feet or the permitted setback distance for a building on the lot, whichever distance is the lesser.

#### **4.35 Side Yard Exceptions**

On an existing lot in a Residential District specifically exempted from the lot width requirements hereof (Section 4.25), the required side yard width for a dwelling or other main building may be reduced one foot for each ten (10) feet by which the width of said lot is less than the minimum specified for its district, such width being measured across the lot at the required setback line or through that part of the building where the lot is narrowest, whichever distance is the greater; provided, however, that the side yard distance shall not be so reduced to less than sixty (60) per cent of the required minimum.

#### **4.36 Reduction of Occupied Lots**

No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, coverage, setback, yard or other provisions of this By-law applicable to the construction of said building on said lot. This

prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.

**4.37 Projections**<sup>93</sup>

Nothing herein shall prevent window sills, belt courses, eaves, chimneys and cornices not exceeding eighteen (18) inches in width from projecting into any required yard or other required open space nor uncovered steps and unroofed porches from projecting six (6) feet into required side yard width or nine (9) feet into required set back distance or required rear yard depth.

**4.38 Corner Clearance**<sup>94</sup>

In all Residential District, no building shall be constructed within the triangular area formed by the exterior lines or intersecting streets and a line joining points on such lines twenty-five (25) feet distant from their point of intersection (or, in the case of a rounded corner, the point of intersection of their tangents), and no structure other than a building, no tree, shrub or other planting, and no open display, storage or other open use shall be located within said triangular area in such a manner as to interfere with traffic visibility across the corner.

**4.39 Corner Lots**<sup>95</sup>

In all Residential Districts, in the case of a corner lot, no dwelling shall be constructed so as to be nearer to the line of any street than the “Required Setback Distance” or nearer to the side lines or rear lines of its lot than the “Required Rear Yard Depth” specified for the district in which the corner lot is located.

**4.39.1** In all residential districts no swimming pools shall be placed so as to be nearer the line of any street than the required setback distance for the main building in that district. And in all residential districts no swimming pools shall be placed nearer than 10 feet from any abutting property lines.

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<sup>93</sup> 4.37 Amended ATM 1963, under Article 35 (Section VIII-G)

<sup>94</sup> 4.38 Inserted ATM 1973, under Article 82 (Section VIII-I)

<sup>95</sup> 4.39 Inserted ATM 1972 under Article 48, Amended ATM 1999 under Article 25, Amended ATM 2000 under Article 59 (Section VIII-I.1)

## 4.4 Height Regulations

### 4.41 Building Heights <sup>96</sup>

In all districts, no building shall be constructed to exceed the "Maximum Height" specified in the following table for the district in which said building is located:

District	Maximum Height
Residence AA Residence A Residence B Residence C General Residence	25 ft. plus one foot for each additional foot by which: (a) the setback exceeds the required setback distance, or (b) the narrower side width, or (c) rear yard depth, whichever of the three additional distances is the smallest; provided, however, the height shall not in any case exceed 40 feet.
Limited Industrial Industrial	40 feet or four stories, whichever is lower 52 feet or four stories by Special Permit (See Section 4.44).
Business	40 ft.

### 4.42 Height Determination of Structures and Buildings <sup>97</sup>

**4.42.1** When located on the ground, the maximum height of structure other than buildings, shall be the highest point on the structure and shall not exceed the maximum height for buildings in feet as set forth in Section 4.41. Structures may be located in a required front, rear or side yard provided the height of the structure is not greater than its horizontal distance from the lot line, except that a fence or wall not greater than seven (7) feet in height may be located on, or closer to a lot line than seven (7) feet.

**4.42.2** Structures erected on a building and not used for human occupancy, such as chimneys, heating, ventilating or air conditioning equipment, solar or photo-voltaic panels, elevator housings, antennas, skylights, cupolas, spires and the like may exceed the maximum height of building in feet provided that no part of the structure is more than fifteen (15) feet higher than the upper elevation of the building and the total horizontal coverage of such structures on the building does not exceed twenty-five (25) percent.

<sup>96</sup> 4.41 Amended STM 1988, under Article 33 (Section IX-A)

<sup>97</sup> 4.42 Amended STM 1989, under Article 5 (Section IX-B)

**4.42.3** Maximum building height shall be determined in accordance with the Massachusetts State Building Code.

**4.43 Additional Height Limitation Where Side Yard Exception**

Where the side yard width for a main building in a Residential District is reduced below the minimum specified for its particular district by an authorized side yard exception (as permitted in Section 4.35), no portion of said main building nearer to the side line of its lot than the specified side yard distance shall exceed 15 feet in height.

**4.44 Exceptions**

In a Limited Industrial District or Industrial District, the Board of Appeals may, in a specific case, issue a special permit to allow a maximum height of fifty-two feet (52') for a building, notwithstanding the height limits otherwise set forth in Section 4.0, in accordance with the following provisions,

**4.44.1** the maximum height for any building may be increased by one foot for each two feet by which the required setback otherwise required under Section 4.3; and

**4.44.2** the maximum increase in allowable height available hereunder shall be twelve feet, so that in no event shall the maximum height of any building exceed fifty-two feet (except for non-habitable structures as provided in Section 4.4) or provide for more than four stories, and

**4.44.3** the required side yard width for any building that exceeds forty (40) feet in height shall not be less than sixty feet, and

**4.44.4** the minimum lot area for any building that exceeds forty (40) feet shall be eight (8) acres, and

**4.44.5** the provision of this section 4.44 shall not apply to any above grade structured parking

**4.5 Earth Removal**<sup>98</sup>

**4.51 Permit Required**

**4.51.1** No soil, loam, sand, gravel, stone or other earth materials shall be removed from any premises within the Town unless such removal will constitute an exemption as hereinafter provided or is done pursuant to a special permit therefore issued by the designated Special Permit Granting Authority (SPGA).

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<sup>98</sup> 4.5 completely rewritten STM May 23, 1966 under Article 10, Completely rewritten ATM 1999 under Article 23 ( Section X )

- 4.51.2** The Zoning Board of Appeals shall be the Special Permit Granting Authority (SPGA) for all purposes under Section 4.5 Earth Removal except for subdivision developments, where the Planning Board shall be the Special Permit Granting Authority.
- 4.51.3** It is the intention of this by law that the removal of earth materials from any parcel of land for which a preliminary or definitive subdivision plan has been prepared shall be allowed only pursuant to a special permit therefore issued by the Planning Board acting as the Special Permit Granting Authority. Consequently, tentative or final approval of a subdivision plan shall not be construed as authorizing the removal of earth material from the premises, even in connection with the construction of streets shown on the subdivision plan.
- 4.51.4** No permit for removal of earth materials (including temporary structures accessory thereto), shall be granted unless the appropriately designated Special Permit Granting Authority finds that the earth removal operations conducted under such permit, subject to the conditions imposed thereby, shall be in the best interest of the Town. The Special Permit Granting Authority shall adopt rules, regulations and standards governing the administration of applications for special permits under this section.
- 4.51.5** An earth removal operation deemed by the Special Permit Granting Authority to be in the best interest of the Town (i) shall not be injurious or dangerous to the public health or safety, (ii) shall not produce noise, dust, or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property (iii) shall not result in transportation of materials on ways giving access to the land in question which will cause traffic congestion or hazards, (iv) shall not result in transportation which will cause undue injury to the roadway surfaces, (v) shall not result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted, (vi) shall not 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 (vii) or shall not have a material adverse effect on the water quality of the Town's aquifers, (viii) shall not result in an increase in runoff to the Town's drainage system or to additional runoff to adjacent lots.
- 4.51.6** Earth removal operations are prohibited within the Groundwater Protection District within ten (10) feet of historical high groundwater as determined from monitoring wells and historical

water table fluctuation data compiled by the United States Geological Survey, except for building foundations, roads or utility work.

- 4.51.7** Earth removal operations or vegetative removal are prohibited within a thirty (30) buffer zone along any lot, tract, or parcel of land all of which is not owned by the applicant(s) for a gravel removal permit.
- 4.51.8** A report outlining environmental concerns relating to the Proposed gravel removal operation is required as part of the Special Permit process. The report shall include an Existing Conditions Site Analysis Plan showing wetlands, slopes over 15 percent, soil conditions, fall water tables, areas within the Flood Hazard Areas, Groundwater Protection District, and such other natural features as the Special Permit Granting Authority may request. The report shall also include an evaluation of the impact of the gravel removal operations on the water quality and hydrology of the immediate neighborhood.

#### **4.52 Exemptions**

##### **4.52.1 Special Exemptions.**

The removal of earth material from any premises for the following operations shall constitute a Special Exemption. Earth material is defined as sod, loam, sand, gravel, stone or other similar earth material

- A.** The removal of less than twenty five (25) cubic yards of earth material in the aggregate in any year from any one lot, tract or parcel of land.
- B.** The transfer of less than one hundred (100) cubic yards of earth material from one part of a lot, tract or parcel of land to another part of the same lot, tract, or parcel of land all of which is owned by the same person or persons.
- C.** The removal of earth material from land in use by the Town or other government agency.
- D.** The removal of earth material necessarily excavated in connection with the lawful construction of a building or structure, or of a driveway, parking lot, sidewalk or path incidental to any such building or structure, provided that the quantity of material removed does not exceed that actually displaced by the portion of building, structure,

driveway, parking lot, sidewalk or path below finished grade.

**4.52.2 Exemptions for Existing Lawful Operations.**

Any land use contra to Section 4.51 hereof, including sand pits, gravel pits, or other earth removal activity, in lawful operation on any parcel of land on the date of adoption of this By-law may continue unless or until abandoned or, if operating under a special permit issued under any prior By-law of the Town, until the expiration thereof. Such permits shall not be renewed. Discontinuance for more than twelve (12) consecutive months shall be deemed to constitute abandonment. However, no use of land contra to Section 4.51 hereof shall be extended by any increase in the area of excavation after said adoption date or increase in the excavation depth below the grade of the lowest excavated area after said adoption date.

**4.53 Zoning Board of Appeals acting as the Special Permit Granting Authority**

**4.53.1** Subject always to Section 1.23 Special Permits and Exceptions hereof, each application for a permit of earth material removal shall be accompanied by a plan, submitted in duplicated (the exact size and number of copies of which may be indicated by rule of the Zoning Board of Appeals, prepared at the expense of the applicant by a Registered Land Surveyor or Civil Engineer showing (i) the existing contours of the land (ii) the contours as proposed after completion of the operation, (iii) the proposed lateral support to all adjacent property, (iv) the proposed drainage, (v) other information necessary to indicate the complete physical characteristics of the proposed operation.

**4.53.2** Within ten (10) days after receipt of the plan, the Zoning Board of Appeals shall transmit a copy thereof to the Planning Board, which said Board may, at its discretion, investigate the case and report in writing its recommendations to the Zoning Board of Appeals. The Zoning Board of Appeals shall not take final action on such application until it has received a report thereon from the Planning Board, or until said Planning Board has allowed thirty-five (35) days to elapse after receipt of such plan without submission of a report.

**4.54 Planning Board acting as the Special Permit Granting Authority**

Same as above *Section 4.53 Zoning Board acting as the Special Permit Granting Authority* but substitute Planning Board for Board of Appeals and Board of Appeals for Planning Board.

**4.55 Conditions of Permit.**

**4.55.1** In granting a permit hereunder, the Special Permit Granting Authority shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which shall include conditions as to (i) method of removal, (ii) type and location of temporary structures, (iii) hours of operation, (iv) policing of traffic entering and leaving site, (v) routes for transporting the material through the Town, (vi) area and depth of excavation, (vii) distance of excavation to street and lot lines, (viii) steepness of slopes excavated, (ix) reestablishment of ground levels and grades, (x) provisions for temporary and permanent drainage, (xi) provision for temporary and permanent sedimentation and erosion control (xii) provisions for storm water drainage (xiii) disposition of boulders and tree stumps, (xiv) replacement of a minimum of four (4) inches of high grade topsoil over the area of removal, and (xiv) planting of the area to suitable cover, including trees.

**4.55.2** No permit of removal of earth material shall be used for a period of more than one (1) year in a Residential District or more than three (3) years in a Non-Residential District, although such a permit may be renewed for additional periods in the same manner as for initial issuance. Where the duration of the permit exceeds 30 calendar days the Special Permit Granting Authority shall require a bond or other security to ensure compliance with its conditions of authorization, unless, in a particular case, it specifically finds that such security is not warranted and so states in its decision, giving the reasons for its finding. Where the duration of the permit is 30 calendar days or less, the Special Permit Granting Authority may, in its discretion, require such security as hereafter set forth for all special permits.

## ARTICLE V SPECIAL REGULATIONS

### 5.0 Flood Hazard Areas <sup>99</sup>

Flood Hazard Areas are hereby defined as 5.03 Federal Flood Plain Districts and 5.04 Special Flood Hazard Areas.

#### 5.01 Special Permit Applications .

**5.01.1** Any person desiring a special permit for any use set out in Section 5.0 Flood Hazard Area shall submit an application to the Board of Appeals, in accordance with the provisions of Chapter 40A of the Massachusetts General Laws as amended. The application shall be accompanied by plans of any construction and of the premises on which it is to be situated. All plans shall show existing and proposed finished ground contours at two-foot intervals. Contours shall be delineated within 200 feet of the proposed construction.

**5.01.2** Copies of the application for special permit to the Board of Appeals with accompanying plans shall also be sent or delivered by the applicant at the time of said filing to the Building Commissioner, Superintendent of Public Works, Board of Health, Conservation Commission and Planning Board for their recommendations to the Board of Appeals.

**5.01.3** All plans required by this by-law shall be certified by a Massachusetts Registered Land Surveyor or a Massachusetts Registered Professional Civil Engineer.

**5.01.4** No work shall be done in a Flood Hazard Area without a permit from the Canton Conservation Commission.

#### 5.02 Limits of Authority

Nothing contained in this Section 5.0 shall limit the authority of the Board of Health with respect to premises in the Federal Flood Plain District and the Special Flood Hazard Areas or limit the applicability of the Canton Building Code to any structure in the Federal Flood Plain District or Special Flood Hazard Area or limit the authority of the Conservation Commission with respect to wetlands within the Federal Flood Plain District and the Special Flood Hazard Area.

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<sup>99</sup> 5.0 Inserted STM October 19, 1970 under Article 14, Completely rewritten ATM 1999 under Article 24 (Section III-a)

## **5.03 Federal Flood Plain Districts**

### **5.03.1 Purpose**

In order to reduce flood losses, to preserve and maintain ground water table, protect the public health and safety of persons and property against hazards of flood water inundation, to limit and control the development of flood-prone areas and having taken into account flood plain management programs in effect in neighboring areas, the following Federal Flood Plain District Regulations are hereby adopted and shall take precedence over any other Bylaw or Zoning Bylaw.

### **5.03.2 Boundaries of the Federal Flood Plain District.**

- A.** Federal Flood Plain Districts are hereby established as an overlay district and include those areas designated as Zones A, A1-30 as set forth on the Flood Insurance Rate Map (FIRM), dated 6-4-87 on file with the Planning Board, the Conservation Commission, the Department of Public Works and the Building Department. Said maps, together with the index, the Town of Canton Flood Insurance Study and all explanatory matters thereon, shall be deemed to be part of this Bylaw and are incorporated herein by reference.
- B.** The 100-year flood level is indicated on said Index and Maps as a Base Flood (100-year) Elevation Line.

### **5.03.3 Development Regulations**

- A.** New construction or substantial improvements of residential structures within a Federal Flood Plain District (herein defined) shall have the lowest floor (including basement) elevated to or above the 100-year flood level as shown on the maps hereinafter described. Non-residential structures within Federal Flood Plain District shall either be similarly elevated or, together with attendant utility and sanitary facilities, be flood proofed watertight to or above the 100-year flood level.
- B.** The Zoning Board of Appeals may by special permit exempt from the requirements of this Section 5.03 any structures which would be functionally impaired by such measures, which would required waterside location and which are not used for sustained human occupancy; provided that the Zoning Board of Appeals finds that such structures do not substantially derogate from the purposes set forth in Section 5.03.

- C. No permit for any use, including land fill, shall be granted by the Zoning Board of Appeals in a Federal Flood Plain District unless the Authority finds that the proposed use, when combined with all other uses and anticipated uses, will not increase the water surface elevation of the 100-year flood level more than one foot at any point.
- D. Substantial improvements shall be construed to include among other things repair, construction or alteration costing fifty percent (50%) or more of the actual cash value of the structure before improvement or, if damaged, before damage occurred.
- E. Where watertight flood proofing of a structure is permitted, a registered professional engineer or architect shall certify to the Building Commissioner that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and up-lift forces and other factors associated with the 100-year flood level. In all events construction shall conform to the minimum standards of the State Building Code. The Building Commissioner shall obtain and permanently maintain the engineers or architects certification of compliance with the elevation and flood proofing requirements for new construction or for substantial improvements to existing sites.

#### **5.04 Special Flood Hazard Areas**

The Special Flood Hazard Area is defined as all lands along and sloping to the Neponset River and the Canton River also known as the East Branch, the elevation of which land is lower than 50 feet above Mean Sea Level based on the Massachusetts Geodetic Datum of 1929. The Special Flood Hazard Area is superimposed over any other district established by this Zoning Bylaw.

##### **5.04.1 Development Regulations:**

- A. No building shall be placed upon the land in the Special Flood Hazard Area within 150 feet of the center of the Neponset River or within 75 feet of the centerline of the Canton River.
- B. There shall be no filling, dumping, excavating or altering of the land in the Special Flood Hazard Area within 150 feet of the center line of the Neponset River or within 75 feet of the center line of the Canton River unless a Special Permit is issued by the Board of Appeals.

#### **5.04.2 Additional Uses by Special Permit**

The land in the Special Flood Hazard Area, except as provided in Section 5.04 hereof, may be used for any purpose otherwise permitted in the underlying district except that:

- A.** No building, wall, dam or other structure shall be erected, constructed, altered, enlarged or otherwise created or moved for any purpose unless a Special Permit from the Board of Appeals is issued.
- B.** Except on public ways, dumping, filling, excavating or transferring of any earth material within the Special Flood Hazard Area is prohibited unless a Special Permit from the Board of Appeals is issued.
- C.** Proper operation and maintenance of dams and water control devices are permitted uses under this section. This includes the temporary alteration of the water level for emergency or maintenance purposes and the removal of any and all flash-boards on a privately owned dam in order to lower the water level.
- D.** Municipal use, including but not limited to waterworks, pumping stations and parks, is permitted under this section.

#### **5.04.3 Issuance of Special Permits within the Special Flood Hazard Area**

The Board of Appeals, after holding a public hearing, may issue a permit under this Section 5.04 Special Flood Hazard Areas if it finds that the use of the lands deemed subject to periodic or seasonal flooding shall not be used for residential, business, limited industrial or industrial purposes in such a manner as to endanger the health, safety, or welfare of any persons or properties or adversely affect environmental conditions within the Special Flood Hazard Area. In deciding applications for a special permit under this section, but without limiting the generality of the foregoing, the Board of Appeals shall assure:

- A.** That within the Special Flood Hazard Area the basement floor elevation or the lowest floor elevation, if there is no basement floor, of any structure, used or to be used for a dwelling specifically including transient accommodations such as in hotels or motels (anything to the contrary in this by-law notwithstanding), shall be at least 52 feet above said Mean Sea Level.

- B.** That all structures be so designed and secured that during flooding:
  - B.1** The foundation would not be undermined, and
  - B.2** The structure will not be floated off, battered off or swept away.
- C.** That safe vehicular and pedestrian movement to, over, and from the premises is provided on ways having a minimum elevation of no less than 49 feet above said Mean Sea Level; provided however, that the Board of Appeals may by special permit grant an exception to the requirements of this Section 5.04. Special Flood Hazard Area to allow such ways to meet ways existing at the time of the adoption of this Section 5.04.
- D.** That because of the location or elevation of the building or filling of the area, there will be no danger of pollution to on site water facilities providing water for human consumption.
- E.** that the methods of drainage are designed in accordance with accepted engineering practice.
- F.** If any land included in the Special Flood Hazard Area is found by the Board of Appeals not in fact to be subject to seasonal or periodic flooding, and found in fact not to have been flooded during the highest flood of record for said land, the Board of Appeals may grant a Special Permit exempting said land from the application of this Section 5.04 Special Flood Hazard Area.
- G.** Where public sewerage is not available, no building permit shall be issued until the Board of Health has issued a permit under this section approving the proposed sanitary and storm drainage systems or has allowed forty-five (45) days to elapse after receipt of the application for a Special Permit.
- H.** No occupancy permit shall be issued until the Board of Appeals, the Building Inspector, the Board of Health, the Planning Board and Superintendent of the Public Works Department have received a certified plan showing the foundation and floor elevations, grading of the premises, elevations of the completed construction and all elevations of the various elements that make up the sewage disposal system, and that all requirements of all permits are satisfied.
- I.** Where public sewerage is not available, in consideration of any of the items under “Section 5.04.4 Issuance of Special Permits”, the Board of Health and the Board of Appeals shall consider the

minimum ground water level in the Special Flood Hazard Area to be 50 feet above said Mean Sea Level unless data indicates a higher ground water level.

### **5.05 Severability of Provisions**

The invalidity of any provisions of this Section 5.0 Flood Hazard Areas shall not invalidate any other provisions of said section.

### **5.1 -DELETED-<sup>100</sup>**

## **5.2 Ground Water Protection District<sup>101</sup>**

### **5.21 Purpose of District**

The purpose of this Groundwater Protection District is:

**5.21.1** to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of water for the residents, institutions, and businesses of the Town of Canton;

**5.21.2** to preserve and protect existing and potential sources of drinking water supplies;

**5.21.3** to conserve the natural resources of the Town of Canton; and

**5.21.4** to prevent temporary and permanent contamination of the environment.

### **5.22 Scope of Authority**

The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

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<sup>100</sup> 5.1 Fed. Flood Plain District inserted ATM 1978 under Article 41, Deleted and combined with 5.0 ATM 1999 under Article 24

<sup>101</sup> 5.2 Inserted ATM 1996, under Article 26

### **5.23 Establishment and Delineation of Groundwater Protection District**

There are hereby established within the Town of Canton certain groundwater protection areas. These areas consist of aquifers or recharge areas which are delineated as Groundwater Protection District areas on a map which is to be adopted as an amendment to the zoning map simultaneously with the adoption of this amendment to the zoning by-law. The map, which is at a scale of one inch equals one thousand feet was prepared by Vollmer Associates and is entitled "Town of Canton Groundwater Protection District Overlay Map" dated April 1996.

### **5.24 District Boundary Disputes**

If the location of the district boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Zoning Board of Appeals (ZBA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the Town may engage a registered professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all, or part of the cost of the investigation.

### **5.25 Use Regulation**

In the Groundwater Protection District, the following regulations shall apply:

#### **5.25.1 Permitted Uses**

The uses permitted within the Groundwater Protection District shall be the uses permitted in the underlying zoning district, and not prohibited by Section 5.25.2, below, or restricted by Section 5.25.3, below, provided that all necessary permits, orders, or approvals required by local, state or federal law are also obtained:

#### **5.25.2 Prohibited Uses**

The following uses are prohibited within the Groundwater Protection District notwithstanding the provisions of the underlying zoning district:

- A. Landfills and open dumps as defined in 310 CMR 19.006;

- B.** Storage of liquid petroleum products, except those incidental to the following:
  - B.1** Normal household use, outdoor maintenance, or heating of a structure;
  - B.2** Waste oil retention facilities required by statute, rule or regulation;
  - B.3** Emergency generators required by statute, rule or regulation;
  - B.4** Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters provided that storage listed in items a. through d. above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the containers total storage capacity; however replacement of existing tanks or systems for the keeping, dispensing or storage of gasoline is allowed consistent with state and local requirements. Other liquid petroleum products may be stored subject to the provisions of Section 5.25.2 (12) hereof.
- C.** Landfilling of sludge or septage as defined in 310 CMR 32.05;
- D.** Storage of sludge and septage, unless such storage -is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- E.** Individual sewage disposal systems except as designed and/or maintained in accordance with the current requirements of Title 5 (310 CMR 15).
- F.** Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- G.** Storage of animal manure unless covered or contained in accordance with the specifications of the US Soil Conservation Service;
- H.** Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) within ten feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads or utility works;

- I.** Facilities that generate, treat, store, or dispose of hazardous waste, Chapter 21 C and 310 CMR 30.00, except the following:
  - I.1** very small quantity generators, as defined under 310 CMR 30.00;
  - I.2** household hazardous waste collection centers and events under 310 CMR 30.390;
  - I.3** waste oil retention facilities required by MGL Chapter 21, section 52A.
  - I.4** water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;
- J.** automobile graveyards and junkyards, as defined in MGL Chapter 1 40B, section 1;
- K.** treatment or disposal works for non-sanitary wastewater that are subject to 314 CMR 5:00 except the following:
  - K.1** the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - K.2** treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater;
- L.** storage of hazardous materials, as defined in MGL chapter 21 E, except as allowed and in conformity with the provisions of the town's Hazardous Materials by-law.
- M.** industrial and commercial uses which discharge process wastewater on-site except to the extent as may be authorized by applicable groundwater discharge permits;
- N.** stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;
- O.** storage of commercial fertilizers, as defined in MGL chapter 128, Section 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leakage.

### **5.25.3 Uses and Activities Requiring a Special Permit**

The following uses and activities are permitted only upon the issuance of a Special Permit by the Zoning Board of Appeals as the Special Permit Granting Agency and under such conditions as it may require:

- A.** the enclosed storage of road salt or other deicing chemicals,
- B.** modification of groundwater flow through use of under drains or similar devices except that a Special Permit shall not be required to maintain, modify or expand single family residential structures lawfully in existence on April, 1983;
- C.** enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
- D.** those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 5.25.2).
- E.** the construction of dams or other water control devices, ponds, or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or drainage improvements.
- F.** any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are not feasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

### **5.26 Procedures for Issuance of Special Permit**

**5.26.1** The Special Permit Granting Authority under this section of the Zoning By-law shall be the Board of Appeals established by Article I, Section 1.2 of the Zoning By-law.

Any person desiring approval of a plan under this groundwater protection district section shall submit copies of its site plan (as

provided in Article III, Section 3.0 of the Zoning By-law) and its application substantially simultaneously to the Zoning Board of Appeals, the Board of Health, the Conservation Commission, the Planning Board, the Department of Public Works and the Fire Department. Each such entity shall by its own rules determine the number of copies of the plan and application to be so filed with it and may require other specific information to be provided to it.

The Board of Appeals may issue a special permit if it determines, in conjunction with the above town agencies, or any other town agencies as in a particular circumstance may be deemed applicable, that the intent of this By-law, as well as its specific criteria, are met and the intent as well as the specific criteria of every other law, By-law, rule or regulation for which any such municipal agency is responsible are met. The Zoning Board of Appeals shall not grant a special permit under this section unless the application materials include, in its opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The Zoning Board of Appeals shall document the basis for any departures from the recommendations of the other Town Boards, Department or Commissions in its decision.

- 5.26.2** The applicant shall certify to the Board of Appeals the municipal agencies with which it has filed copies of its application and plans. Failure of any such agency to respond, in writing prior to the date on which the Board of Appeals is scheduled to hold its public hearing shall be construed to indicate approval, or no desire to comment by said agency, provided, however, the agency may request additional time within which to respond if it has requested additional information to be presented by the applicant;
- 5.26.3** The Zoning Board of Appeals may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 5.25 of this By-law, and any regulations or guidelines adopted by the Zoning Board of Appeal. The proposed use must:
- A.** in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District; and
  - B.** be designed to avoid substantial disturbances of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed;

- 5.26.4** The Zoning Board of Appeals may adopt regulations to govern design features of projects. Such regulations shall be consistent with the subdivision regulations adopted by the Planning Board.
- 5.26.5** The site plan shall be drawn at a proper scale as determined by rules adopted by the Zoning Board of Appeals stamped by a registered professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments, shall at a minimum, include the following information where pertinent:
- A.** a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the Premises in quantities greater than those associated with normal household use;
  - B.** for those activities using or storing such hazardous materials, a Hazardous Material Management Plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief and Board of Health. The plan should include:
    - B.1** provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures
    - B.2** provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
    - B.3** evidence of compliance with the Hazardous Materials provisions of the Code of Massachusetts Regulations (310 CMR 30.00), including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection if the same shall be required;
  - C.** proposed down-gradient location(s) for groundwater monitoring well(s), should the Zoning Board of Appeals deem the activity a potential groundwater threat;
- 5.26.6** The Zoning Board of Appeals shall hold a hearing on ever, application filed with it under this section, in conformity with the provisions of MGL Chapter 40A, section 9 and section 11.
- 5.26.7** Written notice of any violations of by-law shall be given by the Building Commissioner to the responsible person/violator as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the

responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to report the violations and preventive measures required for avoiding future violations and a schedule of compliance. The cost of containment, clean-up or other action of compliance shall be borne by the owner and/or operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, the Town of Canton, the Building Commissioner, the Board of Health, the Fire Department or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Canton, the Building Inspector, the Board of Health, the Fire Department, or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Canton, the Building Inspector, the Board of Health, the Fire Department, or any of their agents authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

**5.27 Fees**

At the time of application, the applicant shall pay a filing fee and a consulting fee, as specified. The filing fee covers administrative expenses and the consulting fee covers the costs and expenses of an expert deemed necessary for the Zoning Board of Appeals to review the application and plan. The Zoning Board of Appeals may waive the filing fee and consulting fee for an application filed by a government agency.

**5.28 Severability**

A determination that any portion or provision of this overlay Groundwater Protection District By-law is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

**5.29 <sup>105.1</sup> Review by Town Officials**

Uses and activities in the Groundwater Protection District, which require a special permit, will require a “Groundwater Protection District Review”.

It is the responsibility of the applicant to distribute copies of plans that require Groundwater Protection District Review to the appropriate town officials. The appropriate town officials are hereby determined to be: the

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<sup>105.1</sup> 5.29 Inserted at ATM 2001 under Article 47

Planning Board, the Conservation Commission, the Board of Health, the Superintendent of Public Works, the Executive Secretary to the Board of Selectmen, and the Town Planner. The Board of Appeals may, in specific case, require distribution of the plans to other Town agencies. The original copy of a Groundwater Protection District Review -- Plan Distribution form (provided by the Building Commissioners office) dated and signed by each of the offices and agencies listed above, shall be filled with the Board of Appeals.

The Town offices and agencies to which copies of Groundwater Protection District Review - Plans are filed shall, within thirty days following the date such distribution is made, file with the Board of Appeals a report concerning the application. Failure to file within the time designated shall be deemed to be a recommendation the plan be approved unless a Town official or agency submits to the Board of Appeals within the initial thirty day period a notice of intent to extend the time for filing an additional thirty days.

### **5.3 Economic Opportunity District<sup>102</sup>**

#### **5.31 Purpose of District**

There is hereby established an Economic Opportunity District. This district may be applied, as an overlay district, to a parcel of land existing in either an industrial or limited industrial zoning district, which has been designated by a town meeting vote to be an economic opportunity area pursuant to chapter 23A of the General Laws. The benefits of this overlay district shall not accrue to any parcel until such parcel has:

- 5.31.1** been designated as an economic opportunity area by town meeting pursuant to Chapter 23A; and
- 5.31.2** been designated by a two-thirds town meeting vote as part of an Economic Overlay District under the Zoning By-law.

The Economic Opportunity District is established for the accomplishment of the following purposes:

- A.** to promote the economic health and stability of the Town by encouraging development and economic investment in targeted areas that will generate employment and tax revenue; and
- B.** to provide additional planning flexibility for projects located in the Economic Opportunity District to enhance the coordination of the

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<sup>102</sup> Inserted STM February 10, 1997, under Article 4

environment and natural features of development sites with potential project designs.

### **5.32 Scope of Authority**

The Economic Opportunity District is an overlay district superimposed on the underlying zoning district. The provisions contained in this overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Economic Opportunity Overlay District are also subject to the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Economic Opportunity Overlay District except as expressly stated in this section.

### **5.33 Permitted Uses and Additional Requirements**

#### **5.33.1 Permitted Uses**

The uses permitted within the Economic Opportunity Overlay District shall be the uses permitted in the underlying zoning district.

#### **5.33.2 Waiver of Restrictions**

Within the Economic Opportunity Overlay District, to encourage development therein, the following provisions shall supersede any conflicting provisions found elsewhere in this By-law:

**A. Structured Parking** - Notwithstanding the provisions of Article IV, Section 4.07.5, within an Economic Opportunity Overlay District, above or below-grade structured parking shall be permitted without regard to the height or depth limits set forth in Article IV, Section 4.07.5. If the applicant demonstrates as part of the Site Plan Review process (Article III, Section 3.0) that:

**A.1** the applicant has available space on the Premises to comply with the otherwise applicable parking requirements of the By-law, and

**A.2** that the use of above and/or below-grade structured parking would: (i) allow the applicant to preserve additional open space above that otherwise required by this By-law; (ii) decrease runoff from impervious surfaces, and (iii) would be effectively screened by trees of a minimum height of seven feet.

The location(s) where conforming parking would otherwise be placed in the absence of such structured parking shall be shown on the Site Plan submitted for approval to the Zoning Board of Appeals. Such location(s) shall not be occupied by buildings in the future until the owner has demonstrated compliance with this section's requirements with respect to the existing as well as any additional proposed buildings. Such structured parking shall not in any event exceed a height of thirty feet as measured from average finished grade to the top of the uppermost deck (except for non-habitable structures, including walls and stairwells, as provided in Article IV, Section 4.42.2 or extend more than twenty-four feet below average finished grade level.

**B. Height** - Notwithstanding the height limits otherwise set forth in Article IV, Section 4.41, the Maximum Height for any building located on a lot wholly within the Economic Opportunity Overlay District shall be increased by one foot for each foot by which the required set back distance from the street for said building and lot exceeds the required set back otherwise required under Article IV, Section 4.31. Provided, however, that the maximum increase in allowable height available hereunder shall be twenty feet, so that in no event shall the maximum height of any building in an Economic Opportunity Overlay District exceed sixty feet (except for non-habitable structures as provided in Article IV, Section 4.42.2). The provisions of this paragraph shall not apply to any above grade structured parking.

## **5.4 Flexible Residential Development**<sup>103</sup>

### **5.41 DEFINITIONS**

For the purpose of this Section the following words and phrases shall have the meaning herein indicated.

**5.41.1 Special Permit Granting Authority (SPGA):** The Planning Board is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes under this section and shall adopt rules and regulations governing the administration of applications for special permits under this Section.

**5.41.2 Flexible Development:** An option which permits an applicant to build single family dwellings with reduced lot area and frontage requirements so as to create a development in which the lots are grouped together with adjacent common open land.

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<sup>103</sup> Adopted ATM 1998, Article 39

**5.41.3 HomesAssociation:** A corporation or trust owned or to be owned by the owners of lots within a tract approved for flexible development, which holds the title to common open land and which is responsible for the costs and maintenance of said open land and any other facilities to be held in common.

**5.41.4 Common Open Land:** A parcel or parcels of undeveloped land or an area of water, or a combination of undeveloped land and water within the site designated for a Flexible Residential Development, maintained and preserved for open uses, and designed and intended for the use or enjoyment of residents of the Flexible Residential Development. Common Open Land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the Flexible Residential Development, but shall not include streets or parking areas except those incidental to open space use.

**5.41.5 Wetlands:** An area characterized by vegetation described in General Laws, chapter 131, Section 40.

## **5.42 PURPOSE**

The purpose of this Section is to promote a more efficient use of land in harmony with its natural features; to preserve common open land for conservation, agriculture, open space, and recreational use; to preserve historical and archaeological resources and to protect existing or potential municipal water supplies, all in accordance with the general intent of the Zoning By-laws to protect and promote the health, safety, convenience and general welfare of the inhabitants of the Town of Canton. The Planning Board **may grant** a Special Permit which would exempt such land from the lot area, frontage, setback, side yard and width of lot requirements of the Canton Zoning Bylaw. All other zoning requirements found elsewhere in the Canton Zoning Bylaws will continue to apply within the Flexible Residential Development unless this section of the Bylaw or individual Special Permit states otherwise.

## **5.43 ENVIRONMENTAL ASSESSMENT**

### **5.43.1 Master Plan and Report**

The Applicant will prepare a Master Plan and Report in conformity with the Planning Boards Rules and Regulations. The Master Plan and Report will describe conditions prior to and on completion of both conventional development and Flexible Residential Development. Environmental issues to be addressed include water quality, pollution of groundwater, damage or threat to wetlands, flood plains, and plant and animals.

### 5.43.2 Site Plans

The Applicant will prepare Site Plans in conformity with the Planning Board Rules and Regulations. The Site Plans will furnish information consistent with information required by the Planning Board for approval of a Subdivision.

The Planning Board **may grant** a Special Permit under this section only if it finds the following:

- A.** That the flexible residential development will be in harmony with the general purpose of the bylaw and the requirements of General Laws, Chapter 40A, and the long range Open Space Plan of the town; that it will not have a detrimental impact on the neighborhood, will be designed with due consideration for health and safety, and is superior to a conventional plan in preserving open space, minimizing environmental disruption, or allowing for more efficient provision of services.
  
- B.** That the development itself impinges upon critical environmental areas such as:
  - B.1** Land abutting the rivers, brooks and/or ponds of significant public interest, which enhance or protect wetlands or flood plain, or which provide public access to the water body, or which enhance or provide significant scenic vistas or views, or which provide water-related recreational opportunities;
  
  - B.2** Land which currently is in agricultural use or land which is suitable in size, location and soil, characteristics for agricultural use;
  
  - B.3** Land which provides a significant wildlife habitat or which is a unique natural area;
  
  - B.4** Groundwater Protection District land which provides recharge to Canton's current or future municipal wells and highly favored aquifer areas;
  
- C.** That the common open space protects critical environmental areas and provides a valuable outdoor recreation resource.
  - C.1** Land which is to be developed for active or passive recreational use;
  
  - C.2** Land which preserves existing trail networks or land on which new trails will be developed. New trails will be developed as part of

the flexible development for integration into an existing trail network;

**C.3** Land which enhances scenic roadside views;

**C.4** Land providing desirable public access to existing Town or State recreational or conservation land.

**D.** That land intended to be conveyed to, or restricted for the benefit of, the Town:

**D.1** Enhances the protection of critical environmental areas, unique natural features, scenic vistas or potential or existing farmland;

**D.2** Provides a valuable addition to the open space resources of the Town;

**D.3** Provides for a more efficient use of land in harmony with its natural features;

**D.4** Provides for creativity in the design of developments through a carefully controlled process;

**D.5** Provides a less sprawling form of development, a shorter network of streets and utilities, more economical development of land with less consumption of open space;

**D.6** Permanently preserve natural topography and wooded areas within development areas and preserves usable open space and recreation close to homes;

**D.7** Provides an efficient procedure to ensure appropriate high quality design and site planning to enhance the neighborhoods in which they occur and to the Town as a whole.

## **5.44 PROCEDURE**

### **5.44.1 Filing an Application**

Every applicant for a Flexible Residential Development shall file for a Special Permit with the office of the Planning Board and shall be accompanied by eight (8) copies of a Master Plan of the entire permit area under consideration, prepared by a professional land surveyor and landscape architect. A copy of the application shall simultaneously be filed in the office of the Town Clerk.

#### **5.44.2 Contents of Application**

In addition to any other documents or information required by the Planning Board pursuant to its rules and regulations adopted hereunder, application for a special permit pursuant to this Section shall be accompanied by a Preliminary Site Plan, which shall show all of the information required for a preliminary subdivision plan as specified in the Canton Planning Board Subdivision Rules and Regulations, such additional information required by the Zoning By-Laws or as the Planning Board deems necessary, and, to the extent applicable, all proposed instruments to be recorded with the plans.

In addition, the applicant shall provide the following information:

- A.** A concept plan showing the number of lots permitted under this bylaw by means of a conventional subdivision plan, considering the whole tract, exclusive of water bodies and land prohibited from development by legally enforceable restrictions, easements, or covenants. The Planning Board shall determine the number of lots permitted within any Flexible Residential Development, to assure compliance with the purposes of the Zoning By-law.
- B.** A summary of the environmental concerns relating to the proposed plans. The environmental summary would include a site analysis plan showing wetlands, slopes over 15 percent, soil conditions, fall water tables, areas within the Floodplains Districts, Groundwater Protection Districts, and such other natural features as the Planning Board may request.
- C.** A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.
- D.** Evaluation of the open land proposed within the development, with respect to size, shape, location, natural resource value and accessibility by residents of the Town or of the development.

#### **5.44.3 Review of Other Boards**

Before acting upon the application, the Planning Board shall submit it with the preliminary plan to the following boards and town agencies, which may review it jointly or separately: The Board of Selectmen, The Conservation Commission, the Board of Health, the Department of Public Works, The Planning Department and other boards the Planning Board may deem appropriate. Any such board or agency to which petitions are referred for review shall submit such recommendations, as it deems appropriate to the Planning Board. Failure to make recommendations within 35 days of receipt shall be deemed lack of opposition.

#### **5.44.4 Public Hearing**

After the opportunity for review by other boards has taken place, the Planning Board shall hold a Public Hearing under this section, in conformity with the provisions of General Laws - Chapter 40A, s. 9 and of the Canton Zoning Bylaw and the Rules and Regulations of the Planning Board. The hearing shall be held within sixty-five (65) days after filing of the application and definitive plans with the Planning Board and the Town Clerk. Notice shall be given by publication and posting and by first-class mailings to "Parties in interest" as defined in General Laws, Chapter 40A, Section 11. The decision of the board, and any extension, modification, or renewal thereof, shall be filed with the Planning Board and Town Clerk within ninety (90) days following the closing of the public hearing. Issuance of the Special Permit requires a vote of four members of a five-member board. Two separate public hearings, one for the Special Permit and one for the definitive subdivision plan must be held.

#### **5.44.5 Relation to Subdivision Control Act**

Planning Board approval of a Special Permit hereunder by the Planning Board shall not be a substitute for compliance with the Subdivision Control Act, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for the Planning Board's consideration under that law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, adopt regulations establishing procedures for submission of a combined plan and application which shall satisfy this Section, and the Planning Board's regulations under the Subdivision Control Act.

### **5.45 STANDARDS**

#### **5.45.1 Applicable Zoning Districts**

Flexible Residential Development applies to the Residence B, Residence A, and Residence AA District(s).

#### **5.45.2 Minimum Tract Size**

Flexible Residential Development shall be upon a single tract, in one ownership with definite boundaries ascertainable from a recorded deed or recorded plan, which has an area of not less than the following:

Residence B: One hundred thousand (100,000) square feet;  
Residence A: Two hundred thousand (200,000) square feet;  
Residence AA: Three hundred thousand (300,000) square feet).

Existing public and private ways need not constitute boundaries of the tract but the area within such ways shall not be counted in determining tract size.

#### **5.45.3 Number of Lots**

The number of lots within any Flexible Residential Development shall be determined by the Planning Board to assure compliance with the purposes of this Section, and shall not exceed the basic density. The basic density of a Flexible Residential Development shall be the number of lots upon which a single family dwelling could be constructed in the residential district in which the Flexible Residential Development is located without regard to the Flexible Residential Development, and without waivers of the design standards set forth in the Subdivision Rules and Regulations of the Planning Board.

#### **5.45.4 Dimensional Regulations**

All dimensions shall comply with the provisions of the lot dimensional regulations of this subsection.

Minimum lot area:

Residence AA 20,000 Sq. Ft.

Residence A 15,000 Sq. Ft.

Residence B 10,000 Sq. Ft.

Minimum lot frontage: Each lot shall have a minimum frontage of fifty (50) feet.

#### **5.45.5 Minimum Lot Width**

Each lot shall have a lot width of not less than fifty (50) feet and the nearest point on the front wall of the dwelling shall be set back on its lot at least to a point where the lot width is a minimum of seventy (70) feet in the Residence AA and A Districts, and sixty (60) feet in the Residence B District.

#### **5.45.6 Setback and Side Yard Requirements**

Each lot shall have a setback distance of not less than thirty (30) feet and a side yard width of not less than fifteen (15) feet from the nearest point on any exterior the wall of the dwelling.

#### **5.45.7 Common Open Land**

The area of the Common Open Land shall equal at least thirty (30) percent of the total area of the Flexible Residential Development tract in

Residence District AA, twenty five (25) percent in Residence District A and twenty (20) percent in Residence District B. The open space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the Flexible Residential Development.

Land considered by the Planning Board as marginal or unsuitable for building, such as, inaccessible wetland and open water, steep slopes, highly erosion or poorly drained areas, areas of very shallow bedrock, or of very high water table shall be included in the permanent open space; but no more than fifty (50%) percent of the required open land shall consist of such marginal or unbuildable areas.

In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one or more of the characteristics outlined in Section C. PURPOSE is included in the proposed open space.

#### **5.45.8 Conveyance of Common Open Land**

The open land may be held in common and shall be conveyed in one of the following manners, as determined by the Planning Board.

- A. to the town, which shall accept it for park or open space use; or
- B. to another non-profit conservation organization approved by the Planning Board, the principal purpose of which is the conservation of open space; or
- C. to a corporation, trust or association owned or to be owned by the owners of lots or residential units within the tract, provided that if such a corporation, trust or association holds title, ownership thereof shall pass with conveyance of the lots. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the Town of Canton over such land pursuant to Massachusetts General Laws, Chapter 184, Section 31-33, to insure that such land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by Section 33 of Chapter 184 of the Massachusetts General Laws. In addition, the developer shall be responsible for the maintenance of the common land to be held in common until such time as the homeowner's association is capable of assuming said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer

shall cause to be recorded at the Norfolk Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

- C.1** Mandatory membership in an established homes association as a requirement of ownership of any lot in the tract;
- C.2** Provisions for maintenance assessments of all lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the homes association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homes association or the owner of any lot;
- C.3** Provision which, so far as possible under the existing law will ensure that the restriction placed on the use of the open land will not terminate by operation of law.

Subject to the above, Common Open Land may be used for passive and active residential recreational purposes such as swimming pools, walking trails and tennis courts.

## **5.5 Telecommunication Towers** <sup>104</sup>

### **5.51 Purpose**

The general purpose of this by-law is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the town.

Specifically, the purposes of this by-law are:

- 5.51.1** To regulate the location of towers and telecommunications facilities in the town of Canton.
- 5.51.2** To protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities;
- 5.51.3** To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;

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<sup>104</sup> Adopted ATM 1998, Article 20

- 5.51.4 To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
- 5.51.5 To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities;
- 5.51.6 To avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound, and
- 5.51.7 To ensure that towers and telecommunications facilities are compatible with surrounding land uses.

## 5.52 DEFINITIONS

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- 5.52.1 **Antenna support structure:** Any building or structure other than a tower which can be used for location of telecommunications facilities.
- 5.52.2 **Applicant:** Any person that applies for a tower development permit.
- 5.52.3 **Application:** The process by which the owner of a parcel of land within the town submits a request to develop, construct, build, modify, or erect a tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an Applicant to the town concerning such a request.
- 5.52.4 **Engineer:** Any engineer licensed by the Commonwealth of Massachusetts.
- 5.52.5 **Owner:** Any person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the town who desires to develop, or construct, build, modify, or erect a tower upon such parcel of land.
- 5.52.6 **Person:** Any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- 5.52.7 **Stealth:** Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited

to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees.

**5.52.8 Telecommunications Facilities:** Any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, *telecommunications facilities* shall not include:

- A. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial, or
- B. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

**5.52.9 Tower:** A self-supporting mono-pole structure constructed from grade which supports telecommunications facilities. The term *tower* shall not include amateur radio operators' equipment, as licensed by the FCC. Only free standing mono-pole structures with associated antenna array and/or panels are allowed. Lattice styled towers, and similar facilities requiring three or more legs and or guy wires are not allowed.

### **5.53 Development of Towers**

**5.53.1** A Tower shall be a permitted use of land in the “industrial” and “limited industrial” zoning districts. No person shall build, erect, or construct a Tower upon any parcel of land within a zoning district designated “industrial” or “limited industrial” unless a special permit shall have been issued by the board of appeals of the town. Application shall be made to the board of appeals in the manner provided in this chapter.

**5.53.2** Towers shall be permitted to a height of one hundred and twenty (120) feet Towers are exempt from the maximum height restrictions of the districts where located.

**5.53.3** No new tower shall be built, constructed, or erected in the town unless the tower is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the tower within six (6) months of the completion of the tower construction.

### **5.54 Applications for Towers**

**5.54.1** Towers shall be designed to accommodate the maximum number of users technologically possible. The intent of this requirement is to reduce the number of towers which will need to be sited in the town. An Application

to develop a tower shall include:

- A.** The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application.
- B.** The legal description, assessors' map and lot number, and address of the parcel of land upon which the tower is situated.
- C.** The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half (½) mile radius of the proposed new tower site, including town-owned property.
- D.** A locus plan at a scale of one inch equals 100 feet (1" = 100')
- E.** A Site Plan at a scale of one inch equals forty feet (1" = 40') which shall show all property lines, the exact location of the proposed structure, streets, landscape features, residential dwellings, all buildings within five hundred feet (500') of the facility and all abutters to the property.
- F.** A description of the design plan proposed by the applicant in the town. The Applicant must identify its utilization of the most recent technological design, including micro-cell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of micro-cell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.
- G.** An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the applicant's telecommunications facilities on town-owned towers or usable antenna support structures located within a one-half (½) mile radius of the proposed tower site.
- H.** An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by other persons located within a one-half (½) mile radius of the proposed tower site.
- I.** Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support

structures owned by other persons located within one-half (1/2) mile radius of the proposed tower site.

- J.** A written statement from an engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
- K.** Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in Section 5.55.2, "Structural Requirements," of this by-law.
- L.** Written, technical evidence from a qualified engineer(s) acceptable to the fire chief and the building commissioner that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
- M.** In order to assist town staff and the planning and zoning board in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.
- N.** The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the town to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or Antenna Support structures) which meet FCC standards. In order to provide information to its citizens, the town shall make available upon request copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards.

**5.54.2** The board of appeals may require an applicant to supplement any information that it considers inadequate or that the applicant has failed to supply. The board of appeals may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the board of appeals in a prompt manner and all decisions shall be supported in writing setting

forth the reasons for approval or denial.

## **5.55 Design Guidelines**

### **5.55.1 Setbacks**

- A.** All towers shall be set back on all sides a distance not less than equal to the height of the tower.
- B.** Setback requirements for towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located
- C.** Setback requirements may be modified, as provided in Section 5.55.3 “Separation or Buffer Requirements” when placement of a Tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the Tower.

### **5.55.2 Structural Requirements**

All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the State Building Code, and any other standards outlined in this by-law. All towers in operation shall be fixed to land.

### **5.55.3 Separation or Buffer Requirements**

For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. Tower separation distances from residentially zoned lands shall be measured from the base of a tower to the closest point of residentially zoned property. The minimum tower separation distances from residentially zoned land and from other towers shall be calculated and applied irrespective of town jurisdictional boundaries.

- A.** Towers shall be separated from all residentially zoned lands by a minimum of two hundred (200) feet or two hundred (200) percent of the height of the proposed Tower, whichever is greater.
- B.** Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this section.

- B.1** Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.
- B.2** Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of fifteen hundred (1500) feet.
- B.3** Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of seven hundred and fifty (750) feet.

#### **5.55.4 Method of Determining Tower Height**

Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend more than twenty (20) feet over the top of the tower structure itself. Tower height shall be measured from grade.

#### **5.55.5 Illumination**

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the tower from the tower and when required by federal law, dual mode lighting shall be requested from the FAA.

#### **5.55.6 Exterior Finish**

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

#### **5.55.7 Landscaping, Fencing and Signs**

All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure, or telecommunications facilities are located. The town may require landscaping in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

- A.** Fencing shall be provided to control access to the towers and shall be

compatible with the landscape. So-called, razor wire is prohibited.

- B. Signs, to be approved by the board of appeals, shall be provided announcing “No Trespassing”, and giving the name, address and telephone number of a person or persons to be contacted in case of emergency at any time of the day or night.

#### **5.55.8 Access**

A parcel of land upon which a tower is located must provide access to at least one (1) paved vehicular parking space on site.

#### **5.55.9 Stealth Design**

Insofar as it is practical so to do all applications for “Telecommunications Facilities” shall be on a ‘Antenna Support Structure’ and shall be of Stealth Design.

### **5.56 Telecommunications Facilities on “Antenna Support Structures”**

Any telecommunications facilities which are not attached to a Tower may, by special permit, be permitted on any antenna support structure at least fifty (50) feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the board of appeals, establish the following at the time an application is submitted for such special permit:

**5.56.1** That the height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than twenty (20) feet;

**5.56.2** That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the town. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof, but which do not protrude more than eighteen (18) inches from the side of such an antenna support structure.

## **5.57 Modification of Pre-Existing Towers**

**5.57.1** A Tower existing prior to the effective date of this by-law, which was in compliance with the town's zoning regulations immediately prior to the effective date of this by-law, may continue in existence as a nonconforming structure. Such non-conforming Towers and Lattice Type Structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Section, except for Sections 5.56.3, "Separation or Buffer Requirements," 5.58, "Certification and Inspections," and 5.59, "Maintenance," provided:

- A.** The Tower or Lattice Type Structure is being modified or demolished and rebuilt for the sole purpose of accommodating, within six (6) months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size, and surface area to the discrete operating telecommunications facilities of any person currently installed on the tower.
- B.** An application for a special permit is made to the board of appeals which shall have the authority to issue a special permit after a formal hearing. The grant of a special permit pursuant to this section allowing the modification or demolition and rebuild of an existing nonconforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.
- C.** The height of the modified or rebuilt Tower or Lattice Type Structure and telecommunications facilities attached thereto do not exceed the maximum height allowed under this by-law.

**5.57.2** Except as provided in this section, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty (180) days. This by-law shall not be interpreted to legalize any structure or use existing at the time this by-law is adopted which structure or use is in violation of the zoning by-law prior to enactment of this section.

## **5.58 Certifications and Inspections**

- A.** All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the state building code and all other construction standards set forth by federal, state and local state law. For new monopole towers, such certification shall be submitted with an application pursuant to Section 5.54 of this by-law and every five (5) years thereafter. For existing monopole towers, certification shall be submitted within sixty (60) days of the effective date of this by-law and then every

five (5) years thereafter. For new lattice or guyed towers, such certification shall be submitted with an application pursuant to Section 5.54 of this by-law and every two (2) years thereafter. For existing lattice or guyed towers, certification shall be submitted within sixty (60) days of the effective date of this by-law and then every two (2) years thereafter. The tower owner may be required by the town to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.

- B.** The town or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspections and certifications required above, to inspect the Tower for the purpose of determining whether it complies with the state building code and all other construction standards provided by federal state and local law.
- C.** The town reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. All expenses related to such inspections by the town shall be borne by the tower owner.

#### **5.58.1 Maintenance**

- A.** Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- B.** Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- C.** All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- D.** All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.
- E.** All towers shall maintain compliance with current RF emission standards of the FCC.
- F.** In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the town of its intent to discontinue use and the date when the use shall be discontinued.

**5.59 Criteria for Site Plan Approval and Special Permits**

- A.** In addition to every other requirement for a tower application as provided in this section, every application for the location of a telecommunications tower shall include the following:

  - 1.** A description of how the plan addresses any adverse impact that might occur as a result of approving the application.
  - 2.** A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the application.
  - 3.** A technical study that documents and supports the criteria submitted by the applicant upon which the application is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed applications and its relationship to surrounding rights-of-way and properties
  - 4.** For a modification of the setback requirement, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
  - 5.** The board of appeals may require the application to be reviewed by an independent engineer under contract to the town to determine whether the antenna study supports the basis for the application requested. The cost of review by the town's engineer shall be reimbursed to the town by the applicant.
  
- B.** The board of appeals shall consider the following additional criteria:

  - 1.** That the tower will be compatible with and not adversely impact the character and integrity of surrounding properties.
  - 2.** Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the application.
  - 3.** In addition, the board may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the application.
  
- C.** In addition to the requirements of Section 5.59-A, in the following cases, the applicant must also demonstrate, with written evidence, the following:

1. In the case of a requested modification to the setback requirement, Section 5.55.1, "Setbacks" that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the tower at another site which is closer in proximity to a residentially zoned land.
2. In the case of a request for modification to the separation and buffer requirements from other towers of Section 5.55.3, "Separation or Buffer Requirements," that the proposed site is zoned "Industrial" or "Limited Industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in Section 5.55.3.
3. In the case of a request for modification of the separation and buffer requirements from residentially zoned land of Section 5.55.3, if the person provides written technical evidence from an engineer(s) that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially zoned property.
4. In the case of a request for modification of the height limit for towers and telecommunications facilities or to the minimum height requirements for antenna support structures, that the modification is necessary to: (i) facilitate collocation of telecommunications facilities in order to avoid construction of a new tower; or (ii) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.

#### **5.59.1 Abandonment**

- A. If any tower shall cease to be used for a period of 365 consecutive days, the building commissioner shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the board of selectmen that such site has been abandoned. The owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the board of selectmen shall issue a final determination

of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within seventy-five (75) days, dismantle and remove the tower.

- B.** To secure the obligation set forth in this section, the applicant [and/or owner] shall post a bond in such amount as may be determined by the board of appeals at the time of its action on the application based on the then anticipated cost of removal of the tower.

### **5.59.2 Severability**

If any clause, section, or other part of this by-law shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this by-law shall not be affected thereby, but shall remain in full force and effect.

### **5.59.3 Conflicts (Repeal of by-laws)**

That all by-laws or parts of by-laws in conflict herewith are hereby repealed.

## **5.6 Canton Center Economic Opportunity District By-law<sup>105 116</sup>**

There is hereby established a Canton Center Economic Opportunity District (CCEOD) Zoning By-Law. The CCEOD is divided into two separate and distinct sub-districts of Canton Center as follows:

**Priority Revitalization Area “A”:** That area of Canton Center that runs (1) along Washington Street from Neponset Street to Sherman Street, a distance of approximately 2000 linear feet and (2) that area zoned “Industrial” that runs along Pequit Street in the vicinity of Washington Street, to the Northern border of the District.

**Priority Revitalization Area “B”:** That area of Canton Center that runs (1) along Washington Street from Sherman Street to Lewis Street, a distance of approximately 1000 linear feet, but excluding (2) that area of land designated as Industrial that runs along Pequit Street in the vicinity of Washington Street to the Northern border of the District.

The Revitalization Areas are shown on a map entitled “Canton Center Economic Opportunity District (Priority Revitalization Area “A” and Revitalization Area “B”) prepared by the Canton Planning Department and dated December 20, 2004, which map is hereby incorporated by reference in this Section 5.6.

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<sup>105</sup> 5.6 Inserted ATM 2000 under Article 53

<sup>116</sup> 5.6 Amended ATM 2005 under Article 33

### 5.61 Priority Revitalization Area “A”

This Section 5.61 shall apply only to those parcels located entirely within the boundary of the Priority Revitalization Area “A”.

Priority Revitalization Area “A” is established for the accomplishment of the following purposes:

- A. To promote the economic health and stability of the Town by encouraging development and economic investment in the Canton Center that will generate employment and tax revenue.
- B. To provide additional planning flexibility for projects located in Canton Center, including enhancing the coordination of the project with the environmental and natural features of the development site.
- C. To encourage mixed-use development, including but not limited to, offices, retail shops, and multi-family housing.
- D. To permit and encourage the development of parks and open spaces, which would be available for use by the general public, as a condition for the grant of a special permit pursuant to this Section 5.61 authorizing an increase in the otherwise permissible density of population or intensity of a particular use in a proposed development pursuant to the requirements of this Section 5.61.
- E. To permit the use of new development standards which will promote the desired changes in Canton Center.
- F. To provide information on the potential impacts of a proposed development.
- G. To enable the Special Permit Granting Authority (SPGA) to require adherence to “Site Development and Use Plans” in the granting of a special permit.

#### 5.61.2 Definitions

For the special purposes of this Section 5.61, the following words and phrases shall have the meaning hereinafter indicated:

- A. **Building Height:** Building height shall be limited as set forth in this Section 5.61 and measured as set forth in the State Building Code 780 CMR 101.0 et seq.
- B. **Buildable Lot Area:** A buildable lot area shall be a single continuous tract of land located entirely within Priority Revitalization Area “A” which is contiguous with the

frontage, and which excludes any land defined as a “Resource Area” under the Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40) and any required yard area.

### **5.61.3 Scope of Authority**

Priority Revitalization Area “A” shall be an overlay district and shall not restrict the owner’s rights relative to the underlying zoning districts. However, if the owner selects to use Priority Revitalization Area “A” for development purposes, the development shall conform to the requirements of Section 5.61 Priority Revitalization Area “A”.

### **5.61.4 Special Permit Granting Authority**

The Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes under Section 5.61 Priority Revitalization Area “A”. All special permit applications shall conform to the standards and criteria of this Section and the Zoning Board of Appeals Rules and Regulations governing the administration of applications for special permits.

Under this Section 5.61 Priority Revitalization Area “A”, no building shall be constructed or externally enlarged, and no use shall be expanded in ground area, or established in an existing building except in conformity with a special permit issued by the Board of Appeals and a Site Development and Use Plan that bears the endorsement of approval by the Board of Appeals. Requirements and Procedures for approval of such Site Development and Use Plan shall be in accordance with Article III. Section 3.0 Site Plan Approvals and this Section 5.61.

Construction or operations under a building permit or a special permit shall conform to any subsequent amendment of the Zoning By-Law, unless the use or construction is commenced within a period of not less than six months after the issuance of the permit and such construction is continued through to completion as continuously and expeditiously as is reasonable.

### **5.61.5 Objectives**

In addition to the specific criteria contained within this section, the SPGA shall issue a special permit for development within Priority Revitalization Area “A” only after consideration of the project’s compliance with the following additional criteria:

- A. Adequacy of the site in terms of the size of the proposed use(s);

- B. Adequacy of the provision of open space, its accessibility to the general public, and/or its association with adjacent or proximate open space areas;
- C. Suitability of the site for the proposed use(s);
- D. Impact on traffic and pedestrian flow and safety;
- E. Impact on the visual character of the neighborhood;
- F. Adequacy of utilities, including sewage disposal, water supply and storm water drainage; and
- G. Degree to which the proposed project complies with the goals of the Canton Center Revitalization Plan and the provisions of this Section 5.61.

#### **5.61.6 Uses Permitted**

Within Priority Revitalization Area “A”, the Board of Appeals may issue a special permit authorizing the following uses:

- A. Apartment houses or buildings.
- B. Retail stores and offices including salesrooms and showrooms, consumer service establishments, business and professional offices, executive and administrative offices, banks and other institutions.
- C. All uses allowed by right or by special permit in the underlying zoning district.
- D. Restaurant and other on-premises eating and drinking establishments.

No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permissible by special permit.

#### **5.61.7 Standards and Criteria**

##### **A. Minimum Lot Size**

- 1. The minimum lot size is 10,000 square feet of “buildable lot area.” The lot must contain the “buildable lot area” in a single, contiguous site within the boundaries of Priority Revitalization Area “A”.

2. No portion of a way or street, as defined by the by-law may be included in computing the minimum required “buildable lot area”.

**B. Lot Coverage**

No building shall be constructed so as to cover, together with any other building on the lot, more than fifty (50) percent of the “buildable lot area”.

**C. Minimum Lot Frontage and Access**

Lots with over 60,000 S.F. of “buildable lot area” shall have a minimum frontage of one hundred twenty (120) feet and at least one means of ingress/egress. Each means of ingress/egress shall have a continuous frontage of not less than sixty feet.

**5.61.8 Density**

No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, which exceeds the densities specified below for residential and non-residential uses.

- A. One dwelling unit per 2,000 S.F. of “buildable lot area”, plus
- B. Three thousand (3,000) gross square feet of non-residential floor area per 10,000 S.F. of “buildable lot area” or portion thereof.

For the purpose of this section, “gross square feet of non-residential floor area” means the total non-residential floor area contained within exterior walls but does not include basement space used for heating and utilities, storage or for automobile parking.

**5.61.9 Setbacks and Yard Regulations for Buildings**

No building shall be constructed so as to be nearer to the line of any street than the “required setback distance” or nearer to the sidelines of its lot than the “required side yard width” or nearer to the rear line of its lot than the “required rear yard depth” specified below:

- Required Setback Distance – 15 feet
  - Required Side Yard Width – N/A
  - Required Rear Yard Depth – 25 feet
- A. The required setback distance shall be measured from the nearest exterior line of the street in question.

- B. No storage or display of goods, products, materials or equipment, vending machines or similar commercial devices shall be located nearer to the line of any street than the permitted setback distance for a building on the lot.
- C. No lot on which a building is located shall be reduced or changed in size or shape so that the building or lot fails to comply with the “buildable lot area”, frontage, building coverage, yard setback, or other dimensional provisions of this Section.

**5.61.10 Height Regulations**

No building shall be constructed to exceed forty (40) feet in height or a total of three (3) stories (for commercial or residential use), whichever is lower.

**5.61.11 Common Open Land**

Each site is encouraged to have Common Open Land for use by the general public. The open space shall have a shape, dimension, character and location suitable to assure its use for park or open space purposes by the general public, and seventy-five percent (75%) of the land to be considered as Common Open Land shall be contiguous and no piece of land to be included as part of the calculation of Common Open Land shall consist of a piece less than 200 square feet in size.

**5.61.12 Parking Requirements**

In Priority Revitalization Area “A”, there shall be provided and maintained improved off-street automobile parking in connection with the erection, establishment or increase in units or dimensions of buildings, structures and uses, in the following amounts:

- A. For dwelling units one parking space per each bedroom.
- B. For restaurants and other on premises eating and drinking establishments, not less than one (1) parking space for each six (6) seats, subject to the discretion of the Zoning Board of Appeals to require additional parking space. Where benches are used, not less than one (1) parking space for each six (6) feet of bench, subject to the discretion of the Zoning Board of Appeals to require additional parking space.
- C. For retail stores and offices including salesrooms and showrooms, consumer service establishments, public administration buildings, business and professional offices,

executive and administrative offices, banks and other financial institutions one parking space for each two hundred fifty (250) square feet of gross floor area. For the purpose of this section, "gross floor area" means the total floor area contained within exterior walls, but does not include basement space used for heating and utilities, storage or for automobile parking.

- D. Uses not listed in Section 5.61.12 Parking Requirements, Subsections (A) and (B) shall comply with the parking space requirements of the Zoning By-Law Section 4.0 Off-Street Parking.
- E. Below grade structured automobile parking shall be permitted within the basements of buildings provided that such "structured basement" automobile parking is exclusively reserved for motor vehicles of residents or employees of the development.

Below grade structured parking may be designed to allow two cars to park in "tandem". In such cases, each of the two "tandem" parking spaces shall be counted as providing a parking space for the purpose of meeting the off street parking requirement of this by-law. "Tandem" parking is defined as two parking spaces placed one behind another in single file.

- F. In the case of mixed uses, the parking spaces required shall be the sum of the requirement for the various individual uses, computed separately in accordance with this section. Parking spaces for one use shall not be considered as providing the required parking spaces for any other use unless it can be clearly demonstrated to the Zoning Board that the need for parking occurs at different times.
- G. A change in the use of the premises or in the configuration of the building or lot subject to a special permit and site development and use plan issued pursuant to this Section 5.62 shall require the special permit holder to apply to the Board of Appeals for a modification of the number of off street parking spaces required pursuant to such special permit and plan if such change, alone or in combination with previous changes, would require an increase or decrease of more than 10% in the number of off street parking spaces required pursuant to this Section 5.62.
- H. Off-street automobile parking spaces, to the extent required in this section, may be provided either on the same lot or

premises with the parking generator or on any lot or premises associated therewith a substantial portion of which at least is within three hundred (300) feet of the generator.

- I. Off-street parking facilities and connecting drives between such facilities and the street shall be designed to insure the safety and convenience of persons traveling within or through the parking area, and between the parking facility and the street. The provisions of Section 4.06 Design Standards shall be considered the minimum criteria for evaluating such design.
- J. In addition to the requirement for automobile parking spaces there shall also be provided for each building or group of buildings sufficient off-street loading space to insure that all loading operations take place off the public way. Loading spaces and access drives leading to loading spaces shall be so designed that vehicles to be loaded or unloaded are not required to maneuver in the public way to enter or leave the designed loading area. The provisions of Section 4.06.6 Loading Areas shall be considered the minimum criteria for evaluating such design.

#### **5.61.13 Signs and Advertising Devices**

The provisions of Section 4.1 Signs and Advertising Devices is adopted for the regulation and restriction of billboards, signs and other advertising devices with the Canton Center Economic Opportunity District.

#### **5.61.14 Certified Acoustical Barriers**

No activity or use shall be allowed which causes exterior noise levels to exceed a day-night average sound level of 65 decibels (65 L dn) at the lot line; no dwelling unit shall be located where exterior noise levels exceed a day-night average sound level of 65 decibels (65 L dn); and no dwelling unit shall be constructed which allows interior noise levels to exceed a day-night average sound level of 45 decibels (45 L dn). The day-night average sound level (L dn) is the 24-hour average sound level, in decibels; resulting from the accumulation of noise from all sources contributing to the external noise environment of the site with 10 decibels added to sound levels occurring from 10:00 a.m. to 7:00 p.m. The day-night average sound level (L dn) shall be determined in accordance with The Code of Federal Regulations Title 24-Housing and Urban

Development, Part 51 Environmental Criteria and Standards (24 CFR 51).

**5.61.15 Affordable Units**

As a condition for the grant of a special permit pursuant to this Section 5.62 authorizing an increase in the otherwise permissible density or population or intensity of a particular use in a proposed development pursuant to the requirements of this Section 5.61, at least fifteen percent (15%) of the dwelling units shall be deed restricted in perpetuity, except for four units or less, the Board may decide to waive this requirement; for occupancy by persons earning not more than eighty (80) percent of the area median income as defined and regulated by the Commonwealth's Department of Housing and Community Development, and 20% shall be for low income persons. Such affordable housing units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances.

**5.61.15A Affordable Units:** As an alternative to including affordable units pursuant to Section 5.61.15 immediately above, the applicant may include affordable units under Mass. Housing's Priority Development Fund where at least 20% of the units must be affordable to low income persons as defined and regulated by the Commonwealth's Department of Housing and Community Development and which development must incorporate Smart Growth principles including without limitation locating in town center, reuse of existing structures, locating around transportation sites, and preserving natural resources, and including Canton Center Economic Opportunity District.

**5.61.16 Preference**

As a condition of approval, the Zoning Board of Appeals shall require that, to the maximum extent allowable under applicable law, Canton residents be given first preference in the purchase or renting of affordable units, and the fees for all services will be negotiated between the Authority and the Developer, within the Canton Center Economic Opportunity District Development as provided for in 5.61.15 and 5.61.15A.

### **5.61.17 Canton Housing Authority**

For those dwelling units specified as affordable, the Zoning Board of Appeals shall require that, to the maximum extent allowable under applicable law, the Canton Housing Authority be given priority with regard to the selection process of residents.

## **5.62 Revitalization Area “B”**

This Section 5.62 shall apply only to those parcels located entirely within the boundary of the Revitalization Area “B”.

The Revitalization Area “B” is established for the accomplishment of the following purposes:

- A. To promote the economic health and stability of the Town by encouraging development and economic investment in the Canton Center that will generate employment and tax revenue.
- B. To provide additional planning flexibility for projects and to enhance the coordination of the project with the environmental and natural features of the development site.
- C. To encourage mixed-use development of business and professional offices and multi-family housing.
- D. To permit the use of new development standards which will retain the sites’ present character.
- E. To provide information on the potential impacts of a proposed development.
- F. To enable the Special Permit Granting Authority (SPGA) to require adherence to “Site Development and Use Plans” in the granting of a special permit.

### **5.62.1 Definitions**

For the special purposes of this Section 5.62 Revitalization Area “B”, the following words and phrases shall have the meaning hereinafter indicated:

**Applicant:** The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a Revitalization Area “B” development, within Revitalization Area “B” hereunder. The applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him or hold an

option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

**Buffer:** An area within the Revitalization “B” Development adjacent to the boundaries, streams and ponds, which may not be developed except as provided herein.

**Business and Professional Office:** The office of one skilled in an occupation that primarily services clients or patients rather than retail customers including, but not limited to the office of a doctor, lawyer, dentist, architect, engineer, landscape architect, real estate agent, insurance agent, or the studio of an artist, musician or teacher, or the workroom of a dressmaker or milliner or photographer.

**Development Schedule:** A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the Revitalization Area “B” site, separated into stages where applicable.

**Height Regulations:** Building height shall be limited as set forth in this Section 5.62 and measured as set forth in the State Building Code 780 CMR 101.0 et seq.

**Open Space:** Open Space is defined as an area of land containing no building or structure, or impervious material. In the event that natural materials (i.e. brick, pavers, etc.) are used in the construction of walkways, courtyards, patios, etc., allowing such surfaces to be pervious, the area of these surfaces can be credited toward the open space requirement.

**Regulations:** The applicable rules and regulations of the Zoning Board relative to special permits and site plans. The Zoning Board of Appeals, as the Special Permit Granting Authority, reserves the right to modify and/or waive any and all requirements described in this section.

**Upland:** Land without a wet area and not subject to flooding.

**Wetlands:** All land subject to the provisions of Massachusetts General Laws c. 131, ss. 40 and 40A and/or the Town’s Wetlands By-Law.

### **5.62.2 Scope of Authority**

The Revitalization Area “B” is an overlay zoning district. This Section 5.62 shall apply only to those parcels located entirely within the boundaries of the Revitalization Area “B”.

- If the landowner selects to file a development plan in conformance with the requirements of Revitalization Area “B”, the development shall conform to the objectives, standards and criteria specified by the Revitalization “B” overlay zoning by-law.
- If the landowner selects to file a development plan in conformance with the requirements of underlying zoning district, the development shall conform to the objectives, standards and criteria specified by the underlying zoning district.

### **5.62.3 Special Permit Granting Authority**

The Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for all purposes under Section 5.62 Revitalization Area “B”. All special permit applications shall conform to the standards and criteria of this Section 5.62 and the Zoning Board of Appeals Rules and Regulations (“Regulations”) governing the administration of applications for special permits.

Under Section 5.62 Revitalization Area “B”, no building shall be constructed or externally enlarged, and no use shall be expanded in ground area, or established in an existing building except in conformity with a special permit issued by the Board of Appeals and a Site Development and Use Plan that bears the endorsement of approval by the Board of Appeals. Requirements and Procedures for approval of such Site Development and Use Plan shall be in accordance with Article III, Section 3.0 Site Plan Approval and this Section 5.62.

Construction or operations under a building permit or a special permit shall conform to any subsequent amendment of the Zoning By-Law, *unless* the use or construction is commenced within a period of not less than six months after the issuance of the permit and such construction is continued through to completion as continuously and expeditiously as is reasonable.

### **5.62.4 Objectives**

In addition to the specific criteria contained within this section, the SPGA shall issue a special permit for development within the Revitalization Area “B” only are consideration of the project’s compliance with the following additional criteria:

- A. Adequacy of the site in terms of the size of the proposed use(s);
- B. Suitability of the site for the proposed use(s);

- C. Impact on traffic and pedestrian flow and safety;
- D. Impact on the visual character of the neighborhood;
- E. Adequacy of utilities, including sewage disposal, water supply and storm water drainage; and
- F. Degree to which the proposed project complies with the goals of the Canton Center Revitalization Plan and the provisions of this Section 5.62.

#### **5.62.5 Uses Permitted**

Within the Revitalization Area “B”, the Board of Appeals may issue a special permit for the following uses:

- A. Apartment houses or buildings.
- B. Business and Professional offices.
- C. All uses allowed by right in the underlying zoning district.

No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permissible by special permit.

#### **5.62.6 Standards and Criteria**

##### **A. Minimum Lot Size**

1. The minimum lot size is 10,000 square feet of lot area. The lot must be a single, contiguous site within the boundaries of Revitalization Area “B.”
2. No portion of a way or street, as defined by the by-law may be included in computing the minimum required lot area.

##### **B. Lot Coverage**

No building shall be constructed so as to cover, together with any other building on the lot, more than thirty (30%) percent of the lot area.

##### **C. Minimum Lot Frontage and Access**

Lots shall have a minimum of seventy-five feet (75’) of continuous frontage. Each means of ingress/egress shall have a continuous frontage of not less than seventy-five feet (75’).

### **5.62.7 Density, Mix of Uses and Infrastructure Standards**

Within a Revitalization Area “B” Development, no building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, which exceeds the densities, either individually or in combination, specified below.

- A. No building shall be constructed so as to cover, together with any other building on the lot, more than thirty percent (30%) of the lot area. There may be no more than one dwelling unit per 4,000 square feet of lot area..
- B. Two thousand (2,000) gross square feet of non-residential floor area per 10,000 S.F. of lot area or portion thereof.
- C. Mix of Uses:

- 1. Building Mixed-Use Standards

- On the ground floor of the building shall only be permitted business or professional office uses.

- Above the ground floor shall only be permitted multi-family residential units.

- 2. Infrastructure Standards

- All utilities and services shall be placed underground.

- Private driveways servicing the site shall be sized to adequately serve the intended vehicular and pedestrian traffic. Private driveways shall strive to conform to the Rules and Regulations of the Canton Planning Board governing the subdivision of Land, the Canton Department of Pubic Works Regulations regarding water, sewer and storm drainage, and any other applicable regulation and/or standards of the town.

### **5.62.8 Setbacks and Yard Regulations for Buildings**

No building shall be constructed so as to be nearer to the line of any street than the “front yard setback requirements” or nearer to the sidelines of its lot than the “side yard setback requirements” or nearer to the rear line of its lot than the “rear yard setback requirements” or on a lot that does not comply with the lot width requirements specified below:

- Lot Width Requirements: Each lot shall have a lot width of no less than one hundred feet (100’) at the front yard setback line and the rear yard setback line.

- Front Yard Setback and Side Yard Setback Requirements: Each lot shall have a front yard setback requirement of no less than thirty feet (30') and a side yard setback requirement of not less than ten feet (10') from the nearest point on any exterior wall of the building.
- Rear Yard Setback Requirements: Each lot shall have a rear yard setback requirement of not less than thirty-five feet (35').

#### **5.62.9 Height Regulations**

No building shall be constructed to exceed the height of the underlying zoning or thirty-six feet (36'), whichever is lower. Maximum building height shall be measured as set forth in the State Building Code 780 CMR 101.0 et seq.

#### **5.62.10 Open Space, Common Open Land and Buffers**

At a minimum, each site shall have thirty percent (30%) of its lot area designated as Open Space. Open Space is defined as an area of land containing no building or structure or impervious material.

The proposed development is encouraged to have Common Open Space for use by the general public. The Common Open Space shall have a shape, dimension, character and location suitable to assure its use for park or open space purposes by the general public. Such Common Open Space may be provided as a condition for the grant of a special permit pursuant to this Section 5.62 authorizing an increase in the otherwise permissible density of population or intensity of a particular use in a proposed development pursuant to the requirements of this Section 5.62.

Areas which shall be credited toward the Open Space requirement include:

- Side, rear and front yard setbacks.
- "Buffer" areas.
- The area of surfaces that use natural materials (i.e. brick, bluestone, etc.) in the construction of walkways, courtyards, patios, etc.
- Common Open Space.

#### **5.62.11 Parking Requirements**

In Revitalization Area "B", there shall be provided and maintained improved off-street automobile parking in connection with the erection, establishment or increase in units or dimensions of buildings, structures and uses, in the following amounts:

- A. For dwelling units one parking space per each bedroom.
- B. Non-residential uses shall comply with the parking space requirements of the Zoning By-Law Section 4.0 Off-Street Parking.
- C. Below grade structured automobile parking shall be permitted within the basements of buildings provided that such “structured basement” automobile parking is exclusively reserved for motor vehicles of residents or employees of the development.
- D. The parking spaces required shall be the sum of the requirement for the various individual uses, computed separately in accordance with this Section. Parking spaces for one use shall not be considered as providing the required parking spaces for any other use.
- E. A change in the use of the premises or in the configuration of the building or lot subject to a special permit and site development and use plan issued pursuant to this Section 5.62 shall require the special permit holder to apply to the Board of Appeals for a modification of the number of off street parking spaces required pursuant to such special permit and plan if such change, alone or in combination with previous changes, would require an increase or decrease of more than 10% in the number of off-street parking spaces required pursuant to this Section 5.62.
- F. Off-street automobile parking spaces, to the extent required in this section, shall be provided on the same lot or premises with the parking generator.
- G. Off-street parking facilities and connecting drives between such facilities and the street shall be designed to insure the safety and convenience of persons traveling within or through the parking area, and between the parking facility and the street. The provisions of Section 4.06 Design Standards shall be considered the minimum criteria for evaluating such design.
- H. In addition to the requirement for automobile parking spaces there shall also be provided for each building or group of buildings sufficient off-street loading space to insure that all loading operations take place off the public way. Loading spaces and access drives leading to loading spaces shall be so designed that vehicles to be loaded or unloaded are not required to maneuver in the public way to enter or leave the designated loading area. The provisions of Section 4.06.6 Loading Areas shall be considered the minimum criteria for evaluating such design.

### **5.62.12 Signs and Advertising Devices**

The provisions of Section 4.1 Signs and Advertising Devices are adopted for the regulation and restriction of billboards, signs and other advertising devices within the Revitalization Area “B”.

### **5.62.13 Certified Acoustical Barriers**

No activity or use shall be allowed which causes exterior noise levels to exceed a day-night average sound level of 65 decibels (65 L dn) at the lot line; no dwelling unit shall be located where exterior noise levels exceed a day-night average sound level of 65 decibels (65 L dn); and no dwelling unit shall be constructed which allows interior noise levels to exceed a day-night average sound level of 45 decibels (45 L dn). The day-night average sound level (L dn) is the 24-hour average sound level, in decibels, resulting from the accumulation of noise from all sources contributing to the external noise environment of the site with 10 decibels added to sound levels occurring from 10:00 a.m. to 7:00 p.m. The day-night average sound level (L dn) shall be determined in accordance with The Code of Federal Regulations, Title 24 Housing and Urban Development, Part 51 Environmental Criteria and Standards (24 CFR 51).

### **5.62.14 Affordable Units**

As a condition for the grant of a special permit pursuant to this Section 5.62 authorizing an increase in the otherwise permissible density of population or intensity of a particular use in a proposed development pursuant to the requirements of this Section 5.62, at least fifteen percent (15%) of the dwelling units shall be deed restricted in perpetuity, except for four units or less, the Board may decide to waive this requirement; for occupancy by persons earning not more than eighty percent of the area median income as defined and regulated by the Commonwealth’s Department of Housing and Community Development and 20% shall be for low income persons. Such affordable housing units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances.

**5.62.14A Affordable Units:** As an alternative to including affordable units pursuant to Section 5.62.14 immediately above, the applicant may include affordable units under Mass. Housing’s Priority Development Fund where at least 20% of the units must be affordable to low income persons as defined and regulated by the Commonwealth’s Department of Housing and Community Development and which development must incorporate Smart Growth principles including without limitation locating in town center, reuse of existing structures, locating around transportation

sites, and preserving natural resources, and including Canton Center Economic Opportunity District.

#### **5.62.15 Preference**

As a condition of approval, the Zoning Board of Appeals shall require that, to the maximum extent allowable under applicable law, Canton residents be given first preference in the purchase or renting of affordable units, and the fees for all services will be negotiated between the Authority and the Developer, within the Canton Center Economic Opportunity District Development as provided for in 5.61.15 and 5.61.15A.

#### **5.62.16 Canton Housing Authority**

For those apartment units specified as affordable, the Zoning Board of Appeals shall require that, to the maximum extent allowable under applicable law, the Canton Housing Authority be given priority with regard to the selection process of residents.

### **5.7 Canton Center Design Review** <sup>106</sup>

#### **5.71 Purpose**

The purpose of this section is to preserve and enhance Canton Center's cultural, economic and historical resources by providing a detailed design review of the exterior appearance of buildings and sites located within the boundaries of the Canton Center Economic Opportunity District

The design review procedure shall:

- Enhance the social and economic viability of Canton Center by preserving property values and promoting the attractiveness of Canton Center as a place to live, visit and shop;
- Protect and preserve the historic and cultural heritage of Canton Center by promoting the conservation of buildings or groups of buildings that have aesthetic or historic significance, or are determined to contribute to the character of Canton Center by the Design Review Board.
- Promote and encourage building design and building alterations that are compatible with the existing environment and are of superior quality or appearance; and
- Promote flexibility and variety in future development to enhance the natural and aesthetic qualities of Canton Center.

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<sup>106</sup> 5.7 Inserted ATM 2002, Article 53

## **5.72 Canton Center Design Principles**

The Canton Center Design Review Board (CCDRB) shall follow the Canton Center Design Principles. The CCDRB shall keep in mind that the design of buildings is determined by (1) the nature of the site, (2) the nature of the materials used, (3) the nature of the building itself and (4) the nature of the architect.

Each building is more than a separate structure – it is part of the Canton Center Townscape. The proper use of scale and proportion has the unique capacity to unite the different parts of the Canton Center so that each building preserves its own identity, and yet each building blends into the whole. The expression of tradition and culture through the scale and proportions of buildings and the spaces between buildings defines the Canton Center Townscape.

The applicant shall provide a 3-dimensional Study Model (Model) of the proposal, if required by the Zoning Board of Appeal. At a minimum, the Model shall include, but not be limited to, the following:

- a. Proposed building(s).
- b. Neighboring buildings, as determined by the CCDRB.
- c. Property lines
- d. Proposed topography modeled at 2 foot intervals.
- e. Location and dimensions of drives, parking areas, walks and paths.
- f. Location and characteristics of any common open space, usable open space or natural open space (Forge Pond, Canton River).
- g. Proposed Landscaping
- h. Public streets and roadways.
- i. Any other significant facilities or structures deemed appropriate by the CCDRB.
- j. A legend that explains the design principles employed in designing the site.

The Model shall accurately replicate the applicants proposal and be of sufficient detail to clearly illustrate the nature of the site, the nature of the materials used, and the nature of the building. The model shall be constructed at a scale of 1" = 10' – 0", subject to the discretion of the Zoning Board of Appeals to require a scale of 1" = 5' – 0".

### **5.72.1 Canton Center Townscape**

The design or redesign of buildings in Canton Center shall acknowledge and respect the surrounding existing patterns of development, open space and natural resources (Forge Pond and the Canton River).

**Townscape Design Principals**

- A. To promote the thoughtful design or redesign of buildings within the Canton Center Economic Opportunity District.
- B. To enhance the open space between exiting and proposed buildings.
- C. To promote the visual and functional quality of Canton Center.
- D. To promote a pedestrian friendly scales and that links the development to the surrounding buildings, neighborhood and natural environment (Forge Pond and the Canton River).
- E. To provide buildings in scale and in proportion to the adjacent existing structures, open space and natural and man made environment.
- F. To visually relate proposed buildings to their surroundings with respect to:

Height	Street façade
Materials, texture and color	Roof slopes
Quality and quantity of open space	Human Scale
Spacing of buildings and signs	Fenestration
Quality of open space and landscapes	Natural environment
Handicapped pedestrian access	Building proportions

**5.72.2 Open Space**

The design of new or altered buildings shall insure that valuable open space within Canton Center is created, and that existing open space is preserved, protected, and enhanced. Proposals shall be consistent with the Canton Center's open space goals, policies, objectives and plans.

**Open Space Design Principles**

- A. To provide public access to Forge Pond and the Canton River.
- B. To provide enjoyable and usable private and public open space that will add to the amenities of Canton Center.
  - Development or redevelopment shall provide public and/or private open space and enhance adjacent open spaces. The scale, proportions, setbacks, height, and roof slopes of proposed buildings shall be compatible with existing or newly created open space.

- Existing landscaping and landforms shall be incorporated into plans and used to the advantage of the design.
  - Provide small parks with benches and other amenities that are accessible to the general public.
- C. Non-surface off-street parking shall be provided to minimize paved surface areas, wherever possible.

### **5.72.3 Preservation and Enhancement of Landscape**

The design of new or altered buildings shall insure the integration of existing vegetation, landforms and water resources (Forge Pond/Canton River) into development plans, keeping in mind the relationship of the natural environment to surrounding properties and the Canton Center Townscape.

All development or redevelopment within the Canton Center Economic Opportunity District is encouraged to exceed the landscaping and screening requirements of the Zoning By-law.

#### **Preservation and Enhancement of Landscape Design Principles**

- A. To promote the skillful use of existing topography, landforms and landscaping, including the preservation of natural landscaping by minimizing tree and soil removal and the restoration of landscaping and wildlife habitat to its natural state.
- B. To provides landscaping and grades changes that either strengthen or buffer the visual relationship with surrounding areas.
- Provide trees, shrubs and groundcovers noted for longevity, low maintenance requirements, attractive appearance, ability to survive, and screening ability.
  - Plant evergreens to provide an effective year round buffer between business and residential areas;
  - Provide plantings, planters and flower boxes to visually break up paved areas and/or to enhance an ordinary facade
  - Plant additional street trees and landscaping in public areas when projects impact the public streetscape.
  - Provide seasonal decorations, benches, etc.

#### **5.72.4 Signs and Awnings**

The combined impact of signs and awnings can be part of the attraction of a shopping district. To maximize their effectiveness, every sign and awning shall be an integral part of its building, and each shall be complementary to adjacent signs and awnings. As a result, they become part of an overall image, each sign and awning supporting the other and each helping to draw customers.

All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements set forth in Zoning By-law Section 4.1 Signs and Advertising Devices.

#### **Signs and Awnings Design Principles**

- A. Signs and awnings shall be compatible throughout Canton Center.
- The size, location, design, color, texture, lighting and materials of signs and awnings shall be compatible with and complementary to the New England “Colonial” or New England “Victorian” style.
  - Signs and awnings on the same building or on a series of attached buildings shall have consistency of size, location, design, color, texture, lighting, materials and expression.
- B. Signs and awning shall be carefully integrated with the building facade.
- Place sign and awnings consistent with architectural details and not in conflict with building details such as cornices, arches, lintels, pediments, windows, pilasters, etc.
  - Mount signs and awnings to align with other signs on the building, or installed within the natural sign band formed by the building’s details and cornices.
  - Signs shall not overpower the rest of the storefront, and be attractive as designs in themselves.
- C. The design of lettering, materials and colors shall result in good visibility and be compatible and complementary with other signs and awnings on the building.
- Simple graphic symbols that are easily recognizable and clearly identify the particular good or services being offered are the best.

- Lettering shall be legible and oriented to the pedestrian on the sidewalk and to slow moving traffic. There is no need to design signs for fast moving vehicles.
- D. Signs and awnings shall creatively express the nature of the business in a New England “Colonial” or New England “Victorian” style.

#### **5.72.5 Heritage Structures**

The Canton Center Design Review Board (CCDRB) shall insure that proposed new buildings respect adjacent Heritage Structures. When appropriate, the Design Review Board will consult with and request opinions and information from the Historical Commission regarding Heritage Structures.

The CCDRB shall prepare a “Canton Center Heritage Structure Survey and Findings Report” which shall identify the building or groups of buildings within the Canton Center Economic Opportunity District that have aesthetic or historic significance or are determined to contribute to the character of Canton Center. Heritage Structures are defined as: (1) Historic Structures, (2) noteworthy Period Structures, and (3) structures or groups of structures determined to contribute to the character of Canton Center as determined by the CCDRB. The CCDRB shall promote the preservation of Heritage Structures and shall actively advocate for their rehabilitation.

#### **Heritage Structures Design Principles**

- A. Rehabilitation of Heritage Structures shall be done with sensitivity to the structure, with as little deviation as possible from the design intent of the original building. Proposals for a façade renovation or new building construction that use a particular historical style or period style shall utilize accurate elements of that style.
- B. Architectural or Period elements of Heritage Structures shall be preserved during any additions, renovations, or conversions. Sign and façade alterations shall not conceal architectural elements. The covering or removal of original façade elements (columns, pilasters, fenestration, arches, lintels, and decorative elements) shall not be allowed.
- C. The renovation or alteration of Heritage Structures shall:
- Maintain size and proportions of windows and doors; windows and doors shall not be enlarged. Any new work shall fit within the scale of the existing windows and doors and repeat the window and door rhythms that already exist.

- Maintain the original materials if possible; new materials shall reflect and maintain the original textures and visual effect.
  - Maintain – or replace if previously removed – front porches. Front porches are attractive, provide important balance to the building, and present a historically functional part of the building.
  - Maintain – or replace if previously removed – building details such as molding, coping lines or parapets, columns and piers.
  - Install signage that is fitting with the image of the building – often small-scaled to remain dignified.
  - Provide color schemes typical of original building.
  - Remove false building fronts including fascia panels, mansard roofs, and any other material that covers and disrupts the original building detail.
  - All mechanical equipment on roofs, including metal chimneys, and at grade shall be concealed from view. An elevator penthouse, if added, shall be placed to minimize its visibility and shall be integrated into the design of the building so as to not detract from the significant architectural elements of the building or streetscape;
- C. The impacts of new construction on adjacent Heritage Structures shall be minimized. Such devices as building placement, spatial design and landscaping may be used to mitigate impacts on historical structures.

## **5.73 Canton Center Design Review Board <sup>115</sup>**

### **5.73.1 COMPOSITION**

The CCDRB shall consist of five members who shall be appointed by and serve at the pleasure of the Planning Board. The Planning Board shall strive to have represented the following:

- One member of the Historical Commission or a person recommended by the Historical Commission.
- One person qualified by training and experience in architecture, landscape architecture or in the art or design profession.
- One person recommended by the Canton Downtown Business Association.
- Two persons at large.

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<sup>115</sup> Sec. 5.73 Amended ATM 2005, Article 32

The Planning Board shall appoint one alternate member for a term of one year.

No elected official may be a member or alternate of the CCDRB.

### **5.73.2 METHOD OF APPOINTMENT**

Each member shall be appointed by the Planning Board each for overlapping terms of three years so that every third year one position is vacant.

The Planning Board shall, when making appointments, ask the Historical Commission and or the Canton Downtown Business Association for an appropriate candidate to fill vacancies on the CCDRB.

### **5.73.3 ORGANIZATION AND BOARD PROCEDURE**

The CCDRB shall organize at the first meeting following annual town election. The CCDRB shall elect a chairperson, vice chairperson, and a clerk. All agendas, minutes, and recommendations must be filed with the Town Clerk, Zoning Board and Planning Board. Quarterly, the CCDRB must send a representative to the Planning Board to give a report on a progress of the CCDRB.

### **5.73.4 ADMINISTRATIVE PROCEDURES**

It is the responsibility of the Planning Board to distribute copies of plans that require design review to the members of the CCDRB. The applicant shall provide eight copies of plans and related materials required for design review. The original copy of the CCDRB application, dated and signed by the members of the CCDRB shall be filed with the Board of Appeals. The Office of Planning Board shall provide CCDRB application form for all applicants.

It is the responsibility of the applicant to distribute the study model (if applicable) to the Planning Board office at the time of distribution of copies of plans that require design review.

The CCDRB shall within 30 days following the date such distribution is made, file a CCDRB Findings and Recommendations Report with the Board of Appeals. Failure to file within the time designated shall be deemed to be a recommendation the plan be approved, unless the Chairman of the CCDRB submits to the Board of Appeals within the initial thirty day period and with the consent of the applicant, a request to extend the time of filing for an additional thirty days.

Although the Zoning Board of Appeals (ZBA) shall carefully consider the findings and recommendations of the CCDRB when reviewing Uses and Activities Subject to Design Review, the ZBA shall not be bound by any specific findings or recommendations.

### **5.74 Uses and Activities Subject to Design Review**

The following uses and activities in the Canton Center Economic Opportunity District shall be subject to design review:

- Requests for sign permits submitted in accordance with the provisions of Section 4.1 Signs and Advertising Devices;
- Requests for site plan approval submitted in accordance with Section 3.0 Site Plan Approval;
- Requests for a special permit submitted in accordance with Section 5.6 Canton Center Economic Opportunity District; and
- Any construction, alteration, demolition or removal of a structure or site by the Town of Canton shall be subject to review by the Design Review Board. This includes all actions except those that are considered to be routine maintenance.

## **5.8 Village Housing Overlay District <sup>107</sup>**

**5.81 Purpose.** The purpose of the Village Housing Overlay District (VHOD) is to:

- A. Provide dwellings for occupancy by individuals fifty-five (55) years of age or older;
- B. Provide for mixed and diverse varieties of housing, including affordable housing; and
- C. Provide for residential development in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas.

### **5.82 Location and Occupancy of a VHOD.**

- A. The location of a VHOD shall include all land designated by Town Meeting as being within the VHOD, pursuant to G.L. c. 40A, s. 5.
- B. The occupancy of a VHOD shall be by residents 55 years of age or older, pursuant to G.L. c. 151B

**5.83 Applicability.** The VHOD is an overlay zoning district. The benefits of the Village Housing Overlay District Development (VHODD) shall accrue only to those parcels located entirely within the boundaries of the VHOD.

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<sup>107</sup> 5.8 Inserted ATM 2002, Article 55

- If the landowner selects to file a development plan in conformance with the requirements of the VHOD, the development shall conform to the objectives, standards and criteria specified by the VHOD overlay zoning by-law.
- If the landowner selects to file a development plan in conformance with the requirements of the underlying zoning district, the development shall conform to the objectives, standards and criteria specified by the underlying zoning by-law.

#### **5.84 Definitions.**

Applicant: The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a VOHDD within a VHOD, hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Buffer Area: An area within a VHODD which is adjacent to its boundaries, streams, ponds, lakes, and reservoirs which may not be developed except as provided herein.

Design Review: The review of the overall site design by qualified team of site design professionals. A Massachusetts Registered Landscape Architect shall lead the Site Design Review Team.

Development Schedule: A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished on the VHODD site, separated into stages where applicable.

Subdivision Regulations: The rules and regulations of the Planning Board relative to subdivisions, special permits and site plans.

Townhouse Style Dwelling: A multi-family structure designed to have each dwelling unit placed side by side.

Apartment Style Dwelling: A multi-family structure designed to have dwelling units placed one above the other (stacked).

Village Housing Overlay District Development (VHODD): A multi-family development consisting of townhouse style and/or apartment style dwellings and permissible accessory uses authorized by special permit from the Planning Board as set forth herein.

Village Housing Overlay District (VHOD): all land designated by Town Meeting as being within the district, pursuant to G.L. c. 40A, s. 5.

Wetlands: All land subject to the provisions of Massachusetts General Law c. 131, ss. 40 and 40A and/or the Town's Wetlands By-Law.

**5.85 Use Restrictions or Requirements.** A VHODD, consisting of the multi-family uses set forth below, individually or in combination, may be authorized by a special permit issued by the Planning Board pursuant to this Section and in compliance with the standards set forth herein.

- A. Townhouse Style Structures consisting of dwelling units occupied by persons 55 years of age or older and which are designed to have each dwelling unit placed side by side. Townhouse Style Structure shall contain no less than two (2) units.
- B. Apartment Style Structures which contain dwelling units occupied by persons 55 years of age or older and which are designed to have dwelling units placed one above another (stacked). Apartment Style Structures shall contain no more than eight (8) dwelling units, and;
- C. Structures and uses accessory to the multi-family use set forth above including: Community building serving the residents of the VHODD; underground utilities located on a lot not serving the dwelling; recreational facilities; and roadways.

**5.86 Application.** An application for a special permit for construction of a VHODD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by (a) the filing fee, (b) the following information and data, and (c) a development plan as described below.

- A. All of the information required for site plan approval, if applicable;
- B. The name and address of the Applicant(s) and all legal and beneficial owners of the site. Copies of all instruments, options, contracts or encumbrances affecting ownership of the development site. An instrument executed by all persons owning property within the site consenting to the development of the subject property, as applied for.
- C. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion.
- D. A narrative Design Review report prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services including, but not limited to, roads, water and sanitation.
- E. Information regarding the number and kind of dwelling units and other structures (including signs) proposed, their location, the number of bedrooms

planned, the sale prices anticipated and population projections pertaining thereto.

- F. Areas to be set aside for building structures, parking areas and conservation and recreation easements.
- G. Information pertaining to any condominium organization (if any).
- H. Copies of all proposed deed restrictions to ensure occupancy by persons 55 years of age or older, the resale of the dwelling units at affordable prices and the right of first refusal in favor of the Town for dwelling units to be sold at affordable prices, if applicable.
- I. Any and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

**5.87 Standards.** In order to be eligible for consideration for a special permit, the proposed VHODD shall meet all of the following standards:

- A. Qualifying Land Area. Qualifying Land Areas shall be in one ownership with definitive boundaries, shall be located entirely within a VHOD and shall contain at least 10 contiguous acres of land. No more than fifteen (15) percent of a Qualifying Land Area shall be Wetlands.
- B. VHODD Density. Not more than one dwelling unit shall be constructed for each 5,000 square feet of Qualifying Land Area or portion thereof in a VHODD.
- C. Open Space Requirement. At least thirty (30%) percent of the VHODD site shall be open space. The open space shall have a shape suitable to assure its use for landscaping and/or open space purposes.
- D. Buffer Area. The Planning Board may require Buffer Areas at specific locations along the perimeter of the VHODD. Vegetation in this buffer area shall be enhanced as necessary to provide a visual barrier. Buffer areas shall be included in calculating the Open Space requirement of this by-law.
- E. Minimum Lot Frontages and Access.

VHODD sites shall have a minimum frontage of one hundred and twenty (120) feet and at least one means of ingress/egress provided by a primary public roadway. Each means of ingress/egress shall have a continuous frontage of sixty feet on a primary roadway.

The Planning Board has the discretion to require more than one means of

ingress/egress to the extent that the proposed primary public road exceeds 1000 feet in length, in accordance with the Canton Subdivision Rules and Regulations.

The primary public roadway(s) serving the site shall be subject to the Rules and Regulations of the Canton Planning Board governing the Subdivision of Land, the Canton Department of Public Works regulations regarding water, sewer and storm drainage systems, and any other applicable regulation and/or standards of the Town.

The secondary private roadway(s) serving the site shall be sized to adequately serve the intended vehicular and pedestrian traffic. The secondary private roadway(s) shall strive to conform to the Rules and Regulations of the Canton Planning Board governing the Subdivision of Land, the Canton Department of Public Works regulations regarding water, sewer and storm drainage systems, and any other applicable regulation and/or standards of the Town.

The secondary private roadways shall be maintained by an association of unit owners or by the applicant. Paths for the use of residents shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, and access to the amenities and facilities on the site and to paths on adjacent sites.

- F. Parking. There shall be a minimum of two (2) parking spaces per dwelling unit.

At least fifty (50) percent of all Townhouse residential parking spaces required shall not be surface parking. At least fifty (50) percent of all Apartment residential parking spaces required shall not be surface parking. All non-surface parking shall be designed to be an integral part of the residential structure it serves.

All required parking shall be exclusively reserved for motor vehicles of residents or employees of the development.

- G. Stormwater Management. The stormwater management system shall be designed in accordance with the Subdivision Regulations and the DEP's Stormwater Management Guidelines and Regulations, as amended.

- H. Utilities. All electric, gas, telephone, water distribution lines, and other utilities shall be placed underground.

- I. Dwellings. The development of one or more townhouse-style and/or multi-family style structure on a lot or lots shall be permitted in an application to construct a VHODD. Such dwellings may be situated on any common or individual lot consistent with the overall design objectives

of the VHOD, provided however, that such dwellings shall be connected to the public sewer or shall comply with the provisions of the State Sanitary Code, 310 CMR 15.00, any other applicable State regulations, and with the rules of the Board of Health.

- J. Affordable Units. At least fifteen percent (15%) of the dwelling units shall be deed restricted for purchase by persons earning not more than eighty percent of the area median family income as defined by the Commonwealth's Department of Housing and Community Development. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances.
- K. Preference. As a condition of approval, the Planning Board shall require that Canton residents be given first preference in the purchase of dwelling units within the VHODD. Such preference shall be for thirty (30) percent of the dwelling units in the VHODD and shall be for at least one year from the issuance of the first certificate of occupancy for any residential building within the VHODD.
- L. Building Height. No building or structure shall be constructed to exceed thirty-five (35') feet or three stories, whichever is lower.
- M. Setbacks. No building shall be constructed so as to be nearer to the line of any street than the "required setback distance" or nearer to the side line of its lot than the "required side yard width" or nearer to the rear line of its lot than the "required rear yard depth" specified below:
- Required setback distance            30'
  - Required side yard width            30'
  - Required rear yard depth            30'

**5.88 Fees.** The filing fee for a special permit pursuant to this Section shall be \$1,000. The Planning Board shall also charge the applicant a technical review fee, pursuant to G. L. c. 44, s. 53G. Such technical review fee shall be used to engage professional, technical and/or legal consultants to review an application for a special permit within the VHOD. The initial deposit of such fee shall be \$10,000.00

**5.89 Decision.** The Planning Board is designated as the Special Permit Granting Authority for the VHOD. The Planning Board may grant a special permit for a VHODD where it makes the following findings:

- A. The proposed development complies with the requirements of this section;

B. The Planning Board finds that the proposed development does not cause substantial detriment to the neighborhood after considering the following potential consequences:

- (1) noise, during the construction and operational phases;
- (2) pedestrian and vehicular traffic;
- (3) environmental harm;
- (4) visual impact caused by the character and scale of the proposed structure(s).

## **5.9 Hotel Overlay District**<sup>108</sup>

**5.9.1 Purpose.** The purpose of the Hotel Overlay District (HOD) is to:

- a. Provide lodging for occupancy by individuals for various periods of time by the day, week, or longer to transient guests as further defined herein; and
- b. Encourage the mix of interactive commercial uses that help to contain traffic within business and industrial areas and by doing so, limit impacts to residential portions of the community; and
- c. Create regulatory procedures for determining appropriate locations for uses defined herein; and
- d. Provide for development in a manner that strives to maintain the residential character of nearby neighborhoods while striving to conserve environmental features, woodlands, wet areas, open space, areas of scenic housing beauty, views and vistas.

### **5.9.2 Applicability**

The HOD shall be construed as an overlay district. This district may be applied as an overlay district to any parcel of land, which has been designated by a town meeting vote. All requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements of the HOD are more restrictive or provide for uses or structures not otherwise available in the underlying district; in such cases, the requirements of the HOD may supersede the underlying zoning regulations upon the issuance of a special permit from the Planning Board.

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<sup>108</sup> Inserted ATM 2003 under Article 25

### **5.9.3 Locations and Eligibility**

The HOD shall include all land designated on the map entitled “Proposed Hotel Overlay District, Canton 2003 Annual Town Meeting,” prepared by BSC Group, Norwell, MA, dated February 24, 2003. No parcel shall be placed within the HOD unless it contains at least two contiguous upland acres.

### **5.9.4 Definitions**

Applicant: The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a HOD, hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed HOD, or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Buffer: An area within an HOD adjacent to its boundaries, streams, and ponds, which may not be developed except as provided herein.

Open Space: Any such area of land containing no building or structure.

Development Schedule: A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the HOD site, separated into stages where applicable.

Regulations: The applicable rules and regulations of the Planning Board relative to subdivisions, special permits and site plans. The Planning Board as the Special Permit Granting Authority reserves the right to modify and/or waive any and all requirements described in this section herein.

Upland acres: Land without a wet area and not subject to flooding.

Extended Stay Lodging: Guest quarters that offer rooms by the day, week, or longer to transient guests, which rooms may contain kitchenette facilities, but do not contain a restaurant within the facility. Such kitchenette facilities may include a refrigerator, two burner stoves, without oven, a microwave oven, dishwasher and sink and other permissible accessory uses authorized by special permit from the Planning Board as set forth herein.

Wet Areas: All land subject to the provisions of MGL. c. 131, ss 40 and 40A.

**5.9.5 Use Restrictions.** An HOD, consisting of the uses set forth below, individually or in combination, may be authorized by a special permit issued by the Planning Board pursuant to this Section and in compliance with the standards set forth herein.

- a. Extended Stay Lodging as defined herein.
- b. Structures and uses accessory to the use set forth above including: underground utilities located on a lot serving the guest quarters; laundry facilities; roadways.

**5.9.6 Application.** An application for a special permit for construction within the HOD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by (a) the fees set forth below; (b) the following information and data, and (c) a development plan as described below:

- a. All of the information required for site plan approval pursuant to Zoning Bylaws Section 3.01;
- b. The name(s) and address(es) of the Applicant and all legal and beneficial owners of the site; copies of all instruments, options, contracts or encumbrances affecting ownership of the development site; and an instrument executed by all persons owning property within the site consenting to the development of the subject property, as applied for.
- c. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion.
- d. A narrative report prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services including, but not limited to, roads, water and sanitation.
- e. Information regarding the number and kind of units and other structures (including signs) proposed, their location, the number of units planned, the type of materials to be used in construction, and other projections pertaining thereto.
- f. Areas to be set aside for building structures, parking areas, and any easements.
- g. A traffic study and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

**5.9.7 Standards.** In order to be eligible for consideration for a special permit, the proposed HOD shall meet all of the following standards:

**5.9.7.1 HOD Coverage:**

**5.9.7.1.1 Residential District:** The Planning Board may approve a HOD with no more than 25% lot coverage.

**5.9.7.1.2 Business, Industrial or Limited Industrial District:** The Planning Board may approve a HOD with no more than 40% lot coverage.

**5.9.7.2 Dimensional Regulations**

All dimensions shall comply with the provisions of the lot dimensional regulations of this subsection. In addition, the applicant shall prepare a Development and Use plan in accordance with design standards submitted and approved by the Planning Board.

**5.9.7.2.1 Residential Requirements**

- a. Lot Area: Minimum two (2) acres.
- b. Frontage: Each lot shall have a minimum of two hundred and fifty (250) feet of frontage.
- c. Lot Width: Each lot shall have a lot width of no less than two hundred feet (200).
- d. Setback and Side Yard: Each lot shall have a setback distance of not less than sixty (60) feet and a side yard of not less than twenty-five (25) feet from the nearest point on any exterior wall of the building.
- e. Rear Yard Setback: Each lot shall have a rear yard setback of not less than fifty (50) feet.

**5.9.7.2.2 Business, Industrial, Limited Industrial Districts**

- a. Lot Area: Minimum two (2) acres.
- b. Frontage: Each lot shall have a minimum of one hundred and fifty (150) feet of frontage.
- c. Lot Width: Each lot shall have a lot width of no less than one hundred seventy-five (175) feet.
- d. Setback and Side Yard: Each lot shall have a setback distance of not less than fifty (50) feet and a

side yard width of not less than fifteen (15) feet from the nearest point on any exterior wall of the building.

- e. Rear Yard Setback: Each lot shall have a rear yard setback of not less than twenty-five (25') feet.

### **5.9.7.3 Height Regulations**

**5.9.7.3.1** <sup>118</sup> No building shall be constructed to exceed forty (40) feet or three stories whichever is the lower. The Planning Board may grant a Special Permit to construct a hotel with four stories provided applicant demonstrates an increase in open space as well as an increase in landscaping over that which is required under the by-law. Maximum building height shall be measured as set forth in the State Building Code 780 CMR.

**5.9.7.3.2** Structures erected on a building and not used for human occupancy, such as chimneys, heating, ventilating or air conditioning equipment, solar or photo-voltaic panels, elevator housings, antennas, skylights, cupolas, spires, or other such roof structures and the like may exceed the maximum height of building provided that no part of the structures is more than fifteen (15) higher than the upper elevation of the building and the total horizontal coverage of such structures on the building does not exceed twenty-five (25) percent.

**5.9.7.4 Buffer.** A buffer area of 10 feet shall be provided at the perimeter of the HOD. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. Applicant will file a landscaping plan, prepared by a Landscape Architect.

The landscaping plan shall strive to be consistent with the requirements of the Zoning By-law Section 4.06.2 (G) in terms of the percent of the total interior landscape area. The landscaping plan shall be guided by the design principles set out in Zoning By-law Section 5.72.3 inasmuch as it should promote the skillful use of existing topography, landforms and landscaping, including the preservation of natural landscaping by minimizing tree and soil removal. The landscaping plan shall provide for landscaping and grade changes that either strengthen or buffer the visual relationship with surrounding areas by

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<sup>118</sup> 5.9.7.3.1 Amended ATM 2005, Article 37

providing adequate trees, shrubs, and groundcovers noted for longevity, low maintenance, attractive appearance, ability to survive and screening ability. It should include the plantings of evergreens to provide an effective year round buffer between business and residential areas. The Planning Board may reduce the width of the required buffer and modify other landscaping requirements where the applicant demonstrates that suitable screening will be provided by other means.

- 5.9.7.5 Parking.** The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The applicant shall demonstrate a minimum of one (1) parking space per unit. The off-street parking facilities and connecting drives between such facilities and the street shall be designed to ensure the safety and convenience of persons traveling within or through the parking area and the street. The design standards of the parking areas as described herein shall be consistent with the design standards under Zoning By-law Section 4.06. In addition, applicant shall demonstrate sufficient off-street loading space to ensure that all loading operations take place off the public way.
- 5.9.7.6 Utilities.** All on-site services including electric, gas, telephone, and water distribution lines shall be placed underground.
- 5.9.7.7 Lighting.** All lights and other sources of illumination (whether interior or exterior) and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from streets and residential districts.
- 5.9.7.8 Signage.** All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements set forth in the Zoning By-law Section 4.14.2.
- 5.9.7.9 As-Built.** Upon completion of all work, and prior to the issuance of occupancy permit, copies of an “As-Built” plan shall be filed to insure conformity with the rules, regulations, and any conditions imposed as part of the Special Permit granted by the Planning Board. Such plan shall be signed by a professional engineer and shall show as actually constructed all underground public and private utility lines including details of structures and

appurtenances where appropriate, all service connections and ties to same, site elevations, grades and slopes, utility invert elevations and pipe slopes, all parking requirements, and any other pertinent data relative to the approved site. Any alteration, addition, or new construction within the HOD shall comply with the rules and regulations governing this district, and all subsequent amendments to said design guidelines.

- 5.9.8 Administration.** The Planning Board may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Planning Board is authorized to adopt a schedule of reasonable fees to cover the costs associated with this bylaw. Said fee shall be used to engage professional, technical and/or legal consultants to review an application for a special permit within the HOD.
- 5.9.9 Accessibility.** The facility will comply with all State and Federal requirements for handicap access.
- 5.9.10 Municipal Improvements.** The Town of Canton Planning Board as Special Permit Granting Authority may require the applicant to make such improvements to the infrastructure as are reasonably required to develop the land and the hotel in accordance with a joint plan of action.
- 5.9.11 Public Transportation.** Any such HOD granted under this section shall be proximate to public transportation or provide shuttle for service to nearby public transportation facilities.
- 5.9.12 Decision.** The Planning Board shall conduct a public hearing within sixty-five (65) days after the filing date of the application with the Planning Board and Town Clerk. Said hearing shall be in compliance with MGL Ch. 40A s.9 and the Rules and Regulations of the Planning Board. The decision of the board, and any extension, modification, or renewal thereof, shall be filed with the Planning Board and Town Clerk within ninety (90) days following the closing of the public hearing. Issuance of the Special Permit requires a vote of four members of a five member board. The Planning Board may issue a Special Permit for an HOD where it finds that the proposed use is in harmony with the purpose and intent of the bylaw and shall be subject to general or specific provisions set forth herein; Any such permit issued may also impose reasonable conditions, safeguards and limitations of time and use. The Planning Board as Special Permit granting authority reserves the right to amend, modify, or revoke any permit granted for non-compliance of aforesaid conditions.

## 5.10 Mixed Use Overlay District <sup>111</sup>

**5.10.1 Purpose.** The purpose of the Mixed-Use Overlay District (MOD) is to:

- a. Encourage mixed-use development, including professional offices, retail shops, and multi-family housing in areas other than the Central Business District.
- b. Encourage the mix of commercial and residential uses that help to contain traffic within business and industrial areas and by so doing limit impacts to residential portions of the community.
- c. Create regulatory procedures for determining appropriate locations for uses defined herein.
- d. Provide for development in a manner that strives to maintain the residential character of the MOD and nearby neighborhoods while striving to conserve environmental features, woodlands, wet areas, open spaces, areas of scenic housing beauty, views and vistas.

**5.10.2 Applicability.** The MOD shall be construed as an overlay district. This district may be applied as an overlay to any parcel of land which has been designated by a town meeting vote. All requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements of the MOD are less restrictive or provide for uses or structures not otherwise available in the underlying district(s). In such cases the requirements of the MOD may supercede the underlying zoning regulations upon the issuance of a special permit from the Zoning Board of Appeals.

**5.10.3 Locations and Eligibility.** No parcel shall be placed in the MOD unless it contains two (2) contiguous upland acres and abuts a Business District other than the Central Business District.

### 5.10.4 Definitions of Terms

- a. **Applicant** – The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of an MOD project, hereunder. The applicant must own or be the beneficial owner of all the land included in the proposed MOD site or have authority from the owner(s) to act for the owner(s) or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site.

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<sup>111</sup> 5.10 Inserted ATM 2004 under Article 38

- b. Buffer** – An area within the MOD adjacent to the boundaries, streams and ponds, which may not be developed except as provided herein.
- c. Development Schedule** – A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the MOD site, separated into stages where applicable.
- d. Gross Square Feet of Non-Residential Floor Area** – The total non-residential floor area contained within exterior walls but does not include basement space used for heating and utilities, storage or for automobile parking.<sup>122</sup>
- e. Open Space** – Any such area of land containing no building, structure, or impervious surface material. In the event natural materials (i.e. brick, stone, pavers, etc.) are used in the construction of walkways, courtyards, patios, etc. the area of these surfaces can be credited towards the open space requirement.
- f. Professional Office** – The office of one skilled in an occupation that primarily services clients or patients rather than customers including but not limited to the office of a lawyer, doctor, dentist, architect, engineer, real estate agent, insurance agent or the studio of an artist, musician or teacher, or the workroom of a dressmaker, milliner, or photographer.
- g. Regulations** – The applicable rules and regulations of the Zoning Board relative to special permits and site plans. The Zoning Board of Appeals, as the Special Permit Granting Authority, reserves the right to modify and/or waive any and all requirements described in this section.
- h. Upland Acres** – Land without a wet area and not subject to flooding.
- i. Wet Areas** – All land subject to the provisions of G.L. c. 131, s. 40 and 40A.

**5.10.5 Mixed Uses.** The use of property within a MOD may be authorized by a special permit issued by the Zoning Board of Appeals pursuant to this Section and in compliance with the standards set forth herein.

- a. The use shall be a “mixed use,” which is defined as a use which utilizes a minimum of sixty (60%) percent and a maximum of seventy-five (75%) percent of a building or buildings as residential use and a minimum of twenty-five (25%) percent and a maximum

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<sup>122</sup> 5.10.4.d Inserted STM 2005 under Article 13

of forty (40%) percent as non-residential use. At least twelve (12%) percent of the residential use shall be for affordable housing as defined in M.G.L. c. 40B.

- b. Non-Residential uses shall include but not necessarily be limited to the following:
- (1) Professional office as defined in Section 4, above.
  - (2) A retail store consistent with a residential neighborhood.
  - (3) A restaurant with the conditions that any bar or cocktail lounge be located within the restaurant; shall be solely for the purpose of servicing luncheon or dinner customers; and not to compromise more than twenty (20%) percent of the floor area of the restaurant.
  - (4) Bank or similar financial institution.
- c. The following uses are specifically excluded:
- (1) Fast food establishments as defined in Section 1.15.19 of the by-laws.
  - (2) Drive-through for the sale of food. Any other drive-through shall require a separate special permit from the Zoning Board in addition to the Special Permit for the Mixed Overlay District general use.
- d. There shall be no deliveries or pick-ups between midnight and 6:00 a.m. Monday through Friday. There shall be no deliveries or pick-ups between midnight and 7:00 a.m. on weekends.
- e. Density: No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, which exceeds the densities specified below for residential and non-residential uses.<sup>120</sup>
- One dwelling unit per five thousand (5000) square feet of “buildable lot area,” plus;
  - One thousand (1000) gross square feet of non-residential floor area per 10,000 s.f. of “buildable lot area” or portion thereof.

**5.10.6 Application.** An application for a special permit for construction within a MOD shall be submitted to the Zoning Board of Appeals on forms furnished by the Zoning Board of Appeals, accompanied by (a) the fees set forth below, (b) the following information and data, and (c) a development plan as described below:

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<sup>120</sup> 5.10.5.e Inserted STM 2005 under Article 13

- a. All of the information required for site plan approval pursuant to Zoning By-laws Section 3.01;
- b. The name(s) and address(es) of the Applicant and all legal and beneficial owners of the site and an instrument executed by all persons owning property within the site consenting to the development of the subject property, as applied for.
- c. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion.
- d. A narrative report prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services, including, but not limited to, roads, water and sanitation.
- e. Information regarding the number and kind of units and other structures (including signs) proposed, their location, the number of units planned for each use (residence, office, retail), the type of material to be used in construction and other projections pertaining thereto. The architecture of the structures shall be sensitive to the abutting structures and residences.
- f. Areas to be set aside for building structures, parking areas, and any easements.
- g. A Traffic Study and all other information that the Zoning Board of Appeals may reasonably require in a form acceptable to said Board to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

**5.10.7 Standards.** In order to be eligible for consideration for a special permit, the MOD proposal shall meet all of the following standards:

**5.10.7.1 MOD Coverage**

7.1(a) Residential District:

The Zoning Board of Appeals may approve a MOD with no more than 30% lot coverage.

7.1(b) Industrial; Limited Industrial; Business Districts:

The Zoning Board of Appeals may approve an MOD with no more than 40% lot coverage.

7.1(c) In all districts:

There shall be no less than 30% "open space" as defined in Section 4d.<sup>121</sup>

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<sup>121</sup> 5.10.7.2(c) Amended STM 2005 under Article 13

**5.10.7.2 Dimensional Regulations.** All dimensions shall comply with the lot dimensional regulations of this subsection. In addition, the applicant shall prepare a “Development and Use” plan in accordance with design standards submitted and approved by the Zoning Board of Appeals.

7.2.(1) Residential District Requirements:

- a. Lot Area: Minimum Two (2) Acres.
- b. Frontage: Each lot shall have a minimum of Two Hundred and Fifty (250) feet of frontage.
- c. Lot Width: Each lot shall have a lot width of not less than Two Hundred (200) feet.
- d. Setback and Side Yard: Each lot shall have a setback distance of not less than sixty (60) feet and a side yard width of not less than twenty (20) feet from the nearest point on any exterior wall of the building. However, a corner lot shall have frontage on only one street, as designated on the site plan, and those portions of the lot paralleling the second street shall be considered sidelines.
- e. Rear Yard Setback: Each lot shall have a rear yard setback of not less than twenty-five (25) feet.

7.2(2) Business, Industrial, Limited Industrial Districts

- a. Lot Area: Minimum Two (2) Acres.
- b. Frontage: Each lot shall have a minimum of One Hundred Fifty (150) feet of frontage.
- c. Lot Width: Each lot shall have a lot width of no less than One Hundred Seventy Five (175) feet.
- d. Setback and Side Yard: Each lot shall have a setback distance of not less than sixty (60) feet and a side yard width of not less than fifteen (15) feet from the nearest point on any exterior wall of the building. However, a corner lot shall have frontage on only one street, as designated on the site plan, and those portions of the lot paralleling the second street shall be considered sidelines.
- e. Rear Yard Setback: Each lot shall have a rear yard setback of not less than twenty five (25) feet.

**5.10.7.3 Height Regulations**

- 7.3.1 No Building shall be constructed to exceed thirty-six (36) feet or three (3) stories, whichever is lower, for either commercial or residential use. Maximum building height

shall be measured as set forth in the State Building Code 780 CMR.

- 7.3.2 Structures erected on a building and not used for human occupancy, such as chimneys, heating, ventilating or air conditioning equipment, solar or photovoltaic panels, elevator housings, antennas, skylights, cupolas, spires, or other such roof structures and the like may exceed the maximum height of the building provided that no part of the structure is more than fifteen (15) feet higher than the upper elevation of the building and the total horizontal coverage of such structure on the building does not exceed twenty-five (25%) percent.

#### **5.10.7.4 Landscaping**

A buffer area of ten (10) feet shall be provided at the perimeter of the MOD site. No vegetation in this buffer area shall be disturbed, destroyed or removed, except for normal maintenance. Applicant shall file a landscape plan, prepared by a Landscape Architect, that demonstrates sufficient plantings to provide adequate screening. The landscaping plan shall strive to be consistent with the requirements of Section 4.06.2(G) in terms of the percent of the total interior landscape area. The Zoning Board of Appeals may reduce the width of the required buffer and modify other landscaping requirements where the applicant demonstrates that suitable screening will be provided by other means.

#### **5.10.7.5 Parking**

The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The applicant shall conform to existing parking requirements for residence, office and retail spaces. All parking shall be confined to the site except as allowed under Section 4.05. Parking for residents of the MOD residences must be reserved exclusively for their use. The applicant shall demonstrate sufficient off-street loading space to insure that all loading operations take place off the public way.

Below grade structured automobile parking shall be permitted within the basement of buildings. There shall be one parking space provided for every four (4) seats in a restaurant including any seat or stool in the bar or lounge area.

#### **5.10.7.6 Utilities**

All on-site services including electric, gas, telephone and water distribution lines shall be placed underground.

**5.10.7.7 Lighting**

All lights and other sources of illumination (whether interior or exterior) and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from streets and residential districts.

**5.10.7.8 Signage**

All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements set forth in the Zoning By-laws Section 4.14.

**5.10.7.9 Noise Regulation**

No activity or use shall be allowed which causes exterior noise levels to exceed a day-night average sound level of 65 decibels ( $65 L_{dn}$ ) at the lot line; no dwelling unit shall be located where exterior noise levels exceed a day-night average sound level of 65 decibels ( $65 L_{dn}$ ); and no dwelling unit shall be constructed which allows interior noise levels to exceed a day-night average sound level of 45 decibels ( $45 L_{dn}$ ). The day-night average sound level ( $L_{dn}$ ) is the 24-hour average sound level, in decibels, resulting from the accumulation of noise from all sources contributing to the external noise environment of the site (with 10 decibels added to sound levels occurring from 10:00 AM to 7:00 PM. The day-night average sound level ( $L_{dn}$ ) shall be determined in accordance with The Code of Federal Regulations, Title 24 – Housing and Urban Development, Part 51 – Environmental Criteria and Standards (24 CFR 51).

**5.10.8 Fees.** Any fees submitted for an MOD permit shall be reviewed by the Planning Board, pursuant to Section 3.03 of the Canton Zoning By-laws.

**5.10.9 Accessibility.** The facility shall comply with all state and federal requirements for handicap access.

**5.10.10 Municipal Improvements.** The Town of Canton Zoning Board of Appeals, as Special Permit Granting Authority, may require the applicant to make such improvements to the infrastructure as are reasonably required to develop the land and the buildings in accordance with a joint plan of action.

- 5.10.11 Public Transportation.** Any MOD permit granted under this section shall be for a site proximate to public transportation or Applicant shall provide shuttle service to nearby public transportation facilities.
- 5.10.12 Decision.** The Zoning Board of Appeals shall conduct a public hearing within sixty-five (65) days after filing of the application with the Zoning Board of Appeals and Town Clerk. Said hearing shall be in compliance with M.G.L. c. 40A, s.9 and the Rules and Regulations of the Zoning Board. The decision of the Board and any extension, modification, or renewal thereof, shall be filed with the Zoning Board of Appeals and Town Clerk within ninety (90) days following the closing of the public hearing. The Zoning Board of Appeals may issue a Special Permit for a MOD where it finds that the proposed use is in harmony with the purpose and intent of the bylaw and the proposal shall be subject to general or specific provisions set forth herein. Any such permit issued may also impose reasonable conditions, safeguards and limitations of time and use. The Zoning Board of Appeals as Special Permit Granting Authority reserves the right to amend, modify or revoke any permit granted for non-compliance of aforesaid conditions. A site plan pursuant to the provisions of Section 3.0 of the Zoning By-laws shall be required.
- 5.10.13** Notwithstanding the foregoing, the Town of Canton Planning Board shall be the permitting authority as stated in Sections 4, 5, 6, 6g, 7.1a, 7.1b, 7.2, 7.4, 10, and 12 solely for the ten parcels totaling 2.7 acres on Royall Avenue as described in Assessors Map 69, Lots 7-16.